

Engagement of Temporary Staff including Agency Workers

Ratification Process

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Cambridgeshire & Peterborough CCG Engagement of Temporary Staff including Agency Workers

Document Control Sheet

Development and Consultation	This policy was developed by the CCG HR team and consulted upon with senior managers and staff representatives. This policy has been approved through the Joint Consultation and Negotiating Partnership (JCNP).
Dissemination	All new and updated policies and procedures are notified to senior managers via email for dissemination to their staff. Notification is also sent to all staff via the bi-weekly staff newsletters. This policy will also be highlighted within all recruitment documentation to new staff.
Implementation	All staff and managers. Line managers have an additional duty to authorise in accordance with the policy. The OD & HR department has amended all appointment documentation and ensured all recruitment documentation reflects this policy.
Training	The CCG HR team will organise to inform managers of this policy. This policy will be included in all recruitment and selection and management training.
Audit	The CCG HR Team will hold a database of all policies and a reminder will be sent when a policy is due for renewal.
Review	This policy will be reviewed by the CCG HR Team and JCNP every two years, unless an earlier review is required e.g. due to changes in legislation or in NHS direction.
Links with other documents	This policy should be read in conjunction with: CCG Agency Worker Regulations Policy and Procedure CCG Recruitment and Selection Policy and Procedure

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Revisions

Version	Page/Para No	Description of Change	Date Approved

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1. Introduction

The CCG recognises that from time to time workers may need to be engaged outside of the formal staffing structure to, for example, undertake work for short periods of time, to undertake occasional or ad hoc duties, or to cover a vacancy in the structure for a limited period of time only. This policy is designed to ensure that the CCG adopts good and consistent practice when engaging with staff on terms other than a substantive employment contract.

Temporary staffing should not be viewed as a long term solution. Where managers have or are considering interim/temporary staff in roles that are likely to extend beyond 3 months these should be considered for fixed term or permanent recruitment. Please get in touch with the HR team for further advice regarding this.

For policy guidance on the recruitment and selection of staff to permanent positions on substantive contracts with the CCG, reference should be made to the CCG Recruitment, Selection and the Appointment of Staff Policy and Procedure.

2. Scope:

The policy provides information and guidance for staff and managers regarding:

- The processes to be followed for the engagement of temporary staff, interims, agency workers and off-payroll workers
- Ensuring compliance with HMRC rules and legislation covering the payment of temporary staff and workers including off-payroll workers, the self-employed and the involvement of intermediaries
- The appropriate use of fixed term contracts

3. Establishment Control Process

Before commencing any recruitment process, including those involving the engagement of temporary staff / workers, CCG managers must follow the CCG establishment control process.

The Establishment Control Process business case template found in Appendix 2 of the CCG Recruitment, Selection and the Appointment of Staff Policy and Procedure should be completed and submitted to capccg.recruitment@nhs.net for logging and onward referral to the Exceptional Recruitment Panel. Further information regarding the CCG establishment control process and the levels of authorisation required can be found on the CCG extranet.

The process must be followed to obtain the relevant level of authorisation to recruit, and is applicable to both funded and unfunded positions, including the engagement

of interims, the appointment of staff into fixed term contract posts and the utilisation of agency staff or off-payroll workers.

4. Sourcing temporary staff

Temporary staff may be sourced through advert (e.g. on NHS Jobs), from employment agencies, or through networking / internal recommendation. Potential workers should in all cases be interviewed by appropriate CCG manager(s) before any agreements are entered into regarding their engagement for work, and proper assessment of their suitability (including checking of qualifications and relevant previous experience) must be undertaken.

5. Employment check standards

It is an NHS requirement that the NHS Employment Check standards are followed and the following details are obtained before any workers commence an assignment including those of a temporary nature:

- Full name and address
- Verified personal identification and photograph e.g. passport or driving licence and eligibility to work – see Appendix 11 of the CCG Recruitment and Selection Policy for the full list of acceptable documents and for further information regarding these checks
- References from two people in the appropriate field of care or profession
- Full CV
- Certificated evidence of having obtained the qualifications relevant to the work
- Details of any other employment the worker has
- Evidence of appropriate skills
- Confirmation that relevant health checks have been undertaken
- Appropriate professional registration is in place where appropriate
- Satisfactory Disclosure and Barring Service/Disclosure Scotland disclosure where appropriate
- Bankruptcy checks as appropriate and where relevant

A Temporary Worker Checklist must therefore be completed for each worker as a summary document to list and confirm that the checks have been undertaken. The Temporary Worker Checklist can be found at Appendix 1 of this policy.

Completed checklists should be sent to capccg.hrfilling@nhs.net by email.

Workers must not commence in a role or start any work for the CCG without the above checks being undertaken and responses that are satisfactory to the CCG being received. Guidance from HR must be sought should any questions regarding the eligibility or suitability of a proposed worker arise during any of the check process, in particular where any questions arise regarding the proposed worker's Right to Work status, professional registration or Disclosure and Barring Service

information. Reference should also be made, where relevant, to the CCG Recruitment, Selection and the Appointment of Staff Policy and Procedure.

6. Employment Status

Prior to commencing any work with the CCG, the employment status for tax purposes of a temporary worker and the work they will undertake must be determined by the CCG to ensure that it complies with HMRC rules regarding the payment of workers. Guidance should be sought from HR at the earliest opportunity regarding this.

Under HMRC rules the CCG, as a public body, may face fines and penalties if it wrongly applies HMRC rules associated with the payment of workers.

The CCG anticipates that the majority of work undertaken will need to be paid through PAYE payroll processes as opposed to by payment of invoice and with contracts for service.

7. Induction

All workers should be given the following information and items on their first day:

- IT Security Policy - the worker should be given time to read and understand the policy and then to sign the declaration of what will be expected of them
- A 'Code of Conduct Agreement' – the worker should be given time to read and understand the agreement and then to sign the declaration
- Declaration of interest form – to be completed, signed and returned to the HR office of the CCG
- Confidentiality form – the worker should read and then sign the declaration
- Asked to undertake mandatory training – for assignments under 6 months, information governance training should be undertaken. For assignments lasting greater than 6 months, all mandatory training as outlined by the CCG's mandatory training matrix must be completed once it is known that the assignment will last greater than 6 months.

It is the responsibility of the supervising manager to ensure that the above is in place for the worker's first day.

8. Employment Agencies and Agency Worker Appointments

In certain circumstances the CCG may need to use the services of external recruitment agencies to provide short-term cover. Using agency staff can be costly and this must be considered carefully. Prior to approaching agencies, managers should establish the requirement for interim support and have director and relevant Establishment Control Panel approval to proceed.

On seeking an agency worker, the recruiting manager must ensure that the agency they approach is listed on the approved framework, as off-framework arrangements will only be permitted in exceptional circumstances. Framework approved agencies have agreed to adopt contract terms that are acceptable to NHS organisations. Non-framework agencies are likely to charge higher commissions with less favourable contractual terms.

The CCG is required to comply with NHS rules in relation to price caps on agency rates as published by NHS Improvement (formerly Monitor and the TDA) in November 2015. Managers must ensure that the agency will charge the CCG no more than the Agenda for Change maximum hourly charge amount (NHSI Price caps rate) for the worker for the pay band of the role they are working in. Details of the rates can be found at Appendix 2 of this policy.

These price caps represent the maximum that the CCG should pay and are not to be interpreted as the standard or default rates.

Breaches to the price caps will be reported to the Establishment Control Panel and are monitored by the CCG Remunerations Committee. Further to this, any payments made in excess of the price caps have to be reported by the CCG to NHS Improvement who scrutinise all breaches. NHS Improvement reserves the right where they deem there to be excessive use and or failure to make rapid improvements to workforce management, to take regulatory action in response and as appropriate.

When contacting agencies the role requirements should be outlined to include:

- The role details – job description and person specification
- The banding - Agenda for Change band for the post/role
- The budget/Daily Rate available – reference must be made to the Agenda for Change maximum hourly charge table (NHSI Price caps rate) which can be found at Appendix 2 – these rates are the maximum that an agency should charge the CCG and should not be exceeded
- The period to be covered – length of assignment
- A copy of the Temporary Worker Checklist (see Appendix 1) to be completed by/with the Agency

The list of approved agencies that can be approached are on the Crown Commercial services Framework which can be found online at: http://ccs-agreements.cabinetoffice.gov.uk/suppliers?field_views_search_value=%22%22&sm_field_contract_id=%22CM/AAC/09/5124%3AAI%20Lots%22&items_per_page=10

8.1 Employment Checks and Agencies

As identified above at section 5, a satisfactorily completed Temporary Worker Checklist (see Appendix 1) must be received for all temporary staff before they are engaged for work by the CCG.

The responsibility to carry out identity checks for agency workers lies with the recruitment agency that provides the agency worker or interim, however identification documentation should also be witnessed directly by the recruiting manager and/or HR either before, or on the agency worker's first day.

Agencies must provide recruiting managers and/or HR with written assurances that health checks have been undertaken as relevant to the role. Agencies need to provide information to the CCG in respect of any reasonable adjustments that may be required when engaging any agency worker or interim. This assurance and information should be sent to capccg.hrfilling@nhs.net and retained on file.

Registration details (where the position requires professional registration) must be carried out in the same way as for permanent staff. The recruitment agency will monitor the professional registration of its agency staff, but CCG managers in conjunction with HR should check prior to the agency worker starting that the registration meets the requirements of the position. In all cases, registration checks should be undertaken against the online register of the relevant professional body and details of the check should be confirmed to capccg.hrfilling@nhs.net and retained on file.

If working in a role that requires a Disclosure and Barring Service (DBS) check, agency staff, locums and independent contractors will be required to provide evidence of a recent (within 1 year) DBS check before work commences. When employed through an agency, the CCG will request evidence from the agency of a DBS check at the appropriate level for the role being undertaken. It is the recruiting manager's responsibility to ensure that a worker has a valid DBS check in place before they commence work for the CCG. Evidence should be confirmed to capccg.hrfilling@nhs.net

8.2 Temporary Agency Worker to Fixed Term or Permanent Employee process

Agencies are entitled to charge the CCG a fee in certain circumstances where the CCG go on to appoint an agency worker onto an employment contract. Details and information regarding the fee must be described in the contract with the agency.

Agencies may agree to waive the fee in some circumstances, for example where it is agreed by the CCG to engage the agency worker via the agency for a specified period of time or to provide the agency with a specified notice period during which the worker will remain engaged by the CCG through the agency before being moved onto a CCG employment contract.

Prior to moving an agency worker onto an employment contract with the CCG the normal CCG appointments process must be applied – i.e. the vacancy must be advertised and available to staff to apply for and the agency worker must then be the preferred candidate following the completion of the recruitment selection (interview) process. The complete appointment and checklist process for the appointment of staff as set out in the CCG Recruitment and Selection and Appointment of Staff Policy must be undertaken prior to the worker moving onto a CCG contract.

9. Engagement of off-payroll workers and contracts for service

In line with current HMRC rules the CCG expects to pay the majority of its workers via on payroll arrangements and with contracts of employment. In certain circumstances HMRC rules may allow off payroll arrangements to be entered into with certain workers and for certain work.

The numbers of cases where off payroll arrangements will apply are expected to be minimal. HR guidance must be sought in all cases before any off payroll agreements are made (see also section 6 – Employment Status). Senior HR staff will review on a case by case basis the circumstances in accordance with HMRC guidance tools and rules. Instances of proposed off payroll working will be reported to the Establishment Control Panel for approval and the numbers and details of the work is monitored by the CCG Remunerations Committee.

As a public body the CCG must ensure it follows and applies HMRC rules regarding the correct and proper payment of workers otherwise it risks receiving fines.

Any invoices received by the CCG for work undertaken where Establishment Control Panel approval for off payroll working has not been given, will not be taken forward for payment.

10. Appointing staff onto Fixed term Contracts of Employment

Relevant Establishment Control Panel approval must be obtained before any appointments are made. It is the recruiting manager's responsibility to ensure that during the recruitment process for a fixed term post the time scale of the employment contract is clearly communicated to potential applicants and the successful candidate from advert through to written offer and the issue of a contract.

Examples of circumstances where a fixed term contract may be an appropriate solution include:

- To provide cover for a permanent post holder (e.g. to cover maternity leave, or an employment break)
- To resource a time-limited one-off task or project
- Where funding for a project or role has a specified limit

10.1 The CCG's obligations to Fixed Term Workers

The employment rights of workers appointed for Fixed Term periods/contracts are covered within the Fixed Term Employees (prevention of Less Favourable Treatment) Regulations, 2002 and the Fixed term Employees (Prevention of Less Favourable Treatment) (Amendment) Regulations 2008.

The purpose of the Regulations is to ensure that fixed-term employees are not treated less favourably than comparable permanent employees on the grounds that they are fixed term employees, unless this treatment can be objectively justified.

Legislation gives fixed-term employees the right:

- not to be treated less favourably than a comparable permanent employee with regard to terms and conditions of employment
- to be informed of suitable permanent vacancies in the organisation
- to have their contracts automatically converted to indefinite ones after four years (the four years must start after 10 July 2002 and there must be two or more successive contracts)
- not to be selected for redundancy or be unfairly dismissed if the principal reason for the selection was because they were a fixed-term employee
- to a written statement listing the reasons for any dismissal (after two years' service)
- not to be unfairly dismissed (after two years' service)
- to statutory redundancy payments (after two years' service)
- to a minimum notice period of the agreed ending of the contract
- to a minimum notice period after one month's continuous service.

It is the CCG's responsibility to ensure that those engaged by it on fixed term contracts receive the same entitlements (i.e. are treated no less favourably) as their comparators on permanent contracts in respect of the following:

- the same pay and conditions as permanent staff
- the same or equivalent benefits package
- information about permanent vacancies in the organisation
- protection against redundancy or dismissal

Any employee on fixed-term contracts with the CCG (or a predecessor organisation) for four or more years will automatically become a permanent employee, unless the CCG can show there is a good business reason not to do so.

The CCG will look for suitable alternative employment for any employee on a fixed term contract when their fixed term contract is due to / comes to an end.

10.2 Ending a fixed-term contract

A fixed-term contract will usually terminate on a specified date, or on the occurrence of a specified event, such as the completion of a task. However, before it elapses, the CCG must communicate with the employee about the expiry.

If a contract isn't renewed this is considered to be a dismissal, and if the employee has at least two years' service the CCG must show that there is a 'fair' reason for not renewing the contract.

The Worker may be entitled to a redundancy payment after two years' service if the reason for non-renewal is redundancy.

10.2.1 Procedure to be followed:

In good time and before the expiry date the relevant CCG manager will need to:

- Remind the fixed term worker in writing of the potential end date of the fixed term. A six-month period may be sensible, depending on the length of the contract.
- Arrange a meeting with the employee during which they should be reminded that the contract is due to end on the given date and any prospect of the contract being renewed or extended should be discussed.
- Alert the employee if the existing contract cannot be renewed or extended of this, and advise them of any alternative positions that might be available. Any suitable alternative work should be considered and offered to the employee before the end of the employee's current employment. The employee should be warned of the risk of dismissal at the end of the term. This meeting should be followed up by a letter which confirms the risk of dismissal at the end of the fixed term.
- A reasonable time (at least a month) before the scheduled end of a fixed-term contract, a dismissal notice should be sent confirming the expiry of the fixed term and including information on redundancy pay (if relevant) and the right to appeal. There is normally no notice period if employment is expected to end on the date specified in the contract.

10.3 Ending the contract early

If details regarding early termination are specified in a fixed term contract, so it can be ended early, the contract can be ended early provided proper notice is given.

Fixed-term employees have the right to a minimum notice period of:

- one week's notice if the employee has been employed by the employer continuously for one month or more, but for less than two years

- two weeks' notice if the employee has been employed by the employer continuously for two years, and one additional week's notice for each further complete year of continuous employment, up to a maximum of 12 weeks.

These are the minimum statutory periods. The contract itself may specify a longer notice period to be given.

Further guidance can be sought from the CCG HR Team.

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Appendix 1 – Temporary Worker Checklist

Appointment of Temporary Workers		
Recruitment Checklist		
	Completed	Notes
<p>Establishment Control Form submitted to request the engagement of a temporary worker, to include:</p> <p>Confirmation that the agency (where relevant) is included on the approved Framework; confirmation of agency Terms of Business and introduction fee</p> <p>Role description or project specification; Confirmation of working hours; confirmation of length of engagement; confirmation of rate of pay; confirmation of exit strategy/costs involved</p>		
<p>In conjunction with the CCG HR Team and in line with HMRC Rules and Regulations applicable, determine and confirm the employment status of the worker for tax purposes and ensure the method of engagement and payment is correct in accordance with HMRC rules.</p>		
<p>For Agency Worker engagements:</p> <p>Appointing manager to request evidence from the agency of the agency worker's identification documentation and eligibility to work in the UK</p> <p>For non-agency worker engagements:</p> <p>Appointing manager to check and copy identification documentation for the</p>		

purposes of eligibility to work in the UK		
Appointing manager confirmation that Certificated evidence has been seen of the worker having obtained the qualifications necessary for the work		
Confirmation that relevant health checks have been undertaken		
For appointments to roles that require a DBS certificate, appointing manager must see evidence of the DBS certificate held and complete a DBS proforma		
Appointing manager to request evidence of two satisfactory references from the agency or if no agency, obtain two satisfactory references. Employment references must cover the previous 3 years, therefore more than two may be required.		
Appointing manager to request evidence of professional registration where required		
Appointing manager to provide OD & HR team with any Recruitment Agency Terms of Business; and agency worker confirmation of assignment		
Appointing manager to submit P2 starter forms to SERCO where temporary worker will be on payroll		
Appointing manager to submit Systems Access Starter Form to SERCO		
Appointing manager to notify HR of the temporary worker start date		
Appointing manager to provide temporary worker with New Starter Pack (to be obtained from Corporate Services Business Manager)		

Appointing manager to obtain signed Confidentiality Agreement		
Appointing manager to obtain temporary worker's emergency contact details and provide to HR team		
Appointing manager to provide link to relevant CCG Policies and procedures on CCG website, highlighting the following policies: Safe Road Use Health & Safety Dignity at Work Social Media Pay policy (where relevant) Ways of Working (where relevant) Freedom to Speak Up (Whistleblowing) Working Time Regulations Conflicts of Interest Policy Code of Conduct for Confidentiality CCG Constitution		
Appointing manager to ensure temporary worker undertakes mandatory training: Information Governance via Corporate Induction Fire Safety Health & Safety Equality & Diversity Safeguarding Adults Safeguarding Children (for temporary workers undertaking a line management role, Appraisal Conversations training should also be undertaken)		
Appointing manager to complete ID Badge and Access Fob forms as appropriate and provide to Reception at Lockton House		

Manager Signature:

Date:

Once all documentation has been collated, and this form has been completed, please return to the OD & HR team, Fifth Floor, Lockton House, Clarendon Road, Cambridge, CB2 6FH, so it can be retained on file.

Please note that Line Managers will be chased for missing documentation & HR personnel files will not be made up until all documentation has been received.

Appendix 2 – Agency Price Cap

AGENCY PRICE CAP REFERENCE TABLES

These tables set out the maximum hourly charge for agency staff that apply from 1 April 2017

Agenda for change maximum hourly charge

		Worker Payment Mechanism	
		Non Umbrella -PAYE or PSC Inside IR35	All Umbrella or PSC Outside IR35
Band 1	Day	£12.46	£11.08
	Night / Saturday	£18.68	£16.62
	Sunday / Bank Holiday	£24.91	£22.16
Band 2	Day	£14.43	£12.84
	Night / Saturday	£20.78	£18.48
	Sunday / Bank Holiday	£27.13	£24.13
Band 3	Day	£15.78	£14.04
	Night / Saturday	£21.62	£19.23
	Sunday / Bank Holiday	£27.46	£24.43
Band 4	Day	£18.03	£16.04
	Night / Saturday	£23.44	£20.85
	Sunday / Bank Holiday	£28.85	£25.66
Band 5	Day	£22.85	£20.33
	Night / Saturday	£29.70	£26.42
	Sunday / Bank Holiday	£36.56	£32.52
Band 6	Day	£28.28	£25.16
	Night / Saturday	£36.76	£32.70
	Sunday / Bank Holiday	£45.25	£40.25
Band 7	Day	£33.22	£29.55
	Night / Saturday	£43.18	£38.41
	Sunday / Bank Holiday	£53.14	£47.27
Band 8a	Day	£38.56	£34.30
	Night / Saturday	£50.13	£44.59
	Sunday / Bank Holiday	£61.70	£54.88
Band 8b	Day	£46.28	£41.17
	Night / Saturday	£60.16	£53.51

	Sunday / Bank Holiday	£74.04	£65.86
Band 8c	Day	£54.98	£48.91
	Night / Saturday	£71.47	£63.57
	Sunday / Bank Holiday	£87.97	£78.25
Band 8d	Day	£66.18	£58.87
	Night / Saturday	£86.03	£76.53
	Sunday / Bank Holiday	£105.89	£94.19
Band 9	Day	£79.83	£71.01
	Night / Saturday	£103.78	£92.32
	Sunday / Bank Holiday	£127.73	£113.62