

	<p>HUMAN RESOURCES</p> <p>POLICY STATEMENT</p>
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USE OF AGENCY WORKERS AND INTERIMS

POLICY

1. Purpose

The purpose of the policy is to ensure that the engagement of Agency Workers and Interims are to meet genuine business needs, taking into account the Council's priorities and budgetary constraints.

2. Statement of Intent

Harlow District Council is committed to ensuring that it delivers excellent services efficiently, effectively and economically to its customers. Harlow Council is also committed to Safeguarding and promoting the welfare of children, young people, and vulnerable adults and expects all employees, volunteers, and those working on behalf of the Council to share this commitment. Rigorous pre-employment and pre engagement checks will be carried out as appropriate to the post by the Agency, before the engagement of an Agency Worker.

3. Principles

The following will apply in all cases:

- a) Agency workers and interims will only be engaged where the role cannot be filled by internal processes, subject to Service requirements.
- b) Agency workers and interims will not be offered temporary or permanent employment without appropriate approval, up to and including CMT authorisation (see (f) below).
- c) Any employee's 'At Risk', under Notice of Redundancy or eligible to be re-deployed for whatever reason will be considered regardless of the area they are currently based before an agency worker is engaged elsewhere in the Council.

- d) Consultants will be engaged in accordance with Harlow Council's Contracts Standing Orders (CSO'S) (part 4 Rules of Procedure).
- e) Agency workers and interims are employed by a recognised staff agency in accordance with the Financial Regulations and Harlow Council's Preferred Supplier List (PSL) of Agencies.
- f) Agency workers and interims will usually be engaged as a short term solution for no longer than 12 weeks ¹ in the first instance. All engagements will require approval of CMT via a Permission to Fill form.

4. Definitions

4.1. Agency Workers and Interims

Typically Agency Workers and interims will be sourced through Recruitment/ Employment agencies (with reference to the PSL in the first instance) to cover short term vacancies, temporary increases in workload or where it has not been possible to fill positions through the normal Council recruitment processes.

4.2. Consultant:

The appointment of Consultants must be undertaken in accordance with the CSO's in conjunction with Corporate Procurement. This Policy is not in relation to Consultants:

A consultant shall mean a persons(s) or body that supplies professional, technical advice or expertise but does not include workers engaged through a recognised staff agency agreement and/or the supply of a management role in addition to professional/technical advice or expertise.

Consultants are unlikely to be covering vacant roles and will be usually engaged for a specific task.

PROCEDURE

5. Responsibilities

5.1. Line manager

The Line manager must:

- a) Set out a clear specification of the roles, responsibilities, and skills required, or identify an existing established position.
- b) Engage agency workers and, interims following agreed processes and protocols.

¹ See appendix 1 para 7

- c) Consult the HR Department prior to any decision to commence the engagement processes of an agency worker or interim to ensure alternative ways of meeting the short term need for staff have been considered and referenced. Alternative ways of meeting the short-term need for staff that could be considered include:
- Preserving employment of existing staff (e.g. are there any staff in the redeployment pool who have the knowledge, skills and abilities to do the work and for whom it would be a suitable temporary redeployment?)
- OR
- Offer greater opportunity for getting the best person for the job by undertaking direct employment (consider urgency, length of appointment balanced against time it will take to recruit etc.).
- OR
- Are more productive and cost-effective (e.g. could you offer the work to existing part-time employees who already undertake the same or very similar duties? If so is this more productive and cost-effective?)
- d) With effect from 1 October 2011 the law relating to agency workers (The Agency Worker Regulations 2011) came into effect giving **all** agency workers' rights from day 1 of their assignment, as well as equal treatment rights after 12 weeks service, these must be complied with fully. See Appendix 1 for more details.
- e) Complete a Permission to Fill form for Head of Service and CMT approval clearly indicating the expected duration of the assignment.
- f) In line with the Preferred Supplies List (PSL), contact the relevant recruitment/employment agencies, in the first instance.
- g) If a manager is unable to source an agency worker/interim via the PSL after exhausting all available possibilities (with reference to the HR Department) they may have to go outside of the PSL and source elsewhere. It is important this is discussed and agreed with the Human Resources Manager. It is a requirement that any further agencies are only engaged for the specific role required after a formal agreement on fees and arrangements has been fully negotiated prior to the acceptance of any applicants presented. In line with the duty to ensure best value for the Council it is imperative that all costs associated with the assignment and any subsequent employment fees are identified and negotiated/minimised e.g. introduction fees, notice provisions.
- h) Ensure the Agency verify that the Agency Workers and Interims pre-employment checks (e.g. DBS if applicable and all safeguarding checks, references, eligibility to work in the UK, qualifications etc.²)

² This will normally be via the supplying agency/ company and will be explicitly confirmed in their terms and conditions of contract.

have been completed

- i) Ensure that the Agency Worker receives an induction and any necessary mandatory training to undertake the role.
- j) Complete the Agency/Interim Workers Record form and return it to HR appropriately authorised by the Head of Service (which will be monitored by HR on Chris 21).
- k) Ensure the New Starter online form on the infonet is completed for all Agency Workers.
- l) Consult with the Head of Service and HR Department in advance of any proposed extension to the contract.
- m) Ensure that all expenditure is correctly coded on Agresso.
- n) Ensure they liaise directly with the Agency with regards to the Agency Worker (i.e. sickness, conduct, absence, annual leave). The Agency is the Agency Worker's employer and must be treated as such. The Line Manager has all day to day management of the Agency Person with regards to their duties.
- o) Inform HR, ICT and Facilities promptly of all leavers, to ensure property passes are returned and IT access is terminated.

5.2 Head of Service

The Head of Service must:

- a) Approve all requests for agency workers and interims prior to any contract commencing, ensure the Permission to Fill is completed and approved by CMT.
- b) Ensure that the Agency/Interim Worker form is promptly completed and returned to HR within a week of the start of assignment.
- c) Ensure their managers follow the requirements to use the Preferred Supplier List in support of best value.
- d) Ensure that all consultants are procured in accordance with the Standing Orders Relating to Contracts (see 4.2 above). This will include ensuring that market testing, tendering, and pre engagement checks are completed.
- e) Ensure that a Declaration of Interest form is completed (if applicable) and forwarded to the Monitoring Officer and HR in all cases where the person is authorised to act on behalf of the organisation.

- f) Review 6 monthly all use of, agency workers, and interims engaged on Council business.

5.3 CMT

CMT will:

- a) Review and approve as appropriate all agency workers and interim managers.
- b) Approve all extensions of agency workers assignments beyond 12 weeks (via the Permission to Fill form).

5.4 Agency workers and interims.

- a) Must comply with all requests for the necessary pre engagement and safeguarding checks.
- b) Must participate fully in induction and training.
- c) Must comply with Council Policies and Procedures.
- d) Must provide as required evidence of professional qualifications e.g. CIPFA, where required by the role.

5.5 Human Resources

- a) Advise on all requests for agency workers or interims, ensure that internal processes have been followed and employees have been considered first.
- b) Review, with employing managers, all terms and conditions of contract for employment/recruitment agencies to ensure the appropriate checks have been carried out.
- c) Manage the PSL and ensure management follow its usage. Where it is agreed to move outside of the PSL, once the PSL has been exhausted to ensure competitive rates have been negotiated and agreed with any relevant additional agencies.
- d) Liaise, as appropriate, with Agencies on requests for information from them relating to terms and conditions of employment (appendix 1).
- e) Record details of all agency workers and interims on Chris21.

5.6 Coding

- a) Agency workers and interims will usually be coded to account number 11003.

- b) Requests for other codes must be made through the relevant Finance Manager.

Policy Author	Natasha Terrell
Approved & Authorised	CMT
Dated authorised	October 2016

Revision History

Date of this revision: October 2016

Date of next planned revision: March 2018

Revision date	Summary of Changes	Changes marked
28 th September 2010	Original document	
16 th May 2011	To reflect changed organisation structure	No
August 2011	Document updated to reflect the changes due to implementation of Agency Worker Regulations 2011, effective 1 st October 2011, revised approval process, change information required for monitoring	No
October 2016	Review the Policy fully, in line with the Councils Contracts Standing Order – removal of consultants sections and focus on Agency/Interims	No

The Agency Workers Regulations 2010 (SI 2010/93)

- 1 The AWR came into effect from 1st October 2011 and gives agency workers the same rights and benefits enjoyed by those directly employer.
 - This means that Agency Workers should receive the basic terms and conditions that are equivalent to a person recruited directly by the Council to do the same job.
 - There is a 12 week qualifying period and some rights from day one.
 - This does not impose employment status between the Agency Worker and the Council

- 2 Where an agency worker completes the 12-week qualifying period for equal treatment, the Council must on request provide the Agency with details of:

- the basic pay/ salary;
- overtime payments;
- shift/unsociable hours payments;
- risk payments for hazardous duties;
- bonus schemes and annual pay increments;
- vouchers that have monetary value; (e.g. childcare or eye tests – not currently applicable to HDC)
- annual leave entitlement (including that in excess of statutory entitlement)

that the agency worker would have received as a direct recruit.

They will also be entitled to equal treatment in relation to:

- working time duration;
- night work;
- rest periods;
- rest breaks

- 3 The basic terms and conditions do not include:

- Occupational Sick pay in excess of the statutory entitlement
- Notice/ redundancy pay
- Occupational pension contributions or scheme
- Council maternity/ paternity/adoption pay in excess of statutory entitlement

- 4 If an agency worker is already working for the Council on 1 October 2011, when the Regulations come into force, the 12-week qualifying period starts to accrue on 1 October 2011. Qualification for rights under the Regulations does not apply retrospectively

- 5 Certain new rights apply from the first day that an agency worker is engaged by the Council. These include

- All toilet and shower facilities in the relevant area of work
- Access to a prayer room;
- Access to car parking
- Access to information on all job vacancies (internal and external)

that the agency worker would have received as a direct recruit.

- 6 Access to vacancies from day one is a new for the Council. At present agency workers can only apply for internal vacancies once they are advertised externally, usually via Harloweb.

The effect of this may be that the Agency may require an introduction fee even if the application is for a completely different part of the Council. This may vary from Agency to Agency and will require hiring managers to check the terms and condition for the Agency. Checking of Agency terms and conditions is already covered in Use of Agency Policy etc., though in practice this rarely happens.

The current position is that decisions on recruitment to vacant posts lies solely with the recruiting manager, with little involvement if any from HR (except for re-deployment cases)

- 7 The 12-week period does not need to be continuous. Certain breaks will pause the time during which the worker accrues service, and he or she will resume accumulating service on return from the break.

Absences during which the qualification period will pause are those due to:

- breaks between assignments of not more than six weeks;
- jury service of up to 28 weeks;
- sickness absence of up to 28 weeks;
- annual leave;
- organisational "shut down" (e.g. The Christmas shut down in the Civic Centre); and
- industrial action.

If an agency worker is absent for a reason related to pregnancy or maternity during a protected period or due to maternity, paternity or adoption leave (which is provided for through his or her relationship with the agency) the 12-week period will continue to accrue throughout the absence period.

Absences that fall outside the above will normally have the effect of breaking service.

An agency worker can have break of no more than six weeks between assignments with the Council without bringing continuity of service to an end when moving from one role to another within the Council.

- 8** Not all existing agency assignments cover vacant roles. In the event of a request for details of basic terms and conditions it may be necessary for line managers to provide more than a just job description, to enable the role to be evaluated by HR. This is necessary to establish the grade/salary of the role.

This is a potential additional administrative burden on both line management and HR. if these types of roles are required.

- 9** After the qualifying period, pregnant agency workers are also entitled to specific rights, including paid time off for antenatal care and, potentially, paid time off during an assignment if it is unsuitable for pregnant workers. It is the agency's responsibility to seek alternative work for the worker if a health and safety risk means that the assignment is unsuitable, and to pay her for the duration of the assignment if no suitable alternative work is available.