

Committee Name and Date of Committee Meeting

Overview and Scrutiny Management Board – 27 March 2019

Report Title

Implementing the recommendations from agency scrutiny review

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Shokat Lal, Assistant Chief Executive

Report Author(s)

Ian Henderson, Senior Employee Relations Officer
01709 822467 or ian.henderson@rotherham.gov.uk

Ward(s) Affected

None

Report Summary

This report provides details of progress made in implementing the recommendations from agency scrutiny review, specific actions related to the recommendations and outcomes arising from them.

Recommendations

1. OSMB are asked to note progress and consider further actions it might recommend to ensure appropriate management and oversight of this issue.

Background Papers

Use of Agency, Interim and Consultancy Staff Report February 2018

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Implementing the recommendations from agency scrutiny review

1. Background

- 1.1 The Overview and Scrutiny Management Board review of the use of agency, interim and consultancy staff on 21 February 2018 made twelve recommendations (Appendix 1). These were supported by Cabinet in July 2018 and Officers were instructed to action the recommendations.
- 1.2 The Workforce Management Board (WMB) continues to monitor and control agency costs by challenging usage across the Council. In approving agency resource, WMB take into account several factors:
- What risks are associated with not filling the role – including safeguarding?
 - Is there budget available to fund the agency resource?
 - Is the agency resource required to deliver a statutory function?
 - Can the work be delivered in any other way?
 - Any other factors that are deemed critical for securing additional agency resource
- 1.3 There have been reductions in agency spend across the Council with agency resource only being used where a short-term solution is required to enable continuation of services for time limited periods. Directorates have been tasked with reducing agency usage and to seek alternative solutions to flexible resourcing to maintain service delivery. WMB is tasked with providing cross-Directorate challenge of any business cases requesting use of agency spend.
- 1.4 The cost of agency invoices paid by the end of the quarter was **£5.641m**, with committed expenditure forecasting an outturn of **£6.825m**. Agency expenditure is on track to achieve the 10% reduction target; however any additional agency engagements during the year will impact on the final outturn which was **£8.076m**¹ in 2017/18.

Agency Reports - Directorate Position Q3 2018-19

Directorate	Agency Actuals Dec 2018	Agency Forecast to March 2019	Current levels Dec 2018
Adult Care & Housing	£736,371	£1,338,874	7
Assistant Chief Executive's	£767	£974	0
Children & Young Peoples Services	£3,002,734	£3,336,521	21
Finance & Customer Services	£563,418	£709,821	16
Regeneration & Environment	£1,337,529	£1,439,118	23
Grand Total	£5,640,819	£6,825,308*	67

¹ Total expenditure was £8.33m when including £0.254m of additional legal staff enlisted through an agreement with Sheffield City Council. Although this was treated as agency in the prior year, this is actually a contracted service, and has not been included in 2018/19 forecasts. Prior year actuals have therefore been restated to ensure a like-for like comparison.

- 1.5 In addition to a projected 10% reduction of overall agency spend in 2018/19, CYPS has seen numbers of agency social workers reduce from 60 on 1 April 2018 to 21 as at 31 December 2018. Agency usage as a percentage of the number of qualified Social Workers fell from 8% to 7.2% and compares favourably with the national average of 16%.
- 1.6 WMB will continue to focus on reducing our agency spend and building a sustainable workforce. It will also broaden its focus into other areas that have a negative impact on capacity across the Council, including attendance management.

2. Update on Recommendations from Scrutiny Review of Agency, Interim and Consultancy Staff

2.1 Recommendation 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.

- (a) 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.**
- (b) 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.**
- (c) 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.**

The definition of agency worker, interim and consultancy staff has been adopted and is being applied across the Council. A manager briefing reminding managers was issued by Finance in January 2019.

2.2 Recommendation 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.

The definitions set out in recommendation 1 were added to the WMB terms of reference and agreed at the WMB meeting on 30 August 2018. Any extensions to original timeframes require updated business cases to be submitted for consideration at WMB.

The Head of Procurement is a member of WMB and is able to raise any issues or concerns concerning recruitment practices at the meetings.

2.3 Recommendation 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.

To ensure that the Council is accurately recording its financial position in relation to the above categories, on 18th January 2019 a briefing was issued by Finance to officers advising managers to assign the correct budget nominal codes when procuring services.

The current nominal code for Agency, 14010, will continue to be used for agency staff. Interims will continue to be coded to the appropriate salary code and a new nominal code was set up on 19th October 2018 named "Consultants" with a code of 31050.

2.4 Recommendation 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.

Consultants classified as agency workers require business cases detailing why engagements are necessary, timescales and alternative options considered have to be submitted for approval by WMB. Any subsequent request to extend the current approved period requires an updated business case to be submitted for consideration, including rationale for the extension.

2.5 Recommendation 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.

Where business cases are submitted to WMB for the use of consultants classified as agency workers, business cases are required to demonstrate how the engagement can be used to build internal capability and capacity, thus reducing future reliance on consultancy resource.

2.6 Recommendation 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.

Requests for agency usage in Adult Social Care are subject to the same business case processes as detailed in recommendations 4 and 5. Directorates provide monthly updates on all their agency usage to WMB to enable continued sight and management of the temporary resource.

Consultancy resource is currently being used to support delivery of ASC transformation. Colleagues in Change and Innovation and HR are working closely to support that work, and the outputs will be used to inform transformation across other Directorates.

2.7 Recommendation 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.

As part of the monthly update of Directorate agency usage a review of workers engaged over 12 months has been undertaken and numbers reduced.

All current and new agency engagements have an end date that is monitored through WMB. Regular review periods have been introduced requiring any extension to original periods of engagement needing an updated business case submitting for consideration. The business case must show what action is being undertaken to resource a non-agency resource solution.

2.8 Recommendation 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.

To avoid drift business cases for extensions have to be submitted to WMB which outline why the extension is necessary and what actions have been taken to mitigate.

2.9 Recommendation 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.

A separate report by Regeneration & Environment exploring options to lessen the requirement for seasonal agency staff is to be considered separately by OSMB on 27th March 2019.

2.10 Recommendation 10

That the WMB should have regular discussions with in-house trade unions and staff 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.

Consultation frameworks are in place for discussions to take place with Trade Unions at both Corporate and Directorate level. Specific issues emerging from WMB are taken forward by HR at Corporate meetings.

2.11 Recommendation 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.

A review of the Council's resourcing processes is currently being undertaken, including options for the management of agency engagements and the development of a central 'bank system' for casual/temporary workers.

Options will need to be fully scoped and evaluated before any decision will be made on pursuing the use of an in-house 'bank' system or internal agency. That evaluation will need to include an assessment of contractual status (including terms and conditions of employment) and a robust assessment of budgetary impacts arising from proposed changes.

2.12 Recommendation 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.

This report provides OSMB with details of progress on the implementation of the accepted recommendations for the group to review.

3. Financial and Procurement Advice and Implications

3.1 Details of the financial implications are set out in section 1 above.

3.2 Details of the Procurement implications are set out in section 1 above.

4. Legal Advice and Implications

4.1 There are no direct legal implications arising from the recommendations within this report.

5. Human Resources Advice and Implications

5.1 Successful recruitment and retention strategies combined with the development of the workforce will improve flexibility, skills and capacity to allow resources to be matched to priorities and reduce reliance on external agencies.

5.2 The use of agency provides a flexible resource for short term solutions; longer term usage should be addressed through appropriate workforce planning.

6. Implications for Children and Young People and Vulnerable Adults

6.1 Agency workers engaged in both Adults and Children's Services to facilitate service transformation, remain compliant with the Care Act and deliver expected standards of service are subject to the same approval and monitoring processes as workers in other Directorates.

7. Equalities and Human Rights Advice and Implications

7.1 The Agency Workers Regulations 2011 give agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly and if they complete a qualifying period of 12 weeks in the same or similar job.

8. Implications for Partners

8.1 There are no implications for partners.

9. Risks and Mitigation

9.1 Business cases are reviewed by the Workforce Management Board prior to agency workers being engaged

10. Accountable Officer(s)

Shokat Lal, Assistant Chief Executive
Lee Mann, Assistant Director HR

Approvals obtained on behalf of:-

	Named Officer	Date
Strategic Director of Finance & Customer Services (S.151 Officer)	Graham Saxton	08/03/19
Assistant Director of Legal Services (Monitoring Officer)	Stuart Fletcher	06/03/19
Assistant Director of Human Resources (if appropriate)	Lee Mann	27/02/19

*Report Author: Ian Henderson, Senior Employee Relations Officer
01709 822467 or ian.henderson@rotherham.gov.uk*

This report is published on the Council's [website](#).