



## Resolution

8th Floor,  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU  
**Telephone:** 020 7811 2700

June 2024  
FOI\_7245

The following information was requested on 30 May 2025:

*I am writing to make a request for information under the Freedom of Information Act 2000. I am interested in learning more about your organization's use of temporary agency staffing. Specifically, I request the following information in relation to Non-Clinical Staff in March and April 2025 :*

*Do you currently have any formal arrangements in place for procuring temporary agency staff? If so, what are the names of the suppliers involved?*

*If you do have formal arrangements, please provide the details of the current contract(s), including:*

*Approximate number of temporary workers or contractors working through each agency/supplier*

*Length of contract*

*Please provide a summary of your organization's total expenditure on temporary agency staff for March and April 2025 for non-Clinical Staff*

*If you utilize any Contractors outside of IR35, please provide the following information*

*Number of contractors outside of IR35*

*Specialty of contractor for example IT,HR,*

*Spend for March and April 2025 for contractors outside of IR35*

*Do you have any policies or guidelines related to the use of temporary agency staff? If so, please provide them.*

*[On 30 May 2025 we advised you that]*

*Thank you for your request. We are currently processing it. However, I would like to clarify that NHS Resolution does not employ individuals in clinical roles, as we are not a healthcare provider. That said, we are happy to provide the information you've requested, where applicable.*

*[You replied on 30 May 2025]*

*Thank you the request is only relating to non-clinical staff.*

### Our Response

Please note that we do not hold the requested information for the whole of the NHS.

It may be helpful to explain the role of NHS Resolution.

NHS Resolution was established to provide the following service:

- Claims Management – providing indemnity schemes for the NHS in England and resolving claims for compensation fairly.
- Practitioner Performance Advice – assisting healthcare organisations with resolving concerns about the performance of individual practitioners.
- Primary Care Appeals – ensuring the prompt and fair resolution of appeals and disputes between primary care contractors and NHS England.
- Safety and Learning – supports our Claims Management service members to better understand their claims risk profiles to target their safety activity while sharing learning across the system.

For more information about NHS Resolution please visit our website here: [About - NHS Resolution](#)

We are only able to answer the request in respect of the agency staff that NHS Resolution employs. Our response to your specific questions are as follows: -

*Do you currently have any formal arrangements in place for procuring temporary agency staff?  
If so, what are the names of the suppliers involved?  
If you do have formal arrangements, please provide the details of the current contract(s), including:*

Yes, we use Crown Commercial Services RM6277 framework for hiring temporary agency staff. All public and third sector organisations can hire a range of quality non-clinical workers through a range of engagement types including fixed-term, temporary positions and contractors. In scope roles include, but are not limited to, admin, clerical, IT, finance, catering, cleaning and maintenance. Please see [Non Clinical Staffing - CCS](#) for Lots and Suppliers.

*Approximate number of temporary workers or contractors working through each agency/supplier  
Length of contract*

| Agency           | Number of staff | Length of contract   |
|------------------|-----------------|----------------------|
| Investigo        | Less than 5     | Between 3 – 6 months |
| Hays Recruitment | Less than 5     | Between 3 – 6 months |

|           |             |                      |
|-----------|-------------|----------------------|
| Keystream | Less than 5 | Between 3 – 6 months |
|-----------|-------------|----------------------|

## Section 40 refusal notice

We have removed the names of staff from the attached HR32 Agency Workers (Contingent Labour) Policy & Procedure, and we are unable to provide the low figures associated with the agencies that have recruited fewer than 5 members of staff.

We believe that disclosure of this information is exempt under Section 40(2) by virtue of section 40(3A) (i) of the FOI Act, where disclosure to a member of the public would contravene one or more of the data protection principles. The data protection principles are set out in Article 5 of the General Data Protection Regulation. We take the view that it would not be fair or lawful to disclose such information, and any disclosure would therefore contravene the first data protection principle.

The likelihood exists that individuals who are the subject of this information may be identified either from this information alone, or in combination with other available information. NHS Resolution believes it has a greater responsibility to protect those individuals' identities,' as disclosure could potentially cause damage and/or distress. to those involved.

The individuals have not consented to their information being used in this way and we do not believe they would have a reasonable expectation that their personal data. would be released in this way.

*Please provide a summary of your organization's total expenditure on temporary agency staff for March and April 2025 for non-Clinical Staff*

The cost of agency staff for March 2025 and April 2025 were:

March 2025 - £42,995.28

April 2025 - £41,234.14

*Do you have any policies or guidelines related to the use of temporary agency staff? If so, please provide them.*

Please see attached document Agency Workers (Contingent Labour) Policy & Procedure HR32

**This concludes our response to your request.**

If you are not satisfied with the service that you have received in response to your information request, it is open to you to make a complaint and request a formal review of our decisions. If you choose to do this, you should write to [Joanne Appleby](#), Deputy Data Protection Officer for NHS Resolution, within 28 days of your receipt of this reply. Reviews of decisions made in relation to information requests are carried out by a person who was not involved in the original decision-making about the request.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a review of the decision. Generally, the Information Commissioner will not make a decision unless you have exhausted the local complaints procedure. The address of the Information Commissioner's Office is:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

<https://ico.org.uk/>

# Agency Workers (Contingent Labour) Policy & Procedure HR32

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Beware when using a printed version of this document. It may have been subsequently amended. Please check online for the latest version.

|                             |                                                           |
|-----------------------------|-----------------------------------------------------------|
| <b>Applies to</b>           | Recruiting Managers/Recruitment Agencies & Agency Workers |
| <b>Version</b>              | 3                                                         |
| <b>Date of ODG approval</b> | July 2022                                                 |
| <b>Date of SMT approval</b> | July 2022                                                 |
| <b>Next review date</b>     | July 2025                                                 |
| <b>Author</b>               | ██████████, Resourcing and HR Services Business Partner   |
| <b>Owner</b>                | Human Resources & Organisational Development              |

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## **1. Equality statement and impact assessment**

- 1.1 NHS Resolution aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It is a requirement that we conduct equality impact assessments on all policies and services within NHS Resolution.
- 1.2 As part of its development, this policy and its impact on equality have been reviewed in consultation with trade union and other employee representatives in line with NHS Resolution's Equality, Diversity and Inclusion Policy (HR01). The purpose of the assessment is to minimise and, if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, pregnancy and maternity, marriage and civil partnership, gender re-assignment, sexual orientation or religious or other belief.

## **2. Introduction**

- 2.1 This policy and procedure is designed to support, provide advice and guidance on statutory requirements and best practice to recruiting managers by providing a fair, consistent, transparent and effective approach in the recruitment and selection of agency workers.
- 2.2 In accordance with the Equality, diversity and inclusion policy, NHS Resolution will ensure that no prospective agency worker is discriminated against, directly or indirectly, on the grounds, which include:
- age
  - disability
  - gender re-assignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion or belief
  - sex
  - sexual orientation.
- 2.3 NHS Resolution recognises and supports the Board's obligations under the following legislation and statutory requirements:
- General Data Protection Regulations (2018)
  - Code of Practice on Recruitment and Selection (2002)
  - Asylum and Immigration Act (1996)
  - Asylum and Nationality Act (2006)
  - Rehabilitation of Offenders Act (1974): Exemptions Order (1975) and Amendment Orders (1986)
  - Human Rights Act (1998)

- Gender Recognition Act (2004)
- Equality Act (2010)
- IR35 Legislation (2017).

- 2.4 Our people, and our whole staffing establishment are paramount to the success of NHS Resolution, and this policy and procedure details the steps of the recruitment and selection process for agency workers, who may be needed to deliver a short term requirement.
- 2.5 An agency worker works through an agency which finds them jobs. As an agency worker, they will have a contract of employment with the agency who finds them work.

There are other types of non-permanent workers, such as secondments, fixed term contracts, paid panel secondments, consultants which are covered by different pay and contracting arrangements. This policy refers only to those who work through an employment agency.

Agency workers have the same rights as other employees and workers to be paid at least the National Minimum Wage (at NHS Resolution the relevant rate to the pay band the role has been evaluated at), not have any deductions from pay that are not legal, be paid on time and by the agreed method.

- 2.6 Agency workers (sometimes referred to as contingent labour) may be used to cover short-term work or projects during peak times; or to cover a vacancy whilst a permanent position is being advertised. However, other options should also be considered – e.g. internal cover via an internal secondment (particularly as a development opportunity), external secondment or use of a fixed term contract. Consideration must be given at this time as to preferred ways of working – office based, hybrid or home based.
- 2.7 Agency workers should not be allowed to work for NHS Resolution for more than six continuous months (see Section 5 below).

### **3. Purpose and scope**

- 3.1 To set agreed governance standards for the recruitment and selection of agency workers that support the above and, to comply with legislation and best practice.
- 3.2 Agency workers under assignment with NHS Resolution will have the appropriate competencies to undertake the requirement of the post including, where applicable, relevant professional qualifications.
- 3.3 This policy and procedure applies to all NHS Resolution recruiting managers, recruitment Agencies and agency workers.

## **4. IR35 legislation**

- 4.1 Due to agency worker HMRC regulations (IR35) April 2017; Recruitment Agencies need to provide assurance within the Confirmation of Assignment that IR35 regulations with regards Tax and National Insurance (NI) contributions will be deducted at source via the Recruitment Agency/Umbrella Company (i.e. whoever is paying the temporary worker). HR will ask the agency worker to provide evidence that Tax and NI contributions are being deducted via sight of payslip in the following way:
- HR call for evidence at first day induction
  - Include all the papers needed following first day induction
  - Chase up at week 1 (in case of new to agency, payslip after first week pay)
- 4.2 This is to ensure temporary workers are IR35 proved within 3 weeks. If no evidence is provided, the agency workers assignment will be terminated.

## **5. Workforce Development Group (WDG)**

- 5.1 All requests for agency workers should be discussed with the Resourcing HRBP in the first instance who can support and advise on the appropriate process. Full details, including the required approval process are detailed in NHS Resolution's Guidance on Procuring Temporary Agency Workers/Contractors and other Professional Services. Only agencies listed within the framework should be contacted. If there are other preferred suppliers (e.g. for hard to fill or very specialist roles) please liaise with the Resourcing Business Partner ahead of any contact with agencies so they can agree rates etc.
- 5.2 Agency worker appointments lasting no longer than six months and have a day rate of below £500 (inclusive of rate to agency worker, agency fee and VAT) and, which are either a vacancy within the existing establishment and/or within the existing agreed budget, can be appointed following approval of the relevant Director. Such appointments must be agreed by HR & OD and Finance Teams.
- 5.3 For appointments of more than six months (by exception), and/or which are out with agreed establishment/budget, must be approved by the WDG via a business case submission. Where the total day rate exceeds £500 per day (inclusive of rate to agency worker, agency fee and VAT) or where the contract will last for more than six months, NHS Resolution must first seek approval from DHSC and Cabinet Office via a contingent labour business case. Contact the Resourcing HRBP in HR&OD where this is the case, prior to any paperwork being completed. This also applies where extensions or changes to current agency workers will exceed either cost (£500 per day) and/or go over six months.

- 5.4 NHS Resolution must ensure that agency workers under assignment with NHS Resolution are compliant with current IR35 legislation governing Tax and NI contributions and relevant framework agreements (see Section 4 above).
- 5.5 Agency workers will not be allowed to continue their assignment with NHS Resolution unless IR35 assurance in respect of Tax and NI contributions has been provided; if assurance cannot be provided the agency workers assignment will be immediately terminated.

## **6. Recruitment**

- 6.1 Recruiting Managers should contact the Recruitment Agencies registered within the National Framework for NHS organisations.
- 6.2 Recruiting Managers should follow the standard interview process as detailed in the Recruitment and Selection Policy & Procedure (HR16: Section 9.1 – 9.8) for potential candidates put forward by the Recruitment Agency and records of all candidates forwarded to the Resourcing Team [nhsr.recruitmentandhradmin@nhs.net](mailto:nhsr.recruitmentandhradmin@nhs.net)). EDI forms must be collected for candidates seen via the agency route.

## **7. Appointment**

- 7.1 Once a suitable candidate has been identified, the Recruiting Manager should confirm the assignment details with the Recruitment Agency and HR&OD.
- 7.2 Prior to confirming a start date with the Recruitment Agency, the Recruiting Manager must receive from the agency the following:
- Copy of passport and Visa/Right to Work in the UK, verified and dated by the Recruitment Agency

The above should be sent to HR&OD to verify to ensure that the necessary checks have been undertaken by the Recruitment Agency. HR&OD will then inform the Recruiting Manager that a start date can be confirmed with the agency.

- 7.3 Once a start date has been confirmed with the agency, the Recruiting Manager is responsible for ensuring that the necessary documentation is received from the Recruitment Agency prior to start date of the assignment:
- Confirmation of Assignment/Terms of Reference this should detail the name of the agency worker/post title/hourly rate of pay/start and end date of the assignment/IR35 assurance.
  - CV and contact details.

The Recruiting Manager must submit the above documentation to HR&OD once received and, prior to start date. There is further documentation needed (outlined at 8.3) once the agency worker commences within the organisation.

- 7.4 The Recruiting Manager must inform IT & Facilities one week prior to start date. This is to ensure that IT requirements are available and set up prior to start date – e.g. laptop sent out to home/hybrid workers.

## **8. Identity and Right to Work Checks**

- 8.1 HR&OD are responsible for undertaking identity and right to work checks of all agency workers as outlined in the NHS Employment Check Standards (September 2017). These standards set out the following:

- The verification of identity is as much a priority for contractors and temporary workers supplied through an agency, as with permanent members of staff.
- For the purpose of these standards, contractors and temporary workers are defined as individuals who are not employees of an NHS organisation, but who have a direct or indirect contractual relationship to provide NHS services to that organisation. Contractors or temporary workers may be engaged to work within an NHS organisation through a third party organisation or agency.
- If appointing a contractor or temporary worker from an agency to provide NHS services, employers will need to gain appropriate assurances that these providers have undertaken identity checks in compliance with this standard and, that they too are keeping their operational practices up-to-date.

- 8.2 Identity and right to work checks will be undertaken during the HR&OD Induction on the first day of the assignment.

- 8.3 The Recruiting Manager should inform the Recruitment Agency that the NHS are required to undertake identity and right to work checks First Day checks for agency workers and, the agency worker should ensure they have available, on the first day of assignment the following original documentation:

- Two forms of photographic identification and one document confirming address, or
- One form of photographic identification and two documents confirming address
- Documentary evidence of right to work in the UK (if appropriate)

- 8.4 Acceptable evidence for photographic identity checks:

- Passport
- UK/EU Driving Licence

8.5 Acceptable Evidence for Proof of Address (must be dated within last six months, (those listed below marked with an asterix \* must be dated within the last twelve months):

- Utility bill (gas, water, electricity or landline telephone)
- Bank, Building Society, Credit Card statement
- Council tax statement\*
- HMRC tax notification (ie assessment, statement of account, or notice of coding not P45 or P60)\*
- Mortgage statement\*

## **9. Induction**

9.1 Agency workers will be required to undergo a HR & OD induction on their first day. Identity and right work checks and IR35 assurance will be undertaken as part of the induction.

9.2 Agency workers must undergo a formal induction process; this will include attendance at a Corporate Induction Day event. Managers should allow agency workers to have protected time to attend all induction meetings and events.

## **10. Internal vacancies and internal processes**

10.1 Agency workers who have been on continuous assignment with NHS Resolution for twelve weeks or more, are eligible to apply for any internal vacancies; all NHS Resolution vacancies are published weekly in the all staff "This Week" e-bulletin. Fees to the agency within the timescale may apply – please contact the Resourcing Business Partner to explore options.

10.2 From the first day of an agency workers assignment they have the same rights as NHS Resolution employees to use shared facilities and services (e.g. canteen, drink machines), to working hours and breaks and eligibility to employee schemes such as Employee of the Month awards.

## **11. Exit Process**

11.1 Managers must inform HR&OD at least one week prior to an agency worker's assignment coming to an end, (or as soon as the agency worker has left for any other reason) and, confirm last working date. This will ensure that the HR agency workers trackers are up-to-date.

11.2 Managers must inform IT & Facilities at least one week prior to an agency worker's assignment coming to an end, (or as soon as an agency worker has left for any other reason), by completing the necessary Form online.

- 11.3 Agency workers leaving NHS Resolution will be invited by HR&OD to participate in an Exit Interview. The Exit Interview will be conducted by a member in HR & OD; this will ensure that all feel confident in making constructive comments and/or raising issues.
- 11.4 HR&OD will submit to the agency worker an Exit Data Consent Form and an Exit Interview Questionnaire.
- 11.5 Agency workers should complete and submit to HR&OD the Exit Data Consent Form. If the agency worker wishes to have a face-to face Exit Interview, the agency worker should also complete and submit the Exit Interview Questionnaire prior to the date of the Exit Interview; the questionnaire will form the basis of the Exit Interview discussion.

## **12. Monitoring**

- 12.1 This policy and procedure will be reviewed every two years by HR&OD and will be updated in line with any changes to legislation and statutory requirements as and when appropriate.

## **13. Associated policies and procedures**

|        |                                                                 |
|--------|-----------------------------------------------------------------|
| HR01   | Equality, Diversity and Inclusion Policy                        |
| HR08   | Induction Policy & Procedure                                    |
| HR16   | Recruitment and Selection Policy & Procedure                    |
| HR33   | Exit Process and Interview Policy & Procedure                   |
| CG25   | (formerly HR34) Code of Conduct Policy                          |
| ITFA28 | (formerly CG03) Acceptable Use of NHS Resolution Systems Policy |
| CG04   | Risk Management Policy and Procedure                            |
| ITFA02 | Guidance on Working with Confidential or Sensitive Information  |
| ITFA04 | Health, Safety and Well-Being Policy                            |
| ITFA05 | Information Security Policy                                     |
| CG09   | (formerly FINP03) Anti-Fraud, Bribery, Corruption               |
| CG06   | Conflict of Interest Policy                                     |

## 14. Document control

| Date       | Author           | Version | Reason for change                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------|------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14/09/2018 | ████████         | 2       | Contents table included<br>EQIA included<br>Introduction<br>Purpose and Scope<br>IR35 Compliance included<br>WSG approval<br>ID & Right to Work Checks updated<br>Induction included<br>Internal Vacancies included<br>Exit Process included                                                                                                                                                                                                                                                                      |
| 11/07/2022 | ██████<br>██████ | 3       | Changes to text to update language and elements of the process.<br>IR35 notification and termination updated (agreed at WSG May 2022)<br>Link to agency framework .<br>Direct contact with HR Resourcing Business Partner for clarity/business cases and questions on the process.<br>Updated to include the contingency labour approval process as of May 2022.<br>Included links to fraud, bribery, corruption and declarations of interest policies, intellectual property and conflicts of interest policies. |
| 28/09/2023 | ██████<br>██████ | -       | Amendments to Section 5 to incorporate rate/duration changes as instructed by DHSC in August 2023. Name of Workforce Strategy Group (WSG) updated to Workforce Development Group (WDG).<br>HR32a - Process for Professional Services or Contingent Labour Guidance also updated to reflect these amendments.                                                                                                                                                                                                      |

## Appendix A - Equality impact assessment

| No                                                                                                | Does the document/guidance affect one group less or more favourably than another on the basis of:          | Yes/No | Comments                 |
|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|--------|--------------------------|
| 1.                                                                                                | Race                                                                                                       | No     |                          |
| 2.                                                                                                | Ethnic origins (including gypsies and travellers)                                                          | No     |                          |
| 3.                                                                                                | Culture                                                                                                    | No     |                          |
| 4.                                                                                                | Nationality                                                                                                | No     |                          |
| 5.                                                                                                | Age                                                                                                        | No     |                          |
| 6.                                                                                                | Disability - learning disabilities, physical disability, sensory impairment and mental health problems     | No     |                          |
| 7.                                                                                                | Gender                                                                                                     | No     |                          |
| 8.                                                                                                | Gender reassignment                                                                                        | No     |                          |
| 9.                                                                                                | Marriage and civil partnership                                                                             | No     |                          |
| 10.                                                                                               | Pregnancy and maternity                                                                                    | No     |                          |
| 11.                                                                                               | Religion and belief                                                                                        | No     |                          |
| 12.                                                                                               | Sex                                                                                                        | No     |                          |
| 13.                                                                                               | Sexual orientation including lesbian, gay and bisexual people                                              | No     |                          |
| 14.                                                                                               | Is there any evidence that some groups are affected differently?                                           | No     |                          |
| 15.                                                                                               | If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable? | N/A    |                          |
| 16.                                                                                               | Is the impact of the document/guidance likely to be negative?                                              | No     |                          |
| 17.                                                                                               | If so, can the impact be avoided?                                                                          | N/A    |                          |
| 18.                                                                                               | What alternative is there to achieving the document/guidance without the impact?                           | N/A    |                          |
| 19.                                                                                               | Can we reduce the impact by taking different action?                                                       | No     |                          |
| Names and Organisation of Individuals who carried out the Assessment: Please give contact details |                                                                                                            |        | Date of the Assessment   |
| ██████████, Resourcing and HR Services Business Partner                                           |                                                                                                            |        | 28/07/2022<br>29/09/2023 |