

AGENCY CAPPED RATE ESCALATION POLICY

February 2016

**All TDA/Monitor Published Policy Documentation on Agency Price Caps
is available to view at**

<https://www.gov.uk/guidance/rules-for-all-agency-staff-working-in-the-nhs>

1.0 Background

- 1.1 In response to NHS financial performance nationally, and in particular, the rapid growth of spend on agency staff, Monitor and the NHS Trust Development Authority (TDA) have implemented rules regarding agency spend to all NHS Trusts. These are detailed within the publication "[Price Caps for Agency Staff: Rules November 2015](#)". With effect from Monday 23rd November 2015, a maximum capped limit on the hourly rates paid for all agency staff has been introduced.
- 1.2 Effectively, this seeks to ensure that with effect from 1st April 2016, that agency workers receive no higher pay than an equivalent substantive (permanent) employee.
- 1.3 The rules include a "break glass" provision for Trusts that need to override the caps on **exceptional safety grounds** - i.e. exposure to clinical and patient risk. These should be used only after all possible alternative strategies have been explored and only used for patient safety reasons. Overrides should be used within a robust escalation process sanctioned by the Trust Board.

2.0 Purpose

- 2.1 This document sets out the background to the changes in agency pay rates for all staff and links to the Trust Board approved Escalation Process for the medical workforce, nursing and other Agenda for Change staff groups. The Escalation Processes will provide:
1. A clear framework for assessing the need to use an escalated hourly rate of pay above the price capped rates to secure an agency worker.
 2. Clarity on the authorisation process required before the booking with the agency worker is confirmed if the use of an escalated capped rate is required.
 3. Requirements to mitigate the on going use and reliance of the agency worker over the capped rate threshold.

3.0 Standard Operating Procedures for Capped Rate Use

- 3.1 It is recognised that the Standard Operating Procedures (SOPs) for Capped Rate Use are required to be tailored for each staff group. The following Trust (SOPs) are available on Trust Documents, which provides the governance associated with use of capped rates for the following staff groups:
- **MEDICAL: Medical Staffing Escalation SOP**
Completion of a Medical Agency Capped Rate Escalation Form is required to be completed for Medical Director approval.
 - **NURSING and MIDWIFERY**
 - **Nursing Safer Staffing Escalation (SOP)**
 - **Maternity Staffing Operational Escalation (SOP)**
 - **Paediatric Staffing Escalation (SOP)**The capped rate escalation approval process is managed via the NHSP agency cascade with "Golden Key" approval required in accordance with Trust Policy.

- **AHPs: Allied Healthcare Professionals SOP**
Completion of an Agency Capped Rate Escalation Form is required to be completed for Director of Nursing approval.

4.0 The Rules

4.1 The price caps are being introduced with a phased lead in period, and by 1st April 2016, we will pay agencies a charge rate of no more than 55% above the basic NHS pay rate. The price caps represent the maximum charge rate that a Trust can pay and include;

- Agency Worker Pay Rate
- National Insurance (Employer NI)
- Working Time Directive Payment (Holiday Pay)
- Administrative Agency Commission Fee

4.2 The intention of the price caps is to “support trusts when they procure workers from agencies and to encourage staff to return to permanent and bank working. They should enable trusts to manage their workforce in a more sustainable way, reduce growing reliance and expenditure on agency staffing, raise clinical quality and improve the working environment for their staff.”

4.3 Trusts are required to report to the Monitor/TDA on a weekly basis (By 12.00pm each Wednesday) and report the staff group, reason, and number of agency shifts which have been undertaken in excess of the price caps.

4.4 Any payments in excess of the price cap will be scrutinised by Monitor and the TDA, and any excessive use of overrides and failure to make rapid improvements to workforce management may lead to regulatory action as appropriate.

5.0 Requirements with Use of Non-Compliant Rates

In the event that the Trust uses rates for agency workers in excess of the Capped rates, then the Trust is required to comply with the following:

Summary	Trust Action
Trust explains to Monitor/ TDA the reasons behind its level of override(s)	Trust provides: 1.A clear understanding of the causes of the override(s) 2.Evidence of appropriate and effective governance and workforce management processes, eg activity plans and links between staffing and financial plans. 3.Evidence of best practice in considering other options before the trust overrode the controls.
Trust develops an evidence-based plan to return to compliance	Plans must be signed off by the trust's Director of Nursing/Medical Director/HR Director/Director of finance as appropriate, endorsed by the Executive team and approved by the Board. The

	plan should reference processes that both control costs and preserve patient safety.
Trust delivers this plan	Monitor and TDA will request information on whether the trust is meeting the plan via the reporting cycle or more frequently.
Trust seeks support via relevant best practice teams	If the trust is unable to deliver the plan, or considers that it needs external support immediately, then the trust should work with experts to go through any or all of step 1 above. Experts may include the Monitor and TDA's Agency Rules Team and/or the Workforce Efficiency Team. A follow-up plan should be agreed with the central bodies, referencing the gap between actions to date and best practice and how this will be closed.
Present case to Monitor/TDA	If the trust is still unable to meet the price caps despite following steps 1 and 2 above, then the board may be requested to explain to Monitor/TDA why this is the case. We will use this interaction to identify the degree to which the board understands the problem and has engaged with it.

6.0 The Price Caps

6.1 Price Cap Introduction

The price caps will be introduced in 3 periods with decreasing threshold caps, these thresholds will vary dependent upon staff group and grade. The price caps provide an hourly rate for core hours, and a separate rate for unsocial hours. The table below details the staged decreases for each period.

	Max. charge from 23 Nov 2015	Max. charge from 1 Feb 2016	Max. charge from 1 Apr 2016
Junior doctors	150% above basic	100% above basic	55% above basic
Other medical staff	100% above basic	75% above basic	55% above basic
All other clinical staff	100% above basic	75% above basic	55% above basic
Non-clinical staff	55% above basic		

NB: Other Medical Staff include; Consultants, Speciality Doctors and Associate Specialists.

6.2 Price Cap Rates

The overall rate that should be paid by the Trust for each group of staff from the 23rd November 2015 – 1st April 2016 and onwards is provided in the following tables.

6.2.1 Medical and Dental

The overall rates to be paid for agency doctors are outlined below:

Grade and shift type		Max. charge from 23 Nov 2015	Max. charge from 1 Feb 2016	Max. charge from 1 Apr 2016
Foundation year 1	Core	£32.54	£26.03	£20.17
	Unsocial	£39.31	£31.45	£24.38
Foundation year 2	Core	£40.36	£32.28	£25.02
	Unsocial	£48.76	£39.01	£30.23
Registrar (SP1-2) / Core Medical Training	Core	£45.76	£36.61	£28.37
	Unsocial	£55.30	£44.24	£34.28
Registrar (SP3+)	Core	£57.05	£45.64	£35.37
	Unsocial	£68.94	£55.15	£42.74
Dental core training	Core	£56.15	£44.92	£34.81
	Unsocial	£67.84	£54.28	£42.06
Specialty Doctor / Staff Grade	Core	£66.43	£58.13	£51.48
	Unsocial	£88.57	£77.50	£68.64
Associate Specialist	Core	£82.21	£71.94	£63.72
	Unsocial	£109.62	£95.92	£84.96
Consultant	Core	£97.22	£85.06	£75.34
	Unsocial	£129.62	£113.42	£100.46

Note: The price caps are the maximum total hourly rate payable by a trust to an agency, including worker pay and all other elements of the payment. They exclude VAT. These are maximum rates – trusts are expected to continue to secure lower rates for most transactions.

6.2.2 Clinical Staff

The overall rates to be paid to clinical staff (excluding doctors) are outlined below:

Grade and shift type		Max charge from 23 Nov 2015	Max charge from 1 Feb 2016	Max charge from 1 Apr 2016
Band 1	Day	£15.70	£13.74	£12.17
	Night/Saturday	£23.55	£20.61	£18.25
	Sunday/Bank Holiday	£31.41	£27.48	£24.34
Band 2	Day	£18.19	£15.92	£14.10
	Night/Saturday	£26.20	£22.92	£20.30
	Sunday/Bank Holiday	£34.20	£29.93	£26.51
Band 3	Day	£19.89	£17.41	£15.42
	Night/Saturday	£27.25	£23.85	£21.12
	Sunday/Bank Holiday	£34.61	£30.29	£26.82
Band 4	Day	£22.73	£19.89	£17.61
	Night/Saturday	£29.55	£25.85	£22.90
	Sunday/Bank Holiday	£36.36	£31.82	£28.18
Band 5	Day	£28.80	£25.20	£22.32
	Night/Saturday	£37.44	£32.76	£29.02
	Sunday/Bank Holiday	£46.09	£40.33	£35.72
Band 6	Day	£35.65	£31.19	£27.63
	Night/Saturday	£46.34	£40.55	£35.92
	Sunday/Bank Holiday	£57.04	£49.91	£44.20
Band 7	Day	£41.87	£36.64	£32.45
	Night/Saturday	£54.43	£47.63	£42.18
	Sunday/Bank Holiday	£66.99	£58.62	£51.92
Band 8a	Day	£48.61	£42.54	£37.67
	Night/Saturday	£63.19	£55.30	£48.98
	Sunday/Bank Holiday	£77.78	£68.06	£60.28
Band 8b	Day	£58.33	£51.04	£45.21
	Night/Saturday	£75.83	£66.35	£58.77
	Sunday/Bank Holiday	£93.33	£81.66	£72.33
Band 8c	Day	£69.31	£60.64	£53.71
	Night/Saturday	£90.10	£78.84	£69.83
	Sunday/Bank Holiday	£110.89	£97.03	£85.94
Band 8d	Day	£83.42	£73.00	£64.65
	Night/Saturday	£108.45	£94.90	£84.05
	Sunday/Bank Holiday	£133.48	£116.79	£103.45
Band 9	Day	£100.63	£88.05	£77.99
	Night/Saturday	£130.82	£114.47	£101.39
	Sunday/Bank Holiday	£161.01	£140.88	£124.78

Note: The price caps are the maximum total hourly rate payable by a trust to an agency, including worker pay and all other elements of the payment. They exclude VAT. These are maximum rates – trusts are expected to continue to secure lower rates for most transactions

6.2.3 Non-clinical Staff (Administration and Clerical)

The overall rates to be paid to non-clinical staff are outlined below. Please note that there is no staged decrease in rates for this staff group.

Grade & shift type		Max. charge from 23 Nov 2015
Band 1	Day	£12.17
	Night/Saturday	£18.25
	Sunday/Bank Holiday	£24.34
Band 2	Day	£14.10
	Night/Saturday	£20.30
	Sunday/Bank Holiday	£26.51
Band 3	Day	£15.42
	Night/Saturday	£21.12
	Sunday/Bank Holiday	£26.82
Band 4	Day	£17.61
	Night/Saturday	£22.90
	Sunday/Bank Holiday	£28.18
Band 5	Day	£22.32
	Night/Saturday	£29.02
	Sunday/Bank Holiday	£35.72
Band 6	Day	£27.63
	Night/Saturday	£35.92
	Sunday/Bank Holiday	£44.20
Band 7	Day	£32.45
	Night/Saturday	£42.18
	Sunday/Bank Holiday	£51.92
Band 8a	Day	£37.67
	Night/Saturday	£48.98
	Sunday/Bank Holiday	£60.28
Band 8b	Day	£45.21
	Night/Saturday	£58.77
	Sunday/Bank Holiday	£72.33
Band 8c	Day	£53.71
	Night/Saturday	£69.83
	Sunday/Bank Holiday	£85.94
Band 8d	Day	£64.65
	Night/Saturday	£84.05
	Sunday/Bank Holiday	£103.45
Band 9	Day	£77.99
	Night/Saturday	£101.39
	Sunday/Bank Holiday	£124.78

Note: The price caps are the maximum total hourly rate payable by a trust to an agency, including worker pay and all other elements of the payment. They exclude VAT. These are maximum rates – trusts are expected to continue to secure lower rates for most transactions.