Bank Workers Policy

Policy: HR78

Policy Descriptor
To provide guidance and support to Recruiting Managers of the Trust on the usage of bank workers

If you require this document in a different format or language please speak to a member of Trust staff.

If you would like to provide feedback about our services Contact PALS – 01392 675686 or email dpn-tr.pals@nhs.net
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Admin & Estates Bank Agreement

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1. Introduction

1.1. Devon Partnership NHS Trust recognises that operational services may need to utilise bank and/or temporary workers in order to maintain safe services. This may involve the booking of framework nursing agency workers.

1.2. It is imperative that any decision to engage a temporary worker or offer over contracted hours is made in line with the Trust’s vacancy management and approval process.

2. Purpose

2.1. The aim of this policy is to provide clear guidance to managers, bank workers and the Safe Staffing team when bank workers / agency workers are used within the Trust.

2.2. This policy applies to all bank workers (excluding staff employed on fixed term contracts and temporary/locum medical staff) across the Trust, and substantive staff who are also registered on the bank.

2.3. Consideration should be given to viable alternative options before bank workers are engaged.

2.4. The policy is intended to:
   - minimise agency and temporary staffing costs ensuring value for money and compliance with the guidance on the use of agency staff
   - improve monitoring systems/governance processes
   - ensure that the health, safety and welfare of people who use our services is not compromised by ensuring appropriate pre-engagement safeguarding checks (such as Disclosure and Barring Service (DBS) & Identity checks) are completed before joining the bank.
   - ensure that the Trust is compliant with current employment law.

2.5. This policy should be read in conjunction with the Trust’s Recruitment and Selection Policy and other employment related policies.

3. Definitions

3.1. **Agency worker** – temporary or interim workers provided through an external organisation for an agreed rate, where the contract of employment lies with the providing company rather than the end user.

3.2. **Bank workers** – workers registered to provide work on an ad hoc basis, with no obligation for regular work. Administered by the Trust, these staff are workers and not employees.

3.3. **Disclosure and Barring Service (DBS)** – The DBS was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

3.4. **Self-Employed Consultants** – these are individuals or a company who are brought in to deliver a particular piece of work or project. They are contracted to provide services on an agreed daily rate which is payable on the presentation of an invoice. They are neither workers nor employees.

3.5. **Substantive employees** – those employed by the organisation on an ongoing contract of employment.
3.6. **Fixed term employees** – those employed by the Trust on a temporary contract of employment for an event or period that is of limited duration. Their employment is on NHS terms and conditions of employment and their service can be counted for continuity of employment.

3.7. **Safe Staffing team** – the department responsible for coordinating the demand and supply of bank workers to clinical/service areas.

3.8. **Assignment** – means the individual shift or series of shifts during which bank workers are engaged by the Trust to carry out work.

3.9. **Bank workers agreement** – The agreement between the Trust and bank workers under which the Trust does not guarantee bank workers a fixed number of hours work per week or month and that work, if offered is on “an as and when required” basis.

4. **Duties**

4.1. **Managers/Service Leads/Line Managers**
- are responsible for overseeing the dissemination and implementation of this policy across services at any time
- must ensure that they DO NOT book agency workers directly to undertake work. All bookings should be made via the Safe Staffing team
- ensure plans are in place to reduce the need for temporary workers i.e. workforce plans, robust annual leave and absence management systems in place
- ensure any temporary/bank/agency workers receive a local induction and signed off copies of local induction programmes to be sent to the Safe Staffing team
- support Safe Staffing team in the interviewing of bank workers
- ensure bank workers have rest breaks and/or compensatory rest breaks in line with the European Working Time Regulations
- monitor the performance of temporary workers and deal with concerns appropriately via arranged supervision sessions in line with the Trust Supervision Policy (G20)
- ensure appropriate approvals have been gained prior to making a booking for bank and agency workers
- verify and authorise all worked shifts in line with Trust protocols, this will be managed via the bank module on the E-Roster system
- in the event of a shift being double booked, managers should inform the Safe Staffing team as soon as possible where this has happened. This will allow unutilised workers to be allocated to other areas of need. This should effectively be a never event, in the case of staff refusing to work elsewhere when double booked then they should be sent home.
- ensure leaving process is appropriately managed, ensuring equipment including keys and ID are returned, exit report completed (if appropriate) and IT accesses are revoked
- ensure bank workers do not have an assignment for more than 11 weeks. If it looks like a worker may be needed for an extended period then manager should seek advice from HR Connect
- Report incidents involving bank workers via the Risk Management System (RMS).

4.2. **Bank Staffing Team (Safe Staffing Team)**
- provide advice and guidance to managers on the implementation of this policy
- receive and process requests for assignment coverage
- ensure all workers have the necessary checks completed to ensure compliance with the Recruitment and Selection Policy
• ensure shifts on the E-Roster system are processed in a timely way to enable workers to receive payment in line with published payment schedules
• ensure that bank workers receive the appropriate training to carry out duties
• ensure that bank workers do not breach the maximum hours that can be worked under the European Working Time Directive (EWTD)
• submit a monthly report to the detailing the reasons as to why bank/agency workers have been used
• will take appropriate action if any professional registration is out of date including suspension of the bank posting
• will be the central point of contact for any matters relating to the provision of bank workers
• responsible for making referrals to the disclosure and barring service, and/or professional bodies if criteria for referrals is met
• will review and amend the policy as necessary.

4.3. Bank Worker
• comply with all requests from Safe Staffing team for information and submit information relating to employment checks in a timely way
• advise the Safe Staffing team of any other paid employment and the hours worked to ensure the EWTD regulations are not breached
• be prepared for flexible working in all areas of the Trust
• provide the Safe Staffing team with hours of availability or via Employee on Line (E-Roster)
• contact the Safe Staffing team as soon as possible before the period for duty if they are unable to work with 24 hours minimum notice period when possible
• ensure they understand the agreement for bank workers; seek clarification of any points not understood; sign and return the document to the Safe Staffing team prior to undertaking an assignment
• ensure their professional registration is up to date and comply with their relevant professional code of conduct
• ensure they attend all statutory and mandatory training relevant to the role as set out in the Bank Workers Agreement
• Ensure they comply with all policies of the Trust during their assignment.

4.4. Director of Nursing and Professions
• will be responsible for ensuring this policy is applied fairly and consistently across the Trust
• will advise the Trust Board on the effectiveness of this policy
• provide approval to use specialist agencies for Consultancy or specialist roles.
• provide approval to use non-framework agencies

4.5. Corporate Services Manager
• will ensure team managers comply with this Policy
• will be the lead of matters to professional registration, disclosure and barring service reviews and due process regarding performance, competence and professional conduct (See Appendix A)
• provide approval to use non-framework agencies
• provide approval all requests for temporary nursing workers.
4.6. **On Call Director**
- To approve the use of non-framework agencies out of hours.

5. **Process of Utilisation of Bank Workers**

5.1. Bank workers should only be engaged as a last resort after considering other staffing alternatives. Temporary workers should never be used as an on-going staffing solution. All requests for bank workers should be affordable within the funded establishment.

5.2. On no account should bank workers be assigned to one area for a period for more than 11 continuous weeks. Advice should be sought from the Resourcing Team Manager as to how undertake short term fixed contract if there is a continuing vacancy i.e. maternity leave and long term sickness.

5.3. Temporary workers should not automatically be booked to cover annual leave, short-term sick leave or study leave. This leave should be managed to ensure adequate cover from existing staff unless there is a vacancy factor to be considered.

5.4. Further alternative methods of filling staffing needs could include:
- secondment
- re-working procedures or processes to save time and staffing needs
- utilisation of staff from other areas within the clinical services on a temporary basis
- job share or role splitting
- short fixed-term contracts.
- Expressions of interest for a short term role (maximum 12 weeks)

5.5. There should be a justifiable service reason for requesting a bank worker which includes:
- when there is a vacant post with funding available and the work cannot be covered from within the existing workforce
- when the service will be at risk, including patient safety, or targets for delivery are compromised
- an unexpected increase in the volume of work (i.e. due to a flu crisis, pandemic or heat-wave)
- when there are adverse effects on the health and safety of staff.

5.6. Prior to deciding whether there is a need to book a bank member worker, individual managers should:
- review rosters, including considering flexible working options to enable existing staff to cover the shifts and offering additional work to part-time staff (at standard hourly rate)
- consider whether the work can be reallocated/delayed
- offer additional hours and time off in lieu to full-time staff without compromising working time regulations.

5.7. All requests for Bank workers must be completed via E-Roster. All requests must have a booking reason.

5.8. Once the booking is received the Safe Staffing Team will look to see if there are any internal workers available/suitable. If a candidate is matched, the Bank office will contact the bank worker to assess their availability.
5.9. Substantive staff with bank contracts should note that all substantive contracted hours should be worked before a bank shift is accepted. If substantive hours are owed to the Trust then the bank shift time frame should be reduced to allow the working of the owed contracted hours.

5.10. Team managers of staff with substantive and bank contracts should be aware of the current status of staff contracted hours owed to the Trust and the

5.11. If a post is advertised the recruitment will follow the Recruitment and Selection Policy of the Trust and all pre-employment checks will be undertaken in line with this policy.

6. Management of Temporary Workers

6.1. It is essential that all temporary workers within the Trust receive an induction that is appropriate to their role and planned length of engagement for each team they work with. This should include an orientation, information about local policies procedures and introductions to relevant colleagues. Copies of the completed induction form to be sent to the Safe Staffing team.

6.2. The Trust will provide Mandatory Training, annual online training and practical training sessions (where applicable). These are listed within the Bank Staff Agreement.

6.3. Local managers are expected to plan what functions are to be undertaken and monitor temporary staff performance while at the Trust.

6.4. Managers should raise concerns with regard to performance of any bank worker to the Safe Staffing team and the HR Helpdesk, where matters cannot be resolved or are of sufficient seriousness to potentially prevent future use. Managers have a responsibility and duty of care to ensure that concerns are raised and addressed where appropriate. It is not sufficient just to release an unsatisfactory worker without explanation.

6.5. Where concerns are raised with a Bank worker and it has not been resolved locally the relevant manager should make contact with the Corporate Services Manager. See Appendix One.

6.6. Where a Bank worker may be in contravention of a Trust Policy or Procedure and it has not been resolved locally the relevant manager should report the incident via the RMS then make contact with the Corporate Services Manager and HR Connect for support with relevant policy interpretation and guidance whether an investigation is required. The local manager will be responsible for liaising with the Safe Staffing Team.

6.7. Where a staff member has a substantive role and a Bank role and they are subject to formal or informal Trust procedures in one or more of their roles, it may be appropriate for action to be considered in both the substantive role and Bank role; for example in disciplinary and safeguarding investigations. Where a staff member is suspended from their substantive role their Bank shifts will also need to be reviewed and cancelled where appropriate pending the outcome of any investigation and conclusion. The local manager should seek advice from HR Connect and liaise with the Safe Staffing Team.

6.8. Where the Trust has reason to believe that Professional or other Codes of Conduct have been breached, this will be reported to the relevant professional or other body by the line manager, with support and advice from the Operational Workforce Lead and the Safe Staffing team.
6.9. In cases where there is concern that the practitioner may be a danger to patients, the Trust has an obligation to inform such other organisations including the private sector, of any restriction on practice or exclusion and provide a summary of the reasons for it. The line manager must inform the Safe Staffing Team who will contact the professional regulatory body and the Executive Director of Nursing and Professions as appropriate who will escalate appropriately to consider the issue of an Alert Letter.

6.10. Alert Letters ensure that NHS bodies are made aware of staff who pose a risk to patients or other staff because their conduct seriously compromises patients' safety and/or quality. They are intended to cover those situations where an NHS employer considers that a member of their health care staff may pose a threat to patients and may be working or seeking work elsewhere in a health or social care setting.

6.11. Team managers of staff with substantive and bank contracts should be aware of the current status of staff contracted hours owed to the Trust and the bank bookings that are being requested. Contracted hours owed to the Trust should be worked by staff with bank contracts first, with an option for bank working once the contracted hours are worked.

6.12. The leaving process for bank workers must be appropriately managed, including ensuring the return of equipment e.g. diaries, mobile phones, ID badge, keys etc. and the preparation of closing down the E-Roster and Electronic Staff Record (ESR) account.

7. Bank Worker Agreement

7.1. Bank workers will be engaged on a Bank Worker Agreement. This Agreement is not a contract of employment and does not confer any employment rights for bank workers. It does not create any obligation on the Trust to provide work, nor does it make any promise or guarantee of a minimum level of work.

7.2. Thus there is no mutuality of obligation between the Trust and a bank worker at any time.

7.3. The bank worker agreement will set out the following terms of engagement:
   - Induction
   - IT, Information Governance, Data protection and Confidentiality
   - Rates of pay and banding
   - Annual leave
   - Sickness
   - NHS Pension Scheme
   - Other statutory leave
   - Trust policies and procedures
   - Availability and commitment
   - Termination of agreement
   - Training and development
   - Professional Registration
   - European Working Time Directive
   - Conduct matters
   - Membership of a Trade Union
   - Variation of terms of engagement

8. Training

8.1. All staff involved in the Recruitment and Selection of staff should attend the Trust's Recruitment and Selection Training.

8.2. All staff involved in the booking of bank staff must be made aware of this policy.
8.3. All training courses due to be completed will be listed within the Trusts online learning programme. These courses are relevant to the staff grade and will differ dependent upon job role, qualifications and due to specific areas of work.

9. Monitoring

9.1. Management information concerning use of temporary staff will be supplied by managers as requested. The information supplied will be used to monitor individual departmental use of temporary staff.

9.2. Managers will be required to submit a request to Experience, Safety and Risk Committee for any temporary cover when one month’s temporary cover has been agreed.

9.3. Departments engaging in excessive use of temporary staff will be reported to the Experience, Safety and Risk Committee. Reports concerning Trust wide use of temporary staffing will be provided to EMT.

9.4. Managers should review assignments on an on-going basis. This review should address:
   - the continuing need for the work
   - whether alternatives have now become available that can be considered
   - the standard of work performance
   - progress against agreed targets and requirements
   - the expenditure incurred
   - Patient and staff safety.

9.5. With regard to agencies included on the framework, the Trust’s Procurement Manager will undertake intermittent reviews to ensure that compliance is adhered to.

9.6. A monthly workforce report will be provided to the Executive Trust Board by the Director of Organisational Development and HR - Chief Operating Officer and Director of Workforce

10. References & Associated Documentation

   Agency Workers Regulations 2010
   NHS standards for safe recruitment
   Working Time Directive
   Recruitment and Selection Procedure
Appendix A - Bank Incident Reporting Flowchart

- Incident Occurs.
- Incident Reported via RMS - https://rms.dpt.nhs.uk/
- Corporate Services Manager (with support from HR) complete risk assessment.
- Risk assessment determines if worker can remain working or is removed from the bank (& assess impact on substantive post is held).
- Investigation of conduct by Corporate Services Manager or nominated deputy follows if required.
- Decision made in relation to whether worker is allowed to continue on bank.
- If removal from bank an outcome and worker is in a regulated role referral to DBS is made by Corporate Services Manager.
- Consideration given to any breaches of professional body – referral made to professional body if required by corporate services manager.