

CABINET

| | |
|-----------------------------|---|
| DATE | 14 June 2023 |
| REPORT OF | Cllr Stephen Harness Portfolio Holder for Finance, Resources and Assets |
| RESPONSIBLE OFFICER | Sharon Wroot, Executive Director, Place and Resources |
| SUBJECT | Supply of Temporary Agency Workers |
| STATUS | Open |
| FORWARD PLAN REF NO. | CB 06/23/13 |

CONTRIBUTION TO OUR AIMS

Procurement of arrangements for the provision of temporary agency workers supports and contributes to all the strategic aims within the Outcomes Framework. Agency workers have been engaged to support the delivery of services when the demand is high and internal resources are not readily available.

Failure to meet the demands for services due to staff shortages, at critical periods can result in the needs of vulnerable groups not being met, leading to higher risk and the council failing in its statutory obligations. This has a negative impact on the priority of 'Sustainable Communities' and the outcome of 'Feel Safe and Are Safe'. It is at these times of shortage that the council relies on agency workers.

EXECUTIVE SUMMARY

The current contract for the Managed Service Provider for the Supply of Temporary Agency Workers is due to expire on the 23rd July 2023. Work is underway to reprocure the replacement arrangement(s) but as yet unknown national changes around supply of Agency social workers, due in late 2023, mean a further 12 months is needed to understand the changes and procure the future arrangement(s).

The Council intent to direct award a 12 month contract to the current provider of Temporary Agency Workers, via the ESPO MStar4 Framework (653F_23). This will help ensure continuity of service and avoid unnecessary costs of change.

The replacement arrangement(s) will be procured comply with the requirements of procurement legislation, the Council's Contract Procedure Rules, and ensure that the Council achieves its duty of Best Value.

Current Agency spend is approximately £4,000,000 per year, although this fluctuates depending on service need.

RECOMMENDATIONS

It is recommended that the Cabinet:

1. Approves a direct award of a 12 month contract with the current provider of the Managed Service Provider for the Supply of Temporary Agency Workers and authorises the Executive Director Place and Resources, in consultation with the Portfolio Holder for Finance, Resources and Assets, to implement;

2. Authorises the Executive Director Place and Resources, in consultation with the Portfolio Holder for Finance, Resources and Assets, to commence a procurement exercise for the replacement arrangement(s) for the supply of Temporary Agency Workers;
3. Delegates responsibility to the Executive Director, Place and Resource in consultation with the Portfolio Holder for Finance, Resources and Assets to deal with all ancillary matters reasonably arising and leading to and including the award of the contracts for Temporary Agency Workers;
4. Authorises the Assistant Director Law and Governance (Monitoring Officer) to complete and execute all legal documentation arising from the above recommendations.

REASONS FOR DECISION

The decision allows the Council to enter into a 12 month contract with the current provider of temporary agency workers, to commence a procurement exercise for the future arrangement(s) and allow the award of the contract(s) for the replacement arrangements.

1. BACKGROUND AND ISSUES

- 1.1. The Council's current contract for a Managed Service Provider for the provision of Temporary Agency Workers is due to end on 23rd July 2023.
- 1.2. Since October 2022, People & Culture have been exploring the opportunity for replacement arrangement(s) through engagement with the market via Preliminary Market Consultation, and other public bodies. This has provided a wealth of ideas for the future model(s) which need to be considered.
- 1.3. The replacement arrangement(s) will allow the Council to maintain provision of, and running of Council services when demand is high, and the existing staff resources cannot meet the demand. They will allow the Council to efficiently and promptly engage short term agency workers to meet this demand. This is often a critical requirement identified in services that cannot be delayed by following the full recruitment process and provides a temporary solution while a more permanent one is explored.
- 1.4. Over the last four years of the current contract the staff roles that have been temporarily filled by engaging agency workers due to service demand are: Refuse Collectors, Social Workers, Solicitors, Environmental Health Officers, Business support and Educational Psychologists. It is anticipated that these will continue to be the roles that the replacement arrangement(s) will primarily provide, although there will be a requirement for it to cater to other temporary roles.
- 1.5. The replacement arrangement(s) will enable the Council to source temporary workers from the local market, where possible.
- 1.6. There is currently a national issue regards recruiting temporary Social Workers, which will look to be addressed through the procurement. The Council is at particular disadvantage when recruiting Social Workers due to its geographical location. The service has invested a significant resource into permanent recruitment (overseas campaign and ASYE), but we still continue to have a high reliance on a temporary workforce.

- 1.7. There are significant changes nationally in how agency social workers can be supplied due in late 2023 which will need to be factored into the procurement for the replacement arrangement(s). The requirement of these changes are currently unknown.
- 1.8. To allow time to understand the changes, consider the various options for future service delivery, and factor these into the procurement for the replacement arrangement(s) the Council intends to direct award a 12 month contract with the current provider of temporary agency workers, Comensura. This will also allow for continuity of service provision during the change to the replacement arrangement(s) and avoid unnecessary costs of change.
- 1.9. The intention is to direct award the 12 month contract to Comensura via the ESPO MStar4 Framework (653F_23) under lot 1A which is for Managed Service Provision, Neutral vendor. Comensura are a provider on the framework and the framework is compliant with UK procurement legislation. To ensure compliance with the Contract Procedure Rules, an exception will be sought before entering into the contract.
- 1.10. For the replacement arrangement(s) a formal Invitation to Tender and award criteria will be developed, and the procurement will be undertaken in line with the requirements of the Public Contract Regulations 2015 (or subsequent replacement), and the Contract Procedure Rules, and ensure the replacement contract(s) represents value for money for the Council.
- 1.11. A project team has been established in readiness to undertake the procurement which consists of officers from People & Culture, Strategy Policy and Performance, including procurement and Legal Services.

2. RISKS AND OPPORTUNITIES

- 2.1 The risk of the Council having inappropriate or no contract in place would cause significant financial and service risk and may result in some services not being able to be delivered effectively.
- 2.2 The 12 month contract with the current provider, Comensura allows the Council the time to understand the changes in legislation and factor these into the requirements for the replacement arrangement(s).

3. OTHER OPTIONS CONSIDERED

- 3.1 **Do nothing** – This option would leave the Council with no contract in place, and non-compliant with the requirements of the Public Contracts Regulations 2015.
- 3.2 **Re procure the contract before the national changes are known** – This option would potentially leave the Council with an unsuitable contract and having to reprocure again which would not represent best use of resources.

4. **REPUTATION AND COMMUNICATIONS CONSIDERATIONS** There are potential negative reputational implications for the Council resulting from the decision if there are no staff to meet the demands of the service and the organisation may fail to meet its statutory obligations. Additionally, the volume of agency workers has been high and this may have a negative reputational affect.

- 4.2 There are potential positive reputational implications for the Council if approval is given, ensuring the Council is able to source and retain current agency workers to meet short term service needs and statutory duties.

5. FINANCIAL CONSIDERATIONS

- 5.1 The proposal will be financed through service team budgets or, on occasion, through capital funding if agency workers are required on specific capital projects.
- 5.2 The spend on agency workers may fluctuate year on year depending on local circumstances and service demand and on occasions to meet short term need when more permanent solutions are either not required or not available.
- 5.3 The contract will deliver value for money when contracting agency services.

6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

In line with the information above (sections 1. & 2.1) we have a number of contracts running through Comensura that support delivery to our front-line children's services. If we make any changes to the way we are working presently, this could be detrimental to the contracts in place and lead to an inability to retain the workforce engaged in the social work activities taking place for families and young people.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The procurement for the replacement arrangement(s) will explore opportunities to contribute towards the Council's net zero carbon roadmap and environmental vision.

8. CONSULTATION WITH SCRUTINY

Not applicable.

9. FINANCIAL IMPLICATIONS

- 9.1 As outlined in section 5, the cost of agency workers will be met through respective service and capital scheme budgets.
- 9.2 Direct award is, in this instance, expected to avoid unnecessary costs of change and allow a re-procurement exercise to be undertaken at a better time, when the national picture is more certain in respect of agency social workers.

10. LEGAL IMPLICATIONS

- 10.1 Legal Services will support the completion of this procurement exercise and review the contractual documentation to ensure that the Council's interests are protected to the greatest extent reasonably and commercially possible.
- 10.2 The approach recommended is a 12 month framework contract followed by a full procurement once the national position is fully understood. A framework arrangement has the benefits of approved suppliers already meeting certain benchmarks and flagging agreement in advance to appropriate terms and conditions. Further, the Council may achieve better terms by combining its

volume with the other public bodies also taking part. There are further advantages of assurance in that any such framework by necessity must be compliant with Public Contracts Regulations 2015. A framework approach is considered good practice and comes with its own efficiencies.

- 10.3 The procurement exercise will be conducted so as to comply with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 and supported by relevant officers. Legal Services will support the completion of the contractual documentation on award.
- 10.4 Officers should note that an award constitutes a further decision and will be subject to completion of an Officer Decision Record. Where key decision criteria are met such Officer Decision Record will be subject to call in. Award and implementation timelines should accommodate this.

11. HUMAN RESOURCES IMPLICATIONS

HR advice will need to be sought on continuation of engagement with ongoing agency staff who are engaged with the current provider should the extension to the contract not be agreed.

12. WARD IMPLICATIONS

Not applicable

13. BACKGROUND PAPERS

[Cabinet Minutes 10 April 2019 \(nelincs.gov.uk\)](http://nelincs.gov.uk)

15. CONTACT OFFICER(S)

Louise Hayes, Resourcing Manager, (01472 313131 ext 4359)

Councillor Stephen Harness
Portfolio Holder for Finance, Resources and Assets