

USE OF AGENCY WORKERS IN THE PUBLIC SECTOR

REPORT TO OME

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Table of Contents

List of Figures and Tables.....	vii
Acknowledgements.....	viii
Summary and conclusions.....	ix
Introduction	1
New research with agencies, employers and agency workers	3
Section 1. Use of Agency Staff in the NHS	5
1.1 Demand for and use of agency staff in the NHS.....	6
1.1.1 Staffing issues.....	7
1.1.2 Alternative arrangements	8
1.1.3 Selection of agencies.....	11
1.1.4 Proportion of short-term and long-term placements.....	11
1.1.5 Quality of services	13
1.2 Costs, pay and the impact of agency rules on the NHS.....	17
1.2.1 Impact of agency rules	18
1.2.2 Paying above the price cap and using off-framework agencies	20
1.2.3 Decline in the use of umbrella companies.....	22
1.2.4 Other issues	23
1.2.5 Temp-to-perm arrangements	23
1.3 Supply of agency staff in the NHS.....	26
1.3.1 Characteristics of agency workers	27
1.3.2 Motivations of agency workers.....	28
1.3.3 Experiences of agency work.....	32
1.4 Future use of agency workers in the NHS	36
1.4.1 Concerns	37
1.4.2 More acknowledgement of agency staff as an important part of the workforce	38
1.4.3 Trends	39
1.4.4 What can be done.....	39
Section 2. Use of Agency Staff in Public Sector Schools in the UK.....	43
2.1 Use of Agency Staff amongst Public Sector Schools in the UK.....	44
2.1.1 Levels of demand for agency staff	45
2.1.2 Drivers in the demand for agency staff.....	45

2.1.3 Alternatives to the use of agency staff	46
2.1.4 Selection of agencies and the procurement of agency staff	47
2.1.5 Temp-to-perm arrangements	48
2.1.6 Quality of services	50
2.2 Costs and pay of supply staff in schools.....	53
2.2.1 Levels of pay.....	53
2.2.2 Determinants of pay	54
2.2.3 Impact of the Agency Worker Regulations	54
2.2.4 Umbrella companies	55
2.2.5 Charge rates	56
2.3 Supply of agency staff to schools	59
2.3.1 Characteristics of agency workers	59
2.3.2 Motivations of agency workers.....	60
2.3.3 Disadvantages of agency work.....	62
2.4 Future use of agency workers in public sector schools	64
2.4.1 Concerns	64
2.4.2 Trends	66
2.4.3 What can be done	67
Annex 1: Evidence Review	69
Key points.....	70
1. Definition of ‘agency work’ and the triangular relationship	76
2. Trends in agency work in the UK.....	76
3. Trends in agency work in the UK public sector	80
4. Trends in agency work in public health sector	84
4.1. The growth of NHS agency working in the 1990s and early 2000s.....	87
4.2. The decline in NHS agency working during the 2000s.....	87
4.3. Recent years.....	88
4.4. Scotland, Wales and Northern Ireland.....	89
4.5. Spending on medical locums	91
4.6. Price caps, spending ceilings and mandatory frameworks.....	92
4.7. The impact of the price caps.....	94
5. Trends in temporary agency working in public education sector.....	96
5.1. Teaching supply cover options.....	96
5.2. Spending on agency supply teachers.....	97

5.3.	Primary and secondary schools	98
5.4.	LFS analysis.....	98
6.	Agency work in other public services in the UK	100
7.	Why do employers use agency staff?	101
7.1.	Agency staff as source of short-term flexibility in the NHS	101
7.2.	Increasingly used ad hoc to cover gaps in recruitment in the NHS	101
7.3.	Geographical variations in the use of agency staff in the NHS.....	102
7.4.	Education sector	103
8.	Costs and pay of agency workers	104
8.1.	Relation between agency staff spending and financial deficits in NHS trusts.....	104
8.2.	Cost of agency staff in the NHS.....	104
8.3.	Agency commission rates in the NHS	105
8.4.	Pay and cost of agency supply teachers in the public education sector	106
9.	The impact of agency staff on service quality.....	106
9.1.	Relation between use of agency staff and service quality.....	106
9.2.	Relationship between permanent and agency staff.....	108
9.3.	Contextual factors.....	108
10.	Characteristics of agency workers.....	109
10.1.	Composition of agency workers in the wider UK economy.....	109
10.2.	Composition of agency workers in the NHS.....	109
10.3.	Composition of agency workers in the education sector	111
11.	Motivations of agency workers.....	112
11.1.	Unable to obtain permanent work	112
11.2.	Deteriorating job quality of permanent jobs in public sector	113
11.3.	Flexibility	114
11.4.	Higher hourly pay.....	114
11.5.	Stepping stone into permanent employment	115
11.6.	Generational differences	115
11.7.	Effect on the impact of agency rules	115
12.	The experience of agency working	116
	Appendix 1: Case Study Characteristics	118
	Appendix 2: Evidence Review Protocol.....	123
	Appendix 3: Identifying Agency Workers using the LFS Analysis.....	127
	Appendix 4: Identifying Public Sector Jobs using the LFS.....	131

Appendix 5: The Recruitment Industry	132
Appendix 6: Regulations and the Impact of Agency Workers Regulations (AWR)	133
Appendix 7: Typology of Contract Arrangements.....	136
Appendix 8: Price caps.....	138
References.....	141

List of Figures and Tables

- Figure 1: Number of Temporary Agency Workers in the UK (2000 to 2015)
Figure 2: Number of Agency Workers in the UK (2006 to 2015)
Figure 3: Number of Temporary Agency Workers in the UK Public Sector (2000-2015)
Figure 4: Number of Temporary Agency Workers in the Public and Private Sector (2000-2015)
Figure 5: Composition of Jobs in the UK Public Sector (2000-2015)
Figure 6: Composition of Non-Permanent Forms of Work in the UK Public Sector (2000 to 2015)
Figure 7: Temporary Agency Jobs as a Proportion of the UK Public Sector Workforce (2000-2015)
Figure 8: Use of Temporary Agency Workers across the UK Public Sector (2000 to 2015)
Figure 9: Composition of Jobs in the UK Health Public Sector (2000-2015)
Figure 10: Composition of Non-Permanent Jobs in Public Sector Health (2000-2015)
Figure 11: Temporary Agency Jobs as a Proportion of all Non-Permanent in the NHS (2000-2015)
Figure 12: Spending on agency and bank nursing and midwifery staff in NHS Scotland (£m)
Figure 13: Hours worked by agency and bank nursing and midwifery staff in NHS Scotland (hours)
Figure 14: Spending on internal and external agency medical locums in England (£, millions)
Figure 15: Forecasted agency spend prior to the implementation of agency rules (red line) compared to actual monthly agency spending (blue bars) in NHS England (£ million)
Figure 16: Number of “break-glass” clauses used by trusts between November 2015 and April 2016
Figure 17: Composition of Jobs in the UK Education Public Sector (2000-2015)
Figure 18: Composition of Non-Permanent Jobs in Public Sector Education (2000-2015)
Figure 19: Temporary agency jobs as a proportion of public sector education workforce (2000-2015)
Figure 20: Reasons for Non-Permanent Employment amongst Temporary Agency Workers
Figure 21: NIESR definition of temporary agency workers using the LFS
Figure 22: Number of Temporary Agency Workers in the UK (2000-2015)
Table 1: Government and REC estimate of agency workers in the overall economy, March 2016.
Table 2: ONS estimate of the number of agency workers in the overall economy, yearly average.
Table 3: Temporary/contract placements by occupation in the whole UK economy
Table 4: Expenditure on agency and locum staff from 2010-2016 in Northern Ireland (£m)
Table 5: Expenditure ceilings on trusts’ agency spending.
Table 6: Price caps as a percentage above basic substantive hourly rates
Table 7: Routes to obtain work as a supply teacher
Table 8: Agency supply teaching staff expenditure for maintained schools and academies in England.
Table 9: Estimated average costs of different types of nurses
Table 10: Agency commission rates in the overall economy
Table 11: Profile of schools
Table 12: Profile of NHS employers
Table 13: Profile of agencies in education sector
Table 14: Profile of agencies in healthcare sector
Table 15: List of Search Areas
Table 16: Search Terms
Table 17: Literature Inclusion Criteria
Table 18: Methodological variations in the identification of UK temporary agency workers
Table 19: Number of Temporary Agency Workers in the UK (NIESR and ONS 2000 to 2015)
Table 20: Variables to identify relevant public sector jobs
Table 21: Maximum total hourly rates for all medical and dental staff (£)
Table 22: Maximum total hourly rates for all other clinical staff, for trusts with no high cost area supplement (£)

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The work described in this report was carried out under contract as part of OME's research programme. The views and judgements expressed in this report are therefore those of the contractor and do not necessarily reflect those of the OME.

Summary and conclusions

The purpose of this report is to better understand the use of agency staff in the UK public sector, particularly in health and education. The research aimed to outline and improve the evidence base, in order to understand the labour market for agency staff and how it is determined by pay, demand and supply. This report therefore draws on existing and new evidence to provide an overview of the triangular relationship between the agency worker, the recruitment industry and public sector employers, as well as providing detailed accounts of the nature of agency working within two large public sector areas.

Due to its qualitative nature, the value of our new empirical research is its ability to provide insight into a broad range of views on the use of agency staff in UK public health and education sectors. Therefore while our new research shows the range and diversity of views and experiences among those interviewed, they may not necessarily reflect the views of the wider population. The findings of this report should be considered within the context of its strengths and limitations.

Increased use of agency staff

Despite discrepancies in methodology and definition, the weight of evidence suggests increased use of agency staff within the public education and health sector in the UK. It shows **spending on agency staff has accelerated** over recent years in the NHS, and shows a **substantial shift towards private agencies** for the recruitment of supply teachers within schools. Our findings also suggest a trend toward **longer-term placements**, as agency staff are increasingly deployed to address systemic staffing issues, rather than as a short-term contingency. In many respects the increased use of agency staff therefore would not seem to be a **deliberate strategy of public sector employers**, but rather an **ad hoc response to recruitment and retention difficulties** caused by **local and national skill shortages**. These shortages are identified to be more pertinent to particular occupational groups, and are mitigated or exacerbated by localised conditions.

Concerns surrounding the use of agency staff

Our findings indicate that public sector education and health services are **using agency staff only as a last resort**, opting to implement a number of alternative arrangements in an attempt to mitigate its use. These attempts to mitigate the use of agency staff are in-part a response to concerns around cost. In the NHS, these concerns are around the **high monetary cost of agency staff, primarily caused by agency commission fees and higher hourly pay rates** (both compared to permanent and bank staff). The evidence also indicates some concerns around the impact of agency staff on service quality. These concerns however, tend to be associated with the **continuity of service provision rather than staff competency**.

Agency workers are a highly heterogeneous group

Despite previous research associating certain socio-demographic characteristics with agency staff in particular occupational groups, our qualitative research suggests **agency workers are highly heterogeneous**. Two common features, however, are that agency staff are often highly experienced, often with many years' experience working within public sector industries, and more likely to be foreign-born.

Public education and health sector employees are 'pushed' rather than 'pulled' into agency working

Many decisions to enter agency working would seem to be associated with experiences of **deteriorating job quality** and subsequent desire to **escape permanent employment** within the public health and education sector. These are amidst concerns about increased bureaucracy, target setting, insufficient resources, unmanageable workloads and a lack of work-life balance. More specifically, there would seem to be **demand for greater opportunities for flexible working in the NHS**. **Pay would not seem to be a primary source of motivation for entering agency work**. Pay is, however, a contributory 'pull' factor into agency working within the NHS, where agency staff achieve higher hourly pay rates.

The experience of agency working would appear to be highly variable

While many concerns regarding deteriorating job quality would seem to be addressed via agency working, the experience of being an agency worker would appear to be highly variable. Our findings indicate that agency workers often describe feeling **frustrated and undervalued**, and report **low levels of support** from host employers. Furthermore, agency staff often describe **tense and hostile relationships with permanent members of staff** over perceptions of inequality and differences in pay and/or responsibilities.

Agency usage and spending will persist in the context of staff shortages.

The future of agency working is perceived to ultimately depend on Government policy and its ability to facilitate public health and education sector employers to resolve the **fundamental problem of demand outstripping supply**. This includes addressing issues around **staff shortages, training, workforce planning, recruitment and retention**. Overall, agency staff are perceived to be an important and effective means of covering inevitable temporary staff shortages. Therefore, if monitored properly, both agencies and public sector employers suggest that the use of agency staff could become, and indeed in some cases continue to be, **an effective means of providing a flexible workforce** to the public sector. A key recommendation in this respect is to **harmonise contingent staffing operations on a regional level**, in order to ensure a ready supply of temporary agency workers and mitigate concerns around costs and quality.

In addition to these overarching findings on the use of agency staff in the UK public sector, there are separate conclusions that we can draw from the nature of recruitment agency market within the two public sector industries:

The price caps have reduced agency spending in the NHS, but emergency provisions have hindered its full effect

The evidence suggests that the introduction of agency pricing caps has been broadly welcomed by NHS employers and has **helped reduce agency spending**. However, **emergency provisions on grounds of patient safety have hindered price caps' full effect**, undermining trusts' bargaining position vis-à-vis agencies. This is exacerbated by the presence of non-framework agencies which are not obliged to be price-cap compliant, and which can attract current and potential agency staff due to national shortages. The breaking of pricing caps would seem to be particularly common for medical locums, particularly for those working within high-demand specialties.

The agency rules have changed some dynamics in the negotiations between agencies and NHS trusts

Our research findings indicate that the agency rules, at least in some instances, have **increased the number of last-minute bookings**. Two separate but not necessarily mutually exclusive explanations were given by agencies and NHS managers. First, agencies said that trusts are now required to exhaust any possible opportunities before breaking the price cap, and therefore increasingly wait until the last minute before escalating rates. Conversely, trusts said that agencies often prefer to hold out until the last minute in the knowledge that trusts will eventually accept higher rates due to the overriding commitment to patient safety.

The efforts to lure agency workers back to the NHS have been largely unsuccessful

One of the intentions of the price caps was to encourage people to return to substantive positions within the NHS, either in permanent employment or via bank shifts. This research, however, suggests that there has been **no noticeable, widespread increase in temp-to-perm transitions** during the last year. The **price cap therefore seems to have not diminished the motivations of staff** to leave their substantive posts in the NHS, who continue to choose agency work for reasons of flexibility and work-life balance. Conversely, there is some evidence that the agency rules have had some unintended consequences for staffing, as **agencies struggle to recruit candidates**. The squeeze on agencies has resulted in some agency staff choosing to work fewer shifts, to go abroad, to join the private sector or to leave the sector altogether. This may be behind the observed increase in unfilled shifts.

The education agency market is highly decentralised

Unlike the health sector, **the education recruitment agency industry is highly decentralised**, operating entirely without framework agreements, or any other mandatory quality assurance mechanisms. Instead, school managers rely primarily on historic relationships, reputation and recommendations in their selection of agencies. The decentralisation of the agency market would seem to be behind a recent proliferation of agencies, **raising concerns regarding the quality of staff** they supply, and the ethics around some reported practices.

Increased use of cover supervisors in public sector schools

Schools generally aimed to use agency supply teachers as a last resort, and had a number of alternative arrangements in place to cover short-term vacancies. Most prominently, our research findings suggest that there has been a **marked increase in the use of cover supervisors, particularly in public sector secondary schools**. These are typically employed directly by the school, although some agencies also described an increasing trend of recruiting temporary cover supervisors through agencies.

Some public sector schools use agency work actively as a means to try-out and source permanent members of staff

There is some evidence that some schools are making use of recruitment agencies as a **means to scope and source permanent members of staff**. Meanwhile, charging mechanisms are sometimes highly disadvantageous to schools, and some are at risk of unprincipled practices. Evidence of poor practice would seem particularly strong in the case of fees charged to schools wishing to move teachers to permanent posts. The highly decentralised recruitment agency market may also be exacerbating highly variable rates of supply. There is an appetite among schools for more collaboration over sourcing temporary staff to address local variation.

Introduction

The research for this report was commissioned by the Office of Manpower Economics (OME) to understand the current use of agency workers in the UK public sector. It was aimed at improving the evidence base and at understanding the labour market for agency staff and the interaction of demand, supply and pay. The research took place against a background of increased spending on agency workers in some sectors and concerns about the impact of their use on service quality. While agency workers are used across public sector organisations, the sectors in which they are most concentrated, and are of most interest to the OME in its role of supporting the independent public sector Pay Review Bodies, are education and health services. Our research therefore focuses on these sectors, presenting new evidence on the use of agencies and on agency workers. Existing research has tended to focus on the use of agencies in the private sector, and on the association with low pay and insecure, precarious employment. Yet agency working encompasses a wide range of types of contract and circumstances and, for workers themselves, different motivations and experiences. As such, research findings from the private sector may not be applicable to agency working in the public sector.

We carried out the research between April and November 2016, starting with a review of evidence, encompassing existing studies and data from the Labour Force Survey (LFS). We then used qualitative research methods to gather new evidence, interviewing 21 public sector employers in health or education, and 15 agencies who supplied agency staff to the public sector. To obtain the perspective of agency workers we carried out four focus groups. The agency workers who took part either worked as supply staff in public sector schools, or agency staff within NHS organisations. We therefore obtained some perspectives of the three main players in temporary agency working, analysing these separately and then identifying key themes, issues, areas of agreement and divergence.

Due to its qualitative nature, the value of our research with agencies, employers and workers is its ability to provide insight into a broad range of views on the use of agency staff in UK public health and education sectors. Therefore while showing the range and diversity of views and experiences among those interviewed, our research does not necessarily reflect the views of the wider population.

The report addresses questions about the demand for and supply of agency workers in the health and education sectors. In relation to supply, we look at the types of jobs for which agency workers are used and factors that affect the intensity of their use. We look at how the use of agencies is structured within the NHS and public sector schools. We explore issues of contracting and pay, and how these vary from those of permanent employees. We look at whether agency workers are used as a short-term contingency or as a longer term solution to staffing needs, and whether they are transferred into permanent roles. Taking a

broader view we discuss the main advantages, disadvantages, costs and benefits to public sector schools and health organisations of using agency workers.

In exploring issues of supply of agency workers we address a range of under-researched issues. In addition to tracking changes in the supply of agency workers, we look at their characteristics and reasons for taking agency work. We look at whether agency workers are different to regular staff in terms of their qualifications, competences, commitment and experience.

In the main body of this report, we present the findings of our research on the use of agency workers in the NHS and in schools. Each sub-section begins with a summary of key points. Our review of existing qualitative and quantitative evidence is presented in [Annex 1](#).

New research with agencies, employers and agency workers

This main body of this report presents the findings of our research into the use of agency staff in the UK public health and education sectors. We identify and critically discuss overall trends and themes on the use of agency staff, in order to improve the evidence base and provide a better understanding of the relevant labour markets.

Our findings are drawn from qualitative research conducted between April and November 2016, involving semi-structured interviews with 15 agencies and 21 employers and, in addition, 4 focus groups with 38 agency workers. Interviews with agencies and public sector employers were conducted via telephone, each lasting approximately 45 minutes. Interviews with agencies were most often conducted with company directors. These were identified and facilitated through the Recruitment and Employment Confederation (REC). Public sector employer interviews most commonly included Workforce Directors in the NHS, and business managers, bursars and head teachers within public sector schools. These were recruited via NIESR's existing networks, and through making contact with relevant personnel in schools and NHS trusts.

We aimed for the sample of employers and agencies to be geographically representative, and to represent the diversity within the respective sectors.¹ The sample of agencies and employers therefore includes:

- Hospital trusts and recruitment agencies from across England, as well as trusts and Health Boards from each of the devolved nations.
- Schools and agencies representative of primary, secondary, Special Educational Needs (SEN), grammar, comprehensive and academy schools.

Focus groups were facilitated by the interviewed agencies who identified and recruited participants with the support of REC. Three focus groups were conducted in regard to agency working in the NHS. These were held in Central London, Essex and Yorkshire. Participants consisted mainly of nurses and some Allied Health Professionals (AHPs), all of which were working via an agency within NHS organisations. One focus group was conducted with agency working in the education sector. This focus group was held in the West Midlands, and comprised participants working as supply staff in both primary and secondary schools. Focus groups lasted approximately 60 minutes and participants were paid £30 expenses for taking part.

Interviews and focus groups were audio recorded with participants' permission and transcribed verbatim. Data collected was analyzed using a framework approach². Since the

¹ The achieved samples are outlined throughout the report, and summarised in [Appendix 1](#).

² This entailed coding the data of the separate research groups into themes and issues. Some of these were predetermined ones, embodied in the discussion guides and main areas of questioning, while others emerged

views of employers, agencies and agency workers have been analysed separately, this report identifies key themes and issues in the use of agency staff in the UK public education and health sectors, as well as highlighting areas of agreement and divergence. As qualitative research, it provides insight into a broad range of views on the use of agency staff in the UK public health and education sectors but does not necessarily reflect views and experiences in the wider population.

A key finding of our research is that the use and nature of agency working within the health and education sectors is highly variable. This part of the report therefore covers the public health and education sectors in separate sections. Each section covers the following:

- **Introduction.** This section briefly outlines the qualitative research methodology, including details about the sample size and composition.
- **Use of agency staff.** This section explores the use of agency staff in schools and hospitals, respectively. It examines the process of covering temporary vacancies, including what alternative arrangements are used, how agencies are selected, how agency workers are used and the prevalence of temp-to-perm transitions. Finally, it includes a section on the perceived quality of agency staff and the impact on service quality.
- **Pay and costs.** This section covers the pay and cost of using temporary agency staff.
- **Supply of agency staff.** This section examines the characteristics, motivations and experiences of agency staff.
- **Future use of agency staff.** The concluding section describes the likely future trends in the use of agency staff, as well as what can be done to address growth in their use.

Throughout this report, we will also make reference to the existing evidence base, which is presented and summarised separately in Annex 1. This is to highlight similarities and differences, establishing the weight of evidence, as well as signpost the contributions it makes to the current evidence base. Throughout the following analysis, we will strive to briefly introduce important concepts specific to the use of agency staff, but the reader may find it useful to refer to the evidence review in Annex 1, which provide a more detailed introduction and background to concepts related to agency work.

from the interviews. The codes and groups developed in the analysis of data formed the analytical framework of this research, and were used to structure the findings of this report.

Section 1. Use of Agency Staff in the NHS

This section of the report explores the use of agency workers in the UK public health sector. It is based on qualitative data, and is drawn from:

- 11 semi-structured³ telephone interviews with employers in the NHS.
- 8 semi-structured telephone interviews with agencies who supply healthcare workers
- 3 focus groups comprising 25 people who work within the NHS through an agency.

The main characteristics of the interviewed NHS employers and agencies, as well as the composition of agency workers in the focus group, are summarised in the tables in Appendix 1.

The sample of employers was designed to be geographically dispersed by including hospital trusts across England, as well as trusts and health boards from each of the devolved nations. Interviewees with NHS employers most commonly included workforce directors who were recruited via NIESR's existing networks, and through making contact with relevant personnel within relevant NHS employers.

Agency interviews were most often conducted with company directors. These were identified and facilitated through the Recruitment and Employment Confederation (REC). As such, they are likely to be agencies which followed best industry practice. The sample includes agencies supplying all staff types, but also specialised agencies with recruitment expertise in specific occupations such as medical locums. Most interviewed agencies supply staff across the UK, whilst some operate more locally.

The focus groups were facilitated by the interviewed agencies, who identified and recruited participants with the support of the REC. The 25 focus group participants received £30 in cash compensation for their participation. The focus group participants consisted mainly of various types of nurses and some Allied Health Professionals (AHPs), and as such do not give any insights into the perspectives of other groups, such as medical locums. At the end of the focus groups, a small survey was given to focus group participants to establish other characteristics of the sample, which is described in Appendix 1.

³ This consists of the use of pre-determined discussion guides, developed to address and gather information on key issues for the research. Through adopting a semi-structured design participants are enabled to guide the interviews as much as possible, whilst ensuring the most relevant and valid information available is gathered in a consistent way.

1.1 Demand for and use of agency staff in the NHS

Purpose

- One of the objectives of our research was to reach a greater understanding of the use of agency staff in the NHS. Therefore, we explored the reasons why NHS trusts use agency staff and we explored their use of alternative options for covering vacancies, in particular internal bank staff and existing staff. Regarding the use of agency staff, we explored how agency workers were recruited, to what extent agency staff were used as a short-term contingency or as a long-term solution to staff shortages, and whether there were any concerns about the impact on the quality of services. In addition, insofar as the research design allows, the section strives to draw out any distinctions between different types of agency staff in the NHS.

Key points

- Using agency staff to cover temporary vacancies was described as the last point of call by NHS employers, although it was ultimately regarded as a much better alternative than being understaffed. In-between these two options, trusts used a wide variety of alternative cover arrangements, including using internal bank staff, as well as maximising their own workforce by offering full-time workers overtime at a higher pay rate or offering part-time staff additional hours at their normal pay rate. Another option was to hire locums directly although it was noted that they increasingly preferred to work through agencies.
- Trusts put specific emphasis on their recent efforts to expand the capacity of their internal banks, particularly encouraging substantive staff members to join the bank. They had also put considerable effort into encouraging agency workers to work for the trust bank, following the introduction of the price cap and reductions in average agency pay rates. Some trusts were optimistic that, by increasing the capacity of their bank, they would be able to offer more shifts and create a positive spiral.
- Some trusts expressed some concerns about putting too much pressure on existing employees to meet gaps in staffing levels, whether this was through additional hours or bank shifts. Some trusts also acknowledged that internal NHS banks suffer from a poor reputation in relation to their payment procedures and shift allocation. This was confirmed by agency workers who said they prefer agency work for reasons over and above higher hourly pay.
- The agency market in the health sector is structured through the system of framework agreements, and much of the discussions evolved around to what extent trusts were forced to go off-framework and pay above the price cap, which will be covered in the next section.
- Recruitment procedures used by agencies did not emerge as a major theme or concern among employers, indicating the positive impact of the system of framework

agreements on quality assurance.

- The research revealed a mixture of short-term and long-term placements, although there was an indication of a trend towards an increasing number of long-term assignments due to chronic shortages. This was despite trusts' stated attempts to avoid these type of placements. It was clear that there are occupational differences: nursing placements are almost entirely short-term, whilst medical locums are often longer placements. It was noted that medical locums are often highly mobile, and fill gaps resulting from lengthy recruitment processes and staff shortages in many medical specialities.
- The research revealed mixed views on the quality of agency staff and impact on service quality. Some linked the reliance on agency staff directly to poorer health outcomes, whilst others emphasised that most agency staff were either currently, or previously, working for the NHS and had equivalent skills. Lack of continuity arising from use of agency staff was a common concern, resulting in unfamiliarity with ward procedures, policies, equipment, colleagues and patients, as well as a lack of commitment to the organisation. Concern was also expressed at a lack of development opportunities for agency staff.

1.1.1 Staffing issues

Across all the interviewed trusts, there existed some challenges relating to recruitment, retention and turnover. As well as general problems, trust directors (and agency managers) highlighted national shortages in specific professions, most frequently citing Band 5 registered nurses and doctors, particularly those at consultant level.

Both Trusts and agencies discussed how geographical circumstances affected staffing challenges, by either mitigating or exacerbating staffing issues, and as a result location impacted on the use of agency staff. For example, some trusts highlighted issues such as bad transport links, limited parking on hospital sites, limited employment opportunities for partners, expensive living costs, and the balance between older and younger people in the geographical area.

Some agencies also singled out areas close to London which struggled to compete with the attractiveness of the capital, with one agency asking rhetorically: "How do you get someone to Norfolk over London?" Separately, London trusts described the high turnover of staff as a particular problem. In particular, they highlighted retention difficulties, with one saying that they particularly needed to address the failure to retain newly qualified nurses. These were reported to frequently leave after less than a year of employment, for reasons that included not feeling part of the team and having been trained elsewhere. Trusts also reported that being a teaching hospital somewhat mitigated recruitment difficulties.

1.1.2 Alternative arrangements

When describing the process of covering vacancies, NHS trusts said temporary agency staff were their “*last point of call*” and were only used as a “*last resort*.” Before turning towards agencies, trusts went through a number of alternative routes to cover temporary vacancies. All Trusts highlighted internal bank staff as an important alternative, and indeed preferable option to agency staff. Generally, trust managers considered this a better way of covering temporary vacancies than using agencies, in large part because bank staff were paid set NHS rates, resulting in lower costs. A workforce director noted:

"We're managing the whole process internally and avoiding that premium."

Apart from this commonality, the trusts differed in what other alternative arrangements they used. For example, many trusts said their policy was to maximise their own workforce as the first point of call, which included offering substantive full-time staff overtime at a higher pay rate and substantive part-time staff additional hours at their normal rate. In addition, a number of trusts mentioned hiring of medical locums directly on NHS locum rates, without going through agencies, although some remarked that locums increasingly preferred to sign up with agencies.

Efforts to enhance bank capacity

A number of trusts described their recent drive to enhance their bank capacity, especially after the introduction of price caps and the subsequent reduction in average agency pay rates. Their efforts usually included making agency workers aware of the benefits of working through the internal bank, such as having first pick of shifts, more training opportunities, access to annual leave and sickness pay, conditional on working a minimum number of hours per year. One trust located in the South East, which had succeeded in expanding their bank capacity and reducing agency expenditure, said they had also utilised the fact that bank shifts were not covered by the price cap. This meant they could offer higher pay rates. However, this measure was not mentioned by any others, possibly suggesting that trusts tend not to make use of this opportunity provided by the agency rules.

Some trusts focused mostly on encouraging existing permanent staff members to join the bank, with one trust describing how substantive staff members now had to opt-out of the bank when joining the hospital rather than actively having to sign up. Others said that they also aimed to reach beyond their own workforce, actively recruiting in the market by advertising and marketing to specific groups, such as the retired and semi-retired. Trusts' success with this strategy appeared to depend at least in part on their location. For example, one Health Board in rural Scotland said that their isolated location meant that their bank consisted mostly of substantive staff members who did additional shifts. They reported that other Health Boards in Scotland, located in more populated areas, had a wider

variety of people on their internal banks, including ‘full-time’ bank workers and private sector workers.

The composition of staff in the internal bank was also reported to depend on what hours of the week they were needed. For example, if most bank workers were substantive staff members who were mostly available for evening shifts and weekends, agency staff would inevitably be needed for day-time weekday shifts, particularly for longer-term placements. In contrast, a bank with more ‘full-time’ bank workers would be able to more easily respond to such demands.

Several trusts argued that once their bank capacity improved, they would be able to offer a better number and variety of shifts, further increasing the appeal of transferring to the bank, and possibly creating a virtuous cycle, exploiting the same dynamics which had previously increased the attractiveness of agency work. Some typical remarks from trust managers were:

“We are trying to create a situation where it’s much better to be on the bank, because you get the first pick of the work that’s available, you can see all the work that’s available, and you can log in at home to see what your next shifts are ... We have managed to pull quite a few people back to bank by being very clear that agency will be our last resort. And as we get a grip on that, people can see that the number of shifts going out to agency staff are reduced, they switch back into the bank because actually that’s the way they’re guaranteed getting the work.”

“Agency workers who want regular and desired shifts need to join the bank.”

Bad track record of managing NHS internal banks

There was an acknowledgement among some trusts that the NHS had not always had a good track record in managing their internal banks, which included issues such as the lack of weekly payments. These practices had deterred trust staff from signing up to internal banks. Some trusts argued that communication, shift allocation and payment procedures could be improved through better use of IT systems. Overall, there was an acknowledgement that agencies had sometimes provided a more professional service than internal banks, as reflected in a typical comment by a workforce director:

“Let’s face it, some of the agencies have historically often operated better than our banks.”

These perceived historic and present deficiencies in the management of internal NHS banks was, maybe unsurprisingly due to their position in the labour market, a general theme in our interviews with agencies, who frequently described the internal NHS staffing bank, NHS

Professionals, as a failure. A nursing agency manager said that the NHS had to acknowledge that even if temporary staff were supplied solely by an internal NHS staffing bank, there would still be market forces within that mechanism. Other agencies made similar remarks about the necessity to respond to the market element by providing incentives and bonuses for placements, with the following remark typical of this view:

"If the NHS wants to have a successful internal bank you've got to recruit people like me and people who work for me who are aggressive, money-motivated and want to get the job done. If you treat it as an admin/HR exercise you're doomed to failure."

While acknowledging the advantages of getting the first pick of shifts and having the opportunity to stay in your own hospital, agency nurses and AHPs in the focus groups also expressed dissatisfaction with NHS banks and pointed out that their preference for working through agencies was not solely due to the higher pay rates. Some also complained about the e-rostering systems and payment procedures, with one nurse noting that banks tended to pay on point 1 of the Band 5 pay grade, which she found 'insulting' given her experience. Others complained about the limited number of hours available through banks due to restrictions by the Working Time Regulations. Finally, agency workers often described that bank work resembled permanent employment in some aspects:

"I still feel like I'm tracked, because I can still work on the ward as a bank and I don't get a break and I still go home and feel like I haven't achieved anything."

Danger in relying too much on existing staff

Some trusts managers also acknowledged that there was a danger of relying too much on existing staff members to cover vacancies, whether they were employed directly through overtime or additional hours, or through the internal bank as additional shifts with regular pay rates. One of the trust managers who expressed this concern said:

"I worry about how we are looking after our own staff because we're working them not just the substantive hours, but we make them regularly do overtime on a different contract which pays plain time rates."

Another trust manager reflected that in the past, the opportunity to take additional shifts had "bred a culture of picking more and more shifts," which in turn had resulted in more sickness absence. The same manager, however, emphasised that they now had good robust processes in place to understand this, where they could detect the early warning signs.

Agency use better than being understaffed or shutting down services

Ultimately, despite the various alternative arrangements available, all trusts interviewed found themselves eventually going to employment agencies. As mentioned, they did so

reluctantly, but some trusts also emphasised that it was a much better alternative than being understaffed or shutting down services, reflecting the strong evidence in the literature that inadequate staff-to-patient ratios negatively affect patient safety and service quality (see Boorman 2009; Ball and Pike 2009; Rafferty, Clarke, Coles, Ball, Hames, McKee and Aiken 2007). A typical concluding remark among trust directors was:

“If you don’t manage to fill it you’ve still got to provide that care.”

1.1.3 Selection of agencies

Having decided to cover temporary vacancies with agency staff, the first point of call for trusts were agencies on framework agreements, which trust managers described as a very helpful mechanism in ensuring quality and minimising costs. Within those frameworks, some trusts described that they chose the agencies with which they had historic good relations.

It should be noted at this point that there are some differences in arrangements between England and other countries of the UK, which were reflected in the interviews. Whilst NHS organisations in other UK countries are not obliged by a price cap, the system of frameworks also applies. The trust in Scotland said they had a framework agreement in place through their national procurement team. The Health Board in Wales used a master vendor⁴ for medical locums and a framework managed through the national procurement services for nursing. The NHS trust in Northern Ireland recruited agency staff through a regional contract.

1.1.4 Proportion of short-term and long-term placements

Trusts were split when describing the length of agency staff placements. Some argued they were ‘mostly short-term’ and others said it was a ‘mix of short-term and long-term’. Agencies echoed the employers, generally describing placements as a mix between short and long-term, though some agencies noted that there had been a shift over time towards longer term placements to cover chronic local and national skill shortages, and away from covering short-term vacancies (see also NHS Employers 2014; Panniker 2015). A manager for a nursing agency noted:

“In recent years, agency has been used to fill gaps rather than planned service.”

A number of trusts echoed the frequent observations in the existing literature by recognising the need for a flexible workforce to respond to short-term contingencies, but stressed that they tried to avoid the increasing use of long-term placements as much as possible, instead preferring to cover these gaps through permanent recruitment (see

⁴ In a ‘master vendor’ arrangement, a Trust or another client develops an especially close relation with one recruitment agency, who provides a volume discount in return for getting the first opportunity to supply agency workers. Only when the master vendor cannot fill a placement will the client turn to other agencies (secondary suppliers) to recruit agency staff. For more details, see Appendix 7.

Stanworth and Druker 2006; Kings Fund 2015; Kirkpatrick et al. 2009, Marangozov et al. 2016). One manager noted:

"I hope that collectively we get agencies to a position where it should be, which is a necessary form of temporary staff to plug gaps and/or short notice requirements, rather than as it is currently where a good proportion of agency use is effectively paying substantive staff twice as much as the rest of your cohort."

It was also reported that placements often started out as relatively short-term bookings, but ended up being extended indefinitely and in effect became long-term placements. For example, an agency specialising in supplying sonographers and radiographers explained that most of their placements were of longer duration due to the chronic shortages in these areas. Trusts were often therefore very eager to retain their candidates once they had secured them on shorter placements:

"Once a hospital gets a candidate, they don't like to let them go."

Another agency, specializing in supplying medical locums, said that instead of getting requests for 3-6 month placements, increasingly the agency received requests for weekly or monthly block bookings, with the view to extending them. The agency attributed this development to the introduction of the 'agency rules', which had led trusts to more carefully consider their vacancies and look extensively at rota management before advertising for a long-term position. As a caveat, one agency that specialised in supplying mental health nurses said they had not noticed a change in recent years, noting that often the main drivers behind trends in the use of agency staff were changes in personnel and management within the specific trusts rather than an overarching policy framework such as the price cap.

Length of placements were reported to vary by occupational role. Many trusts said that nursing placements were entirely short-term, often on a shift-by-shift basis. In contrast, medical locums and AHPs were often longer term placements, with some trusts explaining that medical locums were more mobile and willing to travel long distances for placements, and the severe shortages in these occupations also meant that agency staff were increasingly used to fill long-term gaps rather than covering for day-to-day illness. In addition, some trusts said that the lengthy recruitment process for medical doctors meant they had to turn to medical locums in the interim period.

Similar to the NHS trusts, agencies emphasised the differences between occupational roles. One agency said that theatre staff were typically taken on rolling 6-12 week assignments, ward staff on single assignments, whilst permanent NHS nurses, who did agency work in addition to their substantive post, were naturally on single shifts, often during the weekends or evenings. Another agency, specializing in agency mental health nursing, said that long-

term placements were particularly prevalent among community psychiatric nurses, often ranging from 3-24 months. This agency also said that long-term placements were used more regularly at higher bands (Band 6 and above), where agency staff effectively covered long-term recruitment gaps.

1.1.5 Quality of services

Mixed quality

Trusts expressed a range of different views on the quality of agency workers and impact on service quality. A number of Workforce Directors argued that the use of agency staff was linked to poorer service quality and patient outcomes (see Department of Health 2007; Keogh 2013). One said explicitly that high instances of agency usage had impacted negatively on health outcomes in their trust, with an increase in patient falls, pressure ulcer damage and length of patient stay. Other trusts were less explicit in their criticism commenting that the quality was mixed, with one saying that poor quality agency workers represented the exception rather than the norm. Trust directors often emphasised that the technical skills of agency staff were mostly on par with those of substantive staff members, stressing that many of them had previously or were currently working in permanent positions within the NHS. However, ultimately even if agency workers do not directly make a negative contribution to service quality, a trust director argued that they ultimately cost the NHS more than permanent staff members:

"It is not a particularly efficient use of funds... it could have been re-invested in patient care."

Lack of continuity

Trusts expressed some concern at the lack of continuity associated with agency work. Some focused on lack of familiarity with unit procedures, policies, processes, patients and colleagues (see Kirkpatrick et al. 2009; NAO 2006), with a workforce director commenting:

"I do not think agency staff are deliberately [reducing service quality], but they are less familiar."

Similarly, almost all trusts expressed concern about agency staff's lack of commitment and investment into the organisation, arising from the lack of continuity and engagement with the particular ward. This was a common theme in the literature with several studies discussing the impact of contract status on the relationship with the employer and the organisational commitment (see Hoque and Kirkpatrick 2008; Shapiro and Kessler 2002). Some frequent comments among trusts were:

"They just come, hit the ground running, and disappear."

"They are not committed to the team, they may be there for one or two shifts and then they are off to another organisation."

“They’re making a life choice not to engage and commit into any individual organisation, which impacts on their engagement, involvement and drive in the workplace.”

Safeguarding mechanisms and feedback

One of the main worries among trusts, namely the lack of familiarity and commitment among agency staff, was acknowledged by several agencies, although they argued that there were various safeguarding processes that mitigated this problem. In particular, both agencies and trusts highlighted that there were open channels of communication, with trusts providing feedback on placements, with the opportunity to request agencies not to re-send particular agency workers. Like Reilly and Mercer (2006) have argued, some agencies noted that temporary workers may be motivated to do a good job exactly because of the temporary nature of their contract, as they risk receiving poor reports from clients, making the agency unwilling to send them out on further placements. Some typical remarks were:

“If they don’t [hit the ground running] the likelihood is that the trust would not want them to come back or maybe they’d have two or three strikes and you’re out scenario.”

“Anyone without talent can become a locum, but you won’t survive and stay as a locum unless you do have talent because you’re constantly being tested every day.”

Another agency, specialising in supplying mental health nurses, added that agency workers were aware that continued business between the agency and the trust depended on the quality of their work and were motivated by this understanding.

Another safeguarding mechanism was the need for agency staff to keep their own registration through maintaining a basic level of performance. One trust director talked of how a substantive doctor had been referred to the General Medical Council (GMC) following an incident that took place during a locum shift, potentially affecting his career prospects. A medical locum agency manager also said that this fear of getting *“hailed in front of the GMC”* restrained medical locums from taking up roles they were not able to carry out effectively and safely. However, in contrast to these views, an agency nurse in the focus groups noted that agency staff were sometimes forced to carry out tasks beyond their role:

“You have to do the wrong thing so that they will keep you at work, otherwise they will say something against you and the trust will remove you.”

Long-term ‘loyal’ agency staff

Some trusts stated that the impact on quality depends on the type of agency worker, making the distinction between long-term, semi-permanent and ‘loyal’ agency staff,

compared to short-term workers. The latter were seen to be working in numerous trusts and to be chasing the highest wage package. This distinction was also clear in the focus groups with agency workers. Some agency workers described themselves as *'scattered everywhere'*, whilst others said they preferred to work in the same hospital, with familiar surroundings and the same colleagues. Some trust directors noted that for the *'loyal, long-term agency worker'*, many of the risks associated with agency work, such as unfamiliarity with the ward and a lack of commitment, were often mitigated.

In view of the lesser risk attached to long term arrangements, some focus group participants who did agency work in addition to substantive posts in the NHS regretted that they weren't allowed to do agency shifts in their own trust, with one arguing:

"It would be safer, because you can work in your own environment."

Agencies' recruitment procedures

The healthcare agencies stressed that they had good and robust recruitment practices themselves, including conducting extensive checks and face-to-face interviews, collecting original documents, passports and references etc. Partly because there was so much focus on quality assurance among agencies, some agencies also argued that in some regards, their checks of agency staff were strict and more regular than those for permanent NHS staff, with some agencies giving the example of Disclosure and Barring Service (DBS) checks which agencies performed on a yearly basis. Some agencies emphasised that they didn't just recruit anyone, and said they did turn people away.

Agencies said that many of these practices were prescribed by the frameworks, with regular audits making sure that framework agencies complied. Generally, agencies noted the important influence of frameworks in developing these practices, with every tender adding more quality assurance elements. One agency manager noted:

"The process has developed a hell of a lot over [the last] 5-6 years of what we used to do, to what we do now."

The agencies' recruitment practices did not emerge as a major theme in the interviews with trusts, possibly suggesting that the existence of frameworks made trust managers confident that the necessary checks were performed by agencies. The exception was one trust which had recently successfully transferred a substantial proportion of former agency workers to their internal bank, noting that this process had shown that some agencies had not adequately performed the necessary checks on staff.

Lack of development opportunities and CPD

The existing literature found that agency workers receive limited training (see Ruyter 2007; Ball and Pike 2006) and noted the contradiction since employers are generally expecting to *'buy'* skills rather than having to develop them (Druker and Stanworth 2006; Reilly and Mercer 2006). In our interviews, some trusts also expressed this concern about the lack of

development opportunities, including the Continuing Professional Development (CPD) available to longer term agency workers. Some agencies also acknowledged this concern, arguing that their reduced cost margins presented an increasing challenge to provide training possibilities. One noted:

“For any kind of organisation that has to look at cost-cutting, sadly, training is quite high up there of areas that go first.”

Some of the interviewed agencies said they provided some training and development support, but most acknowledged that the training opportunities were either minimal or beyond what other agencies offered. For instance, one agency specialising in supplying medical locums said they offered CPD, but acknowledged that this was “over and above what normal agencies do.” Another agency said they sign-posted agency staff to training providers for mandatory training. This agency also provided long-term staff with an annual bonus, which could then be used for training. Another agency said they sometimes supported staff with a proportion of training costs, and sometimes the full amount, depending on length of service and number of hours completed.

1.2 Costs, pay and the impact of agency rules on the NHS

Purpose

- One of the key objectives of our research was to explore issues relating to the cost to the employer of using agency staff, and the pay that agency workers receive. In light of the timing of this research, the responses of participants unsurprisingly gravitated heavily towards discussing the impact of the recently introduced ‘agency rules’, which require trusts to comply with a ceiling for total agency expenditure, use approved framework agreements to procure all agency staff, and procure all agency staff at or below a specific price cap. As such, this research will add to the evidence base on the ‘agency rules’, including its impact on pay and use of agency workers, as well as insights into how negotiations between trusts and agencies have been affected.
- The reader might find it useful to refer to the evidence review in Annex 1 for more background on the implementation of the agency rules, as well as Appendix 8 which includes a detailed table with the maximum hourly rates that are prescribed by the price cap.

Key points

- NHS trusts generally supported the price caps. These had enabled them to reduce agency rates and had been forced to more carefully plan their spending on agency staff. However, many also said that whilst the hourly costs had declined, demand and headcount had stayed consistent or had sometimes increased.
- Many trusts and agencies said it had been easier to reach the capped rates in specific occupations. Generally, nursing and AHPs had fallen in line relatively quickly, whilst it was much harder to secure compliance from medical locum agencies. Although there had been reductions in medical locum rates, it was estimated that more than 90% of medical locum placements were still above the cap. In the many shortage medical professions, candidates knew their market worth and accordingly refused to accept lower rates.
- Many trusts described a bidding war between neighbouring trusts to attract the limited pool of agency workers, which either forced trusts to pay above the price cap (“breaking glass”) or alternatively accept lower quality staff or unfilled shifts. Agencies reported that because trusts were now required to exhaust any possible opportunities before breaking glass, trusts waited until the last minute to escalate rates. Conversely, trusts said that agencies held out until the last minute in the knowledge that trusts would have to accept higher rates because of their commitment to patient safety.
- The national staff shortages were reported to affect workers’ behaviour, with agency workers keeping themselves off the books of framework agencies, signing up instead up with higher-paying non-framework agencies, with the knowledge that offers would come their way. Some agencies described how the period immediately following the

signing of a framework led to an increase in candidates and placements, but that this was gradually eroded as the market opened up, forcing trusts back to non-framework agencies. Agency workers often responded to such pay incentives by joining non-framework agencies.

- Trusts and agencies argued that the root of these problems was the ability to escalate fees above the price caps on grounds of patient safety through the use of emergency provisions. Full compliance with the price cap across trusts would undoubtedly give trusts stronger leverage in negotiations with agencies and reduce costs further. However, trusts saw the ‘break-glass’ option as essential to maintain the required service quality.
- In addition to reducing hourly rates, the agency rules were also aimed at encouraging agency workers to take up permanent employment in the NHS. However, while trusts and agencies described such efforts, research participants had not observed a noticeable increase in temp-to-perm transitions. The agency rules did not affect the original motivations of workers for flexibility and work-life balance.
- There were also indications that the lower agency rates had had some unintended consequences, with agencies struggling to recruit candidates, leading to an increase in unfilled shifts at some wards. In some instances, this had led to pressures on understaffed wards and to some substantive staff joining agencies. It was also reported that some agency workers had gone abroad, joined the private sector, or left the sector altogether.
- Finally, the transfer fees charged by agencies for temp-to-perm transitions had generally been reduced and were lower than in other sectors, as it was covered by the frameworks, including the 12-week notice period and sliding scale.

1.2.1 Impact of agency rules

Reduction in hourly rates but not demand

Logically, the discussions around cost and pay of agency staff centred mainly on the impact of the agency rules which has been implemented in England, and in particular the requirement to procure all staff through framework agreements at a certain price cap. The interviewed directors of trusts based in England generally supported the measures, and said that they had helped to reduce hourly agency rates. Some workforce directors stated that the process had increased scrutiny and accountability of local managers, forcing them to plan better. The change had required local managers to demonstrate that they had exhausted all alternative possibilities before seeking approval at executive level within the trust to engage an agency worker above the price cap, commonly referred to as “breaking glass.” As such, several trusts noted that it had helped them “*having difficult conversations with agencies and [helped them] to try and break the market.*”

Similarly, the agencies said that pay and charge rates were now very much set by Monitor, now NHS Improvement, the price cap and the framework prescriptions. This meant that agency pay rates had gone down considerably, but still remained higher than permanent hourly rates. One consequence was that the Agency Worker Regulations, which require agency workers to be paid on par with permanent staff after twelve weeks of assignment, were still not a major issue in the sector. Other benefits, such as using hospital car parks and other facilities were typically provided from day one.

Many trusts noted that while hourly costs had declined, total agency hours had stayed relatively stable (see also NHS Professionals 2016). Indeed, in some cases headcount had increased. This suggests that while the price cap had been successful in reducing the hourly rates, it had not changed the underlying trend of increased demand for agency workers, caused mainly by national shortages and workforce planning issues (see NAO 2016; NHS Pay Review Body 2016; Public Accounts Committee 2016).

Occupational differences

Most trust and agency managers noted that it had been easier to comply with the capped rates in some occupational areas. Agencies who supplied nurses and Allied Health Professionals had fallen into line relatively quickly, and now largely adhered to the price cap. For example, a trust manager in South West England said that if a nursing agency refused to comply with the price cap, the trust would simply remove them from their list of suppliers and contact other agencies instead. They remarked:

“It does feel very much like [the nursing agencies] need us more than we need them at the moment.”

In contrast, trusts and agencies said it was much harder to make medical locum agencies comply with the price cap, as predicted by Monitor (2015) in its initial impact assessment of the price cap. This was confirmed by medical locum agencies who reported that breaches to the cap were very common for medical locum placements, with one estimating that a minimum 90% of placements were above the cap, and another saying that they believed almost all were above it. The medical locum agencies emphasised that the agency rules had still led to a reduction in pay and charge rates for medical locums, but estimated that it was still around 20-30% above the price cap.⁵

Some trusts explained this with reference to the mobility of medical locums and their willingness to travel further for higher pay. In addition, Monitor (2015) highlighted medical locums have more international options as well as domestic outside options, including in the private sector and in related fields such as healthcare consultancies. A London trust stated that in highly specialist areas, such as breast radiology, it was even more difficult, arguing that in these areas: *“they can name their price.”* Medical locum agencies stated that pay rates were often driven by the candidates, with the agency acting as the middleman

⁵ [Appendix 8](#) includes a detailed table with the maximum hourly capped rates for medical agency staff.

between trusts and agency workers. This was particularly true in shortage professions, with agencies saying that medical locums and GPs knew their market worth and often refused to accept lower rates, effectively forcing trusts to 'break glass' as medical locum agencies could not recruit medical locums at the capped rates.

1.2.2 Paying above the price cap and using off-framework agencies

The discrepancy between supply and demand was consistently cited as the reason why trusts sometimes still struggled to lower their agency spending, comply with the price cap, and avoid using off-framework agencies. This discrepancy effectively led to a sellers' market, manifesting itself in a number of ways, which are highlighted below.

Bidding war between trusts

Trusts were sometimes forced into a bidding war against each other to attract from the limited pool of agency workers, which led trusts to break glass. Typical remarks from Trust directors were:

"My ability to get the price down on agencies is absolutely hindered by the fact that my neighbouring trusts are paying a much, much higher rate. Therefore, [the off-framework agencies] have got no incentive to reduce their price."

"We know it happens, we know another Trust next door might say 'well yes, we're going to break the glass on that rate and we're going to attract those workers that don't want to work for X rate'. So they will go there before they'll come to us."

More last-minute bookings

Both agency and trust respondents said that placements were increasingly agreed in the very last minute. Agencies explained that after the introduction of the agency rules, trusts were required to exhaust all alternative recruitment routes and explore all possibilities of securing a lower rate, and were therefore only willing to escalate rates in the last minute. Agencies reported that this had increased the number of urgent requirements, and paradoxically this sometimes led to correspondingly higher fees.

Several trusts described the process as a game of poker, where they were inevitably going to "blink first" and break glass, because of their commitment to deliver patient care. Typical remarks from trusts were:

"[The agencies] know we will be back on the phone a few hours later."

"Instead of shifts being filled three, four weeks in advance [the agencies] now wait until three to four hours in advance because the longer it's left then the more likely we are to pay the higher rate to

the expensive agency ... they know we're in a situation where we've got the choice: kill the service or pay the agency."

Some trusts also acknowledged that this was not entirely due to the behaviour of employment agencies, but was also driven by agency workers themselves who picked the agency shifts that provided the best hourly pay. This was confirmed by agency workers themselves: one agency worker argued that she picked shifts at the hospitals where she could earn the most:

"If you're going to earn X amount here and not so much there, then I'd rather have to go to work to earn money. I'm a single mum, it costs me a fortune, two teenage kids."

In relation to the late agreement of shifts, a trust director also remarked:

"The agency workers get to know [how desperate we are] and behave in a way that means that they take us to the absolutely last minute."

Breaking price caps

Some trusts felt the source of the problem was the emergency provisions which allow trusts to break glass in exceptional circumstances on the grounds of patient safety. As shown in the evidence review, the number of break-glass clauses used by trusts are substantial (Monitor 2016). Some Trust directors argued that it would require a total commitment across trusts for a price cap to work:

"In order to make a cap work, you have to stick to it no matter what, you have to be able to hold your ground."

A number of trusts argued that if every trust complied with the price cap, shifts through agencies would quickly dry up and give trusts stronger leverage in their negotiations with agencies. Therefore, some trusts argued that, in theory, the government should hold organisations far more accountable than currently. But many trusts also acknowledged that this would be problematic given trusts' commitment to maintain safe staffing ratios and the often urgent need for staff in critical areas, such as Accident and Emergency (see Smith Institute 2015; Appleby et al. 2016). A trust manager in Scotland expressed the same point when reflecting on the possibility of introducing a price cap in Scotland:

"It's not like a checkout desk. Not having a surgeon is not an option. Not having an A&E consultant isn't an option... If my last resort was to pay them double the capped rate or you're not getting anyone, then I would find it very, very, very difficult to make that call."

One trust manager added that any negative impact on critical services caused by a 100% commitment to the price cap would be politically unpopular.

Agency workers keeping themselves off the books of framework agencies

Both trusts and agencies highlighted a trend for agency workers to keep themselves off the books of framework agencies, and instead sign up with higher-paying off-framework agencies, with the knowledge that shortages would mean NHS trusts would eventually look their way. This put agency workers in a strong position, as reflected in typical comments by trusts:

"I have to maintain safer staffing, I have to keep my patients safe, therefore I've got no choice than eventually to go to [name of off-framework agency] and pay their rate."

"Our nurses ... know that if they register with an agency the likelihood is we're going to come and ask them to fill a shift. So they find themselves registering with the most expensive agency because they know undoubtedly we will get there even though it's off-contract."

"The last six months we've seen a growing trend, particularly with one off-contract agency in Northern Ireland, of nurses registering with that agency. They're sitting it out, waiting for us to come."

Some agencies also said that whilst the frameworks were generally useful in attracting candidates and securing a high volume of placements, staff shortages often forced trusts to go off-framework and pay above the price cap. Some framework agencies described how they typically had an increase in the number of agency workers on their books immediately after framework agreements were signed. Subsequently, trusts would start to 'break glass' due to staff shortages, therefore diluting the authority of their frameworks. This had the effect of opening up the market again, forcing other trusts to pay above the cap and go off-framework. Agency workers were then described as responding to pay incentives, and moved back onto the books of those agencies which provided better pay rates. A conclusion among some agencies was that frameworks were not necessarily crucial to their business:

"I don't think it's about having these contracts. If the agency are not on a contract and they have a locum available, and the agencies that are on the contract don't, the hospital takes that locum."

One agency noted that, in the early stages of the price caps, non-framework agencies had been used as a result of a common misunderstanding that these had to be used where the price cap was breached. In reality, it was preferred that trusts escalated rates with framework agencies to maintain the quality assurance that these agencies provided.

1.2.3 Decline in the use of umbrella companies

The interviews also touched on the alternative contractual arrangements, such as limited companies and umbrella companies, where third-party companies employ agency staff.

Interviews with agencies indicated that these arrangements are most common among medical locums. Many agencies reported that numbers working through umbrella companies had reduced significantly following new legislation in April 2016 (see also findings in NUT 2016) which meant that workers employed through an umbrella company could no longer claim for travel and subsistence costs. Some agencies believed that such arrangements have nevertheless continued to a degree, probably through lack of awareness of the change on the part of medical locums.

1.2.4 Other issues

Some trust managers referred to the attempts by some agencies to avoid the price caps with unconventional pay practices. One trust discovered that some locum doctors were given a paid lunch break although this was not offered to permanent employees at the workplace. Another trust, located outside London, reported that a powerful agency in their local area had secured a 'spot', or special rate, on one of the national frameworks, but for London prices. This enabled them to claim to be framework compliant, even though they were not price cap compliant in their area.

1.2.5 Temp-to-perm arrangements

The introduction of the agency rules were intended, among other things, to encourage agency workers to take up substantive posts within the NHS (Monitor 2015; NHS Improvement 2015). Therefore, we asked agency workers, agencies and NHS trusts whether the frequency of temp-to-perm transitions had changed, and more generally about the arrangements around temp-to-perm arrangements, including the transfer fees.

No significant increase in temp-to-perm transitions

Some NHS trust directors said they had made an active effort to recruit agency workers as permanent employees, instructing local managers to emphasise the benefits associated with permanent employment, particularly in light of the reduction in agency pay rates. Similarly, an agency manager said that there had been "quite a bit of pressure" on workers themselves. At the same time, one medical locum agency said they were not aware of any concerted effort by trusts to target locum doctors. Despite these efforts, trusts generally acknowledged that they had not observed a noticeable increase in temp-to-perm transitions following the agency cap. A typical remark from trust directors was:

"We have managed to convert a few to substantive roles, but [it has] not been a massive success."

Agencies were less equivocal in their responses, arguing that agency workers often refused to make the transition. Typical remarks were:

"We are asking the locums, but they are refusing to do it."

"We're always getting the staff being asked if they want a job. But not many of them take them up on it."

“Our nurses don’t want [permanent positions].”

Echoing the argument by Aldwych and Partners (2015), which is presented in the evidence review, agencies explained that many agency workers had little incentive to return to permanent employment, and that the price caps had not changed their initial motivation to become agency workers. They still desired more flexibility and less workload. A manager for a medical locum agency underlined this point, stating that whilst they had seen some locum doctors move over to banks in the early days of the agency cap, they had since transitioned back into agency work, reflecting their initial reasons for taking up agency work. Some typical responses were:

“They like the idea of having somewhere permanent, you know, and they can rest easy. The mortgage is going to be paid. But once they start doing it and they’re put on a lot more, asked to work a few longer hour shifts, another day, weekends and things like that, they don’t like it. They’re told what to do and when they can work and when they can have days off and they realise agency work is, ‘I like it. That’s my way of life. That’s what I like doing.’ And they always come back.”

“The nurse doesn’t want [permanent employment] because there would be a reduction in salary and a reduction in flexibility and it’s flexibility that a lot of nurses are looking for.”

These sentiments were echoed by agency workers, who said they planned to stay as agency workers until retirement and had no plans to return to permanent employment. In particular, some argued that the price caps did not incentivise people to make the transition back, with one commenting:

“It’s really not going to work, because people are still going to look at the benefit of flexibility that they get from working for the agency.”

Some people noted that reduced shift availability through agencies rather than pay reductions might entice some people to transfer back to permanent employment, or to another sector.

Occupational roles

Trusts frequently referred to different rates of success between occupational roles in recruiting to permanent posts. Some trusts said they had more success with transferring IT, admin and clerical staff into permanent employment than healthcare staff. Most trusts described nursing and Allied Health Professionals as somewhere in the middle, whilst a number of trusts singled out medical locums as very difficult to hire permanently. One Trust manager said:

“They must get a significantly better rate than we’re able to give them because whenever we try, particularly with doctors, we can’t get them to come across to us.”

Trust managers argued that medical locums often travelled further for assignments, which meant that a transition to permanent employment would require a relocation to the area. This was identified as a particular issue by a trust in Northern Ireland whose agency staff often commuted from England to take agency shifts in the weekend.

Transfer fees

Respondents also talked about the role of transfer fees charged by agencies for temp-to-perm transitions. Agencies emphasised that transfer fees and other arrangements around temp-to-perm transitions were covered under the framework agreements, in particular the 12-week notice period and sliding scale. One agency estimated that whilst the transfer fees outside the NHS were around 20% of the annual salary, the framework agreements had moved this towards 10% within the NHS. Despite this the perspectives of trusts were quite mixed, and overall the estimations of the level of transfer fees ranged between 8% and 25% of the annual salary, possibly underlining the prevalence of off-framework agencies.

Many agencies emphasised that they strived to build good relations with trusts by being willing to negotiate fees and in some instance waive charges. This was also acknowledged by trust managers who attributed this largely to the prescriptions by frameworks of a sliding scale and notice period, and also because agencies wanted to keep good relations with clients. A few trusts said that the 12-week notice period could sometimes be negotiated down, one trust manager mentioning that a 4-week notice period was often agreed.

Unintended consequences of price caps

Whilst the agency rules were seen to have limited success in moving agency workers onto permanent employment, a number of agencies remarked that the agency rules had not altered agency workers’ underlying desire for flexibility. Rather a number of agencies emphasised that the lower rates had had some unintended consequences. For example, many said they struggled to recruit candidates at the capped rates, pointing out that this had led to an increase in unfilled shifts on wards (see NHS Improvement 2016); some also said that substantive staff members had taken up agency work due to the increased pressures in understaffed wards particularly in non-critical areas. Others suggested some people had moved abroad, gone to the private sector, or indeed left the profession altogether. Particular implications were noted for some groups which were sourced from outside the UK, for example radiographers and sonographers. One agency reported that some of their foreign-born agency workers from Australia, South Africa and New Zealand had returned to their native countries, finding that the reduced rates were too low. Similarly, a medical locum agency reported a drop in substantive doctors using agency shifts to supplement their income, since the reduced pay rate had reduced the incentive to work more hours.

1.3 Supply of agency staff in the NHS

Purpose

- It is acknowledged in the literature that the rise in the use of agency staff is not only grounded in demand-side but also supply-side factors. As such, we explored the characteristics, motivations and experiences of agency workers themselves. The drivers and experiences are often numerous and multi-faceted, but the following section will explore some common themes to better understand why people take up agency work in the NHS.
- It should be noted that our focus groups consisted primarily of various types of nursing staff and some Allied Health Professionals (AHPs) (see Appendix 1 for a description of other characteristics of the focus group attendees). In addition, we have also strived to provide some insights in the following section into the experiences of other staff groups in the NHS, such as medical locums, through analysis of our interviews with agencies and NHS employers. However, it should be recognized that their accounts inevitably reflect workforce directors and agency managers' perceptions of agency and locum staff's experiences and motivations rather than providing first-hand accounts.

Key points

- Agency workers were described as a highly heterogeneous group in terms of demographics. However, there were some indications that agency workers working in the NHS tended to be more experienced, typically with many years' employment within the NHS behind them. Foreign nationals are a significant group, who tend to use agency work as an entry and introduction into the UK labour market and to the NHS. Conversely, British nationals tend to value more the stability and security associated with permanent work.
- Flexibility, the desire to escape permanent employment to achieve a better work-life balance and higher hourly pay were identified as the main motivating factors behind agency work. Other reasons included the opportunity to trial this form of working or to avoid shift restrictions conferred by the Working Time Directive.
- With regard to flexibility, agency workers valued the opportunity to pick and choose shifts to suit their needs which could include travel, study or a career break. Some NHS employers believed that the increasing trend of agency working could, in part, be contributed to the appeal of such working arrangements to younger people who attach less importance to factors such as job security and pensions.
- The desire to escape permanent positions in the NHS was another significant driver. Agency workers referred to experiences of high workload, poor working conditions and short-staffed wards, poor work-life balance and impact on their personal lives. Other factors included bureaucracy and paperwork and unwillingness to accommodate requests for shifts and holidays.

- Higher hourly pay was also a motivation, or at least seen as a significant advantage, but this was secondary to flexibility and work-life balance. Those who took agency shifts in addition to their substantive posts were, unsurprisingly, more motivated by pay.
- No agency workers we interviewed said they lacked the option of permanent employment. However, even if their choice to undertake agency work was a deliberate one, they identified a number of disadvantages. These include lack of a pension, the difficulty in securing a mortgage, and a general lack of support. Agency workers reported poor relationships with permanent staff members, said to be mainly caused by permanent staff members' sense of injustice over the pay differential. Agency workers explained they were sometimes given higher workloads and more difficult tasks. This situation was also reported by trusts, who explained it with reference to the impact on permanent staff.

1.3.1 Characteristics of agency workers

We asked agencies about the characteristics of their agency workers, in terms of attributes such as age, gender, ethnicity, immigration status, and childcare responsibilities. Whilst the qualitative nature of the study prevents us from making any robust conclusions on demographic characteristics, their varied answers indicated that agency workers are a highly heterogeneous group. A manager for a nursing agency noted:

“There isn’t a stereotypical agency nurse any more... Fifteen years ago there probably was, but it’s a complete and utter diversity of people now.”

That said, two factors were highlighted by a number of agencies:

First, many agencies said that the average agency worker in the NHS tended to be very experienced, typically with many years' employment within the NHS. This is in line with the findings of Ball and Pike (2009), but in contradiction to our analysis of the LFS (see evidence review in Annex 1). Some agencies related the higher proportion of older and experienced agency workers to the perceived deteriorating permanent employment conditions within the NHS which encouraged people to work for agencies:

“It tends to be people who have been working for hospitals and trusts for a while and have looked at agency work and a lot of them will say, ‘We’ll give it a try working weekends and holidays and things’, and then after a while they leave their posts and take it on full-time.”

“They’re so demoralised in the NHS, the way that they’re treated and the worrying thing is the amount of very experienced nurses who are leaving the NHS, so you’re talking about five years plus experience. You never used to see that type of nurse leaving to work agency, but that is a dramatic turnaround in the last two years I would say.”

The second common assertion was that agency staff are often foreign nationals, in line with both our LFS analysis and the findings of Ball and Pike (2009).⁶ Some agencies noted that British nationals tended to stay within the NHS system because they tend to value the stability and security associated with permanent employment more than migrants. Insofar as they chose agency work, they are more likely to do so to work additional shifts, during their annual leave or as a short career break.

1.3.2 Motivations of agency workers

Some trust directors argued that the NHS needed to understand better why people chose to leave permanent positions in the NHS, particularly considering the substantial benefits associated with permanent contracts. The findings from our interviews and focus groups, discussed below, show a wide variety of motives for agency working, including more flexibility, higher pay and the desire to escape permanent employment and workload.

Flexibility

One trust had found through its own research that flexibility rather than pay was the main motivation to work for an agency. Our interviews with agencies, trusts and workers also highlighted flexibility as the main driver (see RCN 2016 for a recent study on agency nursing staff with a similar conclusion). Agency workers valued the ability to pick and choose what days of the week to work, as well as the flexibility to take several months off to travel, study or have a career break. In particular, medical locum agencies said that career breaks were a common motivator among doctors in training, attracted by the opportunity to travel and take agency locum shifts. Agency workers in the focus groups also described the flexibility of choosing between different wards, particularly the opportunity to avoid those they considered unsafe. By working in different wards and trusts, agency workers said they gained more experience and had the opportunity to explore different specialities and roles. For foreign-born staff, in particular, it was a good introduction to the country and the NHS before committing to a certain trust and role. Finally, some agency workers said that agency work enabled them to control their income level, increasing it during times of particular financial need.

Reflecting on the increasing desire for flexible work patterns, some trusts workforce directors argued that it was, to some extent, and for some occupations, a generational issue. They argued that the younger workforce had a different perception of their desired work patterns and work-life balance. For instance, they said the younger workforce were not willing to make the commitments that ‘twentieth century style organisations’ were typically asking for. One trust manager noted:

“[Young doctors] don’t want to tie themselves down for life. They want a lot more flexibility, they want to do the technical bits of their role, but they’re not so interested in the leadership and the

⁶ See evidence review in Annex 1, [section 10](#) on characteristics of agency workers in the NHS.

managerial opportunities, and therefore they are voting with their feet to step outside of the traditional twentieth century view of a career and they're building portfolio careers where they have flexibility to do different things at different times, to work where they want to work, to not work when they don't want to work, to then be able to incorporate that in with partners and family."

In addition, a trust manager added that the younger generation did not typically consider pensions as important, meaning that the security of a pension did not necessarily provide a major attraction to stay in permanent employment. NHS organisations' reflections on the need to respond effectively to such trends are discussed below.

Dissatisfaction with permanent employment conditions

The interviews and focus groups showed that people had often become disillusioned with the working conditions and the culture in NHS trusts and chose to work through agencies to escape permanent employment in the NHS. This driver was highlighted as early as 2001 in the report *Brief Encounters* by the Audit Commission, and it was also a major theme in our agency interviews, and in focus groups with agency workers. Some typical remarks by focus group participants were:

"I have worked for the NHS for well over 30 years now, I can't wait to leave. I've got four years till early retirement and I can't wait to go."

"Everybody's so absolutely demotivated."

The perceived high workload and poor working conditions in NHS trusts were an important factor, with several agency workers describing the environment on wards as 'unsafe.' Agency workers described the pressures associated with permanent work, highlighting the long-shifts, short-staffed wards, lack of home-life balance and commented that the NHS had failed to train sufficient people to compensate for the increased demand and ageing population. Often they described the impact it had on people's personal life:

"If you have pressure from work and taking that home, that hinders the way you care for your children. Most of us are married, I've seen a lot of NHS staff marriages break down because of the stress from work."

Many also complained about what they saw as unnecessary bureaucracy and paperwork in the NHS. In particular, they described poor treatment from managers as one of the reasons they had decided to leave their permanent posts:

"The managers aren't interested why people are leaving... They almost see you as a disposable commodity."

"The way they treat you is absolutely appalling."

"You don't feel valued."

Some degree of dissatisfaction concerned a perceived lack of consideration for an employee's personal life as experienced in lack of flexibility over shifts or holidays:

"You can't tell your manager, 'I want to do the night shift this week'. 'No'. They put you on the sheet that's beneficial to the ward, not to you as a person."

"You are better off communicating with your agency... You get more response from them than talking to your line manager if you were working with the NHS. The agency consultant will be ready to support you. They listen to you, they don't just shut you up and jump to conclusions, they will listen and they will work around you, they will work with you. But the manager from the NHS, no. They dictate."

One agency worker reported that her employer refused to agree a reduction in her hours after a serious knee surgery. This had forced her into retirement and agency work, and she commented:

"I go back to the exact same hospital and the exact same trust, the exact same department, and they pay me a lot more money and no responsibility."

Others said they had heard similar stories.

At the same time, a number of trusts expressed the view that agency workers wished to avoid the responsibility and accountability associated with permanent positions. Whilst agency workers did not refer to this as a significant motivation, they did acknowledge this as a benefit of leaving permanent employment, relating it to the large amount of paperwork and bureaucracy at trusts:

"If you're a permanent staff, that responsibility is greater, because you will be called into question if anything happens."

"You do have less responsibility. Same accountability but less responsibility in that you're not expected to train students. You're not expected to train staff. If you see malpractice on the wards you're expected to report it but ... I wouldn't then have to do an audit on it, and all this additional bureaucracy or level of responsibility that comes with being a permanent member of staff."

Finally, some agency workers said that there were many substantive staff members in the NHS who were equally unhappy about their working conditions and workload, but were deterred from working for an agency since this would result in loss of security and benefits

associated with permanent employment, such as pensions, sickness and holiday pay, and training. One part-time agency worker who also worked in a substantive post in the NHS was particularly afraid of losing pension and job security, said:

"I think that's the thing that keeps me there. I mean I could leave now and go full time but I'd be a little bit too faithful to do that. I'd be frightened that there wasn't the work to pay the mortgage, to pay the bills, so that's why at the moment I'm just sort of dipping my feet a little bit."

Pay

Many trusts, agencies and agency workers also mentioned the higher hourly pay as a motivating factor but not the main driver. Several trusts noted that internal banks effectively offered the same flexibility advantages, but nevertheless workers often chose to work through agencies, and they often attributed this choice to the higher hourly pay rate. One trust manager remarked:

"£25 an hour through an agency or £14.50 through our bank, which one are you going to take? It's a no brainer."

Some agencies said that some were more motivated by pay, in particular those on substantive contracts, who took additional shifts to supplement their income and help affording their cost of living and mortgage payments. This is also a common finding in the literature (see Ruyter 2007; Tailby 2005; Ball and Pike 2006; RCM 2016; RCN 2016). Some also said that, having reached the top of the Band 6 pay grade, agency work was their only way of achieving a pay rise. A report by the Smith Institute (2015) found that this is the case for 50% of the nursing workforce.

Generally, agency workers in the focus groups divided into those who said that pay was important and those who said it was not the main factor for them. While some appreciated the higher pay, their choice was ultimately grounded in other factors, such as work-life balance and flexibility. The responses of others suggest that pay was a more important factor and they would be encouraged to take a substantive role if pay rates were higher, some citing the need to support their family.

Full-time agency workers vs. using agency shifts to supplement permanent work

Agencies were also asked about the proportion of agency workers who were full-time agency workers, relative to those who use agency work to supplement income from substantive employment. Agencies reported that using agency work in addition to permanent positions was common practice. Several agencies estimated that candidates were split fifty-fifty into full-time agency workers and those doing additional shifts. The high proportion of part-time agency staff in the health sector was also reflected in the composition of the focus groups, where more than half of agency workers stated they also had permanent positions within the NHS.

The agencies offered a number of explanations for why people take agency shifts in addition to substantive posts. Reasons included supplementing income, either from necessity, for example to pay a mortgage, or for a higher standard of living. Others emphasised that substantive workers increasingly opted to take these shifts with agencies as a trial. Another driver towards agency work was that it provided the only option to avoid the restrictions imposed by the Working Time Directive. Due to its qualitative nature, this study is unable to examine the prevalence among agency workers of working beyond the regulated number of hours and assess whether this impacts on safety. But it should be noted that the aim of setting regulations on hours worked is to improve health and safety, and as such an agency is required to monitor working hours to ensure that healthcare professionals do not work beyond the average 48 hours per week, unless the healthcare professional has individually agreed not to apply the limit.⁷

1.3.3 Experiences of agency work

Advantages of agency work

We have already discussed many of the perceived benefits and advantages of agency work, including higher hourly pay, the opportunity to choose shifts, and the chance to expand one's experience through shifts at different wards and in different specialities. In addition, many agency workers expressed satisfaction with their relationship with agencies' recruitment consultants, often contrasting them with managers in the NHS.

Disadvantages of agency work

The focus groups also revealed that whilst agency workers make a deliberate choice to enter and stay in temporary agency work, they are well aware of the substantial disadvantages with this choice. Whilst most said there was more than enough available shifts due to staff shortages in the NHS, this type of employment entails job insecurity issues, including the lack of access to an employer pension scheme and the difficulty in securing a mortgage. Others focused on their low status in the workplace and lack of support from colleagues:

"You have to protect your back. Awareness, that is the only real power you have as an agency worker."

"No one is going to fight for you. Nobody will speak for you. And when there is trouble, nobody will go and speak for you. These are the challenges we face."

Relationship between agency staff and permanent staff – agency worker perspective

As shown in the evidence review, a survey by the Royal College of Nursing (2016) recently found that 64% of agency nurses felt they were not well respected in the NHS. Our research also indicates that poor working relations between agency and permanent staff were at the forefront of agency workers' negative experiences. These were seen to result mainly from

⁷ [https://www.rcn.org.uk/get-help/rcn-advice/working-time-rest-breaks-on-call-and-night-work#Agency work](https://www.rcn.org.uk/get-help/rcn-advice/working-time-rest-breaks-on-call-and-night-work#Agency%20work)

permanent staff's sense of injustice over pay differentials. In line with findings by Maroukis (2015), agency workers said they were treated as outsiders and often given a higher and more difficult workload as a result of the pay differential:

"You go there, they look at you, agency staff, and they give you the most hectic patients ever because they think you are the one who is getting the best pay."

"They give you the most difficult cases, the longest cases."

"The permanent staff are quite happy to sit back and let the agency do the work."

"In some occasions the staff will discriminate against you because you're an agency."

Whilst some agency workers felt their voice was heard and respected by permanent staff members, many agency workers said that they were often ignored in wards. Frequent comments were:

"They treat you like you are not there. It does happen all the time."

"They don't call you by your name. They call you 'agency.'"

Many said that once you had proven yourself, permanent staff members acknowledged you more as part of the team and appreciated your efforts to reduce their workload. A typical comment was:

"The first time you walk onto a ward there is kind of a general feeling you're not always made welcome, they don't know you and it's up to you to sell yourself."

Others also expressed annoyance that permanent staff members allocated work at a higher level of responsibility to that for which they were supplied:

"If you're going to then work extra on the lower band, everyone who knows you there will expect you to carry on your responsibility at the higher level."

"You go there and they're still coming to you to make all the clinical decisions, because they know that this is what you do. But they forget that you are not there in that role, you are only there as a Band 6."

In reflecting on the poor relationships between agency and permanent staff members, some agency workers offered other explanations than the pay differential. This included

acknowledging low levels of satisfaction and morale in the NHS workforce. The poor treatment of agency staff was therefore seen to reflect to some extent the poor working relationships between permanent staff members themselves. One agency worker commented:

“You can see the permanent staff themselves are not happy either. I think that’s why they bring that attitude to the agency nurse.”

Such conclusion is of similar sentiment to those of Guest and Clinton (2006) as presented in the evidence review. In discussing the positive and negative experiences of agency work, they end up suggesting that efforts should not solely be focused on improving conditions of agency work, but also for permanent employment positions.

Relationship between agency and permanent staff – Trust perspective

NHS trust managers were aware of tensions in the relationship between agency staff and permanent staff members, but tended to empathise with their own staff members. Workforce directors stated that the presence of higher paid agency staff members could potentially create resentment and affect morale among permanent staff members, particularly where it leads to additional workload for permanent staff members, through induction and supervision. Some typical remarks were:

“I think it is quite demoralising for our existing staff because they are working with individuals who – rightly or wrongly – are being paid a huge amount more and actually not doing as much as they would expect.”

“You’re getting paid more money than me to have less responsibility than me, you’re not pulling your weight in the unit the same as me, you don’t know the process and procedures. Therefore, you turning up here is actually a burden on me because I have to bring you in, do an induction and all of that sort of stuff.”

Some trusts observed that the price cap could have a positive impact on the relationship between permanent and agency workers by reducing the pay gap. A number of trusts also stated that staff members did not resent agency staff since they valued the benefits associated with permanent employment:

“I suppose they think to themselves: I work for the NHS for a reason. There are benefits to substantive employment: pension, sickness, annual leave... So no, I don’t get a sense of resentment.”

“I don’t think [it is an issue], because it’s the benefits of being permanent staff in the NHS which probably outweighs the difference in the cost.”

However, trusts generally acknowledged that morale could be negatively affected by use of agency workers. Some trusts had tried to address the issue, for example in explaining challenges and concerns around staffing issues to permanent staff members, including the use of agency staff.

Advice for people contemplating agency work

Focus groups participants were asked what advice they would give to friends who contemplated going into agency work. Their responses focused largely on disadvantages and negative experiences of this type of employment. They recommended obtaining a certain level of experience in the NHS before facing the challenges associated with agency work. Many agency workers remarked that agency working requires resilience and adaptability. In particular, it required the ability to hit the ground running as employers expect to 'buy' skills rather than having to develop them (Druker and Stanworth 2006; Reilly and Mercer 2006). Typical remarks were:

"You decided to take up that role, because you felt you're ready for it...You have to be able to stand up for yourself."

"Agency will not suit everyone."

"You have to be adaptable and go into different wards."

"It's no good if you are shy and timid. You have to be confident in what you're doing."

"It can be a lonely job because you are autonomous, you are going to different wards, you're travelling to different hospitals."

1.4 Future use of agency workers in the NHS

Purpose

- We asked research participants to reflect on the use of agency staff in the NHS, including whether the current level was a cause of concern and whether participants expected future use of agency staff in the NHS to increase or decrease. The future trend was widely considered to depend on future Government policy decisions to address national shortages and workforce planning, and as such this section will focus particularly on the suggestions to what could be done to tackle these issues.

Key points

- Trusts were concerned about the increasing use of agency staff and had welcomed the introduction of the price cap, which was described as necessary to break the spiralling agency bill. Some agencies also recognised that historically some employment businesses had charged high rates and earned large profits, and they said the industry still suffered from this historical legacy. They also said that the perception of unscrupulous agencies was kept alive by the continued existence of non-framework agencies which were seen to exploit the imbalance between supply and demand.
- Some agencies had also welcomed the introduction of the price cap as a means of bringing unrealistic rates down. But some also reflected that the conditions, which had made it possible to exploit a 'weak client' in the first place, were still far from solved by the price caps. In particular, they do not address issues such as the deterioration of permanent employment conditions and the shortage professions created by the perceived chronic deficiencies in workforce planning in the NHS.
- Many agencies and some trusts said that agency staff should be considered an important part of the contingent workforce, which were sometimes necessary to cover short-term fluctuations and vacancies. Longer term use was seen as less justifiable. Some agencies argued that agency staff spending should be factored into overall workforce spending, rather than being seen as a separate, luxury item.
- Most trusts and agencies expressed uncertainty about future trends in the use of agency staff, because it ultimately depends on Government policy and its ability to solve the underlying problem of demand outstripping supply. It was argued that staff shortages need to be tackled through better workforce planning and more training places. A more immediate and short-term solution was to increase overseas recruitment, but some NHS trusts expressed concern about a possible slowdown in EU worker recruitment and retention post-Brexit.
- Reflecting on retention difficulties in the NHS, some trusts discussed the need to fundamentally redesign traditional ideas about work patterns and commitments to combat the perception that flexibility can only be achieved through agency work. Similarly, some trusts argued that the NHS needs to be made more attractive, since

cutbacks, pay stagnation and negative media coverage have damaged its reputation as a place to work.

- Trusts supported the idea of harmonising bank operations on a regional level to combat the competition and bidding wars between neighbouring trusts. Some had already started to share information and establish formal and informal networks. Our sample indicates that this is particularly prevalent among trusts in the London area.

1.4.1 Concerns

Concerns about rising agency costs in the health sector were seen as valid by NHS trust directors. The introduction of the price caps was seen as necessary to *“break the spiralling agency spending bill.”* Similarly, agencies recognised that historically some employment businesses had charged excessive rates. Some typical remarks were:

“Historically, we have to be honest, some agencies have charged clients through the nose, so greed has played a part in the case of some agencies.”

“There are some rogue agencies out there who, to be polite, were taking the mick, and charging exorbitant amounts of money for doctors and making silly amounts.”

Some agencies argued that the reputation of the industry still suffered from this historical legacy, which carried over into the perception that employment agencies were cheating the NHS. Some expressed annoyance at tabloid newspaper coverage frequently highlighting rare examples of agency workers earning large sums. At the same time they acknowledged that the perception of unscrupulous agencies was kept alive by the continued existence of non-framework agencies who continued to exploit the imbalance between supply and demand. One agency manager said:

“They give a bad reputation of agencies that are actually trying to achieve what the NHS goals are.”

Therefore, some agencies said they had welcomed the caps because they gave them a chance to rein in charge rates which, according to one agency manager *“were certainly becoming out of kilter within the market and it was running away with itself.”* Some agencies also reflected that the conditions, which had made it possible to exploit a ‘weak client’ in the first place, were still far from solved by the price caps. In particular, they do not address issues such as the deterioration of permanent employment conditions and the perceived chronic deficiencies in workforce planning in the NHS, which create shortage professions. The following remark of one agency manager was typical:

“The client has created that scenario by a failure to recruit, train and retain enough people and the NHS hasn’t been an attractive place to

work for many people for many years because of things like inflexibility on shift patterns, understaffing on wards and other areas, putting more pressure on staff and a whole culture of fear of making a mistake and losing your job."

1.4.2 More acknowledgement of agency staff as an important part of the workforce

Many trusts emphasised that they fully recognised the need for a contingent workforce to deliver their service. Although trusts expressed preference for covering this need through their internal bank rather than through agencies, they saw cost and excessive use as the main problem with the use of agency staff. They referred particularly to their use as cover for long-term gaps in recruitment rather than just as a short-term cover for incidence such as sick leave:

"I hope that collectively we get agencies to a position where it should be, which is a necessary form of temporary staff to plug gaps and/or short notice requirements, rather than as it is currently where a good proportion of agency use is effectively paying substantive staff twice as much as the rest of your cohort."

Some trusts criticised the narrow focus on agency spending rather than looking at total staff costs. In particular, one trust director explained that due to recruitment difficulties, their trust had made substantial savings on permanent staff costs, which meant that they were currently under their staffing budget, even after factoring in agency staff spending. The manager described this as a good position in theory, but expressed frustration that authorities looked narrowly at the agency spending bill:

"When you look at the total cost of agency spending and as a percentage of our total pay bill, it exceeds all of the rules that we've been set and therefore we'll be held to account for that."

Furthermore, some also expressed frustration with the competing demands trusts faced. These include: insufficient supply of staff alongside rising demand of staff resulting from population changes; regulation of the minimum staffing levels in certain areas; and increasingly strict rules on agency spending and other budget constraints:

"We are caught genuinely between the devil and the deep blue sea in that we're regulated to have a minimum number of staff in certain areas... but there are insufficient nurses as imposed by Government policy by reducing the number of nurses that they train and making nursing such a [poor] offer that people wouldn't want to do it... We have to employ agency. That then puts your agency bill up and puts your overall trust costs up. And we're then told you can't spend that

much money and you mustn't spend more than this on agency, which is an impossible conundrum to solve."

Some agencies agreed with agency workers that there should be more acknowledgement of agency workers as an important and essential part of the workforce. In this light, one agency recommended that agency spending should be factored into workforce planning costs. In this regard, some agency managers noted that agency spending still represents a relatively low share of total staffing costs, particularly when taking into consideration other permanent employment costs, such as sick pay, maternity pay and pension costs.

1.4.3 Trends

Many NHS trusts expressed hope that the use of agency workers had reached a peak, although were not convinced that they could achieve reductions themselves. Some agency managers reflected that there had been earlier cycles in growth and decline of agency use and thought this would continue. For example, a manager for a nursing agency remarked:

"They always try to get rid of agency staff. Every now and again, they will have a blitz on it... It never works."

Most agency and trust managers emphasised that it would ultimately be a decision for the Government, in whether to address underlying issues of supply. They also raised issues of workforce planning, training, overseas recruitment, the agency rules and skill mix change, which is discussed below.

1.4.4 What can be done

Staff shortages, training places and workforce planning

Many said that whilst the price caps had already reduced rates and led to some savings, and indeed would likely lead to further savings in the future, they ultimately fail to address the real issue of staff shortages and workforce planning. This is frequently argued in various government reports (NAO 2016; NHS Pay Review Body 2016; Public Accounts Committee 2016). Interviews with both agencies and trusts frequently returned to the basic point that there was a discrepancy between supply and demand, as well as the need for more training places and better workforce planning. Some trusts criticized what they saw as the Government's rigid approach to workforce planning and training, which had failed to take into account unexpected developments such as the recent surge in demand for nurses following the inquiry into the failings at Mid-Staffordshire NHS Foundation Trust (Lafond et al. 2016). When discussing workforce planning, a manager for a trust in London remarked that:

"We think it's a science, but really it's an art."

Some agencies discussed recent proposals to increase training numbers but said that, even if these were successful in alleviating some of the pressures, there would be a time lag,

meaning that the use of agency staff would not be significantly affected in the next few years. A number of healthcare agencies also commented on implications of the ending of the bursary system in England from August 2017, suggesting that it might aggravate recruitment difficulties:

"I think that may actually put people off because you're not like a normal university student when you're a student nurse. You have to work nights, you have to work weekends, you have to deal with ill people, dying people. It's not the same at fresher's week, is it?"

Overseas recruitment

A number of trusts stated that overseas recruitment is, in theory, a short-term solution to increase labour supply. In contrast, increasing training places involves a time lag with students taking some years before they can practise. Most of the interviews were conducted in the months following the Brexit referendum, leading some respondents to reflect on how the UK's eventual exit from the European Union would affect overseas recruitment. In the short term, some expressed concern at a possible slowdown in recruitment from EU countries, resulting from EU workers leaving and fewer arriving. Others speculated about whether Brexit could lead to an acceleration in specialist recruitment from non-EU countries.

Redesigning traditional ideas about work patterns and commitments

Trust directors also wished to counter the perception that flexibility could only be achieved through agency work. Acknowledging that the modern workforce was driven more than in the past by the desire for flexible work patterns, some trusts emphasised the importance in re-shaping jobs within the NHS. One trust workforce director in London warned:

"If we don't respond to that, I think there's a danger that we'll drive up the use of agency, not because of pay, but because there's a perception that it provides more flexibility for individuals."

One trust manager expressed the view that NHS organisations currently have fixed ideas about work patterns and commitments, for example by only offering standard shift patterns. Agency workers made similar points, arguing that substantive NHS staff are often forced into agency work through lack of part-time positions. In contrast, however, one London trust director, while recognising the need for more flexible work patterns in the NHS, cautioned that allowing too much flexibility for permanent staff members could become unsustainable:

"If everybody says they'd like to have Friday off, and that was possible, we'd run out of people on a Friday very quickly... if I start letting more people work less hours, do I know that there are people who will join us to fill those hours or not?"

Reputation as employer

A number of trusts also said that the NHS had to be made more attractive as an employer, noting that there had been severe cutbacks to health services, negative bad press coverage, and pay restraint, all of which have made working for the NHS less attractive. A former NHS employee, now manager for a nursing agency, expressed the view that this affected individual commitment:

“The loyalty towards the NHS is very different now, it feels very different.”

Skill-mix change

Trusts also saw scope for another type of flexibility through opening up for more flexibility between roles and making them more attractive. One trust had looked into re-distributing tasks from doctor and nurse posts to support roles, but this was in the early stages. Another trust mentioned similar possibilities, for example upskilling Band 3 healthcare support workers to nurses within a number of years, and using ‘apprentice’ Band 4 nurses.

More cooperation and regional banks

Finally, a number of trusts raised the possibility of harmonising the operations of banks on a regional level, to avoid bidding wars between trusts aiming to attract a limited supply of workers. Two trusts in London were already in cooperation with nearby trusts, and also explored the possibility of sharing information and operations through regional banks. Similarly, the director of a trust in South West England with severe recruitment difficulties explained that they had previously been in competition with neighbouring trusts, but now worked much more collaboratively as a system. This included sharing information on payments, vacancies and charge rates for the employment agencies they used. A recent study by Liaison (2016) argued that such cooperation helped undermine the incentive for trusts to engage in a bidding war against each other, and as a result they had experienced more success in achieving the price caps. A similar sentiment was expressed by a Trust workforce director:

“We are not in that bidding war where a Trust twenty miles down the road is paying more, and that has been a hard cycle to break.”

A trust in the East of England reported that the regional trusts had implemented a multi-staffing agency framework, which had negotiated a framework with agencies which could operate within the cap rates. While seen as a step in the right direction, there was also a concern that it could be breached:

“...the challenge will come on a Friday night when six trusts are all after one doctor to work in their emergency department, and that’s going to be the challenge in terms of who is the one that’s going to breach that cap in order that their emergency department is safe.”

Other trusts were more sceptical about future cooperation between trusts. A director for a London trust remarked:

“It’s a complicated exercise because historically there’s a big cultural change here because we’ve all been rivals with each other around staffing and resource.”

Section 2. Use of Agency Staff in Public Sector Schools in the UK

This section of the report explores the use of agency workers in UK public sector education. It is based on qualitative data, and is drawn from:

- 9 semi-structured telephone interviews with public sector schools.
- 7 semi-structured telephone interviews with agencies who supply teachers into public sector primary, secondary and SEN schools.
- 1 focus group comprising 12 supply school teachers who work within the public sector through an agency.

The main characteristics of the interviewed schools and agencies, as well as the composition of agency workers in the focus group, are summarised in tables in Appendix 1.

We aimed for the sample to be geographically dispersed and to include the diversity of schools in the UK public sector. The sample therefore includes schools, agencies and agency staff within primary, secondary, Special Educational Needs (SEN), grammar, comprehensive and academy schools.

Schools interviews were conducted with business managers, bursars and head teachers. Schools were recruited via NIESR's existing networks and through emailing schools. Agency interviews were most often conducted with company directors. These were identified and facilitated through the Recruitment and Employment Confederation (REC). The focus group was facilitated by one of the interviewed agencies, who identified and recruited participants with the support of the REC.

2.1 Use of Agency Staff amongst Public Sector Schools in the UK

Purpose

- One of the objectives of our research was to achieve a better understanding of the use of agency supply teachers in public sector schools in the UK. We explored the process of recruiting supply teachers through agencies, to what extent agency staff were used only as a short-term contingency or as a long-term solution to staff shortages, any alternative arrangements, and whether there were any concerns about the impact on the quality of services. We also asked into the prevalence of taking on supply teachers on permanent contracts and the transfer fees associated with such transitions.

Key points

- Schools generally aimed to use agency supply teachers only as a last resort, and had a number of alternative arrangements to cover short-term vacancies. Most prominently, this included an increased use of cover supervisors, particularly in secondary schools. Cover supervisors do not require any formal teaching qualification, and their role is to supervise pupils when undertaking exercises already prepared by a teacher. Cover supervisors were typically directly employed by the school, although some agencies described the increasing trend of recruiting temporary cover supervisors through agencies. Alternatively, schools utilised existing teachers, the senior leadership team, ex-teachers, or re-jigged timetables and merged classes in some instances.
- When using agency supply teachers to cover vacancies, schools ventured into a very decentralised market, almost entirely without frameworks or any other quality assurance mechanisms. Instead, in the selection of agencies, schools relied primarily on historic relationships, reputation, recommendations and 'trial and error.' This decentralisation had been aggravated by the Government's abandonment of the official Quality Mark in 2013, which had only been replaced by a voluntary accreditation scheme operated by REC, which was not widely used by schools.
- The abandonment of the Quality Mark had substantially reduced the barriers to entry into the education sector and led to a surge in the number of agencies operating in the market, with some agencies estimating that it had doubled as many smaller agencies were springing up. Lacking any quality assurance mechanism, schools did not express confidence in the recruitment procedures in some agencies, and as such the interviewed agencies generally recommended a reinstatement of some type of government-mandated licence or accreditation scheme.
- The research revealed a mixed use of short-term and long-term placements. There was some indication that teacher shortages had led to an increasing trend of using long-term placements to plug recruitment gaps, particularly in shortage subjects.
- There was also variation in the use of temp-to-perm transitions, with some schools rarely or never attempting to transfer agency supply teachers to permanent

employment, whilst other schools used it more actively, seeing agency supply teaching as a useful opportunity to talent spot before committing to a permanent contract. However, the decentralised agency market also meant that temp-to-perm transitions involved some heavy negotiations which could prove expensive for schools.

- The quality of agency supply teachers was generally described as mixed, but most schools had concerns about the lack of continuity where agency workers are used and specifically problems around unfamiliarity with colleagues, pupils and the wider school culture and procedures. Possible lack of commitment and ‘investment’ in the schools were also a concern. Long-term agency supply teachers also had limited opportunities for training and development, which could be problematic in an ever-changing education sector.

2.1.1 Levels of demand for agency staff

Overall, our research found that the demand for agency staff amongst interviewed schools to be highly variable, with no coherent picture emerging according to geographical location or employer characteristics. Some school managers said they used “*very little agency staff*”, others estimated that they had 1-2 agency supply teachers at any given time. Generally, both agencies and schools explained that placements were a mix of short-term and long-term assignments, but a common theme amongst interviewees was a tendency towards more long-term placements covering gaps in the workforce. Some agencies said the trend was moving decisively in this direction, with one agency comparing this to only 3-5 years ago when their placements had been almost entirely covering short-term contingencies. In explaining the increasing number of long-term placements, a number of schools said that they had to use agency staff to cover vacancies in shortage subjects until they were successful in recruiting a full-time employee. One school, who had been forced to use this strategy, said that this had resulted in two year-long placements last year, which had never previously happened. Another school, which had used five long-term agency supply teachers to cover gaps over the last year, said this was partly a conscious decision not to recruit, as they were not happy about the quality of available candidates. An agency gave another explanation for the trend away from short-term use, in the increased use of cover supervisors in secondary schools, who generally covered any short-term gaps.

2.1.2 Drivers in the demand for agency staff

Generally, both employers and agencies identified national shortages as the main driver for demand, particularly in certain subject areas. Most commonly, schools mentioned shortages of teachers in Maths and Science. Other subjects and departments, such as English, Humanities, Geography, Computer Studies and Modern Languages were also mentioned, but to a lesser extent. Each school described their own particular issues that drove their demand for agency staff. These predominately included location, reputation and other school-specific circumstances. London schools highlighted high staff turnover as driving their

demand for agency staff and the difficulty in predicting staffing needs in undersubscribed schools with fluctuating yearly pupil intakes.

2.1.3 Alternatives to the use of agency staff

Most of the interviewed schools used a series of alternative cover options before they would turn to agency supply teachers, describing these as the “*last point of call*” and as a “*last resort*.” The main alternative cover options identified were cover supervisors, existing staff and former teachers, which are all discussed below.

Cover supervisors

The majority of schools described employing a number of full-time cover supervisors to mitigate the use of agency staff. This trend was also reported by agencies. The role of cover supervisors does not require a formal teaching qualification and entails the supervision of pupils when undertaking exercises and activities already prepared by a teacher. In our interviews, cover supervisors were commonly described as being primarily employed directly via the school, but some agencies said they were increasingly asked to supply agency cover supervisors. Some agencies noted that the phenomenon of cover supervisors was most prominent in secondary schools, explaining that primary schools typically required generalist qualified teachers who could adapt quickly, rather than sessional cover.

Existing staff

For many schools, the second point of call was current teaching staff, either part-time teachers prepared to increase their hours, full-time teachers with free periods, or in some cases the senior leadership team within the school. However, one school said they did not ask permanent staff members to provide cover, because they were conscious of protecting planning times and free periods to maintain a healthy work-life balance.

Ex-teachers

Another alternative mechanism was the use of former teachers approaching retirement age and wishing to work limited hours. These were contacted directly by schools when cover was needed, and were generally paid on their old rates.

Other

Some schools described amending timetables or merging classes to mitigate the use of agency staff. One primary school Head Teacher said the school’s practice was to over-employ teachers in order to limit vacancies. The Vice Principal for another school said that, were it not for budget constraints, they would carry more staff on their books. Finally, a major agency with national coverage also said that they increasingly used ‘job sharing’, a model in which several neighbouring schools opt to share an agency teacher when they have short-term gaps in the same subjects simultaneously. This has the advantage of schools having to hire people only for the period in which they need cover. Moreover, it enabled them to find and use more specialised teachers.

2.1.4 Selection of agencies and the procurement of agency staff

In contrast to the NHS, the selection of agencies was not usually made through framework agreements. Instead, most school managers said they had developed a list of preferred agencies with which they had good historic relationships. Some agencies said they were on frameworks in certain local areas, particularly for academy chains, but noted it was not very prevalent. Instead, they largely confirmed the importance of long-running, historic relationships with schools, as well as personal networks among employed recruitment consultants. Most agencies also said they frequently contacted schools through telephone calls, emails, letters and other advertising, and also arranged face-to-face meetings to discuss future and current arrangements.

Prior to establishing historic relationships, schools had made their initial selection of agencies based on reputation and recommendations, as well as through trial and error where agencies were assessed on quality, reliability and costs. Some agencies noted that schools relied especially on reputation and recommendations in their selection of agencies. For instance, the manager of a small agency who had only recently opened their education division said that because their agency was not well known in the education sector, they had had to prove themselves to overcome schools' initial scepticism.

REC Quality Mark

The official agency Quality Mark for the education sector was discontinued in 2013 and replaced by the REC's voluntary accreditation system. When asked whether they paid attention to whether agencies had the REC voluntary accreditation, only one school manager said they had, alongside other selection criteria such as reputation, previous working relationship and professionalism. The others either wished to use criteria other than accreditation or were not aware of REC's accreditation scheme.

The agency interviews confirmed the impression from the interviews with schools that REC's voluntary accreditation scheme was not widely used by schools in their selection of agencies. One agency remarked:

"Schools haven't necessarily bought into the idea that they should ask for the REC quality standard. I don't think they are particularly aware of it."

Similarly, another agency, which had previously held the official Quality Mark and complied with all the requirements of the voluntary accreditation system, had chosen not to pay the fee associated with having the new REC accreditation on the grounds that it had not been requested by schools on the agency's books. The agency's manager emphasised that he would prefer a system where every agency was obliged to have a government-mandated licence or accreditation. This sentiment was articulated by a number of the agencies, one of them saying that historically the Quality Mark *"had served its purpose of cleaning up the act of certain agencies."*

Increasing number of (smaller) agencies in the education sector

Reflecting on the abandonment of the Quality Mark in 2013, agencies said that many new education agencies had emerged since, as it had substantively reduced the barriers of entry into the sector. One agency estimated that the number of education agencies had doubled, from around 280 to 500. One school manager noted that many of these seemed to be recruitment consultants starting their own small agencies, whilst an agency noted that many of the new entrants were agencies who had been successful in the medical sector, but were looking to diversify their portfolios due to the introduction of price caps in the NHS. Confirming this trend, one of the healthcare agencies interviewed was about to launch an education division. Conversely, an interviewed education agency was looking to diversify into healthcare, due to the increasing concentration of agencies in the education sector.

2.1.5 Temp-to-perm arrangements

The use of temp-to-perm arrangements was mixed among the interviewed schools. On the one hand, some schools very rarely, or never, offered agency supply teachers permanent positions. In contrast, other schools said they used temp-to-perm transitions quite actively, describing it as a useful opportunity to talent spot before committing to a permanent contract. Similarly, a number of agencies said that schools frequently offer temporary agency supply teachers permanent contracts, with some making the similar point that some schools used temporary agency placements actively as it gave them *“a chance to try them out without really committing first.”* Some agencies argued that advertising through Times Education Supplement was very expensive, and also provided less certainty that the final chosen candidate would be of good quality.

Perspective on negotiations

Agencies are legally permitted to charge a ‘transfer fee’ when their supplied temporary agency worker is taken on permanently by a hirer.⁸ From the perspective of agencies, this is legitimate because they lose the ability to make money from any subsequent temporary assignments. Perhaps more importantly, if transfer fees were not allowed, employers could avoid the one-off fee associated with permanent recruitment through employment agencies by routinely hiring potential recruits as temporary agency workers first and then taking them on in permanent positions shortly after.

From our interviews, it was apparent that the highly decentralised agency market and general absence of frameworks mean that temp-to-perm transitions involve some hard negotiations between schools and agencies. Schools seemed more susceptible to unfair practices on the part of agencies than in the healthcare sector. Many schools described it as expensive to transfer agency supply teachers to permanent contracts, and some expressed concern about aggressive negotiation tactics around transfer fees, arguing that some agencies exploited the recruitment challenges among schools. A Vice Principal described the

⁸ See more about the regulation here: <https://www.gov.uk/employment-agencies-and-businesses/fees-to-hiring-companies-transfer-fees>

business model of agencies as *“a car sales pitch as opposed to offering a service”*, and another added that some agencies refused to send the terms and conditions on transfer fees and sliding scales. Some school managers stated that agencies sometimes aimed to keep good relations with clients by offering periods of extended hire and reducing the transition fee, but this was mentioned more frequently by agencies.

Level of transfer fees

Schools typically said that agencies started by demanding between 20% and 30% of the annual salary, but could often be negotiated down. Agencies sometimes offered a sliding scale and notice period. For illustrative purposes, some examples of transfer fees are listed below, but it should be emphasised that the research participants are sampled to capture a variety of experiences within schools and as such should not be considered as a representative sample.

- A high-achieving secondary academy school in London said that on one occasion they had paid a maximum of 12.5% despite being asked 22.5%.
- Similarly, a high-achieving primary school in London had only once bought out a temporary agency teacher, at the cost of 15% of the annual salary.
- A low-achieving secondary academy school in the South West said agencies typically demanded around 17% of the annual salary, but sometimes up to 26-28%. The school sometimes managed to get the fee down to 8-10% of the annual salary, but more often the final fee was around 17%.
- A secondary academy school in the North West said the average final fee was typically between 18 and 22%.
- Finally, a foundation secondary school in the South West said that the fees were around 25% of the annual salary, and emphasised that they had previously decided against hiring someone due to an unreasonable fee, noting that this was more to the detriment of the concerned individual than the school.

A number of agencies emphasised that their transfer fees were in the lower end of the spectrum, possibly indicating that our agency recruitment process did not include agencies adopting less good practice. However, as with schools, for illustrative purposes we have included examples of transfer fees cited by agencies. Despite the small sample, it is evident that fees vary widely:

- A manager for a major agency in the sector said their transfer fee for an agency worker from day one was 20%, but they worked with a reducing period and a 20-week notice period.
- Another agency said the average transfer fee in the education sector as a whole was around 19%, and noted that their own standard fee was a bit lower at 15%, but they tended to stick to this rate.

- Another agency manager, who recognised that their fees were quite low, said they operated with a maximum transfer fee of £1,200, which was halved after one term and eliminated after the second term.

2.1.6 Quality of services

Varying quality

Generally, most schools and agencies described the quality of agency supply teachers as varied:

"It varies. We get some very, very good, skilled, experienced supply teachers with good behaviour management, right to the other end of the scale, where we've had NQTs that are not very experienced, don't really have those behaviour management skills."

However, some schools made stronger arguments. At one end of the spectrum, some said they found it difficult to recruit quality agency staff, arguing that they were inherently suspicious why agency teachers had not secured a permanent job elsewhere. A Principal noted that agency teachers' CVs were disconnected, and a Headmaster noted in a similar remark:

"You want to satisfy yourself that there's not a very good reason why this person is without a permanent post somewhere."

Other schools did not share this concern. They said that there was no evidence that agency teachers provided worse quality of teaching, and argued that agency supply teachers had often held permanent posts previously, and as such they had the same qualifications and experiences as teaching staff.

Lack of continuity

Whilst there were some disagreements on the technical skills and quality of agency supply teachers, schools shared a concern about the lack of continuity associated with agency staff usage. Some focused on the unfamiliarity with colleagues, pupils and the wider school culture and behavioural procedures. Others noted that pupils were too often exposed to different teachers and different strategies, which could quickly create behavioural issues. Others echoed the literature which argues that agency supply teachers are less likely to display positive attitudes and organisational commitment (Shapiro and Kessler 2002; Grimshaw et al. 2003). One school business manager remarked:

"It would probably be unreasonable to expect the same level of commitment from someone that is just working there for two days versus someone who is actually a full time member of staff, embedded in the school, embedded in the culture. So in my head there is always going to be some sort of compromise."

Concern about agencies' recruitment procedures

One of the other recurring themes in the interviews with schools was concern over whether agencies conducted the interviews, vetting and checks appropriately. Many school respondents commented that their impression was that the quality assurance among agencies was quite varied. This led to some schools suspecting that some agencies produced inaccurate CVs, did not conduct face-to-face interviews with candidates or apply the necessary checks. One emphasised that even if the checks were done, the agency might have less strict criteria in assessing the suitability of the teacher:

"We do not know whether any of those people necessarily have a criminal record. They're not obliged. They are not necessarily obliged to tell us because the agency may well have made their own judgement about whether that can be discounted in terms of working with students."

This uncertainty had led some schools to undertake their own checks and interviews of candidates, particularly for more long-term placements.

Agencies emphasised that they had strict recruitment procedures, which involved meeting potential candidates in person and doing various checks. A number of agencies, however, also expressed concern about the quality assurance among the many new agencies in the industry, which typically compete by undercutting each other in price, often by compromising on quality. One agency manager explained that when they recruited and interviewed backroom staff to their own agency, former employees of competing agencies often failed to demonstrate any comprehensive knowledge of the quality requirements of employment agencies. In addition, the manager also said that they had noticed that people who were rejected from their registers were *"going down the road and registering with other agencies that don't have a quality standard and are being supplied directly to schools at cheaper prices than our quality checked teachers."*

Knowledge of such practices led many of the agencies to recommend that a government-mandated licence or accreditation was re-introduced to secure that all agencies complied with basic quality assurance. One agency manager noted:

"I don't even think that I with the experience that I have, and I've worked in education for about fifteen years, should be able to hand in my resignation, go and set up an agency in my bedroom and be able to send teachers to schools. That seems insane, that anyone can do it."

Lack of training and development opportunities

A common theme in our focus group with agency supply teachers was the lack of training and development opportunities made available to agency staff. Some typical remarks were:

“It hasn’t happened since I stopped full-time teaching. There’s no sort of access to that.”

“There was just nowhere available, so I’ve had to pick up every opportunity I’ve got.”

Several agency supply teachers noted that this was a potential problem as school curriculum and teaching methods change frequently:

“I’ve been gone two years and they’ve managed to pretty much change the entire primary curriculum in two years.”

“Education in this country seems to change with the wind.”

“I can teach phonics standing on my head, but not necessarily to the scheme that they’re using.”

Therefore, some agency supply teachers expressed concern about becoming out of touch with developments in the profession and the sector, a worry which was also expressed by some school managers. In particular, some teachers worried that their lack of updated training might affect opportunity to return to permanent employment positions. They feared being labelled negatively as a “supply teacher.”

Feedback on placements

Finally, both schools and agencies emphasised that there are some safeguards in place should they be unhappy with a placement. Most importantly, schools referred to the opportunity to ask agencies not to send specific teachers back to the school. One agency noted:

“If they don’t like them, they can literally just say: ‘Don’t come back again.’”

Similarly, schools said they often requested agencies to re-supply teachers who had worked well with their students, thus assuring quality and also continuity and familiarity. One business manager noted that agencies generally strive to provide schools with the calibre of teacher they request, since they are keen to maintain the volume of placements and secure preferential agreements with schools.

2.2 Costs and pay of supply staff in schools

Purpose

- In light of the limited existing evidence on agency supply teacher pay and agency charge rates, we explored this issue during our primary research. The small sample size and the nature of sampling for qualitative research does not enable us to make any firm conclusions about issues such as the level and trends of cost and pay, but it should be noted that our analysis shows there was a clear indication that pay and charge rates are highly variable, reflecting the very decentralised agency market in the education sector. Meanwhile, qualitative research does give us insights into the determinants of charge rates and the process of negotiations between schools and agencies, which will be covered in this section.

Key points

- Generally, the research suggests that agency supply teachers may be paid less than the national pay scale before 12 weeks of employment, but the cost to schools may be higher than a substantive role because of agency commission fees. The research found high levels of variation in charge and pay rates. Rates depended on factors such as teacher experience, length of stay and the nature of the placement. They also depended on the location, reputation and ratings of schools, as staff shortages meant that agency supply teachers could pick and choose between schools. Beyond this, the decentralised agency market itself exacerbated these differences, as each agency sometimes charged very different rates to supply the same candidates to the same schools.
- On the past and future trends, the research again revealed a mixed picture. Some spoke of increasing charge rates due to staff shortages, others commented there had been a reduction due to impact of increasingly using cover supervisors and the increasing number of smaller agencies who competed by undercutting price. One noted that master vendor arrangements (see Appendix 7) in academy schools had resulted in an obsession with cost minimisation at the expense of quality assurance.
- Finally, it was noted that agencies would probably soon start passing on costs from the apprenticeship levy and the automatic enrolment pension scheme to schools.

2.2.1 Levels of pay

Generally, school managers said they were not aware what proportion of the agency charge rate went to agency teacher pay, but several noted that their impression was that a large proportion of the difference between the charge rate and the agency teacher pay went into the agencies' profits and overheads. Interviews with agencies went into more detail on the pay of agency supply teachers. The agencies said that agency teachers were generally paid less than the national pay scale (for assignments lasting less than 12 weeks). Only one

agency, supplying in the Manchester area, said it tended to pay candidates more than permanent staff members, but they acknowledged that their pay rates were higher than other agencies. Another agency also noted that there were a few exceptions to the general rule, with teachers in specialist subject areas like Maths and Science occasionally demanding pay at the same level as permanent staff from day one. Reflecting on the typical pay rate, a few agencies expressed the view that it is fair to pay short-term agency supply teachers at rates lower than permanent staff members, as they don't assume the full responsibility of tasks. For instance, one agency reasoned:

“You roll in at 8:30, you roll out at 3:30. You deliver somebody's else's plans, no marking, no planning.”

2.2.2 Determinants of pay

A wide range of factors that affect levels of pay were discussed throughout the interviews. Agencies referred to many different aspects of the drivers and determinants of pay, reflecting the decentralised market which results in different pressures. A number of agencies emphasised that individual pay rates were often driven by teachers themselves, but acknowledged that this, in turn, was determined by factors such as the previous rates, the national pay scale, teaching experience, demand and supply, competition and geography.

Some agencies noted a trend towards agency supply teachers demanding higher pay, in the knowledge that they were in high demand and short supply. This tendency was noted especially among younger teachers and those in shortage subjects. One agency stated that the increasing use of cover supervisors in secondary schools had impacted negatively on the level of agency teacher pay. The daily pay rate for an agency cover supervisor in their agency was only £70-75, compared to around £120 for secondary school placements and £130 for primary school placements. The agency noted that the rate for teachers had dropped from its previous level of £150 a day ten years ago because of the demand for cheaper cover supervisors. It reported that some teachers accepted work as cover supervisors because of increased demand from schools for flexible cover.

Another agency referred to the impact of geographical factors on what teachers and agencies could demand. The director said that in certain geographical areas schools had convinced agency teachers to accept lower rates. In one northern city, schools had accepted agency teachers' demand for relatively high pay rates, and as a result agencies typically charged schools around £170-200 per day. This brought agency teacher pay fairly close to the national pay scale. In contrast, in another northern city, agency teachers did not have the same bargaining power and were only able to command a rate of up to £125 a day.

2.2.3 Impact of the Agency Worker Regulations

Interviews with agencies explored the impact of the Agency Worker Regulations (AWR). Agencies said they paid agency supply teachers at the level of the national pay scale after 12

weeks of employment.⁹ One agency strongly welcomed the regulations which had improved agency teacher pay for long-term placements, which typically involve many of the responsibilities associated with a substantive post, such as preparation, planning and marking. Another agency explained that when an agency teacher started a placement that was expected to last more than 12 weeks, they typically asked the school to pay to scale from day one. This was sometimes accepted by schools, but could be rejected due to budget constraints.

Another agency commented that there were some problems with the interpretation of a 'comparable role'. For instance, if the agency teacher was doing genuine day-to-day cover, the comparable role in the school would often be a substantive teacher, in which case the agency teacher should be paid to the national scale consistent with the experience of the teacher. However, sometimes schools might only use a high-level teaching assistant for such tasks, which created some doubts and uncertainty around the interpretation of a comparable role. The agency noted that when asking schools about this, sometimes *"they don't really come back with a very clear answer."* This is likely to reflect confusion surrounding the AWR, the interpretation of the comparable role and which pay scale is appropriate in the individual case.

The focus group with agency supply teachers also discussed the 12-week threshold. One agency supply teacher reported that she had not achieved pay parity until 6 months into a placement at one school, whilst another explained that a friend had not achieved pay parity even after working for two terms with one school.

2.2.4 Umbrella companies

Agency supply teachers had mixed experiences of agencies requiring candidates to work through umbrella companies, where third-party companies employ agency staff. Some said that some agencies shun away candidates who refused to work through an umbrella company:

"You will find that if you don't opt to go with an umbrella company, the work will cease."

"When I decided I didn't want to join in the umbrella, then I didn't get any more phone calls."

Others said that they had never worked with an umbrella company and had never experienced problems getting their desired shifts, suggesting the varied practices among agencies in the market.

⁹ See more details on the 12 week qualifying period in [Appendix 6](#).

2.2.5 Charge rates

Highly variable charge rates

The interviews revealed a high level of decentralisation in the agency market, resulting in highly variable charge rates. Agencies said that charge rates naturally depended on factors such as teacher experience and length of placement, but also factors such as school location, rating and reputation were important determinants in agency charge rates (see also Hutchings et al. 2006; Menter et al. 2004). One agency manager remarked that since there was a shortage of teachers, agency supply teachers could “shop around”, which had the consequence that schools with low Ofsted ratings or with bad reputations as a workplace often incurred higher charge rates. Finally, agencies also said that the timing of the request, and in particular, “how desperate the schools were” also influenced negotiations about charges and rates.

Variable charge rates were also grounded in the decentralised agency market itself, which was neatly illustrated by schools explaining that they were often quoted very different rates for the same agency worker, who was signed up with multiple agencies. For example, the Vice Principal of a secondary academy in South West England said that they had once been offered the same agency teacher by four different agencies, who quoted the school anything from £165-225 per day, where the teacher had subsequently told the school that she was paid around £100 for the assignment.

Level of charge rates and agency commission percentage

With the caveat of the highly variable charge rates and the nature of a sample for qualitative research, which was designed to capture the diversity of opinion and as such is unlikely to be representative, most interviewed agencies and schools gave a rough idea of the charge rate for a typical day-to-day assignment. These are provided below for illustrative purposes:

- A secondary foundation school in the North West paid between £165-225 per day.
- A secondary community school in East England paid anything from £170 upwards.
- A primary school in London paid around £220 per day across the board.
- A grammar secondary school in Greater London looked to keep a budget of £190 per day with no exceptions, but noted it required hard negotiation to get under that threshold.
- A secondary academy school in the South West said they paid between £165-225 per day.

The agencies also gave examples of their charge rates, including what proportion went to agency supply teacher pay and what they charged in agency commission. Again, the numbers are provided for illustrative purposes and should not be considered representative, in particular because less ‘well-behaving agencies’ are likely to be unrepresented in the sample.

- One agency said that their margin crucially depended on the level of pay, with lower paid placements of newly qualified teachers attracting a higher percentage commission.

For a teacher paid £160 per day, agency commission would normally be around £40-45, amounting to a margin of 19-20%. In contrast, when a newly qualified teacher received a lower pay of around £110, the agency commission would normally be nearer 30-32%, implying a charge rate of around £145.

- Another agency said that they would normally charge £165 if paying £125-130 per day, implying an agency commission percentage of around 20-25%.
- In another case, the agency said they always aimed for a 20% margin, although it offered volume discounts. They noted that some agencies in the industry charged more and received much higher agency commission rates of 30-40%.
- Another agency said they charged between £165-179 per day depending on the school and location, with the agency fee usually being around £40-50, implying a commission fee around 25%. They noted that some agencies engaged in a race to the bottom, offering low charge rates of £150 per day.
- Finally, one agency noted that they were doing well if they received £50 in commission fee for a daily placement, making the example of charging £220 and paying the agency worker £170, implying an agency commission percentage of around 23%.

Many agencies went to some lengths to emphasise that their final profits were not as large as one might think, explaining that the agency commission fee had to cover the costs of holiday pay due to the Working Time Regulations 1998, statutory sick pay, NI contributions, vetting and checks, any training and CPD provisions, recruiter staff costs within agency and other overhead costs. In addition, due to recent legislation, agencies need to automatically enrol eligible workers into a qualifying pension scheme (although supply teachers are not entitled to the Teachers' Pensions Scheme which is at a higher rate).

Trends in charge rates

A number of schools identified trends in higher charge rates. A HR Director for a Multi Academy Trust commented that their business managers across the country reported that the *"market was heating up"*, with agencies exerting greater bargaining power. Similarly, a secondary academy in London noted a substantial increase in fees over the last 1-2 years, from a maximum of around £175 a day to as high as £250 for a Maths supply teacher.

In contrast, the interviews with agencies focused on the impact of academies. One view was that academisation had led schools to become more business orientated, replacing a previous emphasis on quality. One agency, in particular, noted:

"We find that we're dealing more with business managers than Head Teachers who perhaps don't understand education in the same way. We find ourselves having more business conversations rather than education conversations; people going for the best deal rather than the best teacher, which worries me."

Similarly, another agency had been somewhat dismayed by their experience with supplying to schools through a master vendor, making a similar observation about the main focus on minimising cost. The agency received a flat rate of £165 per day from the school, with the master vendor provider receiving £2.50 for each booking. The agency manager described this as a bargain for the school in terms of costs, but criticised the process for being too focused on minimising costs, making it harder for the agencies to use their local expertise and relationships with the schools to find the right fit and quality of teacher to the specific school (a similar point is made by Hoque et al (2008) in the health literature, describing master vendor contracts as a 'mass production approach' to agency placements, which may produce poorer job placement matching by squeezing out providers with localised knowledge).

Likely future trends in charge rates

Looking to the near future, one employer said they had recently discovered that agencies would probably start passing costs of the apprenticeship levy to schools from next April. This was confirmed in our interview with a major education agency who said that, in addition to the usual overhead costs such as National Insurance, next year would see the addition of costs associated with the automatic enrolments pension scheme and the apprenticeship levy, which would "likely be passed onto schools". They noted that it would be difficult to absorb themselves due to already squeezed margins.

2.3 Supply of agency staff to schools

Purpose

- It is acknowledged in the literature that the rise in the use of agency staff is not only grounded in demand-side but also supply-side factors. As such, we explored the characteristics, motivations and experiences of agency supply teachers themselves. These are often numerous and multi-faceted, but the following section will explore some common themes to better understand the drivers towards agency supply teaching.

Key points

- The research indicated that there is no typical agency supply teacher in terms of demographic characteristics.
- The drivers towards agency supply teaching are also quite varied, but some common motivations were apparent. In particular, pay was not a main driver, as agency supply teachers were generally considered to be paid less than permanent teachers. Instead, many worked through an agency as they were disillusioned with the working conditions in permanent employment positions, and they wanted to escape the high workload, the long working hours, the paperwork, bureaucracy and office politics, and instead regain their work-life balance.
- Many appreciated the flexibility advantages of being able to control their own working hours by picking and choosing shifts that fitted their life circumstances. This included the desire to travel for leisure; the opportunity to slow down for the retired or semi-retired; the wish to make a phased transition back into the labour market after a career break; or being able to fit work patterns with childcare responsibilities. Agency work was also viewed as a good route into the UK education sector for those who had just arrived in the country, as well as a good way of testing out schools and broader experiences for newly qualified teachers.

2.3.1 Characteristics of agency workers

We asked agencies about the general characteristics of agency supply teachers on their books. Many responded that it was a *“totally mixed bag across the board,”* and the interviews gained the general impression that agency workers are a highly heterogeneous group. This might explain why the findings in the literature are fairly mixed and at times contradictory (see Hutchings et al. 2006; NUT 2016). Our own LFS analysis showed that the proportion of foreign born teachers was slightly higher for agency supply teachers, which was touched upon in the interviews. In particular, the research indicated some regional differences, with an agency based in London reporting a large majority of internationally qualified teachers on their books, whilst some agencies in other areas of the country said they did not have many overseas teachers. Some agencies noted that particularly in primary

schools overseas teachers' accents were sometimes an issue, noting that overseas teachers were generally from Australia, Ireland, South Africa and New Zealand to mitigate this problem.

2.3.2 Motivations of agency workers

Generally, the responses of agency supply teachers, employers and agencies reflected that agency workers are a highly heterogeneous group, with many different motivations and drivers. Some drivers appear to be more prevalent than others, in particular the opportunity to escape permanent employment, reduce workload and obtain more flexibility. In contrast, pay was not reported as a driver to enter agency work, as agency supply teachers are generally considered to be paid less than their permanent counterparts and individuals motivated by pay are usually able to find jobs.

Desire to escape permanent employment

Reflecting a common theme in the literature (see Cornwall 2004; Grimshaw et al. 2004), our interviews with both agency workers and agencies focused on the desire to escape permanent employment, in particular the wish to relieve the pressures and high workload associated with having a permanent post. An agency director said that an internal survey had revealed that almost half of their agency supply teachers cited work-life balance as their main reason for undertaking agency work. This was also apparent from our focus group with agency supply teachers, with many saying they had chosen agency supply teaching through dissatisfaction with the workload and working hours in their previous substantive post:

"You're just crawling home every night exhausted."

"The thing that did it for me was when I started getting emails at weekends, and I thought, this is stupid."

"I remember walking out of a school once at 3.40pm, which was conditioned hours – never did normally – and the Deputy Head said to me, 'are you getting off early?' So I said, rather sharply, well, actually, no, I'm getting off on time."

"I found that in my first year of teaching I sat down one night and I worked out how many hours I literally worked, and then divided my pay, and I was less than minimum wage."

Many agency supply teachers also said they had become disillusioned with the high amount of paperwork, bureaucracy and office politics, remarking that they sometimes felt like an administrator, and several complained about the leadership and management teams in schools. Some teachers also focused on the opportunity to escape marking, planning and preparation, with one agency manager noting that agency supply teaching means that *"they actually get to teach."*

Some teachers in the focus group highlighted the low morale among young teachers as a particular concern. For example, a focus group participant said that young teachers often considered it an achievement to have stayed in the teaching profession for five years. An agency manager made a similar and typical remark:

“Teacher morale is low in schools. There’s a lot of young teachers coming in, burn out very quickly. We have a lot of teachers coming to us asking for work within recruitment because they want out.”

A few agencies said that some teachers use agency supply teaching as a stepping stone away from teaching (see also Hutchings et al. 2006), with one agency noting:

“They just want to make some money until they find out what they’re going to do. They’re saying: ‘I don’t want to be a teacher any more, I just want to do some supply until I get another job.’”

However, the same agency manager added that this gradual transition sometimes ‘saved’ disillusioned teachers, as agency supply teaching demonstrated that they had merely been in the wrong school.

In contrast, the desire to escape permanent employment did not emerge as a major theme in our interviews with schools, only being mentioned as a main driver by a small number. However, it is possible that some school managers who cited the desire to achieve flexible work patterns were implicitly referring to dissatisfaction with permanent employment work patterns.

Flexibility

Mirroring the existing literature (Cornwall 2004; Grimshaw et al. 2004), almost all schools and agencies said that a substantial proportion of agency supply teachers wanted the flexibility associated with this type of work, including the ability to control their own working hours and achieve a better work-life balance. Focus group participants also emphasised the opportunity to pick and choose posts and choose a work pattern that fitted with their particular lifestyle, often relating this to the high workload associated with permanent employment positions. Similarly, many emphasised that agency supply teachers often enjoyed the variation of travelling to and working in different places. This was highlighted, in particular, by agency workers themselves who said they appreciated the variety of work and learnt a lot by being introduced to different schools, different styles of teaching and different technologies.

Throughout the interviews with employers and agencies, as well as in our focus group with agency teachers, it was commonly argued that agency work often provided the flexibility that fitted specific life circumstances: for instance for the retired or semi-retired who typically enjoyed the opportunity to continue with teaching but wanted to slow down; for those who had been on a career break or maternity leave who wanted a phased transition

back to the labour market; for those who had young children and wanted the flexibility of picking shifts; and for those who faced physical or mental illness where the day-to-day pressures of the classroom would be too demanding on a permanent basis. Some also mentioned that agency work was a good route for those who had just arrived in the country, who did not want to tie themselves down and who might have struggled with persuading schools to take them on, particularly where pre-employment checks were required. Many said that teachers used agency supply teaching as a way of testing out schools. This was seen to be practised by people who had recently relocated to a new area, or by Newly Qualified Teachers (NQTs) to broaden their experience and classroom management before moving on to a permanent job. However, one agency noted that they had less NQTs on their books now, attributing this development to the tendency of academies to recruit younger teachers.

Pay

Both schools and agencies emphasised that the level of pay is not a driver since agency supply teachers were generally considered to be paid less than permanent staff. Other factors were seen as more important. A focus group participant expressed this typical view starkly:

"I don't want a pay rise, I want my evenings back."

Several employers and agencies also noted that generally people who join the teaching profession are not primarily motivated by pay, although years of pay restraint may have increased the importance attached to financial issues.

Cannot obtain permanent employment

Some of the interviewed schools said that a large proportion of agency supply teachers were people who had to undertake agency work out of necessity, as they were not able to secure or keep a permanent post because *"they are not good enough."* A couple of these schools suggested that these workers amounted to an increasing proportion of agency supply teachers. Some agencies also recognised that this group amounted to a substantial proportion of agency supply teachers, although agencies indicated that there had been a substantial shift towards those opting to do agency work for flexibility and work-life balance reasons. One agency manager said that their agency workers had traditionally been split evenly between those who couldn't get permanent employment and those who desired better work-life balance and flexibility, but the manager estimated that now only a quarter of their agency supply teachers were unable to find permanent employment. Meanwhile, the inability to obtain permanent employment was not a major theme in the reasons cited by focus group participants.

2.3.3 Disadvantages of agency work

Despite the main advantages of flexibility and a reduction in workload, agency supply teachers also said that this type of work had its disadvantages. These primarily centred on

the lack of pension, sickness and holiday pay, and access to training and development. Others missed the relationships with pupils, with typical comments being:

"The only thing that I miss really about full-time teaching is the relationships with pupils."

"I miss relationships. Early years is all about working in partnership with the parents, and that's what I miss."

Others said there was a stigma associated with being a supply teacher, both from employers, colleagues and pupils:

"You've got to be better than the best actually... I get noticed from time to time, but a lot of people... you're supply, they are not interested."

"Some schools are good at supporting you, whereas other schools will undermine you."

"The children's behaviour reflects that sometimes... If you are supply, you are game, aren't you?"

These sentiments indicate that poor practice towards supply teachers may exist in some schools. However, it should be emphasised that this theme was considerably less prominent than in the interviews with agency workers in the NHS, mirroring that this was not identified as a major theme in the literature (although see Conley 2002). Indeed, some agency supply teachers emphasised their good relationships with schools and colleagues, and some said that the nature of agency work always gave them the opportunity of choosing another school if they were unhappy with the treatment:

"If I get treated like that, it doesn't happen very often these days, but when I have in the past been treated like that, I just cross it off the list. I'm not going there again."

2.4 Future use of agency workers in public sector schools

Purpose

- In the last part of the interviews, we asked employers and agencies to reflect on the use of agency workers in public sector schools, including whether the use of agency supply teachers was a cause for concern and whether they expected the trend to change in the future. We also discussed possible measures to reduce the use of agency staff in schools, which particularly centred on the possibility of establishing a state-run regional or national agency.

Key points

- Schools generally expressed concern about the increasing use of agency supply teachers, in particular regarding cost and quality. That said, schools also emphasised that agency supply teachers could be an effective and quick source of short-term cover, and it was preferable to the immediate alternative of being understaffed.
- Although some agencies and school managers said that the increasing trend of using alternative arrangement such as cover supervisors may help to reduce the use of agency supply teachers by employing them only in teaching situations, most recognised that future trends would crucially depend on Government policies around training places and workforce planning. Interviewees repeatedly returned to the basic point that agency usage and spending would persist as long as there was a national shortage of teachers.
- Many employers were in favour of a state-run national or regional agency for temporary supply teachers, citing the benefits to quality assurance and costs. Academy chains had also started looking into establishing their own regional supply banks. However, agencies overwhelmingly argued that such initiatives were likely to be unsuccessful, recalling the failure of local authority supply pools.

2.4.1 Concerns

Generally, school managers expressed concern at increasing levels of agency use, particularly in view of high costs and impacts on service quality. Agencies also acknowledged that school expenditure on agency staff is high. As a caveat, whilst recognizing that the increasing use of agency supply teachers was a valid concern, some school managers answered the question by emphasising that there were also some clear and significant advantages of using agency supply teachers, including that agency use provides an effective and quick short-term cover and it is better than the immediate alternative of being understaffed. These are covered below.

Effective, quick short-term cover

Some school managers recognised that agencies provided a valuable and flexible service to cover short-term staff vacancies and seasonal fluctuations, whilst agencies argued that temporary agency staff are a cost-effective alternative to other cover options, such as the possibility of over-hiring permanent staff members or employing a number of supply teachers directly. These considerations are highlighted below.

Some school managers recognised that agencies provided a time-efficient and flexible solution to cover short-term staff shortages and seasonal fluctuations (see Audit Commission 2011, Forde and Slater 2005; NAHT 2015; Grimshaw et al. 2003). Schools managers recognised that they should of course pay for this service, albeit not excessively. For instance, a Principal reflected what would happen if agencies didn't exist:

“All the people that they employ would be somewhere in the marketplace, but it's how we would reach them.”

Many also emphasised the ease and speed of recruiting temporary agency workers, as it requires no advertising, interviews or employment checks on behalf of the schools, which are handled by the agency. A typical comment was:

“You're picking your phone up in the morning and you've got somebody there for when your day starts.”

Agencies also mirrored the sentiment expressed by employers that they provided an important service to schools, by facilitating quick access to a large pool of qualified teachers who had been through the necessary checks and interviews, were ready to deliver teaching, but could also be easily dismissed when no longer required. Additionally, some agencies emphasised economies of scale, arguing that the large pool of agency supply teachers meant that schools had much better access to teachers with specific subject specialisms than they would ever get through *“employing an army of directly employed supply teachers”*.

In addition, the interviews with agencies overwhelmingly focused on recruitment agencies as a cost-effective provider of a flexible workforce. A typical remark came from an agency which encouraged schools to consider the substantial costs that were associated with schools recruiting and employing their own flexible workforce, suggesting that these costs would not necessarily be below what was paid in agency margins and agency placements fees:

“If those schools actually had to employ those teachers, on zero hour contracts or whatever, and pay the HR costs on top of that, do the vetting and employ an administrator to do all of that, employ someone to do, put them on to the payroll, do the Pensions, etc, then I am not convinced there is a cost issue.”

Better than being understaffed

Ultimately, many school managers recognised that agency supply teachers were significantly better than the alternative of not having a competent and qualified person in the classroom. A headmaster made a typical remark:

“If you’re trying to run a school you can’t run it without adults and staff... You do what you have to do to put a teacher in front of those children.”

2.4.2 Trends

Most schools remained sceptical that agency usage would be reduced, citing recruitment difficulties and teacher shortages. Only two school managers thought agency use would reduce in the coming years, arguing that many alternative arrangements were available, including cover supervisors and merging classes.

Agencies predicted a range of different future trends. These included:

- the increasing use of cover supervisors, which could lead to a reduction in agency supply teachers in secondary schools in particular;
- the expectation that more and more smaller agencies would continue to spring up;
- and the expectation that primary schools may use more agency teachers as primary teachers were under increasing pressure and had to be covered while on Planning, Preparation and Assessment (PPA) time.

In addition, one agency director noted that total spending on supply teachers hadn’t increased substantially over the years, but had merely shifted from local authority supply pools to agencies (see [section 5.2](#) in evidence review for tables detailing this trend), and he expected that trend to continue.

Government policies on training places and workforce planning

In any case, most schools and agencies recognised that the future would depend on Government policies around training and workforce planning. As one Headmaster remarked:

“Unless the public sector can actually recruit and train teachers to a high standard, I think it’s going to have to continue.”

However, many schools remained sceptical that current problems with recruitment and training would be resolved, with one manager noting that recruitment targets were not met even during the recession. In addition, she noted that pupil numbers are projected to increase rapidly. A Vice Principal agreed:

“I think it is going to be harder to find staff to recruit. I can’t see the light at the end of the tunnel yet in the shortage subjects.”

Online agencies

Separately, one agency manager described the growth in online alternatives to agencies. He had noted a rapid growth in the number of apps or websites, explicitly claiming to cut out the middleman and not reducing teachers' pay as a result. This respondent expressed concerns about the quality of such agencies and whether they were able to comply with all the legal requirements:

"I've registered with one of these agencies. I'm not a teacher by the way, but I've registered with one of these agencies and I've promised them that I don't have any criminal convictions and they've now shown me which vacancies I could apply for and that the schools would be able to contact me directly. It's absolutely appalling."

In addition, he noted it would be a challenge for technology to provide the same type of service as traditional agencies, which had built up the personal knowledge and relationships, which helped them make daily judgements on the right fit between schools and candidates.

2.4.3 What can be done

Teacher shortages

Many school and agency interviews repeatedly returned to the basic point that more teachers needed to be trained, with the argument that agency usage and spending would persist as long as there was a national shortage of teachers. Some expressed frustration that the Government and the media hadn't fully recognised the problem. One agency summed up the points made by both schools and agencies:

"If nationally you wanted to do something to make us less important, train more teachers is the answer."

State-run regional or national agency

Many schools raised the possibility of introducing a national job database for permanent recruitment, which would save money on advertising and recruitment fees, which currently amounted to a substantial expense in school budgets. Similarly, many schools floated the idea of a state-run regional or national agency for temporary supply teachers, highlighting the benefits to quality assurance, checks and costs. Some schools recalled the previous system of local authority supply pools, which were said to have disappeared with the demise of local authorities and the academisation of schools. The fundamental idea behind the system was praised for providing quality assurance, vetting, interviews, CPD, and for being less open to market forces. The emphasis on academisation makes it unlikely that such a system would be re-instated. Similarly, some academies, who were part of a Multi-Academy Trust, said that their organisations had considered the alternative of regional supply banks, with the same idea of harmonising operations and safeguarding and becoming less vulnerable to market forces. It was also noted that some logistical and

practical issues would need to be sorted out, such as which schools would have priority when there were insufficient numbers of supply teachers in the bank.

Agencies had a different perspective, expressing the view that Government-mandated regional or national providers would not work effectively. A typical comment was:

“If you renationalise this, if you put this in the hands of somebody from the Council, who just sat there with a list of Teachers, the quality would go down. You’d work down the list and you wouldn’t find the right person to do the job.”

Another agency doubted that, without any bonus incentives, good recruitment consultants would be attracted by working for Government agencies. Another agency argued further that, in the absence of a profit motive, local authority supply pools had not made sufficient efforts to obtain the right placements for schools.

Annex 1: Evidence Review

This evidence review took a systematic approach; scoping and critically assessing available, quality UK evidence from 2000 onwards. It was conducted using a two-staged sift design, which critically assessed the relevance and quality of literature prior to its inclusion. A detailed list of search areas, search terms and inclusion criteria are provided in Appendix 2.

While this review follows guidance from the OME and focuses on public sector employers already known to make use of agency staff (i.e. the NHS, including doctors and dentists, and schools), it also seeks to identify evidence in other parts of the public sector that fall under the remit of pay review bodies to ensure full coverage. This includes the armed forces, prisons and the police.

The review will be structured as follows:

- **Key points**
- **Definition of agency work**
- **The scope of agency work in the UK**
 - *Trends in agency work in the UK.*
 - *Trends in agency work in the UK public sector.*
 - *Trends in agency work in the public health sector (NHS)*
 - *Trends in agency work in the public education sector*
 - *Agency work in other public services in the UK*
- **Employer perspective**
 - *Why do employers use agency staff*
 - *Cost and pay of agency staff*
 - *Impact of agency staff on service quality*
- **Agency worker perspective**
 - *Characteristics of agency workers*
 - *Motivations of agency workers*
 - *Experiences of agency workers.*

Key points

Definition of agency work

- There is an important distinction between an ‘employment business’ and an ‘employment agency’ in the UK. This report is concerned with the activities of an **employment business**, which **engages and pays agency workers directly and supplies their services to a client**, who is then responsible for supervising, directing and controlling the workers in the course of their work.

Number of agency workers

- There exist large discrepancies in the estimates of the number of agency workers in the overall UK economy. Drawing on the Labour Force Survey data, the **ONS estimate is at 324,000 agency workers in 2015**, whilst the joint Government and Recruitment and Employment Confederation estimate is at **1.2 million in 2014-15**, drawing on a survey on recruitment companies.
- Analyses of LFS data shows that **the number of temporary agency workers in the UK public sector has, by and large, followed trends seen in the wider labour market.** ****The public sector saw a 17 per cent decrease in the use of temporary agency staff, falling from 56,080 in 2007 to 46,336 in 2010. It then demonstrated significant recovery, with 71,272 identified in 2015. This increase in temporary agency staff has been in context of overall decline in non-permanent employment.**

Regulatory environment

- **The Employment Agencies Act 1973, The Conduct of Employment Agencies and Employment Businesses Regulations 2003, and The Agency Worker Regulations 2011** together set out the responsibilities of temporary work agencies in the UK and the rights of temporary agency workers. In addition, temporary agency workers are **protected via more general labour market regulations**, such as the National Minimum Wage and The Working Time Regulations.
- The recent Agency Worker Regulations (2011) **entitle temporary agency workers to the same basic conditions of employment as people working ‘comparable jobs’ on permanent contracts.** In particular, agency workers are entitled to equal pay after 12 weeks of continuous employment at a client firm in the same role.
- In general, the **UK legislation on temporary agency work is very flexible** relative to other EU countries. Notably, agency temps are characterised as “workers” rather than “employees”; private recruitment agencies are not required to obtain a licence to operate in most sectors of the UK labour market; and the oversight of regulations

and agency practices is rather limited.

- The review also gives an overview of **different contractual relations** between recruitment agencies and client organisations. This includes **framework agreements** (a list of agencies that have been assessed to deliver on price, quantity and quality, from which client organisations can choose); **master vendor contracts** (in which a primary supply agency offers a volume discount in return for getting the first go at supplying agency workers); **neutral vendor contracts** (in which a third-party organisation is commissioned to manage the overall recruitment process); and **spot contracts** (which describes the traditional, informal and short-term contractual arrangement, where agency and host organisation negotiate directly on price, duration and quality). In addition, there is growing evidence on the use of **umbrella companies** and other types of arrangements, where third-party companies employ agency staff. This often gives tax benefits and other advantages, but also fundamentally alters the employment relationship. Such arrangements may face a downturn following recent government regulatory initiatives.

Trends in agency work in the National Health Service (NHS) in the UK

- There has been **significant variation** in the proportion and number of agency staff in the NHS. According to analyses of the LFS, temporary agency working accounted for approximately 0.8 per cent of the total NHS employment in 2015
- Agency spending in the NHS **increased substantially in the early-2000s**, commonly attributed to a general increase in the demand for staffing and in some instances unsystematic recruitment practices in NHS Trusts. **In the mid-2000s, agency spending declined**, primarily due to several government initiatives aimed at managing and regulating the NHS agency market through framework agreements, preferred supplier lists, and managed vendor services, as well as attempts to internalise flexibility through establishing NHS Professionals and promoting internal nurse banks. **In recent years, spending on agency staff has accelerated again**. This has, in part, been attributed to an increase in demand, particularly for nursing staff following the Francis Inquiry, as well as the increasing attractiveness of pay in agency work following a squeeze on earnings for permanent NHS members of staff.
- In response to rising agency staff expenditures, in 2015 the government introduced a number of initiatives applying to NHS England, including a **ceiling for total agency expenditure, mandatory framework agreements, and a price cap for agency staff**. Preliminary evidence from NHS Improvement shows that agency nursing rates have been reduced by 18% and the **NHS has saved up to £600m** during the first year of measures. However, NHS Improvement acknowledges that medical agency staff are

still largely able to negotiate their own fees, often well above the price cap. Other evidence also shows an **increase in unfilled shifts** and **price caps have been consistently violated by trusts**, with many trusts concerned about their ability to maintain safe staffing ratios if they comply with the price caps. In addition, it is widely recognised that the **price caps do not address the underlying workforce planning and staff shortages issues**.

- NHS Improvement announced in October 2016 a **new round of measures**, which will take into effect during 2017, including publication of trust league tables on agency spending and additional reporting to NHS Improvement.

Trends in agency work in public sector schools in the UK

- There has been little change in English schools' total spending on supply teachers since 2003, but the period has seen a **substantial shift towards private recruitment agencies** rather than recruiting supply teachers directly or through local authority pools. In 2014-15, the proportion of supply teaching spending in maintained schools accounted for by agency supply teachers was 68.2%, up from 53.3% in 2010/11. The proportion and trend is similar for academies.
- According to our LFS analysis, the number and proportion of temporary agency jobs in public sector education has increased. Overall, temporary agency working accounted for approximately 1.3 per cent of all public sector jobs in education in 2015.
- The same development has been observed in Wales, **with agency supply spending increasing by 50% from 2008-9 to 2011-2**, from 27% to 38% of all supply expenditure.
- Meanwhile, **in Scotland and Northern Ireland, supply teachers are sourced through publicly accountable central registers**.

Agency work in other public services in the UK

- The scoping of the evidence found **very little research on the use of temporary agency workers in other areas of the public sector**, such as the armed forces, prisons and the police services.
- Notable are the reports on **agency working in the Police Services of Northern Ireland**, related to the implementation of two severance schemes, which led to around 5,500 officers leaving the police services, many of whom were replaced by agency staff.

Why do public employers use agency staff?

- Agency staff are primarily **used for flexibility reasons**, and considered a cost-effective way of covering temporary staff shortages and dealing with troughs and peaks in demand.
- Increasing use of agency staff in the public sector health and education areas is **not commonly considered a reflection of a deliberate strategy**, but is rather an **ad hoc response to recruitment and retention difficulties** caused by local and national skill shortages.
- Evidence indicates that there are substantial **geographical variations in the use of agency staff in the NHS**, with NHS trusts in **London reporting the highest usage rates**, probably due to higher vacancy rates in the capital, a more mobile and casual workforce, more competition for staff, greater housing costs, a less predictable workload, and higher wage discrepancies between the private and public sectors. However, numerous sources also point towards the **large discrepancies between trusts within regions**, indicating that other factors are also at play.

Costs and pay of agency workers

- Current financial troubles in the NHS are widely attributed, in part, to increasing use of and overreliance on agency staff. This is evidenced by some studies finding a **statistically significant relationship between a trust's spending on agency staff and the size of its financial deficit**.
- There is evidence that **employing agency staff is associated with a higher monetary cost**, primarily caused by agency commission fees and higher hourly pay rates (both compared to permanent and bank staff).
- There is limited evidence on cost and pay of agency supply teachers in the public education sector literature. Some publications suggest that **hourly pay rates are generally below the National Pay Scale for teachers**, whilst **schools still incur large costs due to other financial costs**, such as agency fees and finders' fees, but these findings are not robust, and there is no available evidence to support or reject this assertion.
- There is **only scarce evidence on agency commission rates** in the literature. One source indicate that agency commission rates in the NHS are on a **downward trajectory, with the current average estimated at around 10 per cent**.

The impact of agency workers on service quality

- Some literature on the NHS finds a correlation, but not causation, between an **overreliance on agency staff and lower service quality**. For instance, data from one study links usage of agency staff to lower patient satisfaction, less time spent on patients and higher hospital death rates. Another paper, however, **remains inconclusive on quality score differences**.
- Although the literature largely remains inconclusive on the existence of a causal link between reliance on agency staff and service quality, the literature discusses a number of mechanisms which could explain the link. These focus on the performance of agency workers themselves, including their **lower organisational commitment, their lack of organisation-specific skills, their unfamiliarity with local procedures and patient/pupil history, and the lack of induction and training they receive**.
- Research studies have also examined how the presence of **agency workers impacts on permanent staff members**. Whilst agency workers may relieve work pressures and increase knowledge about best practices, most evidence indicates that an overreliance on agency workers negatively affects the morale of permanent staff members, because of a sense of injustice over differential pay and responsibilities.

Characteristics of agency workers

- In the wider economy, survey research shows that **young people, ethnic minority groups and recently arrived migrants are more likely to be agency workers**, whilst agency workers have broadly similar qualifications compared with all employees.
- **Evidence on the generational composition of agency staff in the NHS is mixed**. Some existing evidence shows that agency nurses tend to be older.
- Both existing evidence and our LFS analysis indicate that agency staff in public sector health are **more likely to come from an ethnic minority group**.
- There is limited evidence on the composition of the agency supply teaching workforce, with our LFS analysis showing that the **demographic characteristics of agency supply teachers are broadly the same as permanent employees**.

Motivations of agency workers

- Surveys indicate that, in contrast to the overall economy, **few people take up agency work in the public sector because they are unable to obtain permanent work**. This

suggests that, in the public education and health sector, people generally make a **deliberate choice to take up agency work**.

- However, a number of positive, 'pull', and negative, 'push', factors are behind this 'choice'. On the one hand, people are described as **reluctantly taking up agency work due to the deteriorating quality of permanent employment**; on the other hand, agency workers are described as **'free agents' who positively choose the benefits of flexibility and higher hourly pay**.
- Literature on **'push' factors** focuses on the deteriorating job quality among permanent workers who are overwhelmed by bureaucracy, target setting, insufficient resources and unmanageable workloads. **Agency workers consider it the lesser of two evils, weighing up the costs of permanent employment with the costs of agency working**, such as the loss of identity, job security and certain benefits. For some, agency working even functions as a **'stepping stone' away from permanent employment in the sector**.
- Literature on **'pull factors'** describes how people move into **agency work as a positive choice**. In the NHS, the two main pull factors are **higher pay and flexibility**. Some carry out agency work in addition to their permanent NHS position, primarily to enhance their income. For those only undertaking agency work, flexibility is an important consideration. Agency supply teachers tend to cite flexibility advantages.

Experiences of agency workers

- Again, there are two strands of the literature, mostly focusing on the UK as a whole rather than just the public sector. On the one hand, **agency workers are described as vulnerable workers** who feel insecure, frustrated and undervalued in the workplace, and they express lower levels of job satisfaction.
- Others argue that most people choose agency work and have a **positive experience**, and that many are well paid and appreciate the flexibility it offers. The short-term nature of assignments enables agency workers to avoid some disadvantages of permanent employment such as 'office politics' and encroachment of work on their personal lives.

1. Definition of ‘agency work’ and the triangular relationship

Under the UK Employment Agencies Act of 1973, there is an important distinction between ‘employment businesses’ and ‘employment agencies.’

- An **employment business** engages and pays agency workers directly and supplies their services to a client, who is then responsible for supervising, directing and controlling the workers in the course of their work.
- An **employment agency** places people into permanent or fixed-term jobs with an employer. The agency introduces candidates to be employed directly by the client. The employment agency will charge a fee to the client for this service, usually based on a percentage of the salary being offered for the vacancy. Once hired, the candidate is an employee of the client, entitled to the employment rights that this status affords.

This review focuses on the public sector’s use of the former. Considering this definition, we can define an agency worker as someone who is supplied by an employment business to work temporarily under the supervision and direction of a client organisation. The employment business will bill the client both for the agency worker’s wages and its own fee and they are responsible for paying the agency worker via their own payroll process. As such, compared to the traditional employer-employee relationship, there exists a triangular relationship between the agency worker, the employment business and the client firm, which Forde (2001) suggests is at the heart of understanding many of the issues covered in this report.

It should be noted at this point that generally, despite their pivotal position in the triangular relationship, the role and perspective of agencies is scarcely examined in both the UK and the wider literature on agency work (Coe et al. 2010). This will be reflected in the following, where most of the reviewed evidence centres on the perspectives of employers and agency workers. Meanwhile, the empirical analysis presented in the main body of this report includes data gathered from all three parts of the triangular relationship, including interviews with employment businesses.

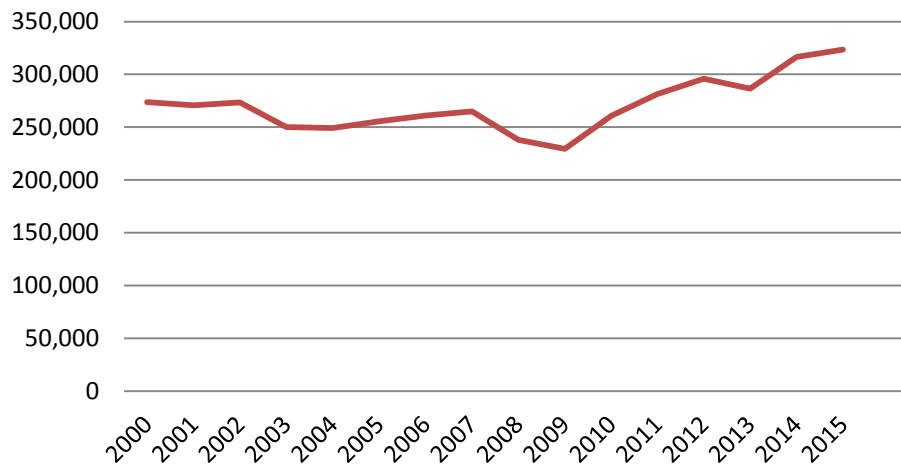
2. Trends in agency work in the UK

Identifying the number of agency workers in the UK is a complex task. Its high turnover and flexible nature has resulted in inconsistent definitions and a variety of methodologies. The Office for National Statistics (ONS) uses the Labour Force Survey (LFS)¹⁰ to estimate the number of temporary agency employees in the UK. As shown in Figure 1, ONS estimates show that the number of temporary agency workers in the UK experienced a slowdown during the financial crisis, with a 12% decline from 273,000 in 2007 to 241,000 in 2009. It then experienced a recovery, with the number of agency workers exceeding pre-crisis levels

¹⁰ The LFS is a nationally representative survey administered on a quarterly basis to a sample of around 40,000 households, or 100,000 individuals in the UK.

by 2011. With the exception of 2013, the number of temporary agency workers steadily increased ever since. Between July and September 2016 ONS estimates suggest there to be 302,000 temporary agency staff working in the UK, approximately 22,000 less than April to June and 14,000 less than a year earlier (ONS 2016a).¹¹

Figure 1: Number of Temporary Agency Workers in the UK (2000 to 2015)



Source: ONS 2016a.

Whilst some prominent authors in the temporary agency work literature advocate the use of the LFS to identify the number of temporary agency staff (see Forde and Slater 2014), others suggest it to likely lead to underestimations (BERR 2008). This is because the method crucially relies on workers' classification of themselves as temporary agency workers, despite the fact that some agency workers may lack awareness of their own employment status. Furthermore, since agency assignments are sometimes short and often considered a second or third job, respondents who have undertaken temporary agency work may not classify themselves as such.

A joint estimate by the UK Government and the Recruitment and Employment Confederation (REC) put the number of agency workers in the overall economy significantly higher, at around 1.2 million in 2014-15 (REC 2015). The most recent number is based on a sample of 573 UK recruitment firms, from which data was collected in June 2015, who were asked to report the number of agency workers on their payroll on a specified day in November. This may not, however, mean that these agency workers undertook any work during this period (Forde et al. 2008). Furthermore, the method is likely to include multiple-counting of workers who are signed up with several agencies (see Forde 2001; NASUWT 2012). Such criticism is reinforced by the literature, which suggests obtaining employment

¹¹ Due to seasonal variations in the number of agency staff, this report presents yearly results as annual averages of LFS quarterly data. At the time of writing this report, data were not yet available for all four quarters of 2016. Estimates for 2016 are therefore not included in this report so as not to give a potentially misleading impression of trends over time.

through several agencies is the norm rather than the exception. For instance, a survey of supply teachers found that only 33% of respondents were registered with only one agency. Instead, 35% were registered with two agencies, 17% with three agencies, and 16% to four or more agencies (NASUWT 2012). Furthermore, since the number of agency workers is recorded in November, it is likely to be affected by seasonal fluctuations (Forde et al. 2008).

Table 1 and Table 2 outline the trajectory of the most recent comparable estimates of the agency workers since 2005, according to the two methodologies. Despite their large size discrepancies both methodologies point towards similar trends: that the number of agency workers in UK economy experienced a slowdown during the financial crisis, and then a recovery (Figure 2). The REC approach, however, points towards a substantial larger percentage reduction in the number of agency temps during the financial crisis, estimating a 36% decline, from 1.38m in 2006-07 to 880,000 in 2009-10, with a relatively slow recovery period, only reaching 1.20m in 2014-15, still below the pre-crisis levels.

Table 6: Government and REC estimate of agency workers in the overall economy, March 2016.¹²

Year	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15
REC 000s	1,270	1,380	1,220	1,070	880	1,050	1,110	1,130	1,160	1,200

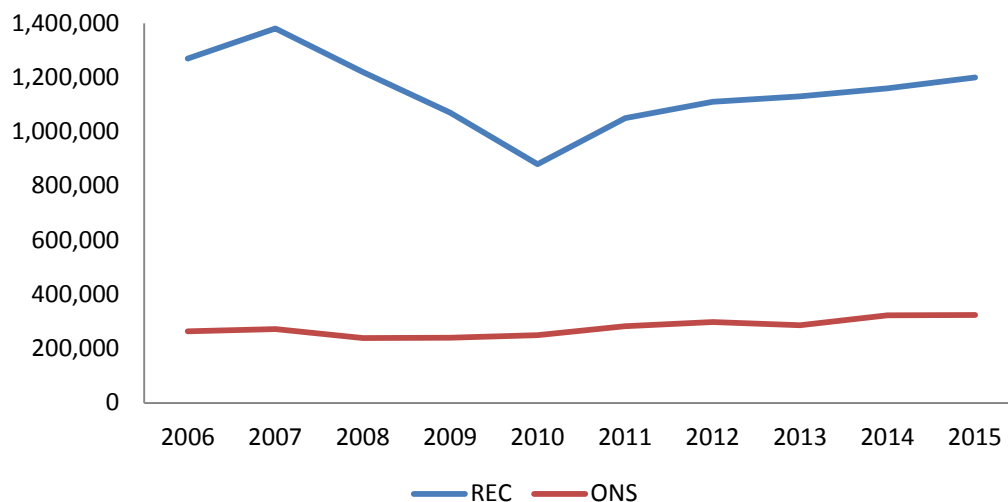
Table 7: ONS estimate of the number of agency workers in the overall economy¹³.

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
LFS 000s	264	273	239	241	250	283	299	287	323	324

¹² <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-23/32389/>

¹³ Annual averages of LFS quarterly data

Figure 2: Number of Agency Workers in the UK (2006 to 2015)



Source: Recruitment Industry Trends Survey 2014/15; ONS (2016a).

Recent analyses from the Resolution Foundation suggest there to be approximately 865,000 agency workers in the UK in 2015 (Judge and Tomlinson 2016) – a figure much higher than previous estimates (ONS 2016; Forde and Slater 2014). This difference in estimation comes from the inclusion of three additional categories of agency worker¹⁴, including 440,000 ‘permanent’ agency workers. Within this context of varying estimates of the number of agency workers in the UK generally, it is the purpose of this part of the review to identify and discuss the nature of agency working specific to the UK public sector.

While the LFS provides the UK’s primary measure of the number of people in employment as a whole, it does not provide a fully reliable measure of the total number of employees in the public sector. This is because LFS interviewees are widely recognised to incorrectly classify themselves as working in the public sector. LFS data is therefore thought to overestimate public sector employment, sometimes up to a million (ONS 2012). As a result, the figures presented in this report are likely to be significantly higher than those presented by the ONS (2016b), as well as those identified by the STRB and NHSPRB (OME 2016). This is furthered by limitations in the LFS in being able to select particular occupations groups / places of work specific to the remit of the relevant pay review bodies. Results should be therefore considered in light of this overestimation. Appendix 4 provides an overview of the identification of public sector jobs using the LFS.

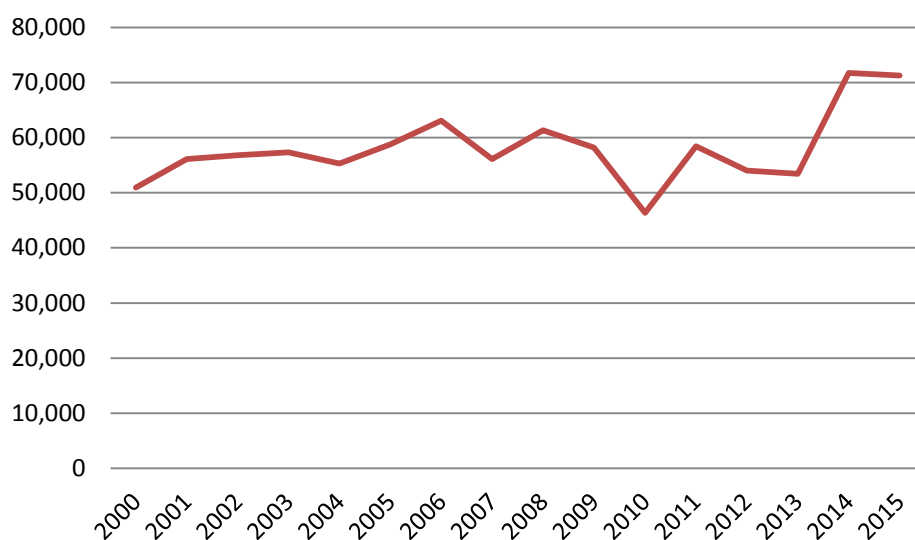
¹⁴ This includes those considered ‘permanent’ agency workers, individuals self-reporting to be paid by an employment agency who are not responsible for their own tax and/or NI, and agency workers in second jobs.

3. Trends in agency work in the UK public sector

To ensure the accuracy of our analyses of the use of agency staff in the UK public sector, our initial task was to ensure that our estimates of the overall number of agency workers in the UK were consistent with the current evidence base. As such, our analysis of the LFS follows the weight of evidence (ONS 2016; Forde and Slater 2012) and focuses on ‘temporary’ agency working only. Appendix 3 provides an overview of our methodology, and an account for variations between estimates.

LFS data shows that the number of temporary agency workers in the UK public sector has, by and large, followed trends seen in the wider labour market. As shown in Figure 3, the public sector saw a 17.4 per cent decrease in the use of temporary agency staff, going from 56,080 in 2007 to 46,336 in 2010. It then demonstrated significant recovery, with 71,272 identified in 2015.

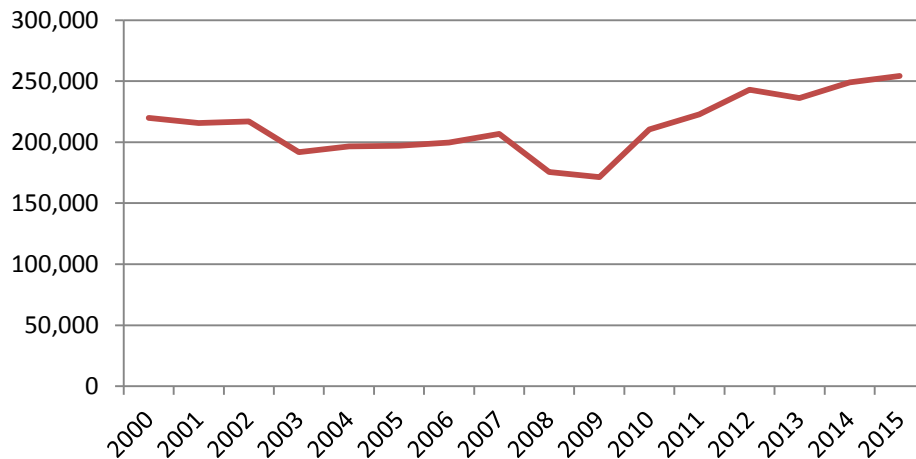
Figure 3: Number of Temporary Agency Workers in the UK Public Sector (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variable: PUBLICR

Figure 4 shows private sector use of temporary agency staff, and demonstrates similar overall trends, with the private sector experiencing an 18 per cent reduction from 206,786 in 2007 to 171,388 in 2009, then recovering to its highest level in 2015 (254,259).

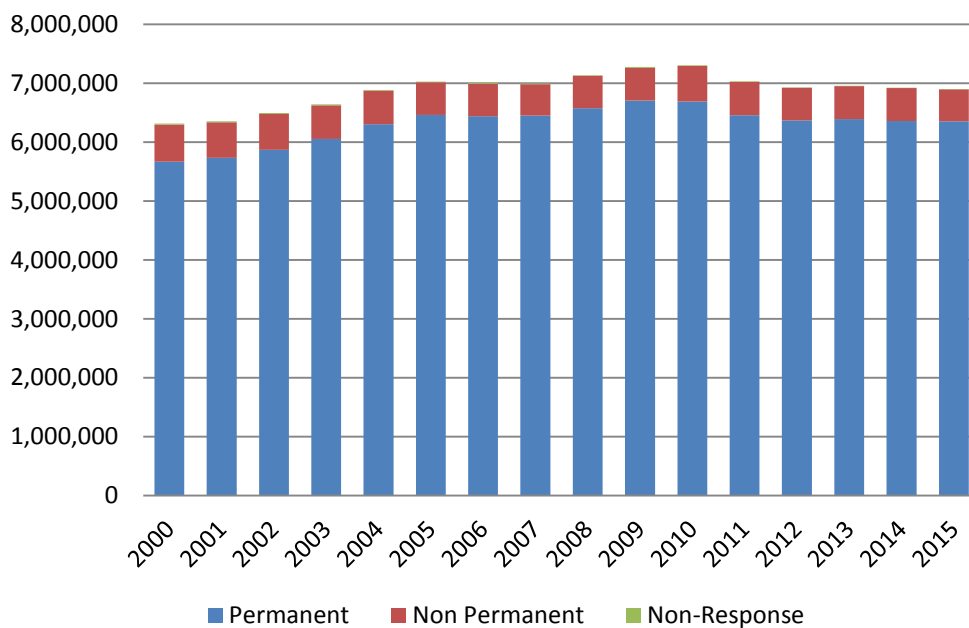
Figure 4: Number of Temporary Agency Workers in the Public and Private Sector (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variable: PUBLICR

Using LFS data Figure 5 shows broader public sector workforce trends and estimates there to have been a recent decline in total UK public sector employment. Having previously increased from 6.32 million in 2000 to a peak of 7.3 million in 2010, total public sector employment was estimated to stand at 6.9 million in 2015, the lowest levels seen since 2004. Within this context, LFS data estimates an overall decline in the proportion of reported non-permanent jobs in the UK public sector, falling from a peak of 9.9 per cent of all public sector jobs in 2000, to 7.9 per cent in 2015.

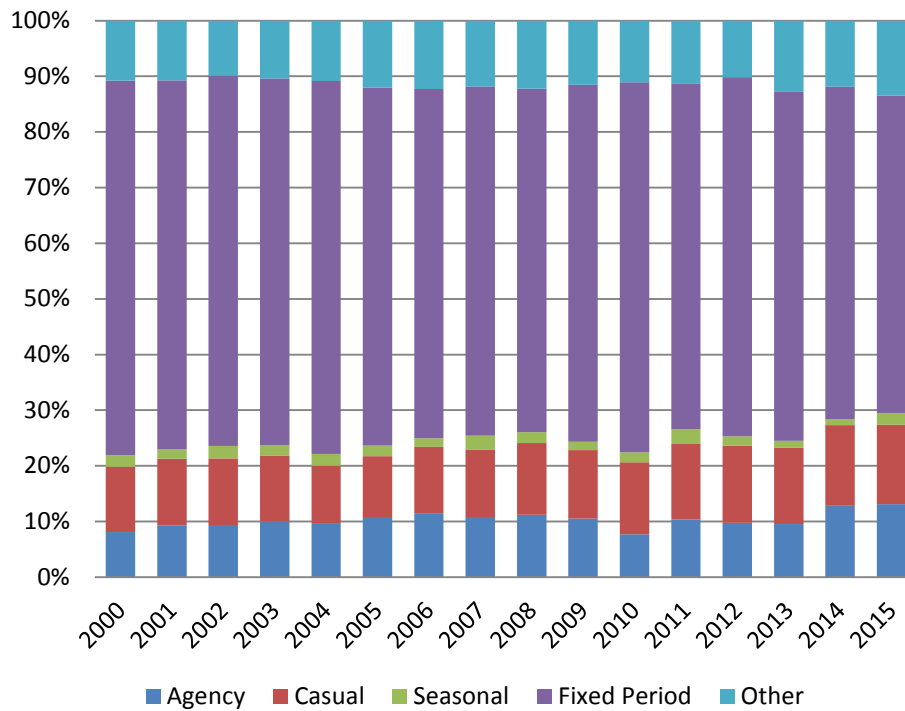
Figure 5: Composition of Jobs in the UK Public Sector (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variables PUBLICR; JOBTYP. 'Non-response' refers to the difference between total reported public sector employment (PUBLICR) and reported permanence of work (JOBTYP).

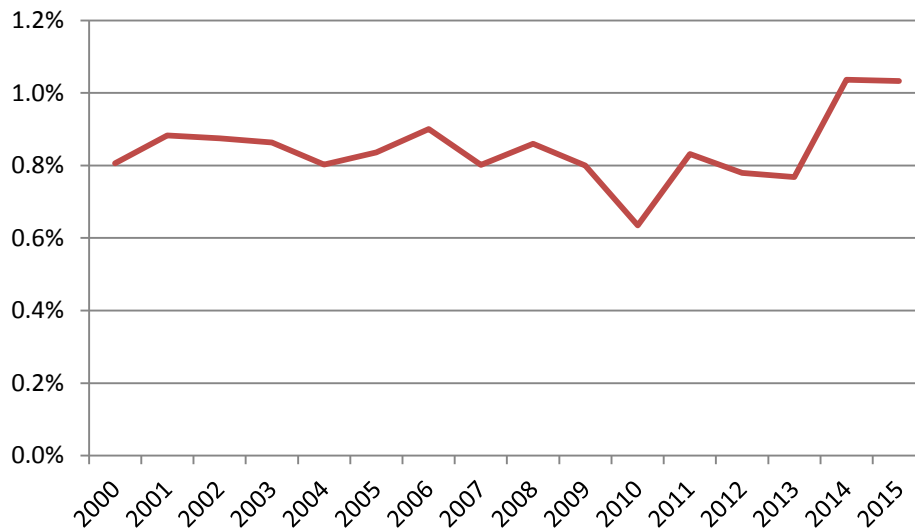
Despite this overall decrease in the number of non-permanent jobs in the UK public sector, the proportion of which were supplied via an agency has increased. This is demonstrated by Figure 6 which shows the proportion of non-permanent jobs supplied via an agency to have increased from 8 per cent in 2000 (and in 2010) to 13 per cent in 2015. Figure 7 shows reported temporary agency working accounted for approximately 1 per cent of the total UK public sector workforce in 2015, an increase from a low 0.6 per cent in 2010.

Figure 6: Composition of Non-Permanent Forms of Work in the UK Public Sector (2000 to 2015)



Source: NIESR analysis, Labour Force Survey. Main variable PUBLICR; JOBTMP

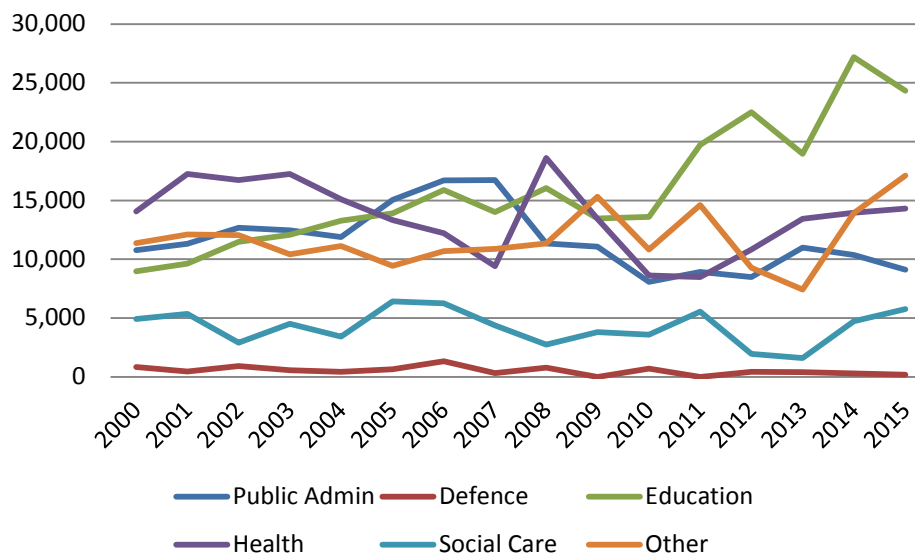
Figure 7: Temporary Agency Jobs as a Proportion of the UK Public Sector Workforce (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variable PUBLICR; JOBTMP

Figure 8 identifies trends in the use of temporary agency workers across different public sector industries. Although not presented within the context of each industry’s broader workforce trends, it shows education to have experienced the largest numerical increase in use of temporary agency staff.

Figure 8: Use of Temporary Agency Workers across the UK Public Sector (2000 to 2015)



Source: NIESR analysis, Labour Force Survey. Main variables PUBLICR; INDS92SM / IN0792SM.

REC’s Recruitment Industry Trends Survey 2014-15 provides detailed numbers of daily placements for specific industries, including the two sectors which are the primary focus of

this report, namely education and health care (see Table 3 below). Note that both these categories include both private and public health and education providers in REC's survey.

Table 8: Temporary/contract placements by occupation in the whole UK economy including public sector

Occupation	2014/15 Average daily number of placements	2014/2015 % of average daily placements	2013/14 to 2014/15 (% change)	2007/08 to 2014/15 (% change)
Other Industrial/Blue Collar	241,100	20.1%	0.0%	4.0%
Technical/Engineering	163,900	13.7%	-6.9%	123.9%
Secretarial/Clerical	146,300	12.2%	-11.4%	49.9%
Computing/IT	114,000	9.5%	0.9%	33.5%
Education/Teaching	100,600	8.4%	71.2%	-25.1%
Construction	81,600	6.8%	70.8%	-52.3%
Drivers	66,000	5.5%	18.0%	-9.8%
Nursing/Medical/Care	75,900	6.3%	9.1%	-31.0%
Accounting/Financial	60,800	5.1%	48.8%	66.1%
Sales/Marketing	43,000	3.6%	4042.8%	N/A
Hotel/Catering	33,500	2.8%	-43.7%	-60.8%
Professional/Managerial	29,100	2.4%	12.3%	-20.5%
HR	9,000	0.8%	258.4%	N/A
Other	33,100	2.8%	N/A	N/A
Total	1,198,000	100%	3.6%	-1.8%

Source: Recruitment and Employment Confederation (2015): Recruitment Industry Trends Survey 2014/15.

Overall, the survey shows that education/teaching accounted for 8.4% of all placements with an average daily number of placements of 100,600 – an increase of 71.2% since the year before, but still 25.1% below pre-recession levels in 2007/08. Nursing/medical/care placements accounted for 6.3%. In average daily placements this amounted to 75,900 – a 9.1% yearly increase, but it has still not reached pre-recession levels, as it still amounted to a 31% reduction since 2007/08. By total turnover, nursing/medical/care and education/teaching have the fifth and seventh highest revenues respectively in the recruitment industry, and in particular nursing/medical/care has the second highest average turnover per worker, only surpassed by technical/engineering placements.

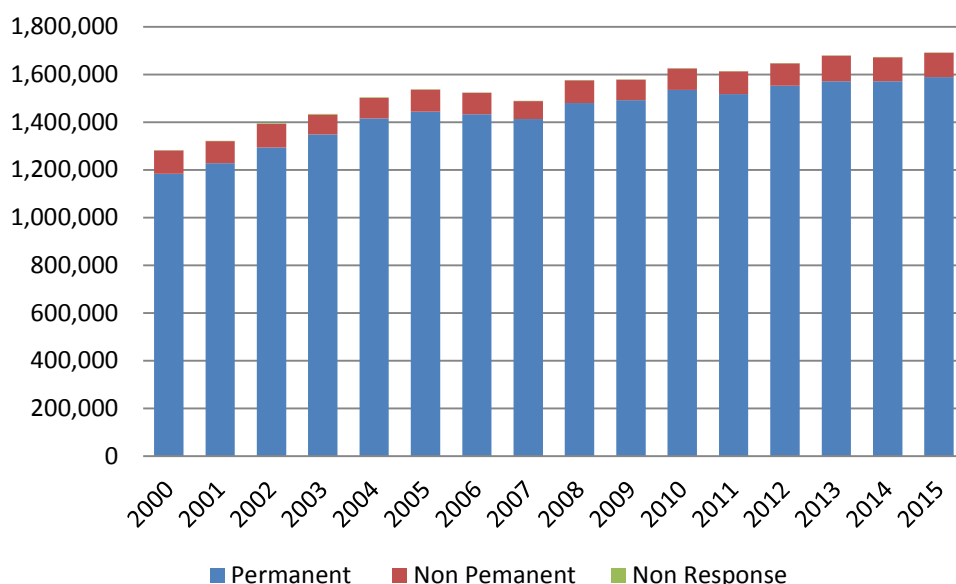
Having now provided a brief overview of trends in the use of temporary agency staff in the wider UK public sector, this report will now examine the public health and education sectors in turn.

4. Trends in agency work in public health sector

Similar to the uncertainties in estimating the overall number of agency workers in the wider UK economy, there are no official government figures showing the number of agency staff

working in the public health sector¹⁵ Figure 9 uses the Labour Force Survey to outline the composition of health jobs in UK public sector¹⁶ and shows that while the overall number of jobs has increased over time from 1.28 million in 2000 to 1.69 million in 2015, the proportion of which are non-permanent has decreased, from 7.6 per cent (97,526) in 2000 to 6 per cent (102,006) in 2015.

Figure 9: Composition of Jobs in the UK Health Public Sector (2000-2015)



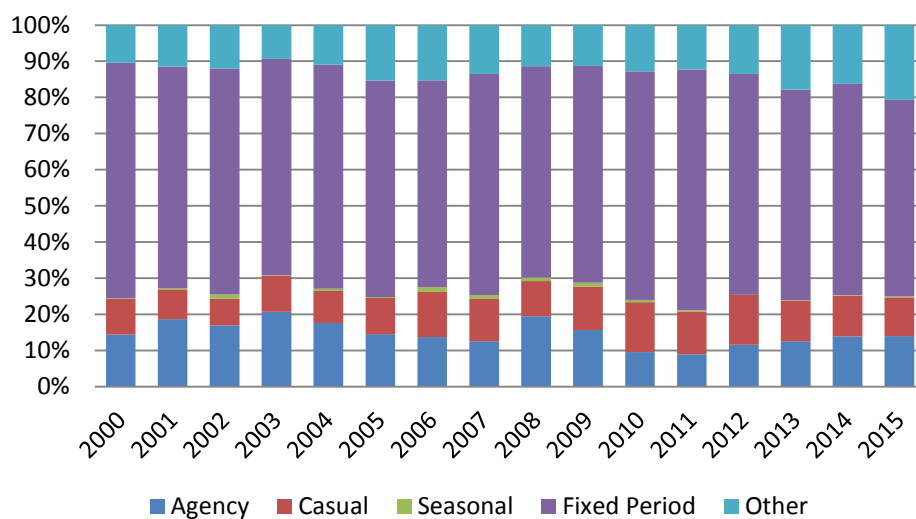
Source: NIESR analysis, Labour Force Survey. Main variable: PUBLICR; JOBTYP; INDS92SM / IN0792SM; INDM92M / INDC07M. 'Non-response' refers to the difference between total reported public sector employment (PUBLICR) and reported permanence of work (JOBTYP)

Figure 10 outlines the composition of all reported non-permanent jobs in the NHS and shows temporary agency jobs as proportion of all reported non-permanent has fluctuated significantly: ranging from a high of 21 per cent in 2003 (17,256) to a low of 9 per cent in 2011 (8,472), and settling at 14 per cent in 2015 (14,316). Figure 11 demonstrates temporary agency working as proportion of the total reported public sector health workforce, and shows it to account for 0.8 per cent of the total NHS employment in 2015.

¹⁵ The data from NHS Digital, previously Health and Social Care Information Centre (HSCIC), does not include information on staff employed by agencies or banks. Addicott et al. (2015) note that this represents a large data gap, which inhibits effective workforce planning.

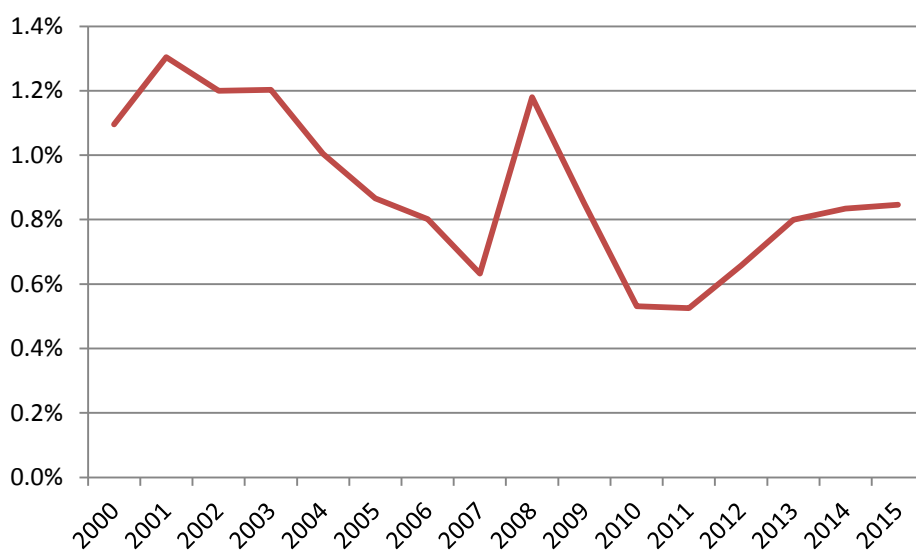
¹⁶ Appendix 4 provides an overview of the identification of public sector jobs using the LFS.

Figure 10: Composition of Non-Permanent Jobs in Public Sector Health (2000-2015)



Source: NIESR analysis, Labour Force Survey. PUBLICR; JOBTMP.

Figure 11: Temporary Agency Jobs as a proportion of reported public sector health workforce (2000-2015)



Source: NIESR analysis, Labour Force Survey

Whilst the number of agency staff in the NHS is not officially recorded, government publications sometimes report agency staff spending and provide a fairly clear picture of the trajectory of agency staff spending in NHS England in the new millennium. In the early-2000s, agency staff spending increased substantially, with reports citing the increase in demand for staffing combined with unsystematic recruitment practices. In the mid-2000s, agency staff spending declined, commonly attributed to several government interventions aimed at managing and regulating the market for temporary agency staff, and reducing reliance on this group of workers. In recent years spending on temporary agency staff has

started accelerating again. Many reports attribute this in part to an increase in demand for nursing staff following the Francis report¹⁷, alongside government squeeze on earnings for permanent staff in the NHS making agency work a more attractive proposition. The impact of the recently introduced price caps points towards a reduction in hourly rates, but it is not yet clear that the underlying issue of staff shortages has been addressed. These developments and its explanations will be discussed in detail in the sections below.

4.1. *The growth of NHS agency working in the 1990s and early 2000s*

Following investments in the NHS by the Blair administration, the demand for staff in the NHS significantly increased after 1997, with a substantial proportion of this demand being met by private recruitment agencies (Kirkpatrick et al. 2011). Meanwhile, a lack of systematic and centralised control over procurement practices in the NHS made the sector a lucrative market for agencies, allowing them to offer high wages and charge high commission fees (Hoque et al. 2008). Furthermore, in this period several agencies took advantage of relatively unsystematic agency recruitment practices in the NHS, by submitting inflated invoices to trust finance departments, charging different commission rates to each trust, compromising on background and health checks, and placing overqualified nurses on assignments (see Lonsdale et al. 2010). These factors, combined with demand increasingly outstripping staff supply, contributed to driving up temporary staff expenditure in the NHS (Kirkpatrick et al, 2011). For instance, between 1997 and 2003 expenditure on temporary nurses (largely agency nurses) increased by 150% in real terms, from £216m to £589m (Lonsdale et al. 2010).

4.2. *The decline in NHS agency working during the 2000s*

The period of expansion during the 1990s and early 2000s was followed by a period of decline. Expenditure on agency nursing staff as a percentage of total nursing expenditure fell from 6.8% in 2001-02 to 3.3% in 2004-05 (Lonsdale et al. 2010). Reduced spending on agency staff can be attributed partly to the financial pressures on trusts, which encouraged them to tightly control expenditure, according to reports by the National Audit Office (NAO) in 2006 and 2016. However, financial pressures only account for part of the decline, as there was also a switch away from using agency staff to cover temporary gaps. Whilst 41% of temporary staff spending in 2000 was on agency staff, this proportion had decreased to 30% by 2004 (Healthcare Commission 2005). According to a recent report by the NAO (2016), this development can largely be explained by a number of government initiatives, which sought to address the overreliance on temporary agency workers in the NHS. These included attempts to manage and regulate the market through framework agreements, preferred supplier lists and managed vendor services, as well as attempts to internalise flexibility with the promotion of internal staff banks (where an entity managed by the NHS trusts essentially act as an internal agency) and the establishment of the NHS Professionals

¹⁷ After an inquiry into failings at Mid-Staffordshire NHS Foundation Trust, Robert Francis QC published a final report on 6 February 2013, which highlighted concerns about staffing levels and led to regulation on safer staffing.

(NHSP) who manage temporary staffing banks on trusts' behalf. These initiatives are briefly discussed in the following paragraphs.

In the early-2000s, the NHS Purchasing and Supply Agency (PASA) developed the concept of “framework agreements” that formally established the price for agency cover, as well as minimum compliance standards. Practically, agencies signed up to framework agreements through online “reverse” auctions, in which the lower an agency bid, the greater were its chances of getting onto a framework agreement (Kirkpatrick et al. 2011). In addition, a majority of trusts entered into so-called “preferred supplier” arrangements, in which one agency functioned as the primary supplier or “master vendor”, while other agencies acted as secondary suppliers. Volume discounts would be negotiated with the “master vendor”, whilst secondary suppliers filled the vacancies the “master vendor” could not fill (Kirkpatrick et al. 2011). Overall, such arrangements are thought to have reduced agency costs substantially, by limiting the role for agencies to set pay for temporary agency workers and reducing the scope for agency opportunism (Forde and Slater 2011; Hoque et al. 2008). For instance, Lonsdale et al. (2010) identify a “framework effect”, finding that NHS trusts with higher usage of framework agreements incurred lower pay and commission rates. Furthermore, basic standards and practices among agencies are also thought to have improved, as these are included as conditions for entering framework agreements. Some authors, however, caution that master vendor contracts represent a ‘mass production approach’ to agency placements, which may produce poorer job placement matching by squeezing out providers with localised knowledge, and cutting the personal relationship between clients and agencies (Hoque et al. 2008).¹⁸

Parallel to these developments, management practices within trusts were reformed, with a centralisation of recruitment practices and stricter rules requiring ward managers to present the case for the need for agency cover (Kirkpatrick et al. 2011). In addition to managing the market, the creation of the NHS’s own internal agency NHS Professionals (NHSP) sought a way of internalising flexibility (Tailby 2005; Ruyter 2007), effectively acting as a preferred supplier for many trusts, who would only go to private recruitment agencies if NHSP were unable to fill a vacancy (Hoque et al 2008). Finally, the period saw a more extensive use of internal banks (Tailby 2005), helped by efforts to improve banks and require ward managers to prioritise bank staff over agency staff (Kirkpatrick et al. 2011).

4.3. Recent years

More recent economic and supply/demand developments have again contributed to an increasing use of agency staff in the NHS in England. As a percentage of total staff expenditure, agency staff costs increased from 3.4% in 2011-12 to 7.0% in 2014-15 (NHS Improvement 2016). Overall, spending by trusts on agency staff reached £3.3 billion in 2014/15, up from £2.2 billion in 2009/10, a real term increase of 50% over a five-year period (NAO 2016). The most recent figure is the one from the 2015/16 financial year, where NHS

¹⁸ See Appendix 7 for a typology of the different contractual arrangements associated with agency work.

England is estimated to have spent £3.7b (NHS Improvement 2016). A data sample of trusts suggested that the majority (around three-quarters) of the increase was due to increasing use of agency workers, whilst a smaller part was due to higher hourly rates (NAO 2016).

A commonly cited factor for the increasing use of agency staff in the NHS is the public inquiry led by Robert Francis QC in 2013 into the failings at Mid-Staffordshire NHS Foundation Trust, which highlighted concerns about the nurse staffing levels and its relationship to quality of care. The review led to a regulatory focus by the Care Quality Commission (CQC) on safer staffing and a resultant increase in demand for particularly nursing staff (Lafond et al. 2016). To meet this demand, NHS healthcare providers have increasingly turned to temporary agency staff in the post-Francis period (NHS Improvement 2016). Overall, NHS Professionals' data show that the number of temporary nursing hours requested per month doubled between April 2012 and April 2015 (NAO 2016). This unprecedented rise in demand for nurses had not been anticipated in the NHS training forecasts and could not be entirely mitigated by more short-term solutions such as recruitment from overseas (Monitor 2015).

Besides from the increasing demand for nursing staff, there may also have been other factors at play in the increasing use of agency staff in this period. In particular, in recent years government pay policies have resulted in declining real earnings for permanent employees in the NHS (and across the public sector more generally). Between 2009-10 and 2013-14, NHS average earnings fell in real terms by 0.51% per year compared to a long-run average annual growth of 2% (Lafond et al. 2015). Similarly, a recent analysis of median annual earnings among NHS nursing staff showed that qualified nurses have suffered between 6.3% and 10.5% real terms pay reductions since 2011 (Royal College of Nursing 2015). Meanwhile, the cost of employing temporary staff in the NHS has increased, because agency workers have not been subject to the same pay constraints (Lafond et al. 2016). The potential importance of such factors is backed up by the fact that the upwards trend in agency staff expenditure had started already in April 2012, well before the publication of the Francis Inquiry report in February 2013 (Addicott et al. 2015).

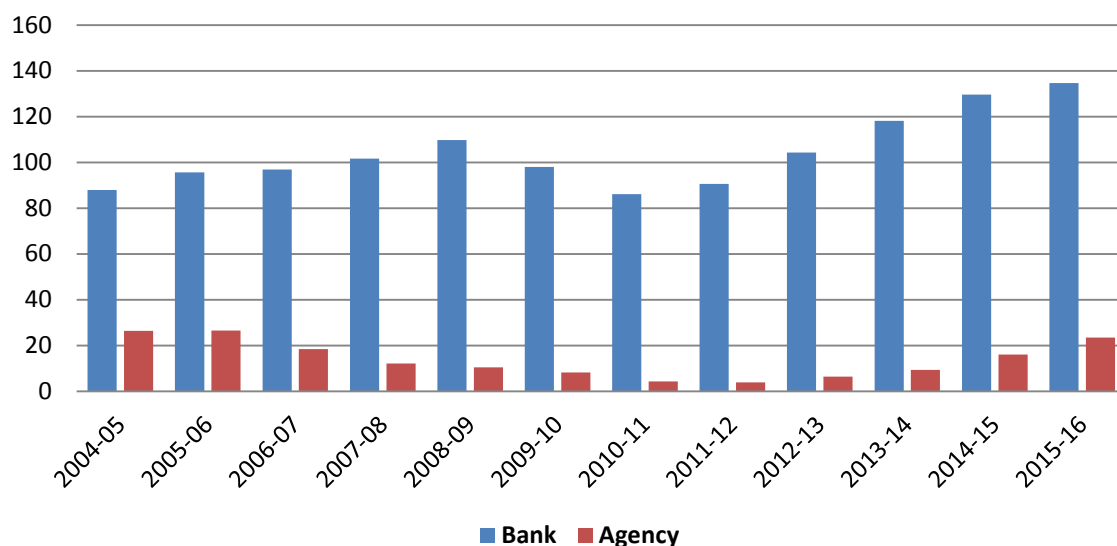
4.4. Scotland, Wales and Northern Ireland

In contrast to NHS England's workforce statistics, the NHS Scotland equivalent data source, published yearly by ISD Scotland, includes a breakdown of the usage of nursing and midwifery agency and bank staff (in terms of cost, hours and WTE). The data show that agency staff represent a very small proportion of the overall NHS workforce in Scotland, i.e. 0.4% of WTE hours in 2016 although this is higher than the 0.1% of WTE hours in 2011. As illustrated by the below graphs, bank shifts amount to a much larger proportion of the temporary and the overall NHS workforce. As a proportion of overall staff expenditure, bank staff increased from 5.0% to 6.5% of WTE hours during the same period.

The two figures below show the hours worked and spending on agency and bank nursing and midwifery staff in NHS Scotland. Generally, the data show a U-shape, with declining use

of, and spending on, agency staff between 2004 and 2012, but then an increasing trend in recent years. In particular, the spending on agency staff has increased almost five-fold, from around £3.9 million in 2011-12 to £23.5 million in 2015-16.

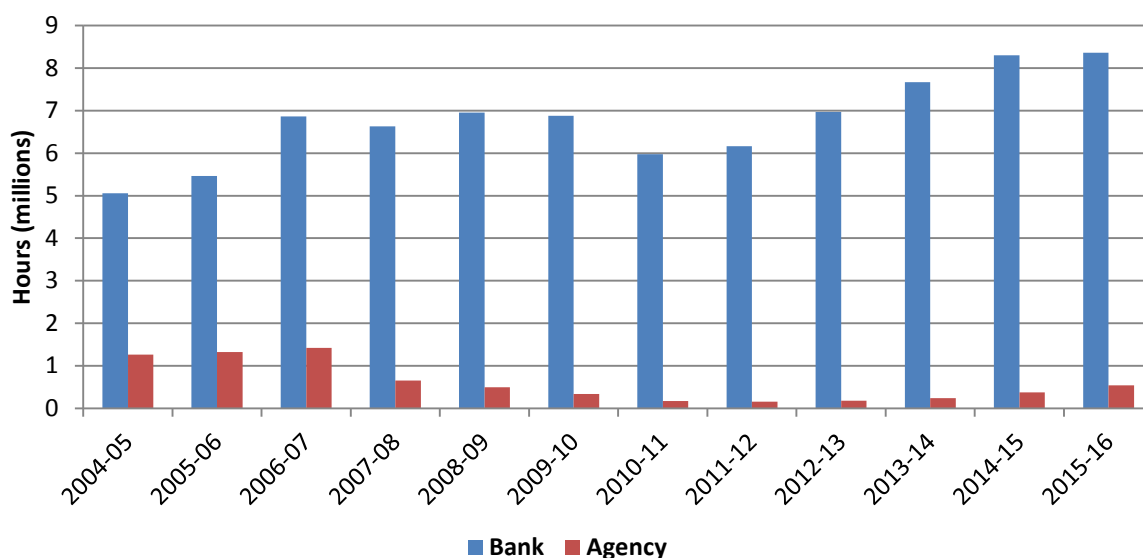
Figure 22: Spending on agency and bank nursing and midwifery staff in NHS Scotland (£m).



Source: ISD Scotland

Meanwhile, agency hours rose by 243% over the same period. This is a lower percentage increase than the rise in expenditure, which shows that the increase in spending was caused both by an increase in the use of agency workers, as well as increasing agency wages and fees.

Figure 13: Hours worked by agency and bank nursing and midwifery staff in NHS Scotland (hours, millions)



Source: ISD Scotland

Similar to England, no data on the number of agency workers are regularly or routinely made available in Wales and Northern Ireland (see Buchan and Seccombe 2012). It is evident, however, that these countries have experienced the same upward trend in agency spending. For instance, a recent FOI request revealed that Welsh health boards collectively spent £128m on agency doctors and nurses in 2015/16, compared to £80m the previous year, an increase of around 60%.

In Northern Ireland, the agency and locum expenditure between 2012 and 2015 also shows a rising trend. Spending on medical locums increased by 63% between 2010/11 and 2014/15, whilst nursing agency spend increased by 75% during the same period. At the time of the data gathering, halfway through the 2015-16 accounting period, both spends looked on course to surpassing previous year's expenditure.

Table 9: Expenditure on agency and locum staff from 2010-2016 in Northern Ireland (£m)

	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16 (Apr – Sep)
Medical & dental	23.6	23.1	32.4	32.6	38.5	20.2
Nursing & midwifery	6.9	8.6	9.9	11.1	12.1	7.3

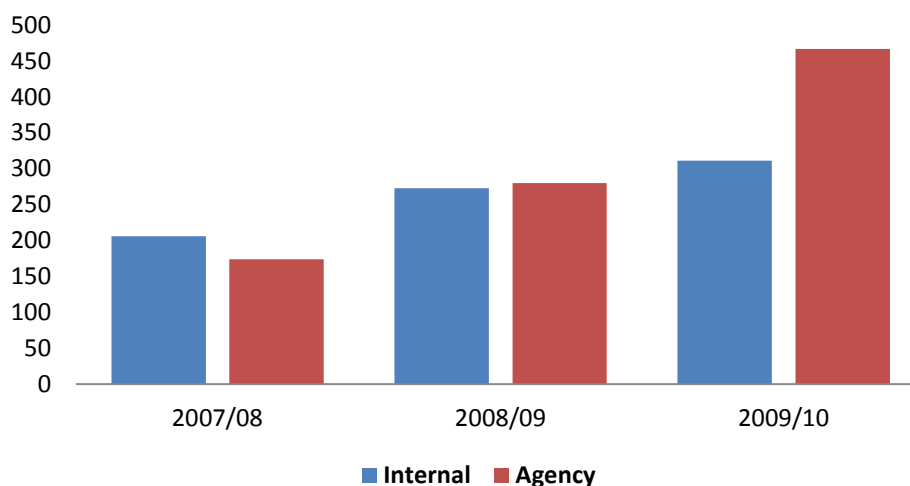
Source: NHS Pay Review Body 29th Report 2016; Northern Ireland Executive evidence submission.

4.5. Spending on medical locums

The above figures for Northern Ireland indicate that a large proportion of agency spending in the NHS is on medical locums. This is also true for England, where Liaison (2016) estimated, based on a sample of 58 trusts and Health Boards across the UK, that medical locums accounted for 33% (£1.2b) of NHS agency spending in England in 2015/16, with medical bookings representing over 2.3 million hours worked and £160m in commission fees.

Similarly, the Royal College of Surgeons conducted a study in 2010 on the use of medical locums in England. Based on an analysis of 96 FOI responses from acute NHS trusts, the report estimated the annual spend on medical locums between 2007 and 2010. This included a breakdown into the spending on internal locums (those directly employed by the NHS and paid at set national rates) and agency medical locums (where NHS Trusts pay an agency a charge rate for the locum doctor, who is in turn paid by the agency). Figure 14 below shows a total increase in medical locum spend in England over the 3 years. In particular, there is a significant increase in the spending on agency medical locums, which more than doubled in the short period.

Figure 14: Spending on internal and external agency medical locums in England (£, millions)



Source: Royal College of Surgeons (2010)

In a more comprehensive study, Audit Scotland published a report in 2010 on the use of medical locums in Scotland, as a follow-up on a previous report on locum doctors by the Accounts Commission in 1998. The report shows that NHS boards in Scotland spent approximately £47m on locum doctors (both internal and agency) in 2008/09, or 4.3% of the total medical staffing expenditure in that year. This amounted to approximately a doubling of medical locum spending compared to 1996-97 in real terms.

According to the report, agency locums accounted for 57% of expenditure on locum doctors in 2008/09, a slight increase compared to a previous report's estimate of 50% in 1996/97. The report argues that the use of agency locum doctors had increased at a faster rate in the 3 years prior to the report than internal locum spending. This is driven by workforce planning issues, such as an increasing number of vacancies and the implementation of the 48-hour EU Working Time Directive. The report noted that most requests for agency locum doctors were to cover vacancies and planned absences, such as annual leave and study leave. The report also shows a breakdown of locum doctor expenditure by speciality by NHS board in 2008-09, which shows that a majority of expenditure is accounted for by medical specialities, surgical specialities, and to a smaller extent, psychiatry – but with large differences between NHS boards.

4.6. Price caps, spending ceilings and mandatory frameworks

In response to the rising agency staff expenditures, the UK government introduced a number of initiatives in September and November 2015, which took full effect in April 2016. The rules were intended to “support trusts when they procure workers from agencies and to encourage staff to return to permanent and bank working” (Monitor 2015b).

The rules require trusts to:

- comply with a ceiling for total agency expenditure;

- use approved framework agreements to procure all agency staff;
- and procure all agency staff at or below specific price caps.

The expenditure ceilings are calculated based on a trust’s current agency spending as a proportion of total staff spend.

Table 10: Expenditure ceilings on trusts’ agency spending.

Current agency spend as a percentage of total staff spend	Required reduction in agency spend
Above 4.6%	35%
3% - 4.6%	0-35%
At or below 3%	0%

Source: NHS Improvement (2016)

The price caps on agency spending were introduced in November 2015. They apply to all agency-sourced medical staff (including dental staff), nursing and midwifery staff, and all other clinical and non-clinical staff. It does not, however, apply to permanent and bank staff, meaning, in theory, trusts could increase internal bank rates to offer a more attractive package. It was expected, however, that trusts would strive to maintain their bank rates at an “appropriate level” and mentioned the possibility of introducing price caps on bank workers if bank pay rates rose significantly. The price caps took effect from 23 November 2015 and were gradually reduced to 55% above the basic substantive hourly rates for all staff, as set out in Table 6 below.¹⁹ The 55% price cap takes into account holiday pay (annual leave and bank holidays), employer National Insurance contributions, a nominal employer pension contribution and a “modest agency fee.” As such, Monitor (2015: 8) writes that “as of 1 April 2016 an agency worker should not be rewarded more than an equivalent substantive worker”. Whilst Table 6 below shows how the price cap was gradually implemented in terms of percentages above basic pay, Appendix 8 includes detailed tables of how this translates into maximum hourly rates for all grades of medical, dental, and all other clinical staff (for both core and unsocial hours).

Table 6: Price caps as a percentage above basic substantive hourly rates

	Max. charge from 23 Nov 2015	Max. charge from 1 Feb 2016	Max charge from 1 April 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	55% above basic	55% above basic

Source: Monitor (2015)

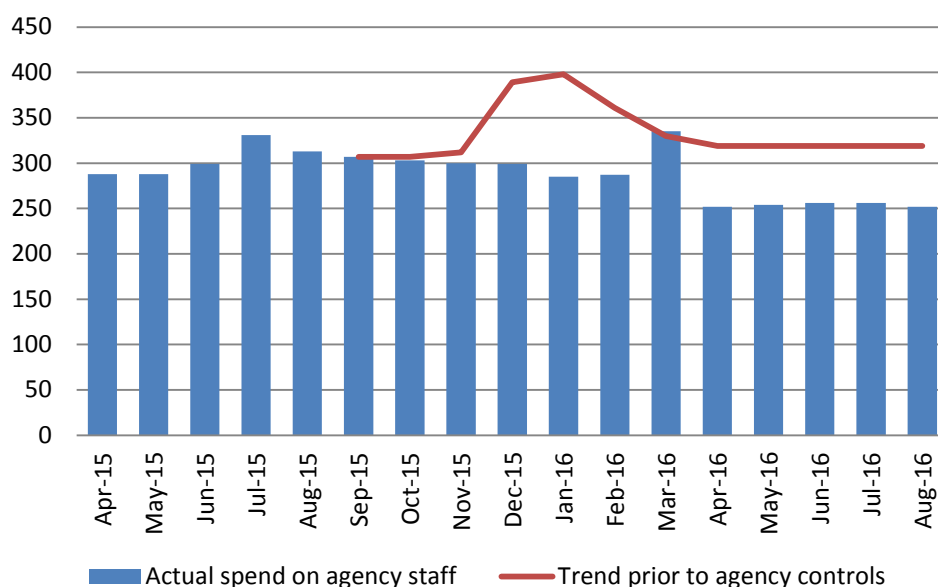
¹⁹ Appendix 8 includes detailed tables of the maximum hourly rates for all medical, dental, and all other clinical staff.

Finally, from 1 April 2016 NHS trusts are required to procure all agency staff through a list of approved framework agreements, which is intended to ensure the embedding of price caps, effectively banning the use of staffing agencies outside of approved price and contractual frameworks.²⁰ This measure could potentially have a big impact, as a study by Panniker (2015), found that 55% of surveyed NHS managers had used agencies outside NHS approved framework agreements in the 3 months before November 2015.

4.7. The impact of the price caps

It is still too early to comprehensively assess the effects of price caps on agency spending in the NHS. An impact assessment prior to policy implementation suggested that the price caps could deliver savings of around £200m under a cap of 100% above permanent staff rates and £370m under a 55% cap, assuming a 70% compliance rate (Monitor 2015a). Preliminary evidence from October 2016 suggests that the agency rules have had an impact on spending. 73% of NHS trusts have successfully reduced their agency spending, and over half of these trusts have reduced their agency spending by more than 25% (NHS Improvement 2016). By comparing their pre-cap projections of agency spending (the red line in Figure 15 below) with the actual agency spending after the cap was implemented in September 2015 (the blue bars in Figure 15), NHS Improvement shows that agency spending has been reduced, estimating that the NHS has saved up to £600 million since October 2015 during the first year of the measures.

Figure 15: Forecasted agency spend prior to the implementation of agency rules (red line) compared to actual monthly agency spending (blue bars) in NHS England (£ million)



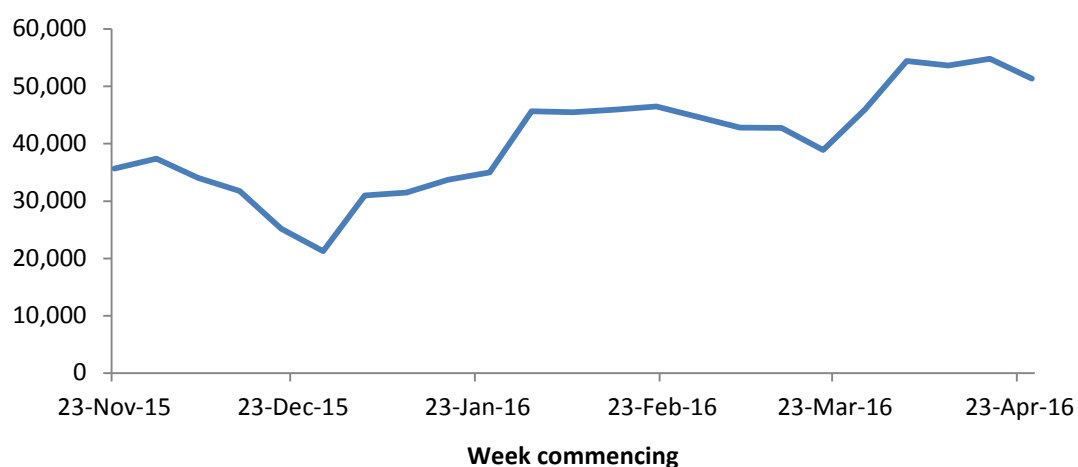
Source: NHS Improvement (2016). <https://improvement.nhs.uk/news-alerts/agency-caps-one-year-600m-saved-nhs-spending-still-too-high/>

²⁰https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509273/Framework_approval_notice_21_3_2016.pdf

NHS Improvement highlights in their preliminary assessment that the average price paid for an agency nurse has dropped by 18%. They do note, however, that medical agency staff are still “able to negotiate their own individual fees, often at prices well above the cap” (NHS Improvement 2016: 1). In their initial impact assessment, Monitor (2015) acknowledged that it could be more problematic to reach the capped rates among certain staff groups such as medical locums, as well as in geographically-isolated trusts and in trusts with reputational difficulties. Monitor (2015) argued that medical locums tend to have a higher supply elasticity than agency nurses, as they tend to be more willing to travel longer distances for assignments and their international options are greater. They also have more domestic outside options, including in private healthcare and with management consultancies who work with healthcare providers.

A number of reports emphasise that the price caps have been consistently violated by many NHS trusts. Under the rules, there is a “break-glass” clause allowing trusts to breach the price cap on exceptional safety grounds to maintain patient safety. Data released in response to a FOI request shows that the number of weekly breaches is substantial, and furthermore the number has increased in both February and April, when the price caps were tightened (Monitor 2016).

Figure 16: Number of “break-glass” clauses used by trusts between November 2015 and April 2016.



Source: Monitor 2016 FOI response.

These breaches reflect the anxiety among NHS trusts that adhering to the government’s proposals would make it impossible to maintain safe staffing ratios (Smith Institute 2015; Appleby et al. 2016). This concern is supported by surveys conducted since the introduction of the price caps, which indicate that the number of unfilled shifts have risen since the beginning of the year (NHS Improvement 2016). Another study shows that trusts that work together have experienced more success in achieving the capped rates, preventing agency workers from moving to a nearby trust for more money, and thus undermining the incentive

for the individual trust to break the rules (Liaison 2016).²¹ Finally, the NHS Professionals (2016) show that whilst hourly agency rates have been reduced, agency usage and demand are still high and have not been reduced substantially. Generally, the view expressed in several recent reports (see for instance NAO 2016; National Health Service Pay Review Body 29th Report 2016; Public Accounts Committee 2016) is that the price caps and the measures by themselves do not solve the underlying and wider workforce planning issues.

When NHS Improvement in October 2016 announced the cost savings during the first year of the agency rules taking into effect, they recognised that agency spending was still high, with the sector spending £250m a month on agency staff. Therefore, they announced a new round of measures to reduce spending, including publication of league tables of agency spend of best and worst performing trusts, collecting anonymised information on the 20 highest earning agency staff, per trust, and of long-standing agency staff; and additional reporting to NHS Improvement, including shifts that cost over £120 per hour. Our primary research was conducted before this announcement, and as such it does not include any reactions and views on these measures.

5. Trends in temporary agency working in public education sector

5.1. Teaching supply cover options

Evidence from the Audit Commission (2011) suggests that there had been little change in English schools' proportion of overall spending on supply teachers between 2003 and 2010, with supply teaching expenditure consistently making up around 5% of total teacher spending. However, the literature points towards a substantive shift in teaching supply cover in England, with an increasing proportion of supply teachers obtaining employment through private recruitment agencies rather than obtaining employment through local authority supply pools and directly through schools.

This finding is established by a variety of government reports and survey studies. For instance, the Audit Commission (2011) finds that the proportion of supply teachers that were supplied through agencies rose from 43% to 54% between 2003 and 2010. Two surveys of supply teachers from the National Association of Schoolmasters Union of Women Teachers (NASUWT) in 2012 and 2014, respectively, indicate the same trend, with 63% of respondents obtaining employment via agencies in 2014, up from 55% in 2012. Similarly, National Union of Teachers (NUT) membership surveys of supply teachers have recorded the proportion of supply teachers who secured work through recruitment agencies, local authority supply pools or directly with the schools. The results of the surveys are summarised in the table below.

²¹ <http://www.nhsconfed.org/blog/2016/07/how-cooperation-makes-agency-rules-work>

Table 7: Routes to obtain work as a supply teacher

	2010	2014	2016
Agencies	50%	67%	77%
LA supply pools	11%	8%	4%
Directly	39%	25%	17%

Source: NUT Supply Teacher Surveys (2010, 2014, 2016)

In an older survey study, Hutchings et al. (2006) found that 56% of supply teachers obtained work directly from schools, 31% mainly through private supply agencies, and 9% through local education authority supply services, indicating that there has been a substantial shift towards recruiting supply teachers from private agencies.

5.2. Spending on agency supply teachers

Since 2010, Department for Education (DfE) data shows that the spending on agency teaching staff has continued to rise in England, both in absolute terms and as a proportion of total supply teaching spending. This is true both for local authority maintained schools and academies.

Table 8: Agency supply teaching staff expenditure for local authority maintained schools and academies in England.

Year	2010/11	2011/12	2012/13	2013/14	2014/15
LA maintained schools (spending in £ millions)	483.2	431.8	469.1	523.2	559.6
Proportion of total supply spend (%)	53.3%	56.3%	63.1%	64.5%	68.2%
Academies (spending in £ millions)	N/A	47.8	152.6	225.5	295.3
Proportion of total supply spend (%)	N/A	48.4%	63.0%	63.7%	69.7%

Source: Authors' own calculations based on DfE school finance statistics and academy statistics, as well as <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-05-18/37396>

This rise in agency supply spending has also been observed in Wales. The Wales Audit Office (2013) reported that the amount spent on agency supply cover increased by 50% in three years, from £10.3m in 2008/09 to £15.5m in 2011/12, and from 27% to 41% of all supply expenditure in Wales. Meanwhile, in Scotland and Northern Ireland, supply teachers are now sourced from publicly accountable central registers. In Northern Ireland, the Northern Ireland Substitute Teacher Register (NISTR) was established in 2006 in part as a response to a Northern Ireland Audit Office report (2002), which highlighted that payments to supply teacher recruitment agencies had more than doubled between 1999-00 and 2000-01. All supply teachers have to be registered with the NISTR, which gives the same entitlements to pay and conditions as permanent teachers. Similarly, in Scotland, legislation requires all

supply teachers to be employed directly by a local authority, with the nationally negotiated pay terms and conditions spelled out in the Scottish Negotiating Committee for Teachers (SNCT) handbook.

In England, local authority maintained schools hiring supply staff directly or through local authority supply pools are subject to the School Teachers' Pay and Conditions Document (STPCD). Teachers engaged by an agency, however, are not covered by the STPCD; instead their pay and conditions are determined by the recruitment agency, who can undercut the national pay rates. In contrast, academies and free schools are not bound by standard terms and pay conditions, but are able to set their own rates of pay, even if they hire supply teachers directly (ATL 2014). This could have the implication that academies are less likely to use agency workers, as they, in theory, can obtain equal staff cost reductions by hiring directly. However, the expenditure data in Table 8 suggests that agency spending in proportion to the total supply spending is roughly equal in maintained schools and academies.

5.3. Primary and secondary schools

The literature indicates that another dividing line could be between primary and secondary schools. Whilst primary schools generally spent more on supply cover than secondary schools (Audit Commission 2011), the evidence indicates that primary schools are less inclined towards using agency supply teachers. Expenditure data from the DfE shows that in primary schools agency cover accounted for 61% of total supply teaching expenditure in 2014/15, whilst in secondary schools, the equivalent number was 78%.²² In a study by the Wales Audit Office (2013), it was also found that Welsh secondary schools spent proportionally more than primary schools on agency staff as a proportion of overall spending on supply in 2011/12, although it was a relatively small difference (43% vs. 38%). Attempting to explain the difference between the composition of primary and secondary school supply cover, Estyn (2013) explains that primary schools tend to cover short-term teacher absence through already-employed staff such as higher level teaching assistants (HLTAs), whilst secondary schools cannot easily go down this route due to requirements of subject specialism.

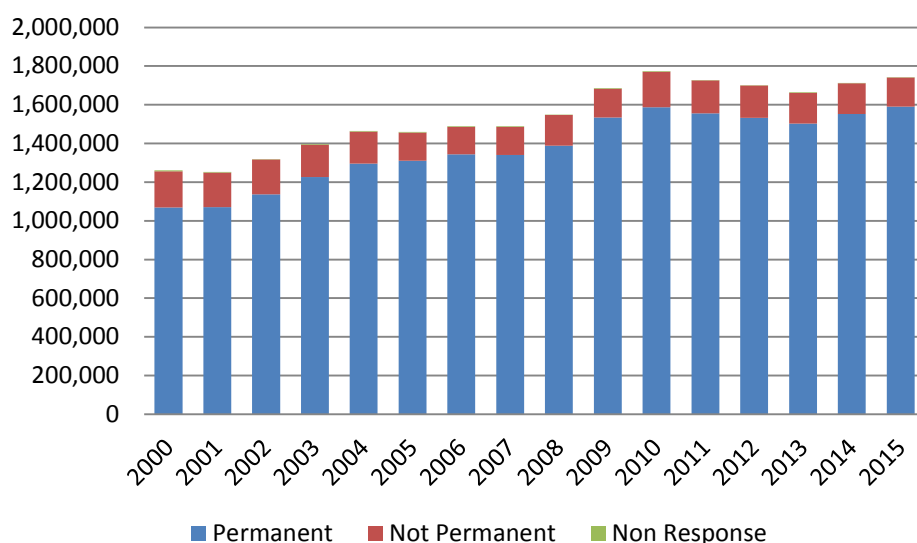
5.4. LFS analysis

Figure 17 outlines the composition of education jobs reported in the UK public sector.²³ Using the LFS, it shows that while the overall number of jobs in public sector education have increased from 1.26 million in 2000 to 1.74 million in 2015, the proportion of which are reported as non-permanent has decreased, from 15 per cent (188,441) in 2000 to 8.7 per cent (151,510) in 2015.

²² Own calculations based on www.gov.uk/government/collections/statistics-local-authority-school-finance-data.

²³ [Appendix 4](#) provides an overview of the identification of public sector jobs using the LFS

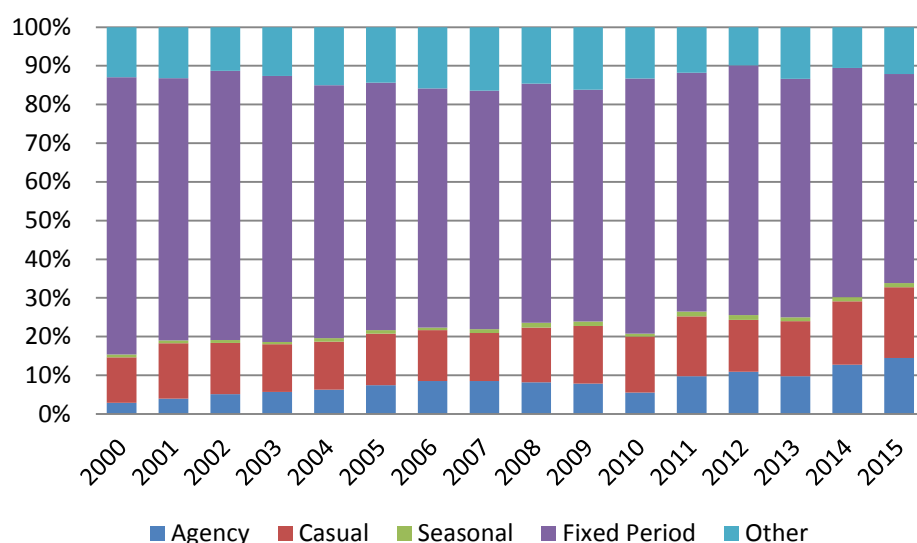
Figure 17: Composition of Jobs in the UK Education Public Sector (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variable: PUBLICR; JOBTYP; INDS92SM / IN0792SM; INDM92M / INDC07M. 'Non-response' refers to the difference between total reported public sector employment (PUBLICR) and reported permanence of work (JOBTYP)

Figure 18 outlines the composition of all non-permanent jobs in public sector education and shows temporary agency working to have increased from 2.9 per cent of all reported non-permanent jobs in 2000 (5,479) to 14.5 per cent (21,955) in 2015. Figure 19 shows temporary agency working increasing from 0.4 per cent of all public sector education jobs in 2000, to approximately 1.3 per cent in 2015.

Figure 18: Composition of Non-Permanent Jobs in Public Sector Education (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variable JOBTMP.

Figure 19: Temporary agency jobs as a proportion of public sector education workforce (2000-2015)



Source: NIESR analysis, Labour Force Survey. Main variables: PUBLICR; JOBTMP.

6. Agency work in other public services in the UK

The review has found no quality evidence on the use of temporary agency workers in other areas of the public sector, such as the armed forces, prisons and the police services. The exception is the issue of agency working in the Police Service of Northern Ireland (PSNI), which has been covered in several government reports due to the specific circumstances surrounding two severance schemes, which caused the PSNI to increasingly place reliance on temporary agency staff. Following the Patten Report in 2001, an early and compulsory severance scheme led to around 5,500 officers leaving the PSNI between 2001 and 2011, resulting in the total number of police officers falling from just over 10,000 in 2002 to 7,738 in March 2012, according to a report by the Northern Ireland Audit Office (NIAO) in 2012. In this period, the PSNI increasingly turned towards temporary agency staff to cover skills and staff shortages. As a result, the number of agency staff spiralled from 100 in 2002 to 800 in 2008, before it decreased to around 400 (Public Accounts Committee 2014). In total, the PSNI has spent over £106m since 2004 on temporary staff (Public Accounts Committee 2014), but the PSNI estimates that the police services have achieved total savings of £22 million through the use of temporary rather than permanent staff between 2005 and 2012 (NIAO 2012).

A large proportion of the temporary agency staff were re-hired former police officers who retired under the Patten severance schemes. Indeed, a total of 19% of the Patten retirees re-joined the police office as agency workers (NIAO 2012). Had they re-joined the police force on a permanent basis, they would have been required to repay their severance lump sum, providing a compelling incentive to enter agency work. Of the 2,740 temporary agency workers hired between 2002 and 2014, 1,071 (39%) were Patten retirees (NIAO 2012). In

number of days worked by agency staff, Patten retirees accounted for 56% (NIAO 2012). Of the 400 remaining temporary agency police officers in 2012, almost 300 were Patten retirees, equivalent to 75% (NIAO 2012).

Following these changes, particular attention has been on the recruitment practices in PSNI and in particular the procurement of temporary staff from a single recruitment agency called Grafton Recruitment. There was no competitive tendering until 2008, when the current supplier Grafton Recruitment re-won the contract. Consequently, for much of the period since the changes in the start of the 2000s, the PSNI have effectively had no guarantee that the contract provided value for money (Public Accounts Committee 2014). This has led to critique of PSNI's recruitment practices (e.g. Public Accounts Committee 2014), but also an understanding of the exceptional circumstances.

7. Why do employers use agency staff?

A number of broad reasons have been identified for why organisations and companies across the whole economy use temporary agency workers (Bryson 2013; Forde and Slater 2005, Coe et al. 2010). First, despite agency fees it is sometimes seen by employers as a cost-cutting exercise, with temporary agency workers often receiving lower wages than their permanent counterparts, in part because agency workers are not entitled to non-wage benefits such as pensions. Second, temporary agency workers provide a flexibility buffer that can quickly respond to market uncertainties and fluctuations in supply and demand. Third, temporary agency workers can provide an effective short-term cover for maternity leave, sickness, and illness. Fourth, workers with specialist skills are sometimes recruited through recruitment agencies, because employers may face difficulties recruiting such workers directly, or they may prefer a short-term solution if the particular skill is only required for a short duration. Fifth, temporary agency workers may allow firms to 'try-out' potential permanent recruits.

7.1. Agency staff as source of short-term flexibility in the NHS

In the public health sector, the increasing reliance on agency workers is generally perceived as costly in monetary terms, as the next section will outline. Instead, temporary staffing is generally regarded as a key source of numerical flexibility in the NHS, with temporary agency workers considered as effective in covering temporary staff shortages, and for dealing with "troughs and peaks in demand" (Stanworth and Druker 2006).

7.2. Increasingly used ad hoc to cover gaps in recruitment in the NHS

However, the health literature points towards the fact that the increasing use of agency workers in the NHS in recent years has not been a reflection of an overall strategy. In numerous studies, NHS trust managers acknowledge that bank and agency staff can be effective in covering temporary shortages, but generally they express a preference for employing permanent or bank staff rather than agency workers due to concerns about cost, the impact on morale of permanent staff, quality control and continuity of care (Purcell et

al. 2004; Kings Fund 2015; Kirkpatrick et al. 2009, Marangozov et al. 2016). Instead, the increasing reliance on agency staff is considered to be a largely ad hoc response to recruitment and retention difficulties, caused in part by local and national skills shortages (NHS Employers 2014, Panniker 2015). For instance, the Smith Institute (2015) found that 89% of surveyed NHS trusts used agency and temporary staff to meet staff shortages, and the Healthcare Commission (2005) found that trusts with higher vacancy levels tend to use more bank and agency staff.

Several official reports, most notably two comprehensive reports into the health sector – the Audit Commission’s *Brief Encounters* (2001) and the National Audit Office’s *Improving the use of temporary staff* (2006) – have identified poor procedures in many NHS trusts for forecasting staffing requirements, which led to hazardous and ad hoc recruitment practices. These observations are backed up by more recent studies. For instance, a 3-month study of staffing patterns in an acute care trust in Wales showed that bank and agency staff were consistently used more often towards the end of the week, indicating the trust’s failure to forecast their staffing needs (Massey et al, 2009). Similarly, another analysis showed that trusts’ use of temporary staff peaks in March each year, indicating that trusts consistently fail to plan for staff shortages at the end of the annual leave year (NAO 2016). In explaining this, a number of studies highlight the missed opportunities in improving management and recruitment practices. For instance, a recent report argues that few trusts use e-rostering to its fullest potential (Lord Carter of Coles 2016). Similarly, Mercer et al. (2010) highlighted that whilst NHS Professionals provides trusts with data on their temporary staff use and whilst trusts routinely consider these figures at board level, they have failed to use this information effectively to improve recruitment practices.

7.3. Geographical variations in the use of agency staff in the NHS

There is evidence of geographical variations in the use of agency staff in the NHS, which could suggest that underlying supply and demand factors may cause inherent recruitment difficulties for specific trusts and undermine managers’ ability to effectively forecast staffing requirements. In particular, trusts in London report the highest usage of agency and bank staff (Audit Commission 2001; Lafond et al 2016; Bojke et al. 2013). Part of the explanation may be the higher vacancy rates in the capital, its mobile and casual workforce, more competition for staff, greater housing costs, and a less predictable workload (Audit Commission 2001; Healthcare Commission 2005; NAO 2006; Frontier Economics 2014). In contrast, if there is only one hospital in the travel-to-work area, which is often the case in the South-West and the North, then workers seeking flexible arrangements are less likely or able to work through an agency than the local bank (Kirkpatrick et al. 2011). Agency pay rates may also play a part in explaining regional variations. Since permanent staff wage structures allow for only small regional variations compared to wage variations in the private sector, hospitals in high outside-wage areas, such as London, may find it harder to attract permanent staff and consequently have to rely disproportionately on recruitment agencies who can adjust wages to the private sector levels (Hall et al. 2008). However,

another study by Frontier Economics (2014) found no strong evidence that trusts in areas with lower relative pay consistently experienced higher use of agency staff.

As a counterweight to the evidence on geographical variations, numerous sources point out that agency expenditure varied more within regions than between regions. In the 2016 29th NHS Pay Review Report, the Department of Health reported that as a percentage of total staffing expenditure in 2014/15, the trust median average ranged from 3% in the North East to 10% in South London, but at trust level from 1% to 21%, leading the Department of Health to suggest that agency expenditure was driven primarily by individual trust-specific factors, such as management decisions. Similar conclusions were reached by other sources. The Audit Commission (2001) noted that expenditure on bank and agency staff ranged from 2% to 29% of the total staff bill across trusts in London. Similarly, Frontier Economics (2014) showed that whilst the median usage of agency workers was higher in London, the usage differed widely between trusts within the studied areas.

7.4. Education sector

In the teaching sector, the evidence from the literature points in the same direction regarding employers' motivations for using agency workers, but the evidence is not as comprehensive or robust as the NHS literature and many of the sources are fairly dated. As in the health sector, teaching supply agencies are perceived as offering advantages in terms of the timely sourcing of staff with the required experience and specialities (Audit Commission 2011). However, the fact that employers turn to private recruitment agencies is mainly attributed to the existence of teacher shortages and recruitment difficulties, with private employment agencies often considered better at filling these vacancies (Forde and Slater 2005; NAHT 2015; Grimshaw et al. 2003) and they can be useful in recruiting overseas-trained teachers (see Maylor et al. 2006). Similarly to the health sector, studies point towards unsystematic recruitment practices, with many schools not having any formal policies on cover arrangements and agency recruitment, and with very few schools using preferred supplier lists and the previous quality mark scheme when selecting agencies (Hutchings et al. 2006). Furthermore, many schools rely on recruitment agencies to carry out pre-employment checks, and are unaware of their obligations under the Agency Worker Regulations (Wales Audit Office 2013).

In the teaching sector, geography and other specific school characteristics are also identified as key determinants of supply teacher recruitment and deployment. Hutchings et al. (2006) found that some schools are less able to obtain supply teachers through direct contact, and therefore they are more likely to use private recruitment agencies. This is the case for schools in urban areas, particularly London, for larger schools, lower attainment schools, and schools with high free school meals eligibility. In contrast, schools in rural areas, with high attainment and low free school meals eligibility are less likely to obtain supply cover through private recruitment agencies. However, in contrast, in an older study in Scotland

the authorities who indicated using recruitment agencies were all outside the central belt and faced recruitment difficulties associated with their rural nature (Menter et al. 2004).

8. Costs and pay of agency workers

8.1. Relation between agency staff spending and financial deficits in NHS trusts

A number of pecuniary and non-pecuniary costs are frequently associated with the use of agency workers in the NHS. In terms of pecuniary costs, the current financial deficits in NHS trusts are widely attributed to be caused, in part, by an overreliance on temporary agency staff. Empirical evidence suggests that there is a statistically significant correlation between the two. For instance, Lafond et al. (2016) found that an acute or specialist trust is statistically more likely to have a higher deficit if a higher proportion of its overall staff expenditure is spent on agency staff. Specifically, the report finds that for every one percentage point increase in a trust's staff costs accounted for by agency, their net financial position is likely to fall by 0.4% of their operating costs. Similarly, NAO (2016) found that there was a statistically significant relationship between spending on agency staff in 2014/15 and the size of acute trusts' financial deficits. Hurst and Smith (2011) found that in their case studies, those wards that relied more on temporary staff were more expensive to run than permanent staff-only wards. Finally, through a simulation and optimization model, one study demonstrates that it is cost beneficial to increase the number of permanent employed nurses to account for fluctuations in demand than to use agencies (Harper et al. 2010).

8.2. Cost of agency staff in the NHS

There is strong evidence that there is a higher monetary cost associated with using agency staff compared to permanent staff. A recent report by the National Audit Office (2016) demonstrates the difference between agency and bank staff (who are paid on scale) by comparing the average hourly cost of agency nurses (£39 per hour) to bank nurses (£27 per hour), as well as agency doctors (£68 per hour) to bank doctors (£60 per hour). Similarly, Audit Scotland (2015) estimated that agency nursing and midwifery staff cost almost three times more than internal bank staff, with the hourly cost being £42.97 and £15.62, respectively. Finally, a Royal College of Midwives (2016) report found that trusts in 2014 spend £49 per hour for agency midwives (including agency fees and other costs), which was based on a Freedom of Information request to the 136 NHS trusts in England who provide maternity services, of which 130 responded (95.6% response rate). In the report it is noted that this rate is equivalent to more than 2.7 times the average cost for a permanently employed midwife (Band 6) and more than 1.8 times the amount of paying overtime, although the report does not attempt to make a like-for-like comparison.

Still frequently cited in the literature, the Public Accounts Committee (2007) estimated the hourly cost of employing different types of nurses in 2007, as shown in Table 9 below.

Although these figures are obviously fairly dated, they still provide an interesting breakdown of the differences between different staff cover options, including an indication of the substantial savings associated with recruiting agency staff through framework agreements.

Table 9: Estimated average costs of different types of nurses

Nurse type	Average hourly rate	Average day shift rate
NHS Professionals	£13.51	£121.59
Bank nurse	£13.73	£123.57
Permanent nurse	£14.84	£133.56
Agency nurse (framework)	£16.00	£144.00
Agency nurse (non-framework)	£19.11	£171.99

Source: Public Account Committee (2007)

Looking at the overall spending on agency staff, NHS Improvement (2016) estimates that of the £3.3b NHS England providers spent on temporary agency staff in 2014-15, around £0.7 billion was the premium pay over the equivalent substantive pay and on-costs such as National Insurance, holiday pay and employer pension contributions. Another report shows that foundation trusts spent 6.6% of their staff costs on agency staff in 2014-15, but agency staff hours accounted for only 3.0% of total staffing hours, which could not be accounted for by differences in skill mix (Lafond et al. 2016).

8.3. Agency commission rates in the NHS

There is relatively little information in the literature on how much of the cost of employing the services of agency workers goes to the private recruitment agencies. The notable exception is the quarterly and annual ‘*Taking the Temperature*’ reports produced by Liaison, who examine NHS agency staff spending across their client base which includes 58 trusts and health boards across the UK. Their most recent annual report for the financial year 2015-16 shows that agency commission rates are on a downward trajectory, with their most recent estimate that agency commission had declined by 0.57 percentage points year-on-year, so it is now accounting for 10.07% of NHS agency spending. To get this figure in context, REC’s Recruitment Industry Trends Survey 2014-15 showed the following distribution of agency commission rates in the overall economy, which suggests that a 10% commission rate is in the lower end of the spectrum.

Table 10: Agency commission rates in the overall economy

Agency fees (%)	<10%	10–14%	15–19%	20–24%	25%+
Proportion (%)	17%	45%	18%	18%	3%

Source: REC (2016) Recruitment Industry Trends Survey 2014-15

8.4. Pay and cost of agency supply teachers in the public education sector

There is limited evidence in the education literature on agency supply teacher pay and cost. There are some indications that individual schools face different costs for recruiting agency supply cover. For instance, Grimshaw et al (2003) found that higher levels of unfilled vacancies and sickness absences for schools are associated with higher unit costs for agency teachers. Hutchings et al (2006) suggest that urban and challenged schools are often charged more by agencies, reflecting difficulties in attracting teachers to work in such schools. However, a study on agency supply teaching in Wales found no evidence that schools in disadvantaged areas in Wales faced similar constraints (Wales Audit Office 2013).

There is very limited robust evidence on the level and trend of pay of agency supply teachers and the agency charge to public sector schools. In contrast to agency staff in the public health sector, it is sometimes asserted that agency supply teachers are paid less than the national pay scale for teachers (see Hutchings et al. 2006; NUT 2016; Burrowes 2015), but there is a lack of robust studies supporting (or rejecting) this conclusion. The lack of evidence on cost and pay of agency supply teachers may reflect the fact that, in the absence of official workforce statistics on this group combined with the decentralised nature of the education sector and the varied costs faced by individual schools, it would require a fairly large sample size to determine the level of pay and cost. An additional problem, which is also highlighted in the main body of this report, is that the concept of being 'paid to scale' is not necessarily easily interpreted, as one can make an argument that at least short-term supply cover teachers do not assume the full responsibility of tasks such as preparation and planning, and the 'comparable role' in schools may not necessarily be a substantive teacher of the same pay grade, or may be a high-level teaching assistant.

9. The impact of agency staff on service quality

9.1. Relation between use of agency staff and service quality

One part of the research on the impact of agency staff on service quality concerns patient safety in the NHS and it looks, in particular, at the correlation between high levels of temporary agency staff and mortality rates. For instance, a quantitative study by Hall et al. (2008) found a correlation between higher reliance on temporary agency staff and hospital death rates. The Department of Health (2007) found similar evidence: a trust with twice the national average level of temporary nurses could expect an MRSA rate around 7% higher than the average between 2001-02 and 2003-04. The report theorised this could be caused by temporary nurses being less familiar with local infection control procedures and the increased potential of spreading bacteria due to temporary staff's high mobility between different hospitals. The study also tested the correlation of agency nurses and bank nurses separately, and found the same positive correlation for both (although the coefficient for agency staff was of borderline statistical significance). The positive relationship, however, was weakened in later years and no longer found to be statistically significant in 2007-08. The report suggests that this may be related to targeted support for the underperforming

trusts, as well as policy changes during those years, such as the establishment of NHS Professionals in 2004 and the NHS Employers Code of Practice that aimed to improve the quality of temporary staff (Department of Health 2007). A third study examined 14 hospital trusts that had been underperforming based on two mortality indices (Keogh 2013). Like the other studies, the review does not establish causation, but noted that all the underperforming trusts had inadequate numbers of nursing staff, exacerbated by an overreliance on temporary staff.

Apart from these studies, patient satisfaction surveys have found that higher expenditure on bank and agency staff was correlated with lower satisfaction levels among patients, particularly when it came to the ability of nurses to answer questions from patients (Healthcare Commission 2005, NAO 2006). In addition, a staffing level survey found that permanent employees who worked alongside bank/agency staff reported lower quality of care. Some permanent workers reported having insufficient time to spend with patients because of time spent supervising agency staff (UNISON 2015). Similarly, in a case study of 605 wards, which included observations, document analysis, as well as staff and patient interviews, Hurst and Smith (2011) found that ward teams that included temporary workers spent less time with patients and generated more unproductive time than permanent staff-only wards (and they were also more expensive to run). However, their quality score differences were inconclusive.

Many authors have identified mechanisms which could potentially explain why a high proportion of agency workers would lead to lower quality of public services. For instance, in a study on social services, Hoque and Kirkpatrick (2008) found that agency workers lacked organisation-specific skills and displayed low organisational commitment. In a survey, in which supply teachers were the biggest group among temporary staff respondents, Coyle-Shapiro and Kessler (2002) found that contract status plays an essential role in how workers view the relationship with their employer. In particular, it found that contingent employees are likely to display less positive attitudes and organisation commitment than permanent staff. Grimshaw et al. (2003) identify an unwillingness of employment agencies to encourage supply teachers to conform to traditional notions of professionalism. In contrast to such perspectives, Reilly and Mercer (2006) note that temporary agency workers may be motivated to do a good job exactly because of the temporary nature of their contract, as they risk receiving poor reports from clients, making the agency unwilling to send them out on further assignments.

A number of studies in both the health and education sector as well as the wider economy find that temporary agency workers receive limited training and induction (de Ruyter 2007; Ball and Pike 2006), with employers expecting to 'buy' skills rather than having to develop them (NASUWT 2012; Druker and Stanworth 2006; Reilly and Mercer 2006). In reality, agency workers are often less efficient initially given their unfamiliarity with local procedures and patient/pupil history (Kirkpatrick et al. 2009). This is backed up by an

analysis undertaken by the National Patient Safety Agency of clinical incidents relating to agency, bank and locum staff, which examined a sample of 75 incidents in the NHS. This showed that 13% of incidents were caused by a lack of familiarity with the environment and 8% were caused by a lack of experience or training, whilst poor clinical practice accounted for 38% and failure to attend a shift accounted for 24% of incidents. From these observations, the NAO (2006: 30) makes the connection to quality of care by noting that “people are significantly more likely to make errors when they have received inadequate training [and] when they are working in unfamiliar or pressured environments.”

9.2. *Relationship between permanent and agency staff*

Furthermore, another part of the literature focuses on agency workers’ impact on the performance and morale of permanent staff members. Whilst in some situations agency workers may boost morale and relieve work pressures, and through their diverse experiences provide knowledge about organisational learning and best practices, most studies tend to point more towards the negative impact and the possibility of conflict between permanent staff and agency workers (Hoque and Kirkpatrick 2008; Kirkpatrick et al. 2009). In a study on the private sector, Banerjee et al. (2012) found that the presence of temporary agency workers has a strong negative impact on permanent workers’ perception of job security, job satisfaction and organisational loyalty. This may arise due to a sense of injustice over differential pay (Ward et al. 2001, Tailby 2005; Hoque and Kirkpatrick 2008), which may be combined with dissatisfaction over agency staff waiving responsibility by being assigned easier tasks compared to the more complex tasks performed by permanent staff (Kirkpatrick et al. 2009). Hoque and Kirkpatrick (2008) also reported that permanent staff felt under constant demand to make inductions and supervise agency staff, thus increasing the workload, often with no adjustment in other tasks to compensate for this.

9.3. *Contextual factors*

Finally, Mercer et al. (2010) emphasise that it is important to take into account contextual factors when assessing the impact on quality of temporary agency staff. As described in earlier sections, temporary agency workers are disproportionately sent to understaffed wards and may therefore often work in particularly pressurised environments (see Healthcare Commission 2005). This might exacerbate certain aspects described above, for instance making it less likely that adequate inductions are given and it may exacerbate the problems arising from the lack of familiarity with the workplace.

In this context, it may also be worth noting that many employers recruit agency workers in response to recruitment and retention difficulties, in the absence of other alternatives for short-term cover. Many studies find strong evidence that understaffing or inadequate staff-to-patient ratios negatively affect patient safety and service quality (see Boorman 2009; Ball and Pike 2009; Rafferty, Clarke, Coles, Ball, Hames, McKee and Aiken 2007), and as such the usage of agency staff may be considered the better of two evils in quality terms compared

to the available alternative of being understaffed, which is arguably reflected in the surge of agency hiring in the aftermath of the publication of the Francis report.

10. Characteristics of agency workers

10.1. Composition of agency workers in the wider UK economy

The evidence on the characteristics of agency workers in the overall UK economy is mixed and at times even contradictory. Similar to the estimates of the number of agency workers in the UK, the evidence on the composition of agency workers relies on analysis of respondents to large-scale surveys, as well as smaller-scale surveys on agency workers in specific sectors.

The large-scale surveys on the wider economy have concluded that young people, ethnic minority groups and recently arrived migrants are more likely to be agency workers, whilst agency workers have broadly similar qualifications compared with all employees (BERR 2008; Forde and Slater 2008; TUC 2007). However, it is likely that many personal and employment characteristics are closely related (i.e. a high proportion of young workers may explain a high proportion of unmarried agency workers etc.). Using regression techniques and controlling for variables, Forde et al. (2008) found slightly different observations in their analysis of the Labour Force Survey (2007). In particular, older workers (those aged 50 and above) were more likely to undertake agency work than permanent work; those with higher qualifications were more likely to be agency workers; and those who were recently made redundant were more likely to be found in any type of fixed term or temporary contract, including agency jobs. In addition, black and ethnic minority workers and immigrants who have arrived after 2003 (both from new EU member states and 'rest of world') are more likely to be found in temporary agency work. In contrast, child-caring responsibilities (both having children aged under 5 and children aged 5-18) actually reduced the likelihood of being employed in agency work rather than permanent work.

10.2. Composition of agency workers in the NHS

These general characteristics relate to agency workers across a wide range of sectors and industries, but they are not entirely consistent with the composition in specific sectors in the public sector. In the health sector, Ball and Pike (2009) provide the most detailed assessment of the characteristics and demographics of agency and bank nurses by analysing the Royal College of Nursing's membership survey, which had 4,845 respondents and a 54% response rate. Unfortunately, the findings are only presented for bank and agency nurses as a whole. The findings show that:

- **Agency and bank nurses are older.** They are, on average, 45 years old compared to 40 years for NHS hospital nurses. In particular, there was a much smaller percentage of agency and bank nurses who were under 40 years old (34%) than NHS hospital

nurses (50%), whilst 36% of agency and bank nurses were over 50 years old, compared to 19% amongst NHS hospital nurses.

- **Agency and bank nurses are more likely to come from an ethnic minority group.** 28% of agency and bank workers are from an ethnic minority group compared to 14% for permanent NHS hospital nurses.
- **Outside of age and ethnicity, there seems to be few compositional differences.** Ball and Pike (2006) found no substantial gender difference, and no difference in child-caring responsibilities. In terms of qualifications, the report found no difference related to having a diploma, although agency and bank nurses are less likely to have obtained a degree (17%) compared to NHS hospital nurses (33%), but this may merely be a reflection of the older agency and bank nursing workforce.

In an online survey of 3,613 health professionals registered with three agencies, Aldwych and Partners (2015) found that a large proportion of agency nurses and locum doctors were also permanent NHS employees, 45% and 39% respectively. Similarly, Ball and Pike (2009) report that 29% of bank/agency nurses have permanent NHS employment, but they find vast differences between NHS hospital nurses and independent sector nurses. NHS hospital nurses are more likely to do bank work with their NHS employer, while independent sector nurses favour agency work. Overall, the survey also depicts the trend in the last decade of NHS nurses moving into bank nursing and away from agency nursing. Of the NHS nurses who took up an additional job, agency nursing accounted for 14% in 2009, down from 17% in 2005 and 31% in 2001. Meanwhile, bank nursing with the same employer accounted for 63% in 2009, up from 55% in 2001, whilst bank nursing with a different employer accounted for 15% in 2009, up from 9% in 2001. However, it must be noted that the most recent acceleration in agency working in the NHS happened after 2009, making it likely that a future survey would show a reverse in the trend.

Our own analyses of Q4 2015 LFS data²⁴ show:

- The mean age of agency staff in the NHS to be 39. This compares to 42 for non-agency staff
- 34 per cent of agency staff in the NHS to be foreign-born. This compares to 17 per cent of non-agency staff²⁵.

²⁴ Sample of 2,487 self-reported public sector health workers. Our methodology for identifying agency workers and public sector workers is outlined in [Appendix 3](#) and [Appendix 4](#).

²⁵ Variable used: CAMEYR

- 74 per cent of agency staff in the NHS identify as female. This compares to 78 per cent of non-agency staff.
- 69 per cent of agency staff in the NHS identified their ethnicity as white. This compares to 84 per cent of non-agency staff²⁶.

10.3. Composition of agency workers in the education sector

The literature on the composition of agency supply teachers is limited. An older study shows that younger and less experienced teachers tend to work through recruitment agencies and in more challenged schools (Hutchings et al, 2006). Meanwhile, in an NUT membership survey (2016), supply teacher respondents are considerably older, with 53% of all supply teachers and 49% of all agency teachers aged over 50, compared to only 20% of the total teaching workforce. In contrast, teachers under the age of 30 make up only 10% of all supply teachers and 10% of agency workers, compared to 26% of the overall teacher workforce (NUT 2016). Despite the relatively high average age, the survey found that this does not translate into more experience in regular teaching employment. Among agency teachers, 57% had over 10 years' experience, whilst 30% had less than five years, of which 16% had less than two years.

Our own analyses of Q4 2015 LFS data²⁷ show:

- The mean age of agency staff working within public sector education to be 42. This compares to a mean age of 43 among non-agency.
- 12 per cent of agency staff working within public sector education to be foreign born. This compares to 7.6 per cent of non-agency²⁸.
- 73 per cent of agency staff working within public sector education to be female. This compares to 75 per cent of non-agency.
- 86 per cent of agency staff working within public sector education identified their ethnicity as white. This compares to 92 per cent of non-agency.²⁹

²⁶ Variable used: ETHUKEUL

²⁷ Based on a sample of self-reported 2,587 identified public sector education workers. Our methodology for identifying agency workers and public sector workers is outlined in [Appendix 3](#) and [Appendix 4](#).

²⁸ Variable used: CAMEYR

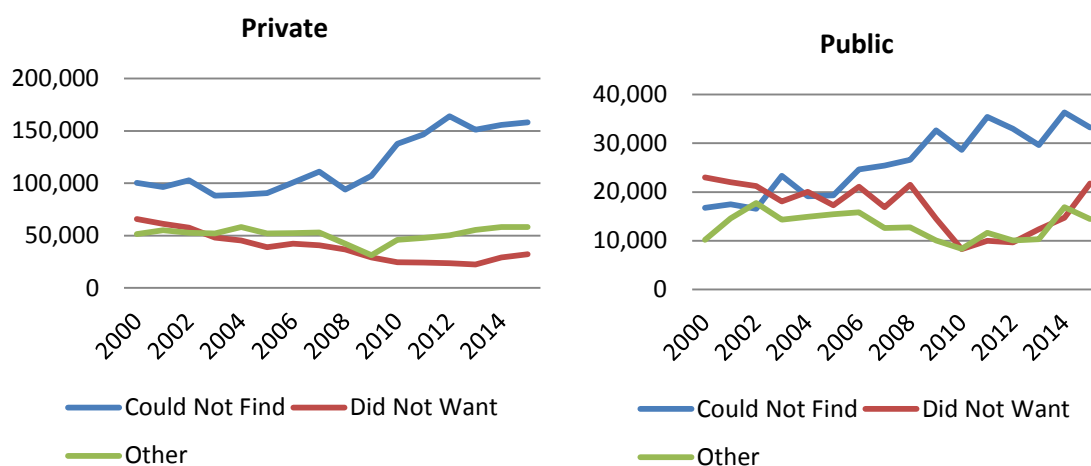
²⁹ Variable used: ETHUKEUL

11. Motivations of agency workers

11.1. Unable to obtain permanent work

The first distinction that has to be made is between people entering agency work out of necessity (i.e. being unable to obtain a permanent job) or as a deliberate choice. Figure 20 compares public and private temporary agency workers reasons for non-permanent employment. It shows that although the majority of respondents in both cases suggest the main reason to be an inability to find permanent employment, a considerable number in the public sector indicate temporary agency working as choice due to not wanting permanent employment.

Figure 20: Reasons for Non-Permanent Employment amongst Temporary Agency Workers (2000 to 2015)



Source: ONS 2016.

However, survey studies suggest that the motivations of agency staff in the public health sector may often be more from choice than through lack of it. For instance, in a survey of nurses, Ruyter (2007) finds that only 4.1% of agency nurses had joined an agency because they were unable to obtain permanent work. Of the nurses working solely through agencies, less than 10% expressed desire to return to permanent NHS positions (Ruyter 2007). Similarly, a more recent survey showed that only 1% of agency nurses had taken up agency working because they could not obtain permanent employment (Aldwych and Partners 2015).

These survey studies would suggest that agency workers in the public health sector have deliberately chosen temporary agency work. Much of the subsequent literature, which is based on the premise, distinguishes between whether this deliberate choice is a positive or negative one, divided between those studies stressing the importance of 'push factors' and 'pull factors', respectively. The two perspectives describe agency workers, on one hand, as reluctantly taking up agency work considering it the lesser of two evils, and on the other

hand, as ‘free agents’ who deliberately and positively choose the advantages associated with agency working, such as flexibility and higher hourly pay.

However, it must be noted that the two perspectives are far from mutually exclusive. Indeed, many studies find evidence of both, and there seems to be a natural tendency for ‘pull’ and ‘push’ factors to reinforce each other. For instance, as disillusioned permanent employees exit the NHS in favour of agency work, this leads to recruitment problems and a stronger demand for the services of private recruitment agencies, who can then afford to pay higher hourly wages and offer more reliable working hours, which in turn results in ‘pulling’ more permanent staff members to agency work, contributing to a snowball effect, which is highlighted by several authors (see for instance, Purcell et al. 2004; Hoque and Kirkpatrick 2008; Forde and Slater 2005). Supporting this assertion, the NHS Staff Survey in 2007 found a correlation between the proportion of staff expenditure spent on agency staff and the level of turnover intentions of permanent staff (The Work Foundation, 2009).

Finally, ‘pull’ and ‘push’ factors can be seen as two sides of the same coin. When someone chooses agency work due to flexibility and higher pay, it may often be grounded in dissatisfaction with these aspects in permanent employment in the public sector. As such, the below will review the motivations of agency workers in the public sector without explicitly making the distinction between ‘pull’ and ‘push’ factors, but it is important to keep the distinction in mind throughout the analysis.

11.2. Deteriorating job quality of permanent jobs in public sector

Numerous papers cite deteriorating permanent job quality as a key influence that leads permanent staff to leave substantive roles. The Audit Commission’s *Brief Encounters* (2001) described the sense of being overwhelmed by bureaucracy and target setting, insufficient resources, unmanageable workloads, new managerialism and a growing sense of reform fatigue as reasons for NHS staff to seek alternative working arrangements. In the education sector, studies describe agency supply teaching as offering a reduction in work pressures and the opportunity to escape administrative burdens and instead focus solely on teaching (Cornwall 2004; Grimshaw et al. 2004).

This literature concludes that permanent staff in the public sector are “voting with their feet” by turning towards temporary agency working (Conley 2002: 728). However, rather than seeing agency working as some kind of liberation or emancipation, it is perceived as the ‘lesser of two evils’ (Ruyter et al. 2008). This literature argues that the choice of agency work must be a negative one, given the number of substantial costs and disadvantages associated with undertaking agency work, such as the loss of a general sense of identity, job security and certain benefits such as pension entitlement.

As such, in a study on temporary doctors in Sweden, Aronescu et al. (2004: 25) describe it as an “involuntary condition that would not be necessary or desired if the employer provided better working conditions.” As an example, Tailby (2005) finds that very few of the nurses

interviewed in his study regarded bank and agency nursing as a satisfactory long-term alternative to permanent employment, citing the risks associated with income and employment security and the loss of pension scheme, but they had nevertheless chosen to escape the pressures of work within the NHS.

11.3. Flexibility

In contrast, other papers on both the public health and education sectors emphasise the “free agent perspective” (Kunda et al. 2002), in which individuals move into agency working as a positive choice (RCN 2005; Tailby 2005; Kirkpatrick and Hoque 2004). For instance, the desire for flexibility is widely attributed as a main driver towards agency worker in both the health and education literature (RCN 2016; Ruyter et al. 2008; Kirkpatrick and Hoque 2006; Cornwall 2004; Grimshaw et al. 2004).³⁰ Most recently, the Royal College of Nursing (2016) emailed out a survey to 10,000 nurses, HCAs and theatre staff registered with the agency HCL Nursing to understand their motivations to work through an agency. In total, 455 people responded, although the response rate was low at only 4.6%. The survey results showed that flexibility was one of the main drivers of agency work, including the ability to pick and choose shifts and control the total number of hours worked.

Studies in the education sector also emphasised that flexibility not only includes the desire to pick and choose shifts and holidays, but also the ability to walk away from an unattractive placement (Cornwall 2004), although Grimshaw et al. (2004) argued that whilst it was true that agency supply teachers cited the ability to walk away from an unattractive placement as a reason for taking up agency supply teaching, in reality they rarely made use of it as they needed to cover their living costs.

11.4. Higher hourly pay

In the NHS, one important positive motivation for undertaking agency work is the higher hourly pay. A number of studies highlight that this motivation is particularly prevalent among those who also hold a substantive position, but use temporary agency work to supplement their income (Ruyter 2007; Tailby 2005; Ball and Pike 2006, RCM 2016; RCN 2016). Furthermore, several studies also found that specialised staff, who have specialist skills in scarce supply within the NHS or were higher-graded, were more likely to cite higher hourly pay as their motivation for undertaking agency work, reflecting their ability to command higher returns and stipulate their own terms to the agencies (Tailby 2005; Ruyter 2007; Purcell et al. 2004). Another study highlights that for employees at the top of their pay grade (as is the case with 50% of the nursing workforce), agency work provides an attractive, and indeed the only, option to obtain higher pay (Smith Institute 2015).

³⁰ As already mentioned, note that the positive choice of flexibility associated with agency work can also be seen as being grounded in the dissatisfaction with permanent employment working conditions.

11.5. *Stepping stone into permanent employment*

Another group of workers, those between permanent jobs, may be attracted to temporary agency work to keep in touch with a sector while on career break or they may use it as a 'stepping stone' back to permanent employment (Audit Commission 2001; Ball and Pike 2004). The limited evidence of agency work as a stepping stone to permanent work in the public sector reflects the mixed evidence in the wider literature on agency work in the wider UK economy (see Gray 2002; Booth et al. 2002; Forde and Slater 2005). Indeed, Ball and Pike (2006) found that 28% of agency/bank nurses who did not have any substantive posts were worried about the impact on their job prospects. In a previous survey, Ball and Pike (2004) showed that bank and agency nurses were more likely to receive a grade reduction than a grade increase, in contrast to other nurses. As the survey does not distinguish between bank and agency workers, it is impossible to disentangle whether this effect applies more to agency workers rather than bank workers or vice versa.

Indeed, there are even suggestions in both the NHS and education literature that temporary agency work is used as a stepping stone *away* from permanent employment to facilitate the development of a career in another sector (Ball and Pike 2004; Hutchings et al. 2006). Several studies suggest that for many nurses, bank and agency work seems to function as a transitional period, providing an exit strategy from permanent employment in the NHS, and possibly from nursing altogether (Ruyter 2007). In an analysis of the Royal College of Nursing membership survey, nurses who do bank and agency work as their main job were twice as likely to be planning to leave nursing in the next two years (Ball and Pike 2004).

11.6. *Generational differences*

In some areas, there is evidence for a difference in motivations along generational lines. For instance, Ball and Pike (2006) found that older nurses placed less emphasis on income, and instead valued maintaining skills, personal interests and ensuring sufficient staffing levels (Ball and Pike 2006). The same survey also found that 66% of nurses who qualified since 2000 stated a preference for a permanent post, compared to only 28% of those who qualified before 2000. Generational differences are also evident in literature on the education sector: young supply teachers are more likely to cite the ability to assess a school before taking a permanent post and the opportunity to learn from working in different schools (Cornwall 2004) while some older teachers used supply teaching as a way of winding down towards retirement or supplementing their pension payments (Hutchings et al. 2006).

11.7. *Effect on the impact of agency rules*

We referred earlier to changes in agency rules in the NHS, and in particular the introduction of price caps. The preceding section, which outlined the different motivations of agency workers, provides us with a useful framework for understanding better how the new agency rules could impact the choices of agency workers. The review has, in particular, identified two main groups: permanent NHS employees who use agency work to top up their income, and 'full-time' agency workers who in particular favour the flexibility of agency working. In a

paper, Aldwych and Partners (2015) argue that for the group favouring flexibility, the price caps will not encourage a return to permanent NHS employment, as the changes in financial incentives do not change their underlying desire for flexibility. It may, however, change the behaviour of permanent NHS employees seeking to supplement their income. But Aldwych and Partners' survey study warns that this group overwhelmingly considers seeking careers outside the NHS rather than returning to permanent positions in response to the price caps.

12. The experience of agency working

Given the nature of the triangular employment relationship, agency workers are often described as 'vulnerable workers', caught between the agency and the user client. For instance, in an analysis of 900,000 calls to their helpline in 2014, Acas (2015) found that temporary agency workers are often unaware of, and afraid of asserting, their statutory rights due to the perceived imbalance of power in the employment relationship. Using data from the *Working in Britain 2000* survey, Forde et al. (2008) found that agency workers were much more likely to report anxiety about vulnerability in their job than other types of workers. More than half reported being 'very anxious' or 'fairly anxious' about suffering arbitrary dismissal, discrimination and victimisation by management. In a survey of agency nurses by the Royal College of Nursing (2016), the responses of agency nurses also flagged up the insecure nature of agency work as the main disadvantage, in particular highlighting the uncertainty over work availability and the lack of pension.

In addition, some studies focus on the low job satisfaction among agency workers and their precarious position within the workplace. For instance, Conley (2002) did a qualitative study of social services and local education authorities, with the data primarily collected through 61 interviews of local government officials, managers, and agency workers. The study found that teachers and social care staff working via agencies felt insecure, frustrated and undervalued in the workplace, and the study highlighted that management strategies served to remind them that unemployment was always potentially around the corner. In a study of three sectors including the healthcare sector, Maroukis (2015) interviewed 84 migrant and British temporary agency workers and found that agency workers felt permanent staff members treated them as 'outsiders' and allocated them the least desired tasks. Similarly, a recent study by the Royal College of Nursing (2016), based on a survey of 455 agency nurses, showed that 64% of agency nurses felt that agency staff were not well respected in the NHS, though the low response rate of 4.6% to this survey may indicate a biased sample. The study noted that 27% of these did agency work on top of their direct employment with the NHS, leading to a situation where "nurses whose skills are unquestioned when working in their own trust... [are] regarded with scepticism when they walk into another trust as an agency nurse."

Against these accounts others, such as the Recruitment and Employment Confederation (REC) and the Confederation of British Industry (CBI), have argued that most agency workers

have a positive experience, and that many are well paid and appreciate the flexibility advantages. In particular, in a report into flexible working, the Recruitment and Employment Confederation (2014) found that temporary agency work was perceived as particularly beneficial for people at entry level, for people with specialist skills, for adults with caring responsibilities, and for people approaching retirement. Guest and Clinton (2006) did a survey study based on 642 respondents from 19 organisations, of which 25% were non-permanent employees and 21% of those were on temporary agency contracts. This sample has the advantage of enabling comparison between many different types of staff groups, but this comes at the expense of low sample sizes, e.g. only around 34 agency workers participated in the survey, which should be taken into account when considering the findings. The study found that whilst temporary agency workers in their survey study reported higher levels of job insecurity and the majority would prefer to obtain a permanent job, they nevertheless reported better well-being, better general health, and more positive attitudes towards work than permanent employees. This was particularly true for high-skilled agency workers, although this finding is unlikely to be robust due to a very small sample size. The authors found several reasons for the observed difference in job satisfaction, in particular pointing at the declining quality of permanent work. In the survey, permanent employees reported higher levels of work irritation and anxiety, as well as stronger interference of work in their private life, whilst temporary employees reported a positive view of the temporary nature of their contract, in particular the short duration of their assignments meant they were less disillusioned by office politics, their rewards, and appreciation of commitments. This ultimately led Guest and Clinton (2006) to suggest that efforts should not solely be focused on improving the conditions of agency work, but also permanent employment positions.

Appendix 1: Case Study Characteristics

Table 11: Profile of schools

Job title	School type	Secondary/Primary	Location in the UK	App. number of students
Business Manager	Foundation	Secondary (11-18)	South West	900
Business Manager	Co-educational, community school	Secondary (11-16)	East	700
Bursar	CoE, Boys. Grammar, Academy	Secondary (11-18)	South West	900
Headmaster	Boys, Grammar, Academy	Secondary (11-18)	London	1,200
Headmaster	CoE	Primary (3-11)	London	250
Bursar + Principal	Academy	Secondary (11-18)	London	2,000
Director of People	Multi Academy Trust	Primary and Secondary (3-18)	National	NA
Vice Principal	Academy	Secondary (11-16)	South West	1,100
Business Manager	Academy	Secondary (11-18)	North West	1,000

Table 12: Profile of NHS employers

Job title respondent	Type	Location in the UK	Number of staff
Director of Workforce	Foundation Trust	London	9,000
Staffing Manager	Mental Health and Social Care Trust	North West England	1,500
Director of Workforce	Foundation Trust	East England	3,500
Director of Workforce	NHS Trust	South West England	4,500
Director of Workforce	Foundation Trust	Yorkshire and the Humber	3,500
Director of Workforce	Foundation Trust	South East England	14,000
Director of Workforce	Foundation Trust	London	4,500
Agency Manager	Foundation Trust	South East England	11,500
Director of Workforce	NHS Board	Scotland	NA*
Director of Workforce	Health and Social Care Trust	Northern Ireland	NA*
Director of Workforce, Nursing and Finance	Health Board	Wales	NA*

**Staff numbers left out to prevent trust identification due to the relative small number of trusts in the devolved nations.*

Table 13: Profile of agencies in education sector

Respondent job title	Number of offices	Number of internal staff*	Sectors covered	Geographical reach
Director	23	160	Prim, sec, SEN	UK and Wales
Director	3	8	Prim, sec, SEN	Midlands down
Director	1	1	Prim, sec, SEN	Midlands
Consultant	1	8	Prim, sec, SEN	Greater London
Director	5	30	Prim, sec, SEN	Across the UK
Director	2	15	Prim, sec, SEN	East England
Director	1	2	Prim, sec, SEN	Greater Manchester

**The number of agency workers on an agency's books can be reported in many different variations (e.g. total number in books including inactive; supplied any given year/month/week/day) and as such the numbers would not be internally consistent. Instead, the number of internal backroom staff (recruitment consultants etc. excluding agency workers) have been included to indicate the size of the agency.*

Table 14: Profile of agencies in healthcare sector

Respondent job title	Number of offices	Number of internal staff**	Staff types	Geographical reach
Director	1	10	Radiographers and sonographers	Across UK
Managing Director	1	40	All	Yorkshire and East Midlands
Director	1	6	Operating Theatre Staff	North West England, Wales
Consultant	1	35	Nurses	Wales
Director	NA	NA	All (Ministry of Defence)*	Across UK
Managing Director	3	50	Medical locums	Across UK
Client Manager	1	10	Nursing (mental health)	North London, Midlands, Manchester
Operations Director	2	NA	Medical locums	Across UK

**Used primarily for Appendix 2 on the use of agency staff in the Ministry of Defence*

*** See comment below Table 13*

Profile of focus groups – health (25 people)

At the end of the focus groups, a small survey was given to focus group participants to establish various characteristics of the sample:

- 55% of participants had a permanent post in addition to their agency work. 45% did not have permanent work and worked solely for one or more agencies.
- 92% had had a permanent position prior to joining current agency, 4% (1 respondent) had been unemployed, and 4% (1 respondent) had been studying.
- 33% had worked for less than work year on an agency basis. 21% had worked between 1-2 years. 29% had worked between 2-5 years. 13% had worked between 5-10 years. And 4% (1 respondent) had worked for more than 10 years through an agency.
- The majority of respondents (70%) earned more than £170 for their last daily assignment.
- 67% said their last assignment lasted 1 day. 29% said it lasted 2-4 days. 4% (1 respondent) said it lasted more than 12 weeks.
- 88% of respondents were female and 12% male.
- 4% (1 respondent) was between 18-25 years old. 20% were between 26-35. 8% were between 35-44. 32% were between 35-44. 40% were between 55-64.
- 44% classified themselves as White British; 40% as Black/African/Caribbean; 8% as Asian; and 4% (1 respondent) as mixed ethnicity.

Profile of focus group – education (12 people)

- 92% did not have permanent employment, working through one or more agencies.
- 83% had had permanent employment prior to joining current agency
- 25% had worked less than a year on an agency basis. 25% had worked between 1-2 years. 17% had worked between 2-5 years. 8% (1 respondent) had worked between 5-10 years. And 25% had worked over 10 years through an agency.
- 8% of participants (1 person) was paid £80-89; 25% of participants (3 people) were paid between £90-109; 17% of participants (2 people) were paid £110-119; 17% participants (2 people) were paid £120-129; 8% (1 person) was paid between £130-139; £140-149 and above £170 respectively.
- 42% of respondents said their last assignment lasted 1 day. 33% said it lasted 2-4 days. 8% (1 respondent) said it lasted between 2-4 weeks. And 16% said it lasted more than 12 weeks.
- 33% were male and 67% were female.
- 17% were between 18-25 years old. 8% (1 respondent) were between 35-44. 25% were between 45-54. 42% were between 55-64. And 8% (1 respondent) was over 65.
- 83% classified themselves as White British, with the remaining two classifying themselves as Asian and Black/African/Caribbean, respectively.

Appendix 2: Case study of the use of agency staff in the Ministry of Defence

We interviewed one agency supplying healthcare workers to the Ministry of Defence (MoD). The agency manager explained that the MoD had recruited its agency staff on an ad hoc basis until around seven years ago, when it decided to put everything through an overarching framework covering all professions in the UK and Northern Ireland, but excluding conflict zones overseas. The interviewed agency had been awarded a place on the framework alongside two other providers. The same three providers still supply staff into the MoD. The agency manager noted that over time, they had started to build an increasingly close relationship with their client:

"I think maybe over time they've changed attitude towards the agency. They've begun to understand that perhaps we know more about the market than they do and that's had benefits at review meetings where they've been more willing to listen to what we've got to say."

"In the early days we were treated as an agency with some suspicion because of our blatant commercial interest, but I think over time they've come to accept that we're well informed experts"

The agency said that the charge rates were generally higher than in the NHS, as they were not bound by a price cap. Further, the agency manager said that generally the MoD had always been more quality-driven than the NHS. They would generally ask for higher level of experience and be willing to pay higher in exchange for better quality. As a consequence, the MoD was biased towards recruiting people who had already been locums or permanent staff members in the MoD, thus securing a higher quality of service, but the agency manager also noted that this, in effect, created a shrinking pool, as people with experience logically retired and moved on to other positions over time.

The agency manager said they expected the high demand to remain consistent, but expressed uncertainty about what the future would hold, in terms of developments in pay and charge rates. The manager expressed fear that the MoD, under pressure from the general public sector mentality of cuts, would end up demanding lower rates and thus compensating on the quality of service. He noted:

"We don't know what the future holds in terms of future MoD contracts. It may be that the MoD seeks to copy to a point what the NHS has done, although if it did do that it would have something of a disaster on its hands.... If the pay goes down and the travel and subsistence disappears that means the mobile GPs will no longer be available."

The agency manager also touched on why the MoD used agency staff. He said that they had drastically reduced their in-house manpower as a result of closing down medical services, and thus needed to plug gaps in permanent recruitment, which meant that placements were often long-term, ranging from 3-9 months of duration. In addition, the agency manager highlighted other factors in explaining the high demand for agency staff, such as the relatively unattractive salaries for permanent positions and the long-winded permanent recruitment process. Finally, it was highlighted that the demand was driven by national shortages, and he noted that a large number of workers were set to retire within the next five years. In the MoD, GPs as a profession were in particular high demand, but was massively undersupplied in the market. The agency also highlighted the MoD struggled to recruit practice nurses, and experienced recruitment difficulties in remote locations in Scotland, North England and Northern Ireland, where there was only a small pool of people to call on locally.

In terms of characteristics, he said that a vast majority of agency staff on their books were UK nationals, with a number of EU nationals. The agency manager explained that they had previously tried to do international recruitment, but had found that the MoD's requirement of high quality, including the ability to perform from day one, was not compatible with the difficulties that arose from the language barrier. This demand for experience and quality also meant that there was a natural age bias towards older agency staff.

Appendix 2: Evidence Review Protocol

This review makes use of a variety of search engines and research databases, as well as conducts manual searches of key organisations' websites likely to hold relevant information on the use of agency staff in the UK public sector. These are listed in Table 15.

Table 15: List of Search Areas

Search Engines / Database	IBSS JSTOR SSRN IZA Discussion Papers Google Scholar Academic Search Complete Scopus ISI Web of Science EBSCO ResearchGate
Government departments	DWP BIS DfE DoH MoJ NOMS Cabinet Office HM Treasury Home Office Welsh Government Scottish Government Northern Ireland Assembly NHS Employers NHS Professionals
Research Institutes	Centre for Economic and Social Inclusion Institute of Employment Studies Institute for Fiscal Studies Institute for Public Policy Research Institute of Economic Affairs Kings Fund New Economics Foundation NIESR New Policy Institute Nuffield Trust Policy Exchange Reform Resolution Foundation Social Market Foundation The Smith Institute

	The Work Foundation
Pay Review Bodies	Armed Forces' Pay Review Body Review Body on Doctors' and Dentists' Remuneration NHS Pay Review Body Prison Service Pay Review Body School Teachers' Review Body Senior Salaries Review Body Police Remuneration Review Body National Crime Agency Remuneration Review
Other	ATL ACAS CIPD NASUWT NUT Public and Commercial Services Union Recruitment and Employment Confederation TUC Unite Unison Incomes Data Services Labour Research Department XpertHR Voice UCAC ASCL NAHT BATOD Royal College of Midwives Royal College of Nurses GMB Chartered Society of Physiotherapists Society of Radiographers British & Irish Orthoptic Society Northern Ireland Public Service Alliance (NIPSA) UCATT (Union of Construction, Allied Trades and Technicians) The Society of Chiropractors and Podiatrists FDA/Prospect Managers in Partnership (MiP) Chief Police Officer Staff Association (CPOSA). Police Federation Police Superintendents' Association (with the two equivalent and separate associations for Northern Ireland). PCS National Crime Officers Association FDA

	BMA BDA POA PGA PCS
--	---------------------------------

Search terms used are listed in Table 16. The search process variously used Boolean operators to ensure its focus. Depending on the engine’s search technology, appropriate and proportionate approaches were used to reduce the number of irrelevant hits (e.g. eliminating historical and literary literature). As such, although working within the remit of this protocol, the search process took an iterative approach in order to work within the confines of each search engine/database and their technology.

The nature of some search engines/databases raised difficulties when conducting scoping literature. Many of these difficulties related to the extent to which search engines / databases inhibited identifying all documents published in the UK; the interpretation (or reading of) ‘agency’; and being government documents pre-May 2010 (with all such documents having been centrally archived with a simplistic search function, which resulted in searches producing multiple references to many documents). Where search technology was too inadequate to hone in on documents of interest, the dataset or search engine was dropped. We would expect that the range of search engines and databases used meant that few documents would have been missed.

Table 16: Search Terms

“agency staff” OR “agency work” OR “temporary work” OR “recruitment agencies” OR “temporary work agencies” OR “temporary agency work” OR “agency workers” OR “temporary staff”	
AND	
“United Kingdom” “England” “Northern Ireland” “Scotland” “Wales”	
AND	
Organisational terms	Additional search terms
“public sector”	
“education”; “school”; “college” “academies” “universities”, “primary school”, “secondary school”	“supply” “teachers”
“National Health Service” “NHS” “NHS Trusts” “healthcare” “NHS Professionals” “NHS Employers”	“locum” “bank” “primary care” “doctors” “nurses” “dentists”
“armed forces”, “army” “navy”, “military” “air force” “defence medical”	

“prison” “prison service”	
“police” OR “police officers” OR “police forces”	

The initial inclusion criterion that was applied to the identified literature is outlined in Table 17. All literature that met these criteria was then manually sifted for relevance (based on the title and, if available, abstract).

Table 17: Literature Inclusion Criteria

Geography	Research (wholly or in part) conducted in relation to the UK or parts of the UK.
Timescale	Published (or disseminated) in 2000 or later
Publication Status	Published or pending publication, including working papers
Language	English
Research Method	Quantitative and qualitative research.

Having completed the initial review process a further assessment took place. This consisted of an assessment of the quality and relevance. When assessing the quality and relevance a standardised approach was used, including appraisal of:

- relevance specifically to agency work, and to the public sector where appropriate,
- the approach used, including whether: the sample size was adequate for the nature of the analysis; appropriate analytical methods have been applied; the study gave an explicit account of the research process;
- the quality of data including factors such as reliability and representativeness;
- Whether there is an explicit account of the research process, including design and methods and analysis of data.
- Whether the methods are appropriate and reliable.
- Whether findings are reliable, credible and clearly related to the evidence, e.g. no obvious ideological bias.

Bibliographies of identified publications were also searched at this stage to maximise coverage. The authors of key texts were also contacted in order to locate unpublished or ongoing research. If the quality of the evidence was judged as inadequate it was not included in the review. All other evidence is included in this review.

Appendix 3: Identifying Agency Workers using the LFS Analysis

To ensure the accuracy of our analyses on the use of temporary agency staff in the UK public sector, our initial task was to ensure that our estimates of the number temporary agency workers in the overall UK economy were consistent with the current evidence base. Figure 21 outlines our methodology.

Figure 21: NIESR definition of temporary agency workers using the LFS³¹.

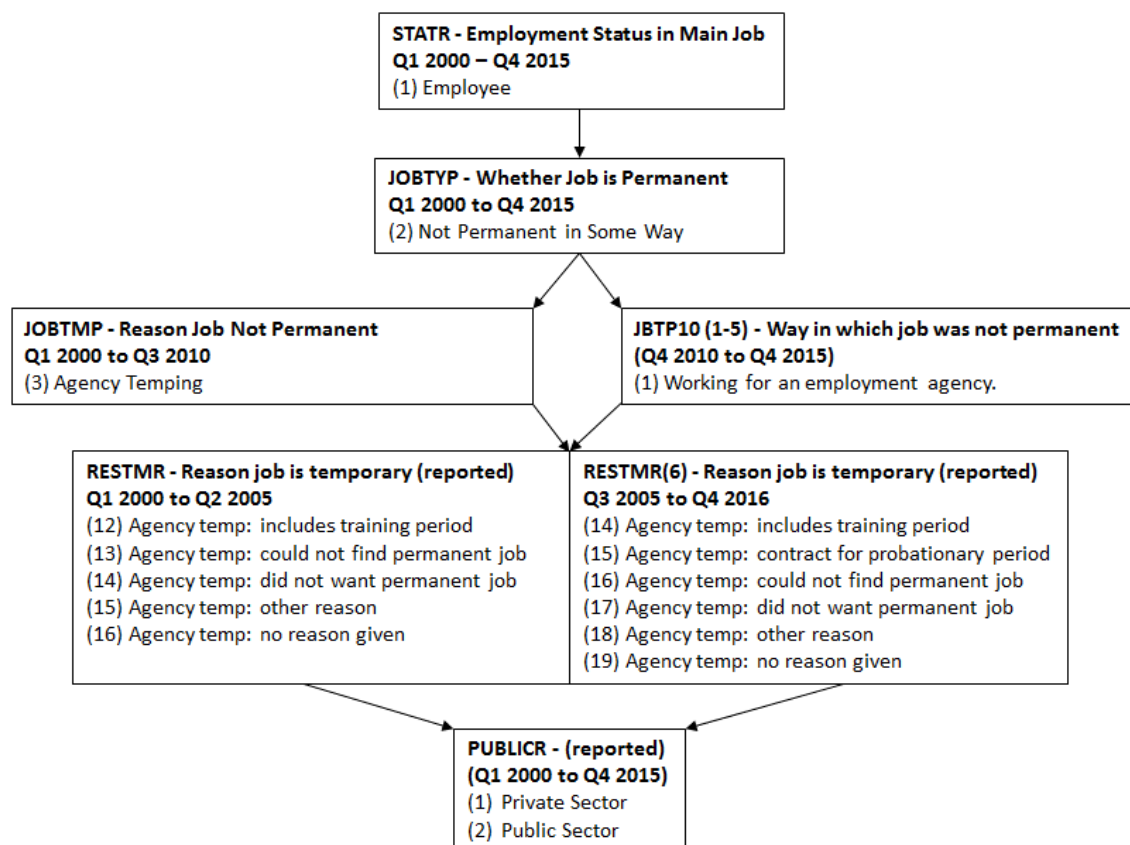


Table 18 provides an overview of the LFS variables used in our own and others’ analyses, and shows key differences, including:

1. **‘Employees’ (STATR).** In contrast to ONS (2016a) and Judge and Tomlinson (2016), we opted to follow the approach implemented by Forde and Slater (2012) and use STATR³² in our analyses to identify agency workers as ‘employees’ prior to their inclusion in our sample. We felt this was most appropriate in order to best fit the Employment Agencies Act of 1973 definition of an ‘employment agency’³³ and to avoid potential overestimation through the inclusion of other categories of worker.

³¹ This methodology ensures our categories of agency and non-agency worker are mutually exclusive and independent.

³² Employment status in main job (reported)

³³ The agency introduces candidates to be **employed directly** by the client

2. **Self-employment (SELF2; PDWG10; NITAX³⁴).** In line with our use of STATR, our methodology opted to follow the approach taken by ONS and not use variables that identified ‘self-employed’ agency workers. This ensured we not only followed the definition of an employment agency provided by Employment Agencies Act of 1973, but also that respondents’ view on their type of employment took precedence in our analyses. Judge and Tomlinson (2016) opt for an alternative approach, in recognition that some people who state that they are self-employed in the LFS are actually employees due to the way in which they are paid (ONS 2015). However, because our qualitative research in this area lends us to be cautious around individuals’ understanding of the word ‘agency’, we would suggest the level of ambiguity surrounding the clarifying question [self] i.e. *“Paid a salary or wage by an agency”*, raises some concerns.
3. **The use of RESTMR / RESTMR6.** Given our approach opted to identify agency workers as ‘employees’ prior to their inclusion in the sample, we opted to use RESTMR/RESTMR6 to ensure our approach makes use of all possible variables to identify as agency workers.
4. **The use of AGWRK.** In line with the approach taken by the ONS (2016a) and Forde and Slater (2012), our analysis does not include ‘permanent’ agency workers. Although the inclusion of ‘permanent’ agency workers would be in line with the UK Employment Agencies Act of 1973 definition of an employment agency³⁵, the sheer size of the group, its presence in the data prior to 2011 and little evidence of a substitution effect with the introduction of AWR raises some questions as to whether that these identified individuals are agency workers on the ‘pay between assignment’ (or ‘Swedish Derogation’) contracts – the most likely form of ‘permanent agency work’ (Judge and Tomlinson 2016). In light of this uncertainty, and in aim of avoiding over-estimation, we opted not to include this category in our analyses.

³⁴ SELF2 - Origin of income for those self-employed in their second job; PDWG10 - How paid for work; NITAX – Payment of NI and Tax

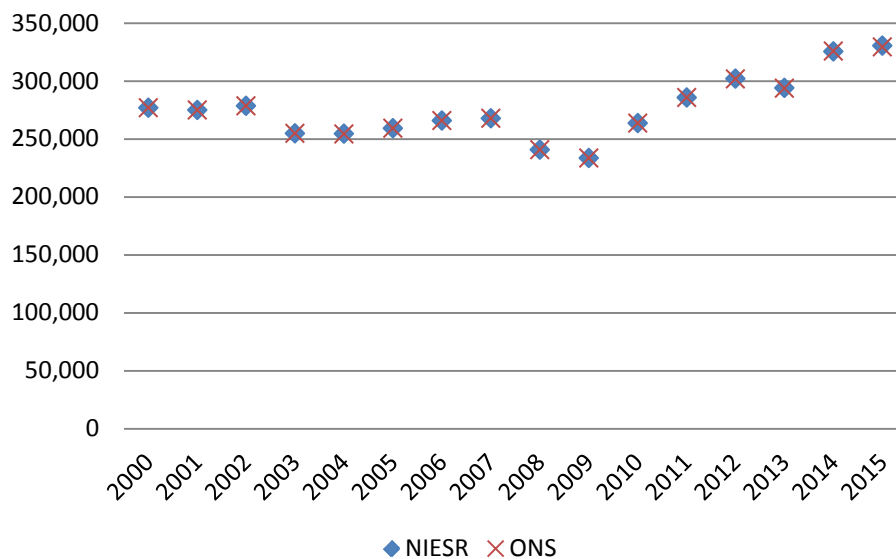
³⁵ Placing people into *permanent* or fixed-term jobs with an employer”

Table 18: Methodological variations in the identification of UK temporary agency workers

NIESR	ONS	Forde and Slater (2012)	Judge and Tomlinson (2016)
STATR=1	JOBTP=2	STATR=1	JOBTP=2
JOBTP=2	JBTP10 (1-5)=1	JOBTP=2	JBTP10=1
JBTP10 (1-5)=1		JBTP10=1	AGWRK=1
RESTMR(6)=12-16 / 13-19		SELF2=2	JB2T10(1-5)=1
			PDWG10=2
			NITAX=3

To establish the external validity of our analyses, Figure 22 and Table 19 plot NIESR and ONS figures and identify almost total consistency. Comparison with Forde and Slater (2012) also show a high level of consistency, with 271,028 temporary agency workers identified in Spring 2011 (Q1), 3656 less than the ONS and NIESR estimate (274,684).

Figure 22: Number of Temporary Agency Workers in the UK (2000-2015)



Source: NIESR analysis and ONS (2016a) – Annual averages of quarterly data

Table 19: Number of Temporary Agency Workers in the UK (NIESR and ONS 2000 to 2015)

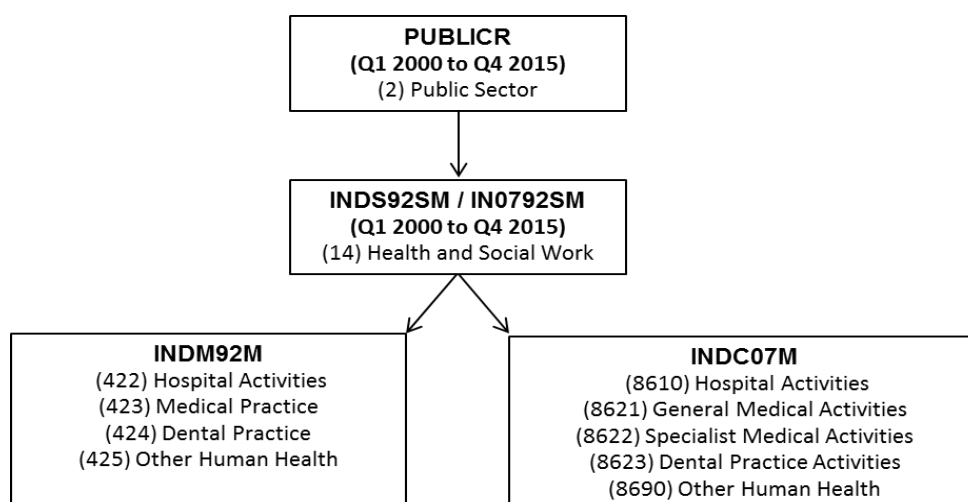
	NIESR	ONS	Difference
2000	276,776	276,776	0
2001	274,835	274,835	0
2002	278,595	278,595	0
2003	254,731	254,731	0
2004	254,405	254,266	139
2005	259,235	259,235	0
2006	265,910	265,910	0
2007	267,624	267,624	0
2008	240,619	240,619	0
2009	233,595	233,595	0
2010	263,632	263,632	0
2011	285,596	285,596	0
2012	301,946	301,632	314
2013	293,910	293,692	218
2014	325,548	325,605	-57
2015	330,422	329,231	1,191

Appendix 4: Identifying Public Sector Jobs using the LFS

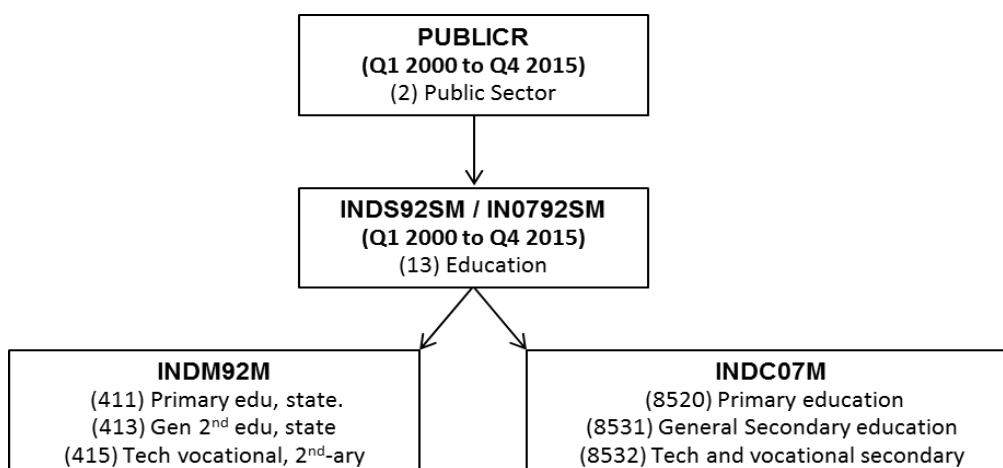
In order to identify relevant public sector jobs, a combination of LFS industry and occupational variables were used. While the LFS provides the UK's primary measure of the number of people in employment as a whole, it does not provide a fully reliable measure of the total number of employees in the public sector. This is because LFS interviewees are widely recognised to incorrectly classify themselves as working in the public sector. LFS data is therefore thought to overestimate public sector employment, sometimes up to a million (ONS 2012). As a result, the figures presented in this report are likely to be significantly higher than those presented by the ONS (2016b), as well as those identified by the STRB and NHSPRB (OME 2016). Results should be therefore considered in light of this overestimation. Furthermore, due to limitations in the LFS' ability to select particular occupational groups / places of work specific to the remit of the relevant pay review bodies, this report relies on self-reported sector data to identify individuals working within 'health' and 'education'.

Table 20: Variables to identify relevant public sector jobs

1. Public Sector Health.



2. Public Sector Education



Appendix 5: The Recruitment Industry

According to the most recent government data on VAT-registered businesses, there were 10,505 temporary employment agencies in the UK in 2015 and 11,745 employment placement agencies (ONS 2015).³⁶ Many of these agencies are likely to overlap, as they often encompass both employment business and employment agency activities, i.e. they both supply agency workers and place people into permanent jobs, and as such they are included in both statistics. In total, REC (2015) estimates that 103,225 people were employed as backroom staff in the recruitment industry in 2014-15, of which 25.2% were consultants working only with facilitating temporary assignments, 21.9% worked on organising both temporary and permanent assignments, and 19.1% worked on permanent placements only. The remaining staff worked in other roles in management, back office and as sourcers.

A complicating factor in making sense of the recruitment industry is the high proportion of small operators, often new entrants. Recent research by Sonovate (2016), drawing on data from Companies House, revealed that 2,926 agencies entered the market in the first half of 2016, whilst 5,110 recruitment agencies started up in 2015. BERR (2008) showed that in 2007 57% of agencies only employed between one and five people and 21% employed between six and ten. Evidence from Forde and Slater (2011) also suggest that the nature of supplying agency staff to be heavily localised, with even large and global recruitment companies tending to operate in narrowly-defined local markets.

³⁶ In the publication 'UK Business: Activity, Size and Location', these employment categories are categorised with the SIC codes 7820 and 7810, respectively.

Appendix 6: Regulations and the Impact of Agency Workers Regulations (AWR)

Until 2011 The Employment Agencies Act (1973) and The Conduct of Employment Agencies and Employment Businesses Regulations (2003) together set out the responsibilities of temporary work agencies in the UK and the rights of temporary agency workers. These include the requirement of agencies to provide agency workers with information about the user company, the start date and duration of assignment, the job role and potential health risks, whilst the client company is responsible for supervision during the assignment. The regulations also restrict agencies from a range of practices, such as charging a fee to a job seeker for finding vacancies, sharing any personal details, withholding agency worker wages, using agency workers to replace workers taking part in industrial action etc. In addition to the specific regulations governing agency working, temporary agency workers are also entitled to certain rights under more general labour market regulations, such as the National Minimum Wage, limits on working time, no unlawful deductions from wages, health and safety at work, and equal opportunity (Forde and Slater 2014).

In October 2011 the Agency Workers Regulations (AWR) came into force.³⁷ Its terms, which ensure the UK complies with the EU Agency Workers Directive, guarantee that temporary agency workers are protected through a number of equal treatment provisions, which entitles the agency worker to the same basic conditions of employment as people working ‘comparable jobs’ on permanent contracts. These provisions can be split into those which are available from day one of an assignment, such as equal access to office facilities and information about job vacancies, and those obtained after 12 calendar weeks of continuous employment at a client firm in the same role, such as equal pay and annual leave. The details of the 12 week qualifying period is spelled out in the Agency Workers Regulations in various government papers (see BIS 2011; Department of Education 2016). This includes that the calendar weeks will be accrued regardless of the number of hours worked on a weekly basis. In addition, although the AWR provide that the 12 weeks must be continuous, certain type of “breaks” will merely “pause” the 12 week qualifying clock, including breaks less than 6 weeks, school holidays and closures, and up to 28 weeks’ illness or jury service. Once shifts resume, say after a school holiday, the qualifying clock will resume. In contrast, the qualifying clock will be reset to 0 and must start again, if the agency worker begins a new assignment with a new hirer, or substantially changes role with the same hirer, or has a break longer than 6 weeks.

Nevertheless, overall the UK legislation on the legal status of temporary agency workers and the activities of temporary work agencies remains one of the most flexible regulatory approaches in the EU (Forde and Slater 2011, Voss et al. 2013). For instance, the UK

³⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32121/11-949-agency-workers-regulations-guidance.pdf

legislation contains no clear requirement that private employment agencies need to employ temporary agency workers. Thus, agency workers' relationship with employment businesses is defined by a 'contract for services' rather than an 'employment contract', meaning that they are classified as 'workers' rather than 'employees' (Maroukis 2014; Voss et al. 2013; McCann 2008). Furthermore, as a general rule, private recruitment agencies are not required to obtain a licence in order to operate in the UK labour market. There are only two exceptions to this. First, nursing and domiciliary care agencies may need to register with the Care Quality Commission depending on whether their agency workers undertake a 'regulated activity', such as drawing up social care or health plans (Finn 2016). Second, agencies in farming, food processing and shellfish gathering are covered by the Gangmasters' Licensing Act, which obligates them to register with the Gangmasters Licensing Authority (GLA), whose resources and scope of regulatory activities are fairly substantial (Finn 2016).

In general the oversight of regulations and agency practices is relatively limited in the UK (Finn 2016), although some channels do exist. The Employment Agency Standards Inspectorate (EASI) exists to enforce minimum standards. EASI's inspections and enforcement activities decreased substantially in 2013-14 and 2014-15 to the extent that only two remaining inspectors were on EASI's books in November 2014 (Finn 2016), but this has since then increased to nine inspectors in 2015/16 (BIS 2015). In its last annual report for 2015-16, EASI reported that it had received 781 complaints and undertaken 194 targeted inspections (BIS 2016). The industry also relies on other means of oversight, such as the 'Advisory, Conciliation and Arbitration Service' (ACAS), which provides online and phone services offering advice and guidance. Finally, self-regulation also plays a key role; the Recruitment and Employment Confederation (REC), the industry body for UK agencies, requires members to pass an annual compliance test and abide by its Code of Professional Practice to maintain membership. The REC membership comprises 3,223 recruitment agencies as of the end of 2015, representing 82% of the UK recruitment industry by value. The REC has a complaints team and a standards committee, on which both the TUC and the CBI sit, which investigates complaints from candidates or employers about their experiences with REC member agencies. Sanctions can include public reprimand and expulsion from membership. In February 2015 the REC expelled 193 agencies from membership for failing to pass its compliance test³⁸. However, importantly, REC cannot pursue complaints against non-member agencies and agencies are under no obligation to join the organisation and abide by its code.

Impact of AWR

In recent years, academic attention has centred on the impact of the Agency Workers Regulations. Forde and Slater (2014) found no substantive evidence to show that AWR have

³⁸ <https://www.rec.uk.com/news-and-policy/press-releases/one-hundred-and-ninety-three-agencies-not-good-enough-for-rec-membership>

had an impact on the number of agency workers. It is hard, however, to disentangle the impact of AWR from wider economic developments. Even if AWR haven't changed the prevalence of agency working in the UK economy, it seems likely to have changed some recruitment practices among client firms and recruitment agencies. One of the most debated provisions in the AWR is the 'Swedish Derogation' or 'pay between assignment' contractual arrangement. This term describes a situation in which an employment business offers a permanent contract to an agency worker, who is then paid between assignments, but foregoes the AWR entitlement to equal pay after a twelve-week assignment. This significantly changes the contractual relationship, as the employment business becomes the employer of the temporary worker.

Some studies argue that employers in some sectors, such as retail, care work, industrial and manufacturing sectors, have increasingly opted to sign contracts with agency workers under the Swedish Derogation (Finn 2016; Forde and Slater 2016). However, in other sectors, the evidence indicates that contracts under the Swedish Derogation are not particularly common, reflecting that the costs of paying agency workers between assignments can only be minimised by agencies in sectors with high-volume of temporary agency work (Forde and Slater 2016). Instead, some studies argue that one of the main impacts of the AWR seems to be that many employers have changed their recruitment practices to avoid using agency workers for more than 12 weeks to avoid the costs associated with the equal treatment provisions (Jordan et al. 2013, ACAS 2015). Finally, insofar as Swedish Derogation contracts are used, there are some indications that it is often pushed by client firms rather than agencies (BIS 2014, Forde and Slater 2014, 2016).

Appendix 7: Typology of Contract Arrangements

Apart from the changes caused by the introduction of AWR, the contractual relations between employment agencies and client firms have developed significantly over the last 10-15 years, particularly creating overarching structures favouring client firms. Forde and Slater (2011) proposed a basic typology of these contractual relations:

- **Framework agreements.** Within the public sector, temporary employment agencies increasingly work in the context of so-called framework agreements. Such an agreement lists organisations that have been assessed to deliver on a number of criteria, in particular with regard to price, quantity and quality. As such, framework agreements will specify which agencies a public sector organisation can contract with, and it is therefore seen as highly important for agencies to be included within framework agreements. Public sector organisations do have some leeway over using agencies outside framework agreements (Kirkpatrick et al. 2009; Panniker 2015), but generally have strong financial incentives to use agencies on framework agreements.
- **'Preferred supplier' or 'master vendor' contracts.** In these arrangements, client firms will use multiple temporary work agencies, but develop an especially close relations with one of these – a 'master vendor' – who will “get the first bite at the cherry” (Kirkpatrick et al. 2009) and provide agency workers to the client at an agreed volume discount, and only when the master vendor cannot fill a placement will the client turn to other agencies (secondary suppliers) to recruit agency staff. A less common variation of this is the 'sole supplier' arrangement, in which one agency has a complete monopoly of agency labour supply, but despite higher volume discount rates it is not common in practice due to the associated risk of only having one recruitment agency from which to source agency staff. 'Master vendor' contracts are common place in both the private and public sector, and are seen as a means to achieve volume discounts in addition to the discount rates already achieved by framework agreements (Hoque et al. 2008).
- **'Neutral vendor' contracts.** A third-party organisation – working as an intermediary between the client firm and recruitment agencies – is commissioned to manage the overall recruitment process. The organisation does not provide staff itself (hence the term 'neutral vendor'), but sources staff from different recruitment agencies and crucially negotiates lower fees with agencies and shares any savings with the client firm. According to Forde and Slater (2011), this type of arrangement has become particularly common in the public sector.
- **'Vendor Managed Services' (VMS).** Often used in the literature as a catch-all term for all forms of neutral and master vendor contracts

- **Agencies or third-party companies that employ their temporary staff.** In addition to agencies that employ their agency staff under the 'Swedish Derogation', another significant development in recent years is the emergence of new types of agency working arrangements, such as umbrella companies, limited companies and personal service companies. By using 'contrived contracts' to disguise or alter employment relations, agencies and agency workers can acquire a number of advantages related to tax obligations, social insurance contributions and travel expenses (Finn 2016). The evidence on the use of such arrangements is patchy, but some findings indicate that, at least in some sectors, it is fairly widespread. For instance, in a survey of supply teachers, 55% of respondents said they were paid through either an umbrella company or a limited company (NUT 2016), whilst another survey reported that 65% of supply teacher respondents had been asked to sign a contract with an umbrella or offshore company (NASUWT 2014). However, recently government has turned its attention to this issue and implemented a number of regulatory initiatives aimed at preventing the use of such contractual arrangements, and as such, there may be a trend away from such contracts in the future (NUT 2016).
- **'Spot contracts'.** Forde and Slater (2011) use this term to describe the 'traditional' recruitment of temporary workers via agencies, in which no formal, longer-term contractual arrangements affect the direct, personal relationship and negotiations between clients and agencies over pay, duration and quality.

Appendix 8: Price caps

Table 21: Maximum total hourly rates for all medical and dental staff (£)

Grade	Shift type	23 Nov 2015	1 Feb 2016	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	£48.75	£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
Speciality 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

Source: Monitor (2016)

Table 22: Maximum total hourly rates for all other clinical staff, for trusts with no high cost area supplement (£)

Grade	Shift type	23 Nov 2015	1 Feb 2016	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

	Day	£18.19	£15.92	£14.10
Band 2	Night/Saturday	£26.20	£22.92	£20.30
	Sunday/Bank Holiday	£34.20	£29.93	£26.51
	Day	£19.89	£17.41	£15.42
Band 3	Night/Saturday	£27.25	£23.85	£21.12
	Sunday/Bank Holiday	£34.61	£30.29	£26.82
	Day	£22.73	£19.89	£17.61
Band 4	Night/Saturday	£29.55	£25.85	£22.90
	Sunday/Bank Holiday	£36.36	£31.82	£28.18
	Day	£28.80	£25.20	£22.32
Band 5	Night/Saturday	£37.44	£32.76	£29.02
	Sunday/Bank Holiday	£46.09	£40.33	£35.72
	Day	£35.65	£31.19	£27.63
Band 6	Night/Saturday	£46.34	£40.55	£35.92
	Sunday/Bank Holiday	£57.04	£49.91	£44.20
	Day	£41.87	£36.64	£32.45
Band 7	Night/Saturday	£54.43	£47.63	£42.18
	Sunday/Bank Holiday	£66.99	£58.62	£51.92
	Day	£48.61	£42.54	£37.67
Band 8a	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	£103.34
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

Source: Monitor (2016)

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