



## Report of the Director of Corporate Services

### Governance and Audit Committee – October 2023

## Employment of Agency Staff - 2023 Update

<b>Purpose:</b>	To provide an update from the 2021 Employment of Agency Staff Audit report.
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<b>For Information</b>	

### 1. Introduction

- 1.1 As a result of an internal audit on the Employment of Agency Staff carried out in 2021/22, an assurance level of “Substantial” was given.
- 1.2 At the September 2022 Governance and Audit Committee meeting an update report was provided which addressed the issues raised by the Committee as a result of the 2021/22 audit report.
- 1.3 In the September 2022 meeting the following areas of discussion arose:
  - *The number of Agency Workers being employed in Waste, the continuous need to maintain frontline services within that service area and recent recruitments made by the service.*
  - *Provision of details of agency workers employed for more than 12 months in a future report.*
  - *Provision of details of high usage of agency workers against high sickness levels in a future report.*

- *Provision of agency worker figures from the amalgamated Parks and Cleansing Services.*
- *The use of contractors instead of agency workers.*
- *The need to hire agency workers to complete seasonal jobs due to the lack of candidates.*

## **2. Actions Undertaken**

- 2.1 The Agency Worker Policy was updated in 2021 to guide managers on the appropriate engagement of agency workers in their respective areas and has been reviewed in 2022/23. It will be further updated in advance of April 2024 when the new agency contract will be in place.
- 2.2 HR&OD continue to send reminders to Managers to review the engagement of agency workers who have been engaged for over 12 months and Managers are required to confirm that it is still appropriate for the Council to engage an agency worker rather than employ someone in the post.
- 2.3 The engagement of non-corporate contracted agencies has been addressed and all managers via a briefing note have been reminded of the appropriate use of agency workers and that approved suppliers only must be used, unless there are exceptional or emergency circumstances/situations which is authorised by Procurement.
- 2.4 In relation to “*contract spend with companies providing agency workers*”, a competitive re-tender exercise for the provision of Agency Services has been advertised openly on Sell2Wales and the evaluation exercise has been completed, with value for money considerations such as rates offered forming part of the assessment criteria. After the award has been made the new contract will be in place from April 2024.
- 2.5 *The number of Agency Workers being employed in Waste, the continuous need to maintain frontline services within that service area and recent recruitments made by the service.*

Please see the table in section 3 and commentary in section 7.2 of this report.

- 2.6 *Provision of details of agency workers employed for more than 12 months in a future report.*

Length of time spent on agency fluctuates on a frequent basis and movement is continuous throughout the year. It is difficult to therefore maintain stability in demographics of agency usage. However, there are clear expectations and processes in place that HR support managers with in challenging the use of agency where appropriate and a move to contracted employment is encouraged where there is evidence to suggest that the nature of the work is ongoing.

2.7 *Provision of details of high usage of agency workers against high sickness levels in a future report.*

Where sickness occurs in the Social Services and Place directorates there will be a great number of posts that require immediate cover to continue to provide services to residents and the need for agency that can work from day one of absence is unavoidable. There is currently a challenge with recruiting to fixed term contracts that are short in duration and applicant numbers for these types of contracts can be very low, or in a number of cases, no applications are received. The labour market suggests that permanent employment is preferential in the economic climate and the unstable nature of fixed term employment is causing difficulty in filling key posts when funding may not continue. Consequently, agency demand increases as an alternative way of identifying resource. Section 3 of this report shows the breakdown of agency in each directorate and a separate report on sickness absence is also being presented to Governance and Audit Committee which will align with this report. The sickness absence report will show that most of the absence falls within the Social Services and Place directorates. The table in section 3 shows that likewise, most of the agency use corresponds with the sickness absence levels and falls within Social Services and Place.

2.8 *Provision of agency worker figures from the amalgamated Parks and Cleansing Services.*

Please see the table in section 3 of this report.

2.9 *The use of contractors instead of agency workers.*

IR35 legislation requires employers to ensure that appropriate checks are in place to ensure HMRC compliance where contractors are used. There are currently no contractors under IR35 being engaged by the Council but some work may be subcontracted where agency workers cannot be sourced e.g. toilet and beach cleaning as referred to in section 7.2.

2.10 *The need to hire agency workers to complete seasonal jobs due to the lack of candidates.*

Please see the commentary in section 7.2 of this report. A lack of candidates is prevalent with employment that is not permanent and we are seeing this with fixed term contracts as well as seasonal work. The current economic climate is contributing to the demand for stable employment in the labour market and as such, more flexible, short term opportunities are not perceived in as attractive a way as permanent employment.

### **3. Agency Worker Numbers**

Total number of agency workers engaged through the corporate contracted agencies (Staffline and RSD Social Care), and reflecting the Governance and Audit Committee request are now detailed monthly as follows;

Directorate	Service Area	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23
Place	Corporate Building Services	6	6	6	6	6	3	3	3
	Cultural Services	5	5	4	5	5	5	0	2
	Highways & Transportation	14	13	12	18	17	18	19	19
	Housing & Public Health	0	0	0	0	0	0	3	4
	Planning & City Regeneration	3	3	3	3	3	3	3	3
	Property Services	0	0	0	0	0	0	0	0
	Waste, Parks and Cleansing	119	114	110	109	114	115	109	103
	<b>PLACE TOTAL</b>	<b>147</b>	<b>141</b>	<b>135</b>	<b>141</b>	<b>145</b>	<b>144</b>	<b>137</b>	<b>134</b>
	Variation on last year	-26	-23	-24	-14	-12	-15	-2	-22
Social Services	Adult Services								
	Child & Family Services								
	<b>SOCIAL SERVICES TOTAL</b>	<b>188</b>	<b>191</b>	<b>190</b>	<b>176</b>	<b>193</b>	<b>159</b>	<b>122</b>	<b>124</b>
	Variation on last year	181	186	186	143	168	117	61	49
Corporate Services	Communications & Marketing	1	1	1	1	1	1	1	0
	Digital and Transformation	1	1	1	1	1	1	0	0
	HR & Service Centre	0	0	0	0	0	0	3	3
	Legal & Democratic Services	0	0	0	0	0	0	0	0
	<b>CORPORATE SERVICES TOTAL</b>								
Education		0	0	0	0	0	0	0	
Finance		0	0	0	1	1	0	0	
<b>GRAND TOTAL</b>		<b>337</b>	<b>334</b>	<b>327</b>	<b>320</b>	<b>341</b>	<b>305</b>	<b>263</b>	<b>261</b>

\*Awaiting last quarter data from the agencies for June-September

February 2023 was the month where the greatest amount of agency work was required, with 341 engagements. There has been a decline each month since, reducing to 261 by May 2023. This would be explained by the need to cover front line services in social care during the Winter period.

Social Services usage peaked in November and December 2022 at 193 agency workers for those months, but this has steadily declined each month since and by May 2023 was at 124 agency workers.

The numbers engaged through agency in Place have decreased when compared to the same period last year, averaging 140 compared to 170 in 2022/23.

The increase in usage throughout the latter part of 2022 and the beginning of 2023 is in part due to labour market challenges with fixed term recruitment. Permanent employment is far more attractive to job applicants given the current economic climate and fixed term roles, particularly those of less than 12 months' duration, are becoming increasingly challenging to fill. The only alternative to contracted staff is to source agency workers to ensure seamless service delivery for residents.

#### 4. Agency Worker Cost

A comparison of agency spend comparison from 2021/22 to 2022/23 is shown in the table below:

21/22	Annual spend (excl VAT)	22/23	Annual spend (excl VAT)
Aled Simons	1,680.00	Aled Simons	3,420.00
Wellell UK Ltd	14,730.00	Wellell UK Ltd	23,516.00
Beverly Goold	17,004.00	Beverly Goold	19,217.00
Manpower UK Ltd	24,596.00	Manpower UK Ltd	29,370.00
Steddy Ltd	48,432.00	Steddy Ltd	62,708.00

Ace Social Work Ltd	80,740.00	Ace Social Work Ltd	126,115.00
Hays Specialist Recruitment Ltd	216,064.00	Hays Specialist Recruitment Ltd	523,041.00
RSD Technology Ltd	240,029.00	RSD Technology Ltd	596,432.00
RSD Social Care	922,490.00	RSD Social Care	1,240,094.00
Prospero Group Ltd	485,659.00	Prospero Group Ltd	10,309.00
Staffline Group Plc T/A Select Appointments Ltd	3,807,267.00	Staffline Group Plc T/A Select Appointments Ltd	3,858,151.00
<b>Total Agency spend 21/22</b>	<b>5,777,951.00</b>	<b>Total Agency spend 22/23</b>	<b>6,366,258.00</b>

The data shows that there has been an increase in agency expenditure when compared to the same period by £588,307. This is in line with expected rising costs due to inflationary pressures felt in 2022 and does not show any noticeable growth of usage, but a stable position compared to the previous year.

The largest total spend continues to be with Staffline and RSD Social Care.. The majority of providers have risen with expected levels given inflationary pay rises and the overall increase is not out of kilter with the record levels of inflation experienced during 2022/23.

## 5. Compliance

Heads of Service are expected to be compliant with the measures indicated in the Audit Report as follows:

- Confirmation of budget provision should be obtained and retained for all agency staff appointments.
- HoS approval should be obtained and retained for all appointments of agency workers by line managers.
- Confirmation of appropriate pre-employment checks should be obtained from the Agency and retained by the line manager.
- Confirmation of further budgetary provision should be obtained and retained when agency workers contracts are extended
- Written requests should be submitted to HoS for re-approval when agency workers contracts are extended. This should be in advance of the contract being extended.
- Agency workers engaged by the Council for more than 12 weeks should be made aware that they are entitled to equal treatment on basic working and employment conditions.

## **6. Social Services Directorate Feedback:**

The Directorate remains compliant in all areas and the Social Services Workforce Lead has Directorate oversight and governance over the engagement of Agency Workers.

Agency worker use remains high across Residential Care due to the impact of workforce instability and this is reflected in the Agency numbers contained in the table in Section 3.

## **7. Place Directorate Feedback;**

### **7.1 Waste, Parks and Cleansing**

Confirmation has been received that this Service area continues to remain compliant in all areas.

Agency staff are engaged for one of the following reasons:

- i. To cover temporary absences of employed staff, such as sickness and leave, where there is a need to maintain the level of resource
- ii. To cover temporary positions where the use of agency is considered to most appropriate method, often where the length of need is unknown, or temporary/seasonal recruitment has been unsuccessful.
- iii. To cover permanent positions pending recruitment

It is intended that Agency staff will continue to be used, where most appropriate, until either recruitment into permanent positions has taken place, or permanent/seasonal/temporary recruitment becomes the most appropriate way to fill a role.

Alternative options to minimise use of agency staff continue to be explored and used, and is demonstrated as follows:

- i. We have recruited 102 new starters and Trainees over the last 5 years in Waste, Parks, & Cleansing
- ii. We have trained and given Relief Driver roles to 15 Waste Operatives as cover for Driver absences to avoid the need for agency drivers
- iii. We are using contractors to supplement toilet and beach cleaning to avoid the use of agency.

HoS approval is obtained and retained for fixed term placements. There is ongoing approval to request agency resources on a daily basis to ensure that the staffing levels meet the requirements to deliver the service on a daily basis. Some of these requirements are not known until 6am on the day, due to last minute 'no shows'. The new draft of the Agency Policy reflects this. The Waste Service is considering seeking approval to recruit over and above the required structure to create a pool of staff to cover an expected minimum daily level of absence.

Confirmation of budget provision is obtained and retained for fixed term placements. There is an allocated budget in Waste Management to cover an agency requirement to maintain the staffing structures required to provide the service every day.

Agency workers engaged by the Council for more than 12 weeks are made aware by their Agency that they are entitled to equal treatment on basic working and employment conditions.

## **8. Other Service areas**

Compliant in all areas.

## **9. Role of Staffline**

Staffline provide the following support to work in partnership with the Council to ensure compliance;

- Provision of a policy booklet to all Agency Workers which provides details on Agency Workers Regulations and their rights.
- Maintaining a record of all start dates of all Agency Workers.
- After 12 weeks, move workers to the enhanced pay rate and enhanced rights.

## **10. Future agency contract arrangements**

A procurement exercise has been carried out in 2023/24 which invited tenders for a new 5-year contract. The evaluations have been completed and the award will be made very shortly. A range of criteria were included in the assessment process including value for money and the new contract will be in place from April 2024. This will mean the Council has assessed the most appropriate agency provision for the next 5 years and an opportunity to again remind managers of the correct use of agency workers will be cascaded in advance of the new contract being in place.

## **11. Integrated Assessment Implications**

11.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

- Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 11.2. The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 11.3. Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 11.4 There are no direct implications associated with this report.

## **12 Financial Implications**

- 12.1 There are no financial implications other than those set out in the body of the report.

## **13. Legal Implications**

- 13.1 The Agency Workers Regulations Act 2010 provide important rights for agency workers, concerning their basic working and employment conditions, from day one and after a 12-week qualifying period. These rights are reflected in our Policy.
- 13.2 There are no other legal implications other than those set out in the body of the report.

**Background Papers:** None.

**Appendices:** Appendix A - Integrated Impact Assessment Form