

Agency Workers Procedure

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Control Document

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1. Purpose Statement

Using Agency Workers can present a significant cost to the Council. The Council can incur the costs of inflated hourly rates, additional charges and commission rates that may greatly exceed the salary costs of an employee.

There are a range of options available to managers to ensure that where there is a gap in staffing resource, there are internal resourcing solutions to explore. Only where all of these options have been explored and exhausted, and it is agreed that additional external resource is required, should the use of Agency Workers be considered. The Council have ensured that there are compliant routes to market in place that will provide value for money.

There is a requirement to monitor agency usage, agency spend and to ensure that the Council adheres to employment and procurement legislation, as well as satisfying the Council's internal governance requirements.

This procedure outlines the circumstances where managers can utilise Agency Workers on a temporary basis to support resourcing gaps to meet the provision of services. This procedure also sets out the process for doing this.

2. Scope

This procedure applies to all staff, managers and third parties responsible for the engagement of Agency Workers (known as 'hiring managers').

Agency Workers must only be used as a temporary resourcing solution where every other option to fill roles or resourcing gaps has been exhausted ([see section 4](#)).

It is important to differentiate between Agency Workers, consultants and contractors.

Agency Worker:

An Agency Worker is an individual who is engaged through a third party supplier (generally a recruitment agency) for a short period of time, not normally exceeding 12 weeks, in order to fill a gap in the current workforce that cannot otherwise be filled by other resourcing options.

This individual is classed as a worker and not an employee and has no contractual status with the Council. The contractual arrangement is between the Council and the Agency.

Consultant or Contractor

A Consultant or Contractor is an individual engaged by the Council on a temporary basis to provide a service that cannot otherwise be resourced from within the existing workforce or through normal recruitment (such as delivery of capital and non-capital schemes). This service must be appropriately procured with a set of fixed and measurable outcomes detailed from the start of the engagement, within a specific timeframe. Approval to engage Consultants and Contractors requires the explicit consent of the relevant Chief Officer and / or Director as per the Procurement Regulations.

This type of engagement is not covered within this procedure. Services **must** contact Commercial and Procurement Shared Services before seeking to engage a Consultant or Contractor.

3. Responsibilities

There are several Clusters, and roles within these Clusters, across the Council which have a responsibility to ensure that Agency Workers are appropriately engaged and managed. Responsibilities are as follows:

3.1. Directors/Chief Officers

Directors and Chief Officers have overall responsibility for authorising any agency usage within their Function/Clusters as a whole, as well as:

- Ensuring that by approving an Agency Worker(s) within their Clusters / Function, they will not breach any regulatory or statutory obligations;
- Ensuring that all resourcing options to cover the work required have been exhausted prior to the Agency Worker engagement (see [Section 4](#) for more information) and to monitor Function / Cluster agency usage against available resourcing options on a continual and regular basis;
- Ensuring that usage adheres to the Procurement Regulations;
- Ensuring that those Clusters who regularly utilise Agency Workers are involved in informing the tendering processes for any new agency contracts, as well as being involved in the initial contract implementation and feeding into the ongoing contract management process;
- Ensuring that Function / Cluster agency spend is coded correctly against agency financial codes;
- Authorising any Agency Worker engagements within the Function / Cluster up to 12 weeks as appropriate.

3.2. Hiring Manager

A hiring manager is the term used to describe the employee / manager responsible for requesting an Agency Worker.

The Hiring Manager is responsible for:

- Liaising with both the Talent team and the Transactions team – the Talent team and the Transactions team must be contacted prior to **any** engagement with a Recruitment Agency – to ensure that appropriate resourcing options are explored, as well as ensuring that the correct ordering procedures are followed;
- Ensuring the Transactions team has all the information required to raise an order with the Recruitment Agency as per the relevant contracts – this includes the job profile for the role being sought and can include completion of elements of an order form;
- Ensuring appropriate operational line management is in place for the Agency Worker(s);
- Ensuring the worker is paid PAYE from the agency directly and the engagement is not implicated by the Off Payroll Working (IR35) legislation;

- Ensuring the Agency Worker receives an induction, risk assessment and any relevant training prior to commencing work within the Council (see [section 5.3](#) for more information);
- Ongoing liaison with the Transactions team prior to an Agency Worker reaching the 12-week point, or where there are any issues with the Agency Worker. Where the Hiring Manager expects the requirement for an Agency Worker engagement to exceed 12 weeks, it is the Hiring Manager's responsibility to engage the Talent team again at Week 8 of the engagement to review any alternative resourcing opportunities.

3.3. Transactions Team

The Transactions team is responsible for:

- Initial liaison with Recruitment Agencies prior to engagements unless agreed otherwise with the Transactions Team. Where this has been agreed, please ensure the Transactions Team are fully informed;
- Assisting in the completion of Agency Authorisations Forms, with the onus on approval by Hiring Managers and Chief Officers/Directors;
- Completing the correct Order Forms depending on the Framework Agreement or Contract in use;
- Raising a Purchase Order for the Agency Worker engagement, including reconciliation of Bulk Orders;
- Informing Commercial and Procurement Shared Services of any off-contract requirements or any serious contract management issues;
- Holding a central record of all current Agency Workers and any relevant management information;
- Developing and maintaining relevant order forms for the agency process (in partnership with stakeholders).

3.4. People and Organisational Development (Talent Team)

People and Organisational Development is responsible for:

- Supporting Hiring Managers to explore options to cover resourcing gaps and / or to consider all options to fill these gaps prior to engaging an Agency Worker;
- Providing information about changes to pay rates and any legislative / policy changes that could impact on remuneration for Agency Workers;
- Working directly with Trade Union colleagues on any matters relating to agency usage.

3.5. Commercial and Procurement Shared Services

Commercial and Procurement Shared Services is responsible for:

- Supporting the organisation and stakeholders to ensure that appropriate contractual agreements are in place for the provision of Agency Workers;
- Co-ordinating the implementation of any new contractual arrangements for the provision of Agency Workers;
- Monitoring spend with suppliers for the provision of Agency Workers to ensure that spend is compliant and maximise any benefits through those contracts;
- Ensuring that contracts are appropriately managed and that any serious contract management issues are escalated where appropriate;

- Working with Hiring Managers where contractual agreements in place are not appropriate for the requirement, e.g. consultancy, or where contracted suppliers cannot fulfil requirements.

4. Alternatives to Agency Usage

The use of Agency Workers is a last resort measure in filling short-term resourcing gaps. The first step for a Hiring Manager is to contact the Talent Team within People and Organisational Development to discuss the resourcing issue. Please contact talent@aberdeencity.gov.uk in the first instance.

There are a range of options available to hiring managers as an alternative to agency usage including, but not limited to:

For short-term resourcing / cover:

- Review of workflow and or tasks/ responsibilities of the role
- Offering additional hours to part time staff within the team
- Higher Graded duties
- Relief Pools
- Temporary movement of staff

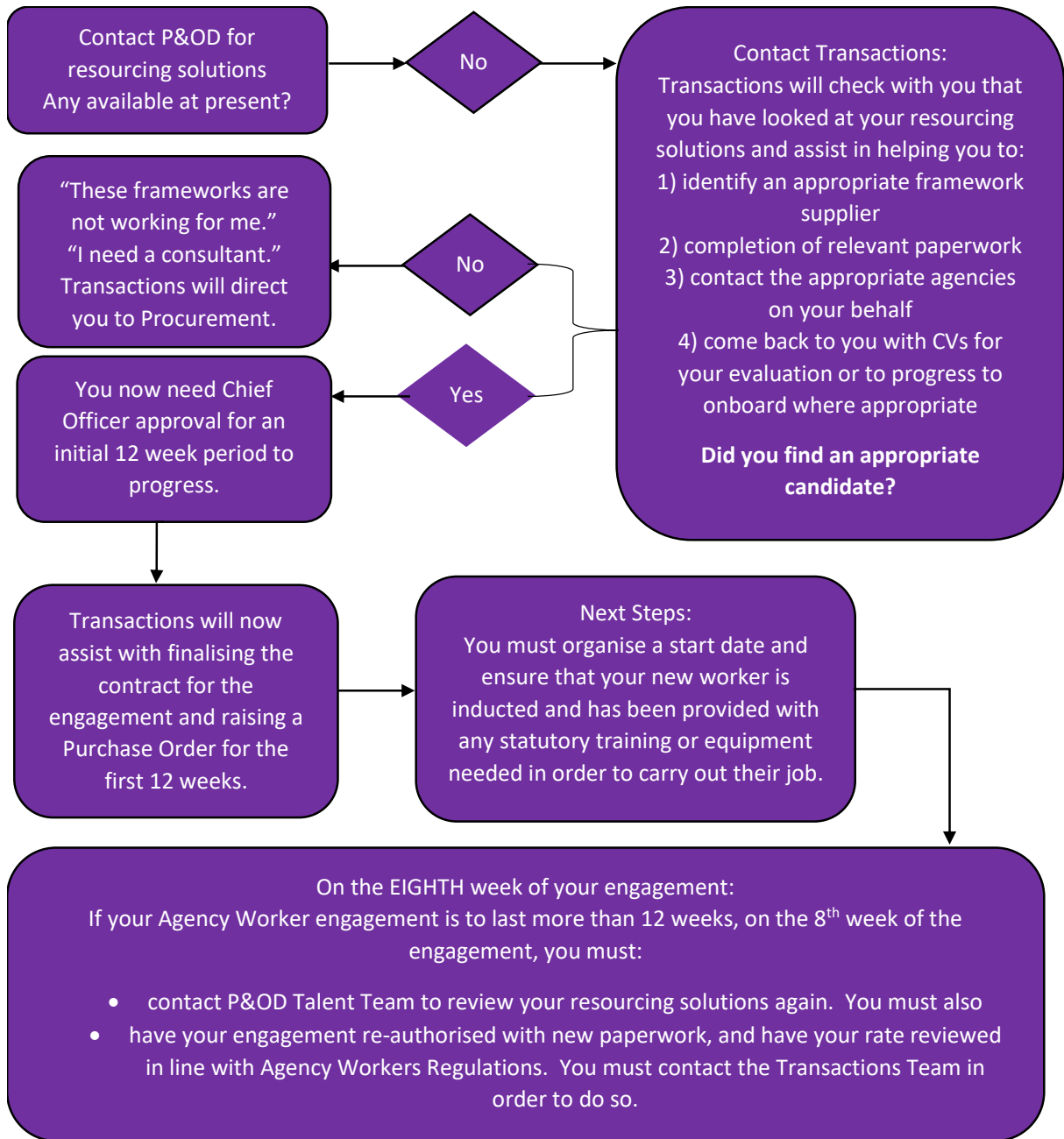
For filling a role on a fixed term basis:

- Consideration of apprenticeships / traineeships
- Recruitment to a Fixed Term contract (internal / external)
- Work experience placements
- Secondments/ short term projects
- Support with creative recruitment campaigns;

The council has introduced a new approach to recruitment and the internal movement of staff called 're.cr.uit' – retaining employees, changing roles, using internal talent. This uses a digital system which will align potentially suitable employees against roles or project. This scheme will be utilised as a means of sourcing potentially suitable employees to cover resourcing gaps.

5. Agency Worker Engagement Process

Hiring Managers should follow the process set out below:



Please note:

Where engagements exceed 12 weeks, workers will be entitled to a pay uplift that will match what staff are being paid. This does not factor in the margin paid to the Recruitment Agency.

5.1. Engaging an Agency Worker

Where a Hiring Manager has a resource gap, they should contact the Talent Team in People & Organisational Development to explore options. Please contact talent@aberdeencity.gov.uk.

Where all options have been exhausted and it is agreed that an Agency Worker is required, Hiring Managers should then contact the Transactions team to progress the engagement. All Agency Worker engagements must be processed through the Transactions team. Hiring Managers should not approach Recruitment Agencies directly, and any engagement or 'cold-calling' from Recruitment Agencies should be forwarded to Commercial and Procurement Shared Services by emailing the Procurement mailbox at:

cpssprocurement@aberdeencity.gov.uk

Suppliers can then be directed to appropriate market opportunities.

The Transactions team will have the most up-to-date information and contact details for the Council's current Agency Worker contracts. Further details of these frameworks are available via Commercial and Procurement Shared Services at the email address above. The Transactions team will ensure that, where current contracts are utilised, appropriate ordering and authorisation paperwork is issued for completion.

Some contracts and frameworks are available as either a Direct Award (supplier ranking may be applied) or via a process called a Mini-Competition (where you can compete all suppliers on a lot to potentially lower their cost or to find candidates for more niche roles). The Transactions team will work closely with Commercial and Procurement Shared Services to ensure that the correct route is selected for your engagement.

Due to the intended short-term nature of agency usage and the potential additional cost implications for the Council, an Agency Worker engagement should not exceed 12 weeks.

5.2. Pay Rates

Agency Worker pay rates should not exceed the pay rate paid to a substantive employee undertaking the same role.

Agency pay rates are constructed as follows:



It is the responsibility of the Hiring Manager to ensure that any worker is paid PAYE and is not implicated under the Off Payroll Working (IR35) legislation.

5.3. Induction

Hiring Managers must ensure that prior to an Agency Worker commencing work with the Council that:

- a risk assessment has been completed
- all statutory or regulatory training has been completed (as appropriate)
- a workplace induction has been undertaken and completed

It is the Hiring Manager's responsibility to ensure that the Agency Worker is appropriately inducted. A generic [Corporate Induction Checklist](#) has been developed for use. Please ensure that this is completed and stored.

5.4 Engagements Exceeding 12 Weeks

Where agency resource is required beyond 12 weeks, and approval is granted to continue to engage an Agency Worker beyond 12 weeks, the Agency Workers Regulations place specific responsibilities on the Council, in particular that the Agency Worker is entitled to the same remuneration as a Council employee undertaking the same role.

After 8 weeks of an Agency Worker engagement, where it looks like there may be an ongoing resource requirement, the Hiring Manager must contact the Talent team again to explore options for filling the short-term resourcing gap. Only where there is no alternative solution, the Hiring Manager may retain the Agency Worker beyond 12 weeks. This process should be repeated for every 12 week period.

Where appropriate, any further engagement with the Recruitment Agency must then be managed in line with processes set the Transactions team.

5.5 Contract Management and Complaints

Where Hiring Managers are experiencing poor service provision from suppliers, including unsuitable workers, please notify the Transactions team in the first instance who can escalate any serious concerns to Commercial and Procurement Shared Services. Procurement will have regular meetings with suppliers and can raise any issues and utilise any remedies provided within the contract or framework agreements.

Commercial and Procurement Shared Services work with national framework authorities and other Local Authorities to ensure that appropriate contracts and frameworks are in place for the Council to use. To ensure these contracts are tailored specifically to the needs of particular services, it is advised that Hiring Managers contribute to the tendering process for frameworks and contracts. Please contact Procurement if you are interested in participating.

5.6 Off Contract Engagements

On occasion, framework agreements and contracts in place may not be able to provide suitable candidates to cover a particular role. In this instance, the Transactions team will signpost hiring managers to Commercial and Procurement Shared Services who will be able

to advise on next steps, as well as ensuring that the appropriate governance and approvals in place.

In this instance, Hiring Managers must not directly approach Recruitment Agencies without consulting Procurement. Off Contract agency engagements present a considerable financial and legal risk to the Council. The Council could become liable for breaches in employment, tax and procurement legislation, as well as inflated commission rates and other costs such as Temporary to Permanent Fees.

The Council also has access to a range of discounts and rebates through the framework agreements and contracts currently in place.

6. Further Information

[Off Payroll Working \(IR35\) Guidance](#)
[Procurement Regulations](#)
[P&OD recruitment resources](#)