

Committee: Standards and General Purposes

Date: 9 March 2017

Wards: All

Subject: Report on the use of temporary workers and consultants

Lead officer: Kim Brown, HR Lead

Lead member: Councillor Mark Allison, Cabinet Member for Finance and Deputy Leader

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Recommendations: That the Committee note progress made to monitor and control the use of temporary workers and consultants

1. Purpose of report and Executive Summary

- 1.1. The Committee has received progressed in relation to the number of interim appointments and the mechanisms in place to monitor the use of such workers.

2. Details

- 2.1 Appendix 1 attached to this report sets out the latest central monitoring database for all types of interim/temporary placement at a rate of £30 per hour or more across the Council, shown by department.
- 2.2 The database is updated on a monthly basis and double-checked with departments for accuracy.
- 2.3 The data about interim and consultancy placements is broken down by department and sent to each Department Management Team (DMT) on a monthly basis to review. HR attends monthly meetings of each DMT to review all the placements and to challenge on-going placements, especially where they are longer term. Every placement is reviewed with the respective DMT senior managers.
- 2.4 Arrangements are in place for HR to scrutinise all interim appointments and the single database provides a means of HR taking an overview of such appointments, together with the capability to ensure managerial compliance. In order to extend a placement, Comensura require written confirmation along with the signed Recruitment Authorisation form from either the HR Contracts Manager, or the Comensura Relationship Adviser. In recent months HR have actively challenged the completion of the ways the forms have been completed and have requested additional information.

The engaging of most interim workers is via Comensura, or the LGRP, which is a London wide contract for interim appointments. There have been instances due to market supply issues, although very few, when the Council has not used either of these contracts and has had to go 'off contract'. There are robust processes in place to manage this process, which require a business case and financial checks to ensure there is a budget to pay for the assignment, as well as sign off by the Director of Corporate Services.

- 2.5 The previously reported situation continues with by far the largest group of temporary workers being "on contract" agency and temporary staff appointed through the Council's corporate contract with Comensura for the supply of agency staff. These are all engaged with the involvement and oversight of the HR function with a database that supplies monthly spend and usage reports to Council managers.
- 2.6 As at the end of January 2017, the Council employed 174 interim/temporary workers at £30 per hour (or more) compared to 157 for July 2016. **Appendix 1** refers to the detail and composition of the interim workforce. Where possible, corporate contracts are used as they provide better value for the Council.
- 2.7 Running concurrently with the work to monitor and control interim placements has been a Council-wide staffing establishment exercise completed within iTrent to provide a comprehensive view of a fully budgeted workforce. This provides a clear picture of the workforce, including vacancies and reconciliation with temporary worker appointments. The quarterly position as at 31st December 2016 was reported to the Financial Monitoring Task Group on 22nd February 2017.
- 2.8 The new "temp to perm" guidance has been agreed and implemented. This guidance enables managers to convert longer-term agency workers into "perm" directly employed staff. The conversion process is subject to safeguards, which check that a competitive recruitment process was followed when the worker(s) were first commissioned and establishment control procedures are followed.
- 2.9 Where difficulty in recruiting has been cited as a reason of long-term cover, HR will continue to work with client managers to identify what recruitment and retention measures are necessary, if any, to improve the recruitment offer. This may include review of recruitment efforts, pay market data and turnover statistics as well as a supporting business case.
- 2.10 At the last SGPC the committee requested that the interim monitoring data be provided to the committee on a quarterly basis. The period considered for this report is 1st October 2016 – 31st December 2016. Table A below outlines the spend by for the quarter: Comensura, LGRP and 'off contract'. These figures are based on the gross costs and these costs will be further reduced by:
 - the budgeted costs of the posts, which includes oncosts, which is an average of 27%.

- *the recharges of the partners organisations for whom the interim worker delivers services such as LAs, CHAS, Sutton Housing Partnership, Afc and others. The estimated recharge amounts to £200K.
- The estimated cost of permanent post cost covered by the interim where applicable.

October 2016 – December 2016 (Quarter 3)

CORPORATE SERVICES	TOTAL	EST PERM COST
*COMENSURA	*£590,474	£565,230.12
LGRP	£103,743	£26,663.34
OFF CONTRACT	£470,405	£175,359.61
CHILDREN SCHOOLS AND FAMILIES		
COMENSURA	£609,545	£751,067.68
LGRP	£0.00	£0.00
OFF CONTRACT	£209,685	£39,049.17
COMMUNITY AND HOUSING		
COMENSURA	£369,766	£407,356.68
LGRP	£45,843	£24,920.73
OFF CONTRACT	£19,344	-
ENVIRONMENT & REGENERATION		
COMENSURA	£189,828	£166,713.68
LGRP	£61,994	-
OFF CONTRACT	£32,801	-
TOTAL	£2,112,954	£2,156,361.01
<i>Less estimated recharge from other organisations</i>	<i>£200,000</i>	<i>£200,000</i>
Net total	£1,912,954	£1,956,361

Table A

**The Comensura total for the quarter is based on actual spend whilst that for LGRP and 'Off contract' is based on 'billed' to date.

- 2.11 Based on the information contained within para 3 of this report whilst the council will seek to permanently recruit there are instances where agency/temporary/interim workers if managed appropriately can assist in delivering key projects and covering vacant posts.
- 2.12 Directors have been invited to provide short overall summary comments on agency/consultant usage and action being taken in their area and these are:

Children, Schools and Families

In all but a few exceptions, the CSF agency workers and consultants are covering social work posts including frontline social workers and other regulatory posts such as Independent Reviewing Officers (IROs) and our Adoption Manager. The others are for specialist posts such as speech and language therapy which are also statutorily required as part of children's Education, Health and Care Plans. 17% of our agency SW are covering maternity leave or other long-term absence. Social workers have to have professionally manageable caseloads and the authority is funding 8-10 additional frontline posts currently to be able to deliver a caseload of c15 children per social worker. This is in line with the London average.

Recruitment has continued strongly with 27 new starters during October-December 2016. Our vacancy rates and turnover rates have reduced from our 2015 peaks and as at December we had a rolling annual vacancy rate of 23% and turnover of 26% compared to 26% and 32% in September 2015. We now have a good flow of newly qualified social workers. 6 started in October, but have to carefully manage the balance of experienced and inexperienced workers given the nature of our work.

Community and Housing

Within Community and Housing, use of agency staff is predominantly within adult social care and in specialist, hard to recruit to posts. For adult social care, in anticipation of a restructure involving the loss of many posts, the service ceased recruiting substantively in order to minimise redundancies. With the restructure now complete and with few redundancies, active recruitment is underway to appoint to vacant posts and therefore reduce our usage of agency staff. A new recruitment webpage is in development to better target the recruitment of social workers for adults and mental health, including interviews with current staff promoting the benefits of working at Merton.

Corporate Services

For Corporate Services, we have subsequently gone live with one of our major new systems, which should result in the reduction in interims to support the project over the next few months and more should subsequently follow. As explained at the last meeting, there has been an increase in the number of interims in legal due to Wandsworth joining the South London Legal Partnership, who are being fully reimbursed by them. There will be a restructure taking place and it is hoped that there will be a number of positions recruited to on a permanent basis. However, we are still experiencing difficulties in areas where there is also demand for services in the private sector.

Environment and Regeneration

Usage is relatively low in E&R. A number of workers are covering positions, which are subject to a service review, and others are providing specialist skills or are covering externally funded roles. There are a number of professional areas where there is an extremely competitive market in which all London boroughs are struggling to recruit and retain permanent staff. This includes Traffic engineers, Planning officers and Building control surveyors where the emergence of a strong interim market has changed employment patterns.

As we are now concluding Phase C procurement, our agency staff usage will reduce significantly.

E&R DMT reviews this matter on a regular basis in order to manage risk including the financial impact.

3.0 The impact of IR35 on interim workers

Special tax rules (IR 35) will apply where a worker provides services through an 'intermediary' typically a UK Personal Service Company (PSC). Where IR35 applies, PSCs are currently liable for PAYE and NIC (not the engager). The HRMC considers that there is 90% non-compliance and the liability will shift to the public sector body, agency or other third party paying the worker's company. The new legislation will apply to Public Authorities only from 6 April 2017.

Some of the interims engaged through Comensura listed in Appendix A will become liable for PAYE. A number of lawyers and social workers are set up as limited companies - although under new HRMC rules they should not be and should be PAYE. Where interims are engaged via LGRP or 'off contract', usually as limited companies unless they become employed by an umbrella company, the Council will be required to make PAYE deductions as though they are employees (this does not make them an Employee from an employment law perspective).

IR35 should not result in an increase in charge rates as this matter is a tax issue and the interim workers should have been paying taxes at the correct/appropriate rate.

There is a benefit to the Council if some agency staff are converted from temp to perm on Merton's Terms and Conditions as outlined in para 2.8. This will establish a more resilient workforce in areas where it has been hard to recruit to these positions.

4. Consultation undertaken or proposed

- 4.1 CMT receives monthly updates on agency usage and activity. Detailed below is a synopsis of the current themes on which CMT have requested assurance:

- The need for hiring manager compliance to complete agency placement extension arrangements and to seek proper authorisation. HR has put in place measures to improve such compliance with tighter authorisation controls.
- The trend for overall decreased usage of agency staff but rising costs due to the type of worker that we need to source e.g. specialist technical or niche professional skills such as children's social workers, project managers, IT specialists and business analysts. The marketplace for such posts is competitive and supply and demand dictate increased charge rates.
- An increasing trend of agency workers working for longer periods of time - in particular covering essential services. This reflects service demands and the need to cover statutory functions, and remains under regular review.

5. Timetable

- 5.1 Regular monthly reports of all interim/temporary placements are sent to departments and suitable “challenge” meetings are held with DMTs on a monthly basis. Agency spend and number of agency staff forming part of the workforce are reported to CMT on a monthly basis as part of the HR Metrics.

6. Financial, resource and property implications

- 6.1 The aim is to challenge hiring managers’ interim/temporary placements and reduce overall costs associated with interim workers where possible, noting that in many cases the Council has to cover statutory functions.

7. Legal and statutory implications

- 7.1 There are no specific legal implications arising from the report

8. Human rights, equalities and community cohesion implications

- 8.1 The amendments that have been made to the Council’s HR policies and processes will improve confidence in the Council’s HR recruitment procedure and the maintenance of the interim position database to provide the means to ensure compliance with Members’ requirements.

9.0 Crime and Disorder implications

- 9.1 None

10.0 Risk management and health and safety implications

- 10.1 These are detailed in the Ernst and Young report of 12 March 2014.

11.0 Appendices – the following documents are to be published with this report and form part of the report

11.1 Appendix 1 - Summary data of the Council's current interim positions

12.0 Background papers

12.1 None

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