

## **Committee:**

**Date: 7<sup>th</sup> September 2020**

Wards: All

## **Subject: Extension of the Agency Worker Contract**

Lead officer: Caroline Holland

Lead member: Cllr Mark Allison

Contact officer: Ruth Poulter ext: 3394 / Barbara Batchelor – ext: 3638

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### **Recommendations:**

- A. That authorisation is given to activate the optional 12-month extension to the agency worker contract with Comensura Limited.

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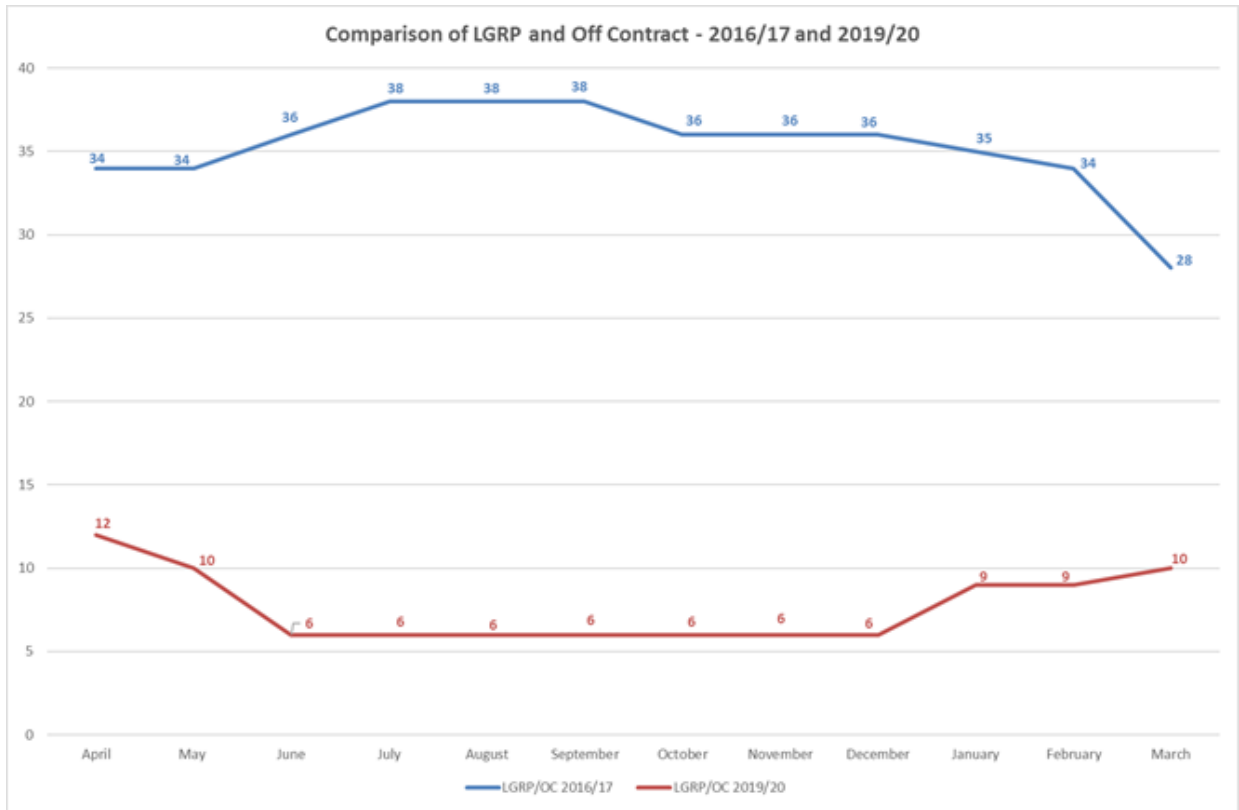
## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of the report is to provide the Committee with information about the proposal to extend the Agency Worker Contract with Comensura and to obtain approval to exercise the option.

## **2 DETAILS**

- 2.1. The agency contract was awarded, using the ESPO Framework, for a period of 3 years plus up to an additional 1-year extension period. The initial 3-year period is due to expire in December 2020. It is timely for us to consider extending the current contract for the additional 1 year provided for in the contract, as the contract has been successful during the initial period and remains fit for purpose.
- 2.2. During the COVID-19 pandemic, it has highlighted that using a neutral vendor for our recruitment is incredibly beneficial. Merton Council have been successful with recruiting temporary workers; we have a strong relationship with colleagues at Comensura and all the agency suppliers, whereas some Councils have struggled with recruitment using master vendors. A Neutral Vendor Managed Service is an unbiased provider of temporary staff, instead of filling roles directly themselves, they manage supply chains of agencies and local SMEs giving all agencies on their supply list fair access to all roles released. A Master Vendor is where a single recruitment agency assumes full responsibility for supplying staffing and fill the roles.
- 2.3. During this contract period we have introduced an interim category, meaning that we are now able to fill and recruit a number of hard to fill roles and senior roles which had historically been sourced via the Local Government Resourcing Partnership (LGRP) framework and off-contract agencies. Since introducing the interim category we have been able to keep the costs of recruitment down by using Comensura in the first instance for all roles as their margins are lower than off-contract and LGRP.

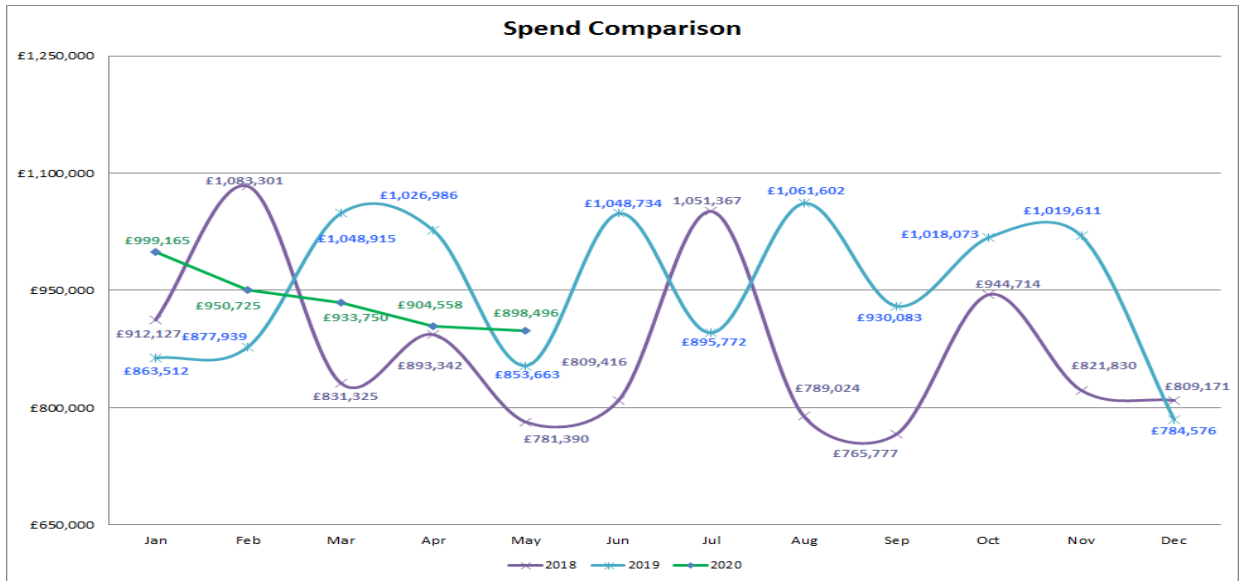
2.4. The below table outlines the decrease in the number of agency staff being engaged via off-contract agencies and the LGRP framework since the beginning of our current contract period with Comensura. This has, in turn, reduced the risk to Merton by not using agencies who are not IR35 compliant and allowing us to reduce the off-contract spend and lower our costs.



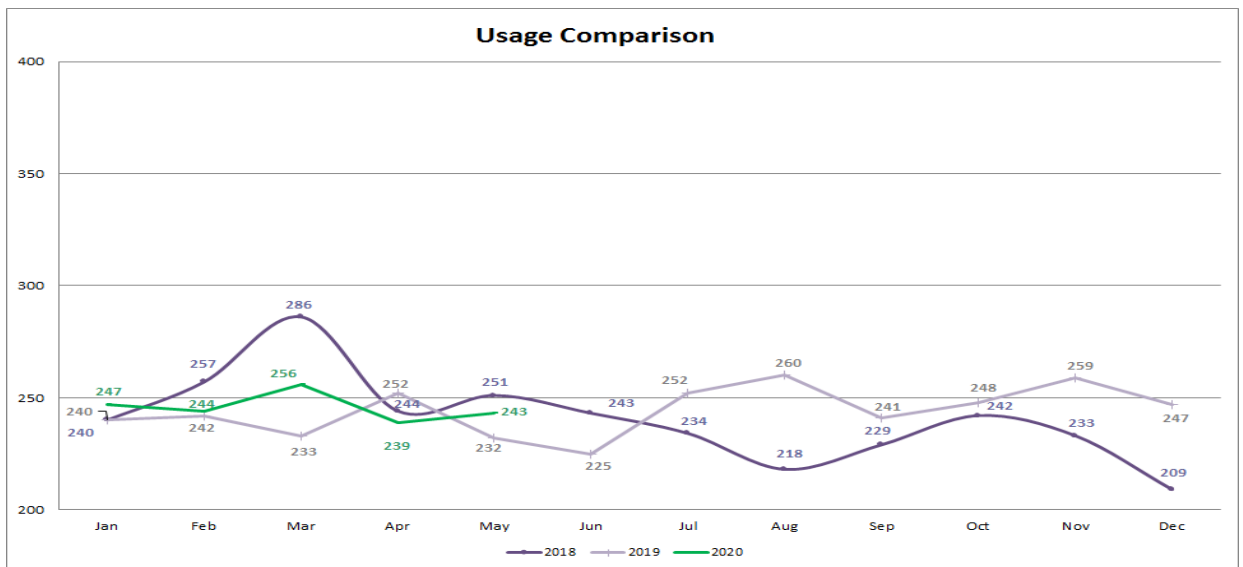
2.5. We have also introduced a “payroll only” service via Comensura, which allows us to process invoices and make payments to workers whose roles have been deemed as inside IR35, but were not signed up with an employment agency initially. This then mitigates the risk of fines from HMRC and ensures that we are working within the IR35 legislation.

2.6. The graph below shows the overall monthly spend via Comensura over the last 3 years.

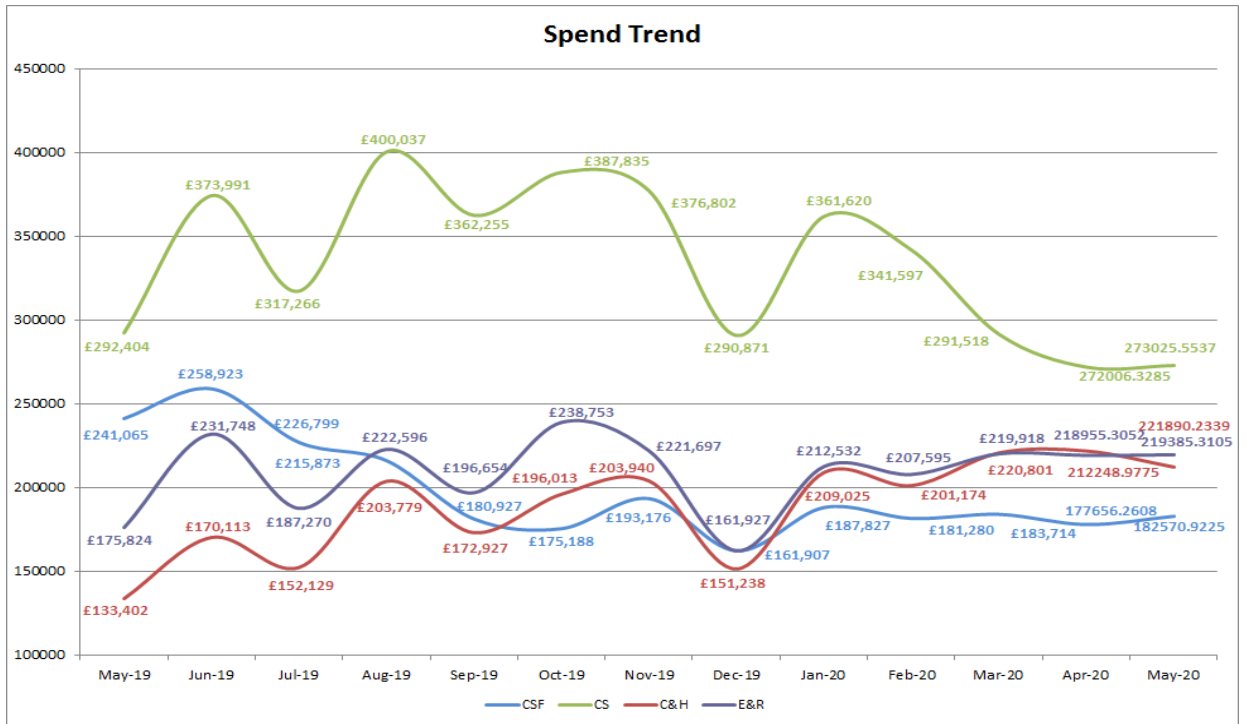
2.7. Overall monthly spend via Comensura over the last 3 years.



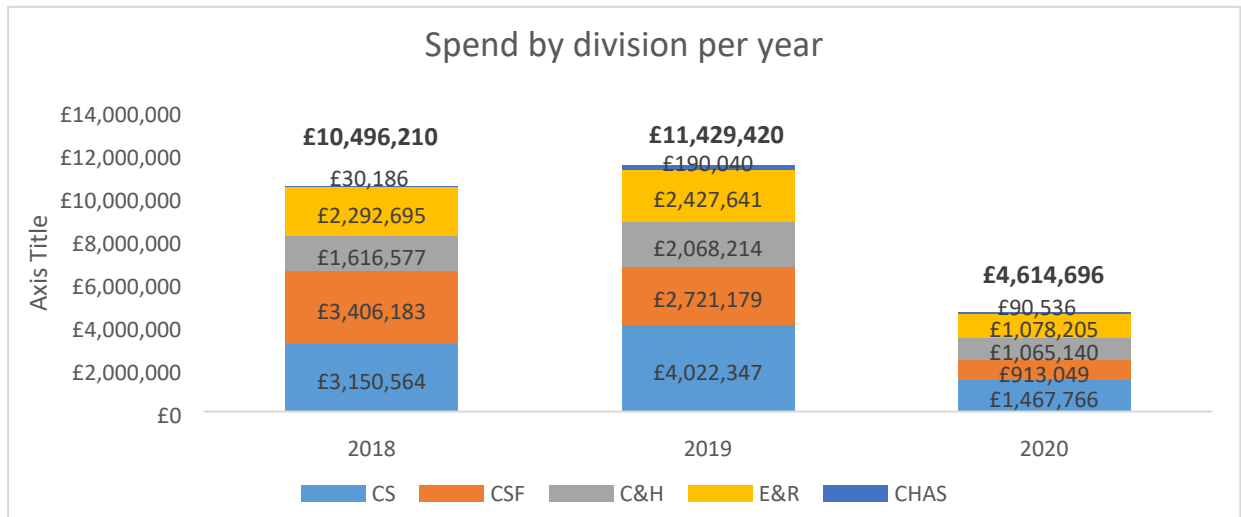
2.8. The below graph shows the overall number of temporary workerse engaged each month over the last 3 years.



2.9. The graph below shows the spend on temporary workers per division for each month of the 2019/20 financial year.



2.10. Annual spend per division.



### 3 ALTERNATIVE OPTIONS

Option	Advantages	Disadvantages
1. Do not extend or vary the contract	None	<p>We would have to run a full procurement exercise and subsequently implement a new contract and provider/system, which would be difficult at this current time as many agencies have furloughed staff due to COVID-19.</p> <p>Alternatively, we would be left with no current contractor to provide our temporary staff.</p>
2. Vary/extend the contract	<p>Enhance the provision to better meet the rising level of demand by implementing the use of Statements of Works to define the scope of appointments and link payments to outcomes. This will not cost the Council any extra money and will drive efficiencies.</p> <p>Continuity of service for staff using the current Comensura portal and support service with which they are familiar.</p>	<p>Limited – unlikely to achieve savings with a new contract because the charge rates (overheads) are already at a very low level and reducing them further would make the Merton account unattractive to agencies. This would increase the risk of vacancies not being filled.</p> <p>A new contract would also take into account inflationary increases since the original contract was awarded.</p>
3. Carry out a separate procurement for the goods, services or works	None – as previously mentioned there is unlikely to be any savings from a new contract and costs may actually increase.	<p>This exercise would require additional time and resources.</p> <p>It is likely to be difficult to implement a new system at this current time due to provider staff being furloughed.</p>

### 4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. Consulted with Commercial Services, Legal, and OPG.

### 5 TIMETABLE

- 5.1. September 2020 – Decision from Cabinet
- 5.2. September 2020 – Extend current contract
- 5.3. January 2021 – Advertise tender
- 5.4. April 2021 – Award New Contract
- 5.5. May 2021 – Notice period to incumbent supplier (if unsuccessful)
- 5.6. June 2021 – 6mth implementation Plan
- 5.7. December 2021 – New Contract Starts

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. The estimated value of the 12-month extension is c. £12 million
- 6.2. The extension will enable some cost avoidance compared to procuring a new contract as the extension will be on the same rates agreed when the contract was awarded and therefore not subject to any inflationary increase.
- 6.3. Further savings can only be achieved by either reducing the number of agency workers being hired or reducing their pay rates. The charge rates (overheads) in the current contract are at a level that some agencies are already refusing to provide services to the Council. Lowering the charge rates further for a new contract would put the Council at risk of not being able to fill vacancies. A new contract is therefore unlikely to produce a saving compared to the current contract terms.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The report recommendations set out a valid extension in accordance with the Public Contracts Regulations 2015.
- 7.2. The Public Contracts Regulations 2015 allow for contracts to be modified where the change was provided for in the initial procurement documents in clear, precise, and unambiguous terms and as long as the amendment doesn't materially alter the nature of the contract.
- 7.3. In this case the proposed extension period of 12 months was provided for in the original tender documents and contract that were sent to the successful bidder. An extension on the existing terms does not materially alter the nature of the contract
- 7.4. Given the current circumstances and the fact that the incumbent is performing well it is prudent to take up the optional extension rather than procuring a new contract
- 7.5. The proposed extension will allow the Council to plan for and procure a new contract in 2021.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None identified.

**9 CRIME AND DISORDER IMPLICATIONS**

9.1. None identified.

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. If we do not extend the current arrangements, Merton Council will be without a provider to supply agency staff which could impact upon service delivery

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

11.1. None

**12 BACKGROUND PAPERS**

12.1. Approval to Award Agency Worker contract