

Agency & Off-Payroll Staff Use

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Equality, Diversity And Human Right Statement	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
To be read in conjunction with / Associated Documents:	Temporary Staffing Policy	Information Classification Label	Unclassified
Access to Information	To access this document contact the policy author.	in another langu	lage or format please

Agency & Off-Payroll Staff Use Policy, V3, June 2018

Document Change History (changes from previous issues of policy (if appropriate):

Version number	Page	Changes made with rationale and impact on practice	Date
1		Policy launched to cover temporary workforce use	
2		Amendments made in line with NHSI caps introduced, and thus breach proforma launched	
3		Amendments to bring medical staff agency use into this policy	April 20188
3.1		Policy format updated and terminology updated with new job titles	May 2018

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1. Introduction

This policy covers the use of all temporary off-payroll and agency workers (excluding bank staff).

The Medical Staffing Department oversees the use of temporary medical staff and the Temporary Staffing Department oversees the use of all other temporary staff.

The appropriate utilisation of the temporary workforce is important for both patient safety and good financial health of the organisation.

2. Purpose

The purpose of this policy is to implement a coordinated and uniform approach to all elements of agency working within the Trust to minimise risk to the organisation.

The policy provides guidance and provides a single point of reference for the organisation, clarifying the Trust's obligations in the use of agency workers and the relevant procedures and standards.

3. Scope

All staff groups and all professions are available through employment agencies and therefore all functions should adhere to this policy. This covers all external bookings and contracts including project consultancy, management consultancy and very senior managers.

4. Policy Content

4.1 All Staff Groups

The safest, most cost effective and efficient method for filling any workforce gaps should be considered first, e.g. redistribution of workload, additional hours for part time staff, in house staff bank / locums, internal advert, NHS Jobs etc. Factors to take into consideration include:

- Speed with which vacancy or gap needs to be filled;
- Availability of skills in local population or in house;
- Cost and funding available;
- Whether the Temporary Staffing team / Medical Staffing team could fulfil requirements from available bank;
- The time required for recruitment, organisational change and service redesign.

The use of agency workers should be kept to an absolute minimum and should only be used under circumstances when all other temporary cover arrangements such as the use of locum/bank, part time and full time substantive staff have been exhausted. Consideration must be made in relation to redeployment of contracted staff before

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approval for agency is agreed and to review availability at other sites with the appropriate staffing team or Duty Manager if out of hours.

In normal circumstances, agency workers contracts should be of no more than 3 months prior to a break in service. Where extenuating circumstances require contracts to be longer than this, then this should be approved via the Trust Pay Improvement Group.

Previously managers and budget holders were able to approach agencies directly however this has limited the Trust's ability to monitor usage effectively. To address this issue, all requests for staff being employed through an agency **must** be made via the appropriate in-house team.

For up-to-date details regarding the normal working hours of the Temporary Staffing team and the Medical Staffing team, please see the staff hub <u>http://rl-faq.nhs.sitekit.net/agency-locums-and-additional-payments.htm</u>.

4.2 Non-medical Staff Requests

When a manager requests additional temporary workers they must specify specific skills and competencies required to the appropriate staffing team. This can be done via email or telephone call with an email follow-up to confirm. A proforma needs to be completed for any administrative / non-nursing cover.

Prior to authorising the use of an additional temporary worker, managers need to ensure that they have considered alternatives and reviewed the cost implications so that if challenged they are able to evidence the reason for the booking.

Once confirmed that an additional temporary worker is the appropriate option, the manager should liaise with the Temporary Staffing team to source an appropriate individual.

- Following the request for additional temporary workers, the Trust agreed process will be followed in order to fill the staffing gap. The Temporary Staffing team will subsequently forward all completed requests to finance for collation as part of the formal weekly reporting mechanisms for the Trust.
- In situations where the Temporary Staffing team have not successfully engaged a worker during their normal working hours, the Duty Manager will be notified via the staffing handover. The Duty Manager will continue to respond to agencies putting suggested candidates forward. They may also retry the internal bank staff via social media / electronic sources to ensure that this is done in a fair and transparent way.
- Where the need for an additional temporary worker is identified out of hours, the managers need to link in directly with the Duty Manager who will discuss the need to engage the worker with Tactical Manager on call. If agreement is reached, the Duty Manager will attempt to find a bank worker via social media / electronic sources to ensure that this is done in a fair and transparent way. If unsuccessful,



they will place a request with agencies as per Trust policy and NHS Improvement guidelines.

 Once an agency has confirmed that they can supply a suitable member of staff within the price cap rates, the Duty Manager can proceed with the arrangement; however should the Duty Manager be in the position where a rate higher than the capped rates is being quoted – <u>this rate must be authorised by Tactical Manager</u> on call.

All authorisations and bookings should be documented with the rate and the full rationale of need, and forwarded to the Temporary Staffing team within 24 hours so that an accurate record of agency usage is maintained. In situations where workers have rates of >£120 per hour or are off-framework, authorisation ultimately must come from the Chief Executive. The escalation proforma should therefore provide sufficient information for the Chief Executive. The escalation proforma risk assessment should be completed for any off-framework workers due to the level of risk that could be presented.

Regarding agency workers:

- Responsibility for 'continuing professional development' rests with the agency worker. The agency must be able to demonstrate the on-going competency level of all staff.
- When a worker with a specific skill is placed initially, the agency should fax copies of the appropriate certification to the Temporary Staffing team or Duty Manager if out of hours. Copies will be retained locally for a period of one year. This is held in line with the Trust's records management policy.

4.3 Medical Staff

When a requirement for additional temporary medical staffing arises, the gap should be notified to the Medical Staffing team. This notification could occur through various routes e.g. sickness notification via doctor or care group, or known vacancies or gaps in the rota.

Medical Staffing will follow the Trust procedure

• If a medical locum is required during 9am to 5pm Monday to Friday, express approval from the Clinical Director and/ or Deputy Medical Director must be sought by Medical Staffing.

Sourcing adequate locums during 9am to 5pm Monday to Friday is challenging and the first consideration should always be whether the absence can be absorbed by day staff.

 Where the requirement is for staff to work outside of 9am to 5pm Monday to Friday, then the Medical Staffing team (or care group rota coordinator) will attempt to find an internal locum / bank staff member via the agreed contact platform. Medical gaps should also be notified to the Clinical Director of the area. If the Medical Staffing team are unsuccessful in finding a bank member of staff, they will proceed to passing the locum requirement to agencies through the relevant agreed route



(either via the vacancy release system for all registered teams or directly to onframework agencies not using a vacancy release system).

- In situations where the medical staffing have not successfully engaged a locum during normal working hours, the Duty Manager will be notified by Medical Staffing via the rota information and/or staffing handover. The Duty Manager will respond to agencies putting suggested candidates forward. They will continue to retry internal locums / bank staff.
- Where the need for a locum is identified out of hours, the Duty Manager will discuss the need to engage a locum with the Consultant on call. If agreement is reached, the Duty Manager will attempt to find an internal locum / bank staff via the agreed contact platform. If unsuccessful, they will place a request with agencies through the vacancy release system or directly with those on-framework agencies not using the vacancy release system, liaising with the Consultant on call to source a suitable candidate.

Once the agency has confirmed that they can supply a suitable member of staff within the price cap rates, they can proceed with the arrangement; however should the Duty Manager be in the position where a rate higher than the price capped rates is being quoted – this above cap rate must be authorised by Tactical Manager on call.

All authorisations and bookings should be documented with the rate and the full rationale of need, and forwarded to the Temporary Staffing team within 24 hours so that an accurate record of agency usage is maintained. In situations where workers have rates of >£120 per hour or are off-framework, authorisation ultimately must come from the Chief Executive. The escalation proforma should therefore provide sufficient information for the Chief Executive. The escalation proforma risk assessment should be completed for any off-framework workers due to the level of risk that could be presented.

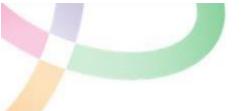
Note: All CVs of doctors put forward, who have not worked in this Trust within the last 6 months, must be agreed by a Consultant in the specialty, CD or Deputy Medical Director.

4.3 Payment – All Staff Groups

Payment will be in line with the agreed contracts via the Framework Agreement and are subject to scrutiny as per the capped rates guidance.

It is the responsibility of the senior person in charge of the department to carefully check the timesheet for accuracy when presented by the agency worker for signing at the end of the shift. Any variations to bookings must be noted to ensure that payment is not subsequently delayed. Payment will not be authorised without a signed timesheet. Signed timesheets should be returned to the Trust promptly to avoid delays to payment.

When payment is requested, either via invoice or the vacancy release system, a further check against the original booking will be made via the booker of the shift prior



to authorisation and subsequent payment approval. Any anomalies MUST be addressed before payment is made.

The Temporary Staffing team / Medical Staffing team must be notified of all shift requests changes, and they will then inform the agency. Any changes made outside of working hours, should be communicated directly to the agency by the requesting manager and confirmed to the appropriate staffing team in writing as soon as practical. The AfC policy regarding breaks is applicable for agency staff in AfC roles.

If departments request out of this process any invoices submitted for hours worked **will not** be paid via Finance.

5. Exceptions

No exceptions.

6. Training

6.1 Medical staff

During normal working hours (as per section 5), the Medical Staffing team are responsible for ensuring the appropriate rapid induction takes place for agency/locum staff working in the Trust for the first time.

Out of hours, this induction is undertaken by the Duty Manager.

A record of these inductions must be made and retained by the Medical Staffing team for a period of one year.

6.2 Non-Medical staff

Ward/departmental managers are responsible for ensuring that non-medical temporary staff receive suitable local induction to the area when this is the first time in that area. This should include familiarisation with the ward/department layout, fire exits and emergency equipment, incident management and complaints process. A record of this induction must be made and retained by the Temporary Staffing team or the relevant department where this has previously been agreed, for a period of one year.

Identity badges must be worn at all times. On arrival on site, the agency workers photographic ID badge will be checked by the Temporary staffing team on their first shift. When arriving for duty in the allocated clinical area, the nurse in charge will be required to check the agency workers photographic ID badge.

Uniform must adhere to Trust uniform policy.

In the event that an agency worker is distributed a log in or password for the Trust systems, they will be required to comply with the Trust Information Governance



policies. The worker will have access to the Trust Intranet where all Trust policies are stored. They should familiarise themselves with relevant Trust policies.

Where a concern is raised about the capability and conduct of an agency worker the line manager should first speak with the worker concerned. This will be managed in line with the local incident and complaints reporting process using Datix. This should also be escalated at the time of the event as appropriate. Managers should use the relevant field in Datix to record that the issue was in relation to agency staff, which subsequently allows the Staffing Manager to monitor any agency issues on a Trust wide basis.

7. Monitoring of compliance

Minimum requirement to be monitored	Process for monitoring e.g. audit/ review of incidents/ performance management	Job title of individual(s) responsible for monitoring and developing action plan	Minimum frequency of monitoring	Name of committee responsible for review of results and action plan	Job title of individual/ committee responsible for monitoring implementation of action plan
Agency spend by area and compliance	Performance management	Workforce	Monthly	Workforce Committee	Workforce

8. Relevant regulations, standards and references

NHS Improvement compulsory guidance:

https://improvement.nhs.uk/resources/reducing-expenditure-on-nhs-agency-staffrules-and-price-caps/

Internal (bank/locum) rate card, proforma for authorisation of non-compliant worker or shift, proforma for request of temporary administrative staff http://rl-faq.nhs.sitekit.net/agency-locums-and-additional-payments.htm

Staff information and other policies in relation to staff bank workers: http://rl-faq.nhs.sitekit.net/staff-bank.htm

9. Equality, diversity and human right statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.





10. Legal requirements

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Security Management: NHS Code of Practice (2007) and builds upon the general requirements published by NHS Digital/Connecting for Health (CfH).

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11. Appendix

11.1 Appendix 1: Equality Impact Assessment

Title	
Strategy/Policy/Standard Operating Procedure	
Service change (Inc. organisational change/QEP/ Business case/project)	
Completed by	
Date Completed	

Description (provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)

Who will be affected (Staff, patients, visitors, wider community including numbers?)

The Equality Analysis template should be completed in the following circumstances:

- Considering developing a new policy, strategy, function/service or project(Inc. organisational change/Business case/ QEP Scheme);
- Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):
 - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required and the EIA review date should be set at the date for the next policy review;
 - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required;
- Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations.

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

When considering any potential impact you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.

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Section 1 – Initial analysis

Equality Group	Any	Evidence
	potential	(For any positive or negative
	impact?	impact please provide a short
	Positive,	commentary on how you have
	negative	reached this conclusion)
	or neutral	
Age		
(Consider any benefits or opportunities		
to advance equality as well as barriers		
across age ranges. This can include		
safeguarding consent, care of the		
elderly and child welfare)		
Disability		
(Consider any benefits or opportunities		
to advance equality as well as impact		
on attitudinal, physical and social		
barriers)		
Gender Reassignment		
(Consider any benefits or opportunities		
to advance equality as well as any		
impact on transgender or transsexual		
people. This can include issues		
relating to privacy of data)		
Marriage & Civil Partnership		
(Consider any benefits or		
opportunities to advance equality as		
well as any barriers impacting on		
same sex couples)		
Pregnancy & Maternity		
(Consider any benefits or		
opportunities to advance equality as		
well as impact on working		
arrangements, part time or flexible		
working) Race		
(Consider any benefits or		
opportunities to advance equality as well as any barriers impacting on		
ethnic groups including language)		
Religion or belief		
(Consider any benefits or		
opportunities to advance equality as		
well as any barriers effecting people of		
different religions, belief or no belief)		
Sex		
(Consider any benefits or		
opportunities to advance equality as		

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and women eg: same sex accommodation)	
Sexual Orientation (Consider any benefits or opportunities to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)	

If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business case/policy document detailing what the negative impact is and what changes have been or can be made.

If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.

Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

Is what you are proposing subject to the requirements of the Code of Practice on Consultation?	Y/N
Is what you are proposing subject to the requirements of the Trust's Workforce Change Policy?	Y/N
Who and how have you engaged to gather evidence to complete your full analysis? (List)	
What are the main outcomes of your engagement activity?	
What is your overall analysis based on your engagement activity?	

Section 3 – Action Plan



You should detail any actions arising from your full analysis in the following table; all actions should be added to the Risk Register for monitoring.

Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

Section 4 – Organisation Sign Off

Name and Designation	Signature	Date
Individual who reviewed the Analysis		
Chair of Board/Group approving/rejecting proposal		
Individual recording EA on central record		

11.2 Appendix 2: Roles and responsibilities

Role	Responsibility
Employee	All employees are required to comply with the working practices and policies within the Trust.
	Recruiting / Authorising Managers should ensure that all requests for additional staffing are made via the appropriate staffing team (Temporary Staffing, Medical Staffing) or the Out of Hours Duty manager. Recruiting / Authorising Managers should ensure that the appropriate paperwork for non-compliant engagements is
Line Manager	completed and signed. Recruiting / Authorising Managers are responsible for checking the workers timesheet prior to authorising for payment in line with Trust SFI's.
	Recruiting / Authorising Managers should not request agency contracts of greater than 3 months. This should avoid any situation where agency workers are in post at the detriment of substantive workers.
Temporary Staffing/	The Temporary Staffing / Medical Staffing team or Out of Hours Duty manager will ensure that staffing requests are prioritised and processed in line with the process flows and policy.
Medical Staffing Teams and Duty Manager	The Temporary Staffing / Medical Staffing team should ensure that agency workers do not remain in the same assignment for more than 3 months. This should avoid any situation where agency workers are in post at the detriment of substantive workers.
Temporary Workers	Temporary workers are required to comply with the working practices and policies within the Trust.

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11.3 Appendix 3: Glossary of Terms Used Within This Policy

Glossary of Terms used within Policy

Overtime is defined as hours in excess of a full working week (37.5 hours / 40 hours / 10 P.A.s depending on the role) which have been worked with the agreement of the authorised individual and approved at the relevant level, to meet particular circumstances.

Hours over contract is defined as hours worked in excess of contract hours up to the hours for a full working week. This is relevant for part-time workers who can work additional hours up to the point of a full working week before moving to an overtime payment.

The **Temporary Staffing Team (formerly Staff Bank)** exists to support the Trust in providing flexible workers to supplement staffing shortfalls in requirements. Alongside other duties, the **Medical Staffing Team** support teams to identify and book workers to supplement staffing shortfalls within the medical rotas. There is no obligation on the Trust to offer work and no obligation on the worker to accept work via this route.

An **agency** is an employer, usually external to the Trust who employs staff for the purposes of selling their services on a temporary basis to another organisation.

An **agency worker** is a term applied to an individual employed by and paid by an external agency, who is placed in the Trust to work for a period of time on a temporary basis. In most cases temporary workers will be provided by an agency so the term agency worker will be used in this policy to cover all temporary workers who are not employed directly by the Trust.

An **authorised individual** includes budget holders and managers, who are included on the Trusts authorised signatories list.

Direct engagement relates to a model of employing a worker on a contract for service directly, rather than the traditional route of engaging through recruitment agency. Routinely, a recruitment agency is used to find the worker, however once engaged, the worker is engaged directly by the Trust.

A **PSC / personal service company** is a limited company that typically has a sole director, the contractor, who owns most or all of the shares.

Framework agencies are those providers who have been approved for provision of services. In the instance of agency staff, on-framework providers have met the necessary standards such as NHS Employer Safe Employment checks, contract price and governance processes. Off-framework providers have not met some or all of these standards and as such should not be utilised as a provider.

Price cap rates this refers to the maximum total amount of money, exclusive of VAT, that a Trust can pay per hour for a temporary worker. This is incremental on the basis of the grade and time of day of the shift being filled. Price capped rates are determined by NHS Improvement. Within Cheshire & Merseyside, Trusts are working together to stand firm within an interim rate table.





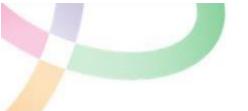
11.4 Appendix 4: Relevant Trust Paperwork for Managers

Proforma for use of temporary administrative staff: http://rl-faq.nhs.sitekit.net/agency-locums-and-additional-payments.htm

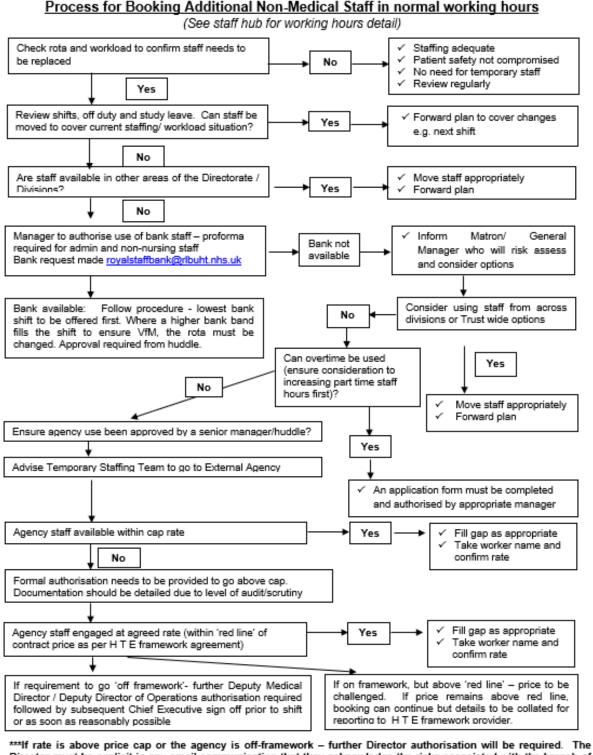
Proforma for authorisation of non-compliant worker or shift http://rl-faq.nhs.sitekit.net/agency-locums-and-additional-payments.htm

Internal (bank/locum) rate card http://rl-faq.nhs.sitekit.net/agency-locums-and-additional-payments.htm

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11.5 Appendix 5: Process for Booking Additional Non-Medical Staff in Normal Working Hours



Director must be explicit in any email communication that they acknowledge the risks associated with the breach of policy. Each separate instance of agency use must have a separate authorisation. Bulk authorisation is not permitted.

A rate of >£120 per hour and/or off framework user will also require Chief Executive authorisation.

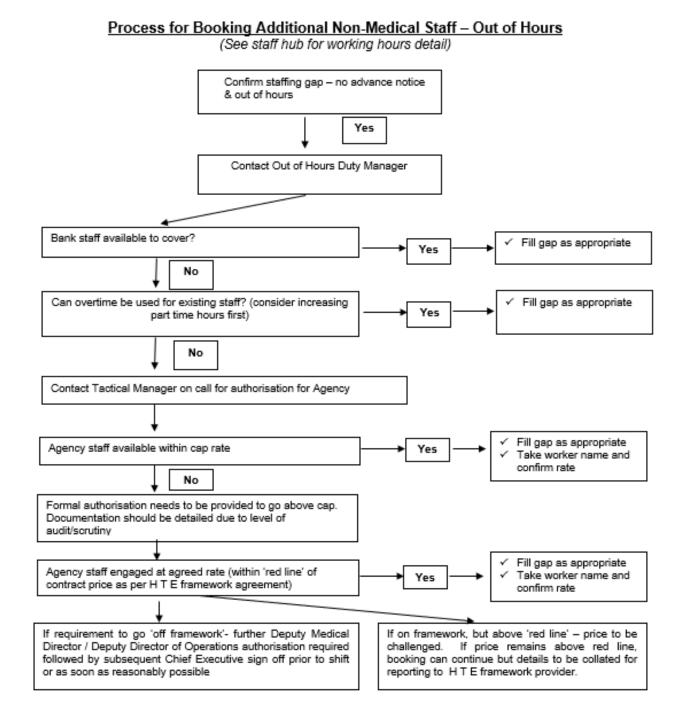
REMINDER: Agency cannot be booked without correct authorisation

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11.6 Appendix 6: Process for Booking Additional Non-Medical Staff – Out of Hours

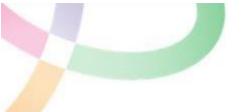


***If rate is above price cap or the agency is off-framework – further Tactical Manager on call authorisation will be required. The Tactical Manager on call must be explicit in any email communication that they acknowledge the risks associated with the breach of policy. Each separate instance of agency use must have a separate authorisation. Bulk authorisation is not permitted.

A rate of > £120 per hour and/or off framework user will also require Chief Executive authorisation.

REMINDER: Agency cannot be booked without correct authorization

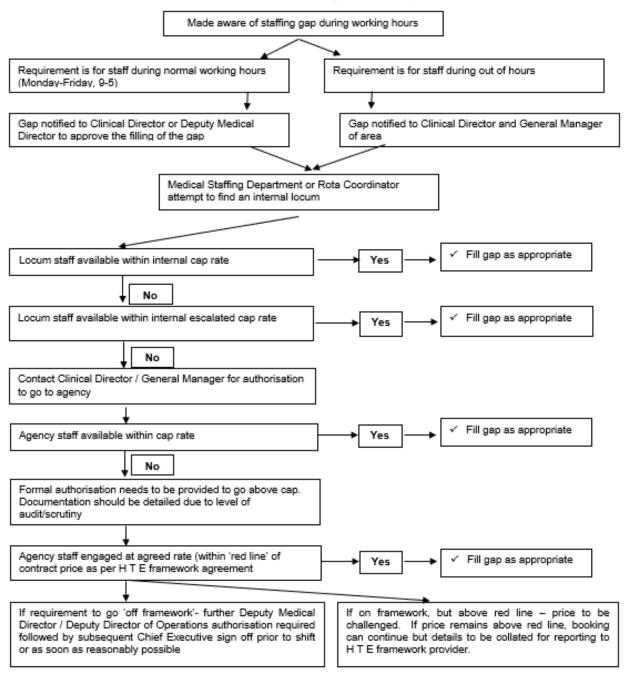
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11.7 Appendix 7: Process for Booking Additional Medical Staff – Normal Working Hours

Process for Booking Additional Medical Staff - normal working hours

(See staff hub for working hours detail)



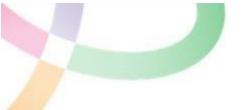
***If rate is above price cap or the agency is off-framework – further Tactical Manager on call authorisation will be required. The Tactical Manager on call must be explicit in any email communication that they acknowledge the risks associated with the breach of policy. Each separate instance of agency use must have a separate authorisation. Bulk authorisation is not permitted.

A rate of > £120 per hour and/or off framework user will also require Chief Executive authorisation.

REMINDER: Agency cannot be booked without correct authorisation

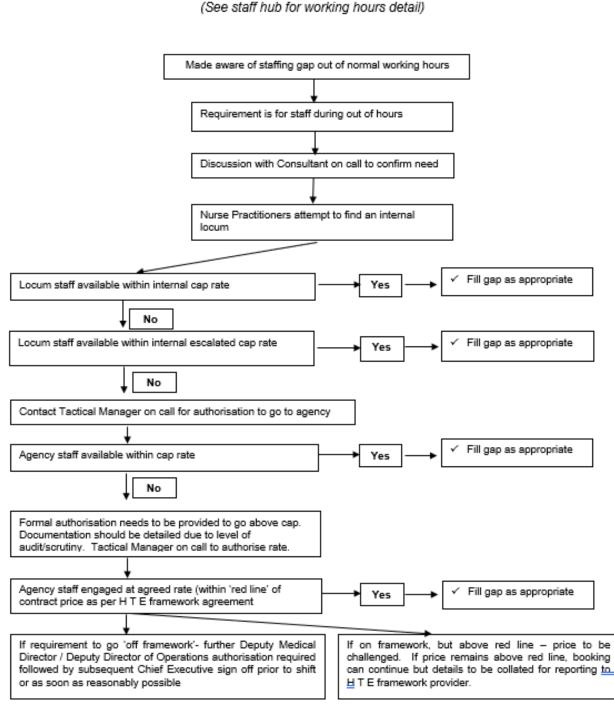
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11.8 Appendix 8: Process for Booking Additional Medical Staff – Out of Normal Working Hours

Process for Booking Additional Medical Staff – out of normal working hours



***If rate is above price cap or the agency is off-framework – further Tactical Manager on call authorisation will be required. The Tactical Manager on call must be explicit in any email communication that they acknowledge the risks associated with the breach of policy. Each separate instance of agency use must have a separate authorisation. Bulk authorisation is not permitted.

A rate of > £120 per hour and/or off framework user will also require Chief Executive authorisation.

REMINDER: Agency cannot be booked without correct authorization

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