

# Overview and Scrutiny Management Board

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## Scrutiny Review of Agency, Interim and Consultancy Use.

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## **1 Introduction**

- 1.1 Over the course of 2016-17, Overview and Scrutiny Management Board (OSMB) expressed its concerns at the increasing and significant forecast of in-year overspend. Related to this had been concerns about the use of agency staff and consultants across the authority and if there was robust management control in place at that time<sup>1</sup>. It was agreed that a small cross-party working group would be established to examine what actions were being taken to drive down the number of agency staff and consultants and consequently reduce the associated financial impact.
- 1.2 The following Members undertook the scrutiny review:
- Cllr Kerry Albiston
  - Cllr Allen Cowles
  - Cllr Jeanette Mallinder
  - Cllr Brian Steele (Chair)
- 1.3 The recommendations made by Members are based on information and evidence collated during the course of the review and their challenge of existing practices and developing protocols. The Workforce Management Board (WMB), led by the Assistant Chief Executive and attended by Assistant Directors from all Directorates, had been set up shortly before the commencement of this review to introduce a control process, with the use of agency staff requiring explicit Directorate and Board sign off. It was helpful that the review coincided with the development of the WMB as Members were able to hold officers to account and see evidence of its work with associated improvement in performance; increased oversight and reduction in spend. Through this regular dialogue, Members were able to influence the development of procedures and clarification of definitions and reporting routes which has meant that some of Members' recommendations were implemented during the course of the review.

## **2 Scope and terms of reference**

The purpose of the review was to seek assurance that the Council measures performance and value for money in its use of agency staff and consultants and is taking appropriate action to maintain spend within acceptable limits.

Over a series of meetings with senior officers, the Members sought to establish:

- Definitions of agency, interim or consultancy staff;
- The criteria/protocol for appointment of agency/interim staff and consultants;
- What would be a reasonable number of agency staff and/or consultants for an organisation of the Council's size and complexity;
- The current number; cost and length of contract of agency/interim staff and consultants (by Directorate);

The review group thanks the Cabinet Member, officers and trade unions for their co-operation and support.

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<sup>1</sup> It was reported as part of the Corporate Plan 2016/17 Quarter 4 Performance Report in August 2017 that the targeted 10% reduction in agency staff had seen instead a 50% increase.

### 3 Key issues

The review group commenced its enquiry in June 2017 and reported its findings in February 2018. The issues arising from the discussions are summarised below.

The review group met with officers six times over the period of the review, with further meetings held with the Cabinet Member for Corporate Services and Finance and in-house trade unions. Revenue monitoring and performance reports were also submitted to the OSMB during the course of the review, which gave oversight of performance and spend in this area.

- 3.1 It was noted that both the former Corporate Plan and its replacement, the RMBC Council Plan (2017-20) had reduction in the use of agency staff as a priority measure and this was the primary means through which performance in this area is measured. Members received information that demonstrated that the overall agency spend was reducing and plans were in place to ensure the downward trajectory continued, particularly in relation to social care agency spend in CYPS. The most recent report to OSMB outlined the Council's use of temporary and agency staff remained at high levels, however at the end of the first quarter the annual projected agency expenditure for 2017/18 was 21% lower than agency cost in the previous year<sup>2</sup>.

#### Agreed Definitions of Agency, Interim or Consultants

- 3.2 In establishing whether there were agreed criteria for the appointment and use of agency, interims and consultants, Members were concerned that the definition used in the HR service briefings did not provide sufficient clarity or distinction between each respective category. Initial information presented to the review provided details of agency spend, there was less clarity about spend on consultants and how this was reported. The review group were of the view that a lack of clear definitions, particularly in relation to consultants, meant that that information was not reported consistently or accurately.
- 3.3 Officers were asked to clarify the definition and ensure that budget codes were aligned to them to ensure that expenditure could be monitored accurately. To this end the following definition has been developed:
1. **Agency Staff** - Individuals employed and paid for through an agency. They may be covering a single specific vacancy or be covering a capacity gap left by a number of vacancies, by specific demand pressure or as a result of a skills gap. They may or may not have decision making authority or staff management responsibilities.
  2. **Interims** - Individuals working day to day 'as though an employee' but not engaged through an agency contract. They may be covering a single specific vacancy or be covering a capacity gap left by a number of vacancies, by specific demand pressure or as a result of a skills gap. They may or may not have decision making authority or staff management responsibilities.

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<sup>2</sup> Council Plan 2017/18 Quarter 1 Performance Report: OSMB 27<sup>th</sup> September 2017.

3. **Consultancy/Independent Contractor** - An individual or a company engaged through a tender/procurement process to carry out a defined piece of specialist work or a project. The company or individual would not be expected to have any decision making authority or staff responsibilities and the work would be expected to culminate in an output e.g. a report. They may work predominantly on or off site depending on the nature of the piece of work.

### **Criteria/protocol for appointment of agency/interim staff and consultants**

- 3.4 At its first meeting of the review group, officers presented the WMB's terms of reference and 'Workforce Resource Request-Business Case' which is used to approve requests for recruitment of permanent staff or procure external resource. The Chair was invited to attend a WMB meeting and was assured of the rigour applied to their scrutiny of the management of people resources and expenditure, particularly in relation to agency spend. The review group was assured that the WMB has grip on recent agency appointments.
- 3.5 Whilst the review group were confident that steps were in place by the WMB to monitor agency staff usage, it was less clear if the same processes were applied consistently to the appointment of consultants or interim staff appointed to undertake a senior role. Following representations, the Chief Executive gave assurance to the Chair that future appointments to senior posts would only be considered for approval following submission to the WMB.
- 3.6 The review group were keen that there is a consistent approach taken and, as with agency staff, consultancy appointments are made on the basis of a business plan which is linked to a service plan. It was felt that as the requirement to use consultants for specific projects or specialism should be anticipated well in advance, that the requirement for this expertise should be explicitly reflected in service plans; with corresponding details about expected outcomes, timescales and resourcing to inform the procurement or tendering of consultancy services. The Head of Procurement, who is now to be a member of the WMB, can escalate to the Board any issues or concerns arising out of an extension or variation to the tendered contract, which takes it significantly beyond the original timeframe or agreed expenditure. If these protocols were followed, the Council could be more confident that the decisions relating to the appointment of consultants were soundly based and would achieve value for money.
- 3.7 It was also felt that wherever appropriate, there should be an element of training or skill development when consultants were engaged to build in-house capacity (for example involvement in project work or work-shadowing). This would ensure that staff had a greater understanding of the specialist elements provided by the consultants and an opportunity to undertake skill development/knowledge transfer which could be used to train staff and in turn may lessen the need to contract externally in the future.

### **Appropriate Level of Usage of Agency/Interims and Consultants**

- 3.8 Overall, Members accepted that agency, interims and consultants can be an important and effective means of covering inevitable temporary staff shortages. If monitored

properly, the use of agency staff was recognised as an effective means of providing a flexible resource to ensure continuation of services. On the basis of the performance reports and briefings provided to Members, it was noted that spend was increasingly maintained within overall staffing budgets<sup>3</sup>.

- 3.9 Within CYPS, it was recognised that a significant element of spend was aligned to the introduction of new management arrangements and linked to the improvements in CYPS. A detailed presentation was given to the review group by senior officers in CYPS which explained that investment in specialist consultants following intervention provided grip and enabled strategic improvements to be made and higher levels of agency staff were required to ensure safe levels of practice<sup>4</sup>. Since 2015/16, there had been a cumulative reduction in agency costs of 40%, with greater numbers of permanent appointments made.
- 3.10 It was further noted that agency and consultancy spend across Adult Social Care was forecast to increase over the coming year and beyond. A detailed discussion with the Strategic Director for Adult Care and Housing provided details of how this resource would be used to support its Improvement Plan. Members were keen to see that there was regular monitoring of the Improvement Plan to ensure that drift did not occur.
- 3.11 Detailed information was given to the review group, outlining use of agency seasonal workers in the Regeneration and Environment Directorate. Whilst it was accepted that the use of agency staff allows a degree of flexibility to deliver services which have targeted completion (waste being daily and grounds maintenance or grass cutting being on a regular cycle); the review group were concerned at the comparative high-level of spend in this area and asks that further work be undertaken to see if other solutions could address this, example annualised hours or other flexible working methods.
- 3.12 The review group were concerned that recruitment of agency/interim or consultancy staff should be the last resort, particularly in areas where staff are at risk of redundancies. UNISON expressed a concern that recent cuts in staff numbers and high vacancy rates across children and adult's social care has led to an increased reliance on costly agency staff and consultants. The review group thought there was merit in the WMB meeting with in-house trade unions on a regular basis to seek their views on the engagement of consultants and agency staff.

**The current number; cost and length of contract of agency/interim staff and consultants (by Directorate)**

- 3.13 The briefings provided to Members gave a good overview of numbers of agency staff and the review group was confident that the WMB had oversight of this by Directorate. However as highlighted above, there was less clarity about numbers of consultants and their specific cost, on what basis the consultants were engaged (for example on a task

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<sup>3</sup> After showing an overspend, it was reported in August 2017, that the employee budget relating to children's social care was forecasting a break even position.

<sup>4</sup> Members sought assurance about agency usage in CYPS compared with other authorities, it was noted that agency usage levels in Rotherham at 15.3% (July 2017) had fallen below the national average of 16.7%. This reflects very positively against similar authorities in intervention.

and finish basis, to provide longer term change-management support or other specialisms); and if there was consistent compliance with the process set out by the WMB. Members welcomed the Internal Audit process that was being undertaken and asks that the results are presented to a reconvened meeting of the review group.

- 3.14 Members were also concerned that there was a small number of agency/interim staff, predominantly in CYPS, who remained in post whose initial appointment dated from 2015. Members felt that it was important to establish how many staff this applies to; their length of service; if a business case was developed at the time of appointment and if so, whether this had been reviewed and by whom. Members asked that plans are drawn up as soon as possible to action permanent recruitment if there is a service requirement for the posts and if this cannot be demonstrated, that agency staff or interims are released.
- 3.15 Further details were provided on steps taken to reduce usage of agency staff and consultants in CYPS through permanent appointments and building in-house capacity and progression. Members welcomed the initiatives to reduce agency usage and offer staff progression routes and interim posts as development opportunities.
- 3.16 The Strategic Director for CYPS had also developed a memorandum of understanding with other local authorities in the Yorkshire and Humber region to create a standard practice and costs for agency workers. Drawing on this, given most public sector bodies will require temporary staff to cover routine vacancies, Members wanted to explore the feasibility of developing an in-house 'bank' system or employment agency to reduce cost and reliance on external agencies.

#### **4 Recommendations**

- 4.1 That the following definition of agency, interims and consultancy staff is adopted and is applied consistently across the Council. It is suggested that a further report is provided to this sub-group in six month on its implementation.
1. Agency Staff - Individuals employed and paid for through an agency. They may be covering a single specific vacancy or be covering a capacity gap left by a number of vacancies, by specific demand pressure or as a result of a skills gap. They may or may not have decision making authority or staff management responsibilities.
  2. Interims - Individuals working day to day 'as though an employee' but not engaged through an agency contract. They may be covering a single specific vacancy or be covering a capacity gap left by a number of vacancies, by specific demand pressure or as a result of a skills gap. They may or may not have decision making authority or staff management responsibilities.
  3. Consultancy/Independent Contractor - An individual or a company engaged through a tender/procurement process to carry out a defined piece of specialist work or a project. The company or individual would not be expected to have any decision making authority or staff responsibilities and the work would be expected to culminate in an output e.g. a report. They may work predominantly on or off site depending on the nature of the piece of work.

- 4.2 That the above definition is appended to the WMB's terms of reference to ensure that there is a shared and consistent understanding of the criteria. It is further recommended that the Head of Procurement escalates to the Board any issues or concerns arising out of an extension or variation to the tendered contract which takes it significantly beyond the original timeframe or agreed expenditure.
- 4.3 That following the development of clear definitions relating to the appointment of agency, interims and consultants, that there are corresponding budget codes developed to ensure that accurate monitoring can be undertaken.
- 4.4 That prior to the appointment of consultants, there should be a clear business case developed aligned to service plans to demonstrate the necessity of the appointment and why external resources are required to complete the task. To avoid 'drift', the business case should outline clear outcomes, timescales and what resources are required; with variations to the business case reported to the WMB by the Head of Procurement.
- 4.5 Wherever possible and appropriate, there should be a development element in the engagement of consultants in order to develop in-house capacity. The business case should outline how this is to be addressed.
- 4.6 That the transformation plans for ASC are carefully monitored to ensure that agency and consultancy use is delivering value for money and practice improvements.
- 4.7 That an audit is undertaken to clarify how many agency staff are in posts for more than 12 months; their length of service; if a business case was developed at the time of appointment and if so, whether this has been reviewed and by whom. On the basis of this information, that plans are drawn up as soon as possible to action permanent recruitment if there is a service requirement for the posts and if this cannot be demonstrated, that agency staff or interims are released.
- 4.8 Following from this, to avoid 'drift', the business case developed to support the appointment of agency staff should outline clear outcomes, timescales and resources and explicit alignment to the service plan; with variations to the business case or extension to contract reported to the WMB.
- 4.9 That further work be undertaken to lessen the requirement for seasonal agency staff. This should include annualising hours or ensuring operatives 'multi-task' and are able to share roles and functions. The review asks that a further report be provided exploring options.
- 4.10 That the WMB should have regular discussions with in-house trade unions and staff fora to seek their views if there are alternative options to the appointment of agency staff or consultants; particularly in services where there is the possibility of redundancies.
- 4.11 That the WMB should explore the feasibility with other councils and public sector partners of developing an in-house 'bank' system or employment agency to reduce cost and reliance on external agencies.
- 4.12 That OSMB convenes a sub-group bi-annually to review the progress of the WMB in meeting the priority measure and the implementation of accepted recommendations.



## **5 Thanks**

Cllr Saghir Alam – Cabinet Member for Corporate Services and Finance

Judith Badger – Strategic Director: Corporate Services and Finance

Mark Chambers - Assistant Director: Commissioning Performance and Quality (CYPS)

Shokat Lal – Strategic Director: Assistant Chief Executive

Anne-Marie Lubanski – Strategic Director: Adult Care and Housing

Sharon Kemp – Chief Executive

Mel Meggs – Deputy Strategic Director, CYPS

Sue Palfreyman - Head of Human Resources (ACX)

Robin Symonds - UNISON