

Report of: The Director of Human Resources

Meeting of: Policy and Performance Scrutiny Committee	Date 3 December 2020	Agenda item	Ward(s) All
Delete as appropriate		Non-exempt	

Subject: Islington Council's use of Agency Workers, Interims and Contractors

1. Synopsis

- 1.1 This report provides the Policy and Performance Scrutiny Committee with an update on the 2 July 2020 report on the Council's contract with Reed for the supply of agency workers, interims and contractors (collectively known as contingent workers).
- 1.2 The report also provides an update on contingent worker usage under the Local Government Resourcing Partnership contract and other contracts outside of the Reed contract.
- 1.3 The Council spend for October 2020 is now the lowest since January 2020. To address Covid, there was an increased need for agency workers in April to July 2020, which increased expenditure compared to the previous year; spend on agency workers is now reducing. Since the last report to the Committee, all directorates with the exception of Housing have reduced agency spend and agency headcount. The numbers of agency workers/interims on rates above £450 a day has reduced from 41 to 29 – a reduction of 29%.
- 1.4 Currently, agency workers comprise 10.7% of the workforce, which places Islington in the first quartile (top performance) for all London boroughs. The current council target is 10%.
- 1.5 There are challenges in reducing and maintaining a reduction in agency expenditure. Agency hourly rates have been rising for over a year for many job categories and recruiting to permanent roles has been more difficult during Covid, with potential candidates reluctant to move to new roles.

2. Recommendations

- 2.1 To note the information provided in this report and the progress to:
- a) Reduce the cost and use of contingent workers
 - b) Update on the strategies for monitoring and reducing usage and costs

3. Background

- 3.1 Reed acts as a Managed Service Provider (MSP) for the supply of contingent workers for the Council.
- 3.2 The council also engages contingent workers through the Local Government Resourcing Partnership contract and other framework contracts for the supply of senior contingent worker roles.
- 3.3 Definitions of the different categories of contingent workers including the IR35 Status are included in **Appendix 1**.
- 3.4 **Appendix 2** provides information on governance arrangements including arrangement for those contracts outside of the Reed framework.
- 3.5 Contingent workers (interim, contractors, and agency workers) form a necessary part of our workforce where specialist skills or short-term, front-line cover for our services are required. It is recognised however, that this spend and thus the numbers of agency workers engaged needs to be reduced if we are to reach our Council target of no more than 10% of the workforce being agency workers.
- 3.6 Currently, agency workers comprise 10.7% of the workforce, which places Islington in the first quartile (top performance) for all London boroughs. There are four boroughs (all outer London) and the City of London with lower percentages. The median for London is 13%.

4. Update on the Reed Agency Contract spend and agency worker numbers

- 4.1 **Appendix 3a** provides an update on the monthly spend for contingent workers by directorate for the period 1 November 2019 to 31 October 2020.

For comparison, the total spend for the previous 12-month period (1 November 2018 to 31 October 2019) is included. There was an increase in expenditure of £1.9M compared to the previous 12-month period.

There were however, reductions in spend of £284K in Resources and £50K in Housing.

When the months of April to July for 2019 and 2020 are compared, however, the effect of Covid has had an impact. There has been a need for additional short-term cover required to undertake additional duties and provide cover for staff that were shielding, more overtime undertaken by agency workers and more hours worked at enhanced rates. During this 4-month period, just under 27,000 extra hours were worked at higher average hourly rates on basic hours and higher levels

of enhanced overtime rates. This explains a rise in overall agency spend over these months compared to the previous year.

April to July 2019 spend	April to July 2020 spend
£7.6M	£8.7M

Covid has also affected permanent recruitment, with a reduced number of posts filled over the summer months. Recruitment activity has now increased with a large 'temp to perm' recruitment campaign about to start in Environment and Regeneration and individual 'temp to perm' campaigns in other directorates. This is also evident in the fall in the number of agency workers shown in Appendix 3C.

4.2 Also included in **Appendix 3a** is the spend by category of contingent worker.

- PAYE – Pay as You Earn - for workers directly employed by recruitment agencies
- PSC – Public Service Companies – for interims and contractors employed outside of IR35, with payments made to their Limited Company
- Umbrella – for workers paid through Umbrella companies, this includes agency workers and interims inside of IR35

4.3 **Appendix 3b** shows the average weekly spend for directorates across the last 12 months with a comparison with the weekly average spend for the previous 12 months. As expected with an increase in overall spend noted in Appendix 3a, the average weekly spend for the last 12 months is higher than for the previous 12 months, £480K compared to £442K.

The average weekly spend has however, reduced by £5,292 for Resources and by £892 for Housing over the last 12 months.

Over recent months there have been positive trends:

- The lowest weekly spend in People Services in October 2020 since January 2020
- three consecutive months of falling spend in People Services
- five consecutive months of falling spend in Environment and Regeneration

4.4 The number of agency staff by headcount listed at a directorate level can be found at **Appendix 3c** for the last 12-month period. The appendix shows that numbers of agency staff have fallen from 631 in June 2020 to 557 in October 2020, with large reductions in Environment and Regeneration (85) which are expected to fall further with 'Temp to Perm' recruitment about to commence.

4.5 Increases in hourly rates

Across the Council, the hourly rates have been increasing over the last 12 months by 7.7% from an average of £20.98 per hour to £22.60 per hour, albeit there have been monthly fluctuations.

The reasons for the increases in the hourly pay rates for agency workers are:

- Pressure on day rates caused by demand for contingent workers due to Covid

- Changes in composition of the agency workforce with more agency staff working for Islington at higher bandings than previously
- Market conditions have pushed up day rates for some roles. We match the pay scale for permanent employees but sometimes do not appoint at the bottom of the scale in order to secure the recruitment of agency staff

4.6 Average Reed agency worker tenure by weeks

The average tenure of agency workers over the last 12 months has varied between 50 and 52 weeks, so not the fluctuations seen in previous 12-month comparisons. The average tenure should however be reduced through the quicker replacement of agency workers by permanent employees. The Council has agreed a principle that the tenure for agency workers should not exceed a year.

5. Update on contingent worker spend outside of the Reed MSP contract

- 5.1 The council also engages contingent workers outside of the Reed framework; this can be through the Local Government Resourcing Partnership or other direct contracts. These contracts are paid through the council's invoice payment processes.
- 5.2 The table shows the spend on contingent workers outside of the Reed contract for 19/20 and 20/21 at month 7.

Contingent worker spend outside of Reed MSP contract		
Financial year	19/20	20/21 at month 7
Total spend	£2,968,134	£1,785,626

- 5.3 Based on the current spend for 20/21, the projected spend would be over £3M by the end of the financial year. There have however, been significant reductions in the spend and the numbers of agency/interims employed outside of the Reed contract, since the last report to the committee, e.g. the spend in October 2020 was £196K compared to a spend of £326K in June 2020.
- 5.4 At the beginning of the financial year, there were 22 agency workers engaged outside of the Reed contract above £450 a day. By the time of the last report, this had reduced to 17. At the time of reporting there were eleven agency workers engaged outside of the Reed contract at above £450 a day.
- 5.5 During 19/20 and the first quarter of 20/21 there were several senior roles covered by interims. Permanent employees have now filled all of these roles and it is therefore anticipated that spend on this category of contingent worker will reduce further during 20/21.

6. Agency workers/interims engaged at over £450 per day

- 6.1 Following initial discussions with the committee chair and vice chair, this report includes a focus on the contingent workforce whose daily charge rate is £450 or above. The charge rate includes the daily rate paid to the agency worker as well as overheads such as any agency fee. Depending on the category of worker as set

out in 4.2, it can more explicitly include National Insurance, an allowance for holiday pay under the working time regulations and pension. Therefore a £450 charge rate would equate to a salaried employee of c.£70,000 (PO11 equivalent).

- 6.2 Since the last report to the Committee on 2 July, Council officers have taken steps to reduce the number of high cost agency/interims engaged outside of the Reed contract and those engaged through the Reed contract. Numbers have been reduced by the recruitment of permanent employees, conversion to fixed term contracts where appropriate to retain specialist skills for a limited period and through negotiated reductions in day rates and charge rates. The table below shows the progress made.

Sample Date	Reed agency workers	Other agency workers	Total
July 2020	24	17	41
November 2020	18	11	29

Further day rate and charge rate reductions are being progressed.

7. Reducing agency spend

7.1 Engagement of contingent workers

It is recommended that all contingent workers are engaged through the Reed framework to allow appropriate analysis and management of contingency workforce spend. However, there may be some exceptions where specialist roles cannot be filled using the Reed framework e.g. IT specialists.

The Local Government Resourcing Partnership can be used in special circumstances for interim recruitment to senior roles, with appropriate business case and governance in place.

7.2 Temp to Perm

We have introduced guidance to support 'temp to perm' recruitment in departments. This process was underway in some departments but there have been some delays due to Covid. The HR Resourcing team are supporting departments and directorates to manage this. There is a large recruitment exercise about to begin in Public Realm, which could reduce the numbers of agency staff by up to 20 in one campaign. Temp to Perm recruitment is also underway in Resources, Adult Social Care and in Children's Services.

7.3 HR support to Departments

HR/departmental surgeries are taking place to explore alternatives to agency staffing. In addition, HR are attending Departmental Management Teams where the use of agency and contingent workers is a standing item. This analysis and challenge of current engagements will be undertaken across the board to drive reduction.

Where agency workers are used to cover hard-to-recruit posts, directorates will work with HR on alternative strategies to develop a sustainable workforce.

Where agency workers are engaged, recruitment on a permanent or fixed-term basis will normally be undertaken concurrently, except when the need is for periods shorter than three months.

7.4 Overtime spend

Overtime spend including that of agency staff is currently being reviewed by directorates with the support of HR.

7.5 Client Supplied Candidates

There are reduced margins for Client Supplied candidates. If managers want to request a candidate who has worked for Islington previously, they do not have to go back through the original agency. Workers can join the Client Supplied pool.

Benefits are;

- Knowledge of the skills and abilities of the worker
- No interview and selection process
- Savings on charge rates

8. Implications

8.1 Financial implications:

The attached report includes the current spend on agency workers for 2019/20 and 2018/2019.

8.2 Procurement Implications:

None, as no changes to the contract with Reed Talent Solutions or the LGRP contract.

8.3 Legal Implications:

None, as no implications for agency worker regulations.

Signed by 

Director of HR

Date: 25 November 2020

Appendix 1 - Terminology

Consultants

Consultants are appointed for specific time-limited project(s) to provide expertise and/or advice. Consultants are appointed for a project with a specific brief and cannot be moved from task-to-task by the organisation that engages them.

Consultants do not have any postholder responsibility for the organisation who contracts them and do not manage staff for the organisation. Consultants do not have decision-making authority. Consultants agreements are contracts for service i.e. supplier contracts. Consultants may undertake the work themselves or engage such competent and capable additional workers as required to deliver the project outcomes within their fixed fees. Consultants are not directed, but instead establish when, how and where to undertake the work to achieve the desired outcome. Consultants are responsible for their insurance, the primary equipment they need and rarely have set hours. They must rectify any mistakes or unsatisfactory work at their expense.

Interims

Usually people who are described as 'interims' are covering senior roles in an organisation and are appointed at times of change for example when a senior manager leaves, when a new role is created, or when a part of the organisation is going through change.

Their appointment is intended to give the organisation time to recruit to the role on a permanent basis.

Interims are also engaged to respond to a specific project need i.e. unforeseen circumstances such as the Covid-19 response.

Contractors

A contractor can be:

- self-employed
- a worker or an employee if they work for a client and are employed by an agency

Independent contractors are self-employed workers who provide services for an organisation under a contract for services. Independent contractors are not employees and are typically highly skilled, providing their clients with specialist skills or additional capacity on an as needed basis. Contractors usually have specific niche skills.

The terms consultant interim and contractor are often misused with the distinction between the interim and contractor often being blurred.

Day rates

Day rate fees will vary dependent on;

- Duration of the assignment
- Location of the work and or travel requirements
- Experience & specialism
- Nature of the assignment

Charge rates

The overall rate for the assignment, which is the day rate plus the agency margin, NI, any overtime worked, pension, framework costs. The agency margin varies according to the type of role and the availability of candidates in the market.

IR 35

Changes to legislation came into effect on 6th April, 2017, meaning that responsibility for assessing the tax status of all contingent workers (consultants/interims/agency workers) operating through a limited company for public sector organisations shifted from the worker to the engager, i.e. the council.

The changes to the regulations were designed to provide clarity, on a case-by-case basis, as to whether a contingent worker is undertaking a role in circumstances that are similar to those of an employee, or if they are more closely aligned to someone who is self-employed.

Discussions took place with the senior leadership team in 2017 regarding the impact of the changes and the following principles were agreed:

- People working in the public sector should pay the appropriate amount of income tax and National Insurance
- The council, in agreement with the other London boroughs will be resisting pressure to raise rates of pay.

The Council uses the HMRC Assessment Tool to check employment status for tax.

Appendix 2 - Governance of agency workers/interims

Temporary Agency workers

Temporary agency workers via the Council's managed service arrangements do not require a full business case. Temporary agency workers via Reed are employed by their respective agencies and assigned to work at the Council (they are not 'employed' by the Council i.e. not employees).

Interims and Consultants

Interims and consultants are appointed where there is a temporary and urgent need for a skill set not available in the existing workforce either due to lack of capacity or expertise. Each engagement requires a business case demonstrating the need and value for money and are set up utilising contracts for services (supplier contracts), as opposed to contract of service (employment contracts). This makes these appointments subject to the Council procurement requirements and governance.

Interims and consultants hired directly from a recruitment agency (outside of the Reed contract) are also subject to the Council procurement required.

The majority of candidates recruited outside of the Reed contract are procured through the Local Government Resourcing Partnership contract, which requires a full business case to be completed.

In submitting the business case, certain audit checks (e.g. DBS status) and HMRC checks (e.g. IR35) must be completed. The Council has a legal obligation as the end user to undertake these checks. Copies of checks must be maintained locally and sent to HR.

All engagements over £5,000 in value are recorded on the corporate contracts database register (CCDR). We need this for reporting purposes, transparency publications and to deal with queries as and when they arrive.

The procurement route and respective governance depends on the aggregate whole life value.

Individual contracts for services are signed by two authorised officers without a conflict of interest, up to £500k in value, authorised to that amount.

Interim and consultant contracts require a business case when the contract is extended.

Appendix 3a - The monthly and annual spend on contingent workers by directorate for November 2019 to October 2020 with spend by category of worker and payments made to Reed and the supplier agencies (Reed Contract)

	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Last 12 months	Previous 12 months	increase/ decrease
Turnover (Invoice Value Excluding VAT)															
Council Agency Total	£1,837,344	£2,102,654	£1,738,337	£1,986,118	£2,482,598	£1,965,586	£2,157,735	£2,534,378	£2,015,981	£1,942,374	£2,258,967	£1,880,787	£24,902,856	£22,965,989	£1,936,867
People	£678,612	£775,272	£637,693	£759,803	£940,205	£720,001	£786,600	£913,230	£737,944	£706,588	£876,725	£680,057	£9,212,730	£8,512,003	£700,727
E&R	£656,918	£789,621	£623,152	£674,295	£852,378	£682,011	£760,342	£913,888	£731,881	£660,007	£639,698	£559,477	£8,543,667	£7,431,112	£1,112,555
Housing	£267,764	£289,285	£239,453	£278,848	£330,477	£273,821	£311,229	£374,811	£280,096	£273,876	£411,957	£369,354	£3,700,971	£3,751,003	£-50,032
Resources	£210,321	£213,434	£205,286	£239,000	£296,818	£249,482	£238,498	£251,677	£203,543	£232,042	£270,456	£222,966	£2,833,524	£3,117,102	£-283,579
CED	£23,729	£35,042	£32,754	£34,172	£62,720	£40,270	£61,066	£80,772	£62,517	£69,860	£60,131	£48,933	£611,965	£139,141	£472,824
Public Health	£3,443	£3,885	£3,476	£2,716	£2,326								£15,846	£15,629	£217
PAYE	£1,133,293	£1,278,068	£1,027,774	£1,123,693	£1,355,533	£1,063,752	£1,199,739	£1,381,476	£1,096,225	£999,779	£1,161,680	£909,918	£13,730,929	£14,016,930	£-286,002
PSC	£32,154	£45,175	£52,331	£68,087	£80,646	£68,549	£70,686	£68,833	£67,675	£85,658	£88,999	£76,143	£804,937	£595,041	£209,895
Umbrella	£671,896	£779,411	£658,232	£794,338	£1,046,418	£833,285	£887,310	£1,084,070	£852,081	£856,937	£1,008,287	£894,725	£10,366,991	£8,354,017	£2,012,973
Reed	£427,872	£468,387	£430,935	£494,001	£673,679	£541,170	£588,615	£688,578	£553,816	£582,665	£704,291	£559,057	£6,713,067	£4,140,308	£2,572,759
Support Supply	£1,409,472	£1,634,267	£1,307,402	£1,492,117	£1,808,919	£1,424,415	£1,569,119	£1,845,800	£1,462,165	£1,359,708	£1,554,675	£1,321,730	£18,189,790	£18,825,681	£-635,891

Appendix 3b - The weekly average spend per month on contingent workers by directorate for November 2019 to October 2020 with spend by category of worker and payments made to Reed and the supplier agencies(Reed Contract)

	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	average weekly spend last 12 months	average weekly spend previous 12 months	increase/decrease
Turnover (Invoice Value Excluding VAT (£)) Average weekly spend per month															
Agency Total	£459,336	£420,531	£434,584	£496,530	£496,520	£491,396	£539,434	£506,876	£503,995	£485,593	£451,793	£470,197	£479,732	£441,654	£38,078
People	£169,653	£155,054	£159,423	£189,951	£188,041	£180,000	£196,650	£182,646	£184,486	£176,647	£175,345	£170,014	£177,326	£163,692	£13,634
E&R	£164,230	£157,924	£155,788	£168,574	£170,476	£170,503	£190,085	£182,778	£182,970	£165,002	£127,940	£139,869	£164,678	£142,906	£21,772
Housing	£66,941	£57,857	£59,863	£69,712	£66,095	£68,455	£77,807	£74,962	£70,024	£68,469	£82,391	£92,338	£71,243	£72,135	-£892
Resources	£52,580	£42,687	£51,321	£59,750	£59,364	£62,371	£59,624	£50,335	£50,886	£58,011	£54,091	£55,742	£54,730	£59,944	-£5,214
CED	£5,932	£7,008	£8,188	£8,543	£12,544	£10,067	£15,267	£16,154	£15,629	£17,465	£12,026	£12,233	£11,755	£2,676	£9,079
Public Health	£861	£771	£869	£679	£465								£304	£301	£3
PAYE	£283,323	£255,614	£256,943	£280,923	£271,107	£265,938	£299,935	£276,295	£274,056	£249,945	£232,336	£227,480	£264,491	£269,556	-£5,065
PSC	£8,039	£9,035	£13,083	£17,022	£16,129	£17,137	£17,672	£13,767	£16,919	£21,415	£17,800	£19,036	£15,588	£11,443	£4,145
Umbrella	£167,974	£155,882	£164,558	£198,585	£209,284	£208,321	£221,827	£216,814	£213,020	£214,234	£201,657	£223,681	£199,653	£160,654	£38,999
Reed	£106,968	£93,677	£107,734	£123,500	£134,736	£135,293	£147,154	£137,716	£138,454	£145,666	£140,858	£139,764	£129,293	£79,621	£49,672
Support Supply	£352,368	£326,853	£326,850	£373,029	£361,784	£356,104	£392,280	£369,160	£365,541	£339,927	£310,935	£330,433	£350,439	£362,032	-£11,594

Appendix 3c - Agency worker headcount by directorate and department for the last 12 months (Reed contract)

Agency Headcount												
	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20
Agency Total	659	646	673	665	688	612	617	631	614	608	584	557
People	262	252	281	267	275	219	219	218	216	211	226	225
E&R	243	237	237	241	243	235	241	250	243	243	190	165
Housing	86	89	88	87	88	90	95	95	90	86	100	104
Resources	63	63	62	64	73	61	55	59	56	59	63	57
CED	4	4	4	6	7	7	7	9	9	9	5	6
Public Health	1	1	1	1	2							