



Hiring and managing consultants, interims and temporary agency staff

Overview

1. **Exhaust internal options first** (see 2.0) and for any project management roles, advice should be sought through the Commissioning Support Unit (Business Development & Support)
2. **Not a long term fix** (ideally this should not exceed a period of 12 months) but for short term increases in demand and special projects.
3. All initial requests should wherever possible **use WCC's contracted agency**. This covers a wide range of posts and will satisfy the Council's contracting rules. It will also ensure HMRC tax compliance.
4. For assistance [click here](#) or advice can be sought by contacting WCC's Resourcing team on 01926 418125.
5. If you move away from WCC's contracted agency to recruit temporary staff **you must follow contract standing orders** and **ensure the correct tax status**.
6. All temporary staff (excluding work not normally undertaken by roles within the establishment i.e. new short-term highly specific work) must be recorded on Your HR against the establishment. [Here](#) is a link to the Establishment control process and a [guide of how to do this](#). If your temporary member of staff falls under IR35 please contact the HR Service Centre directly on 01926 738444 to set them up on payroll.
7. As cost centre manager you are responsible for ensuring that whichever route you take the contract (and any extensions) is **tightly managed** to ensure the services are delivered to scope and to budget.
8. See [The Essentials](#) document for a one page user guide
9. Information regarding the use of volunteers is not included in this guidance but can be found [here](#).

1.0 Determining your temporary staffing requirements

Carefully consider the temporary staffing requirements, being clear about deliverables/ outputs, skills required, timescales and budget. This should not be a long term fix but for short term increases and special projects. Further advice regarding how to determine this can be sought from the Resourcing team on 01926 418125.

Developing an outline Statement of Works will help to focus requirements. A [Statement of work](#) is a document that captures the work products, services, work activities and deliverables that need to be supplied under a contract. The document provides clarity between WCC as the contracting organisation and worker regarding performance expectations and is key in monitoring the contract performance.

Once requirements have been determined and costs estimated, you need to assess budgetary implications and ensure relevant approvals are in place (e.g. from the cost centre manager). You will need to ensure you have sufficient establishment in place for temporary staff covering a post in the establishment. If you do not have enough vacant establishment you will need to complete an

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establishment change control form. [Guidance is available here](#). Budgetary advice can be sought from your Directorate's Finance support.

2.0 Consider internal resourcing options

Consider whether using any internal resource, such as additional hours, acting up arrangements, secondments or fixed term contracts could fill the temporary gap. Details should be shared with the redeployment advisor (contactable via hradvice@warwickshire.gov.uk) to see if there is any suitable resource available within the redeployment pool.

Further advice regarding resourcing options and processes can be sought from recruitment@warwickshire.gov.uk.

3.0 Instructing the contracted agency and ensuring necessary arrangements are in place

Once your requirements are clear and it has been determined that an agency worker is the most appropriate solution, then assignment details should be provided to the Council's contracted agency. The agency will either recruit directly or use an approved 'second tier' agency to supply the staff. Second tier agencies are other agency providers who supply staff via the Council's contractor agency, widening the supply pool. A wide range of roles (including *accountancy, finance, legal HR, IT, social care, project management, driving, engineering and admin roles*) can be supplied directly or via second tier agencies. The recruitment and compliance process is the same i.e. to ensure employment checks etc. The contracted agency and their second tier providers undertake all of the necessary employment checks required and ensure the temporary staff code of conduct is signed. The contracted agency will also ensure compliance with HMRC regulations and deduct appropriate tax and national insurance contributions (NICs). Guidance to accessing workers via this contracted agency is available [here](#).

4.0 Accessing approved alternative routes for temporary resources and determining a worker's employment status for tax

Should the contracted agency be unable to provide a suitable worker, discuss with the resourcing team the alternative options for hiring temporary staff outside of the contracted agency/ second tier provider. Options may include:

- i) contracting with an alternative agency that is not currently covered within the existing arrangements;
- ii) contracting directly with an Interim or Consultant (self-employed or personal services company);
- iii) running a recruitment campaign to directly employ an individual on a fixed term contract.

For i) and ii) above there will be a requirement to undertake the following activities outlined [here](#)

Determining a worker's Employment Status for tax and employment law purposes

The contracted agency and their second tier providers will ensure that the appropriate tax and NICs for **all** temporary staff are deducted. Therefore if you are hiring workers from this route there is no requirement to determine a worker's employment status for tax purposes.

However where you move away from the Council's contracted agency arrangements and use an alternative intermediary agency or an individual who operates via a personal services company, you must ensure that the appropriate employment tax status is applied to the candidate that is engaged using the [HMRC Employment Status for Tax Checker](#) and a copy of the check retained. This will ensure that the Council is compliant with IR35 and other tax Regulations and protected from any associated liabilities.

Please see the following guidance on the [requirements of IR35](#) and [the difference between an employee and a worker](#).

Contract Standing Orders

You must also follow contract standing orders – see flowchart below - to ensure that the arrangement complies with the Council's procurement rules.

5.0 Induction:

All *consultants, interims and temporary agency staff* must receive an induction into the job role and deliverables required for the length of contract clarified as per the [Statement of Works](#). Additionally Managers are responsible for ensuring that workers have read and understood and signed (where appropriate) matters outlined [here](#). See flowchart for an induction checklist.

All temporary workers covering a post normally undertaken within the establishment must be added to Your HR against your establishment. [Here](#) is a link to the Establishment control process and a [guide of how to do this](#). If your temporary member of staff falls under IR35 please contact the HR Service Centre directly on 01926 738444 to set them up on payroll.

6.0 Conduct, Attendance and Performance:

The contracts for services of consultants, interims and temporary agency staff employed via a supplier agency are **not** subject to the Council's principles of managing absence and conduct, attendance, capability, or grievances but are subject to a **code of conduct** in box 4 in the Flowchart. Guidance on how to respond to performance issues can be found [via this link](#). However the arrangement is still a contract and contract management arrangements need to ensure that the services are delivered to scope and to budget via regular monitoring of performance.

Upon exit ensure a [transfer of knowledge](#) is captured and that passes and equipment are returned.

7. Consequences of non-compliance

Non-compliance of HMRC regulations in relation to a worker's tax status (i.e. not taking account of the HMRC Employment Status for Tax checker) can lead to significant fines and historical tax liability. Any fines or tax liability incurred as a result of a violation of the procedure will be charged to the service responsible for hiring the worker.

In addition, where workers are not engaged correctly (e.g. the correct documentation/practices are not in place) then the worker may be deemed to be an employee, which will provide the individual with additional employment law rights and could lead to unexpected liabilities for the service area.

Managers should follow this guide/flowchart and make efforts to ensure appropriate internal governance arrangements are satisfied in terms of **approvals, costs being appropriately coded, complying with Contract Standing Orders and the Procurement process and contract monitoring**. All purchasers must follow CSOs.

Not following the requirements set out in this guide may be investigated as a potential disciplinary matter under the Council's Disciplinary Procedure.

A definition of the various types of temporary worker referred to in this guide can be found at the following [link](#).

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