



REPORT OF SERVICE DIRECTOR, HUMAN RESOURCES AND CUSTOMER SERVICE

PROPOSED CHANGE TO THE PROCUREMENT OF AGENCY WORKERS

Purpose of the Report

1. To seek the endorsement of Personnel Committee to alter the way we currently procure agency workers from a range of stand-alone contacts and move to a managed service option.

Information and Advice

2. The report covers the procurement of agency workers and not that of external consultants. The Corporate Leadership Team recently considered and agreed a report on how this specialist resource can be accessed and managed effectively.
3. The Agency Workers Regulations 2010 define an agency worker as an individual who is supplied:
 - By a temporary work agency
 - To work temporarily for and under the direct supervision of a hirer, and
 - Under a contract of employment with the agency to perform work and services personally.

Employees differ from agency workers in that:

- They have a contract of employment
 - There is a requirement for the work to be done in person
 - There is mutuality, that is each party has an obligation to the other
 - There is control by the employer of the way or circumstances in which the work is done;
 - And other terms exist which are consistent with employment
4. Agency workers provide valuable flexibility to support the permanent workforce and their use links directly to Priority 3 of the Workforce Strategy which Personnel Committee considered and agreed in September 2012. Priority 3 requires the County Council to deploy our resources flexibly to meet the aspirations and needs of our communities. The action plan specifically mentions the need to improve monitoring and to control the use of agency workers to reduce costs and increase value for money.

5. We have moved from a position in 2009 where the County Council had inconsistent and in some cases limited contractual arrangements in place for the supply of agency workers to a set of contracts with a range of suppliers which cover a number of service areas. These include admin/clerical; cleaning, catering and landscaping; ICT; qualified and unqualified social care workers; teachers for the Learning Centres etc. Where appropriate, national framework agreements have been utilised, for example in ICT.
6. The current social care contracts come to an end in January 2013, with those covering manual workers ending in February 2013 and the admin and clerical contract runs until May 2013. Whilst the current arrangements have delivered some benefits and ensured the County Council is legally compliant in this area, there have been varying degrees of management satisfaction with the suppliers and in some areas there have been significant issues with the suppliers which have required high levels of officer time to resolve. These have included failures to satisfy safer working requirements, to incorrect charging and there have been particular issues with the quality of workers supplied to some residential units in both Adult Social Care and Health and Public Protection and Children, Families and Cultural Services.
7. Any new arrangements will take time to put in place and contingency plans have been identified, including exploring Financial Regulation waivers where necessary, to ensure that the existing arrangements continue and services do not experience any disruption whilst the new tender exercises are completed. It is intended to fully engage with key internal stakeholders to ensure that the proposed new arrangements fully meet service needs and there will be full stakeholder engagement to maximise manager buy-in to the revised process and to ensure that the tender covers the diverse requirements of the County Council and can meet the potential demand from all areas in terms of both generic and specialist need. Colleagues in Legal Services and the Procurement Team will be involved in the procurement process and in the drafting of any future contract and the input from Communications colleagues will also be key to conveying the changed process to ensure maximum stakeholder engagement.
8. There remain some service areas not covered by the current contractual arrangements, for example drivers, and yet this is an area where agency cover is regularly required. The introduction of BMS has highlighted areas where payments have previously been made to suppliers with whom we have no contractual relationship. Where this has been an issue, colleagues in Procurement have challenged the decision to use a non-contracted supplier and worked with the manager to identify an appropriate solution.
9. The use of agency workers is an issue frequently raised by the recognised trades unions particularly in service areas where posts have been notified on the section 188 notice and where redundancies have been made. Agency workers provide essential flexibility to services to cover peaks of work without adding to the permanent establishment. In some areas, for example residential services for both adults and children, it enables the County Council to meet statutory and inspectorial requirements in terms of staff cover and make-up. However this use needs to be carefully managed to ensure that all services are using agency workers in the most cost effective way. Management information suggests that there is still high usage of agency workers in some areas and potentially an over reliance on temporary workers rather than recruiting on fixed term contracts. However, there have been some instances where this has ensured essential services are maintained. For example, there has been significant agency support whilst

the business and admin support to children’s social care has been resolved but recruitment adverts have now been placed to address the current shortfall.

10. The expenditure report below has been taken from BMS showing the value of purchase orders placed over the last full 6 month period – February to July 2012. A purchase order based report was selected as opposed to an invoice report as it reflects the apparent need for temporary workers and is not distorted by the volume of any disputed invoices.
11. The table below shows spend between February and July 2012 of £7.6m on agency workers.

Product Category	Spend by Purchase Order Values
	Feb 12 - July 12 £
Admin & Clerical	1,140,595
Manual	420,311
Professional & Technical	1,344,814
Care – UQ/Q’fied	4,499,873
Teachers	200,545
Total	7,606,140

The potential savings which a move to a managed service model could realise can be conservatively estimated at 10% of the annual spend. There are also potential savings to be realised from improved systems freeing up officer time on circulating requests to a number of agencies rather than just one; dealing with disputed invoices and improved management information to enable more robust control and monitoring of overall agency spend. Ultimately the revised approach will ensure improved transparency in terms of fee structure and deliver increased assurance on the placements made. Quality management would be a specific requirement of any future contract.

12. The Local Government Professional Services Group (LGPSG) supports and enables Local Authorities across England to deliver savings from the procurement of professional services. Through their work, national toolkits and identified best practice has been developed which provide a clear focus on practical solutions that work across local government and deliver identifiable and quantifiable benefits. In Local Government, temporary resourcing has seen a shift in recent years from the more traditional frameworks or Preferred Supplier Lists in operation to the use of a Managed Service Provider to deliver their needs. As a result of this shift and following the findings of a baseline survey conducted in 2010, the LGPSG commissioned Pro5 to establish a national Framework for Managed Service Providers of Temporary Agency Resources.
13. It is proposed that one Managed Service Provider takes responsibility for delivering services on behalf of the County Council and manages a framework of individual agencies. This option can often involve the Managed Service Provider operating a tiered structure of agencies to deliver services and it is recommended that the Pro5 agreement is used. A copy of the document is available as part of the background papers to this report.

14. A competition would be required between the pre-approved agencies to determine which will be the lead supplier and they will then contract with a range of both local and national agencies for a second tier of suppliers which will ensure full cover in all locations and allow those smaller local agencies who currently feel excluded from the existing contracts, to have the opportunity to be involved. This would initially lead to a large second tier but over time this would be managed down over the course of the contract based on supplier performance. This again would be managed by the Managed Service Provider in consultation with the County Council.
15. The benefits of the managed service approach include:
 - A single point of contact for managers
 - Streamlined invoicing
 - Structured management information and reporting. This would provide greater transparency of the size of the temporary workforce and enable targeted interventions where recruitment and turnover may be causing difficulties
 - Reduced and standardised rates of commission
 - Accuracy of charging and identification of savings
 - Performance-based tiering of agencies to encourage service improvement
 - Audits of agencies to ensure compliance with safer recruitment requirements
 - Easier to manage compliance with Agency Worker Regulations
 - Allows for greater access to a wider range of agencies to ensure sufficient capacity and coverage which has been a particular issue in the north of the county
 - Provides a greater opportunity for local and smaller suppliers within the Managed Service Provider supply chain
16. There is likely to be heightened anxiety among current agency workers in situ regarding the prospect of a change of agent. In addition, managers who have forged relationships may be concerned about a further change. It will require careful management and clear guidance on how any transfers will be managed. Whatever overall supplier solution is decided, there will be a need for significant stakeholder engagement in the tendering process and communication to ensure that all managers are aware of the correct arrangements and of the expectation that they use the agreed supplier. The proposal to move to a single managed solution will assist significantly with compliance monitoring and further demonstrate a One Council approach to the issue of temporary resourcing.
17. The future arrangements will require an integrated, consistent approach to maximise the benefits of this approach which is fit for all potential purposes. The contract will create sufficient flexibility to meet specialist ad hoc needs as well as the more routine requests and contract performance will inform the management of the overarching contract. We will need to identify the most appropriate place for contract management to sit but individual requesting managers will have an integral role to play in this.
18. A further opportunity is created to effectively manage contract spend and embed the principle of no agency placement extending beyond 12 weeks without specific authority to do so. Agency workers approaching this deadline, where the need is likely to continue, will be offered fixed term employment or the opportunity to apply for permanent employment where all requirements of the vacancy protocol are met. This will ensure

agency placements are in the main, time-limited, enabling better forecasting of future spend, ensuring the most cost effective resourcing solutions are considered by managers and requiring all placements to be closely managed and not be allowed to drift unchecked.

Other Options Considered

19. A neutral vendor service which is a system based model whereby the company providing the temporary labour does not itself provide staffing services but manages a pool of suppliers with a fixed mark up on rates has been considered. The benefits are that there is only one contract to manage and there are savings to be realised through agreed supplier rates. It is generally recognised that this model is unpopular with users of the service because there is limited client relationship involved and it is a heavily IT based service.
20. There is an opportunity to extend the current arrangements. The benefits of this would be to provide a degree of continuity. However the management of this number of suppliers is resource intensive and there is certainly dissatisfaction in some areas with contract performance.
21. We could tender each area under a separate framework agreement. This would ensure legal compliance but would not address the issue of having a large number of suppliers to manage.
22. Finally we could consider running a tender exercise for each area for a sole supplier. This may enable better contract management but would shrink the existing supplier base and may create capacity issues in the more geographically remote areas.

Reasons for Recommendation

23. The reasons for the recommendation to move to a Managed Service Provider model are:
 - The opportunity for savings to be made in having a single set of agreed rates and greater transparency of the fee structure
 - Better contract compliance and relationship management
 - Possibility of savings in terms of reduced officer time required to manage a large number of contractors
 - A clear process for managers to access temporary agency workers and for their use to be monitored to ensure the most cost effective resourcing solution is being used
 - Improved management information to assist with budget forecasting and workforce planning
 - Allows access to the widest range of suppliers including smaller local businesses who have previously felt excluded
 - Longer duration of contract develops greater security for the provider and consequently leads to service improvement with that greater stability
 - Improved legal compliance across all service areas in their use of agency workers
 - Clear exit strategies to ensure placements are not allowed to drift
 - Delivers an integrated, consistent “One Council” approach which meets ad hoc generic and specialist needs across the diverse range of County Council services

Statutory and Policy Implications

24. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

25. Service users will be better served by a more robust set of arrangements for the procurement of temporary agency workers. Safer recruitment will be a key element of the contract specification to ensure, as far as possible, that those coming to work under a contract for service in Nottinghamshire, are safe to do so.

Human Resources Implications

26. The Human Resources implications of the proposed change of approach are set out in the main body of the report. The trade unions have reiterated their concerns regarding the use of agency workers.

Implications for Sustainability and the Environment

27. Moving to a tiered approach to agency workers will allow smaller, local agencies access to the contract where they are currently excluded from doing so either because they were not the successful tenderer for a single supplier contract or could not compete competitively with the larger agencies who are currently on the preferred supplier lists.

RECOMMENDATION

That Personnel Committee endorse the alteration of the current arrangements for procuring agency workers and note the commencement of the procurement exercise to identify a Managed Service Provider which will involve key stakeholders in the tendering process.

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Constitutional Comments (KK 18/12/12)

28. The proposal in this report is within the remit of the Personnel Committee.

Financial Comments (MB 20/12/12)

29. The financial implications are outlined in paragraph 11 of the report.

Background Papers

Managed Services for Temporary Agency Resources (MSTAR) National Framework Agreement commissioned by the Local Government Professional Services Group.

Trade union side comments.

Electoral Division(s) and Member(s) Affected

All