NHS Improvement

Reducing reliance on agency staff: proposals on admin and estates and off-framework agency staff – for consultation

February 2019

We support providers to give patients safe, high quality, compassionate care within local health systems that are financially sustainable.

Contents

1. Summary

1.1 We introduced the 'agency rules'[1] in April 2016 to support trusts to reduce their agency expenditure and move to a sustainable model of temporary staffing. Since then, trusts have successfully reduced agency spend by over £1 billion. As a percentage of total pay bill expenditure, agency spend has fallen from 7.8% at its peak to 4.4%. However, since the start of this financial year, the volume of agency shifts has increased, largely due to rising demand, despite a significant drop in agency prices. This has created a challenging environment for trusts that have already significantly reduced agency spend.

1.2 We now propose to introduce two measures that will help trusts bring down agency spend in non-clinical areas:

a) **A restriction on the use of off-framework agency workers to fill non-clinical and unregistered clinical shifts**. Trusts have reduced the use of off-framework agency shifts by more than 70% since 2016, but there is scope to go further. Off-framework shifts on average cost more and have less assurance of quality. We propose that where a trust needs to use agency staff to fill non-clinical or unregistered clinical roles, this should be done only via on-framework agencies. Restricted use of off-framework agencies in non-clinical and unregistered clinical roles should be part of trusts' strategies to stop using off-framework agency shifts for all staff groups in the medium term.

b) **A restriction on the use of admin and estates agency workers, with exemptions for special projects and shortage specialties.** Admin and estates agency spend in 2017/18 was £223 million or 9% of overall agency spend. Some trusts made significant reductions following the introduction of new controls, but there is still widespread variation across the sector. We therefore propose to require trusts to use bank or substantive/fixed-term workers to

[1] The collective name for the rules for trusts on agency expenditure. Please see *Agency rules*, May 2018 https://improvement.nhs.uk/documents/2827/Agency_rules_-_2018_final_draft.pdf

fill admin roles, with exemptions for special projects and shortage specialties.

1.3 Subject to the responses we receive to this consultation, we would introduce any changes to the agency rules with effect from April 2019.

2. This consultation

2.1 We value the views of our providers and stakeholders and seek to engage widely on these proposed changes. Following a four-week consultation, we will consider all responses and publish a summary of them on our website.

Responding to the consultation

2.2 We ask all interested parties to respond by **5pm on Friday 22 March 2019**. To do so, please use the survey link: https://engage.improvement.nhs.uk/agency-rules/reducing-reliance-on-agency-staff-proposals-on-adm

If you have trouble accessing this, please email us at nhsi.agencyrules@nhs.net.

Confidentiality

2.3 Please let us know if your response is confidential. Your name and/or that of your organisation will then not be included in our published summary of responses.

2.4 If you would like part of your response (instead of, or as well as, your identity) to be confidential, please make this obvious by marking those parts we should keep confidential.

2.5 We will do our best to meet all requests for confidentiality, but because we are a public body subject to Freedom of Information legislation we cannot guarantee that we will not be obliged to release your response (including potentially your identity) or part of it, even if you consider it is confidential.

3. Our existing approach

3.1 The agency rules were published in April 2016 at a time of rapidly rising agency spend. We introduced these rules to support trusts to reduce their agency expenditure and move towards a sustainable model of temporary staffing. In the intervening two years, these measures have reduced agency expenditure by over a third.

3.2 The agency rules require trusts to:

- comply with a ceiling for trust total agency expenditure
- procure all agency staff at or below the stated price caps, unless there is an exceptional patient safety circumstance
- use approved framework agreements to procure all agency staff unless there is an exceptional patient safety circumstance.

3.3 These rules are designed to:

- significantly reduce agency spend
- improve transparency on agency and bank spend
- bring greater assurance on quality of agency supply
- encourage agency staff to return to permanent and bank working.

3.4 The agency rules apply to:

- all NHS trusts
- NHS foundation trusts receiving interim support from the Department of Health and Social Care
- NHS foundation trusts in breach of their licence for financial reasons.

3.5 Throughout this document, 'trusts' refers to the trusts noted at 3.4 above unless otherwise specified.

3.6 We strongly expect all other NHS foundation trusts to comply. A trust's year-to-date performance against its agency ceiling is an equally weighted metric in the 'use of resources' theme of the Single Oversight Framework.[2] In addition, the proportion of temporary staff is measured quarterly in the 'quality of care' theme. Under the 'use of resources' theme we may also consider whether any evidence suggests a provider is failing to operate effective systems and/or processes for financial management and control, or not operating economically, effectively and efficiently. Providers not adequately controlling their agency spend can be investigated under these broader value-for-money considerations.

3.7 Ambulance trusts and ambulance foundation trusts have been covered by the agency expenditure ceiling and framework rules since 1 April 2016 and by the price cap since 1 July 2016.

3.8 The agency rules apply to all staff groups covered by national pay scales:

- medical staff (including dental staff where applicable)
- nursing and midwifery staff
- all other clinical staff
- all non-clinical staff.

[2] Outlined in: https://improvement.nhs.uk/resources/single-oversight-framework/

4. Our proposals

We are consulting you on these proposed changes:

Proposal 1: Restrict the use of off-framework agency workers in non-clinical and unregistered clinical shifts

4.1 Trusts have successfully reduced the number of off-framework shifts from an average of 15,000 a week in April 2016 to an average of 4,276 a week in the first half of 2018/19. Now off-framework agency shifts account for about 5% of total agency spend, with total off-framework agency spend reported to us as £120 million to £150 million. However, while the use of off-framework shifts has fallen, off-framework shifts on average cost more and have less assurance on quality than on-framework shifts (for example, the process for verifying compliance documents is not audited by a framework operator). An average off-framework nursing shift costs £433 while an average nursing shift costs £381 per shift (12% less).

4.2 Currently, non-clinical and unregistered clinical off-framework shifts cost providers about £7 million per year[3] (approximately 5% of off-framework spend). By moving these shifts on-framework or onto bank or substantive contracts, trusts could significantly reduce this figure and gain greater assurance on the quality of workforce supply.

4.3 We propose to require trusts to use only on-framework agencies for non-clinical and unregistered clinical shifts. Most trusts currently do not use any off-framework agency workers for non-clinical or unregistered clinical shifts and should continue to procure in this way. We propose to work closely with the 37 trusts that do use off-framework agency workers for non-clinical and unregistered clinical roles, to support them to shift the spend on-framework or onto bank or substantive contracts by April 2020.

[3] Based on current reported spend from December 2017 to December 2018.

4.4 Non-clinical and unregistered clinical[4] roles include healthcare assistants, admin and estates, and some allied health professionals (AHPs). It does not include medical, registered nursing and midwifery, scientific and technical, healthcare science and registered AHP roles.

4.5 This restriction is part of a proposed gradual elimination of off-framework usage over several years. Trusts should look to shift off-framework agency usage on-framework or onto bank/substantive contracts as a priority to gain greater assurance on the quality and safety of workforce supply and bring down agency spend.

Proposal 2: Restrictions on admin and estates agency use

4.5 Admin and estates accounted for 9% of agency spend (£223 million) in 2017/18. Some providers have significantly reduced their admin agency spend in recent years, with 74 providers reporting to have more than halved it in 2017/18. However, there remains widespread variation between providers and considerable scope to reduce spend in the highest spending providers (see figures 1 and 2 below).

[4] Where a role requires a clinical worker who is fully qualified and registered by a professional organisation, we would consider that to be a 'registered' clinical shift and it would be exempt from the restriction. The Faculty of Physician Associates strongly encourages physician associates to join the Physicians Associate Managed Voluntary Register, and for the purpose of the agency rules they are therefore classified as registered. These roles are exempt from the restrictions in Section 4. Where a role is directly involved in patient care, it is considered 'clinical' and therefore exempt unless the role is unregistered.

Figure 1: Admin and estates agency spend by trust 2017/18

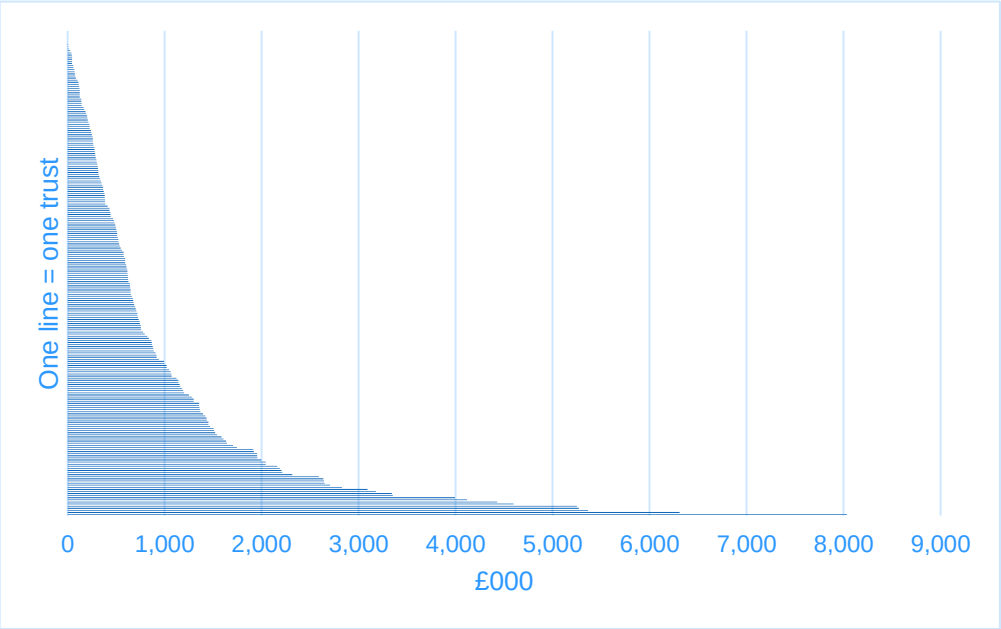
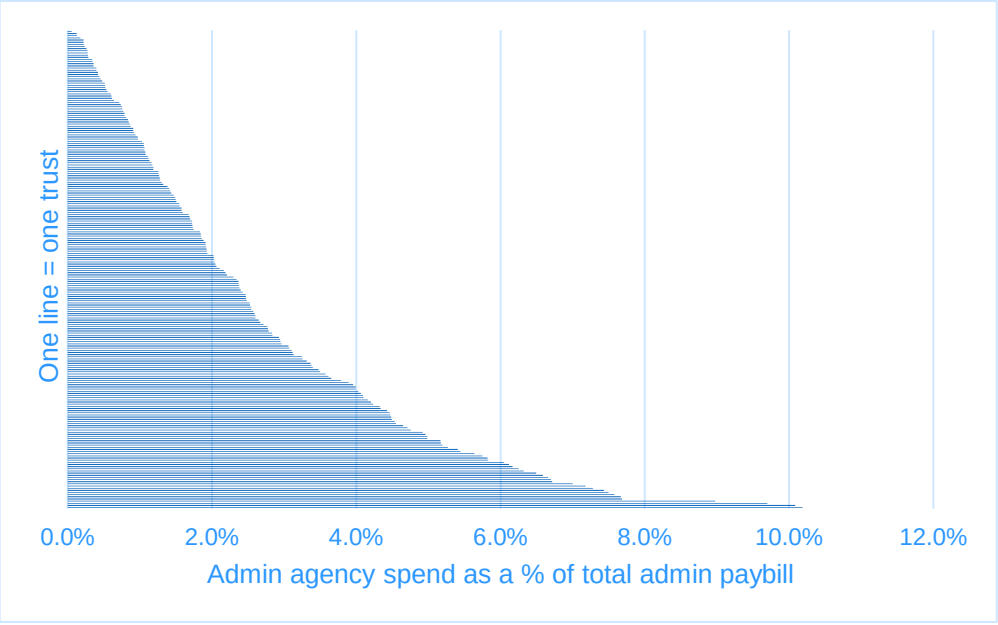


Figure 2: Admin and estates agency spend by trust as a percentage of total admin pay bill 2017/18



4.6 In 2019/20 we will introduce admin agency expenditure ceilings. To help trusts meet these ceilings, and their overall agency expenditure ceilings in turn, we propose to restrict the use of admin agency workers.

4.7 To better understand what types of admin and estates roles are supplied by agencies, we asked trusts to break down their admin agency spend for September 2018, supported by several interviews with senior HR professionals in trusts.[5] The data showed us several trends.

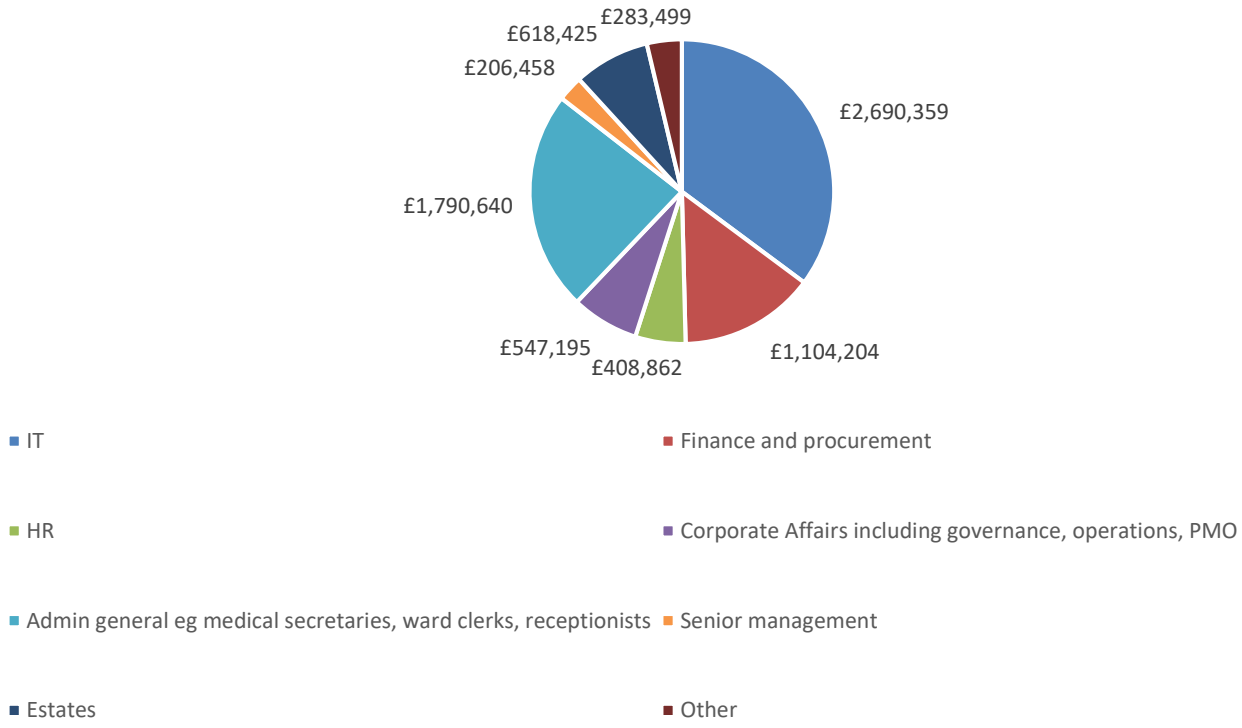
4.8 First, about a third of trusts that responded used agencies to fill ancillary estates roles such as cleaners, porters and caterers. On average these roles tend to be at Agenda for Change bands 1 to 3, and the workers tend to work a limited number of hours in a month. About two-thirds of these roles were classified as currently highly difficult to fill through bank (possibly because their banks do not cover these roles/skills) and a third classified as low difficulty.

4.9 Second, trusts use a high volume of clerical support roles including medical secretaries, ward clerks and receptionists. These are most commonly concentrated in lower Agenda for Change bands – eg bands 2 to 4 – but due to the volume of these roles they represented 20% of admin agency spend in September 2018. These roles were commonly reported to be 'low' difficulty to transfer to bank.

4.10 Third, most admin agency spend (as much as 65%) is concentrated in corporate departments such as IT (35%), HR (5%) and finance (14%) as well as interim cover for senior management roles (see Figure 3). In HR and finance, agency workers are typically Band 7 and above and used to cover maternity leave, sickness absence and short-term projects:[6] eg mergers, transactions, and service change. In IT, agency staff are sometimes used to cover more long-term vacancies given difficulties in filling these roles: 80% of IT roles were reported as highly difficult to fill via bank compared to 57% overall. This could be due to shortages in these specialist roles, the lack of banks covering these skills, or the attractiveness of agency over bank/substantive work for these workers, who could easily move into the private sector.

[5] 167 trust responses, 72% response rate as of 28 November 2018.
[6] Admin agency spend excludes any expenditure that is 'capitalised' in accounting terms, and therefore staffing for capital programmes is not within the scope of these rules.

Figure 3: Month 6 agency admin and estates spend by department



4.11 Based on this information, we propose that providers are required to use bank or substantive/fixed-term contracts to fill admin shifts with the following exceptions:

a. During short-term special projects such as IT transformation, mergers, transactions and other critical service change, we recognise the need for interim support. Agency workers can therefore be used to help staff these projects, but our regional teams should be informed, including when the project ends, and the workers will leave or move onto bank/substantive contracts. These projects should wherever possible be incorporated into annual planning. We propose that a 'short-term project' be defined as lasting no more than six months.
b. Clinical coding is a specialist skill in high demand but short supply, and these shifts will therefore be exempt from any restrictions. Clinical coding represents about 10% to 20% of IT spend.
c. Interim very senior managers will continue to be covered by the separate rules that can be found here.

5. Consultation questions

For the two proposals outlined in Section 4, you are asked to consider these questions in your response:

Proposal 1: Restrict the use of off-framework agency workers for non-clinical and unregistered clinical shifts.

1) Do you support the proposal to restrict the use of off-framework agency workers for non-clinical and unregistered roles? If not, why?

2) Are there any roles you would want to exempt? If so, why?

3) Would your trust need support to implement the proposed measures?

Proposal 2: Restrict the use of admin and estates agency workers, except for special projects and shortage specialties.

4) Do you support the proposal to restrict the use of admin and estates agency workers? If not, why?

5) Are there any roles or circumstances you would want to add to the list of exemptions? Why?

6) Are there any roles or circumstances you would want to remove from the list of exemptions? Why?

7) Would your trust need support to implement the proposed measures?

8) Are there any roles where your trust believes it is cheaper to procure via agency than bank/substantively? If so, which roles and why?

9) How would the restrictions affect your trust's ability to cover IT roles? Are there any other IT roles which you feel should be exempt from restrictions, and if so why?

10) Would the trust be able to implement these proposals within the given timeframe if changes were introduced in April 2019? If not, what additional support would be required?

Contact us:

NHS Improvement
Wellington House
133-155 Waterloo Road
London
SE1 8UG

0300 123 2257
enquiries@improvement.nhs.uk
improvement.nhs.uk

@NHSImprovement

This publication can be made available in a number of other formats on request.

 Publication code: C 03/19