Review of Use of Agency Workers and Consultants

Supporting Derby's Workforce Overview & Scrutiny Board

Derby City Council

PROUD OF DERBY

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Foreword

The use of consultants and agency workers by local authorities in the United Kingdom is an area of local government which is much debated. Maintaining the balance of providing statutory services and projects to support the regeneration of the local environment, whilst keeping a watchful eye on spending where resources are limited is an unenviable task of those who manage Councils. This problem is most evident where agency workers and consultants carry out work on the Council's behalf when existing staff are absent, or where specialist works is required that cannot be completed in-house.

The Panel set out to investigate the situation in Derby, and I am pleased to note that all members of the Panel contributed to produce a final report that is objective. It is also important to state that the Panel dealt with agency workers and consultants as separate bodies, and this is evident throughout the report.

The report sets out the key objectives of the Panel, the process which was undertaken and the individuals who provided valuable input in order for us to reach our conclusions. The report closes with recommendations to be considered.

I have confidence that the recommendations set out by the panel will improve the way in which agency workers and consultants are deployed by Derby City Council

To conclude, I would like to express my gratitude to all who contributed to the Panel's investigations. They are named elsewhere in this report, but in particular I would like to thank Ruth Redfern, who has been invaluable in compiling the evidence detailed in this report. I would also like to thank Democratic Services Officers Jody Shelton and Clare Harrison, who have helped make the whole process run smoothly.

Councillor Jackson
Chairman of the Supporting Derby's Workforce Task & Finish Panel

1. Executive Summary

1.1 Supporting Derby's Workforce Task & Finish Panel investigated the reasons behind the use of consultants and agency workers by Derby City Council. The Panel sought to establish what imperative led Derby City Council to use agency and consultants. It reviewed the current levels of usage, and in what areas of the Council. It also examined the procurement arrangements in place at the Council in relation to the engagement of agency and consultants.

1.2 The Panel met with officers who work in Strategic Services and Organisational Development as well as representatives from GMB, Unite and Unison. Information was also submitted by agency suppliers. Case studies on the use of consultants and agency workers within Refuse & Waste Management (Communities & Place) and Adults, Health & Housing (People Services) were selected for further consideration and scrutiny.

1.3 The recommendations made by the Panel are included on Page 13 of this report.

2. Introduction

2.1 There are a multitude of reasons why Derby City Council uses and employs consultants and agency workers. The basic reason for the use of consultants is that at times the Council requires that specialised work is undertaken for specific projects. This is particularly valid when consultants are engaged to work on large scale projects such as Job Evaluation. Agency workers are employed normally to cover absences such as holiday, staff sickness and vacancies or as temporary staffing for individual projects or peaks in workload such as seasonal work or Arena events.

2.2 Therefore at a meeting of the Overview and Scrutiny Board held on 27 July 2015 the Board considered that further to the launch of the Employment Charter in May 2015 and in light of the budgetary pressures facing the Council in recent years, it was considered appropriate for the Board to review the costs incurred by the Council in relation to consultants and agency workers.

2.3 The key objectives of the review were:

a. To investigate the reasons for the use of consultants at Derby City Council
b. To investigate the reasons for the use of agency workers at Derby City Council
c. To consider the alternatives to using consultants
d. To consider the alternatives to using agency workers
e. To assess the risks involved in implementing these alternatives
f. To consider the costs involved by Derby City Council in using consultants and ways in which these could be reduced
g. To consider the costs involved by Derby City Council in using agency workers and ways in which these could be reduced.
h. To examine the procurement arrangements associated with consultants
i. To examine the procurement arrangements associated with agency workers

2.5 The Project Plan (Scoping Document), which sets out the full details of the review is attached as Appendix 2.

2.6 At the time of writing this report the membership of the Panel comprised of Councillors Barker, Carr, Dhindsa, Grimadell, Jackson, Whitby and Winter. Councillor Jackson chaired the meetings of the Review Panel.

3. Process

3.1 The Panel met formally on four occasions to consider evidence and to work through its Project Plan (Scoping Document).

3.2 Evidence for the Panel's work was collected from the following presentations and discussions with:

- Diane Sturdy – Acting Head of Organisational Development,
- Ruth Redfern – Employment Consultant: for Employee Commission
- Nathan Rennocks - Unite
- Denise Tinley - GMB
- Julie Warner – UNISON

3.3 Evidence was also received by the Panel from Adults, Health & Housing; Neighbourhoods; Refuse & Waste and external suppliers Matrix SCM and Staffline.

3.4 The list of key documents (including background papers, reports and briefing notes) which were considered by the Panel is attached at Appendix 3.

4. Key Findings

Background

4.1 Throughout the review the Panel used the following definitions of consultants and agency labour:

- As consultants are unlikely to be covering vacant roles and will be usually engaged for a specific task, the Panel used the definition that a consultant is "a person(s) or body that supplies professional, technical advice or expertise but does not include workers engaged though a recognised staff agency agreement and/or the supply of a management role in addition to professional/technical advice or expertise.".

- The Panel used the definition that agency worker is "a person brought into the Council to cover for illness and absence, short term vacancies, temporary increases in workload or where it has not been possible to fill positions though the normal Council recruitment processes". Much of Derby City Council's agency usage is employed to carry out statutory services such as refuse collection and social services functions.

What are the reasons for the use of consultants and agency workers at Derby City Council?

4.2 There are a multitude of reasons why Derby City Council uses and employs consultants and agency labour.

4.3 The basic reason for the use of consultants is that at times the Council requires that specialised work is undertaken for specific projects. This is particularly valid when consultants are engaged to work on large scale projects such as Job Evaluation

4.4 The Council employs agency workers for the following reasons:

- As cover for staff holidays
- As cover for staff sickness, particularly in unskilled industrial jobs
- As cover for staff vacancies
- As temporary staffing for individual projects
- As cover for peaks of work e.g. seasonal work such as street cleaning

What are the alternatives to using consultants and agency workers?

4.5 One alternative to using consultants is that the Council would be forced to employ staff to carry out those areas of work and projects currently being undertaken by external consultants. Another alternative is that work earmarked to be carried out by consultants be left, however this could be to the detriment of the people of Derby.

4.6 The benefit of employing consultants however, is that the Council makes a saving in relation to National Insurance and pension contribution. Also, in employing consultants the Council is under no obligation to pay consultants for days when they are not working for the Council e.g. sickness and holiday.

4.7 The alternative to not using agency workers is that statutory services would at times not be able to function and to serve the people of Derby. As this alternative is clearly not acceptable, then the Council only has the alternative to employ more permanent staff to deal with issues such as seasonal peaks and staff absence. However, that Council has found it difficult in the past to recruit staff quickly enough to meet the demands of some of the more fast moving business units. Also, clearly if the Council was to recruit more staff to deal with anticipated shortfalls, the Council could at some point be accused of being overstaffed. In addition to this, the recruitment of staff to deal with anticipated shortfalls would likely add additional pressures on the Council aspiration to minimise (if not eradicate) the use of zero hours contracts (in line with another point on the Employment Charter). There are also some clear benefits to the Council in employing agency workers as against more Council staff; the Council can make savings in terms of employer National Insurance, pension contribution and sickness and holiday entitlement.

What are the risks to the Council in not using consultants and agency workers?

4.8 The risk in not using consultants is that the Council would have to recruit a more substantial and specialised workforce at a greater expense, or alternatively would have to make the decision not to undertake certain schemes and projects in the future.

4.9 The risk in not using agency workers would be similar to that of not using consultants. The Council could decide not to employee agency workers, but this would mean that many services (including statutory services) would not function. This would make the Council negligent in its duties to the people of Derby. The other alternative is that the Council employs more staff to cover those areas where agency costs/usage is highest. This would potentially be more expensive for the Council to carry out, not only in terms of the recruitment process but also in additional costs for directly employed staff (i.e. National Insurance and pension contribution, as well as sickness and holiday benefits).

What costs are incurred by Derby City Council in using consultants?

4.10 Derby City Council accounts for the cost of some consultants via procurement through the Oracle system. When consultants are procured through the Oracle system it is difficult to identify individual consultants on two fronts; (1) Single consultant's names may not be the same as their company name. (2) Multiple consultants may be used from the same company where there is no requirement on the company to identify them individually. The remaining

consultants may be employed via departments and put on the payroll. For consultants employed through the payroll, they cannot be distinguished from any other fixed term/temporary contract employee. Therefore it is impossible for the Council to state with absolute certainty what the true cost of the use of consultants is each financial year.

4.11 For the financial year 2014/15 Torbay Council spent £3.36 million on consultants and professional services suppliers as identified by Oracle. This figure excludes spend funded from Schools budget, HRA and Capital. It also does not include consultants employed through the payroll. Therefore the assumption must be that this cost is considerably higher.

What costs are incurred by Derby City Council in using agency workers?

4.12 Derby City Council uses 'Matrix SCM' as the procured neutral vendor for the management of temporary staff. Matrix does not provide agency workers directly; instead they broker agency workers from an extensive range of temporary worker agencies, ensuring competitive rates for workers whilst adhering to set quality standards.

4.13 Information regarding spend on agency workers is provided regularly as a report to the Corporate Joint Committee (CJC).

4.14 In the rolling 12 months to 30 September 2015 the Council's net spend on agency workers via Matrix was £4.19 million.

How effective is the work undertaken by consultants at Derby City Council?

4.15 Although it would be almost impossible for the Panel to give a definitive answer on this issue it did find that in the majority of cases senior officers at the Council were pleased with the service they received from external consultants. Therefore the Panel can only issue a qualified response that in carrying out the review the Panel did not hear any evidence from officers of the Council in regard to ineffective work being carried out by consultants on the Council's behalf.

What procurement arrangements does Derby City Council have in place associated with consultants?

4.16 Procurement advises staff to follow the Council's Financial Regulations and Contract Procedure Rules as well as the Specialist Consultancy Framework when recruiting consultants. It is also advised that staff ensure that they liaised with other local authorities to obtain the prices paid for work of a highly specialised nature so that Derby City Council was not paying an inflated price for a consultant.

What procurement arrangements does Derby City Council have in place associated with agency labour?

4.17 Since January 2013 the Council has used 'Matrix SCM' as the procured neutral vendor for the management of temporary staff. The reasons for implementing a neutral vendor were:

- The neutral vendor source all agency staff for the Council from a range of approved preferred suppliers
- Agency staff are provided at agreed prices
- The Council should gain confidence in the practices of the neutral vendor
- The Council receives regular management reports from the neutral vendor
- Avoids duplication of effort from Council managers to obtain agency staff

4.18 The Panel were informed that Matrix costs £2.3 million per year for a three year period and the agreement is due to be reviewed in January 2016.

4.19 However when the Panel requested a report on one of the high use areas of agency workers; Refuse & Waste Management, they were informed that the neutral vendor arrangement was not being utilised in the way in which it was intended. The following concerns were raised in relation to the operation of agency workers procurement:

- Refuse & Waste Management almost exclusively use Staffline for their agency requirements. Staffline are based on site at Stores Rd (in a portacabin) and have been in situ for in excess of 8 years. Whilst they are technically supplying agency workers via Matrix, in reality Staffline work directly with Refuse & Waste Management and Matrix are involved after the fact in order to process payments – this creates a real risk of breach of contract with Matrix.
- The way in which Refuse & Waste Management currently apply workforce planning results in excessive reliance of agency workers
- It has become custom and practise for a number of agency workers to attend site without guaranteed work. These workers are classed as ‘extras’ and should they not be required they are send home without pay.
- Where recruitment activity has taken place, as part of the Agency Worker Regulations agency workers have been included; however it is argued the recruitment activity is not fit for purpose.
- Problems have been raised on a number of occasions regarding with inaccurate charge rates via Matrix.

4.20 The prevailing view of the managers from Refuse & Waste Management is that whilst the neutral vendor arrangement does save the Council money in other service areas; due to the long standing relationship Staffline have with Derby City Council and the way in which agency staff are deployed, there is a significant cost saving to be made should the tender for agency worker supply to Refuse & Waste be taken out of the neutral vendor agreement.

4.21 The Panel also noted evidence from Enfield Council that whilst they also had a master vendor agreement with Matrix, prior to 2010 they had authorised some categories of agency worker e.g. street cleaning, catering staff etc. to be procured through long standing off contract arrangements made between service managers and specific agency worker providers. This had proved successful – however following a competitive retendering process Enfield council were able to secure greater savings and service continuity by having a master vendor only contract with Matrix. This contract still stands and was again renegotiated with better terms in 2015, including the waiving of management fees for agency workers in waste management.

5. Conclusions

Consultants

5.1 The Panel were pleased to find that during the course of their review they did not find any examples of any inappropriate use of consultants by Derby City Council.

5.2 They were assured of the view that it is much better and more efficient for a council like Derby City Council to utilise consultants rather than to employ extra staff for specific specialised works that cannot be completed by current employees.

5.3 However, there is concern that because there are multiple ways to procure a consultant means that it is impossible for the Council to state with any degree of certainty the true cost of the use of consultants in any financial year. Therefore the figure stated was misleading and gave the impression that the Council spent less on consultants than was actually likely the case.

Agency Workers

5.4 The Panel were concerned that whilst the master vendor arrangement was saving money in the majority of areas across the Council, they had concerns over its operation for the Refuse & Waste Management Service.

5.5 The Panel were also concerned that the way in which managers across the Council currently apply workforce planning means that there is excessive reliance of agency workers and other peripheral workers (such as zero hours contracts).

6. Recommendations

It is recommended to the Cabinet:

Consultants

6.1 That HR Operations establish a way to identify consultants employed through the payroll for ease of audit and reporting purposes

6.2 That a review of invoices/payments for consultancy services to be conducted to ensure sufficient detail is supplied for charges and services provided and services have been satisfactorily delivered in line with the terms and conditions of engagement

6.3 That an exercise is completed to benchmark the Council's spend on use of consultants in comparison with other local authorities to seek best practice.

6.4 That a process by which consistent evidence can be shown that alternative options for the in-house provision of services have been considered and documented.

Agency Workers

6.5 That the Acting Head of Procurement and Contracting in conjunction with the HR Operations Manager be requested to investigate the contractual arrangements in place with the master vendor; Matrix SCM in preparation of re-tendering in January 2016 to seek cost savings

6.6 That with the Employment Consultant for the Employee Commission, in line with the work being undertaken to reduce the number of zero hours contracts, develops a plan to make better use of in-house provision

6.7 That the Acting Head of Organisational Development review the Organisational Development Strategy, with particular focus on the training of managers workforce planning and to report their findings back to the Director of Strategic Services and Organisational Development.

6.8 That a strategic review of the policies and procedures relating to agency workers is conducted by the Strategic HR Advisor.

6.9 That specific recommendations arising from the Refuse & Waste Management case study be delivered through a separate action plan led by the Acting Head of Organisational Development

7. Monitoring Arrangements

7.1 That the Panel should reconvene in 6 months to monitor the progress that is being made in implementing their recommendations.

Acknowledgements

The Members of the Supporting Derby's Workforce Task & Finish Panel would like to thank all the Council officers who contributed towards the work of this review, particularly:

- Andy Butler – HR Operations Team Leader
- Clare Harrison – Senior Democratic Services Officer
- Diane Sturdy - Acting Head of Organisational Development
- Jody Shelton - Democratic Services Officer
- Richard Brown – Assistant Operations Manager (Refuse)
- Richard Kniveton – Fleet & Depot Manager
- Ruth Douse – Service Manager (Adults, Health & Housing)
- Ruth Redfern – Employment Consultant for Employee Commission
- Simon Aitken - Area Manager (Street Cleansing)
- Simon White – HR Advisor
- Zoe Bird – HR Operations Manager

And also

- Chelsea Kittle – Account Manager (Matrix)
- Denise Tinley – Senior Union Representative (GMB)
- Julie Warner - Assistant Branch Secretary (UNISON)
- Liam Kennedy – Contract Manager (Staffline)
- Nathan Rennocks – Senior Steward (Unite)

Appendix 1

Review of Agency Workers and Consultants
Project Plan

Objective of the Review

a. To consider the reasons behind the use of agency workers and consultants to support the work of Derby City Council, the available alternatives and the associated risk of these alternatives.
b. To evaluate the effectiveness and the cost of the work undertaken by consultants across the Authority.
c. To review the separate consultancy, and agency worker costs incurred by Derby.
d. To examine the procurement arrangements associated with consultants and agency workers at Derby City Council.

Introduction

At a meeting of the Overview and Scrutiny Board held on 27 July 2015 the Board considered that further to the launch of the Employment Charter in May 2015 and in light of the budgetary pressures facing the Council in recent years, it was considered appropriate for the Board to review the costs incurred by the Council in relation to consultants and agency workers.

Scope of the Review

a. To investigate the reasons for the use of consultants at Derby City Council
b. To investigate the reasons for the use of agency workers at Derby City Council
c. To consider the alternatives to using consultants
d. To consider the alternatives to using agency workers
e. To assess the risks involved in implementing these alternatives
f. To consider the costs involved by Derby City Council in using consultants and ways in which these could be reduced
g. To consider the costs involved by Derby City Council in using agency workers and ways in which these could be reduced.
h. To examine the procurement arrangements associated with consultants
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Service Background

Derby City Council employs a variety of people with different skills and qualifications, however, at times the Council needs to seek external help from agency workers and consultants to deliver services and improvements to the people of Derby.

Link to Council Priorities

The review of consultants and agency workers links to the Council's priority of developing a skilled and motivated workforce

Initial Supporting Documentation

Report F/17/03 Contracts valued in excess of £25,000 submitted to the Executive on 6th January 2004. Appendices 18-22 Supply of Agency Labour
Minutes of the Overview and Scrutiny Board 28th January 2004 (Item 380 Call-in of Executive Decision- Supply of Agency Labour)
The Extent and Effectiveness of Consultants Usage, November 2000, North Lincolnshire Council

Review Panel
Councillor Barker
Councillor Carr
Councillor Dhindsa
Councillor Grimadell
Councillor Jackson (Lead Member)
Councillor Whitby
Councillor Winter

Appendix 2

List of Key Documents

Scoping Report to Supporting Derby's Workforce Task & Finish Panel	Derby City Council (Ruth Redfern)	July 2015
Note to Supporting Derby's Workforce Task & Finish Panel on use of agency and consultants	Derby City Council (Ruth Redfern)	August 2015
Report to CJC on Temporary Agency usage March to May 2015	Derby City Council (Zoe Bird)	June 2015
Focus Paper to Supporting Derby's Workforce Task & Finish Panel on Agency Usage in Neighbourhoods	Derby City Council (Ruth Redfern)	October 2015
Achieving Change – Flexible Contracts in Adults Health & Housing	Derby City Council (Ruth Douse)	October 2015
Briefing Note to Supporting Derby's Workforce Task & Finish Panel on use of agency workers within Neighbourhoods	Derby City Council (Ruth Redfern)	November 2015
Update on the Use of Agency Workers and Consultants to Enfield London Borough Council	Enfield London Borough Council (Tim Strong)	April 2012