

CABINET	AGENDA ITEM No. 9
18 SEPTEMBER 2023	PUBLIC REPORT

Report of:	Cecilie Booth, Executive Director Corporate Services	
Cabinet Member(s) responsible:	Cllr Andy Coles, Cabinet Member for Legal, Finance and Corporate Governance	
Contact Officer(s):	Mandy Pullen, Assistant Director HR and Development	Tel. 863628

SUPPLY OF TEMPORARY AGENCY RESOURCE TO THE COUNCIL

RECOMMENDATIONS	
FROM: Cecilie Booth, Executive Director Corporate Services	Deadline date: 1 st October 2023

It is recommended that Cabinet:

1. Approves the award of a contract to OPUS People Solutions via ESPO MSTAR4 Lot1b Master Vendor for the provision of all social care temporary resources for a period of three years with an option to extend for a period of one year. The estimated value of the contract is £4m per year.
2. Approves the award of contracts via the ESPO 3S_22 framework to the suppliers listed below for the provision of all temporary resources that are non-social care for a period of four years including an option to break at year three and the estimated total value of the contracts is £3m per year.

- Eden Brown
- Tile Hill
- Capita
- Morgan Hunt
- Hays
- Reed
- Sellick Partnership
- Penna PLC
- Liquid
- Blue Arrow
- OPUS People Solutions

3. Delegate authority to the Executive Director Corporate Services and Section 151 Officer to award non-social care call-off contracts to additional suppliers that are listed on the ESPO 3S_22 framework on a case-by-case basis and following recommendation by the Council's Work Force Board. The value of additional call-off contract(s) shall not exceed the value set out in recommendation 2.
4. Approves the Council entering into contracts with the contractors that are awarded contracts within recommendation 1, 2 and 3.

1. ORIGIN OF REPORT

1.1 This report is submitted to Cabinet following a referral from Corporate Leadership Team CLT.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is:

(a) For the Cabinet to approve the recommendations for the Council's new temporary resource solution and to enter into contracts for the provision of agency workers within (i) social care; and (ii) non-social care; with effect from 1 October 2023 for a maximum contract period of four years.

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.5

To make decisions on actions relating to the awarding, assigning and termination of contracts over £500k, and waiving or granting exemptions to Contract Regulations where contracts are over £500k, with the exception any time-critical, operational, or routine decision, which may be determined by the relevant portfolio holder

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

4.1 The Council commenced its contract for provision of all agency requirements (including social care and all other agency services) with OPUS People Solutions Limited on 26 May 2021 for the provision of Lot 1 – Managing Temporary Recruitment for local authorities via the YPO Framework - Managing Temporary and Permanent Recruitment (Reference 942). The contract is due to expire on 30 September 2023. Specialist temporary resource at Clare Lodge is procured outside of the OPUS contract. Consideration and analysis of the Council's overall agency requirements has identified a new solution that shall better suit the Council's needs at this time.

4.2 Below is the latest extract of Agency expenditure over the past 5 years from the Council's financial system:

- 2018/19 - £11.6m
- 2019/20 - £8.1m
- 2020/21 - £4.2m
- 2021/22 - £5.3m
- 2022/23 £8.2m
- 2023/24 (to July) – £2.1m

Agency spend is reviewed/ monitored on a monthly basis at Corporate Leadership Team, with a particular focus on transition plans and how spend can be reduced in future. Following a request by the Audit Committee, the Council shall present a Consultancy and Agency spend report to the committee identifying data and information on agency spend. It should be noted that not all agency spend is funded from Council resources. Some will be funded via external grants and other agreements etc.

4.3 The Council has reviewed its agency procurement approach and going forward wish to offer three different routes, providing greater flexibility to suit the Council's operational requirements. A review within the business has established future requirements so that an effective and workable solution may be put in place. It was concluded that Opus can successfully meet the requirements

for social care temporary resource, whereas the Council's non-social care and Clare Lodge needs should be procured using the most appropriate procurement route.

This approach will result in separate specific routes for social care and the specialist care needed for Clare Lodge; and a third generic route to market for all other agency requirements that fall outside of social care and specialist care.

4.4 **Procurement**

Social Care Procurement:

The Council shall utilise the ESPO MSTAR4 framework Lot 1b (master and neutral vendors) for this requirement and direct award to OPUS as a master vendor under the framework. ESPO MSTAR offers some savings targets and a gainshare arrangement incorporated so the Council may make additional savings. The Council shall also receive a rebate from ESPO on all agency spend. This will allow continuity of existing social care agency provision as they stay with the same provider. Opus have confirmed that they are willing to accept the direct award.

The Master vendor model is where a Managed Service Provider (MSP) that has a supply of their own workers and may appoint 2nd and 3rd tier providers if the requirements are better met externally. Master vendors ensure that workers provided to the Council meet requirements and the entire supply market is utilised to provide the best solution. The MSP will source the correct individuals to match the requirements of the Council and do so in an equal and fair manner, all agencies will sign up to the same terms and processes. The Council will work with the MSP only and all other tier providers will be managed by the MSP, so the Council has only one provider to manage. The provider will manage the supply chain including 2nd tier and 3rd tier providers to fulfil the requirements of the Council.

The key benefits to PCC for continuing to source all social care temporary resource via OPUS include:

- Adding value to managers by taking on the majority of the recruitment process
- Getting a handle on off-contract with a fully managed service
- Improved quality of candidates – neutral vend models are traditionally cheaper, therefore agencies will send their best candidates elsewhere.
- Improved compliance and lower risk – with neutral vend models, managers are also relying on agencies to complete the required compliance with no intervention in between. Implementation and continual oversight of strong embedded tried and tested processes
- Regular robust monthly reporting regarding spend and compliance for the Council.

Non-Social Care:

Procurement has analysed the options available within the market to facilitate setting up a list of suppliers and calling off by direct award to these suppliers under a compliant public framework. This will result in a selection of agency providers being available for hiring managers to approach directly, removing additional costs i.e., the management fee of an MSP and also providing flexibility for the business.

The framework recommended is the Eastern Shires Purchasing Organisation's (ESPO) 3S_22 Strategic HR Services Framework. The framework commenced on 7 July 2022 and ends on 6 July 2024 with an option to extend until 6 July 2026 (call off contracts made before the end of the framework may be made for a longer period after the main framework expires).

This framework has 3 main strands, Executive and Managerial Interim Recruitment, Executive Managerial Permanent Recruitment and HR Business Process Outsourcing.

The proposed set of lots would relate to Executive and Managerial Interim Recruitment. Those framework lots are as follows:

- Lot 1a – Admin, HR & Business Support
- Lot 1b – Blue Light & Emergency Services
- Lot 1c – Commercial (Finance, Procurement & Legal)
- Lot 1d – Education
- Lot 1e – Health & Social Care
- Lot 1f – IT, Digital, Media & Marketing
- Lot 3 – Temporary Recruitment (Sub £45K)

A call-off contract shall be direct awarded to the 11 suppliers set out in recommendation 1.2. There are a total of 96 suppliers on the framework and subject to authorisation from the Executive Director Corporate Services and the Council's Work Force Board, additional suppliers may be awarded call-off contracts under the framework. The key suppliers were selected on the basis of historical usage and matching against the ESPO Framework. Discussions with ESPO around how this could be achieved led to confirmation the Council could put in place overarching call-off agreements with each of the key suppliers that we wish to engage – with a set maximum spend value on the call-off total spend and then allow Hiring Managers to place individual purchase orders against these call-off contracts. However, there will be a need to track spend on these contracts to ensure spend is managed. This arrangement would be less onerous as there would only be a requirement to provide one Confirmation of Award and Contracts Finder Notice per overarching contract.

Whilst this framework offers competitive rates, the true value is derived from ensuring the right calibre of candidate is secured, often this will be a resource previously known to the Council via business networks and previous experience of the candidate(s) performance and delivery.

There are further advantages to direct awarding call-off contracts to several suppliers listed within the framework, in that these may align with key suppliers used by the Council to deliver high quality candidates in recent years. In addition, this process cuts down the time taken in terms of the Procurement and Governance processes and allows hiring managers to act quickly to bring extra resource into the Council at short notice to engage in projects that deliver transformational change.

Specialist Temporary Resource at Clare Lodge:

Clare Lodge requires specialist care agency staff and Procurement have appraised the options available. All specialist temporary resource requirements at Clare Lodge are delivered via the interim arrangement between the Council and Acacium Group whilst a longer-term solution is procured via the Crown Commercial Service (CCS) framework RM6161 Provision of Clinical and Healthcare Staffing. The procurement and award of long-term contract for the supply at Clare Lodge shall be taken via additional governance and is not awarded within this report.

4.5 Internal process

Workforce Board, chaired by the Executive Director Corporate Services, has oversight of all workforce activity, with responsibility for approving all agency workers. Prior to engagement of a temporary resource, the Council's Workforce Board shall consider the request for an agency worker and approve on a case-by-case basis. Workforce Board scrutinises the length of the assignment and end dates. No agency assignment may commence prior to approval.

5. CORPORATE PRIORITIES

- 5.1 The main driver for the move away from Opus to a framework approach to temporary recruitment is to strip away the intermediary cost and contract directly with providers at more competitive rates. As such, this delivers financial benefits and directly supports the Sustainable

Future City Council (SFCC) priority around 'how we work' and its constituent aim around 'delivering value for money for the taxpayer'.

The separation between social care and other corporate recruitment also ensures an appropriate and flexible pipeline of relevant skills to maintain service delivery in key front-line roles where a contingent workforce is an integral part of the operating model. Thus, supporting the SFCC priority around 'how we serve' as well as supporting the day-to-day service delivery in support of priorities around People & Communities and Prevention Independence & Resilience

The move to a more direct relationship with the market also ensures greater flexibility and access to specialist skills that is inhibited in the current arrangement. This creates the agility that we will need as our demand for different and/or specialist skills shift as the way we work and deliver service changes over time and because of transformation. This is therefore in support of all our transformation priorities and aims.

Finally, the fact that this business case has been developed and implemented is evidence of progress regarding the SFCC priority around 'how we enable' and is indicative of a more highly performing Procurement, Finance and HR service.

6. CONSULTATION

6.1 Consultation between HR, Procurement, Finance and Legal.

The recommendations within this report have been considered by the Corporate Leadership Team.

This consultation has also identified the requirement to review and update the consultant, interim and agency policy, which shall be progressed alongside the implementation of the temporary resource contracts.

The new solutions shall be communicated to council officers, with clear steps to ensure compliance within all directorates.

7. ANTICIPATED OUTCOMES OR IMPACT

7.1 That when the Council's current agency supplier contract expires, the Council shall call-off the newly implemented Social Care and Non-Social Care contracts for the supply of all temporary resource, which shall be the most beneficial option to the Council in terms of cost, quality and product to Service Managers.

8. REASON FOR THE RECOMMENDATION

8.1 Social Care OPUS have been delivering social care via the current contract which terminates 30th September 2023. There are a substantial number of agency staff that are placed via the current contract. The best option to avoid disruption was to find a more cost-effective route to use OPUS to continue to deliver this element of the Councils requirements. OPUS is an awarded supplier on the ESPO MSTAR4 Framework. It was therefore proposed that we should direct award to OPUS via the ESPO Contract. OPUS will be a Master Vendor meaning that they will supply staff and could source via Agencies should the need arise. The Agency Fee is variable and is dependent upon the scale of pay. There is a fixed fee of £0.30 for the MSP Service. This is a standard fee across all frameworks although the amount may vary. OPUS Fees were competitive against other suppliers on the Framework.

Non-Social care: There was a need within the Council to achieve greater compliancy and increased flexibility for Hiring Managers. In having 11 delivery partners that are drawn from the ESPO Framework and having contracts in place with each we can demonstrate robust compliance with PCR 2015. The Flexibility that is afforded to Hiring Managers will mean that fulfilling the need to fill a temporary vacancy will be flexible as Hiring Managers will have the ability to liaise directly with the Agencies and not have to go through a Master Vendor – this

removes a layer of cost and facilitates accessing the right quality of candidate at the right time. Utilisation of the framework also ensures that we can be confident that pricing is competitive. YPO, CCS and ESPO Frameworks were considered but only ESPO 3S_22 met our requirements in terms of flexibility. It should also be noted that we receive a rebate from ESPO on total spend rates and fees are broadly similar to both CCS and YPO Contracts. The Key driver to achieve a more flexible process once Work Force Board approval had been secured.

9. ALTERNATIVE OPTIONS CONSIDERED

9.1 **Option 1** Maintain Status Quo – Continue with OPUS Contract however, this was discounted as it was not meeting all the Council’s agency staff requirements.

Option 2 Exit Opus using Break Clause and use an alternative Framework (ESPO/CCS/YPO) via direct award. Whilst procurement would be quicker via direct award, it would still require a high level of procurement resource and potentially the addition of a specialist category manager and associated additional costs.

Option 3 Exit Opus using Break Clause and use an alternative Framework (ESPO/CCS/YPO) via mini competition. Each procurement would be managed by procurement department and would result in a high level of procurement resource.

Option 4 Exit Opus using Break Clause and complete open procedure in accordance with PCR 2015 for a local framework with appropriate lots. This would require a consultant and high level of business input to develop the detailed specification. It would also require a named contract manager to ensure good supplier performance of the resulting framework.

Option 5 Exit Opus using Break Clause and appoint another managed Master or Neutral vendor. Fees would be applied for the finder service, which would result in the arrangement we have today and not give the Council the specific arrangements they need to meet their agency staff requirements.

10. IMPLICATIONS

Financial Implications

10.1 *It is difficult to estimate the potential spend on social care and non-social care agency costs over the duration of the new contract, but expenditure data taken from the Council’s financial system in recent years is as follows:*

Year	Social Care	Non-Social Care
2018/19:	3,997,601	7,646,001
2019/20:	3,073,805	5,057,412
2020/21:	2,227,892	1,970,473
2021/22:	2,599,637	2,749,080
2022/23:	3,631,285	4,577,551

Agency staff, by definition, are used as a replacement for establishment staff or for specific purposes. As such there would be a budget available for their payment and they should not exceed existing budgets. Budget managers are responsible for monitoring agency spend within their respective budget areas to ensure that any agency commitments are affordable. In addition, it should be noted that not all agency spend is funded from Council resources. Some will be funded via external grants and other agreements.

Legal Implications

- 10.2 Procurement of the temporary resource solutions have been conducted in accordance with Public Contracts Regulations 2015.

Contracts shall be completed with all suppliers listed within the recommendation section.

In relation to recommendation 3, the Council's Constitution at Part 3, Section 3.6.6 authorises a director to deal with contractual matters in accordance with the Contract Regulations, specifically the award of contracts below £500k. Call-off contracts, that shall be awarded in accordance with recommendation 3 of this report, shall be completed between the Council and the supplier.

Equalities Implications

- 10.3 None.

- 10.4 No carbon impact associated with this call-off contract. Carbon Impact Assessment completed.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 11.1 None.

12. APPENDICES

- 12.1 None.

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