

Dear Colleague

SUPPLEMENTARY STAFFING – AGENCY CONTROLS

1. This DL is to be read in conjunction with [DL \(2023\) 05 dated 22 February 2023](#).

2. The above referenced DL requests that all Boards take steps to ensure the operation of appropriate escalatory controls in deploying agency staff in line with the contents of the Nursing and Midwifery Good Practice Guide in the Use of Supplementary Staffing (published December 2007). Work is ongoing to produce a new Guide, which is due for publication in the coming months.

3. In the meantime, as part of ongoing efforts to constrain the use of agency staff unless essential, it is noted that Boards have implemented the following targeted controls:

- Under no circumstances should current NHS employees or Staff Bank workers be placed on shifts within their own Health Board via an agency.
- A six-month set cooling off period must be applied from the date a substantive employee or Bank Worker terminates their contract with a Health Board before they can be employed within that Health Board through an agency.
- All agency workers must only be registered with a Health Board under one agency.
- Any off-framework Agency (that is an agency that does not appear on the relevant National Procurement Framework) workers must provide evidence of personal indemnity insurance cover.

DL (2023) 14

22 May 2023

Addresses

For action

Chief Executives
HR Directors
Executive Nurse Directors

For information

Finance Directors

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- All terms and condition negotiations with agencies and agency workers must be conducted via the Bank unless an emergency situation arises out of hours.
 - All new agency workers registering with Health Boards must be from a National Procurement Framework Agency. Those trying to join from Off-Framework agencies must not be added to lists.

4. We note that Boards, supported by the National Staff Bank Managers Network, have developed additional guidance to aid the consistent operationalising of these arrangements across NHS Scotland.

5. Building on these steps, this DL requests that, **from 1 June, Boards ensure that all future agency shifts are only filled by agency workers from an agency which appears on the relevant National Procurement Framework NP510, using a framework contract.** Boards may only do otherwise where it is clear that not accessing staff via an off-framework agency will result in either a clinical safety breach or suspension of a service or, otherwise, a breach of a Board's legal obligations.

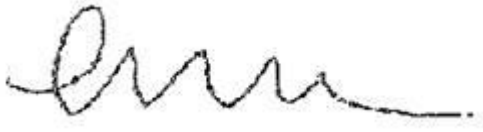
6. Any off-framework agency used must comply with Chapter 3 of Part 5 of the Public Services Reform (Scotland) Act 2010 (the 2010 Act) as regards registering with the Care Inspectorate. Boards should also consider whether any of the duties under the 2010 Act would apply to their contactors and/or any agency used by their contractors.

7. This new arrangement revokes the flexibilities around non-framework agency use which were afforded under the terms of DL (2023) 05.

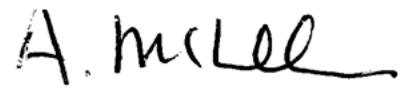
8. To support consistent implementation of the above arrangements, a proportionate reporting mechanism to monitor off-framework agency spend will be implemented from 1 June onwards. Thank you in advance for supporting the operation of these new arrangements.

9. Nothing in the above prevents Boards from appointing a master vendor, neutral vendor or similar third party model to support them in the contracting of agency staff going forward. However, all such vendors must ensure compliance with the requirements set out in this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Russell', with a long horizontal flourish extending to the right.

Gillian Russell
Director of Health Workforce

A handwritten signature in black ink, appearing to read 'A. McMahon', with a long horizontal flourish extending to the right.

Professor Alex McMahon
Chief Nursing Officer