

Report to: **Audit, Best Value and Community Services Scrutiny Committee**

Date: **29 November 2017**

By: **Kevin Foster, Chief Operating Officer**

Title of report: **Expenditure on agency workers in East Sussex County Council 2017**

Purpose of report: **To consider the latest information available about the use of agency workers via Adecco**

RECOMMENDATION: The Committee is recommended to:

- 1) consider and comment on the findings and conclusions presented in this report; and
 - 2) agree whether the Committee wish to continue to receive an annual update report on the use of agency workers.
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1. Background

1.1 A report was presented to the ABVCSSC on 4 March 2011 detailing the outcomes of the scrutiny review of the use of agency workers and consultants in the Council. Progress updates were provided in October 2011, June 2012, and annually each November since 2013. This report is the latest update.

2. Supporting Information

2.1 The Council has a planned approach to strategic workforce planning and the use of agency workers is integral to this. There are a wide range of circumstances where the Council makes a clear choice to engage Agency workers, including to:

- i) manage capacity during periods of workload peaks;
- ii) facilitate the move to new structures and models of service delivery, for example, using agency workers rather than recruiting to posts to minimise the risk of redundancy to permanent staff;
- iii) provide a flexible staffing model to ensure cover for short term absences such as annual leave or sickness;
- iv) ensure minimum staffing levels are maintained in services where this is a regulatory requirement, for example, in Adult Social Care (ASC) Directly Provided Services;
- v) provide cover for vacancies where there are recruitment difficulties;
- vi) secure specialist knowledge or activity where it is not efficient for the Council to employ a permanent resource, and
- vii) provide additional capacity to key projects and workstreams where it is not appropriate and/or viable for internal resources to be released.

Summary and Key Findings

2.2 Attached at Appendix 1, Table 1, is a summary of the use of agency workers in the Council showing expenditure for the periods 2014/15, 2015/16, 2016/17 and 2017/18. The figures for 2017/18 have been forecast based on the actual quarter 1 (April to June 2017) spend. It should therefore be noted that these figures may change as we progress through the year, for example, as a consequence of seasonal variations etc.

2.3 The predicted expenditure on agency workers for 2017/18 is lower than 2016/17. This was expected as some of the large scale change programmes have now completed, for example, delivery of the Agile Working Programme and the contracting out of some services such as the Highways Contract in CET.

2.4 Salary expenditure by department is summarised in Appendix 1, Table 2. In considering the departmental spend further:

- i) in overall terms, the predicted spend on agency workers for 2017/18 is reduced compared to the previous year's spend;
- ii) whilst the Business Services Department (BSD) continues to have the highest proportion of agency workers compared to permanent, contracted staff (6.39% of the BSD workforce spend engaged through agencies) this is a reduction on 2016/17 when 7.36% of BSD workforce spend was through agencies. The proportion of agency workers has significantly reduced since 2015/16 when it was 12.39%;
- iii) BSD was forecast to spend £1.6m on agency workers in 2016/17; the actual spend of £1.3m was considerably less. Further reductions in spend are forecast for 2017/18;
- iv) Children's Services (CS) were forecast to continue to reduce spend on agency workers for 2016/17, however spend increased by 5.7% and spend is forecast to increase in 2017/18 by 34% compared to 2016/17 spend. This is mainly in the area of Residential Services where standards around minimum staffing levels apply;
- v) Adult Social Care and Health are forecast to reduce spend on agency workers in 2016/17 with the proportion of agency workers to permanent, contracted staff, forecast to likewise reduce;
- vi) Communities, Economy and Transport (CET) is expected to significantly reduce spend on agency workers in 2017/18 and the proportion of agency workers to permanent contracted staff is predicted to decrease. This is due to the Highways Contract which came into effect in 2016.
- vii) Governance Services (GS) are currently showing a predicted decrease in spend compared to 2016/17.

2.5 Attached at Appendix 2 is a detailed summary of the departmental agency expenditure and rationale for the use of agency workers.

2.6 A direct comparison of the costs between agency workers and employees is not readily possible as there are a range of factors in play. For agency workers there are essentially four strands of cost: (i) the basic hourly rate (that is paid to the worker), (ii) on-costs, including pensions (1% of salary) and national insurance contributions (iii) Adecco's costs (as the Managed Service Provider), and (iv) the actual agency's costs (eg Nine to Five etc).

2.7 The latter costs vary, ranging from, for example, 0.42p per hour for Admin & Clerical work through to £3.10 per hour for a qualified Social & Healthcare worker (eg a Social Worker). For staff directly employed, there are 2 strands of cost: (i) the basic hourly rate of pay (salary), and (ii) the on-costs, including pensions and national insurance contributions. As such, the costs of agency workers and employees are, in practice, relatively similar.

2.8 Given that one of the key reasons for the use of Agency workers is to cover for short term absences such as sickness absence, previous reports have included a summary of agency spend in relation to sickness absence. The Council Plan target in relation to sickness is 9.24 days lost per FTE employee. The 2015/16 sickness absence outturn for the Council was 9.09 days lost per FTE employee; a reduction of over 11% compared to 2014/15 and within the 15/16 target. There are a number of initiatives in place aimed at reducing sickness absence which, based on these figures, are beginning to have an impact. Attached at Appendix 3 is a short summary of the range of initiatives and work being undertaking in this area.

Legal Changes Affecting Agency Workers

2.9 The Government published a consultation in late 2016 on proposed amendment to 'IR35', which governs the tax treatment of off-payroll workers who are registered as a limited company. As a limited company the worker pays less tax as some of their income is apportioned for the running and development of their business. The changes came in to effect on 6th April 2017 and Councils are now required to determine if limited company workers should pay the same tax as an employee. The agency or the client is now responsible for deducting tax and NI contributions before they are paid if IR35 applies to their assignment with the Council.

2.10 The change currently only affects off-payroll workers who work for the Public Sector. Public Sector organisations shared concerns that workers will choose to work in the private sector where they will pay less tax or will only work for the Public Sector if their wages are increased to compensate for the additional tax.

2.11 Since the change came into effect there has been some impact on the Council's ability to recruit agency workers but no wage increases have been requested by agency workers as a result of this change.

2.12 Staff Nurses have been the most affected staffing group. Staff Nurses were already difficult to recruit due to national shortages and competition with the NHS and the private sector. The change to IR35 has resulted in a number of agency Nurses choosing to only work in the private sector.

Audit

2.13 In May 2017, an audit of the Adecco Contract Management arrangements was undertaken by Internal Audit. An opinion of 'partial assurance' was provided. In response to this, a number of actions have been undertaken to put in place more robust arrangements. Of the 12 findings reported, good progress has been made against all and in particular, the two 'high priority' findings have been resolved.

Financial Appraisal

2.14 There are no direct financial implications resulting from the recommendations in this report as the use of agency workers is funded as part of the existing staffing establishment. It is worth noting that agency expenditure as percentage of our pay bill is 3.43% for the Q1 period of 2017/18. Benchmarking data from other Councils shows this figure for the same period as being in the range of 4.1% to 4.38%.

2.15 The current contract through Adecco provides for the Council to access agency workers via a contractual agreement with a range of agencies. Essentially, this provides for some certainty (without giving any guarantees) to be given to agency providers as to the level of expenditure by the Council and in return, the Council is able to access highly competitive rates.

3. Conclusion and Reason for Recommendations

3.1 Robust monitoring and review arrangements are in place to manage the new contract with Adecco. As part of our overall performance management arrangements, we have in place Agency Contract Management Groups (comprising representatives from Adecco and across the Council) which meet on a quarterly basis to monitor operational issues around the day to day management of the contract, as well as performance against the agreed key performance indicators of the contract.

3.2 In addition, agency expenditure continues to be reviewed on a monthly basis with details provided to the Corporate Management Team via the Workforce Dashboard. We are therefore confident that we have in place sound arrangements for monitoring and challenging appropriately the expenditure on agency workers.

3.3 The Committee is recommended to consider the findings and conclusions presented in this report, and agree whether the Committee wishes to continue to receive an annual update report on the use of agency workers.

KEVIN FOSTER
Chief Operating Officer

Contact officers: Sarah Mainwaring, Head of HR/OD and Ruth Wilson, HR Adviser
Tel Nos: 01273 482060 and 01273 481762