

APSCo Update on Agency Rules on the use of agency child and family social workers



NEW October 2024

AGENCY RULES ON THE USE OF AGENCY CHILD AND FAMILY SOCIAL WORKERS

The Department for Education (DfE) has published its [statutory guidance for local authorities on the use of agency child and family social workers](#).

WHAT ARE THE RULES?

The statutory guidance describes a set of rules that collectively set out what local authorities should do when using agency child and family social workers.

The rules are designed to improve the stability and quality of the child and family social worker workforce. They are intended to help social workers build strong, positive relationships with children and families, which can lead to better support and results for children in need. The rules also seek to cut down on the high costs and heavy use of temporary social workers from agencies. This will allow for a more sustainable workforce, making it easier to invest in and develop social workers, which will in turn benefit children and families.

WHO DOES IT APPLY TO?

It applies to:

- all local authorities in England;
- alternative delivery models for children's social care (where the delivery of children's services is outsourced to a trust or not-for-profit organisation that is separate from, but accountable to, the local authority);
- partnership based models (where a single leadership team oversees delivery of children's services across two or more local authorities).

WHEN DO THESE NEW RULES COME INTO FORCE

The statutory guidance came into force on **31 October 2024** for all new agency child and family social work assignments across all contracts to supply agency child and family social workers, except where existing contractual obligations prevent implementation of particular rules or parts of a rule.

From **1 October 2025**, local authorities should comply with all agency rules for all agency child and family social work assignments across all contracts to supply agency child and family social workers without exception.

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SUMMARY TABLE OF THE RULES

The following table identifies the key points implemented by the agency rules:

KEY POINT	DESCRIPTION	EXPLANATORY COMMENT
DATA COLLECTION	Local Authorities must provide the Department for Education with quarterly data on the use and cost of agency child and family social workers, including where supplied via a project team or other packaged model.	<p>Local Authorities must submit a quarterly data return to the Department for Education on their previous quarter's agency use and cost.</p> <p>This will enable local authorities to compare their agency costs with those of other local authorities at a regional or national level against five consistent core job types.</p>
PRICE CAPS	Local Authorities should work within their region to agree and implement agency child and family social worker price caps that all local authorities within the region should comply with.	<p>The aim of these price caps is to reduce the workforce churn and increase stability. It also intends to create a greater national consistency and fairness around pay for agency child and family social workers and reduce excessive competition.</p> <p>Price caps represent the maximum and should not be interpreted as standard of default.</p> <p>Financial or non-financial bonuses that take the agency child and family social worker over the cap should not be offered.</p> <p>In implementing their price caps, local authorities will need to be aware of their legal obligations under the Agency Workers Regulations 2010 (AWR). This includes ensuring that an agency child and family social worker who has completed their qualifying period receives the same basic working and employment conditions, including aspects of pay and annual leave, as direct recruit.</p> <p>All assignments at hourly rates above the price caps should be signed off by the relevant local authority's Director of Children's Services (DCS) and Chief Executive prior to the assignment</p>

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		<p>being agreed. All assignments at hourly rates above the price caps will also need to be reported to the DfE through the local authority's quarterly data collection.</p> <p>Local authorities should ensure adverts placed on their behalf comply with the statutory guidance.</p>
<p>PROJECT TEAMS</p>	<p>Local Authorities should ensure all contracts to supply agency child and family social workers via a project team or other packaged model comply with the following requirements:</p> <ul style="list-style-type: none"> • prior identification and local authority approval of all constituent child and family social workers; • disaggregation of costs related to the provision of each child and family social worker and any other service provided; • governance arrangements that allow the local authority to maintain complete oversight, control, and management of social work practice delivered via the project team or other packaged model. 	<p>This rule applies to all contracts to supply agency child and family social workers to a local authority via a project team or other packaged model.</p> <p>Local authorities will need to ensure that the engagement of each of the agency child and family social workers of any project team or other packaged model also complies with all the other rules set out in the DfE's guidance:</p> <ul style="list-style-type: none"> • Employment status for tax: Local authorities will need to consider their tax obligations and consider whether the work is in fact a fully contracted out service; • Prior approval of constituent child and family social workers: Local authorities should ensure that all decision-making authority regarding the recruitment and retention of agency child and family social workers is held within established local authority line management. All contracts to supply agency child and family social workers via a project team or other packaged model should identify each agency child and family social workers and allow for the local authority to approve or decline each agency child and family social worker for assignment. The supplier will need to provide the following details: <ul style="list-style-type: none"> - Number of social workers; - Name of each of social worker; - Each worker's registration number issued by Social Work England;

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- References for each social worker

- Cost disaggregation: Local authorities should ensure that all contracts to supply agency child and family social workers via a project team or other packaged model disaggregate the costs related to the provision of each agency child and family social and any other service provided prior to the contract signing.

All contracts to supply agency child and family social workers via a project team or other packaged model should include at minimum:

- An overall price;
- A clear breakdown of costs, including hourly pay rate (which much complies with the relevant price caps);
- A clear breakdown of all other staff costs;
- A breakdown of other charges that have been wrapped into the total price;
- A payment schedule;
- The right for the local authority to request further information on cost transparency throughout the contract term.

- Governance: Local authorities should ensure that all contracts to supply agency child and family social workers via a project team or other packaged model include governance arrangements that allow the local authority to maintain complete oversight, control, and management of social work practice delivered via the arrangement.

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NOTICE PERIODS

Local authorities should ensure all agency assignments have a four-week notice period or align the length of assignment notice periods with that of the local authority's contractual notice period for substantive staff in the same or an equivalent job role where that is less than four weeks.

Agency child and family social workers should not be subject to longer notice periods than their directly employed counterparts.

Therefore, where a local authority has variable lengths of notice periods that are less than four weeks for a different level of seniority or different lengths of service, the notice period for agency assignments should reflect those variations. Where calculating a notice period of less than four weeks for agency child and family social workers local authorities should use the minimum notice period specific for the same or equivalent substantive job roles.

Agencies are required to ensure agency child and family social workers put forward for assignments are told the length of notice they must give and should receive on termination of the assignment.

Although local authorities should ensure that all agency assignments have a four-week notice period, agencies are still allowed to agree immediate termination terms, for example where:

- An individual is dismissed due to gross misconduct following a fair and reasonable investigation;
- An individual asks to leave before their notice period on compassionate ground and this is agreed with the local authority;
- It is agreed by both parties that exceptional circumstances justify termination the assignment with a reduced notice period.

The notice period will run from the day after the agency child and family social worker has handed in their notice, and when the local authority issued the notice, from the day after the agency received the notification. The notification should be in writing.

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		<p>Be aware that under the agency rules, local authorities are recommended not to engage with an agency child and family social worker who failed to complete their notice period at their previous local authority assignment.</p>
<p>COOL-OFF PERIODS</p>	<p>Local authorities should not engage agency child and family social workers for a minimum period of three months after they have left a substantive role in their children’s service department or that of a local authority within the same region.</p>	<p>This rule sets a minimum three month cool-off period and minimum geographical boundary. The local authority can agree to a longer cool-off period for substantive roles within the same region and can agree to a wider geographical area if they wish to do so.</p> <p>Regional boundaries for cool-off periods are defined as the nine local authority regions in England.</p> <p>There may be circumstances where a cool-off period is not applicable, for example where an agency child and family social worker:</p> <ul style="list-style-type: none"> - Is moving to a permanent role; - Has been made redundant from a permanent role; - Is seeking an agency assignment in a different region from their previous employment; - Has left a permanent role during their probationary period. <p>Local authority may also consider exceptional circumstances on compassionate grounds.</p>
<p>POST-QUALIFYING EXPERIENCE</p>	<p>Local authorities should not engage agency child and family social workers with less than three years post-qualifying experience (PQE) in direct employment of an English local authority practising in a child and family context while</p>	<p>Under the rules, local authorities should apply the post-qualifying experience minimum to all agency child and family social workers irrespective of their pathway to the profession.</p> <p>Local authorities should notify agencies and managed service providers of the PQE minimum to provide them with sufficient information to</p>

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	<p>registered as a social worker with a UK regulator.</p>	<p>select a suitable agency child and family social worker.</p> <p>PQE is defined as time spent in direct employment of an English local authority practising in a child and family context while registered as an agency child and family social worker with a UK regulator.</p> <p>This can include time spent in direct local authority employment participating in post-qualifying development programmes such as the Assessed and Supported Year in Employment (ASYE).</p> <p>It should total three years and can be obtained through one or several periods of employment and does not need to be within a specific three-year period. Periods of statutory leave taken as part of continuous employment should count towards PQE. Unpaid career breaks should not, nor should voluntarily work for a LA, or time spent practising outside of England.</p>
<p>REFERENCES</p>	<p>Local authorities should:</p> <ul style="list-style-type: none"> provide a detailed practice-based reference using the agency rules standard reference template for all agency child and family social workers on assignment irrespective of length of assignment; require at least two detailed practice-based references for all agency child and family social workers before offering an assignment (the agency rules standard reference template should be used for references dated on or after this guidance has taken effect). 	<p>Local authorities should provide a detailed practice-based reference using the agency rules standard reference template for all agency child and family social workers on assignment irrespective of length of assignment.</p> <p>Local authorities should request that agencies and managed service providers provide them with at least two detailed practice-based references for all agency child and family social workers.</p> <p>This rule sets a minimum. It does not prevent local authorities from requesting more than two detailed practice-based references as standard for agency assignments should they wish to do so.</p>

If you have any queries, please contact the legal helpdesk at legalhelpdesk@apsco.org.