

Agency Rules - Update

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16 March 2017

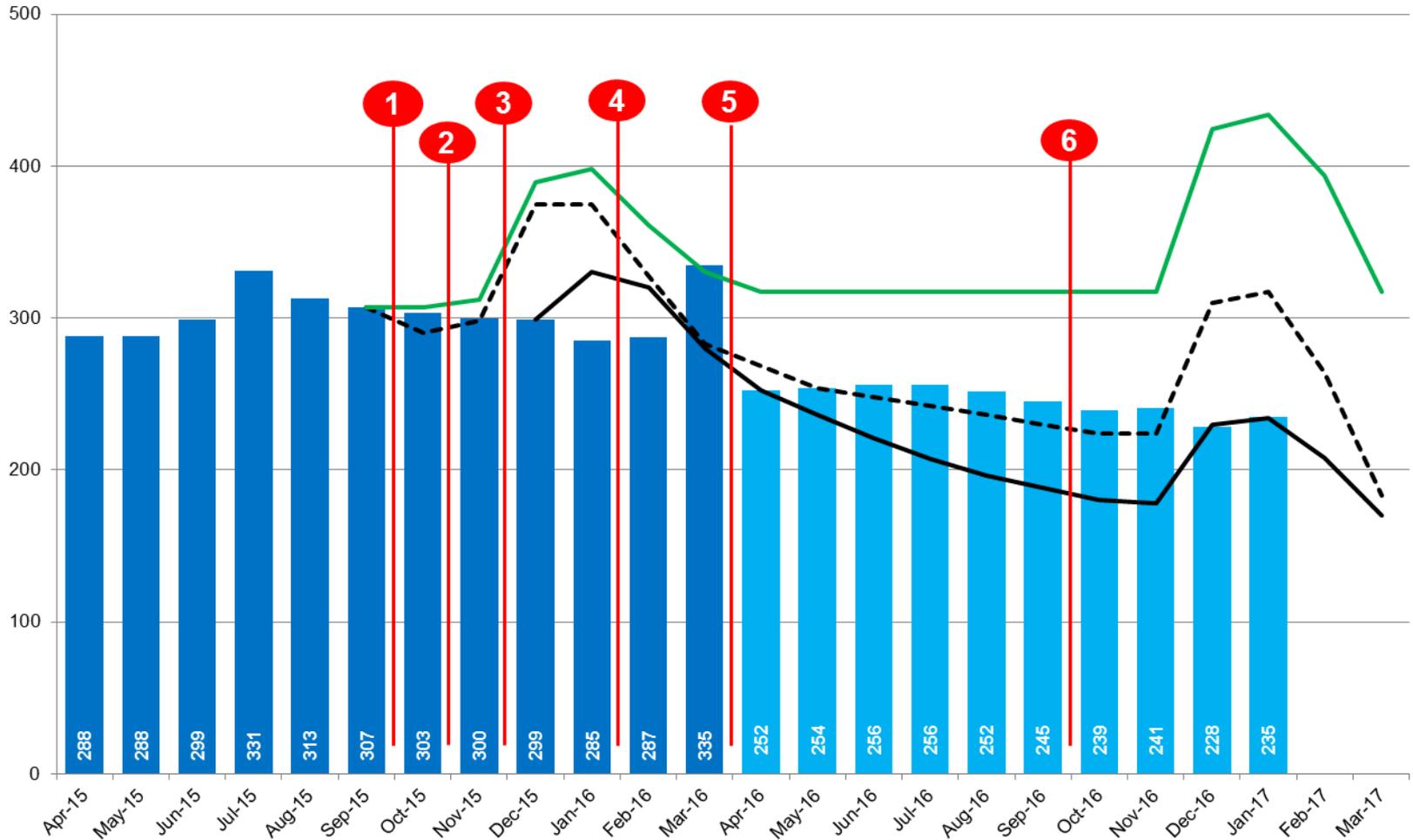


The journey so far

Year 2

Journey so far

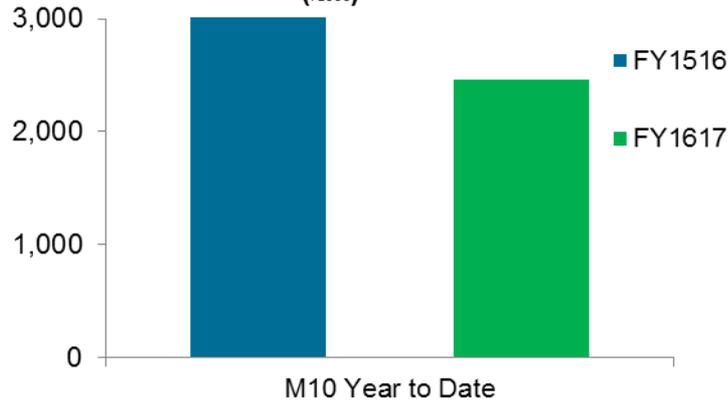
Agency expenditure (all trusts)



Journey so far: performance to month 10

National

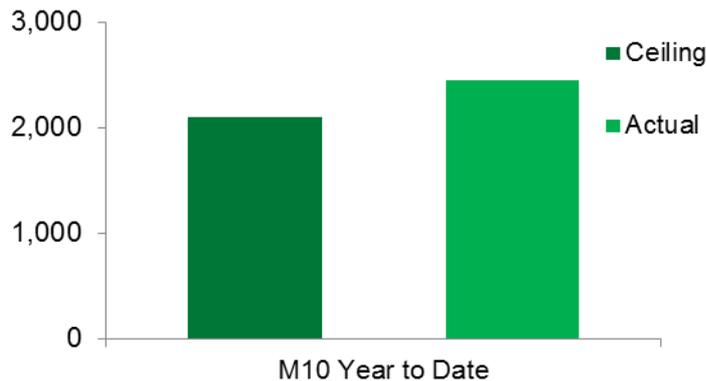
Aggregate performance against previous year (£m)



Nationally - £556m (18.5%) below position at M10 last year

Region	% decrease from last year
London	-16.6%
Midlands & East	-18.4%
North	-22.0%
South	-16.5%

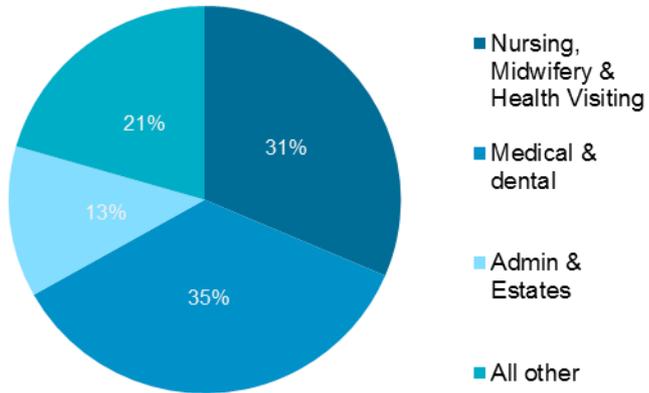
Aggregate performance against ceiling (£m)



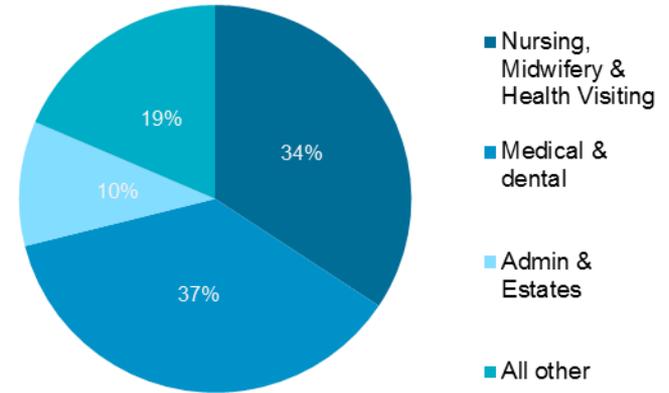
National - monthly agency performance report

This report is based on information between April 2016 and January 2017

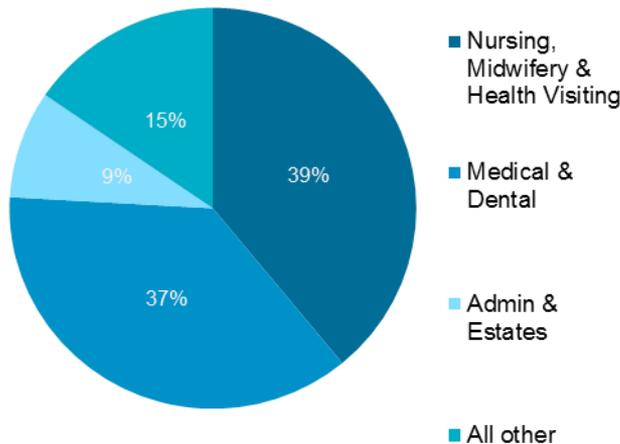
Agency spend breakdown – June 2016



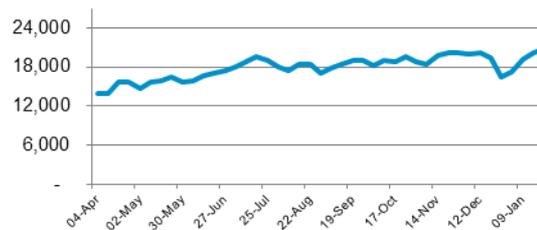
Agency spend breakdown – January 2017



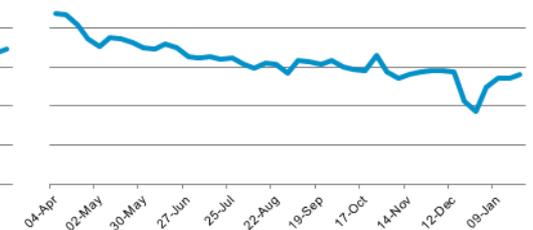
Price cap overrides - breakdown



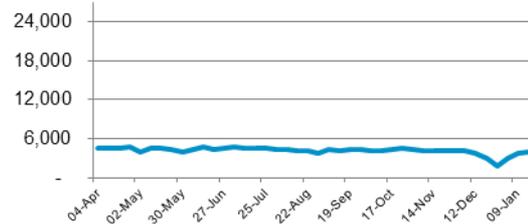
Medical & Dental



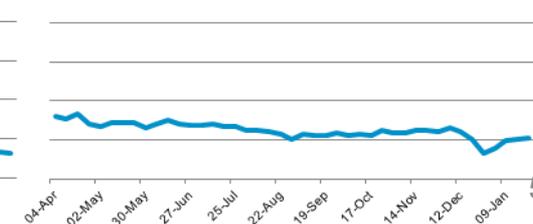
Nursing, Midwifery & Health Visitor



Admin & Estates

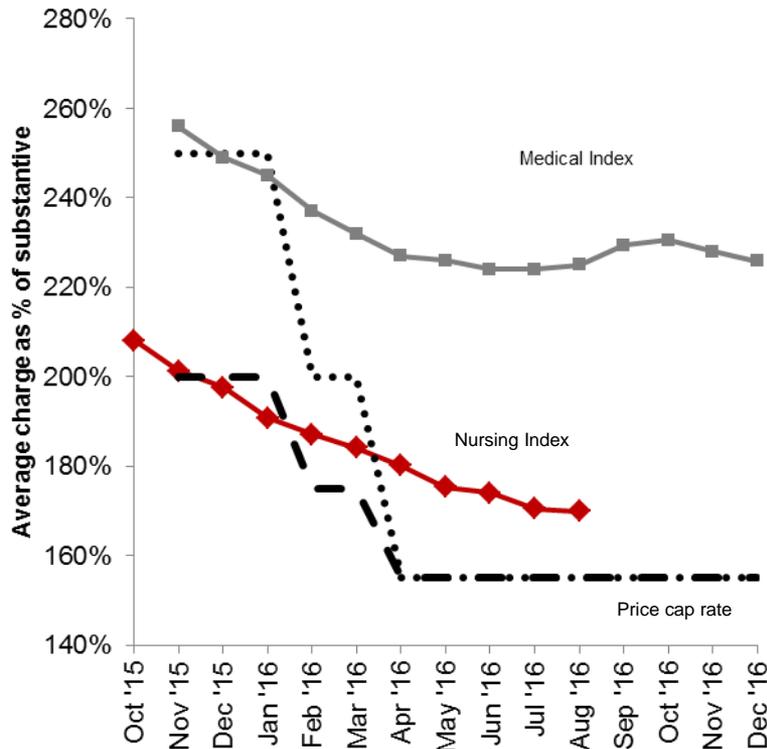


All other



Journey so far

Agency prices compared to substantive rates



Sources: NHS Professionals (sample of around 60 trusts) for nursing, Liaison (sample of around 60 trusts) for medical

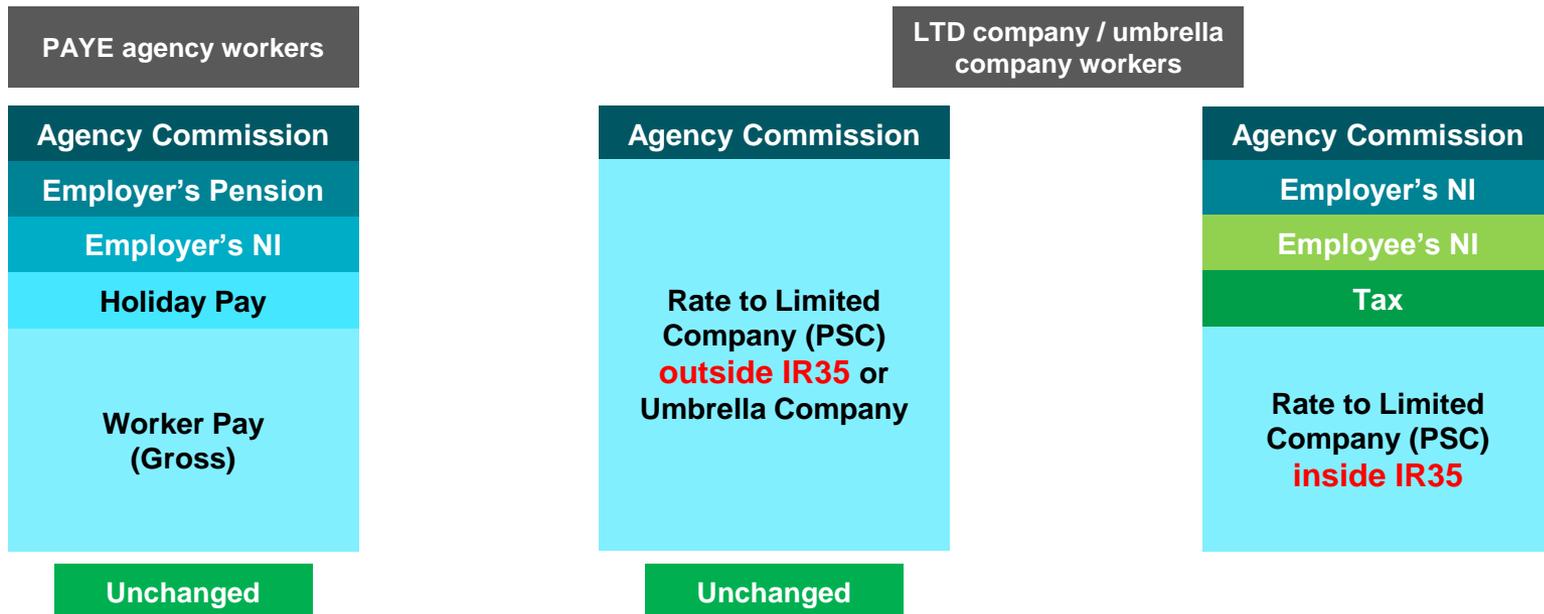
- Trusts have found it more challenging to bring down medical locum spend compared to other staff groups
- Medical price index is around 30% above cap. With medical agency spend of £1.05 billion this means over £300 million worth of savings is possible if cap rates are met.
- Medical locum prices seem to have fallen by around 10% since the introduction of the rules, but they remain above the cap.
- In comparison, most core nursing shifts are now near the cap and override rates are much lower.

The journey so far

Year 2

Changes to IR35

- From 6 April 2017 the off-payroll working in the public sector legislation moves the responsibility for deciding if the off-payroll rules for engagements in the public sector apply from the worker/intermediary (agency) to the public authority, agency, or third party (trust).
- There are currently two main ways for agency worker invoices to be billed to the public sector: PAYE and LTD/Umbrella Company
- Limited company contractors who are inside IR35 will have their Tax and NI deducted by the agency/trust* before any payment is made
- **There should be no increase in rates paid by trusts for agency staff as part of this change in legislation.**



Changes to IR35

NHS Improvement published its recommendations for the IR35 status of roles at NHS Trusts and NHS Foundation Trust

The requirement for trusts to apply to NHS Improvement to continue to engage workers through PSCs is for all trusts, covering workers who fall inside and outside of IR35, and both directly engaged workers and via agencies.

Roles we recommend fall within IR35

- All medical and dental training grades
- All medical consultants and GPs who are working under the direction of the trust's Medical Director
- Nursing and midwifery roles at AfC bands 1 - 5
- AHPs at AfC bands 1 – 5
- Non-medical non-clinical roles at AfC bands 1-5

Roles we anticipate are within IR35

- Nursing and midwifery roles at or above AfC band 6
- AHPs at or above AfC band 6
- Non-medical non-clinical roles at or above AfC band 6 or within the very senior manager (VSM) range

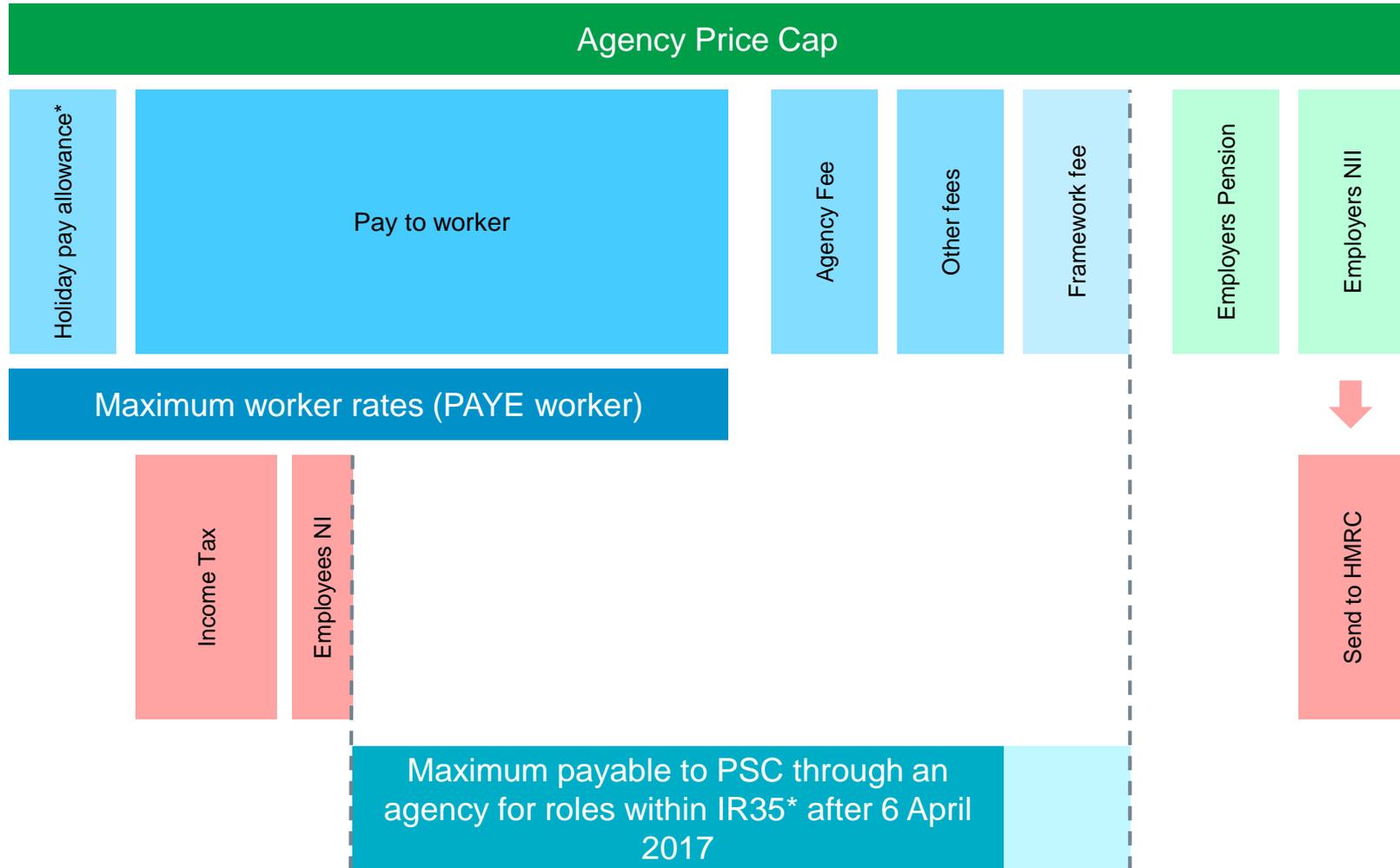
For the avoidance of doubt we recommend that trusts confirm the IR35 status of roles using the HMRC tool

Approval from NHS Improvement to use PSCs

All trusts should have a person with ultimate responsibility for the IR35 status of all roles

- Trusts should be able to demonstrate that they have systems in place to make deductions from PSCs, and have built into their recruitment processes the requirement to check the status of vacancies
- Trusts should show that they have approached their main agencies who pay workers through PSCs
- Trusts should have an escalation process in place to engage workers away from PAYE
- Trusts should know what the plan is for all agency workers engaged through PSCs is after 6 April 2017

Maximum worker rates paid to PSCs



* PSCs within IR35 are not subject to AWR or additional employee rights

** Framework fee not payable if worker is not supplied via framework agency

Next steps

Summary of national actions

Agency expenditure is forecast to be £3.0 billion in 2016/17. This is £635m (17%) lower than FY 15/16. But we want to reduce agency spend even further.

We are supporting trusts in the following fashion leading into the new financial year – in order to help support trusts continue to drive down spend:

- 1.Ensuring changes to IR35 doesn't cause prices to rise.**
- 2.New agency rules; including strong encouragement not to use substantive staff employed in any NHS Trust or Foundation Trust.**
- 3.New targets for medical locum spend for every trust and targeted support for the 30 highest trusts.**
- 4.Piloting regional banks and supporting trusts to grow their bank.**
- 5.Enhanced data collection systems to enable better support and transparency of prices.**

Trusts internal governance best practice

Board accountability

- Single member of the board appointed as Accountable Officer for delivery of agency controls
- Engagement from all board members

Monitoring submissions

- Trusts must submit timely and accurate weekly monitoring submissions
- Submissions signed off by a member of the board
- Weekly deadline (Wednesday noon)
- Non-submissions will be followed up by NHS Improvement

Escalation process

- Escalation and sign off process in place for application of the 'break glass' clause
- Appropriate review of agency usage from a finance, safety and quality perspective

Internal review

- Weekly agency monitoring process/group in place for reviewing the trust's weekly performance against controls
- Internal review should have balanced representation from:
 - Workforce
 - Quality
 - Finance

Board review

- Regular board discussion of performance against agency controls, including;
 - Review and challenge of application of the 'break glass' clause
 - Review and challenge of the trust's agency action plan
 - Review of the trust's financial performance against the agency expenditure ceiling and forecast

Reducing agency locum spend

On 12 September NHSI's Medical Director sent a letter to all trust medical directors urging them to take action to reduce medical locum spend. The letters included the guide and a supporting template for trusts to report on performance to their board. The guides have also been published on NHSI's website.

For the attention of Medical Directors and Agency Executive leads

Dear XX,

We know that you are working hard to reduce your agency costs. We have been speaking to a number of trusts across the country about the challenges you face around reducing spend on agency and locum staff. I have also discussed this issue with some of you to understand how you have overcome barriers to introducing new approaches which reduce your reliance on external locums.

To support you in understanding the situation in your trust, the barriers to reducing locum spend and, importantly, how to overcome these, NHS Improvement has produced a best practice guide with the help of trusts that have had the most success in this area.

We know that you are currently facing tough medical workforce challenges in the NHS, with supply shortages affecting recruitment in some specialities and in some parts of the country. The sector is also facing ever increasing demand and a focus on meeting performance and safety targets. With these challenges, some trusts are understandably heavily reliant on locum staff, who help to ensure services can continue to be provided. However, it is essential that we focus on the development of sustainable services that are not reliant on locums.

We introduced the *agency rules* last November to help trusts when negotiating with locum agencies. Since then, we have spoken to a number of medical directors who have used these rules as a starting point for making major progress in reducing their reliance on agency. There have been great examples of successful recruitment, innovative redesign of roles and improved workforce planning. Some trusts have been able to convert locums to permanent or bank staff members and other trusts have managed to negotiate down locum prices. We know from our discussions with trusts that strong medical director leadership backed by good quality data and clear governance processes has been essential in these successes.

NHS Improvement has pulled these findings in to a short guide, attached, setting out practical steps on reducing medical agency reliance, based on what fellow medical directors have learnt. I hope you find this guide a useful resource for you and your colleagues. We will also be organising workshops in due course to discuss some of these approaches and for you to share your experiences – we will contact you shortly with dates and further details.

We would welcome feedback on these materials. If you have any questions, would like to share your own experiences, seek further support, or would like to be put in contact with any of the people we mention, please contact me directly. We have also attached a short summary of the information you have provided us on your medical locum spend and number of price cap overrides, benchmarked against national data. If you feel that the data does not accurately reflect your position, please contact the Agency Monitoring Team (NHSI.agencyrules@nhs.net) who would be happy to help you review the quality of your trust's data submissions.

I would like to thank you all for your leadership in tackling these challenges within your organisations and hope this guide helps you in your discussions with your executive colleagues and staff when looking to make further reductions in your reliance on locums.

Best wishes,

Dr Kathy McLean
NHS Improvement Medical Director

Your trust's performance

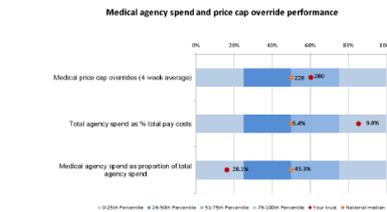
We have been reviewing medical agency information relating to your trust. You have submitted the following data to NHS Improvement:

- Your trust had an average of **280** medical price cap overrides over the most recent four weeks.
- Your trust spent **£13.05m** on medical locums in 2015/16, accounting for **28%** of your total agency spend.
- Your trust spent **£46.51m** on agency (all staff groups) in 2015/16, accounting for **10%** of your total pay costs, which was **£474.88m**.

If this data looks inaccurate you might like to review the data submission that your trust makes.

How does this compare to other trusts?

We thought you might like to know how your trust compares against the data other Acute trusts have submitted to us.¹



¹ Charts based on data submitted by NHS Trusts and NHS Foundation Trusts to NHS Improvement:

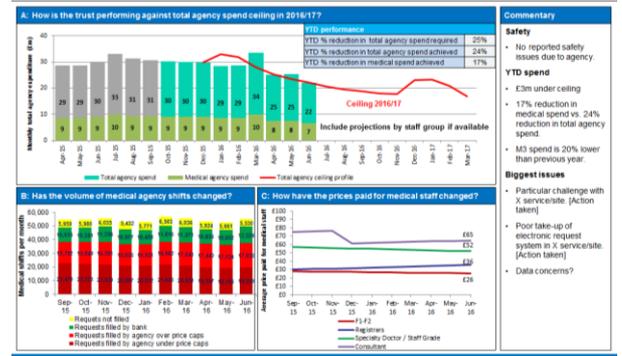
- 4 week average overrides by trust between 01/09/2016 and 22/09/2016 submitted as part of agency weekly returns. Data is an absolute and not adjusted for trust size or any other factors; trusts should aim for zero overrides irrespective of size.
- 2015/16 agency spend by NHS Trust and Foundation Trust submitted as part of monthly returns.

Reducing reliance on medical locums: a practical guide for medical directors



Medical locums. Spend, volume and prices

TEMPLATE: Board dashboard

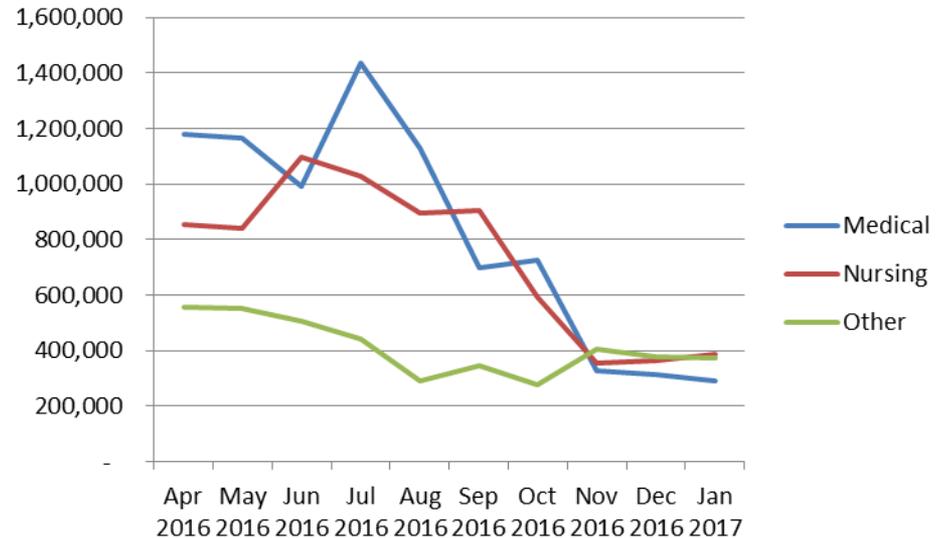


Agency rules – trust impact

A trust using this best practise has reduced their total agency spend by **60%** M1 – M10 this year.

Spend on Medical Locums has reduced by over £0.8M per month.

Weekly price cap compliance now 75% (up from 0 compliance).



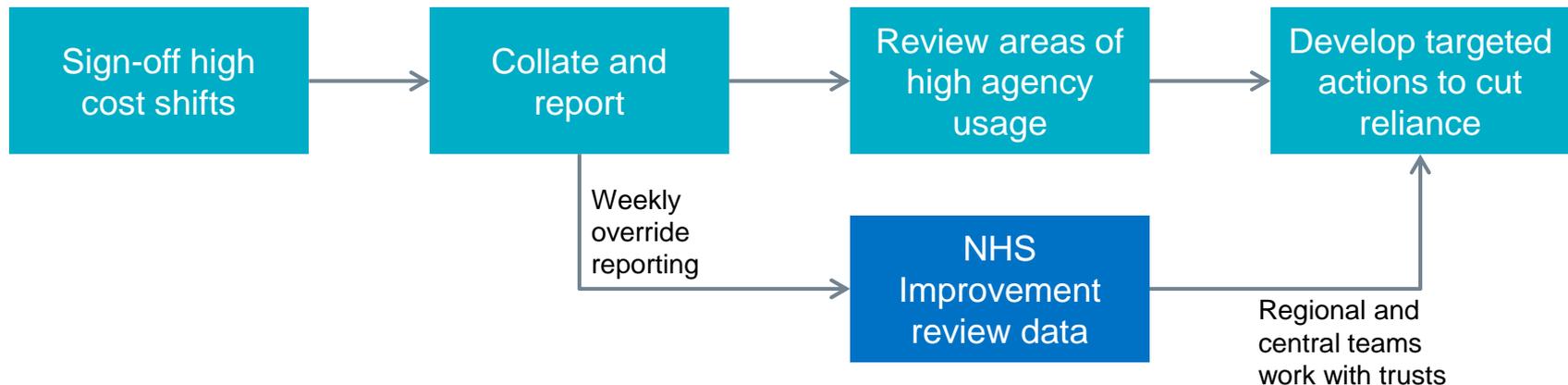
- Trust implemented rigorous governance around paying above price caps, require executive sign off and is only permitted for exceptional patient safety grounds
- **Medical Director scrutinises all locum requests daily. 10 highest cost locums removed**
- New staffing framework went live in October. Contains list of preferred suppliers at price cap levels
- Recruitment Oversight Group is in operation, applies controls and assists with speedy recruitment
- Bank incentives are embedded and have accelerated up-take of bank shifts.
- Further work progressing on rostering, recruitment to vacancies, and achieving price cap rates.

Changes to data collection from April 2017 *Improvement*

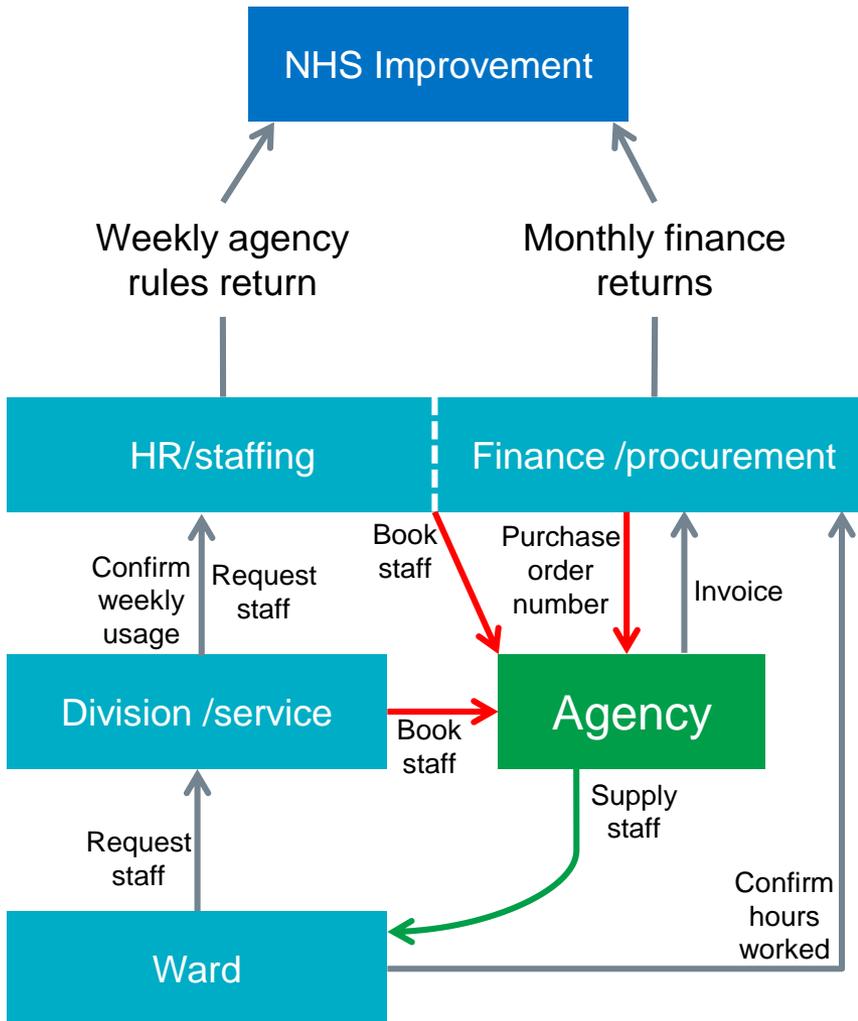
In addition to the breaches to the agency rules and safety issues, each week trust will be asked to report the following additional information:

- total agency shifts (by staff group)
- breakdown of shifts by core and unsocial (for medical staff) and by day, night/Saturday and Sunday/public holiday for Agenda for Change staff
- details the ten longest serving agency staff working during the reporting period
- details of the ten highest cost agency staff working during the reporting period
- details of the shifts worked above £120 an hour, with confirmation of CEO sign-off
- details of the shifts off-framework and above price cap, with confirmation of CEO sign-off

The data requested is the type of data used by trusts who have significantly reduced their agency spend.



Data collection – best practice



- It is good practice to centralise all agency booking either within the bank office/HR or within finance. Wards should not approach agencies directly
- Confirm the charge per hour, worker pay rate, and duration of engagement at time of booking
- It is good practice to implement a 'no purchase order, no payment' policy for agency invoices
- Inform finance department of bookings and hours worked so that they can ensure the agency expenditure is properly accrued for monthly reporting
- Collate all agency shifts weekly to aid weekly reporting of overrides.
- To aid analysis on how to reduce agency spend, collate all agency shifts by specialty, date/time, price, method of engagement, reason, agency used, name and start date of employee.

CEO sign off requirement

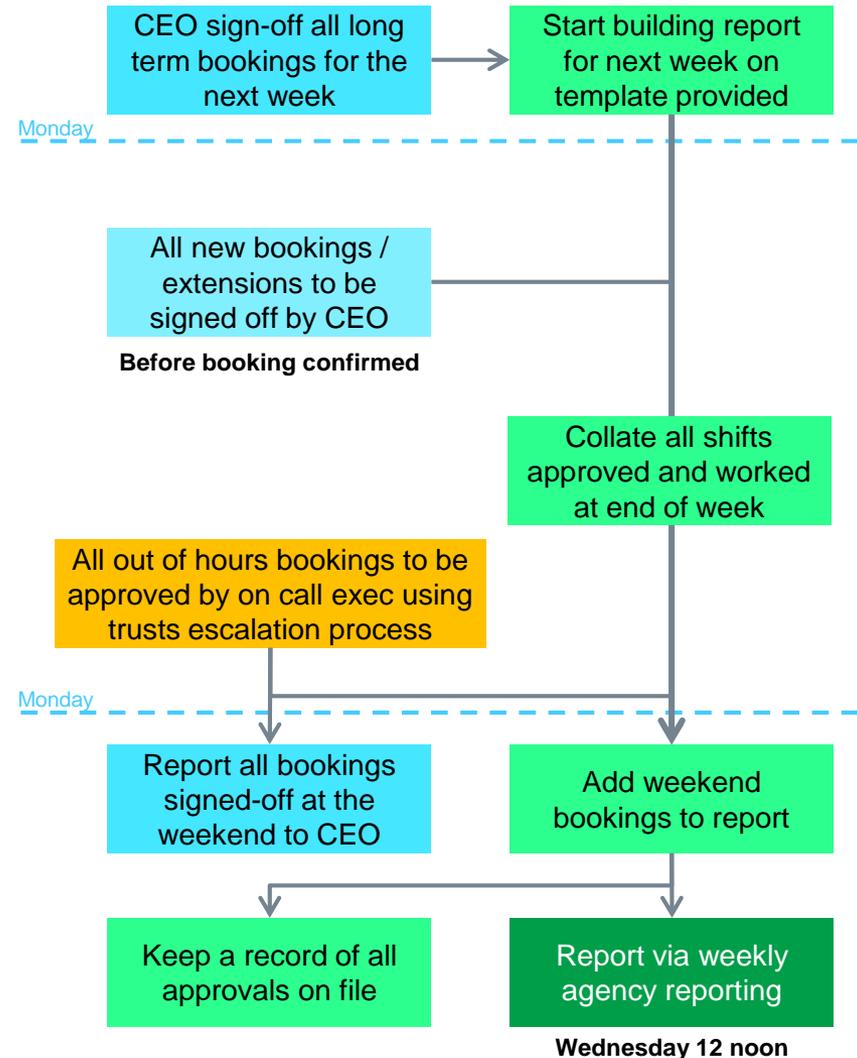
Requirement for CEOs to sign off all shifts over £120/hr*, and all workers over the price cap that have been procured from off-framework agencies, **before the bookings are confirmed or extended.**

Outside of the CEOs normal working hours sign-off should follow the trusts 'golden key' escalation process, getting approval from the on-call exec; and reported to the CEO at the first available opportunity.

Sign-off may only be delegated when the CEO is absent (annual/sick leave), delegation should only be to the person stepping up during that absence, and only for the duration of that absence.

All long-term bookings should be reported every week, by shift, but only need to be signed-off at the start of the booking and before the start of each week.

Collection of this data will commence in April 2017, via the weekly agency submission. We have encouraged trusts to embed this sign-off procedure in December 2016 and **(We have seen x drop?)**



£5 an hour off every medical agency shift saves £43 million

47000 shifts
over price cap

shifts within
price cap

The price cap is
a maximum rate,
savings can be
made here by
negotiating rates

- We know that 47000 shifts were paid at rates above the price cap
- We are about to start collecting information on the total number of shifts paid within the cap as part of the weekly return. Savings are possible below the line.
- If the rate paid for each shift above the wage cap is reduced by £1 per hour, the sector would save £19.5m in a year.
- £8.7m a year saving by reducing Medical & Dental shifts over the price cap by £1/hr - £43.7m a year reducing by £5/hr
- £6.7m a year reducing Nursing shifts over the cap by £1/hr
- Admin & Estates could save £1.5m by reducing rates by £1/hr, £7.5m reducing by £5/hr

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