



Agency Workers Policy

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1. Policy Statement

- 1.1. The Council recognises its responsibilities to provide job opportunities to internal and external applicants on a fair, consistent and equitable basis, ensuring that all appointments to the Council are made on merit. However in certain circumstances the Council may need to engage agency staff in order to comply with statutory responsibilities and to meet the demands of the service.
- 1.2. It is the policy of the Council that an Agency Worker will only be used when there is a sound **financial** and **business need** to do so. It is accepted in principle that the employment of agency workers should only be used for short term cover.
- 1.3. The use of agency workers will strictly be on an agency contract basis and such workers will not be City and County of Swansea employees.



- 1.4. Where there is a requirement to engage Agency Workers for short term cover, this is envisaged will be based on the following reasons:- emergency cover, last minute sickness, business continuity, recruitment and retention difficulties. The business need is not generally envisaged to involve Agency Workers to cover for pre arranged leave or long term sickness.
- 1.5. It is the policy of the City and County of Swansea that engagement of Agency Workers should not ordinarily last more than 12 weeks.

2. Scope of Policy

- 2.1. This policy applies to Council services with the exception of schools.
- 2.2. Schools may be covered by this policy by specific acceptance of the governing body.

3. What is an Agency Worker?

- 3.1. An Agency worker will either have a contract for service or a contract of employment with the Agency who finds them work.
- 3.2. The Organisation who hires the Agency Worker pays a fee to the Agency, and the Agency pays the Agency Worker their wages.
- 3.3. If the Council directly employs someone who has previously worked for the Council through an Agency, a fee is payable to that Agency. This is normally a percentage of first year salary.
- 3.4. Managers should not employ workers procured from an agency as a direct employee of the City and County of Swansea before checking with Human Resources and Legal Services.

4. Agency Worker Regulations 2010

- 4.1. Managers need to be aware of the significance of the Agency Worker Regulations 2010 and the impact it will have on the recruitment of Agency Workers.
- 4.2. These regulations came into force on 1 October 2011 and will mean that for the first time Agency Workers will be entitled to **equal treatment** on basic working and employment conditions as if they had been recruited directly by the hirer after **12 weeks** in a given assignment.
- 4.3. 'Equal treatment' means employers must allow Agency Workers:
 - Access to the same pay as a comparable worker doing broadly similar work. The pay will include holiday pay and overtime allowances.
 - Access to the same holidays, working time, overtime, breaks and rest periods as permanent workers
 - Equal access to collective facilities

- Access to information about internal vacancies to give them the same opportunity as other workers to find permanent employment
 - Access to training
 - Equal access to on-site facilities such as child care, canteen facilities and transport services
- 4.4. Employers who try to avoid allowing workers equal rights for example by placing Agency Workers on a series of 11 week contracts or varying their roles every few weeks, will face having to pay out up to £5,000 to the worker.
- 4.5. To provide a greater deterrent in low-value cases there will be a general minimum award of two weeks' pay, subject only to Employment Tribunal discretion if that level of award does not seem reasonable.

5. When to use an Agency Worker

- 5.1. Within services, line managers are responsible for the engagement of Agency Workers. Line Managers must keep detailed records of the necessity and costs of using Agency Workers.
- 5.2. Agency workers are not covered by the Council's [Recruitment and Selection Policy](#).
- 5.3. Managers should not use Agency Workers to circumvent the Council's Recruitment and Selection Process. Any managers found to be using agency workers as a means of avoiding the Council's [Recruitment and Selection Policy](#) may be subject to disciplinary proceedings.
- 5.4. It will be the sole decision of the Head of Service, following consultation with Human Resources, as to whether or not an Agency Worker can be used within the Council.
- 5.5. Agency staff will only be used if there is sufficient provision in the staffing budget and to avoid service delivery being affected. **On no account will agency staff be used when a Section has a full and available complement of staff, except where this is to manage peaks in a fluctuating workload.**
- 5.6. Line Managers must keep detailed records of the use of Agency Workers.

6. Policies

- 6.1. Managers should make agency workers aware of the Council's policies and should follow the guidance contained within them.
- 6.2. Particular regard should be given to the [Equality Policy Statement](#), [Alcohol and Drug Misuse](#), [Harassment and Bullying Policy](#), [Health and Safety Policy](#) etc which are contained in the Staff Handbook.

7. Obtaining permission to use an agency worker

- 7.1. The use of an Agency Worker must be the most appropriate course of action.
- 7.2. All managers have a responsibility to business manage and find the most appropriate type of worker.
- 7.3. The line manager must consider whether existing staff can cover the duties of the vacant post. Before a manager makes a request to use an agency worker, they should consider whether the work could be appropriately undertaken by;
 - A member of staff who is absent from their substantive post due to sickness but may be able to carry out the duties required
 - A member of staff who is not receiving enough work to fulfill their contracted hours in their substantive post.
 - Better distribution of the workload between current staff
 - A member of staff 'acting up' into the post
 - Offering a secondment opportunity
 - Identifying suitable staff on the Councils redeployment list, or
 - If the task is going to take 12 weeks or more, consider recruiting externally on a fixed term contract basis.
- 7.4. The Line Manager wishing to use an Agency Worker must therefore ensure they have budgetary provision from the applicable Accountancy Service Group within Finance.
- 7.5. Once this permission is given, a [request](#) must be made to the relevant Head of Service, in writing, outlining a sound financial and business need for needing an agency worker. The request must include:
 - The reasons why an Agency Worker is needed and why the work is unable to be completed internally
 - What the implications will be for the Council in performance and monetary terms if an Agency Worker is not used.
 - How long the assignment will last (intended end date)
 - The budgetary cost of using an Agency Worker
- 7.6. This request must be approved by the relevant Head of Service and given to the Line Manager in writing.

8. Exceptional circumstances / Emergency situations

- 8.1. It is only in exceptional circumstances or emergency situations that an agency worker can be obtained at short notice without prior permission from the Head of Service.
- 8.2. This will be in cases where there is a **statutory obligation** that requires a **certain number of staff** to deliver a front line service.

- 8.3. A circumstance is defined as 'short notice' if it arises the day before or on the day.
- 8.4. The permission procedure in [section 7](#) can only be overlooked in situations where the Council would fail to meet these obligations. The relevant Head of Service must be informed at the first opportunity that an agency worker has been placed in the Council.
- 8.5. If the circumstances prompting the engagement of an agency worker extends beyond four consecutive weeks from when the need arises, then the relevant permission procedure as outlined in [section 7](#) needs to be followed.

9. Pre-employment checks

- 9.1. Once permission has been given, the Line Manager is responsible for contacting agencies and for interviewing and assessing agency workers where appropriate.
- 9.2. It is the Line Manager's responsibility to ensure that the required vetting has been undertaken by the agency and no agency worker will commence employment until that they receive written confirmation that the following have all been established:
 - a CRB check,
 - employment references and
 - Social Care Registration (where appropriate)
- 9.3. Prior to the engagement the Line Manager must ensure that the Agency is fully briefed on the Council's requirements of the role so that the Line Manager is satisfied that the proposed worker is fully competent, experienced and appropriately qualified.
- 9.4. It is the responsibility of the line manager to check whether a CRB check is required and the appropriate level i.e. standard or enhanced. This is a mandatory field when completing the ["Engagement of an Agency Worker" pro forma](#). Line Managers are also responsible for ensuring that Social Services Agency Workers are checked against the "List of Concern" which is held by the HR Operations Team.

10. Recruitment Process

- 10.1. Approval from the Head of Service must be obtained.
- 10.2. Any corporate spending restrictions in force at the time a purchase order is raised for an agency worker/s must be complied with. This clause shall also apply where staff are adding to an existing purchase order.
- 10.3. The Council's Contract Procedure Rules must be complied with.

- 10.4 Only the agencies awarded on the City and County of Swansea Corporate [Employment Agency Framework](#) are to be used.
- 10.5 The Line Manager will detail to the agency the nature of the placement, whether it is *an Urgent Category A* (response within 3 hours) or *Standard Category B placement* (response within 2 days). The Council may also at its discretion agree delivery lead times with the service provider that are outside of those specified under the urgent and standard categories.
- 10.6 The Line Manager must provide the Agency with an official ISiS Purchase Order, after confirming the details with the agency as per the “Engagement of an Agency Worker” pro forma. [For guidance on how to create a purchase order in iSIOP please refer to training link or call the helpdesk.](#)
- 10.7 The order will require the following details;
- Description
 - Quantity – total hours to be worked for the period employed,
 - Unit of Measure (UOM) - Hourly
 - Supplier Code – post number appointed by the contracts office (automatically entered)
 - Due date – start date of the agency worker
 - Price – the hourly rate (automatically entered)
 - Booking Reference – as per the “Engagement of an Agency Worker” pro forma
 - Name of the Agency Worker
 - Arrangements for travelling expenses
 - Any other costs
- 10.8 The official purchase order must be completed with the contract details and forwarded to the agency within 3 days of the arrangements being made.

11. Payments Procedure

- 11.1. It is usual practice for agency workers to use a timesheet to record hours worked, which is then authorised by the manager. This will be carried out weekly.
- 11.2. Time Sheets must then be used for receipt purposes on ISiS. The line manager must record the relevant number of hours against the purchase order to ensure the smooth payment of the invoice.
- 11.3. If the purchase order is not receipted this will cause a delay in the payment of the invoice and the requester (person who created the purchase order in ISiS) will receive an invoice on hold notification to prompt him/her to receipt the order. Please refer to the [iSIOP training information](#) on how to receipt goods in ISiOP.
- 11.4. The Central Payments Team will process invoices that bear the appropriate official ISiS purchase order number. Payments will be made in the same way as all other invoices provided within 30 days.

12. What happens when the original contract assignment should be coming to an end?

- 12.1. Both the Head of Service and line manager should be aware of the intended duration of the agency workers employment in the Council.
- 12.2. Two weeks before the intended end date, the line manager must re-evaluate the agency workers position and consider if there is a 'need' for the assignment to continue. If there is a clear service and business need for the arrangement to continue then the line manager will need re-approval from the Head of Service, following the procedure outlined in [section 5](#).
- 12.3. Therefore the Line Manager must ensure they have continuing budgetary permission from the applicable Assessment Service Group within Finance.
- 12.4. Once this permission is given, a request must be made to the relevant Head of Service in writing outlining:
 - The reasons why an Agency Worker is still needed and why the work is unable to be completed internally
 - What the implications will be for the Council in performance and monetary terms if an Agency Worker is not used.
 - How long the continued assignment will last
 - The budgetary cost of using an Agency Worker taking into account that after 12 weeks from the date of the original assignment the agency worker will have acquired the 'equal treatment' rights discussed in [4.3](#).
- 12.5. This request must be re-approved by the relevant Head of Service and given to the line manager in writing.

13. Policy Monitoring

- 13.1. The Council will monitor the application of this policy and has discretion to review it at any time through the appropriate consultation mechanisms.
- 13.2. Responsibility for the implementation, monitoring and development of this policy lies with the Head of Human Resources. Day to day operation of the policy is the responsibility of nominated officers who will ensure that this policy is adhered to.

| Version Number | Details of Change | Date |
|----------------|--|------------|
| 3 | Reference to Engagement of an Agency Worker Pro Forma on iSIOP in Section 10.1 removed as this is not available Additional Paragraph 10.2 included. | March 2017 |