

Report to:	Strategic Policy and Resources Committee
Subject:	The effective management of agency workers
Date:	21 February 2014
Reporting Officer:	Jill Minne, Assistant Chief Executive and Head of HR.
Contact officer:	Catherine Christy, HR Manager, Ext 3226
1.0 Purpose	
1.1	The purpose of this report is to advise elected members of the arrangements to ensure the effective management of agency workers and to seek agreement to extend Standing Order 55 to agency workers.
2.0 Relevant Background Information	
2.1	An essential element of the Council's efficiency agenda is to reduce the long term use of and over dependency on agency workers. A framework for the effective management and use of employment agency services was therefore developed and communicated to all Council departments.
2.2	Closely linked to this is the Council's commitment to deliver two hundred job opportunities as part of the Investment Programme. Work has been ongoing to reduce dependency on agency workers and where possible, realign resources to deliver direct employment opportunities. Thirty-five permanent Business Support Clerk (BSC) posts have been created with a comparable reduction in the use of agency BSCs. A new generic job of Mobile Facilities Attendant in Parks and Leisure has also been developed, creating up to twenty-six new posts and direct employment in these roles will bring about a considerable reduction in the use of agency workers. Work will continue to focus on the reduction in the use of agency workers as well as exploring how levels of overtime can be reduced to deliver even more direct employment opportunities.
2.3	Recently, some concerns regarding the requisitioning of agency workers and the appropriate management of long term agency workers have been highlighted.
3.0 Key Issues	
The following work has therefore been completed:	
3.1	The framework for managing the use of employment agency services has been updated and communicated across departments. It is attached at Appendix One. The updated framework includes tighter controls around the requisitioning of agency workers and the appropriate management and support of long term agency workers when applying for council jobs.
3.2	To ensure a continued focus on efficiency through effective management of agency workers and to help bring about improvement, corporate Human Resources has set up regular compliance meetings with departments to ensure that the framework is being adhered to, i.e. that authorisation and requisitioning protocols are being followed. Analysis will also include the duration of assignments and departments will also be asked to justify long term use. The monitoring approach being implemented by corporate Human Resources will be similar to that implemented to reduce levels of sickness

absence .

3.3 While efforts continue to reduce the number of agency workers in the council, there will always be a need, for operational reasons, to have these type of resources. Clear processes and procedures for fair, equitable and appropriate requisitioning of agency workers is essential. Such a process has therefore been made explicit in the updated framework for managing the use of agency services and each council department has been advised accordingly.

3.4 It is also proposed that the Council's Standing Order (SO) 55 be extended to include the engagement of agency resources. This protocol states that 'a relation of any officer or servant of the Council shall not be appointed or engaged or recommended for appointment or engagement in any Department except with the consent of the Strategic Policy and Resources Committee - such consent to be recorded in the minutes of that Committee.' The Director of Finance and Resources has delegated authority to approve the appointment or engagement of such individuals and report for Committee notation.

3.8 The Assistant Chief Executive and Head of HR has met with Grafton Recruitment, (the current agency worker provider), to clarify the required protocol , specifically regarding council officers asking for named individuals and the need to report immediately to corporate Human Resources any instances of this happening.

4.0 Resource Implications

4.1. The effective and efficient management of agency workers is in line with the Council's efficiency agenda. There are no additional resource implications contained in this report.

5.0 Equality and Good Relations Implications

5.1 The proposals in this report and associated protocols have been developed to ensure equality of access to council job opportunities for agency workers.

6.0 Recommendations

6.1 Elected members are asked to:

- note the contents of this report and
- agree to extend the Council's Standing Order (SO) 55 reporting to include the engagement of agency resources.

7.0 Documents attached

Appendix One - Updated framework for managing the use of employment agency services

Appendix One

Framework for managing the use of employment agency services

Belfast City Council has a corporate framework for managing the use of employment agency services. This framework sets out corporate guidance on the principles and protocols for managing, monitoring and reporting upon the use of employment agency resources within the organisation.

The Human Resources (HR) Section will maintain and update the corporate framework; procure and manage the terms of the employment agency contract; monitor departmental compliance with the framework; and review management reports on a regular basis to ensure probity and value for money in the use of agency resources within the organisation.

Council departments will manage agency resource needs on a decentralised basis within the parameters of this framework; request and authorise the use of agency resources strictly in line with corporate protocols; work within the terms of the employment agency contract; attend management meetings with the contractor(s) and compliance meetings as required with the HR Section; and regularly monitor and report upon the use and spend of agency resources on a unit, section and departmental level.

Corporate Principles:

1. Using agency resources

The council recognises that there are certain situations where the use of agency cover is the most effective resourcing mechanism, for example:

- short-term cover at short notice without which front-line, customer-facing service delivery would be adversely affected on that particular day, for example, LGV/HGV driver, play-worker, cleansing operative, receptionist posts etc;
- short-term cover for an agreed, defined period of time, such as, summer scheme staff and other seasonal worker requirements;
- to cover established posts which are temporarily vacant or vacant pending permanent recruitment, where it has not been possible to cover the vacancy by normal recruitment mechanisms;
- to cover for post/duties which are over and above establishment figures but only where the additional workload is of an extremely temporary nature, for example, three days work to distribute council leaflets for a particular event or initiative; and
- to cover for unexpected events or unpredicted upsurges in workload where it is not practicable or possible, for whatever reason, to cover the vacancy by normal recruitment mechanisms.

It also recognises that there is an organisational responsibility to monitor and control the use of such agency cover to ensure, in all cases:

- that it is only sought at the lowest possible basic entry level, i.e. not at a supervisory, senior or principal officer level;
- that normal recruitment mechanisms, including internally-trawled job opportunities which offer developmental or financial advantage to council employees, have been given proper consideration prior to agency resources being requisitioned;
- that proper requisition and authorisation protocols are in place and adhered to;
- that the duration of the cover, in normal circumstances, lasts no longer than three months; and
- that the deployment of agency resources is managed in an equitable, consistent and cohesive manner across the organisation.

The main focus of the meetings to monitor departmental compliance with the framework will be the reason why agency resources have been requisitioned, the duration of these resources and to check departmental compliance with the corporate principles and protocols.

2. Agency Workers Regulations (Northern Ireland) 2011

These regulations came into operation on 5 December 2011 and seek to ensure that agency workers are entitled to the same basic working and employment conditions as if they had been directly recruited by the council, mostly after they have completed 12 weeks' service in the same (or similar) job.

Information relating to the regulations, specifically in terms of rights relating to access to vacancies, facilities, holidays, training etc was issued by the HR Section to departments on 7 December 2011. It should, however, be noted that Belfast City Council's principle of payment, as agreed by the Policy and Resources (Personnel) Sub-Committee on 19 August 2002, was always that agency resources would be paid the same rate of pay as council employees, including any applicable allowances.

From the first day of an assignment, agency workers are entitled to be made aware of and apply for job vacancies which are internally trawled within the council. For this reason, council departments need to ensure that specific consideration is given to communicating information on job vacancies to agency workers, as well as to comparable council employees. It is particularly important to communicate information on any upcoming job vacancies to agency workers, as well as comparable council employees, following the outcome of a structural review. Agency workers are eligible to apply for internally trawled job vacancies provided they are current agency workers with the council as at the closing date for receipt of the job applications and that they continually remain current agency workers with the council throughout the entire recruitment and selection process up to the time, following all pre-employment checks, when a formal offer of appointment is made.

Agency assignments must always be resourced on the basis of the job description and employee specification for the established post which requires cover, with no agency assignment having lesser qualifications or experience than that which would be required should the post be recruited via the council's normal recruitment and selection procedures. In the event of a need to resource duties where no job description currently exists or where some of the duties of a post need to be covered without the requirement for the assignee to work to the full job description, the duties of the post need to be set out clearly, evaluated and a formal rate of pay established. No agency assignment should be engaged before this exercise has been completed and signed-off by the HR Section.

The employment agency contractor is responsible for undertaking all relevant pre-employment checks such as references, qualifications, medical assessments, criminal conviction, asylum and immigration checks and conducting all relevant risk assessment exercises to ensure suitable agency assignees are allocated to suitable council jobs. The contractor is also responsible for covering any associated costs, for example, Access NI, Security Industry Authority licence costs etc. The council will only consider reimbursing these costs in exceptional circumstances.

The employment agency 'mark-up' for each salary scale is agreed as part of the current contract and this cost will remain fixed throughout the duration of the contract.

Should an agency resource apply for and be recommended for appointment to a post in the council via its normal recruitment and selection procedures, the council will not be liable for payment of an introductory fee to the contractor.

The contractor is responsible for all administration and payroll procedures, including National Insurance and Pay as You Earn and is required to submit all invoices directly to Central Transaction Unit (CTU) on a weekly basis.

Should an agency resource be terminated with 24 hours due to unsuitability, for any justifiable reason, the council will not be required to pay the contractor for the hours worked.

3. Defining the employment status of agency resources

The legal principle is that the relationship between the council and the agency assignee will not give rise to a contract of employment with the council. While the duration of such resources, in normal circumstances, should last no longer than 3 months, this principle will remain the case even if an agency assignee has been hired out to the council by the agency for a long period of time i.e. transmutation to a contract of employment will not come from long service.

4. Training agency resources (including health and safety issues)

The agency resource is not a council employee and, as such, does not require a personal development plan (PDP) or specific investment in development activities. However there is the need for basic job related training and an awareness of health and safety matters.

Whereas the contractor is responsible for fully briefing the agency resource on his his/her duties prior to commencement, the council is responsible for carrying out any job specific training required, for example, the use of specialist software packages, machinery or equipment etc to enable the assignee to undertake the role.

Also, whereas the contractor is responsible for advising the agency resource of his/her responsibilities in observing and adhering to all health and safety policies, the council is responsible for the delivery of any health and safety training required by the assignee in order to undertake the role.

The council is an equal opportunities employer and, as such, expects the same standards to be applied in the fair selection of agency resources to work in our organisation. The contractor is responsible for providing equality and diversity training to its agency assignees and for ensuring they are aware of their responsibilities in relation to equality and diversity prior to commencement. The council is responsible for the delivery of any on-site mandatory training, for example, child protection training.

Whereas, the contractor is responsible for providing agency assignees with protective footwear, the council is responsible for providing appropriate protective clothing and/or uniforms where it is deemed necessary (with the contractor having responsibility for recovering such items of clothing on behalf of the council when the assignee leaves the post.) In the event that an agency resource reports for an assignment without the proper protective footwear, the council officer may refuse the assignee and will not be liable for any payment to the contractor.

The contractor is responsible for fully briefing the agency resource on the hours of work, location of assignment and methods of travel available prior to commencement.

The contractor is responsible for ensuring that all agency resources comply with all policies, legislation and prohibitions operated by the council.

Corporate Protocols:

1. Requesting agency resources

The HR Section is responsible for holding the organisational list of 'assigned officers' i.e. the names of departmental officers who are authorised to request or 'order' agency resources. It is the department's responsibility to notify the HR Section of any amendments to this list and the HR Section will notify the contractor accordingly.

Where a request is made from a departmental officer who is not an assigned officer, the contractor will notify the HR Section of this non-compliance issue and the HR Section will liaise with the department concerned. In such cases, the contractor will not place an agency resource in that department until approval has been granted by another assigned officer from that department or the HR Section.

The requisition form and flowchart procedure for requesting agency resources are available via the [Interlink Library>Forms>Human Resources](#) link but, in summary, assigned officers should liaise directly with the relevant contractor and submit a properly authorised requisition form detailing the duties to be undertaken (job description), the reason why agency cover is required, whether the agency resource is required to cover an established council post within the council's structures, the location of work, hours of work including any shift working or unsocial hours, rate of pay including any allowances, duration of assignment and any specific qualifications, experience, skills or competencies required for the job.

If the contractor receives a request from an assigned officer without a properly authorized requisition form, with no job description and employee specification or with incomplete details in terms of the reason why the agency cover is required or whether or not the agency cover is to fill an established council post etc, the contractor will advise the council officer that s/he is unable to action the request and s/he will notify the departmental manager responsible for human resource matters or the Human Resources Section of the non-compliance issue. The contractor will also formally record and report details of such non-compliance departmental issues to the HR Section on a monthly basis.

When requesting agency resources, assigned officers should always be mindful of the corporate principle that no agency resource should be requested on the basis of lesser qualifications or experience than that which would be required should the post be recruited via the council's normal recruitment and selection procedures.

In all circumstances, it is the sole role of the contractor to select and supply the agency assignee to the council. Any council officer taking part in any form of selection process by holding informal discussions or by formally interviewing a number of potential agency assignees to select the successful agency assignee will render the council liable to legal challenge and claims of unlawful discrimination. In exceptional circumstances, and only if the post is a specialist, technical post e.g. Mechanical / Electrical Engineer, the contractor may forward CVs of its most suitably qualified and experienced agency resources for the assigned council officer to review. This review must be conducted in conjunction with the contractor and the ultimate decision in respect of which agency resource is assigned to the council will rest solely with the contractor.

Canvassing in any form, oral or written, direct or indirect, in terms of requesting agency resources is prohibited and any breach of this term will result in the termination of any agency resource that has been assigned. Under no circumstances, should an assigned council officer ask the contractor to supply him/her with a named individual to undertake an agency assignment. If an assigned council officer asks the contractor to supply him/her with a named individual, the contractor will advise the council officer that s/he is unable to action the request and will then notify the Human Resources Section. The Human Resources Section will then investigate the matter with the relevant department. In all circumstances, it is the sole responsibility of the contractor to select, supply and

assign the most appropriate agency assignee to the council based on the qualifications and/or experience required for the assignment.

The council's standing order 55 (Employment of Relatives) states that a relation of any officer or servant (elected member) of the council shall not be appointed or engaged in any department except with the consent of the Strategic Policy and Resources Committee with such consent recorded in the minutes of that committee. (Delegated authority was subsequently granted by committee to the Director of Finance and Resource on 27 June 2005 for him/her to authorise the appointment or engagement of such individuals and report then for committee notation.) As agreed by the council's Corporate Management Team in February 2014, the names of all agency workers who are assigned to work in the council, who are related to existing council officers or elected members, will be subject to authorisation by the Director of Finance and Resources and the details reported accordingly to committee.

The supply of employment agency resources to the council will be provided by the contractor on a 24 hour a day, 7 days a week, 365 day a year basis. There may exceptional occasions where a booking is made 'out of hours' and it is not possible for the appropriate level of authorisation to be obtained or the documentation completed prior to a request being made to the contractor. In such cases the contractor should continue to source the placement and the assigned officer should complete the requisition form as soon as it is practically possible.

2. Authorising agency resources

In all cases, assigned officers must adhere to the following authorisation protocol:

Type of Cover	Authorisation
Short term agency resource to cover an established post which is anticipated to be for less than 1 week	Manager with responsibility for the service
Agency resource to cover an established post which extends or is likely to extend for a period beyond 1 week up to 3 months.	Head of Service
Agency resource to cover an established post which extends or is likely to extend beyond 3 months OR where the cover is in addition to the approved establishment.	Director of Department

Any request to extend an agency assignment must be authorised by the Head of Service regardless of the period of extension.

NB: As agreed by CMT on 8 August 2012, departments can no longer contact the employment agency directly to request the use of Business Support Clerk agency assignees, or any other similar related administrative post. All such requests must be channelled through the Employee Resourcing unit of the HR Section.

3. Adhering to turnaround times / using alternative suppliers

On a contractual basis, the preferred supplier must be given the opportunity to fulfil the agency requirement. If it cannot do this within the agreed time-frames (see below), then the assigned officer must contact the appropriate back-up supplier and afford it the same time-frames (see below).

The contractor should acknowledge receipt of all requests for agency resources within a 30 minute timeframe and work within the following timeframe:

Notice period given by assigned officer	Contractor's response time
< 1 working day	1 hour

1 working day	2 hours
2 to 5 working days	4 hours
5 to 10 working days	1 working day
10+ working days	2 working days

If the preferred and back-up suppliers are unable to fulfil the agency resource within the timeframe, an alternative employment agency may be used.

If a request is made for an agency resource which is specialist in nature, and if the assigned officer is in agreement, the contractor may deviate from these response times and agree a more realistic time-frame. If this timeframe is not met, an alternative employment agency may be used.

Likewise, if a request has previously been made to fill an assignment and the contractor (either the preferred or back-up supplier) has been unable to meet the request by non-fulfilment, volume or calibre of agency resource, and if a similar placement becomes available within two months of the initial request, an alternative employment agency may be used. It is the responsibility of the assigned officer to record and monitor the use of any other employment agency and provide this information to the HR Section as and when required.

4. Dealing with complaints / disciplinary and grievance issues

In the event of a complaint from an agency resource or a complaint from a council employee against an agency resource, including claims of unfair treatment, the departmental officer with responsibility for HR should liaise with the contractor to discuss and agree the management of such cases in line with both the council's and the contractor's procedures for dealing with such matters. Corporate advice on such issues must be sought from the HR Employee Relations unit. In all cases and in the interests of fairness and consistency of approach when dealing with a complaint, the principle of natural justice will apply in that the relevant parties will be afforded an opportunity to respond to the issues raised.

5. Unsatisfactory performance / notice

If an agency resource is found to be incapable of carrying out the duties to the required standard, the department should notify the contractor of the relevant details and request it to terminate the assignment with immediate effect and to supply a suitable replacement within 24 hours (or by the time agreed by the assigned officer). It is the responsibility of the contractor to notify the agency resource that his/her performance is unsatisfactory and the council is not required to issue a written instruction to the contractor in respect of this.

In normal circumstances, it is usual to give agency resources at least one week's verbal notice of termination.

Corporate Monitoring and Reporting:

1. Monitoring the use of agency resources

There is a need for the council to monitor the use of agency resources to ensure the proper management and control of staff numbers and financial probity. In order to do this, it must measure the use of agency resources at a corporate, departmental, section and unit level.

Each department must have the appropriate mechanisms in place for monitoring and measuring agency usage, reason, duration and spend at unit, section and departmental level. The use of agency resources and associated statistics and costs must be a standing agenda item on departmental management teams and examined at each meeting. At this meeting, departments should examine the reasons why agency resources are being used, the duration of such resources, the associated costs, whether value for money is being

achieved and why the post, vacancy or duties could not have been covered by other suitable means.

The contractor is required to meet with departmental officers and members of the Human Resources Section on a quarterly basis to assist in the effective monitoring and management of agency resources within the council. The frequency of these management meetings will be subject to change depending on council requirements or circumstances. These management meetings will provide a formal mechanism for communication but the contractor should ensure that regular communication is maintained with departmental officers throughout the duration of every assignment.

2. Reporting on the use of agency resources

The HR Section will report agency figures at a departmental level to the Council's Audit Panel on a quarterly basis. These figures will be compiled on the basis of the contractor's reports, which are, submitted on a monthly basis.

On a contractual basis the contractor is required to produce a suite of reports in electronic format to enable the council to analyse information on an organisational, departmental, section, unit, location and designation basis.

The contractor is also required to be flexible in the production of bespoke reports, as and when required.

This framework will remain under review and be updated as required. It will also be available on the council's Interlink Library.

(Updated in February 2014)