

## TEMPORARY WORKER ENGAGEMENT POLICY

		POLICY		
Reference	HR/0054			
Approving Body	JSPF			
Date Approved	05/04/2024			
For publication to external SFH website	Positive confirmation received from the approving body that the content does not risk the safety of patients or the public:			
	YES	NO	N/A	
			X	
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Date of Environmental Impact Assessment (if applicable)	N/A			
Legal and/or Accreditation Implications	<ul style="list-style-type: none"> <li>NHS England Agency Rules</li> <li>The Off-payroll Working Rules (IR35)</li> <li>Agency Worker Regulations 2010</li> <li>The Conduct of Employment Agencies and Employment Businesses Regulations 2003</li> <li>Working Time Regulations 1998</li> </ul>			
Target Audience	This policy applies to all employees considering the engagement of Temporary Workers			
Review Date	31 <sup>st</sup> March 2026			
Sponsor (Position)	Director of People			
Author (Position)	Agency Contracts, Compliance & Systems Manager			

<b>Lead Division/ Directorate</b>	Corporate	
<b>Lead Specialty/ Service/ Department</b>	Human Resources	
<b>Position of Person able to provide Further Guidance/Information</b>	Agency Contracts, Compliance & Systems Manager	
<b>Associated Documents/ Information</b>	<b>Date Associated Documents/ Information was reviewed</b>	
N/A	N/A	
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## CONTENTS

Item	Title	Page
1.0	INTRODUCTION	4
2.0	POLICY STATEMENT	4
3.0	DEFINITIONS/ ABBREVIATIONS	5
4.0	ROLES AND RESPONSIBILITIES	6
5.0	APPROVAL	8
6.0	REQUIREMENTS	8
7.0	MONITORING COMPLIANCE AND EFFECTIVENESS	14
8.0	TRAINING AND IMPLEMENTATION	15
9.0	IMPACT ASSESSMENTS	15
10.0	EVIDENCE BASE	15
11.0	KEYWORDS	15
12.0	APPENDICES	15

## APPENDICIES

<i>Appendix 1</i>	<i>Equality Impact Assessment</i>	16
<i>Appendix 2</i>	<i>NHSE Agency Rules</i>	18

## 1.0 INTRODUCTION

- 1.1 The Trust is committed to achieving a sustainable workforce that delivers high quality care within available resources and is responsive to fluctuations in service demand.
- 1.2 In support of this commitment, it is acknowledged that there will be times when the Trust will require additional temporary workers to cover vacancies, sickness absence and variations in patient acuity levels.
- 1.3 This policy seeks to ensure that the Trust adopts good and consistent practice when engaging temporary workers.

## 2.0 POLICY STATEMENT

- 2.1 This policy aims to ensure that the Trust utilises and manages its Temporary Workforce in a consistent manner which is in line with all relevant legislation, NHS England guidelines and associated Trust policies and procedures. This policy governs the engagement arrangements for all temporary workers, across all staff groups and all engagement routes.
- 2.2 The purpose of this policy is to provide clear information for the engagement and use of temporary workers and to ensure a consistent approach throughout the Trust. This will reduce the risk to the Trust and its patients and staff arising from non-compliance with relevant legislation, NHS England guidelines and associated Trust policies and procedures.
- 2.3 This policy is intended to:
  - 2.3.1 Ensure associated regulatory and legislative compliance is upheld and maintained.
  - 2.3.2 Ensure efficient and effective engagement and management of temporary workers.
  - 2.3.3 Ensure sufficient consideration is given to relevant budgetary position and financial cost prior to the engagement of temporary workers.
  - 2.3.4 Ensure the necessary level of approval is granted prior to the engagement of temporary workers.
  - 2.3.5 Support the Trust in minimising temporary staffing expenditure.

### 3.0 DEFINITIONS/ ABBREVIATIONS

AHP	Allied Health Professional
BAU	Business as usual
CEST	Check Employment Status Tool
DBS	Disclosure and Barring Service
DE	Direct Engagement
HMRC	His Majesty's Revenue and Customs
IR35	Off-payroll working rules
MTP	Medical Transformation Programme
NHSE	NHS England
NMAHPTP	Nursing, Midwifery and AHP Transformation Programme
RSD	Rostering Services Department
SFH / SFHFT	Sherwood Forest Hospitals NHS Foundation Trust
SFI's	Standing Financial Instructions
The Trust	Sherwood Forest Hospitals NHS Foundation Trust
TSO	Temporary Staffing Office

## 4.0 ROLES AND RESPONSIBILITIES

- 4.1 All persons involved in the engagement of temporary workers must refer to, and ensure adherence to, national and local guidance on the matter. This includes, but is not limited to, NHS England's Agency Rules (as included as an Appendix to this Policy) and the associated and relevant Trust Policies and Procedures.
- 4.2 Trust SFI's, Spend Approvals and Budgetary Control Protocols must be considered and complied with ahead of the engagement of any temporary worker.

## 4.3 Individual and Group Roles and Responsibilities

### 4.3.1 Executive Directors

- To ensure that an overall policy and framework is in place to guide managers in the engagement of short-term staffing
- To regularly update and disseminate guidance in relation to authorisation levels for Agency placements that breach capped rates

### 4.3.2 Service Directors / Senior Managers

- To ensure that staff within their area are aware of and comply with this policy and any related guidance and procedures
- To work to reduce the use of Agency staff wherever possible
- To ensure that any decisions on expenditure are authorised correctly and in line with current procedures
- To ensure that any engagements of Agency staff that are in breach of national approved capped rates are authorised at the correct level in accordance with current guidance

### 4.3.3 Managers

- To follow this policy and any related guidance and procedures in relation to the engagement of short-term staffing
- To reduce the use of Agency staff wherever possible
- To seek the most cost-effective solution for all short-term staffing gaps
- To ensure that all temporary staffing arrangements are within allocated budget resources
- When engaging Agency staff, agree and review the duration/ length of time they are utilised for regularly
- To ensure that the Trust's Standing Financial Instructions are followed at all times, and that any decisions on expenditure are made within limits of the Trusts Scheme of Delegation

### 4.3.4 Staff in charge of shifts

- To follow correct procedures when needing to cover immediate staffing gaps with Bank or Agency staff, including consideration of the appropriate placement of bank and agency staff in these positions

#### 4.3.5 Finance Department

- To provide regular reports to senior managers on the cost of Agency and Bank staff in their service area

#### 4.3.6 Procurement Department

- To draw up the appropriate and necessary contractual documentation for the engagement of any self-employed contractors
- To check and confirm that any self-employed contractors that are to be engaged hold the appropriate and necessary levels of insurance cover.

#### 4.3.7 Human Resources Department

- To advise managers on, and assist with:
  - Recruitment process
  - Fixed Term contracts
  - Pre-employment checks
  - Matters of Temporary Worker Health and Wellbeing
  - HR Policy and Guidance

#### 4.3.8 Agency Contract, Compliance and Systems Manager

- To advise Hirers on Agencies that are approved under agreed frameworks
- To monitor and report on Agency expenditure
- To regularly update and disseminate guidance on approved frameworks and NHSE Agency capped rates
- To advise and assist with Tax Employment Status Determinations in relation to the engagement of off-payroll temporary workers

#### 4.3.9 Temporary Staffing Office

- To recruit Bank staff and ensure a supply of Bank staff
- To advise managers on the availability of Bank staff and processes for deploying Bank staff
- To advise substantive staff on the process for applying for a Bank contract
- To regularly update and disseminate guidance on the deployment of Bank staff
- To ensure that there is a process in place for responding to concerns raised by managers in relation to Bank and Agency staff
- To ensure Bank Staff are aware of, and have access to, the Health and Wellbeing Support that is available to them

#### 4.3.10 Rostering Services

- To develop and maintain the eRostering system to support the effective deployment of Bank staff in services rostered via eRostering
- To develop and maintain the eRostering system to monitor the deployment of Agency staff in services rostered via eRostering
- To report on Agency and Bank usage within services rostered via eRostering

- To regularly update and disseminate guidance on the use of the eRostering system

#### 4.3.11 Rota Coordinators

- To maintain a Bank system for junior medical staff whereby existing substantive junior medical staff can also cover additional shifts on Bank
- To seek the most cost-effective use of Agency staff where Bank staff are not available

## 5.0 APPROVAL

5.1 This Policy was approved at JSPF.

## 6.0 REQUIREMENTS

### 6.1 General Requirements

There will be a range of circumstances that give rise for the need for services to engage temporary staffing. These include:

- Gaps in staffing arising from vacancies and pending permanent recruitment
- Staffing gaps for staff arising for a number of reasons (including parental leave)
- A requirement to undertake short term pieces of work
- The need for specialist skills for a finite period of time
- Particular circumstances dictate that someone outside the Trust should be engaged (for example, certain investigations)

Managers must ensure that in the management of temporary staff they follow this policy and any related guidance.

Managers must seek the most cost-effective solution.

Managers are responsible for ensuring that they act within agreed financial limits and in line with the Authorised Signatory List and Scheme of Delegation.

Before undertaking the engagement of any short-term staffing managers must ensure that agreed funding is available.

Where a need for short term work arises, the manager must first consider if this can be covered within existing staffing arrangements. For example:

- Prioritisation of tasks within existing staffing
- Reallocation of tasks within existing staffing in line with existing Job Descriptions



- Temporary deployment of staff from one area to another consideration skills, competencies and training required

Where there remains a need for temporary staffing then options for temporary staffing engagement must be considered in the following order:

- Suitability for a person from the redeployment register
- Temporary employment options or use of Bank staff
- Engagement of staff from an Agency
- Engagement of staff on a self-employed basis for the delivery of a defined outcome

## 6.2 Temporary employment options

The advantages of employment include an established process including formal checks (references, DBS checks etc.), a robust selection process, formal accounting for the individuals Tax and NI liabilities and consistency and stability in the make-up of the workplace.

It is also recognised that there is the potential for termination costs (e.g., redundancy) and this needs to be factored into the consideration.

Temporary employment options include:

- Additional hours for part time staff on a time limited basis (e.g., via increase in hours within current contract or additional bank shifts)
- Fixed Term contract
- Secondment
- Acting up arrangements

Managers should seek advice from HR and follow the Trust's Recruitment process and policy when enacting temporary employment options.

## 6.3 Use of Bank – general requirements

The Trust has Bank staff available for certain staff groups. Details of staff groups where Bank staff may be available is available from TSO.

Bank staff may be substantive staff who also have a Bank contract and “Bank only” staff. Where Bank staff are potentially available (the staff group required is one in which Bank staff are available) then this option must be considered prior to the engagement of Agency.

The process for the engagement of Bank staff will vary dependent on the staff group concerned and the nature of the vacancy (for example: shift or longer-term booking).

Where managers have a concern in relation to the performance of a Bank member of staff, they must report this to TSO.

Wherever possible consideration should be given to a fixed term contract. HR can provide guidance on the process.

### **6.3.1 Use of Bank to cover vacant slots in services that are managed via eRostering.**

Managers must use the eRostering system to record required Bank shifts and make these available to Bank staff. Shifts must be made available to Bank staff before engaging Agency staff.

Guidance in relation to Bank and Agency via eRostering will be updated regularly and is available from the Rostering Services Department.

### **6.3.2 Use of Bank staff to cover vacancy in services not managed via eRostering.**

Bank arrangements must be considered prior to the use of Agency for any of the staff groups currently available via Bank. Advice on the availability of suitable candidates should be sought from TSO.

## **6.4 Use of Agency staff - general requirements**

Agency workers should only be considered when neither an employment option nor Trust Bank staff are available.

The Trust has to comply with NHS England Agency Rules when engaging Agency Workers and it is therefore imperative that requests for Agency Workers should be made only via the approved channels set out below:

- Medical and Dental Staff
  - via Divisional Rota Coordinators
- Nursing and Midwifery Staff
  - via TSO
- Other Clinical Staff (AHP/HSS/Pharmacists etc.)
  - If required to work in CSTO – via CSTO Business Unit
  - If required to work in any other Division – via TSO
- Non-medical, Non-clinical Staff
  - via TSO

The manager when engaging Agency staff will need to agree and review the duration/length of time they are utilised for regularly.

Additional approval by a Director is required for any agency placement that breaches NHSE caps.

Wherever possible placements should be transferred onto either a bank or fixed term contract.

Where managers have a concern in relation to the performance of an Agency member of staff then they must report this as follows.

- Nursing and Midwifery staff, to TSO
- Junior Medical staff, to the relevant Rota Coordinator
- Senior Medical staff, to the Medical Director, Deputy Medical Director, or Clinical Chair
- Non-Medical Non-Clinical staff, to TSO

#### **6.4.1 Agency placements in units that use eRostering.**

Requests for agencies to fill vacant shifts can only be made after the vacant shifts have been made available to Bank staff.

Request to Agencies to fill vacant shifts must be managed through the eRostering system and in line with current guidance.

Once Agency staff have been requested the vacant shift must remain open to Bank staff.

This applies even if the shift has been filled by an Agency member of staff – up until 24 hours before the commencement of the shift.

### **6.5 Medical Staff**

The principles and details outlined in this policy also apply in relation to Medical Staffing. In addition, the following applies:

#### **6.5.1 Junior Medical Staff**

Short-term gaps in staffing should be covered through Bank arrangements wherever possible. Bank arrangements for junior medical staff are managed via the Divisional Rota Coordinators.

Only where Bank / Internal Locum cover is not available should Agency use be authorised.

Engagement of short-term agency Junior Medical staff will be coordinated via the Divisional Rota Coordinators.

Longer term gaps in junior medical staffing should be filled by recruitment wherever possible. Only where recruitment is not possible should agency use be considered.

#### **6.5.2 Senior Medical staff**

Longer term gaps in senior medical staffing should be filled by recruitment wherever possible, including the use of the Locum Consultant role. Only where recruitment is not possible should agency use be considered.

## 6.6 Engagement of Self-Employed Contractors

Self Employed Contractors must never be engaged to cover BAU operational resourcing requirements, staff vacancies and/or rota gaps.

The engagement of a Self-Employed Contractor should only ever be considered for specific project work and then only when an output-based and/or staged payment mechanism is possible.

Any manager considering the engagement of a Self-Employed Contractor must first seek the approval of the Trusts External Engagement Group.

If the engagement of a Self-Employed Contractor is deemed appropriate and is approved by the External Engagement Group, then the requesting manager must refer to the Trusts Procurement Department for the specialist procurement and contracting advice and support that will be required to enable the engagement.

## 6.7 Training for short term staff

For temporary employees (e.g., staff on Fixed Term contracts) - it is the responsibility of the manager to ensure that they undertake any required training (including mandatory training).

For Bank staff - TSO is responsible for ensuring that staff undertake the Mandatory Training required for Bank staff. Should there be additional training specific to the role being undertaken then this will be the responsibility of the manager.

For Agency staff – the Agency is responsibility for ensuring that their staff are adequately trained for the roles for which they are provided. For Agency staff on longer term placements, it is for the manager to determine if they should also attend further internal training.

For Self Employed engagements – the manager is responsible for ensuring that the person engaged has had the training necessary for the provision of the service that they are contracted to provide.

The Trusts Mandatory Training policy and related documents are available for reference on the Trust Intranet, or via the Training and Development Team.

## 6.8 Induction for short term staff

Please refer to the Trust's Induction Policy for requirements on Induction for short term staff.

## 6.9 Disputes

All Bank Staff will operate under a worker agreement with the Trust.

All Agency supplied DE Staff will operate under a worker agreement with the Trust.

All Agency supplied Non-DE staff will operate under a contract with the Agency.

Self-employed contractors will sign a contract for service drawn up by Procurement. This will incorporate the appropriate and necessary NHS Terms and Conditions of Contract for the Provision of the Services to be delivered.

All disputes should refer to the contract in place in the first instance.

## 7.0 MONITORING COMPLIANCE AND EFFECTIVENESS

<b>Minimum Requirement to be Monitored</b>  (WHAT – element of compliance or effectiveness within the document will be monitored)	<b>Responsible Individual/Group</b>  (WHO – is going to monitor this element)	<b>Process for Monitoring e.g., Audit</b>  (HOW – will this element be monitored (method used))	<b>Frequency of Monitoring</b>  (WHEN – will this element be monitored (frequency/ how often))	<b>Responsible Individual or Committee/ Group for Review of Results</b>  (WHERE – Which individual/ committee or group will this be reported to, in what format (e.g., verbal, formal report etc) and by who)
Agency and Bank utilisation and expenditure Reports	Finance TSO Workforce Information	Various Reports and Dashboards	Monthly	Various Reports and Dashboards to: ICB, NHSE, TMT, MTP, NMAHPTP

## **8.0 TRAINING AND IMPLEMENTATION**

- 8.1 The content and application of this policy will be discussed as an integral part of divisional and departmental training and induction of staff that may be involved in the engagement of temporary workers.
- 8.2 This policy will be available on the intranet for all staff to access and will be cascaded to staff via their line management structures. Managers are responsible for ensuring that all staff are aware of this policy and are responsible for appropriate application and implementation of the procedures outlined within it.
- 8.3 The purpose of monitoring is to provide assurance that the agreed approach is being followed – this ensures we get things right for patients, use resources well and adhere to our values.

## **9.0 IMPACT ASSESSMENTS**

- 9.1 This document has been subject to an Equality Impact Assessment as included at Appendix 1
- 9.2 This document is not subject to an Environmental Impact Assessment.

## **10.0 EVIDENCE BASE (Relevant Legislation/ National Guidance) AND RELATED SFHFT DOCUMENTS**

### 10.1 Evidence Base:

- NHS England Agency Rules
- The Off-payroll Working Rules (IR35)
- Agency Worker Regulations 2010
- The Conduct of Employment Agencies and Employment Businesses Regulations 2003
- Working Time Regulations 1998

## **11.0 KEYWORDS**

- 11.1 Temporary Staff, Agency Worker, Direct Engagement, Bank Staff, Agency Rules

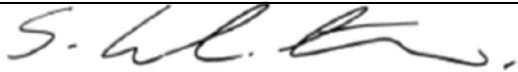
## **12.0 APPENDICES**

As indicated in the appendices table included within the contents page of this document.

**APPENDIX 1 - EQUALITY IMPACT ASSESSMENT FORM (EQIA)**

<b>Name of service/policy/procedure being reviewed: Temporary Worker Engagement Policy</b>			
<b>New or existing service/policy/procedure: Existing Policy</b>			
<b>Date of Assessment: 15<sup>th</sup> January 2024</b>			
<b>For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)</b>			
<b>Protected Characteristic</b>	a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?	b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?	c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality
<b>The area of policy or its implementation being assessed:</b>			
<b>Race and Ethnicity</b>	None identified	N/A	None
<b>Gender</b>	None identified	N/A	None
<b>Age</b>	None identified	N/A	None
<b>Religion</b>	None identified	N/A	None
<b>Disability</b>	None identified	N/A	None
<b>Sexuality</b>	None identified	N/A	None
<b>Pregnancy and Maternity</b>	None identified	N/A	None
<b>Gender Reassignment</b>	None identified	N/A	None
<b>Marriage and Civil Partnership</b>	None identified	N/A	None
<b>Socio-Economic Factors (i.e., living in a poorer neighbourhood / social deprivation)</b>	None identified	N/A	None



<p><b>What consultation with protected characteristic groups including patient groups have you carried out?</b></p> <ul style="list-style-type: none"> <li>• None</li> </ul>
<p><b>What data or information did you use in support of this EqIA?</b></p> <ul style="list-style-type: none"> <li>• National guidelines and standards plus historic Trust data and statistics.</li> </ul>
<p><b>As far as you are aware are there any Human Rights issues to be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments?</b></p> <ul style="list-style-type: none"> <li>• No</li> </ul>
<p><b>Level of impact</b></p> <p>From the information provided above and following EQIA guidance document Guidance on how to complete an EIA (<a href="#">click here</a>), please indicate the perceived level of impact:</p> <p>Low Level of Impact</p> <p>For high or medium levels of impact, please forward a copy of this form to the HR Secretaries for inclusion at the next Diversity and Inclusivity meeting.</p>
<p><b>Name of Responsible Person undertaking this assessment:</b> Steve Whitehead</p>
<p><b>Signature:</b> </p>
<p><b>Date:</b> 15/03/2024</p>

## **APPENDIX 2 – NHSE AGENCY RULES**

Hyperlink: [NHS England » Agency rules](#)