

By email to: SWagency.consultation@education.gov.uk

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Child and family social workers: agency rules statutory guidance consultation

The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the Children Act (2004). The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education. ADCS welcomes the opportunity to respond to the Department for Education's (DfE) consultation 'Child and family social workers: agency rules statutory guidance'.

Local authorities are grappling with recruitment and retention challenges across their entire workforce, including child and family social work. Agency social workers do not benefit from the same continuous professional development that substantive staff benefit from. Not only does this does not benefit children and families, evidence tells us that those from a global majority background are disproportionately impacted as they are more likely to become an agency social worker due to a number of factors, including experiences of racism and fewer opportunities to progress. As a consequence of agency/locum status, they will not benefit from the same professional development opportunities as substantive staff. Global majority social workers face a number of systemic challenges and are overrepresented in fitness to practice hearings or employer grievances, are less likely to pass their ASYE and underrepresented in senior leadership positions. It is essential that national government work with local government to better understand and do more to tackle these systemic barriers alongside efforts to improve recruitment and retention so that global majority staff can feel better supported and valued.

ADCS believes that national rules will help create the conditions for local authorities to reduce the exponential rise in the cost of agency social workers and limit use of project teams. The Association has long raised the need for government to provide coordinated, national action to help manage this market so that it works for local authorities and, crucially, for children, young people and families. More specifically, retaining enough experienced and diverse social workers to meet the needs of the children and young people we support is becoming an increasing challenge nationally. Children and young people benefit from developing strong, consistent relationships with social workers, yet the short-term nature of agency social work does not allow for this to happen.

Local authorities face significant financial pressures with many issuing a Section 114 notice or are on the brink of bankruptcy. A recent Levelling up, Housing and Communities select committee [report](#) highlighted the growing costs charged by agencies for social workers as a contributing factor to these financial pressures. ADCS therefore urges government to move at pace and implement the national rules at the earliest possible opportunity; local authorities simply cannot afford to continue to pay such high costs to deliver statutory services.

Implementation and transition

ADCS urges the Department to bring forward the implementation date as set out in the guidance. Quicker implementation will help drive consistency and therefore reduce cost and improve quality assurance of agency social workers. Local authorities would benefit from knowing the date by which they must transition to the rules as soon as possible alongside a clear cut-off date for contracts in order to help forward planning. Any ambiguities with regard to the implementation date risk becoming loopholes for agency providers to exploit.

ADCS agrees that all new contractual arrangements to supply child and family social workers to local authority children's services should comply with the agency rules. It is right that those authorities that have a pre-existing contract in place have time to transition to the new rules, however, clear timelines would benefit local authorities moving out of such arrangements. ADCS would also welcome a strengthening of the language to emphasise that agency providers are expected to adhere to the rules, rather than just agree to the rules.

Data collection

The proposed core data collection appears appropriate, however, there are substantial challenges in extracting this information from local corporate or HR systems and where data on agency staff employed via a framework sits elsewhere. Furthermore, for those authorities who employ a high number of agency staff, this will put a strain on resources, particularly given the high turnover of agency workers.

The introduction of a quarterly data collection on local authorities will likely create a new burden and as such should be fully funded, particularly in the context of a number of other data collections required of authorities from government. The DfE must also be clear on what different local authority capabilities are to collect such granular data and what additional resource will be needed to ensure consistency across the system. An incremental or phased approach may be required.

Price caps

The section on price caps contains the right level of detail, however, ADCS members believe the wording should be tightened so that price caps explicitly include any other inducements such as gifts provided by agency providers. ADCS agrees that assignments at rates above the price cap should be very rare and therefore receive Chief Executive sign-off prior to agreement. These should be in exceptional circumstances only to not disadvantage neighbouring local authorities who remain within the price cap. They should be subject to a transparent declaration that the cap is being exceeded so the negative impact on neighbouring authorities can be measured.

The guidance would benefit from specifying the need for agency pay to have parity with substantive worker pay. The guidance states that price caps should be agreed locally, however, regional memoranda of understanding for the use of agency social workers have not solved this problem to date. ADCS would therefore welcome further support from DfE to help strengthen regional agreements and to ensure agency providers are not able to circumvent local agreements either within a region or across bordering regions.

Project teams

The guidance on the use of project teams appears reasonable and should allow local authorities to retain more control over governance arrangements and recruitment of constituent workers. However, ADCS is clear that social work is not a project and that project teams should therefore not be engaged for case-holding child and family social work. Whilst there may be a legitimate need for project work within a children's services department, this should not involve case-holding social work. It is disappointing that this proposal has been dropped from the national rules as previously consulted on by the Department. In many instances, project teams are able to leave a local authority with no notice in order to move to a different authority for a higher rate of pay. The recent rise in the use of project teams is drawing workers away from traditional agency roles as well as permanent social worker

roles. These workers operate outside of IR35, allowing them to earn significantly higher rates.

References

The guidance and standard template for the use of references is clear and outlines the basic information local authorities require when recruiting an agency social worker. However, ADCS would welcome the inclusion of cultural competence within the competency section of the template to help remove biases from practice and address the barriers faced by those from a global majority background. Whilst this alone will not achieve organisational change, it will help keep cultural competence high on the agenda for employers.

Cool-off periods

The introduction of a 'cool off' period before a social worker can join an agency after leaving substantive local authority employment within a region is positive. However, ADCS believes this should be extended to a period of at least six months. This practice has already been adopted across some regions, as reflected in their memoranda of understanding, and has been effective in removing incentives for permanently employed social workers to join agencies. Whilst it is the case that some regions have a cool-off period of less than six months, they would not be disadvantaged if all other regions had a minimum of six months. Given that the rules are designed to reduce the overreliance on and costs of agency child and family social workers, it makes logical sense to start the cool-off period at six months, rather than leading some regions to reduce theirs to three months which will be the likely impact of the guidance.

Post qualifying experience

ADCS agrees with the guidance regarding post-qualified experience. It is right that a social worker should have at least three years post-qualifying experience in a local authority in England as a child and family social worker before turning to agency work. Local authorities are reporting an increase in the number of newly qualified social workers becoming agency social workers before gaining the necessary experience and confidence to practice that would be obtained following a substantive period of time in local authority employment. Agency staff will not typically receive comprehensive training and professional development during their assignment. This is a particular concern where newly qualified or ASYE workers choose to immediately turn to agency work and therefore risk never receiving vital access to the professional development needed to maintain quality of practice. If this is not addressed, it risks becoming a significant issue for the future of the profession.

To discuss any of the points raised in this consultation response further, please contact Policy Officer Matt Cunningham via matt.cunningham@adcs.org.uk in the first instance.