

## Cabinet

7 March 2019

### Agency/Interim Staffing - Approval to Procure

#### Recommendations

That Cabinet:

- 1) Authorises the Joint Managing Director of Resources to commence appropriate procurement processes for the provision of agency/interim staff,
- 2) Authorises the Joint Managing Director of Resources to enter into all relevant contracts for the provision of agency/interim staffing on terms and conditions acceptable to him.

#### 1.0 Key Issues

- 1.1 Most organisations have a need for temporary labour to support their permanent workforce and contracting with specialist agencies is the most common way to access the temporary labour market.
- 1.2 There are a number of reasons why organisations choose to make use of agency/interim staffing including: -
  - 1.2.1 Enables organisations to maintain optimal staffing levels i.e. adding to or reducing the workforce when needed to meet fluctuating demand for people resource.
  - 1.2.2 Enables organisations to meet project deadlines and handle extraordinary business demands
  - 1.2.3 Timely access to specific or specialist skill sets not available within the permanent workforce
  - 1.2.4 Workers arrive 'ready to work' as the agency undertakes the necessary pre-employment checks (e.g. right to work, DBS, reference checking etc.)
- 1.3 Prior to July 2018, the Council was a participant in a sub-regional (Coventry City Council (CCC), Solihull Metropolitan Borough Council (SMBC) and Warwickshire County Council (The Council) contract for agency/interim staffing. The Council withdrew from this contract at the point CCC and SMBC undertook a re-tendering exercise which resulted in a change of supplier. This decision was based on three key considerations: -

- The ‘cost’ of change (made up of costs associated with transferring agency/interim workers in situ at the Council, implementation of replacement systems, business process reengineering, project management etc.) associated with changing supplier which was calculated in September 2017 and considered to be in the region of £117,287
- The internal resource implications given that the Council staff that would be involved in managing the changeover of supplier were the same staff actively engaged in the implementation of YourHR
- The risk to the wider business of losing key agency/interim workers engaged on other Council priority projects as a consequence of transitioning to a new supplier e.g. the implementation of ‘Mosaic’, the Social Worker recruitment project etc.

1.4 The Council’s current contract for the provision of agency/interim staffing is due to expire on 30<sup>th</sup> November 2019. The Council has used all available contract extensions and therefore has to take some action.

1.5 The current contract value is made up of two elements, payments made to the workers in the form of ‘pay’ and the margin retained by the agency to manage the supply of agency staff. The value of these two elements together exceed the EU threshold for ‘Services’ contracts and therefore an EU compliant procurement process would be required to be undertaken. In the event of a no-deal Brexit, some of the practical steps in relation to an EU compliant procurement process will change however the principles and requirement to advertise will not change.

1.6 The current contract facilitates the engagement of workers in two ways: -

1.6.1 workers directly employed by the contracted agency which is beneficial as it generally attracts a lower level of agency on-cost and

1.6.2 workers via a ‘second tier’ which is a larger panel of additional suppliers that are still accessed via the contracted agency under pre agreed terms and conditions. Securing staff via the second tier generally attracts a higher level of on-cost than staff secured directly from the contracted agency but this on-cost is generally lower than for those staff secured ‘off contract’.

A breakdown of spend between the contracted supplier and the ‘second tier’ suppliers during the period January 18 – December 18 is provided below.

	Total (£)	Total (%)
Contracted Supplier	£2,219,628	30.67%
Second Tier Suppliers	£5,015,324	69.32%
<b>Grand Total</b>	<b>£7,234,952</b>	

In this period, ICT and Social Care (specifically in relation to Qualified Social Workers) together accounted for in excess of 50% of the spend.

There have been two main drivers for the use of agency/interim staff in ICT

- despite a number of attempts, the Council has struggled to recruit permanent staff and therefore needs to access capacity through the agency/interim route. Pay rates are considered to be a significant factor in our failure to recruit.
- we have a need for specialist staff for a fixed period of time to deliver a project or specific piece of work and using agency/interim workers is a cost effective way for the Council to do this.

When we make use of agency/interim workers in Social Care, it is generally because of: -

- a need to respond to demand and strategic objectives following previous inspections e.g. to reduce social worker caseloads
- difficulties in relation to the recruitment and retention of permanent social workers, particularly experienced staff and those in specialist roles such as independent reviewing officers (IRO) and Local authority designated officer (LADO)..
- more experienced staff choosing to be employed via agency rather than on permanent contracts due to higher rates of pay
- generally competing for social workers with neighbouring authorities where pay may be higher.

- 1.7 Considered use of agency/interim workers can contribute positively to the Council being able to deliver its wider corporate objectives. For example, Legal Services is very successful at securing commissions from third parties however some of this work may be open ended or time limited and therefore using agency/interim solicitors can be the most cost effective way for the Council to deliver this work as it enables the business to react swiftly to fluctuating demand for the service and manage operational costs.
- 1.8 During the life of the current contract, the Council has taken positive steps to consolidate its agency staffing requirements. This has provided a number of benefits including cost reduction in some categories, increased leverage with the supplier due to increased overall spend, improved contract management as there is only a single supplier to manage, reasonably seamless implementation of the revised regulations in relation to IR35, a common back office system for managers to make interim/agency staff bookings and authorise timesheets etc.
- 1.9 Despite the existence of a corporate contract, the Council has struggled to secure staff in a number of more specialist or niche areas and especially in the areas of project and programme management. The corporate contract has also proved less effective in relation to securing more senior interims. As a consequence the Council is recruiting agency/interim workers from a variety of 'off contract' suppliers. This creates a number of issues about value for money, terms and conditions of supply, and effective management of multiple suppliers.

An analysis of the expenditure within financial systems against the 'Agency Staff General' classification code, has identified spend that appears to be outside of the corporate contract totalling £2,022,912 spread across 35 different suppliers. This data requires further investigation in order to confirm that it all relates to agency/interim workers and there may be additional expenditure not currently included because it is being coded elsewhere, for example against individual projects. The data does however provide an indication of the potential scale of the Council's agency/interim worker requirement not being fulfilled through its current corporate contract and which will need to be addressed as part of the new procurement process.

- 1.10 One of the on-going transformation work streams is the review of business support. One of the objectives of this review is to maximise the Council's directly employed business support staff and in so doing, reduce the requirement for and therefore deliver a saving against the costs associated with, employing agency/interim workers, particularly in the admin/clerical category. However, the Council has a wide and varied requirement for agency/interim workers and because of the specialist nature of the demand in some areas of the council, not all of this demand will be able to be directly satisfied from within Business Support. Therefore appropriate contracts with specialist agencies will need to form part of the solution going forwards.
- 1.11 Historical practice has been for managers to directly engage agency/interim workers to meet their business needs. Whilst the transition to the new business support model within the Council is taking place, an alternative process has been introduced to manage the engagement of agency/interim workers for business support

## 2.0 Options

- 2.1 There are a number of procurement options that have been considered
  - 2.1.1 Do nothing -This option has been discounted as the Council's on-going demand for agency/interim staffing is expected to exceed the EU Threshold for contracts for 'Services' (or in a No Deal Brexit, scenario, the UK government arrangements that will replace this) and the Council is therefore obliged to undertake a compliant procurement process.
  - 2.1.2 Undertaking a full and bespoke EU procurement process specifically for Warwickshire – This option has been discounted as going forwards, the Council's demand for and spend on interim/agency staff is expected to reduce and with lower value and volume, it is reasonable to assume that the associated costs of supply following a traditional tendering process will increase. This option is also the most costly from a procurement process perspective.

### 2.1.3 Access the market via an existing Framework contract/s – This: -

- was the approach adopted for our current contract
- was the approach adopted for the sub regional contract referenced at 2.1.4. and
- is the preferred option for this procurement

Due to the scale of the national framework contracts for agency/interim staffing, accessing the market via this route should provide some commercial protection against our objective to reduce spending in this area and should therefore offer better overall value for money whilst avoiding some of the costs associated with running a full EU procurement process (option 2.1.2).

This option would mean that there is the potential for a new supplier to be successful which would require the Council to transition to the new supplier with all of the operational issues and cost that this would entail however this risk applies in every scenario involving an open competition process.

### 2.1.4 Joining the existing sub regional contract for agency staffing – This option has the benefit that no further procurement process is required to be undertaken as CCC has already undertaken the procurement on behalf of the sub-region.

However, this option has been discounted because: -

- joining the sub-regional contract guarantees that the Council's cost of supply will increase over current levels as tendered rates on the sub regional contract are higher than the rates currently enjoyed by the Council
- the sub regional contract does not allow the Council to join until June 2020 which means an interim solution would be required between December 2019 and June 2020.
- the sub regional contract makes no specific provision for specialist, niche or senior requirements and therefore it is unlikely that the issues we have faced in this area in the past will improve via the sub regional contract.

## 3.0 Proposal

The Council will continue to keep all areas of agency/interim worker expenditure under review to ensure that the Council can deliver its objectives whilst at the same time maintaining the right balance between permanent staff and agency/interim workers. This does mean however that going forwards there will continue to be a need to secure 'people' capacity on a flexible basis in the form of agency/interim workers and it is therefore proposed that: -

- 3.1 An appropriate procurement process is undertaken to award a contract via an existing Framework to satisfy the Council's more regular agency/interim staffing requirements
- 3.2 An appropriate procurement process is undertaken to award a contract/s to satisfy the Council's harder to fill, more senior, niche agency/interim staffing requirements.

#### 4.0 Timescales associated with the decision/Next steps

- 4.1 New arrangements to be in place to allow for contract start dates of 1 December 2019.

#### Background Papers

None

	<b>Name</b>	<b>Contact Information</b>
Report Author	Paul White	<a href="mailto:paulwhite@warwickshire.gov.uk">paulwhite@warwickshire.gov.uk</a>
Assistant Directors	Steve Smith Sarah Duxbury Kushal Birla	<a href="mailto:stevesmith@warwickshire.gov.uk">stevesmith@warwickshire.gov.uk</a> <a href="mailto:sarahduxbury@warwickshire.gov.uk">sarahduxbury@warwickshire.gov.uk</a> <a href="mailto:kushalbirla@warwickshire.gov.uk">kushalbirla@warwickshire.gov.uk</a>
Joint Managing Director	David Carter	<a href="mailto:davidcarter@warwickshire.gov.uk">davidcarter@warwickshire.gov.uk</a>
Portfolio Holder	Councillor Kam Kaur Councillor Peter Butlin	

This report was circulated to the following members prior to publication.

Councillors O'Rourke, Chattaway, Boad, Roodhouse, Chilvers, Kaur, Butlin, Timms and Singh Birdi