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Guidance for trusts on the use of insourcing

17 January 2022

NHS England and NHS Improvement have become aware of temporary staffing agencies approaching trusts and offering ‘insourcing’ solutions to meet their routine temporary staffing demands and to support with additional operational pressures such as, reducing their elective waiting lists. These insourcing solutions have included the provision of individuals or teams of clinical and medical staff who are paid at an escalated rate above the NHS England and NHS Improvement [price caps](#) and who are engaged through an off framework agency.

Since 2016, the [Agency Rules](#) have set out the rules for trusts on agency usage, and trusts have been required to report any overrides to these rules to NHS England and NHS Improvement through the weekly bank and agency collection. These rules apply to insourcing solutions that include the provision of temporary workers, and any escalated rates above the price caps and the use of off framework agencies must be reported to NHS England and NHS Improvement.

What is insourcing?

Insourcing is a term used to describe a range of medical and clinical services, which are deployed to utilise spare, out-of-hours capacity, typically at weekends, within a trust, in addition to the trusts existing provisions, with the intention to bolster service outputs and improve efficiency. Such services are typically provided by specialist medical or clinical providers who can provide the specialist capabilities required to deliver an end-to-end service, including clinical governance and oversight. These services are typically contracted for based on the required service outputs and are charged at or below the national tariff. Insourcing is not the deployment of temporary workers or the use of temporary staffing agencies to support with capacity and demand planning and the supply or management of temporary workers into the trust.

Insourcing and temporary staffing.

NHS England and NHS Improvement strongly discourage the use of insourcing solutions where temporary workers are paid escalated rates and where approved frameworks are not used. The reason for this is because it often does not provide access to additional workforce, rather escalated pay rates attract workers from elsewhere. This reduces the supply of agency workers available to fill shifts elsewhere in the trust and wider health system, and has a ripple effect on general agency rates, as it raises the pay expectations

of agency workers, and forces other departments and trusts to increase their rates to attract their workers back. Instead, we recommend that trusts consider block bookings with on framework agencies for guaranteed shifts with longer lead times.

Due diligence regarding insourcing and temporary staffing.

We request that all trusts ensure that appropriate due diligence is undertaken before contracting for any insourcing solutions that involve the provision of temporary workers. This should include checking that:

- The supplier has the specialist capabilities required to deliver an end-to-end service, including clinical oversight and governance, and is not primarily a temporary staffing agency,
- The supplier is CQC registered and the insourcing agreement has been reviewed and rated,
- The supplier is not reliant on subcontractors that supply temporary workers to them as a master vendor or 'managed service' to deliver the contract,
- The supplier is not providing temporary staffing to the trust in addition to this contract and will not transfer existing agency supply into the insourcing contract,
- The proposed pay rates for temporary workers are at or below the NHS England and NHS Improvement price caps, and the payment of temporary workers aligns with the requirements of IR35 legislation,
- The contract is not within the scope of what could be defined as the provision of temporary staffing, which may have tax and VAT implications for the trust

For further support with this, please contact your framework operators via the contact details below.

Contact details

The framework operators can be contacted on:

- NHS North of England Commercial Procurement Collaborative (NOE CPC): enquiries@noecpc.nhs.uk
- NHS Commercial Solutions (NHS CS): NHSCS.agency@nhs.net
- NHS London Procurement Partnership (LPP): workforcesupport@lpp.nhs.uk
- East of England NHS Collaborative Procurement Hub (EOE CPH): workforce@eoecph.nhs.uk
- Crown Commercial Service: info@crownccommercial.gov.uk
- HealthTrust Europe, Total Workforce Solutions: agency@htepg.com

If you have any general questions or concerns about temporary staffing, please contact the Temporary Staffing Team at NHS England and NHS Improvement (nhsi.agencyrules@nhs.net).