

Mr Will Quince MP
Minister for Health and Secondary Care
Department for Health and Social Care
39 Victoria Street
London, SW1H 0EU

17 May 2023

Dear Will,

Agenda for Change pay and one-off non-consolidated award

I am writing to raise the planned one-off award and its effects for medical staff working for the NHS on a temporary basis. Messaging from Clinical Staffing Frameworks is currently at odds with the Department's own description of the backlog bonus.

[The Recruitment & Employment Confederation \(REC\)](#) is the voice of the UK recruitment industry. We have over 3,000 businesses in our membership, with almost 500 members who operate as NHS staffing partners. Our members employ clinical and non-clinical professionals who work with local authorities, care providers and NHS Trusts as well the private sector, supplying valuable skills across all bands and services. Our members include some of the largest suppliers of NHS staffing, as well as hundreds of SMEs.

According to one Clinical Staffing Framework, as agency staff are not directly employed by the NHS, they are not entitled to any pay increases other than statutory increases under the Agency Workers Regulations. They go on to say that "as the non-consolidated pay award is not linked to individual or team performance, it will not be payable under any NHS Workforce Alliance agreements." Yet again, we're seeing agency workers treated differently from their substantive counterparts, despite giving the same level of dedicated, professional service to their patients.

Not only are we failing to recognise the invaluable contribution of thousands of agency workers who help manage peaks and troughs in demand for services, the agencies will have to manage the disappointment of these vital staff.

But the key issue is that we believe this decision is not only against the spirit of equal treatment for agency workers, but also against the specifics of it. One of the Clinical Staffing Frameworks has stated that as per the Agency Worker Regulations, agency workers wouldn't be eligible for the bonus. However, if the NHS Trust can identify where a qualified agency worker contributed to clearing the backlog, meeting targets and reducing waiting lists, then there is scope under [Regulation 6 \(3\)](#) - 'bonuses payable on the basis of individual performance over a given period.' Where the qualified agency workers don't receive the bonus where their contributions have been identified, they could bring Employment Tribunal proceedings against the NHS Trust and the Agency for failing to comply with the Agency Workers Regulations 2010.

As highlighted, the guidance issued by some Staffing Frameworks is not as clear cut as they would like it to be and isn't consistent with the Department's [press release](#). REC members need urgent clarification around the scope of the payment, and once again, I would urge the Department to reconsider its position on the eligibility criteria for the award. Agency medical staff deserve our thanks, like any other frontline healthcare workers.

Agency workers have provided and continue to provide vital support to the NHS, their patients, and wider families, both during the pandemic and in our post pandemic recovery. We know the NHS is already struggling with waiting lists, staff burnout, and staff shortages. Temporary workers are a critical part of supporting the NHS in dealing with this, filling 15,000 NHS vacancies every quarter, equivalent to five million hours of shifts every month. As has often been acknowledged by NHS England, NHS Employers and others, contingent labour and staffing solutions will always be needed within the NHS - whether that is through an agency, a bank, an insourcing supplier, or any other model, on an ongoing basis.

Like you, we want to see excellent care delivered at good value for the taxpayer. But in recent years, ideology about agency medical staff - despite their vital role - has led Government into some grave errors. We understand the Department's desire for efficiency - but we are now caught in a system where the procurement model and agency rhetoric that NHSE is driving is both pushing costs up. Banks are raising rates to outbid agencies for staff, while the freeze on agency medic pay makes off-framework and emergency rates the only option for some Trusts. There has to be a better way to save money and provide better care - and agencies are ready to work with you on that.

It would be useful to meet with you to discuss this in more detail. Ellie in my office (ellie.goddard@rec.uk.com) will be happy to arrange something at your convenience.

Yours sincerely,



Neil Carberry
Chief Executive