



# Workforce Alliance

## RM6281: Provision of Clinical and Healthcare Staffing

FTS Reference number: 2023/S 000-004371F

### EXTENDED HIRE/TRANSFER FEE GUIDANCE

A supplier who operates as an employment business can charge transfer fees in the following circumstances:

- **Temp to perm:** where a temporary work-seeker is taken on permanently by the buyer
- **Temp to temp:** where the buyer requests that the temporary work-seeker is provided by another supplier or internal staff bank
- **Temp to third party:** where the buyer requests that the temporary work-seeker is provided by a third party

When determining if a transfer fee is due to a supplier under the Conduct of Employment Agencies and Employment Business Regulations 2003, along with the terms of the framework, a buyer (trust) has three options outlined below. Only one will be applicable to you.

In all cases, a transfer fee will be payable if the temporary work-seeker takes up employment with the buyer or is provided by another supplier or third party without the buyer providing the required notice period to the supplier unless there is a break in service.

As a benefit of this framework, the fixed term employment agency fee is subject to a minimum of a three-month term, with the maximum chargeable amount being for twelve-month term whether or not the fixed term exceeds twelve months helping cost savings for customers. Fixed term fees applicable are explained on page four of this document.

In the instance that a buyer receives introductions from multiple suppliers for the same temporary worker, the supplier that introduces the temporary worker first will be deemed to have right of representation. This is providing that they have completed all the requirements identified in paragraph six (temporary worker compliance requirements) of the framework specification.

For the avoidance of doubt, the unsolicited receipt of CVs will not be taken as an introduction of a temporary worker and will not make the buyer liable to pay a transfer fee.

**Note: This applies only for agencies providing temporary workers under the RM6281 framework agreement. For any off-framework agency workers, ensure you are checking the booking T&Cs.**

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## OPTION 1 - EXTENDED HIRE/TRANSFER PERIOD

Under the Conduct of Employment Agencies and Employment Business Regulations 2003, Section 10 (1) Restrictions on Charges to Hirers, the buyer may provide an extended hire period to the agency the temporary worker is engaged via, at which point when this period has elapsed the trust may:

- employ the worker, including to own staff bank – *temp-to-perm*
- the worker can transfer to another agency – *temp-to-temp*
- the worker may work via a trust's external staff bank – *temp-to-third party*

**Once the appropriate extended hire period has been agreed then you can employ the worker/the worker can transfer free of charge (FOC) to the trust.**

The extended hire period within the terms of the framework is four weeks minimum at week eight, up to a maximum of 12 weeks. If the candidate has worked for the trust for less than 12 weeks. The table below shows the relevant number of weeks extended hire period that must be given:

Period worked for the buyer	Extended hire notice to be served
1 week	11 weeks
2 weeks	10 weeks
3 weeks	9 weeks
4 weeks	8 weeks
5 weeks	7 weeks
6 weeks	6 weeks
7 weeks	5 weeks
8 weeks or more	4 weeks

For avoidance of doubt, the worker should continue to work for the duration of the notice via the supplier, unless the worker is due to be on holiday, is sick, etc.

**Notice must be provided by the Buyer to the supplier in writing.**

If an 'extended hire period' as in option 1 hasn't been given, and a worker decides they do not wish to continue working via the supplier, the worker cannot continue to work with you via any other route and you will need to refer to option 2:

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## OPTION 2 - BREAK IN SERVICE (14/8 WEEK RULE)

For this option to apply, the assignment the worker is working must have ended.

Under the Conduct of Employment Agencies and Employment Business Regulations 2003. Section 10 (5) a transfer fee is unenforceable whereby the 14/8-week rule applies (*this only works if the worker hasn't worked for the trust within the last eight weeks as there needs to be an eight-week gap, longer if worked at the trust for less than six weeks prior to the eight-week gap*).

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**Example:**

- i. Worked 1 week at trust +13-week gap = 14 weeks passed – employ FOC
- ii. Worked 2 week at trust = 12-week gap = 14 weeks passed – employ FOC
- iii. Worked 3 week at trust = 11-week gap = 14 weeks passed – employ FOC
- iv. Worked 4 week at trust = 10-week gap = 14 weeks passed – employ FOC
- v. Worked 5 week at trust = 9-week gap = 14 weeks passed – employ FOC
- vi. Worked 6 weeks or more at trust = 8-week gap = 14 weeks passed – employ FOC

Once the required gap has been left then you can employ the worker/the worker can transfer FOC to the trust.

If neither option one nor option two are applicable, you will have to pay a transfer fee, per option three:

### OPTION 3 - NO EXTENDED HIRE PERIOD OR BREAK IN SERVICE

If no extended hire period provided to the agency per option 1 and no break in service per option 2, the trust will pay a modest transfer fee.

This is calculated on the supplier fee element of the total charge rate and calculated in accordance with the table below:

Time working for the buyer	Transfer fee to be paid to the supplier
1 week	Supplier fee element for 11 weeks
2 weeks	Supplier fee element for 10 weeks
3 weeks	Supplier fee element for 9 weeks
4 weeks	Supplier fee element for 8 weeks
5 weeks	Supplier fee element for 7 weeks
6 weeks	Supplier fee element for 6 weeks
7 weeks	Supplier fee element for 5 weeks
8 weeks or more	Supplier fee element for 4 weeks

Example of how introduction fees would be calculated:

### FEES

Where a fee is due, below is how the fees would be calculated (based on a nursing role for the example below).

Below is based on a band 5 nurse working across all shift patterns (day/night/weekend)  
 Agency fee (averaged based on work pattern) = £4.50ph (dependent on rate card used  
 e.g. NHSE or supplier framework rate card)

$$\begin{array}{r}
 \times \\
 \text{Average hours worked (must take out breaks) 11.5hrs} \\
 = \text{£51.75 per day} \\
 \times
 \end{array}$$

Average shift pattern (5 days for this example)  
X  
Number of weeks of which notice should have been served

No of weeks worked	Notice to be served	Fee due	
1	11 weeks	£2,846.25	
2	10 weeks	£2,587.50	
3	9 weeks	£2,328.75	
4	8 weeks	£2,070.00	
5	7 weeks	£1,811.25	
6	6 weeks	£1,552.50	
7	5 weeks	£1,293.75	
8 / 9 / 10 / 11 / 12+	4 weeks	£1,035.00	

**Please note:** Under the Conduct of Employment Agencies and Employment Business Regulations 2003. Section 10 (6) In determining the first day on which the work-seeker worked for the hirer pursuant to the supply of that work-seeker to that hirer by the employment business, no account shall be taken of any supply that occurred prior to a period of more than 42 days during which that work-seeker did not work for that hirer pursuant to being supplied by that employment business.

## FIXED TERM ASSIGNMENT

If a buyer wishes to employ the fixed term work-seeker on a permanent basis, then the supplier may charge a fee if the fixed term assignment was less than 12 months.

The fee payable for the fixed term work-seeker and the fee which would have been payable had the work-seeker worked for a period of twelve (12) months for the buyer.

For example, after eight months of fixed term employment, if the buyer wishes to recruit the work-seeker permanently then the supplier will charge a fee equal to the difference between the assignment length and 12 months. In this example, the fee would be proportional to the remaining four months supplier fee.

Using this example, if the temporary workers salary is £30,000 and the supplier's fixed term fee is 10%, the costs are:

- 12 months fee: £3,000
- Fee already paid for eight months: £2,000

- Transfer fee for outstanding four months: £1,000

Original fixed term period	Transfer fee to be paid to the supplier
<b>3 months</b>	9 months supplier fee
<b>4 months</b>	8 months supplier fee
<b>5 months</b>	7 months supplier fee
<b>6 months</b>	6 months supplier fee
<b>7 months</b>	5 months supplier fee
<b>8 months</b>	4 months supplier fee
<b>9 months</b>	3 months supplier fee
<b>10 months</b>	2 months supplier fee
<b>11 months</b>	1 month supplier fee
<b>12 months</b>	No charge

For the avoidance of doubt, no transfer fees will be payable after an assignment of 12 months or longer.