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**Report of the Chief Officer (HR)**

**Report to Scrutiny Board - Resources and Council Services**

**Date: 22nd April 2013**

**Subject: Agency workers, Overtime and Consultants**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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**Summary of main issues**

1. In 2012, this Board received reports on use and costs of agency workers and overtime. A report was also submitted on the position of consultants and the measures that were being taken to avoid situations where this could create potential tax avoidance.
2. This report follows up work in these areas and gives the Board a progress update, as well as suggesting further areas of action and monitoring through routine reporting.

**Recommendations**

3. The Board is asked to consider the recommendations which are detailed at the end of the report.

## **Purpose of this report**

1. To provide the Scrutiny Board with an update on previous reports on the use and requirements for agency workers and overtime and consultants.

## **Background information**

2. Overall staffing budgets are set to allow services to deliver in line with the Council's plans. To achieve this, core staffing is supplemented by agency workers and overtime. The approaches taken by different services vary according to needs.
3. Since 2012, various measures have been put in place to ensure appropriate use of resources. Included in this are measures to ensure consultants are not inappropriately used to fill posts. This report details this and the impact they are having.

## **Main issues**

### **Agency Workers**

#### Latest Position

4. Scrutiny were previously updated on:
  - a) how we procure services,
  - b) cost benefits of agency workers,
  - c) how we meet new requirements under the Agency Worker Regulations and
  - d) how services use agency workers.
5. A summary of current usage is given in Appendix I. For the 12 months to February 2013 compared to the 12 months to February 2012 – mean average FTE numbers reduced from 496 to 476 per month. Mean average monthly costs increased marginally from £17 to £17.50 per hour. This is the effect of a full year of the Agency Worker Regulations and increases in the minimum wage from £6.08 to £6.19. Hourly rates have also partly increased with some specialist ICT roles moving onto the Comensura contract. These tend to be at the higher rates.
6. Adult Social Care continue to use agency staff pending a number of organisational changes. Provision of Older People's care is now subject to public consultation following the Executive Board in February 2013. Options are also being considered for the provision of Mental Health/ Learning Disabilities. They may affect around 1,100 staff and for this reason high numbers of agency staff have been retained to backfill posts to minimise risks of job losses.
7. Children's Services continue to use agency staff to cover workload. This has been beneficial in reducing the number of looked after children where increased resources have been made available. Current agency staffing has significantly reduced from a peak of 188 FTE in April 2012 to 132 FTE in Feb 2013.

8. In Environment and Neighbourhoods significant reductions took place in 2013. Further appointments are pending which are likely to see the current 50 FTE numbers reduce.
9. Overall agency spend at period 10 was 4% of the overall staffing spend - £14m out of £322m.

#### Value for Money

10. Monitoring of agency spend and usage is provided via the People Plan Scorecards, which are available for each Chief Officer. This will be reported to CLT/Scrutiny on a regular basis as part of the set of indicators chosen by Scrutiny e.g. FTEs, agency and overtime Work is also on-going to support ordering managers so they are adequately trained
11. Contract arrangements are subject to on-going review and an Internal Audit review of the Comensura contract is being undertaken
12. Finally, the current contractual arrangements are to be reviewed at the end of 2013/14.

#### Workforce Planning

13. All requests for agency workers must be vetted against the Council's Talent Pool. To widen the supply of internal candidates, a series of Resourcing Solutions projects are being undertaken to up-skill staff and help staff to consider career plans and paths to reduce the reliance on agency workers. For example, a pilot has commenced for peripatetic admin staff; transferring staff resources from catering and cleaning who are being earmark for admin jobs in Children's Services. This has previously had a reliance on agency workers.
14. Consideration will continue to be given regarding the need to use agency workers to support transition and service change i.e. to backfill vacancies with agency staff to avoid future job losses. This particularly applies in Adult Social Care where big reductions in Agency use are now anticipated.

#### Analysis of roles and Long Term Agency Workers

15. An analysis of roles is given in Appendix II. In summary it is noted that there is:
  - a) Continued and concentrated use in Social Care and Social Work Roles.
  - b) On-going use in IT, Commercial Services cleaning and catering roles and technical roles.
  - c) Reducing numbers in Environments and Neighbourhoods.
16. Following the adoption of the Protocol on Agency Workers, long term agency staff have reduced. As at 30<sup>th</sup> December 2012 there were 176 FTE agency staff who had been engaged for over 6 months. This is a significant reduction from the 213 reported in June 2012.
17. Where there are exceptions these will be recorded and a register is kept of all agency staff employed for more than 6 months.. This will be shared with Chief Officers who will

be asked to identify why exceptions are needed. Legitimate reasons for this may include:

- a) Where agency workers are directly fee earning, or externally short-term funded.
- b) Specific requirements regarding skills shortages and the need to support projects or provide service continuity where this is critical to the Council meeting its objectives.

#### Recommendations on Agency Workers

- 18. Recommendations for further work are detailed alongside other complementary measures that affect overtime at the end of this report.

#### **Overtime**

- 19. Overtime was considered by the Resources and Council Services Scrutiny Board in September and October 2012 and a progress report requested. The findings of an Internal Audit on overtime were also presented to the Corporate Governance and Audit Committee in November 2012. This included concerns about how some overtime payments are made. The response to the Audit is an opportunity to further check and challenge requirements for the use of overtime and develop a better framework for managing this. Clearly the opportunity to make savings remains given current spend, which is £10m for 2012/13. (See Appendix III).

#### Audit Issues, Findings and Opportunities

- 20. In summary, the Audit looked at the accuracy of payments. Sampling showed rules on Planned Overtime were not applied for “senior” staff who are paid above spinal column point 28 (£23,708). The existing rules on this are detailed in Appendix IV. This raises questions on whether the rules on overtime have become outdated for large sections of the workforce that are able to work on a flexible basis.
- 21. Compliance with this set of rules suggests a need to re-think the policy, and especially to use this as means to look at the overall need for overtime in services where rota cover drives the need for overtime. This follows discussion with the trade unions where the feasibility of quickly getting a collective agreement to pay overtime at different rates is limited.
- 22. Therefore it is proposed that the rules on planned overtime should still apply and that managers are reminded of this. At the same time there needs to be greater clarity on definitions of what constitutes “unplanned” requirements.
- 23. A dialogue will be held with services to assess this and HR will work with Internal Audit too. For staff who do not work on a rota basis it will be stressed that there are considerable options for flexible working and that paying staff, especially above scp 28, overtime is to be avoided – whether planned or in case of an urgent, unexpected need.
- 24. For services who work on a rota basis there needs to be a better appreciation of the circumstances where minimum cover is needed and whether this is predicable or not. In terms of staff affected, this will apply largely to staff on Senior Officer grades who are needed to augment shifts, but do not have the same ability as non-rota staff to work flexibly.

25. Service based discussions on the need for overtime will be linked to a variety of other support and control opportunities which are discussed below.

#### Other measures and options

26. Alongside a dialogue on when it is appropriate to use overtime and operate outside of the planned overtime rules, additional work will be undertaken.

27. This includes assessing the adequacy of rota planning in services with high overtime use and also offering guidance for managers via a toolkit on ways to negate the need for overtime. For example,

- a) ensuring organisational structures are fit for purpose,
- b) that employees rota patterns reflect the needs of the service,
- c) employing more part time employees to enable more flexible deployment,
- d) multi-skilling in common types of services e.g. Libraries, Arts & Heritage – so establishments have pool rotas to allow shift swapping,
- e) the use of internal resources such as employees currently in the talent pool,
- f) the utilisation of flexible working options to be used instead of paid overtime were applicable.

28. In addition there can be;

- a) further monitoring of overtime as part of the Chief Officer HR challenge meeting with Directors
- b) Reporting overtime to this Board as part of the big 5
- c) Reporting exceptional use of overtime as part of a Top100 earners

#### **Personal Service Companies and Consultants**

29. In December this Board considered issues with Consultants recruited to cover posts. It was recommended that procedural measures were put in place to prevent inappropriate hiring of consultants. HR, in conjunction with Audit and Procurement, were asked to report back by April 2013 on the implementation and adherence to the new arrangements.

#### **Updating Contract Procedure Rules (CPRs)**

30. The CPRs are being updated and are due to go to Full Council. The new drafting will stress that, as with all contracting options, it is necessary to firstly consider whether internal resources or providers can be used in the first place. This will mean that Officers deciding to use consultants must consider:

- a) The nature of the unique or specialist skills required,
- b) The Council's capacity and ability to redirect resources to undertake such tasks,

- c) Whether or not there is a statutory need or any other need for an independent person,
- d) Overall timescales required, and;
- e) Overall cost effectiveness.

31. Officers making decisions to procure a service should note why this has been the case to demonstrate that this approach is more appropriate than seeking to create and fill a position on the Council's structure.

### **Filling positions**

32. In relation to clarifying that the Council does not engage people operating as Personal Service Companies to fill positions on the Council's establishment the following wording is suggested in the new CPRs:

- a) "Consultants who are individuals, but trade as their own businesses (private service companies), must not be engaged to cover any temporary or permanent posts as an alternative to offering such individuals a contract of employment".

33. Where there is a need to fill a post on the Council's structure on a short term /interim basis, the Council will either employ someone on a temporary basis through the Council's normal payroll arrangements, or will engage them through a recognised agency. For the former, this would be through either a temporary or fixed term contract, and for the latter, the Council has two main routes the Executive Search and Selection Framework contract and the vendor neutral agency contract.

### **Reflecting the position in the revised senior pay policy statement**

34. The Council's new senior Pay Policy statement was adopted by Full Council in February 2013. This sets out specifically that "Individuals who operate as personal service companies will not be directly engaged to cover senior officer posts covered by this policy."

### **Adherence to the new arrangements**

35. HR has performed a check of the senior structures across the Council in March 2013 and can confirm that all post-holders covered under the Senior Pay Policy are paid via payroll by Leeds City Council. None are therefore engaged as personal service companies. Work is currently being discussed with Audit to undertake a formal assessment of the existing arrangements to be undertaken later in 2013.

36. This would test the adherence and control environment around the new arrangements. We will also track any proposed changes that might arise from consultations HMRC are considering in relation to taxation issues for agency workers.

37. In addition to discussions with individual directors, further communications are planned following the agreement of the revised CPRs.

Scrutiny is asked to note this work and suggest any other areas where the use of consultants should be reviewed in the future.

### **Corporate Considerations**

### **Consultation and Engagement**

38. A draft of this report has been shared with the trade unions

### **Equality and Diversity / Cohesion and Integration**

39. A more detailed analysis can be provided but the diversity profile of agency workers is monitored. It is noteworthy that the proportion of agency workers from BME backgrounds is greater than the Council's work-force as a whole; around 25% of agency workers are from a BME background.

### **Council policies and City Priorities**

40. N/a

### **Resources and value for money**

41. Both overtime and agency work spends are significant. Work is on-going to ensure our contract arrangements offer value for money, although potentially greater savings will arise from reducing demand for agency workers.

### **Legal Implications, Access to Information and Call In**

42. The Council's Senior Pay Policy has been amended to address concerns about consultants.

### **Risk Management**

43. N/a

### **Conclusions**

44. Services continue to rely on agency workers and overtime to deliver some of our most important front-line services.

45. These are nevertheless costly methods for providing cover and recommendations to maintain control and make further reductions are made. Where consultants undertake jobs the similar proposals are made.

### **Recommendations**

46. The Scrutiny Board is asked to consider the following recommendations

47. Recommendations for Agency Workers are to:

- a) Use the emerging Resourcing Solutions projects to train staff to do work covered by some agency workers

- b) Act on the outputs from the audit report.
- c) Provide manager support from Comensura to ensure the effective use of the system
- d) Continue to work with Comensura to provide a clear focal point for resolving queries and issues.
- e) Continue to ensure Agency reporting is an integral part of the People Plan Scorecard.
- f) Plan to review contract at end of 2013/14

48. Recommendations for Overtime are to:

- a) Better define rules for planned overtime, and to understand where exceptional circumstances may apply
- b) Develop and issue a toolkit on managing overtime for managers
- c) Monitor routine and exceptional use of overtime with Directors and Chief Officers

49. Recommendations for Consultants are to:

- a) Finalise revised Contract Procedure Rules
- b) Monitor adherence to these and the Senior Pay policy
- c) Suggest any wider options to assess the use of Consultants generally

## **Background documents<sup>1</sup>**

None

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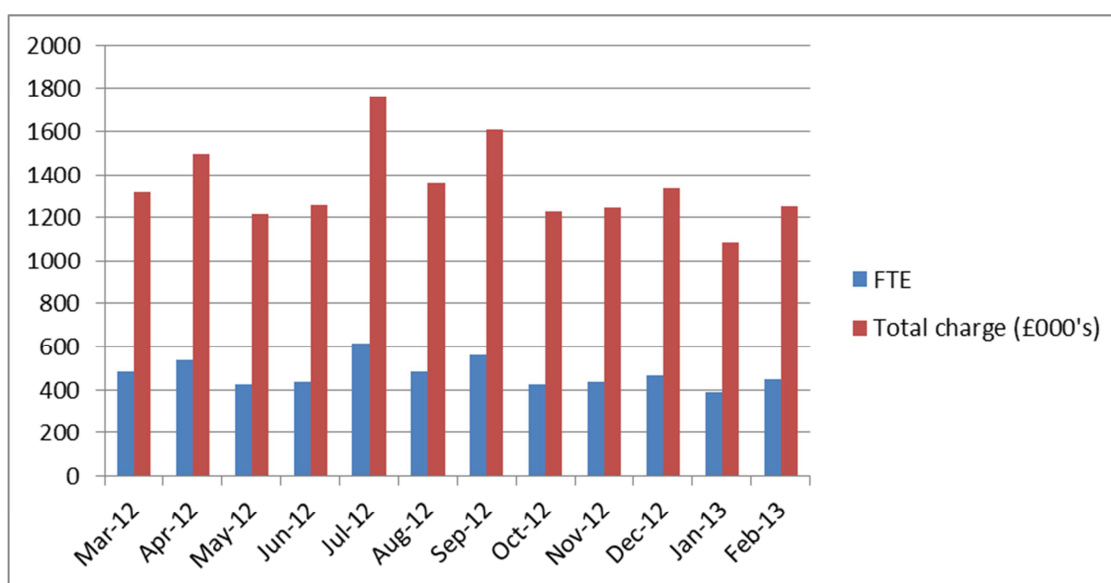
<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.



**Comensura Spend Analysis 12 months to end of February 2013**

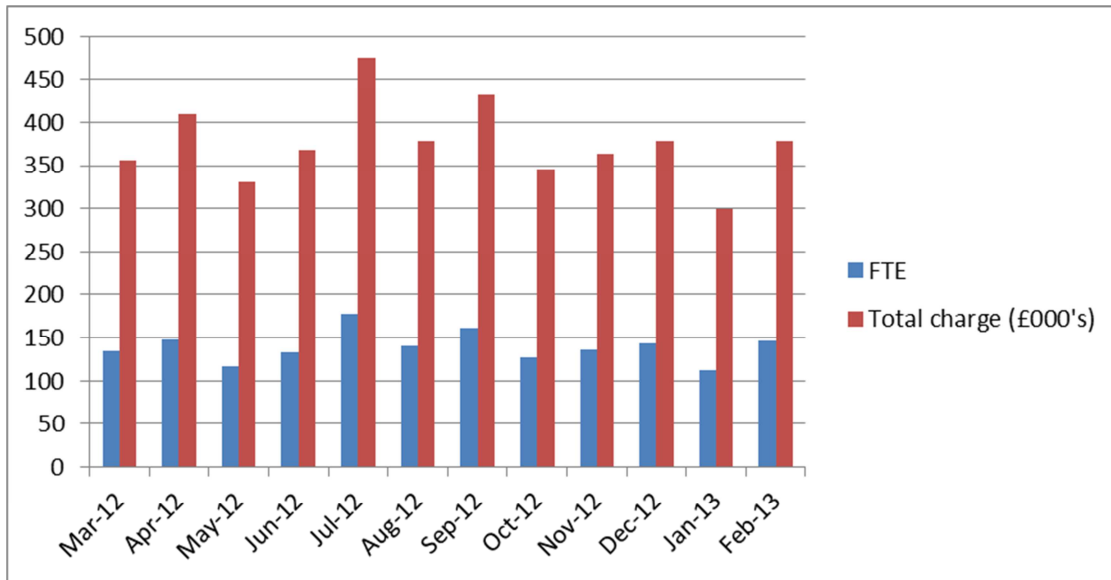
ALL

Month effective	FTE	Total charge (£000's)	Hours Booked	Average Cost per hour
Mar-12	486	1,316	78157	£16.84
Apr-12	539	1,495	86618	£17.26
May-12	425	1,214	68361	£17.76
Jun-12	439	1,255	70613	£17.77
Jul-12	617	1,763	99219	£17.77
Aug-12	483	1,359	77642	£17.50
Sep-12	559	1,606	89955	£17.85
Oct-12	427	1,226	68720	£17.84
Nov-12	435	1,243	69889	£17.79
Dec-12	469	1,334	75397	£17.69
Jan-13	388	1,086	62373	£17.41
Feb-13	448	1,251	72061	£17.36



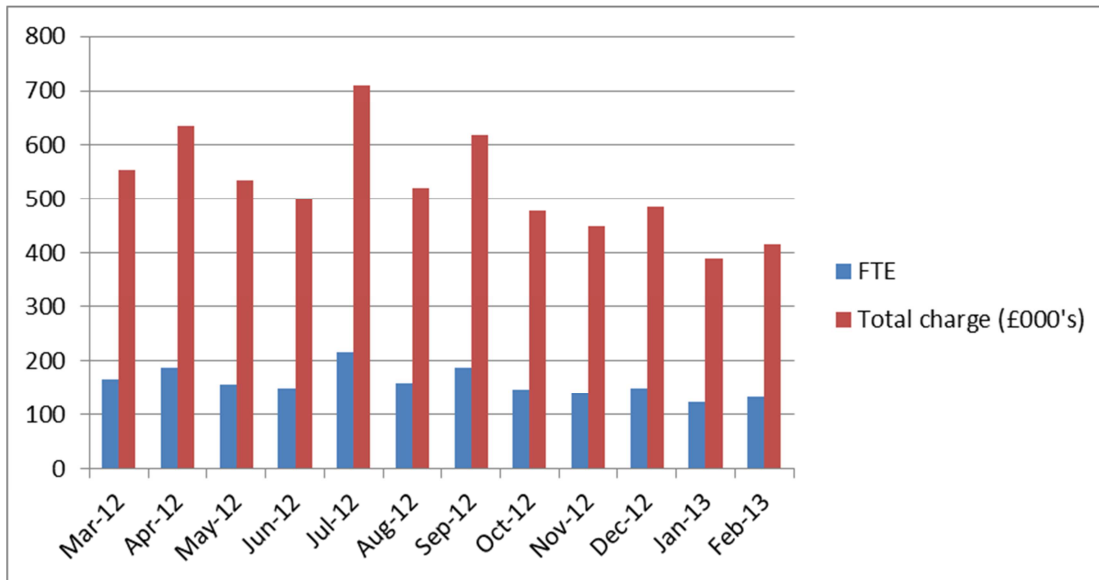
## ASC

Month effective	FTE	Total charge (£000's)	Hours Booked	Average Cost per hour
Mar-12	134	356	21621	£16.47
Apr-12	148	410	23726	£17.28
May-12	117	331	18819	£17.59
Jun-12	133	368	21393	£17.20
Jul-12	177	475	28467	£16.69
Aug-12	141	379	22646	£16.74
Sep-12	161	432	25882	£16.69
Oct-12	127	346	20428	£16.94
Nov-12	136	364	21813	£16.69
Dec-12	144	379	23117	£16.39
Jan-13	112	299	18065	£16.55
Feb-13	146	379	23484	£16.14



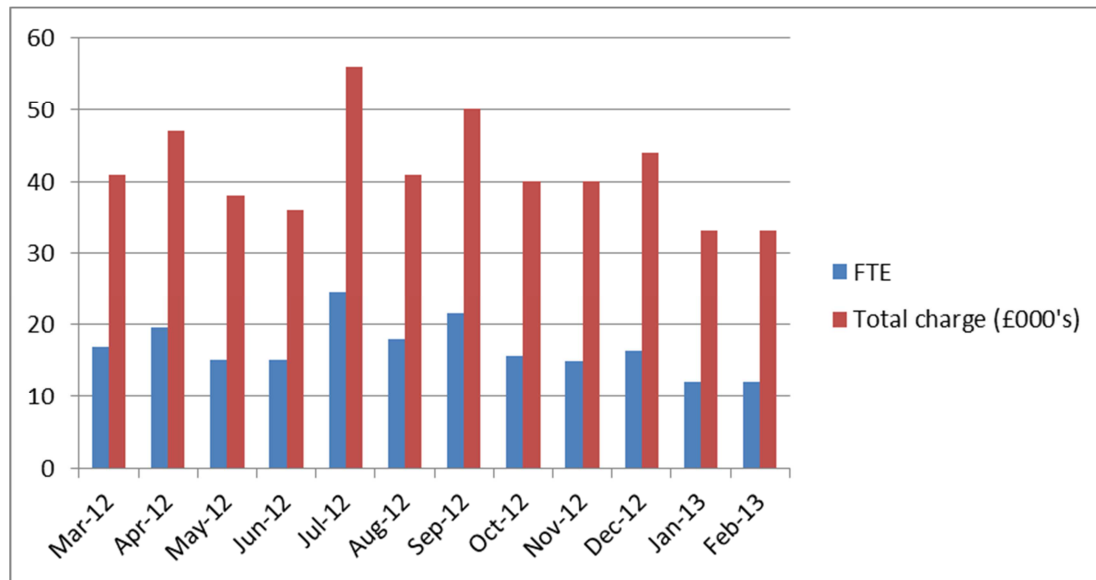
### Children's

Month effective	FTE	Total charge (£000's)	Hours Booked	Average Cost per hour
Mar-12	165	554	26554	£20.86
Apr-12	188	634	30196	£21.00
May-12	155	534	24932	£21.42
Jun-12	148	499	23806	£20.96
Jul-12	215	710	34634	£20.50
Aug-12	158	519	25414	£20.42
Sep-12	187	618	30024	£20.58
Oct-12	147	478	23614	£20.24
Nov-12	138	448	22228	£20.15
Dec-12	149	484	23966	£20.20
Jan-13	122	388	19580	£19.82
Feb-13	132	414	21232	£19.50



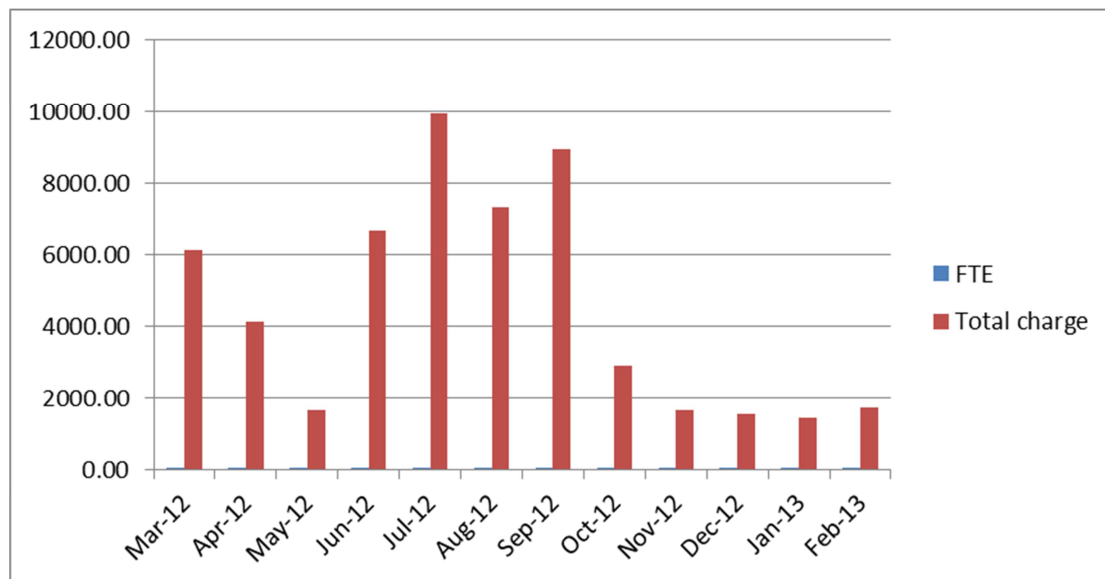
### City Dev

Month effective	FTE	Total charge (£000's)	Hours Booked	Average Cost per hour
Mar-12	17	41	2700	£15.19
Apr-12	20	47	3155	£14.90
May-12	15	38	2413	£15.75
Jun-12	15	36	2413	£14.92
Jul-12	25	56	3944	£14.20
Aug-12	18	41	2878	£14.25
Sep-12	22	50	3463	£14.44
Oct-12	16	40	2501	£15.99
Nov-12	15	40	2392	£16.72
Dec-12	16	44	2623	£16.77
Jan-13	12	33	1930	£17.10
Feb-13	12	33	1930	£17.10



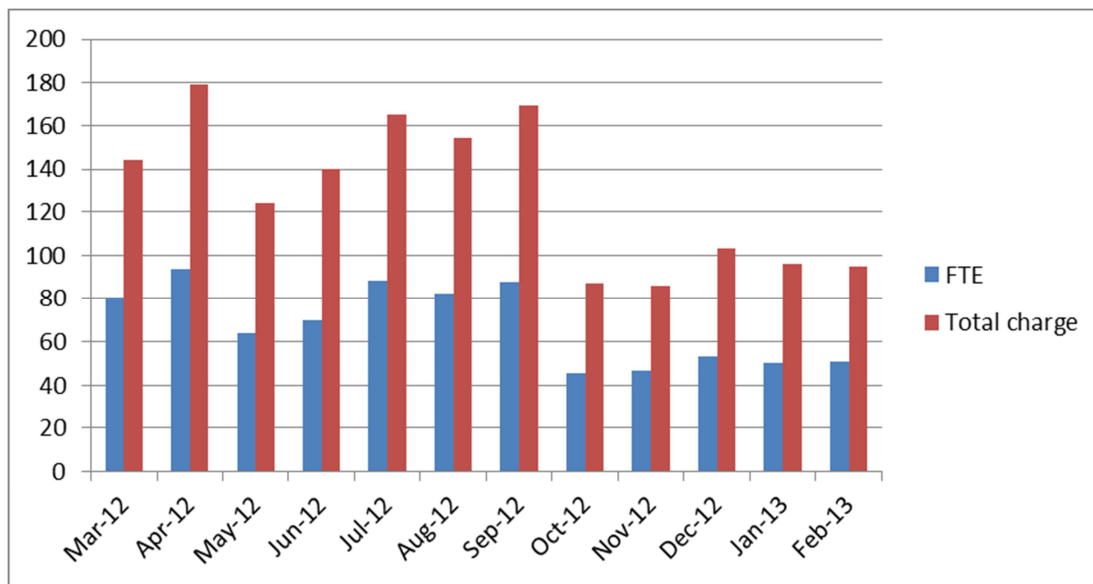
### Customer Access and Performance

Month effective	FTE	Total charge	Hours Booked	Average Cost per hour
Mar-12	2.49	6,129	400	£15.32
Apr-12	1.96	4,110	316	£13.01
May-12	0.87	1,643	141	£11.65
Jun-12	2.24	6,657	361	£18.44
Jul-12	3.36	9,952	540	£18.43
Aug-12	2.51	7,307	405	£18.06
Sep-12	3.03	8,927	487	£18.33
Oct-12	1.15	2,907	185	£15.71
Nov-12	0.87	1,644	141	£11.70
Dec-12	0.83	1,542	133	£11.59
Jan-13	0.78	1,461	125	£11.64
Feb-13	0.92	1,717	148	£11.60



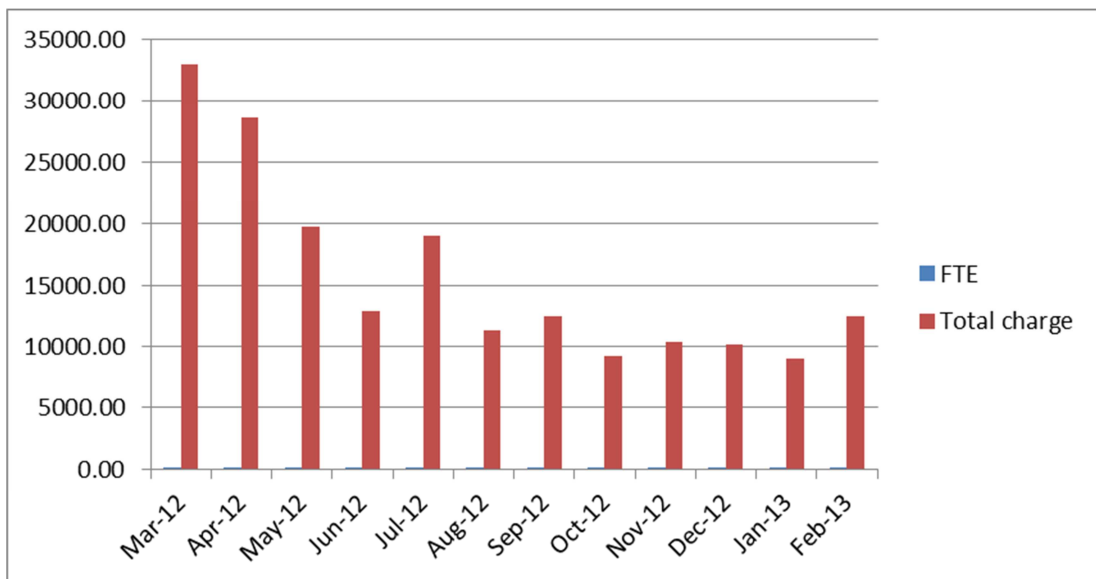
## E&N

Month effective	FTE	Total charge	Hours Booked	Average Cost per hour
Mar-12	80	144	12919	£11.15
Apr-12	94	179	15100	£11.85
May-12	64	124	10294	£12.05
Jun-12	70	140	11260	£12.43
Jul-12	88	165	14155	£11.66
Aug-12	83	154	13286	£11.59
Sep-12	88	169	14123	£11.97
Oct-12	45	87	7303	£11.91
Nov-12	46	86	7470	£11.51
Dec-12	53	103	8600	£11.98
Jan-13	50	96	8073	£11.89
Feb-13	51	95	8203	£11.58



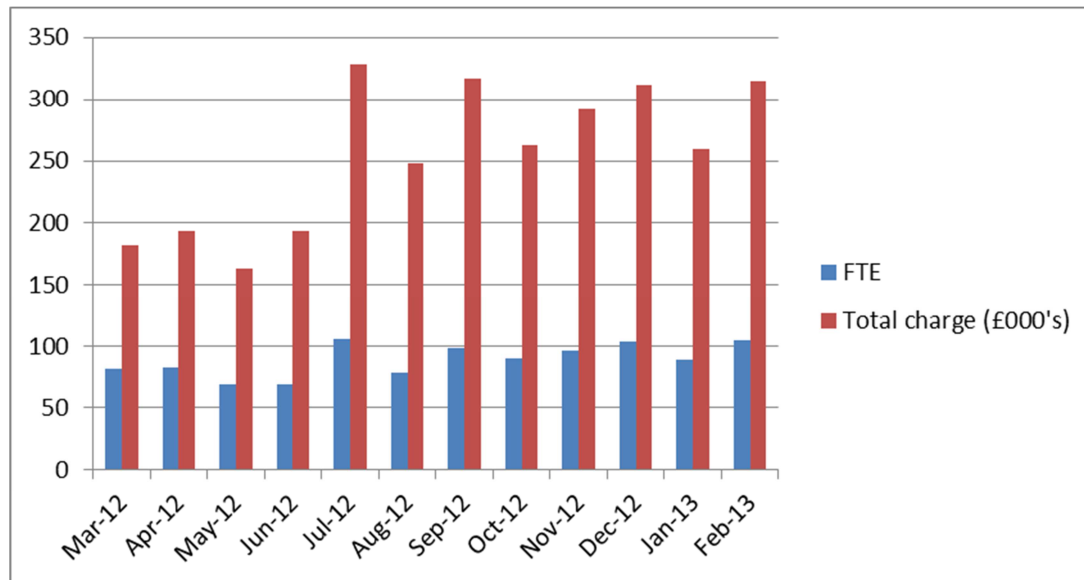
## Legal

Month effective	FTE	Total charge	Hours Booked	Average Cost per hour
Mar-12	5.55	32,908	892	£36.89
Apr-12	4.87	28,579	784	£36.45
May-12	3.35	19,760	539	£36.66
Jun-12	2.15	12,842	346	£37.13
Jul-12	3.19	18,948	513	£36.94
Aug-12	1.98	11,310	319	£35.45
Sep-12	2.19	12,467	353	£35.32
Oct-12	1.62	9,212	261	£35.30
Nov-12	1.83	10,376	294	£35.26
Dec-12	1.84	10,187	295	£34.53
Jan-13	1.62	8,997	261	£34.53
Feb-13	2.23	12,427	359	£34.64



## Resources

Month effective	FTE	Total charge (£000's)	Hours Booked	Average Cost per hour
Mar-12	81	182	13070	£13.93
Apr-12	83	193	13341	£14.47
May-12	69	163	11099	£14.69
Jun-12	69	193	11099	£17.39
Jul-12	106	328	17050	£19.24
Aug-12	79	248	12707	£19.52
Sep-12	98	317	15791	£20.08
Oct-12	90	263	14428	£18.23
Nov-12	97	292	15551	£18.78
Dec-12	104	312	16682	£18.70
Jan-13	89	260	14319	£18.16
Feb-13	105	315	16889	£18.65





**Appendix II****Most Common Roles – Sample Dec 2012**

Job	Month	weekly	FTE	Month	weekly	% of spend
	Hours			Spend		
Admin	8448	1690	46	100962	20192	8
Care Asst	26634	5327	144	413910	82782	31
Catering and Cleaning	5317	1063	29	58392	11678	4
Driver	4713	943	25	61972	12394	5
General Industrial	8615	1723	47	99214	19843	7
IT	3885	777	21	123674	24735	9
Projects	1697	339	9	37694	7539	3
Social Worker	9633	1927	52	286920	57384	22
Solicitor	544	109	3	20354	4071	2
Technical	6724	1345	36	128657	25731	10
<b>TOTAL</b>	<b>76209</b>	<b>15242</b>	<b>412</b>	<b>1331749</b>	<b>266350</b>	<b>100</b>

## Appendix III

### Summary of Overtime Spend

By Directorate (monthly)												
	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8	Period 9	Period 10	Period 11	Period 12
	(£)											
Adult Social Care	1,760	204,386	163,983	209,839	211,481	171,099	221,732	171,188	149,531	178,472	148,069	156,298
Children's Services	116,734	157,722	118,708	115,981	123,635	110,103	135,235	110,391	99,756	122,002	90,561	83,611
City Development	68,760	104,789	73,088	88,084	115,696	109,253	124,236	98,682	115,211	136,571	139,630	128,450
Environments & Neighbourhoods	(80,921)	328,117	217,957	264,025	325,034	240,753	322,190	241,392	256,014	308,564	229,597	100,902
Resources	183,347	221,332	204,532	181,350	246,837	173,747	217,290	196,844	188,864	193,894	147,489	203,903
CAP	6,507	6,651	8,047	7,807	11,037	9,226	9,643	9,505	12,189	11,111	10,492	6,429
<b>TOTAL</b>	<b>416,188</b>	<b>1,022,998</b>	<b>786,316</b>	<b>867,086</b>	<b>1,033,721</b>	<b>814,180</b>	<b>1,030,326</b>	<b>828,001</b>	<b>821,564</b>	<b>950,614</b>	<b>765,838</b>	<b>679,593</b>
<b>By Directorate (cumulative)</b>												
	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8	Period 9	Period 10	Period 11	Period 12
	(£)											
Adult Social Care	121,760	326,147	490,130	699,969	911,450	1,082,549	1,304,280	1,475,469	1,624,999	1,803,472	1,951,540	2,107,838
Children's Services	116,734	274,456	393,164	509,145	632,781	742,884	878,119	988,510	1,088,266	1,210,268	1,300,828	1,384,439
City Development	68,760	173,549	246,638	334,721	450,418	559,671	683,906	782,588	897,799	1,034,370	1,174,000	1,302,451
Environments & Neighbourhoods	(80,921)	247,197	465,154	729,179	1,054,213	1,294,965	1,617,156	1,858,547	2,114,561	2,423,125	2,652,722	2,753,624
Resources	183,347	404,679	609,211	790,561	1,037,399	1,211,146	1,428,436	1,625,280	1,814,144	2,008,038	2,155,527	2,359,429
CAP	6,507	13,158	21,205	29,012	40,049	49,275	58,918	68,422	80,611	91,722	102,214	108,643
<b>TOTAL</b>	<b>416,188</b>	<b>1,439,186</b>	<b>2,225,501</b>	<b>3,092,588</b>	<b>4,126,309</b>	<b>4,940,489</b>	<b>5,970,815</b>	<b>6,798,816</b>	<b>7,620,380</b>	<b>8,570,994</b>	<b>9,336,832</b>	<b>10,016,424</b>

**Appendix IV**

**Planned Overtime Rules**

<b>Planned overtime rates - Monday to Friday</b>			
<b>Grade range</b>	<b>No pay (per month)</b>	<b>Plain time</b>	<b>Enhanced</b>
SO1 - SO2 (scp 29 – 34)	Up to 6 hours	Over 6 and up to 12 hours	Above 12 hours
PO1 - PO3 (scp 35 – 41)	Up to 8 hours	Over 8 and up to 16 hours	Above 16 hours
PO4 - PO6 (42 – 49)	Up to 10 hours	Over 10 and up to 20 hours	Above 20 hours
<b>Weekend working is paid at enhanced rates</b>			