

**The following provides a definition of types of staff referred to generically as Consultants, Interims and Temporary Agency Staff for this guide.**

### **Agency workers**

Agency worker is a generic term used to describe any worker that is engaged via an employment agency and could include general temporary workers, interim workers and consultant workers. Agency workers are not required to be available for work, and are free to turn down work if offered by their agency.

The Agency Worker Regulations (AWR) entitles agency workers to the same basic employment and working conditions as if they had been recruited directly (e.g. annual leave, facilities and access to job vacancies) once they complete a qualifying period of 12 weeks in the same role. The additional costs associated with this will normally be included within the rate the agency charges for their services.

WCC's contracted agency provides a managed service for the hiring of temporary agency workers. Temporary workers can be requested via their online systems (PAWS) or 01926 316400 or via email [warwickshire@pertemps.co.uk](mailto:warwickshire@pertemps.co.uk)

If the worker is supplied via WCC's contracted agency, then the agency is responsible for ensuring that the worker has appropriate and lawful tax arrangements (income tax and NICs) in accordance with the IR35 regulations and will make the necessary deductions.

**Managers should not engage an agency worker without going through WCC's contracted agency first. If this route is not successful please contact the Resourcing Service for further support on 01926 418125 or [recruitment@warwickshire.gov.uk](mailto:recruitment@warwickshire.gov.uk)**

### **Interims**

Interim is a term used to define a worker that is hired to cover a substantive post within the Council that is required to carry out a particular professional functional or senior management position within the organisational structure. They usually cover business-as-usual activities/providing cover for a role and are ideally used on a short term basis.

The pay levels for interims that are covering existing roles within the current staffing structure should usually reflect the rates of pay for the role that they are covering. However, depending upon the role and the market availability then day or hourly rates may apply..

Where interims are required for long term assignments then due to the cost implications of using an intermediary agency, managers should give consideration to employing the interim directly on a fixed term contract.

**Managers should not engage an interim via an intermediary agency without going through the contracted agency first. If this route is not successful please contact the Resourcing Service for further support.**

## Consultants

Consultants are usually professionals or specialists that operate via either a consulting firm, private services company or a limited liability partnership. For the purpose of this guide the definition of a consultant is:

*“Any party, whether an individual or a firm, used outside the mandatory temporary staff contract, for a limited period to provide professional advice or services. A consultant transfers skills and/or expertise to an organisation which, it either does not possess in-house, or which require an independent evaluation/assessment to be made”*

Consultants are not held against an existing post on the Council's structure.

Whilst it may be preferable for the same individual to carry out the task, in certain circumstances and if acceptable to the Council, another consultant with the same skill/knowledge level could be provided (substituted) to undertake the same task.

Payment terms for consultants will be based upon the completion of a specific task or activity rather than on a period of time or number of hours/days they complete.

Although there may be a requirement for them to attend council offices on occasions for meetings etc. the consultant would not be expected to carry out the majority of their work on council premises and provide their own equipment..

**Where a consultant worker is hired outside of WCC's contracted agency then they would be need to be covered by Contract Standing Orders (CSO) and therefore it is important that any expenditure in relation to engaging consultants is undertaken in accordance with the Council's "CSO and Financial Regulations" and consultancy agreements are in place prior to the engagement starting.**

## Casual workers

Casual workers are individuals employed and paid directly on WCC claims payroll and should only be used to provide short term cover for short term demands where the cover is critical in order to deliver essential services.

For the purpose of this guide the term "casual worker" relates to those people where there is no "mutuality of obligation". This means the Council is not obliged to offer work. Equally the worker is not obliged to take work. A casual worker should not have an agreed pattern of work of 13 weeks or over as this then gives rise that they are no longer casual and should be employed because they may start to accrue employment rights.

Managers must ensure they have completed the form at the following link when setting up a new casual worker starting a new work that has been recruited locally. This is to confirm all appropriate employment checks have been completed before they are used and can go through the payroll.

[https://warwickshirehr.formstack.com/forms/new\\_starter\\_form\\_hrandpayrolldirect](https://warwickshirehr.formstack.com/forms/new_starter_form_hrandpayrolldirect)

Casual workers should claim for their dates of attendance via claim forms authorised by the line manager and submitted to the HR Service Centre who will deduct the appropriate taxes through payroll. YourHR enables the casual worker to enter and submit these claims online.

### **Secondees (both internally and from external organisations)**

A secondment is the temporary movement or 'loan' of an employee to another part of the Council (internal secondment) or to a separate organisation (external secondment). Typically, secondments last up to twelve months but timescales and hours may vary. There may be occasions where a worker is seconded from another organisation into the Council. In all situations it is advisable that a formal secondment agreement is devised. Guidance should be sought if required from HR Advisory or Legal Services .

### **Self-Employed**

A person is self-employed if they run their business for themselves and take responsibility for its success or failure. Self-employed workers aren't paid through PAYE, and they don't have the employment rights and responsibilities of employees. Self-employed workers are taxed under self-assessment, and are allowed more scope in claiming expenses. The Council is not subject to paying tax and NICs for self-employed workers providing the HMRC deem they can legitimately work as self-employed. This is determined via the result of the [Link to the HMRC Employment Status for Tax Checker](#) . Managers must ensure that they are confident that the individual is genuinely self-employed and should continue to review the arrangement. Documentation confirming the self-employed status and tax responsibility should be retained. If the self-employed person is providing services to the Council, then a consultancy agreement may be needed (see 3.3 above).

Recruitment agencies will not provide workers on a self-employed basis and therefore the Council's Procurement Process (see link in flowchart) should be followed prior to engagement.(e.g. if the total contract value is under £10k, then obtain at least one quotation in writing and raise a purchase order on a gross against which the invoice will be paid). Satisfactory pre-employment checks should be completed and public liability insurance must be checked to be in place and that the self-employed individual has signed the Code of Conduct, also see flowchart. It's recommended that a signed *Statement of Works* is used so that the work undertaken can be performance monitored.

### **Office holders/Public appointments**

An office may be created by a charter, statute or other document which is, or forms part of the constitution of an organisation or which governs its operation'. Roles which come within this definition include panel chairs/members and school improvement partners e.g. Independent Safeguarding Board Chairs.

Historically, these roles had been treated as self-employed, however, following recent HMRC guidelines, all payments to office holders must be treated as employment earnings and processed via payroll as a casual worker for PAYE and NI purposes.

Office holders must claim for their dates of attendance via claims forms authorised by the line manager or budget holder and submitted to the HR Service Centre for payment.

**Managers should ensure that office holder/public appointment do not submit invoices or be paid via the aghorro system as they will come within the scope of IR35 and will need to go through payroll. Advice should be sought from your HR Business Partner.**