

## **COUNTER FRAUD, BRIBERY & CORRUPTION**

# **Fraud Detection Exercise – Pre-Employment Checks**

**June 2021**

## Executive Summary

In response to identified risks Local Counter Fraud Services have undertaken an exercise to ascertain the validity of required Pre-Employment Checks completed within the Health Board and by Agency Suppliers contracted to supply staff to all work streams within Cwm Taf Morgannwg University Health Board. Pre-employment checks are set out in the NHS Wales Shared Services Partnership Agreement (NWSSP) as detailed within the content of this report.

The risks of not deploying and employing legitimate and appropriately trained staff within the Health Board can have a significant impact on...

1. Patient Safety
2. Staff Safety
3. Health and safety within the workplace
4. Financial Management
5. And the representational image of the organisation

It can be shown that within the Health Board, all pre-employment checks are being completed in full compliance of the Shared Service Partnership Agreement. It should be noted that due to the impact of COVID-19, restrictions have changed in the way in which pre-employment checks are being completed by the NWSSP's recruitment team, specifically, in relation to the viewing of original documents. The Home Office have agreed to extend the virtual checking process until September 2021 with guidance issued for virtual checks to discharge liability relating to right to work legislation.

Sharon Page, Workforce Efficiency Manager, has confirmed that the necessary arrangements are being made for NWSSP's recruitment team to return to face to face checks as of 1<sup>st</sup> of September 2021.

It should also be noted that no changes were made in the way the pre-employment checks were completed by the recruitment team for bank staff at CTM UHB as all checks were done so via face to face meetings throughout 2019/2020.

In relation to Agency Suppliers for registered nurses, midwives and healthcare assistants, there is clear non-compliance of the Shared Services Partnership Agreement occurring. This can be seen by the lack of pre-employment data that has been provided by the agencies at the request of LCFS.

Recommendations to mitigate the risk of the organisation have been made as detailed at the end of this report.

## Introduction and Background

This exercise, led by Local Counter Fraud Services, has centred on pre-employment checks completed by Suppliers when providing Agency Workers to work within Cwm Taf Morgannwg Health Board.

As part of an on-going risk assessment, identified risks to the organisation involved patient safety, staff safety, health and safety in the work place and potential risks to the Financial Management of the organisation.

A proactive approach to reviewing and reducing these identified risks to the Health Board in relation to the provision of Agency Staff has been developed, with a specific remit looking at the pre-employment checks completed by Suppliers and whether these checks are compliant or non-compliant to shared policies already in place at the time of this exercise.

Under the All Wales NHS Shared Services Partnership Agreement there is a Contract Service Specification in place for the supply of registered agency nurses, midwives and health visitors, healthcare assistants and operating department practitioners to the health boards and trusts in Wales.

As part of this contract the following requirements are detailed within the Service Specification...

- Section 3. Point 2:3 - The supplier of such staff must ensure that all of its staff are skilled, trained and experienced in the duties required of them and that they are properly and sufficiently trained and instructed with the awareness of organisation configuration for the areas the agency assigns workers to.
- Section 4, Placement Procedures, Point 4:8 - The contract stipulates that the supplier must ensure that all their registered nurses are fit to practice and this will include assurance that all nurses have gone through appropriate revalidation when required to do so.
- Annex 1 Point A1.8 - The contract relates to recruitment. Sets out the requirements that need to be met by the Supplier when recruiting each Agency Worker. There is specific direction that the Supplier is to obtain and verify information provided by the Agency Worker.
- Point A1.8 (c) - Relates to Photograph ID. In order to verify the personal identification of the Agency Worker, a recent photograph or original birth certificate is required to be seen by the Supplier and a photocopy maintained and kept on the Agency Worker's file for future reference.
- Supplier requirements to validate and confirm professional registrations that may be relevant to the Agency Worker's skill set. For example, written confirmation (including electronic form) of an Agency Worker's eligibility to work as nurse and evidence of this ongoing registration with the Nurses Medical Council should be maintained by the Supplier.
- Point A1.8 (n) - The same onus is also placed on the Supplier in relation to obtaining and retaining evidence of additional certificates and qualifications provided by the Agency Worker. Viewing of the original certificates or qualifications should be carried out by the Supplier and retained on the Agency Worker's file.

- There is also a requirement by the Supplier that they must ensure that the Agency Workers, who are not British Citizens or EC Nationals have the correct Home Office permission to work documents in place. The Supplier must also view and maintain a copy of the Agency Worker's work permit, immigration status and eligibility to work from the Home Office on the Agency Worker's Personnel record.
- Point A1.8 (p) - A further stipulation of the contract relates to the results of the Disclosure and Barring Service (DBS). This is the only reference to DBS within the agreement. A photocopy of the top section of the "Enhanced Disclosure" results relating to the Agency Worker must be maintained by the Supplier on the personnel record of the agency worker.
- Section 8 (Point 8.1) details the Provision of the information. Once requested, the supplier will, within 5 working days of receipt of the request from Health Boards (NWSSP) or it's Agent supply the Health Board with the information requested. In this case, to supply pre-employment check data relating to Registered Agency Nurses and Health Care Support Workers.

Agency 7 is the Managed Service Provider who provide agency Doctors who can be called upon to support the organisation on an ad hoc basis. The onsite role of the managed service is as follows:-

- Liaise with hiring managers
- Liaise with supply chain
- Negotiate with agencies on pay and commission
- Provide progress updates to clients and agencies
- Liaise with client and agencies on start dates, rotas, accommodation etc.
- Resolution of issues and queries received from client and supply chain.
- Review performance, address challenges and forward plan for next period.

The CV's are supplied to the departments for review as stated above. Once the department agree to book the candidate and the rate has been authorised Agency 7 will undertake full compliance checking of the Doctor.

Compliance documents required before the Doctor can start are as follows:-

- GMC
- DBC
- Two references
- Right to work
- Fitness to work
- Mandatory Training
- Verified ID
- Proof of Address

## Scope of Exercise

The exercise looked at relevant pre-employment data for the financial year 2019/20 relating pre-employment checks carried out by relevant suppliers. For the purposes of this exercise, pre-employment check data was requested direct from Suppliers (namely Agencies) in relation to registered agency Nurses, unregistered agency Nurses, Doctors and from work streams within the Cwm Taf Morgannwg University Health Board.

Within Cwm Taf Morgannwg University Health Board a cross section of data relating to staff from all work streams and skill sets was collated.

This included pre-employment checks relating to –

- Substantive Staff
- Bank Staff
- Doctors

External pre-employment data was collated from Agency Staff Suppliers in relation to Agency Workers, namely -

- Registered Nurses
- Health Care Support Workers (Unregistered Nurses)
- Doctors

## Method

A random selection approach was chosen by Local Counter Fraud Services in requesting the required data in order to run the exercise.

### Agency Supplier Data

Staff Bank Manager, Sarah Quirk, provided Counter Fraud Services with a list of all agency suppliers currently contracted by Cwm Taf Morgannwg University Health Board. There are 94 agencies in total.

From this list, seven (7) agencies were chosen at random from the list. These have been anonymised for the purposes of this report –

1. Agency 1
2. Agency 2
3. Agency 3
4. Agency 4
5. Agency 5
6. Agency 6
7. Agency 7

Local Counter Fraud Specialist, Beverley Jones, requested a random selection of agency workers from each of the selected Agencies.

Local Counter Fraud Services then contacted the compliance officers from each of the selected Agencies and requested all pre-employment data in relation to each of randomly selected agency workers listed by CTM UHB as having worked for them. A total of 74 agency workers were listed as part of this selection processes.

#### Cwm Taf Morgannwg Health Board

Local Counter Fraud Services contacted and requested in house pre-employment data relating to the following work streams selected as part of the exercise.

#### Substantive Staff:

- Sample requirements looked at the year 2019/2020 staff intake.
- 45 staff randomly selected across the year.
- All work streams and all skill sets
- To include 15 Doctors, 5 Nurses, 5 HCSW and 15 other staff (For example: Estates, Administration Staff)

#### Bank Staff (Zero hour contracts)

- Year 2019/2020
- 10 staff randomly selected across the year.
- Any mix of work stream and skill set.

The electronic online TRAC system used by Recruitment was used to run the search parameters for all substantive and bank staff pre-employment checks.

## **Findings**

From the data collated by Local Counter Fraud Services the following findings have been documented as follows:-

#### Cwm Taf Morgannwg University Health Board:

- All pre-employment checks were completed in compliance with the NHS Wales Shared Services Partnership agreement.
- The TRAC recruitment system has a colour coded system in place and highlights areas of concerns (if applicable) through the application process.
- All original pre-employment check documents are produced by the applicant and as a rule are presented to Recruitment to validate in a face-to-face meeting with applicant. Due to COVID restrictions currently in place at the time of this report these meeting have not been able to happen face-to-face and an online process via Zoom or Microsoft Teams has replaced this process.
- Once all checks are complete (relevant to the position applied for) and validated, the TRAC system highlights that the applicant's file is ready for the final supervisory stage. This stage of the pre-employment checking process

allows for any concerns to be raised and addressed before any offer of employment is offered. Thus reducing any identified risk.

### Agency Suppliers:

### Recording of the data

Counter Fraud Services presented the data collated using an Excel Schedule format, with a tri traffic light system to highlight findings.

- Green – The Agency was fully compliant in providing the data and carrying out the required pre-employment checks under the NHS Wales Shared Services Partnership (NWSSP).
- Amber – Data provided need to be queried or was not fully compliant with the NHS Wales Shared Services Partnership (NWSSP).
- Red – The Agency was non-compliant in providing the requested pre-employment data.

The findings for this sector are detailed below under individual agency findings:-

### Agency 1

- Counter Fraud Services requested data relating to ten (10) randomly selected Agency Workers.
- Agency 1 were compliant in responding to the initial request for data within the specified 5-day time frame.
- Agency 1 were compliant with supplying data relating for 2 out of 10 agency workers, however, there was a delay in providing the balance of the data.
- Of the 5 agency workers supplied 2 had queries surrounding references.
- No qualifications were provided for 2 out of the 5 agency workers.
- Agency 1 were non-compliant in relation to 5 agency workers, providing no data at all.

### Agency 2

- Counter Fraud Services requested a report for all Agency Workers whose recruitment to CTM UHB commenced during the financial year 19/20.
- Agency 2 were non-compliant in supplying the data requested despite numerous request having been issued.
- From the information supplied by Sarah Quirk, Staff Bank Manager, Agency 2 were not part of the All Wales Contract and were used off Framework at the time the data was requested. There was therefore no contractual obligation to provide this information for review. However, they have since been awarded the All Wales Contract and would be required to adhere to the terms and conditions of the contract going forward.

### Agency 3

- Counter Fraud Services requested data relating to nine (9) randomly selected Agency Workers.
- Agency 3 were compliant in returning the data within the specified 5-day time frame.
- Of these 9 agency workers, 2 had reference queries.
- Of these 9 agency workers, 1 had a DBS query.
- No qualifications were provided for 1 out of the 9 agency workers.

### Agency 4

- Counter Fraud Services requested data relating to ten (10) randomly selected Agency Workers.
- Agency 4 were non-compliant in returning the data within the specified 5-day time frame.

### Agency 6

- Counter Fraud Services requested data relating to ten (10) randomly selected ten Agency Workers.
- Agency 6 were compliant in returning requested data within the specified 5-day time frame.
- 1 out of the 10 agency workers was no longer working via the Agency.
- 2 out of the 10 agency workers had queries on their registration renewal.
- No qualifications were provided for 3 out of the 10 agency workers.

### Agency 5

- Counter Fraud Services requested data relating to ten (10) randomly selected Agency Workers.
- Agency 5 were compliant in returning the requested data within the specified 5-day time frame.
- 6 out of the 10 agency workers Photo / Passport/ ID was either out of date or had an address query.
- No qualifications were provided for any of the agency workers.
- 2 out of the 10 agency workers had DBS queries raised for missing information.
- 1 out of the 10 agency workers had a reference query.

### Agency 7

- Counter Fraud Services requested data relating to twenty five (25) randomly selected Agency Workers.
- Agency 7 was compliant in returning all requested data within the specified 5-day time frame.
- Out of the 25 agency workers, 1 had a DBS query for missing information.
- CTM UHB had signed Waivers for 13 out of the 25 agency workers for missing pre-employment check information. Six of the agency workers had waivers for more than one area. The waivers related to the following issues:

- 11 - Missing/gaps in references
- 1 - Updated CV required
- 5 - Practical Manual Handling
- 2 - Fraud Prevention Module
- 2 - Life Support Certificate
- 1 - Infection Prevention & Control

- To ensure the departments are securing the agency staff they require and to make the booking process quicker, the compliance checks are carried out once the agency worker has been submitted to a job vacancy. Should there be an issue with missing information, excluding GMC registration or DBS check, the head of department can sign a waiver to allow the agency worker to start placement without a particular document. Each waiver has an expiry date and the compliance team continue to chase the missing documents whilst waiver is in place.

Should a waiver have been authorised a copy is retained and uploaded to the agency worker's file. The Agency 7 system flags any documents for agency workers that are close to expiration.

Waivers can only be issued for a CV Gap, References and mandatory training. These waivers require approval from the Clinical Service Director of the relevant speciality.

If there are any requests for waivers for any other documents then approval will be required from the Integrated Locality Group Director.

## **Recommendations**

Following completion of field work relating to this report the Head of Counter Fraud Services met with NWSSP contacts to discuss fraud risks identified.

The All Wales agreement relating to Nursing Agencies had been recently renegotiated and was at an advanced stage with final specification presented. Options to vary or amendment without creating issues and delay with that advanced process were therefore limited.

The agreement was analysed against issues identified relating to DBS checks, qualifications, record keeping.

### **DBS Checks**

The renegotiated agreement includes references to undertaking DBS checks at Clause 12 and Annex 1. The agreement outlines that suppliers prior to deployment of agency workers will question agency workers concerning convictions; that a satisfactory enhanced disclosure is obtained from the Disclosure and Barring Service and that this is renewed on an annual basis; in instances of an overseas agency worker who has entered the UK and/or become resident in the UK within the six

month period immediately prior to their recruitment by the supplier, the supplier obtains a police check from the country of origin and validates this.

### **Qualifications**

The agreement covers qualifications extensively setting out at Clause 4 that the supplier agency must ensure requisite level of qualification in line with the person specification outlined at Clause 25 of the agreement. There is a requirement for supplier agencies to supply qualification information upon request to the Health Board included within Clause 4 also and a need to maintain records of training and qualifications within Clause 9. The requirement to demonstrate qualifications and skills is included in Annex 1 Recruitment Criteria.

Additionally at Clause 21 and Annex 5 the agreement sets out the specification of training that the supplier agencies must ensure each new Agency Worker receives post recruitment prior to being sent on any assignment. The training is aligned to mandatory and statutory learning requirements and records of training can be requested by the Health Board for review.

### **Record Keeping**

The agreement outlines at Clause 9 that supplier agencies must keep and maintain documents relating to the supply of workers. The records must be kept for a minimum period of 7 years following termination date of the supply contract and all records must be kept secure and reasonably accountable and accessible at all times.

The Local Counter Fraud Services recommends the following:-

1. Revert to viewing and retaining copies of original pre-employment documents. Home Office guidance to adjust face to face document checks to virtual checks negating right to work legislation liability expires on 1<sup>st</sup> September 2021. This recommendation is applicable to both the Health Board and Agency Suppliers. Sharon Page, Workforce Efficiency Manger, has confirmed that they are making the necessary arrangements for NWSSP's recruitment team to return to face to face checks as of 01.09.2021. The Department will review any updated guidance from the Home Office with this regard should anything be received.
2. Health Boards should continue to operate a reactive and proactive approach to the pre-employment check processes currently in place. As a proactive measure, considerations should be made to conduct quarterly or bi-annual checks against any agency worker changes provided by the Suppliers.

### **Conclusion**

It is clear from the data provided, pre-employment checks are being completed in full compliance by Cwm Taf Morgannwg University Health Board. There are however,

identified risks relating to the pre-employment checks that Agency Suppliers are completing. Disclosure and Barring Service checks, qualifications and training pose a significant risk to the Health Board in relation to patient safety, staff safety and the financial management within our health board.

## Key Contacts

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