

DATED MAY 2023

THIS VERSION UPDATES AND REPLACES THE VERSION DATED NOVEMBER 2019

MEMORANDUM OF UNDERSTANDING
RE: AGENCY RATES AND USE OF AGENCY WORKERS
WITHIN SOCIAL WORK WITHIN THE NORTH-EAST

between

STOCKTON-ON-TEES BOROUGH COUNCIL
NORTHUMBERLAND COUNTY COUNCIL
NEWCASTLE CITY COUNCIL
GATESHEAD METROPOLITAN BOROUGH COUNCIL
NORTH TYNESIDE METROPOLITAN BOROUGH COUNCIL
SOUTH TYNESIDE COUNCIL
SUNDERLAND CITY COUNCIL & TOGETHER FOR CHILDREN
DURHAM COUNTY COUNCIL
DARLINGTON BOROUGH COUNCIL
HARTLEPOOL BOROUGH COUNCIL
MIDDLESBROUGH COUNCIL
REDCAR AND CLEVELAND BOROUGH COUNCIL

Contents

CLAUSE

1.	Background	3
2.	Key objectives for the project	3
3.	Principles of collaboration	3
4.	Project governance	4
5.	Escalation	5
6.	Intellectual property	5
7.	Term and termination	5
8.	Variation	6
9.	Charges and liabilities	6
10.	Status	6
11.	Governing law and jurisdiction	6

ANNEX

ANNEX A.	The Authorities	7 - 9
ANNEX B.	The Project	10 - 11
ANNEX C.	Escalation & Exemption Process	12 - 15
ANNEX D.	Rates Paid to the Social Worker	16
ANNEX E.	End of Assignment Template Agency Social Worker	17 - 19

THIS MEMORANDUM OF UNDERSTANDING is dated 1st May 2023

AUTHORITIES

THE PERSONS whose names and addresses or registered offices are set out in ANNEX A.

1. BACKGROUND

1.1 The Authorities have agreed to work together in a project entitled "North-East Agency Workers Project" to coordinate agency rates and use of agency staff within social work within the North-East Region to ensure the sustainability of services ANNEX B.

1.2 The Authorities wish to record the basis on which they will collaborate with each other on the Project. This Memorandum of Understanding (MoU) sets out:

- a. the key objectives of the Project.
- b. the principles of collaboration.
- c. the governance structures the Authorities will put in place; and
- d. the respective roles and responsibilities the Authorities will have during the Project.

2. KEY OBJECTIVES FOR THE PROJECT

2.1 The Authorities shall undertake the Project to achieve the key objectives set out in ANNEX B to this MoU (Key Objectives).

3. PRINCIPLES OF COLLABORATION

The Authorities agree to adopt the following principles when carrying out the Project (Principles):

- a. collaborate and co-operate. Establish and adhere to the governance set out in this MoU to ensure that actions are taken as required.
- b. be accountable. Take on, manage, and account to each other for performance of the respective roles and responsibilities set out in this MoU.
- c. be open. Communicate openly about major concerns, issues or opportunities relating to the Project
- d. learn, develop, and seek to achieve full potential. Share information, experience, materials, and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk, and reduce cost
- e. adopt a positive outlook. Behave in a positive, proactive manner
- f. adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU (European Union) procurement rules, data protection and freedom of information legislation.
- g. act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support
- h. manage stakeholders effectively
- i. deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU. and
- j. act in good faith to support achievement of the Key Objectives and compliance with these Principles.

4. PROJECT GOVERNANCE

4.1 Overview

The governance structure defined below provides a structure for the development and delivery the Project.

4.2 Guiding principles

The following guiding principles are agreed. The Project's governance will:

- a. provide strategic oversight and direction
- b. be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level
- c. align decision-making authority with the criticality of the decisions required
- d. be aligned with Project scope [and each Project stage] (and may therefore require changes over time)
- e. leverage existing organisational, group and user interfaces
- f. provide coherent, timely and efficient decision-making; and
- g. correspond with the key features of the Project governance arrangements set out in this MoU.

4.3 Directors' Meeting

- a. The Directors' Meetings provide overall strategic oversight and direction to the Project. This group may comprise for, each of the Authorities the relevant Director of Adult Social Services and or Director of Children's Services (or such other post having similar responsibilities for the commissioning of agency staff within social work). The reporting link into this meeting comes from the regional NE ADASS (Association of Directors of Adult Social Services) / ADCS (Association of Directors of Children's Services) Workforce Chair(s).

4.4 MoU Governance Group

- a. The MoU Governance Group will provide strategic management at Project and workstream level. This group is Chaired by the NE ADCS Workforce Chair. It will provide assurance to the Directors' Meeting that the Key Objectives are being met and that the Project is performing within the boundaries set by the Directors' Meeting.
- b. The MoU Governance Group consists of representatives from each of the Authorities. The MoU Governance Group shall have responsibility for the creation and execution of the project plans and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into other relevant groups.

4.5 Reporting

Project reporting shall be undertaken at four levels:

- a. MoU Governance Group: Minutes and actions will be recorded for each regional meeting. Any additional reporting requirement shall be at the discretion of the MoU Governance Group
- b. Directors' Meeting: Reporting on an "as required" basis, based on the minutes and feedback from the MoU Governance Group: The Directors' Meeting shall consider overall progress; issues being addressed; issues requiring help (that is, escalations to the Directors' Meeting)

and progress planned next period and/or aligned with the frequency of the Directors' Meeting.

- c. The MoU Governance Group and the regional Workforce Lead Director/Regional Chair shall be responsible for drafting reports into their respective local authority as required.
- d. Chief Executives: Reporting on an "as required" basis, reflecting upon progress, issues, challenges, and strategic planning.

5. ESCALATION

ESCALATION - MANAGEMENT OF THE PROJECT

5.1 If any party has any issues, concerns or complaints about the Project, or any matter in this MoU, that party shall notify the other Authorities and the Authorities shall then seek to resolve the issue by a process of consultation via the MoU Governance Chair and Group, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the MoU Governance Group/Chair, the matter may be escalated to the Directors' Meeting for resolution.

5.2 If any party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Project, the matter shall be promptly referred to the MoU Governance Group Chair (or nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the MoU Governance Group (or its nominated representatives).

ESCALATION – IMPLEMENTING THE CAPPED RATES AND QUALITY SPECIFICATION

5.3 Following the implementation of the capped rates a process is in place to provide support to prevent local authorities from breaching the rates, or to support them to come back within the scope of the rates should they have breached them. The support process involves the Chair of the MoU Governance Group and the regional Directors Meeting Chairs where appropriate. Despite support, should a local authority remain outside of the capped rates the final stage of this process is escalation to the regional Chief Executives group. The full escalation process is set out in ANNEX C.

6. INTELLECTUAL PROPERTY

6.1 The Authorities intend that notwithstanding any secondment any intellectual property rights created during the Project shall vest in the party whose employee created them (or in the case of any intellectual property rights created jointly by employees of both Authorities in the party that is lead party)

6.2 Where any intellectual property right vests in any party in accordance with the intention set out in clause 6.1 above, that party shall grant an irrevocable licence to the other party to use that intellectual property for the purposes of the Project.

7. TERM AND TERMINATION

7.1 This MoU shall commence on the date of signature by all Authorities and shall expire on **31st March 2025**. The MoU and the capped rates will be reviewed at regular intervals the agreement term.

7.2 Any party may withdraw from this MoU by giving at least three months' notice in writing to the other Authorities at any time.

8. VARIATION

This MoU, including the Annexes, may only be varied by agreement of the Directors' Meeting, following initial conversation at the MoU Governance Group.

9. CHARGES AND LIABILITIES

9.1 Except as otherwise provided, the Authorities shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.

9.2 All Authorities shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and any party intends that the other party shall be liable for any loss it suffers because of this MoU.

10. STATUS

10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the Authorities from this MoU. The Authorities enter the MoU intending to honour all their obligations.

10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the Authorities, constitute any party as the agent of the other party, nor authorise either of the Authorities to make or enter into any commitments for or on behalf of the other party.

11. GOVERNING LAW AND JURISDICTION

This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 5, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

ANNEX A - The Authorities

Stockton-on-Tees Borough Council

Municipal Buildings

Church Road

Stockton-On-Tees

TS18 1LD

Northumberland County Council

County Hall

Morpeth

NE61 2EF

Newcastle City Council

Newcastle Civic Centre

Barras Bridge

Newcastle upon Tyne

NE1 8QH

Gateshead Metropolitan Borough Council

Gateshead Civic Centre

Regent Terrace

Gateshead

NE8 1HH

North Tyneside Metropolitan Borough Council

The Quadrant

The Silverlink

Newcastle upon Tyne

NE27 0BY

South Tyneside Council Town Hall and Civic Offices

Westoe Road

South Shields

NE33 2RL

Sunderland City Council & Together for Children

City Hall

Plater Way

Sunderland

SR1 3AA

Durham County Council

County Hall

Durham

DH1 5UZ

Darlington Borough Council

Town Hall

Feethams

Darlington

County Durham

DL1 5QT

Hartlepool Borough Council

Civic Centre

Victoria Road

Hartlepool

TS24 8AY

Middlesbrough Council Civic Centre

Dunning Street

Middlesbrough

TS1 9FY

Redcar and Cleveland Borough Council

Redcar & Cleveland House

Kirkleatham Street

Redcar

Yorkshire

TS10 1RT

ANNEX B - The Project

The Key Objectives

The Authorities agree:

1. That agency workers secured on or after the 4th of Sept 2017 through the pan-regional framework agreement organised by NEPO with Magnit (formally Geometric Results International) for the supply of agency workers (contract expires on 31st October 2023) or via off contract agreements shall be paid within the capped rates agreement
2. they shall each take steps to bring those agencies that are not within the MAGNIT framework onto the MAGNIT framework
3. to an hourly rate capped rate for all new deployments (in accordance with ANNEX D)
4. that hourly rates will be in tiers as set out in ANNEX D
5. that they shall consider (if practical) allowing agency workers, access to flexi-time policies to accommodate peaks and troughs in work.
6. that the use of hourly rates does not automatically require that all agency staff be paid at the top of relevant day/hourly rate cap.
7. that existing agency social workers are moved onto the new rates at the end of their current contracts / assignments. Local authorities retain the right to extend contracts / assignments on previously agreed rates to maintain workforce stability through system wide transition to the new capped rates.
8. that where appropriate high-quality agency workers should be encouraged to apply for permanent posts.
9. that they will not pay any additional fees/ costs to the agencies to allow them to mitigate the impact of IR35 to agency workers.
10. that a worker who has not completed their Assessed and Supported Year in Employment (ASYE) should not be employed on an agency basis, as this will inhibit their development
11. North-East authorities will only hire agency social workers who demonstrate that they have completed their ASYE social work experience with a statutory provider prior to becoming an agency worker.
12. that they will continue to work with NEPO on behalf of the region to actively manage the MAGNIT contract from a social work perspective
13. that they will work together to develop a list of the pre-employment information that every local authority wants before it makes an appointment. This should be standardised across the region
14. that for core mandatory training (as identified by each local authority) – the local authority will pay the day rate to the agency and cover the cost of the training
15. that for additional non mandatory training, the local authority will not cover the day rate to the agency but will cover the cost of training
16. that for specialist training – they will not cover the day rate to the agency and will not cover the cost of training (although where possible agency workers will be able to access the training at their own expense).
17. to minimise immediate and quick departures and the associated impact on children/adults and the permanent workforce that where reasonably practicable at least a 2-week notice will be given to MAGNIT to secure a new worker, this allows for references to be checked and for DBS (Disclosure and Barring Service) / Disclosure Scotland checks to be made.
18. that they will endeavour to hold all out-going workers to their contractual notice period to allow time for the hand-over of cases to other workers
19. that they will not accept any agency staff who have not completed their notice period with a previous local authority.

20. to minimise disruption to workforce and not incentivise agency work that they will avoid employing candidates leaving a permanent contract in another North-East Authority to take up an agency role for a minimum of 6-months after leaving their permanent post. This does not apply to permanent staff moving to permanent roles in other authorities within the region. Social workers who are made redundant from a permanent post will be exempt from this requirement.
21. that they will not recruit individuals to agency posts if they are in an existing (agency or permanent) contract/assignment in one of the twelve North East Authorities
22. that managers will seek written references from the previous line manager before an appointment is made using the regional end of assignment template. – ANNEX E.
23. that the MoU Governance Group will receive quarterly reports and data returns from MAGNIT to monitor the overall impact off the MoU on workforce planning and service delivery, including where there is evidence of financial efficiencies, improvements in quality of supply of agencies workers, reduced reliance on agency social worker and stability in the overall workforce. Quarterly reports will include the expenditure of individual authorities operating outside of the capped rate.

ANNEX C - Escalation and Exemption Process

Escalation and Exemption Process

Social Work Agency Rate Monitoring and Reporting

As a North-East region, we have committed to implementing updated capped social work agency rates from 4th November 2017 onwards. This commitment is shared across Chief Executives and Directors. This agreement will help to prevent social work churn across the system as well as reducing costs.

As part of this there was agreement to introduce a process for monitoring the implementation of the new rates and reporting this to Directors. Maintaining the rates requires an agreement by each individual Director to use the management information provided to ensure that their service is adhering to the rates and not stepping outside of the agreement.

We would expect that the information provided is used by Directors to intervene should their service be paying rates in excess of the agreed regional cap. However, if this is not the case, we will look to follow the procedure below to support that local authority or to escalate concerns.

Notification of intention to operate outside of the MOU

1. Any notification of the intention to operate outside of the MOU or plan to extend the use of an existing Project Team must be done with absolute clarity and transparency.
2. The Authority notifying of a proposed exemption will record full details of their plan to the MOU Governance Group by completing an 'MOU exemption notification form'
3. Exemption notifications must not be used by Authorities as a means of retrospective intention to operate outside of the capped rates
4. Exemption requests will be monitored at MOU Governance Group meetings and where necessary escalated by the Workforce Lead Director/Regional Chair for discussion at the RIIA Executive Board meeting if the Authority does not adhere to their exemption plan

A potential breach is identified

1. The authority raising the potential breach will raise the query by completing the MOU Log
2. The ADASS / ADCS Policy & Project Manager (Workforce) will raise the query with the authority in question
3. The Authority will respond to the query in no more than 5 working days
4. The response will be shared with the MOU Governance Group and Director Group
5. In the case of no response to the query the MOU Log will be raised to the Workforce Lead Director/Regional Chair who will seek a response with the Director of the authority raised on the MOU Log
6. The MOU Log will be monitored by the MOU governance Group

MOU Exemption Notification Form

This form will be shared with the MOU governance Group and NE ADCS/ADASS as necessary, please complete it in full and send a copy to Judith.dickinson@durham.gov.uk

1. Any notification of the intention to operate outside of the MOU or plan to extend the use of an existing Project Team must be done with absolute clarity and transparency.
2. The Authority notifying of a proposed exemption will record full details of their plan to the MOU Governance Group by completing this 'MOU exemption notification form'
3. Exemption notifications must not be used by Authorities as a means of retrospective intention to operate outside of the capped rates
4. Exemption requests will be monitored by MOU Governance Group meetings and where necessary escalated to the Workforce Lead Director/Regional Chair for discussion at the Chief Executives meeting if the Authority does not adhere to their exemption plan

Authority	
Name and Email of person completing form	
Date	
Reason for Exemption	
What alternatives have been considered?	
Period exemption will be in place?	
What activities are planned to support the removal of the exemption plan	

I confirm the Authority will not:

employing a candidate if they are leaving a permanent contract in another North-East LA to take up an agency role with us for a minimum of 6-months after leaving their permanent post. This does not apply to permanent staff moving to permanent roles in other authorities within the region. Social workers who are made redundant from a permanent post will be exempt from this requirement

recruit individuals to agency posts if they are in an existing (agency or permanent) contract/assignment in one of the twelve North East local authorities

Print Name, Sign & Date

MOU Governance Group Comments, Review & Action

Date	Comment/Review	Action

MOU Log

This form will be shared with the MOU governance Group and NE ADCS/ADASS as necessary, please complete it in full and send a copy to Judith.dickinson@durham.gov.uk

A potential breach is identified

1. The authority raising the potential breach will raise the query by completing the MOU (Memorandum of Understanding) Log
2. The ADASS / ADCS Policy & Project Manager (Workforce) will raise the query with the authority in question
3. The Authority will respond to the query in no more than 5 working days
4. The response will be shared with the MOU Governance Group and Director Group
5. In the case of no response to the query the MOU Log will be raised to the Workforce Lead Director/Regional Chair who will seek a response with the Director of the authority raised on the MOU Log
6. The MOU Log will be monitored by the MOU governance Group

Date Raised	Raised By <i>Name of LA(s) or agency raising the query</i>	Authority <i>Name of LA(s)/Agency to which to query relates</i>	Service <i>Does the query relate to Children's Services or Adult Services?</i>	Query/Detail <i>Provide as much detail as necessary e.g., evidence in the form of agency advertisements that XXX is advertising Social Worker roles outside of the current capped rates</i>	Response <i>From LA/agency to query</i>

ANNEX D - Rates paid to the agency social worker¹

There is no change to the MoU capped rates. The table below shows both a daily rate and an hourly rate. To arrive at the 'capped agency pay rate – hourly rate' (3rd column), the contract managers, NEPO, have taken the current 'capped agency pay rate – day rate' (2nd column) and divided the day rate by 7.4 (based on a 7.4 hour working day).

The rates set out below are PAYE rates and are exclusive of Employers' National Insurance and holiday pay. The rates also exclude agency mark ups, which remain unchanged.

Role	Capped agency pay rate (day rate)	Capped agency pay rate (hourly rate equivalent based on a 7.4-hour day)
Children's Social Care – Social Worker (Newly Qualified) ²	£140.66	£19.01
Children's Social Care – Social Worker (Qualified)	£157.41	£21.27
Children's Social Care – Senior Practitioner (Qualified)	£181.02	£24.46
Children's Social Care – Social Worker Manager (Qualified)	£208.42	£28.16
Children's Social Care – IRO	£196.09	£26.50
Adult's Social Care – Social Worker (Newly Qualified)	£136.00	£18.38
Adult's Social Care – Social Worker (Qualified)	£154.99	£20.94
Adult's Social Care – Senior Practitioner (Qualified)	£176.67	£23.87
Adult's Social Care – Social Worker Manager (Qualified)	£202.11	£27.31

¹ As defined in NEPO June 2023

² Illustrative purpose only. NQSW's should not be employed as agency workers in the region. See annex B/10

ANNEX E - End of Assignment Template Agency Social Worker

NEPO member authorities are committed to ensuring a high-quality agency workforce, and as part of the commitment will provide an assessment of the workers performance to the Agency at the end of every assignment.

This assessment should include factual, evidence-based information and there should be no information contained in this document that has not already been discussed with the agency worker during their assignment.

Local Authorities to complete at the end of an agency workers assignment and to send the agency requesting referencing to cover the assignment.

Section 1 – Assignment Information

Referee Details

Referee Name	
Referee Job Title	
Name of Organisation	
Contact Information – Email and phone number	

I confirm that I held management responsibility for the worker. **Please tick to confirm:**

Worker Details

Worker's Name	
Workers Job Title	
Summary of key duties and responsibilities	

Assignment Details

Assignment Start Date		Assignment End Date	
Did the worker complete the assignment?	Yes	No (Include detail)	
Notice Period given before leaving assignment (if applicable)			

Section 2 – Competency Assessment

Please note, competency assessment must be an objective assessment of the workers performance within the assignment. The referee must be able to demonstrate the reasoning for their assessment.

	Excellent	Good	Satisfactory	Poor
Oral communication				
Written communication and report writing				
Court work (if applicable)				
IT skills				
Understanding of confidentiality and disclosure				
Setting and maintaining appropriate professional boundaries with colleagues and service users				
Working as part of a Social Work team				
Knowledge of relevant legislation				
Adherence to professional codes of conduct and practice				
Ability to report and take appropriate action, in cases of suspected abuse				
Ability to work under pressure and maintain judgement				

If you have provided a response to any of the above which are **Poor**, please provide further details, including evidence which demonstrates that workers limitations in this regard

Section 3 – General Assessment

Is the worker currently subject to any active disciplinary actions or measures with regards to their	
--	--

<p>performance or professional conduct while employed by the Council?</p> <p>For example:</p> <ul style="list-style-type: none"> - Child Protection Concerns - Conflict of Interest - Professional Standards - Confidentiality & Disclosure - Experience Concerns <p>If yes, please provide details, including supporting evidence. Evidence may be provided as supplementary attachments.</p> <p>Please note, expired disciplinary measures should not be included.</p>	
<p>If yes, please detail the outcome and confirm whether this was communicated to the workers agency</p>	
<p>Are you aware of any referrals to/or pending investigations by Social Work England with regards to the workers fitness to practice?</p>	
<p>If yes, please detail the nature of the referral</p>	
<p>Would you re-employ this worker in a similar role? If no, please provide details.</p>	

Declaration

I confirm that I am authorised to give the assessment detailed outlined in this form.

Please tick to confirm:

By supplying this assessment, I understand I am giving the recipient permission to disclose the information contained in this document to third parties – to include the candidate and potential employers.

Please tick to confirm:

Signature:

Date: