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To: General Managers of
Regional Health Authorities
District Health Authorities
Special Health Authorities

Your reference
Our reference EL (88) P/204
Date 25 November 1988

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Dear General Manager

HOSPITAL MEDICAL AND DENTAL STAFF :LOCUM TENENS

1. This letter is to inform you of the maximum that authorities will be authorised to pay private locum agencies with effect from 12 December 1988. It also seeks your views both on a draft circular to be issued giving guidance on the use of agency staff and on proposals for changes in payment of directly-employed locums and for more flexible deployment of junior staff.

Background

2. As you know, increasing concern about the high rates charged by agencies led to a Consortium of Regional Health Authorities being set up to negotiate a reduction in these rates with the Federation of Recruitment and Employment Services. Despite their best endeavours the Consortium were unable to secure agreement by FRES to satisfactory reductions in agency charges. The Minister for Health has decided, therefore, that action must be taken centrally.

Immediate action

3. Authorities are advised that from 12 December 1988 new contractual arrangements with any given agency should restrict payment to the lower of the following:-

Either a.	Grade	Gross Charge per hour
	House Officer	£9.45
	Senior House Officer	£10.75
	Registrar	£11.45
	Senior Registrar	£12.15

or b. The hourly rate charged by the particular agency at 31 March 1988.

Agencies have been informed of these restrictions. Contracts made prior to 12 December 1988 may, of course, continue through to their expiry. "Gross charge" includes commission, employers' National Insurance contributions and VAT.

Future action

4. You may know that there have been discussions about the use of locums between representatives of Regional Health Authorities and Departmental officials. The proposals in the following paragraphs have been worked up in the light of those discussions. They have not yet been discussed with the profession's representatives and will, of course, be subject to negotiation with the profession in the normal way.

5. We are proposing to issue guidance to authorities concerning the employment of locum tenens engaged through private agencies. A draft of that guidance is enclosed which, amongst other matters, proposes that authorities should pay agencies maxima calculated on the basis of levels recommended by the Review Body on Doctors' and Dentists' Remuneration. The Department would welcome the views of Regional General Managers' and General Managers of Special Health Authorities on the draft circular. We are also asking the Joint Consultants' Committee and agencies for their views.

6. Together with the action proposed in paragraph 5, we are considering paying non-agency locums engaged for a week or less, for the first 40 hours or the first period of continuous duty if longer, at standard rates subject to a maximum of 64 hours at those rates. We are advised that this could probably be done on a "nil-cost" basis or the costs be comfortably absorbed in the savings at paragraph 3 above. Before making any offer to the profession we would welcome General Managers' views on the proposal and an estimate of the cost (if any) in their Region.

7. A further package of measures is also under consideration which is intended to facilitate more flexible deployment of junior staff to cover absences. The elements of this package are:

- a. Juniors would continue to cover absences of colleagues on annual or study leave as at present; but in addition prospective cover liability would be extended to cover short vacancies of up to 2 weeks due to other leave or unfilled vacancies;
- b. In return, juniors would be granted time off in lieu or paid as an extension to their existing contracts at their personal standard umt rate for any additional hours undertaken outside regularly contracted hours. Pay would cease to be averaged over the year but awarded as and when liability was taken up. The practitioner's commitment averaged over the year would not exceed 84 hours, and any further duty would be under voluntary internal locum arrangements.
- c. Juniors undertaking internal locum work would be paid at their personal standard umt rate, unless the rate for the grade covered would be more favourable.
- d. Juniors would not be able to contract with an agency or another authority without the principal employing authority's permission; this might be withheld if aggregate commitments in any one week exceeded 104 hours.

Before we enter into negotiations with the profession we would again welcome the views of Regional General Managers' and General Managers of Special Health Authorities and an estimate of the annual cost of introducing the package in their Region or Special Health Authority.

8. I should be grateful if you would send comments on paragraphs 5,6 and 7 to Mr A Doole, Room 624 Eileen House, 80-94 Newington Causeway, LONDON SE1 6EF to arrive no later than 31 January 1989.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Parker', with a stylized flourish at the end.

JOHN PARKER
Assistant Secretary

【DRAFT GUIDANCE TO HEALTH AUTHORITIES】

HOSPITAL MEDICAL AND DENTAL STAFF : LOCUM TENENS ENGAGED THROUGH PRIVATE AGENCIES

1. This letter gives guidance on the use of private agencies providing locum tenens hospital medical and dental staff.

Introduction

2. The model procedure set out in this letter is designed to assist health authorities in discharging their responsibility for ensuring that proper checks are applied before medical and dental staff are engaged through private agencies and that costs are contained.

General

3. Wherever practicable, substantive postholders should cover for absent colleagues within their contracts and job descriptions or, failing that, should be contracted as on a locum basis, under the arrangements described in paragraphs 108 to 111 of the terms and conditions of service ('TCS'), in preference to the appointment of a locum tenens. In the case of junior staff, the limitation on regular rota commitments prescribed in TCS paragraph 21 must be observed, and every effort should be made to appoint a directly-employed locum tenens under TCS sub-paragraph 110.e where cover by substantive postholders would result in unreasonable hours of duty. Authorities are, in particular, reminded of the need to minimise temporary commitments more onerous than 1 in 2, in accordance with PM(85)1.

Use of agencies

4. The following model procedure is commended for use where authorities are unable to avoid contracting with private agencies.

Licensing

5. Authorities should ensure that any agency with whom they contract has been licensed by the Department of Employment as an employment agency or an employment business under the Employment Agencies Act 1973, as amended by the Employment Protection Act 1975.

Recruitment

6. Authorities should satisfy themselves that any agency with whom they contract has suitable procedures for recruiting

practitioners, and in particular for ensuring:

- 6.1. that practitioners are registered with the General Medical or Dental Councils;
- 6.2. that practitioners are subscribing members of the Medical Defence Union, the Medical and Dental Defence Union of Scotland, or the Medical Protection Society;
- 6.3. that practitioners are supported by satisfactory professional references, at least one of which relates to relevant employment in the 12 months preceding their acceptance by the agency; and that, save where the services practitioners are to provide do not normally involve patient contact, they have declared any criminal offence under the Rehabilitation of Offenders Act 1974;
- 6.4. that practitioners who are not British citizens or EC nationals and who first entered the UK as practitioners after 1 April 1985 are not caught by the Immigration Rules or that they have the necessary Home Office permission to seek work under permit-free arrangements;
- 6.5. that practitioners who have not practised in the National Health Service in the 12 months preceding their acceptance by the agency are required to pass a medical examination as a condition of such acceptance; and that practitioners who have practised outside the UK in the 3 months preceding their acceptance by the agency are required to complete a medical questionnaire in a form approved by the authority.

Placement

7. Authorities should satisfy themselves that any agency with whom they contract has suitable procedures for ensuring that a practitioner whom they propose to place in a specific vacancy has the requisite qualifications and experience for the work to be done, and that the needs of the practitioner and the authority are taken properly into account. In particular, agencies should, on request, notify the authority of:-

- 7.1. the practitioner's full name (as in the Medical or Dentists' Register) and registration status, and provide the original certificate; and
- 7.2. the practitioner's registrable and additional registrable (higher) qualifications; and
- 7.3. the practitioner's membership status of a

professional defence organisation, and provide the original certificate; and

- 7.4 the names, addresses and telephone numbers of at least 2 professional referees, and provide copies of the references concerned; and
- 7.5 where sub-paragraph 6.4 applies, provide the practitioner's passport; and
- 7.6. where paragraph 6.5 applies, the result of the relevant medical examination or completed medical questionnaire;
- 7.7. brief details, including nature of duties and hours of work, of any NHS appointment to be held by the practitioner concurrently with the proposed placement.

Proof of the items specified in 7.2,4,6 and 7 should be available for inspection by the authority.

Health Authority checks

8. Authorities remain responsible for ensuring that thorough checks are carried out on the registration and other credentials of practitioners. They should not, other than in exceptional circumstances, rely on checks made by other organisations on their behalf. It is particularly important that procedures for engaging agency staff should be consistent with those applied to directly-employed staff in relation to:

8.1. registration status, as recommended in PM(87)7;

8.2. immigration status, as recommended in HC(FP)(85)14.

9. In addition:

9.1. the passing of a medical examination shall be a condition of the commencement or continuation of a placement if the authority considers that the interests of patients require it;

9.2. wherever practicable, a practitioner should be interviewed by a senior member of the medical or dental staff of the hospital concerned before or, exceptionally, within 24 hours of commencing the placement, unless he has been satisfactorily engaged in the hospital within the preceding 12 months;

9.3. the authority may, in consultation as appropriate with other authorities, decline to accept or continue a placement if it considers that the practitioner's aggregate commitments would be unreasonable or if the placement would not otherwise be in the interests of the service;

- 9.4. where a proposed placement involves substantial access to children in need of a relatively lengthy in-patient care, the authority should ensure that appropriate checks have been carried out in accordance with HC(88)9 (paragraph 7);
- 9.5. a Regulation under the Employment Agencies Act 1973 prohibits an employment business from supplying a worker to a hirer if at any time during the period of 6 months before the date on which he or she is to be supplied he or she has been an employee of that hirer. Agencies must therefore obtain the written consent of a client before supplying a practitioner in such circumstances;
- 9.6. Authorities should maintain records of practitioners engaged through agencies in the same way as for directly-employed staff.

Grievances

10. Where an authority is dissatisfied with the service provided by an agency or a practitioner, the matter should be raised with the agency as quickly as possible; if by telephone, it should be confirmed in writing. If the agency and the Authority are unable to resolve the matter, a report should be made in specific terms to the appropriate Employment Licensing Office of the Department of Employment (see Annex for details of these offices). A practitioner who has been the subject of an adverse report from an authority should not be offered for placement to any other authority unless the agency and the authority are satisfied that a recurrence is likely to be avoided.

Terms

11. Authorities should ensure, in respect of any agency with whom they contract, that:

11.1. the terms of the practitioner's relationship to the agency are given to the practitioner in full and in writing before the practitioner is accepted by the agency; and that

11.2. the terms and conditions under which a practitioner is placed with the authority are supplied to the authority in full and in writing;

11.3. there are no restrictions on any practitioner taking up permanent employment.

12. In agreeing what to pay agencies, authorities are advised not to exceed the following maxima, which are calculated on the basis of remuneration recommended for the time being by the Review Body on Doctors' and Dentists' Remuneration, and

include allowance for agencies' costs and charges:-

Grade	Standard rate per hour £	Premium Rate per hour £
House Officer	4.85	7.00
Senior House Officer	6.25	9.00
Registrar	6.85	10.15
Senior Registrar	7.90	12.10

- 12.1. Agencies should be paid at the rate for the grade in which the vacancy arises. For placements of a week or less, the first 40 hours of duty are payable at premium rates save that, where the placement includes a period of continuous duty in excess of 40 hours (typically over a weekend), such duty may be paid at premium rates, subject to an overall maximum of 64 hours per placement at those rates. All other duties are payable at standard rates.
- 12.2. A flat-rate addition of 32p per hour may be made where the post attracts the non-resident rate of London Weighting Allowance in respect of directly-employed staff.
- 12.3. An addition may also be made equivalent to the amount of travelling expenses which would have been payable to directly-employed staff in accordance with TCS paragraph 289.
- 12.4. No payment for additional items of expenditure should be made, except as provided in sub-paragraphs 12.1 to 12.3 above unless the total bill including such items is equal to or less than the maximum payable. Practitioners placed for public holidays will not be granted additional payments nor time off in lieu.

Action

Authorities should inform agencies whose services they use of the basis on which they are in future prepared to contract. That basis should be consistent with the model procedure described in this letter, and should be introduced with effect from [] .

Yours sincerely

J A PARKER
Assistant Secretary

**Department of Employment —
Employment Agency Licensing Offices**

London and South East
2-16 Church Road
Stanmore
Middlesex
HA7 4AW
Tel: 01-954 7677

Areas covered:
Greater London Council, Essex,
Suffolk, Norfolk, Cambridgeshire,
Hertfordshire, Bedfordshire,
Buckinghamshire, Oxfordshire,
Berkshire, Hampshire, Sussex,
Surrey, Kent.

Midlands and South West
Cumberland House
20 Broad Street
Birmingham B15 1 PQ
Tel: 021 631 330

Areas covered:
West Midlands Metropolitan County,
Shropshire, Staffordshire, Derbyshire
(except High Peak), Nottinghamshire,
Lincolnshire, Leicestershire,
Northamptonshire, Warwickshire,
Hereford and Worcester,
Gloucestershire, Avon, Somerset,
Wiltshire, Dorset, Devon, Cornwall.

North
City House
Leeds LS1 4JH
Tel: Leeds 436232
(STL Code 0532)

Areas covered:
Merseyside, Greater Manchester,
Lancashire, Cheshire, Derbyshire
(High Peak), West Yorkshire, South
Yorkshire, North Yorkshire,
Humberside, Cleveland, Durham,
Tyne and Wear, Northumberland,
Cumbria.