

Agency Workers

Date: 19th July 2021

Report of: Chief Officer (HR)

Report to: Scrutiny Board (Resources and Strategy)

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- This report sets out broad issues for the Scrutiny Board (Strategy and Resources) to consider for ensuring the appropriate use of agency workers.
- Given a spend of around £8.5m p.a. it is important that LCC can demonstrate value for money and good employment practice in this area. This supports financial strategies and links to the Inclusive Growth Strategy.

Recommendations

- a) The following recommendations are made to the Scrutiny Board:
- note the current position regarding the use of agency workers
 - consider options for reducing and/or ensuring the use of agency worker is appropriate
 - share recommended options with Chief Officers managing services that make the highest use of agency workers and that they work with HR support to optimise their position
 - ask HR to achieve social value benefits from the contract in terms of creating employment opportunities

Why is the proposal being put forward?

- 1 This report gives an overview on the use of agency workers to help ensure that our arrangements are appropriate and provide best value.

Background

- 2 LCC, like most authorities, uses suppliers to provide agency workers. This is to support short term needs for staff cover. In some cases, agency workers also provide supplementary or specialist skills when it is difficult to recruit personnel for work that cannot be easily sourced internally. Using agency workers is also a more flexible option, limiting the overheads and risks of directly employing staff. It is a recognised approach within any workforce planning environment as agency staff are part of the wider workforce family.
- 3 Ensuring appropriate use of agency workers is a regular employment theme, reflecting concerns about:
 - a) Cost e.g. in terms of the “premium” for using agency workers;
 - b) The quality of service delivery e.g. in terms of the scope to cover different types of work with agency workers;
 - c) Good work and fairness e.g. in terms of how LCC treats agency workers by providing decent pay and whether there are options for securing more stable employment and/or useful paid work experience - especially in lower paid roles;
 - d) Employment relations e.g. in terms of how using agency workers fits alongside reductions in staffing. This includes options where agency workers can support change programmes by being used to backfill roles that will be deleted and protecting directly employed staff from redundancy.
- 4 Since March 2020, demand to use agency workers has been less predictable. This is due to Covid-19. Overall, there has been more emphasis on deploying internal resources; particularly with some large services not operating. However, future cover needs cannot be met this way and as we “re-open” services demand for agency workers will need further reviewing.
- 5 This report explores issues that may affect demand for agency cover and suggests some general recommendations about how matters can be further considered.

Main Issues

- 6 In terms of context - the costs, use and controls on agency hiring are set out below.

Spend patterns and costs

- 7 Over the last 10 years LCC has seen changes in both agency and overtime spend. In 2012/13 spend was around £16.5m for agency workers and £10m for overtime. A variety of actions were taken to reduce use, including stemming demand for cover needs.

- 8 Current spend now accounts for under 2% of the overall staffing bill (£483m in 20/21) and spend patterns are given for the last 3 years in the table below.

	18/19	19/20	20/21
Agency	£7.17m	£8.16m	£8.47m
Overtime	£10.50m	£11.20m	£9.64m

(These figures exclude schools but include use from a general supply contract and contracts set up by DIS. These account for most recent increases in agency spend. Some of the recent reductions on overtime are due to the impact of service closures in areas like Active Leeds and Culture)

- 9 The breakdown of spend in 2020/21 is also shown by directorates in the table below:

Directorate/Spend	Agency £'000	Overtime £'000
Resources and Housing	3,653	2,473
City Development	293	1,042
C&E	856	4,234
C&F	911	1,005
Adults and Health	2,756	885
Totals	8,469	9,639

- 10 In terms of the numbers of agency workers hired, the position was shared as part of LCC's S188 consultation and showed the following numbers of FTE agency workers deployed as a "snapshot" in December 2020:

Directorate/Spend	FTE Agency workers
Resources and Housing	34.6
City Development	2.27
C&E	19.71
C&F	5.36
Adults and Health	46.14
Totals	108.08

- 11 Under the Agency Worker Regulations, agency workers who are engaged for 12 weeks must be paid the same hourly rate as directly employed staff doing the same job. In Leeds all agency workers are paid the minimum rate for the job they do when hired, including the Living Wage for the lowest paid. On top of the agency workers' hourly pay rates, fees are paid to Agencies in relation to:

- general employment costs agencies must pay as employers – e.g. holiday pay, stakeholder pension contributions and employers' national insurance contributions;
- the costs of the work undertaken to source, vet and deploy agency workers.

- 12 Appendix I shows how different cost elements can apply. On an assumed rate of £10 per hour, overall costs would be:

- £15.79 - for an Agency Worker

- b) £12.97 - for an LCC employee – these costs do not however account for the impact of lost productivity due to sickness absence or covering leave – depending upon roles the difference in costs is narrower
- c) £19.46 - for an employee if they are paid for time and a half for working overtime. Costs are the same as those in point b) however if overtime is at “plain” time.

13 As well as costs, decisions to use agency workers are influenced by the skills and ability of agency workers to perform work. Generally, it is easier to deploy agency workers to perform less complex work. Conversely more complex work can require more time to assimilate agency workers to be fully effective; influencing the period they are hired. This may also be affected by the time it takes to recruit a permanent employee. Also, some hiring will be necessary as specific, or specialist skills are not available internally. Such skills may only be needed for a fixed period e.g. specific professional and technical work supporting projects. Limited external funding streams and short-term fee earning opportunities also influence hiring.

Contracts and Hiring Controls

- 14 LCC several contracts for agency supply. To manage supply chains and provide visibility on spend a general supply contract is operated. This is currently being retendered and our supplier is REED. The contract is worth around £5.5m. In addition, DIS have framework contracts; enabling the hiring of agency workers with specialist digital skills who usually support capital funded projects.
- 15 In terms of the general supply contract, all orders are subject to our internal controls and only authorised staff can place orders. To support our budget in 2020 extra measures were put in place to “freeze” recruitment and requirements were made to cover agency workers too. This limits hiring to a maximum of two weeks, unless a Chief Officer approves a longer period.
- 16 Trade unions scrutinise data on agency workers and discuss this at JCCs with services. Most recently this is linked to redundancy consultations on the S188 notice and the need to share information on agency workers. Other things being equal, an aim is to restrict the use and cost of agency workers to avoid and mitigate the need for redundancies. However, there may be situations where additional agency workers can backfill vacancies to provide flexibility and avoid redundancy. Past change programmes in Adults and Health are an example of this, where agency cover helps maintain residential services until a point when staff who are at risk can be deployed into vacant posts.

Patterns of Use

- 17 In terms of numbers and spend there are concentrations of use in the following large service areas which account for around 80% of spend:
 - a) Children and Families – Nursery Assistants and some social workers (although Leeds uses far less agency workers than other equivalent Councils)
 - b) Adults and Health – Social workers hired especially in relation to time limited NHS funding streams and Care Assistants
 - c) Resources – DIS specialists, plus some legal staff and construction workers to deal with peak workloads
 - d) Communities, Environments and Housing – HGV Drivers and waste operative staff

18 An analysis of the length of time agency workers have been hired for suggests that there is turnover in many roles. However, an increasing number of agency workers have been hired for longer periods of more than 12 weeks. The scope to substitute long term use of agency workers with directly hired temporary staff is considered because of this.

Key issues affecting demand and alternative options

19 In recent years the level of spend on agency workers has remained relatively stable and as indicated is less than 2% of overall staff expenditure. However, given the value of spend, various matters can be considered to better understand whether this is an effective position. This includes appreciating different issues that effect the demand and use of agency cover. To some extent this is also applicable to overtime too. Several alternative options are also highlighted which, depending on circumstances, might offer a feasible alternative to some of the use of agency staff.

Assessing the need for short term cover

20 The need to hire agency workers, or use overtime, is often influenced and triggered when services need short term cover for a combination of the following:

- a) Sickness absence
- b) Vacancy cover – especially where minimum staffing is critical to maintain essential service delivery
- c) Having sufficient rosters to provide cover – when affected by the above and when staff also take annual leave or training
- d) Unexpected peaks in demand for services
- e) Immediate or short-term skill gaps
- f) Response to short notice government instruction/regulations e.g. Covid, CEV shielding

21 Without covering these in detail, services which make high use of agency cover should regularly consider how they might better address issues that drive demand for cover. Cost effective decision making will stem from the ability services have to manage the above variables.

Revisiting Controls

22 Controls are designed to allow services sufficient operational flexibility to make local decisions to ensure services they have sufficient staff to operate. This includes services that operate outside of standard office hours and in some cases on a 24/7 basis. However, as indicated, the increased tenure of some agency workers suggest re-setting controls on hire periods might help reduce spend. This may also prompt attention to resolving issues causing underlying demand. This could include:

- a) Restricting the use of some categories of agency workers altogether e.g. administrative work
- b) Reconsidering the time periods for hiring agency workers and/or requiring agency workers to be offered temporary contracts after a fixed period. Under our current contract, LCC is not required to pay any “finder fees” if an agency worker has been hired for more than 12

weeks. This therefore can provide another talent acquisition route into the Council in terms of building the workforce.

Flexible Deployment and Growing Skills

23 Several opportunities may apply here

- a) Creating more flexible rostering arrangements in services and offering staff extra hours or overtime to provide cover where they have the skills and knowledge to immediately perform work – As shown plain time overtime is less costly than agency workers and premium rate overtime. There are already some examples where such arrangement apply – HGV drivers trained to operate in different services, shift swapping options in care and FM functions. There are also provisions which can be used to act up or offer staff honoraria payments to cover more senior positions. This provides development and progression opportunities for our internal talent. If staff are trained or hold specific qualifications this can also be used as an alternative to direct cover by agency workers
- b) Creating opportunities for internally deploying/offering alternative work to staff to work in other areas. This is currently being explored to support resilience and COVID-19 related responses. However, other types of work could also be considered e.g. administrative work might be an example.

24 In areas where specialist technical skills are needed attempts could also be made to learn from agency workers. In DIS this is being considered so agency workers share their specialist knowledge when working with our staff. Depending upon the type of work, this can be seen as a combination option to cover skill gaps and but also provide training for our own staff to reduce the reliance on agency workers.

Using Casual Workers

25 In some circumstances using casual workers can meet peaks in demand – e.g. to support one-off events and seasonal programmes. However, this needs to be considered alongside the costs of recruiting casual workers and maintaining a sufficient pool of workers to call upon, especially if work is not planned or predicted.

26 Consideration also needs to be given to the status and nature of any casual working relationship with a risk that work becomes regularised employment. These arguments also apply if any attempt were made to “in-house” agency work, with extra concerns about the costs and risks of setting up such a scheme. In the past LCC has explored options promoted in other Councils, but these schemes tended to be small scale and unlikely to meet all our needs.

Inclusive Growth and Social Value

27 With the current general supply contract being retendered, bidders will be assessed in terms of how they can achieve social value. Given the considerable link between the work agencies perform and how this can help people access work, an assessment will be made of how we can better support disadvantaged groups. Subject to the bidding process being completed, it is expected that LCC and its supplier will take measures to:

- a) support low paid workers to find more stable employment
- b) support people who are unemployed to gain paid work experience via agency working – this can be explored in detail with Employment and Skills

Conclusions and Recommendations

28 As explained, the current position on the use and deployment of agency workers has been disrupted and skewed due to Covid-19. Demand was affected in different ways, as were opportunities to support services to take measures to review and/or reduce underlying demand.

29 A new agency contract is currently being let and will be operational by January 2022. Ahead of this there is an opportunity re-think how the different ideas discussed in this report might be applied. It is recommended that Chief Officers who manage services that make high use of agency workers are asked to discuss options. The Scrutiny Board is therefore recommended to:

- a) note the current position regarding the use of agency workers
- b) consider options for reducing and/or ensuring the use of agency work is appropriate
- c) share recommended options with Chief Officers managing services that make the highest use of agency workers and that they work with HR support to optimise their position
- d) ask HR to work to achieve social value benefits from the contract in terms of creating employment opportunities

What impact will this proposal have?

Wards affected:

Have ward members been consulted? Yes No

What consultation and engagement has taken place?

30 N/a

What are the resource implications?

31 There are specific resource implications covered in this report. Further work will however follow which may generate specific recommendations to achieve savings

What are the legal implications?

32 N/a

What are the key risks and how are they being managed?

33 There are no new risks identified in this report. The contracts which LCC operate cover issue of liability and agencies are required to perform “due diligence” work in relation to the hiring of agency workers as part of the contract specifications

Does this proposal support the council’s three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

34 Whilst this report focuses on the costs of agency workers and alternative options, it is also recognises that this is an area where social value opportunities can be realised. This includes how agency workers can be helped to find work and more secure employment.

Options, timescales and measuring success

What other options were considered?

35 N/a

How will success be measured?

36 Further reports can be provided to the Scrutiny Board on the spend and patterns of use of agency workers and the reasons why this is needed.

What is the timetable for implementation?

37 N/a

Appendices

38 Appendix I – Comparison of Costs – Agency workers and Direct Employment

Background papers

39 None

Comparison of Costs – Agency workers and Direct Employment

Agency Worker		Comments/Rate
Pay Rate	£ 10.00	Illustrative rate - paid to the worker and subject to income tax and NICs
WTR (holiday pay)	£ 1.21	12.07% (21 days)
Employer pension	£ 0.27	Stakeholder scheme contribution at 2.4%
Employers NIC	£ 1.55	13.8% - illustrative rate - may be lower depending on overall earnings
Other -	£ 0.26	YPO fee charge at 20p per hour and Apprentice levy = 0.5%
Agency Mark up	£ 2.50	To cover the costs of sourcing/vetting/deploying and paying an agency worker and/or managing a sub-contractor
Total	£ 15.79	Total charge - no VAT for LCC

Employee – Plain time		Comments/Rate
Pay Rate	£ 10.00	Illustrative rate
LGPS pension	£ 1.59	15.9%
Employers NIC	£ 1.38	13.80%
Total	£ 12.97	

Other Assumptions - Costs do not include any need for holiday or sickness cover - which will be c. 40 days for some roles. Also time taken to recruit not taken into account if a vacancy arises. Depending up the role, direct employment costs are likely to be higher.

Employee - Overtime		Comments/Rate
Pay Rate	£ 15.00	Time and a half paid to an employee working more than 37 hours
LGPS pension	£ 2.39	
Employers NIC	£ 2.07	
Total	£ 19.46	