

Item No. N/A	Classification: Open	Date: April 2017	Meeting Name: Cabinet Member for Finance, Modernisation and Performance
Report title:		Gateway 0: Strategic options assessment for service provision of a managed service provider for temporary staff	
Ward(s) or groups affected:		All	
From:		Strategic Director of Housing and Modernisation	

RECOMMENDATION

1. That the cabinet member for finance, modernisation and performance approves the strategic options assessment for delivery of a managed service provider for temporary staff for Southwark Council, and notes the next steps as set out in the report.

BACKGROUND INFORMATION

2. This service is for the engagement and management of agency workers, via a technology platform providing a single point of access to a range of agencies on standardised terms and conditions, control over rates and fees, consolidated invoicing and transparency of all activity. It delivers a range of cashable savings and non cashable efficiencies in comparison to the multiple transactions that would be required if each agency invoiced weekly.
3. The service is currently provided externally and has been since April 2006. The council was one of the first London boroughs to enter into a managed service contract for the supply of agency workers. Since 2006, the majority of London boroughs have moved to a contractual arrangement for supply.
4. The duration of the original contract was from April 2006 for an initial term of six years, with the option to extend for one year which was approved giving a revised end date of 31 March 2014. This decision was made in the light of particular pressures on the management of agency resources at that time, notably the introduction of the Agency Worker Regulations (October 2011).
5. Currently there is a contract in place with Comensura Ltd that was procured via the Eastern Shires Purchasing Organisation (ESPO) framework for Managed Services for Temporary Agency Resources, MSTAR 1. The contract started on 1 April 2014 for a period of three years, with the option to extend for one year. On 24 November 2016 the option to extend and vary the contract was exercised and the contract is due to end on 31 March 2018. This decision was made in the light of continued successful performance of the contract.
6. The contract provides for the managed supply of agency workers on a vendor neutral basis. The incumbent managed service provider (Comensura Ltd) does not supply workers direct but seeks agency workers from a variety of vendors (agencies); assignment opportunities are posted simultaneously to a tiered supply chain. Vendors in their supply chain have a wide range of supply capabilities and decisions on worker engagement are made by council ordering managers via a fair and transparent

process based on a worker's potential match to the council's requirements. The process steps are summarised as follows:

- All activity is undertaken via the technology platform Cnet
 - Manager selects relevant job role and details of the assignment requirements in terms of duration, supplemental criteria etc
 - The assignment is tiered to the supply chain according to its position based on previous performance. Periodic assessment is made via a balanced score card
 - Potentially suitable CVs are submitted for review to the ordering manager
 - Selection for interview is made and conducted
 - Engagement is made subject to appropriate clearances
 - Management of the assignment is undertaken via approval of weekly timesheets for approval by the ordering manager
 - The architecture of the technology allows sight and reporting appropriate to the authorised user.
7. The decisions on pay rates rest with the council. Under a vendor neutral model the managed service provides market intelligence so the council can determine the pay rates applicable to different types of workers. Determination of pay rates is made by the Head of Human Resources (HR).
8. Payments to the agencies are made via the managed service provider (Comensura Ltd). Part of the services offered is the compilation of invoice information so that the council can make a single weekly payment to the managing agent, from whom costs are directly passed through to the framework holder and multiple vendors. The managed service provider receives no commission from the vendors in relation to these sums. There are currently 180 active agencies supplying the council that would otherwise be invoicing the council weekly.
9. The following table shows total expenditure over the period of the current contract. Future total spend on agency staff is expected to reduce as a result of the reduction in the council's reliance on agency staff as identified in the workforce strategy to 2017 – 2020 in line with budget constraints. See also paragraph 32 in respect of the factors impacting demand reduction.

2014 - 2015	2015 - 2016	2016 - 2017 (extrapolated)
£19,140,167	£19,058,549	£23,000,000

Previous procurement route

10. The current contract was procured via a third party framework (ESPO MSTAR 1) on a vendor neutral model which, at the time, met the council's requirements. The contract award values were based on the framework holder fixed pence fee and Comensura Ltd.'s fixed pence fee per hour of agency use, which was estimated at £103,950

annually. This contract award was approved via a Gateway 2 report dated 18 November 2013 by the then strategic director of finance and corporate services (now the strategic director of finance and governance).

11. The market for agency staff has seen a shift since the last procurement with vendor neutral and master vendor models, which would supply directly a significant proportion of the agency staff. As a result the total value of the spend transacted, via or directly, with a provider has been taken into account. The total contract costs comprise of the managed service provider and framework holder fees, agency fee, salary costs to the worker and on costs.
12. The use of agency worker resources has altered during the life of the contract and is expected to continue to do so, reflecting the shifting requirements of the resourcing mix as the council seeks better and more cost effective ways to delivers services, for example:
 - The first comprehensive monitor of agency usage in November 2006 reported 1,134 workers were in use on a sample date. Snapshot reports have been taken monthly since and the latest information (February 2017) showed numbers reduced to 480. Whilst numbers fluctuate over the duration of the current contract from April 2014, the average has been 411.
 - The type of worker has changed during the last few years with increasing use of high level interim managers impacting spend whilst activity in social care has decreased year on year since 2014; the roles remain hard to fill due to market conditions.

KEY ISSUES FOR CONSIDERATION

Future service requirements and outcomes

13. Agency workers currently make up approximately 8% of our workforce. The Workforce Strategy 2017 – 2020 targets a continued reduction on the reliance on agency staff to no more than 4% of the workforce. This figure is an organisational average and it is to be expected to see varying levels across business areas and the period, the objective being to utilise agency staff as part of a planned staffing model.
14. The reasons for use of agency staff are diverse; including fulfilling statutory and business critical roles, often most acute in areas facing shortage of supply in the wider market for example social care and IT. In other areas the use may mitigate against uncertainty or support transition.
15. Workforce planning allows the council to structure itself using the best possible mix of staffing solutions, permanent or fixed term employees, casual/sessional workers, agency workers and consultants. The range of reasons for using agency staff included:
 - To provide a flexible resourcing solution to accommodate customer needs
 - To accommodate fluctuations such as seasonal demand
 - To resource time-limited grants or direct income from customers
 - To allow minimum statutory staffing ratios to be met at short notice

- To provide critical cover in hard to recruit areas pending substantive engagement
- To cover absence
- As an alternative to substantive appointment when pending organisational restructure may result in post deletion.

16. A managed supply of temporary workers is required from 1 April 2018 that can deliver:

- A suitably skilled and diverse temporary workforce
- Compliance with existing and new legislation and local commitments e.g. Agency Worker Regulations, IR35 tax regulations, payment of the London Living Wage (LLW)
- Value for money and transparency throughout the supply chain
- High quality interims and consultants as well as agency workers
- Compliance with vetting and safeguarding pre-employment checks
- Supply chain management.

External procurement

17. For the delivery of temporary agency staff, the following options were considered as part of the initial review.

Competitively tender

- Externally procuring this service via an OJEU tender process would be necessary due to the value, prevalence of framework agreements and relatively well developed supplier markets (who are all available via these frameworks). This option is unlikely to achieve a better service outcome than calling off from a third-party framework, in addition to which the timescales may be significantly longer to allow for the eProcurement (between 15 and 18 months).

Frameworks

- As noted above, there are many framework agreements available, which have suppliers from the well-developed supplier market. They also have the benefit of economies of scale with all the suppliers and have central account management, plus supplier due diligence can be checked by individual councils.
 - a) Yorkshire Purchasing Organisation (YPO) framework (Lot 1 – managed services for contingent labour)
 - b) ESPO framework MSTAR2
 - c) Crown Commercial Service (CCS) and Local Government Recruitment Partnership (LGRP)

Market considerations

18. There is a well defined range of providers in the market but these have been consolidated for public sector and local authorities and are all available via framework agreements set up by central buying groups.
19. The managed services that are delivered are available via different business models described below:
 - Neutral vendor – The provider manages a supply chain of agencies and does not provide workers themselves, contracting with the agencies to achieve best value in terms of rates and managing the governance of supply. Agencies will usually be tiered according to performance or to achieve the required solution for the client. New providers can be added and existing removed or suspended
 - Master vendor – a provider who is also an agency or group of agencies able to supply its own workers, appointing second and third tier providers if unable to meet demand internally
 - Hybrid – A tailored version of either the neutral or master models where for example the client has specified a particular agency for supply of a given category.
20. There are a number of providers currently delivering to London boroughs via either neutral, master or hybrid model as best meets the requirements of the individual authorities. Movement between models and in providers can be seen, reflecting the development of the market and shifting client requirements.
21. The sharing of information and best practice by HR professionals in the temporary staff user group across London means that it is known that new contracts are generally following procurement via either of the most two relevant frameworks, YPO or ESPO.
22. Early discussions with the framework holders indicate a buoyant and competitive market within which the council would be an attractive proposal.

In-source

23. The council ceases to have a managed service and undertakes all related activities in-house. This is discounted for a number of reasons of practicality, principally:
 - This would require internal investment to form and manage contractual arrangements with vendors (agencies) and would not have the economies of scale or leverage with suppliers that are available via external suppliers working with multiple public sector organisations
 - The council does not have in-house expertise or status in the agency market to liaise with vendors and manage the full range of responsibilities that derive from statutory requirements, for example the Agency Worker Regulations
 - It would create a significant risk in losing controls on agency usage and costs
 - Any cross organisation coordination would require investment and development of related IT systems. We would need the ability to acquire or develop a managing IT

system that manages the temporary staff acquisition process, as well as the audit trail for approvals, and central access to all management information for the organisation

- Investment in skills and expertise to run this service would be required as not currently available in house
- Risk for some areas including the agency worker regulations (AWR) and IR35 etc. would fall directly with the council rather than being managed via the managed agency, which have more expertise, resource and experience with this, working with multiple organisations.

Shared service delivery

24. The option to develop a shared service model has additional benefits that reduce the risk attached to some areas set out above in the in-house option. It is not felt however that this is a viable option for the council at this time, as neighbouring authorities are using similar methods or already accessing frameworks so it is not viable to join with them as they already have agreements in place. The framework agreements achieve competitive rates by accessing the market on behalf of a significant number of authorities nationally so this option has not been explored further.

25. Whilst the broad requirements for a managed service are captured and available via the frameworks there remains the facility to fine tune the service, via further competition, to specifically address the local situation.

Voluntary sector / not for profit

26. The small and relatively well developed market that operated within this sector has meant that the voluntary and not for profit organisations do not directly operate in this market at present. The opportunity exists however for appropriate not for profit agencies, where they exist, to form part of the supply chain as suppliers to larger agencies where appropriate.

Decommissioning services

27. This is not considered a viable option for the council at present. It is essential that the council has a service in place for the supply of temporary staff. Without a managed service there is no centralised means of capturing and reporting activity, managing the supply chain, also resulting in neither a significant number of payment transactions nor a consolidated approach to achieving best value from the agencies.

28. For some areas with statutory functions or staffing ratios, access to suitable agency staff is essential in covering these roles, often at short notice.

Policy implications

29. As referenced in paragraph 9, the reduction of agency staff is an objective of the workforce strategy 2017 – 2020, targeted as being within 4% of establishment. The use of a managed services provider is key in achieving that objective. Without a single route for engagement, visibility and in turn management control is rendered almost impossible. Critical to that control:

- The use of a managed service provides mechanisms to ensure compliance with the council's commitment to pay the London living wage at parity
- Service is delivered via a technology platform for accessing and approving temporary staff and overall management information by the council.

Recommended strategic delivery option

30. Based upon the information and details outlined in this report, the recommended strategic delivery option for temporary staff is that future investigation and details of the approach to delivery of this service is undertaken to progress with the option to look further at the options for external delivery of the service (probably via a framework agreement) that is able to meet the needs of the council for the next three to four years from April 2018.

Identified risks for the service and recommended strategic option

31. Some areas within the council have significant reliance on agency workers, in the short and longer term as part of the planned resourcing mix and in response to unplanned or temporary events. Without access to a supply for agency staff via a controlled service, managers would access the market directly to maintain delivery, resulting in potential agency rate and salary increases, uncontrolled spend, significant number of SAP financial transactions and administrative / process tasks.

32. A number of factors will reduce demand for agency use over the coming years. For example:

- Development of the recruitment process to fill vacancies more quickly
- Retention initiatives to retain the staff appointed
- Pressure to ensure the most cost effective resourcing solution is achieved
- Greater use of temporary positions to mitigate redundancy
- Development of the current workforce to meet the demands for future roles
- Changes in tax liability will encourage some workers to seek substantive positions.

33. The vendors' and hirer's responsibilities towards agency workers are underwritten by explicit legal requirements. Without significant support from a managed service provider the council would require considerable resources to successfully fulfil its responsibilities. This is a complex area requiring vigilance and there are real risks of legal challenge. Current uncertainty within the market exists in relation to the application of the apprentice levy and the shift in liability for compliance with tax regulation IR35.

34. The managed service plays a key role in supporting the council to maintain safeguarding standards in the engagement of agency staff. This is currently undertaken by a specialist team collating and screening the individuals' information, provided by the supply chain, against the council's criteria before forwarding to the engaging manager for decision. Without a managed service the council's exposure to engaging a high risk worker is increased.

35. The table below identifies a number of risks associated with this procurement, the likelihood of occurrence and the control in place to mitigate the risks:

R/N	Risk Identification	Likelihood	Risk Control
R1	Challenges to procurement outcome	Low	Robust adherence to the published methodology.
R2	The procurement process fails due to inadequate quality of submissions by tenderers	Low	Pre procurement engagement with suppliers on the framework.
R3	The procurement process is delayed	Low	A short extension with the incumbent provider would be possible.
R4	The provider ceases trade or goes into administration/ liquidation	Low	The frameworks has already tested the financial viability of the providers however further checks would be undertaken prior to award.

Key/non-key decisions

36. This is a key decision.

Next steps

37. To undertake an evaluation to identify the most suitable framework via which to procure the service to meet the council's needs for managed service for the supply of agency staff from 1 April 2018.

38. To review available data to inform that decision in terms of past and future demand, engaging with internal and external stake holders and the wider market.

39. To recommend via a gateway 1 report to Cabinet the most effective procurement strategy that meets the needs of the council in the next three to four years from April 2018.

Service delivery project plan (key decisions)

Activity	Complete by:
Enter Gateway 0 decision on the Forward Plan	22/03/2017
DCRB Review Gateway 0	03/04/2017
CCRB Review Gateway 0	06/04/2017
Notification of forthcoming decision - IDM	10/04/2017
Approval of Gateway 0: Strategic Options Assessment	20/04/2017
Scrutiny Call-in period and notification of implementation of Gateway 0 decision	28/04/2017
Cabinet approval Gateway 1	09/05/2017

Activity	Complete by:
Current contract end date	31/03/2018

Community impact statement

40. This contract will not have a direct link to local residents, unless they are in the potential temporary workforce. It would be expected that the supplier complies with the council's policies and specific requirements of agency staff delivering services for the council.

Social value considerations

41. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing any procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. Social value considerations and how the delivery of these services can benefit the local area are detailed below:

Economic considerations

42. Issue relating to the payment of the LLW will be addressed within the Gateway 1 report.

Social considerations

43. An aim from the new arrangement will be to drive social value from the contract. In particular seeking an increase in the number of local staff used in the temporary supply chain, options to achieve this may include but not limited to:

- Setting defined targets for local employment within the supply chain
- The development of local SME vendors
- Supporting apprenticeships
- Integrating welfare to work and third sector organisations
- Require the service and suppliers to work with the council to support mechanisms through which local employment is encouraged
- Increase local employment and minimise cost by including a 'temp-to-perm' recruitment approach, enabling residents (and others) taken on as temporary staff to be made substantive provided that this is suitable to the business.

Environmental/sustainability considerations

44. As is currently the case, any service going forward will be managed via a technology platform eliminating the use of paper to a significant level.

Plans for the monitoring and management of project

45. There are robust processes in place for monitoring a managed service contract within HR. Quarterly and annual review against the KPIs are undertaken with the Head of HR in addition to the weekly management activity of the client officer. Feedback from engaging managers is captured via the HR business partners, periodic surveys and from stakeholder engagement meetings with and separately from the contractor.
46. Annual performance is reported via the departmental and corporate contracts review boards.
47. The framework holders also support the ongoing relationships between providers and clients whilst also managing the framework itself, capturing usage and feedback from all parties to drive improvements and inform future framework development.

Resource implications

48. The HR service will progress procurement and manage this contract with support from legal, finance and procurement as appropriate. Activity will be undertaken within existing service provision.

TUPE/pensions implications

49. It is possible that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in relation to the incumbent and new provider on the commencement of the new service should there be a change in service provider as a result of this proposed procurement. However, in order to ascertain if there are any such TUPE implications, due diligence work will be carried out before the tender process commences and its results included in the tender pack and process. There are no TUPE implications for the council as an employer because the council's contract management and administrative function will remain with the council and these activities will not form part of the contract specification.

Financial implications

50. This report seeks the approval by the Cabinet member for finance, modernisation and performance for the proposed strategic options assessment outlined in the body of this report.
51. The value of an initial 3 year contract (01/04/2018 to 31/03/2021) equates to an estimated £60m based on current estimates of usage outlined elsewhere in this report, with an option to extend for a further year, increasing the total estimated cost to £75m over a four year period, profiled as follows:

Year	Usage Costs (£m)
2018 - 19	23
2019 - 20	20
2020 - 21	17
Sub-Total	60
2021 - 22	15
Total	75

52. For comparative purposes the following table sets out payments/fees and internal recharges for each year of the current contract.

Year	Usage Costs £	Internal Recharge £	Fees (Comensura and ESPO) £
2014 - 15	19,140,167 *	1,910,189	148,349
2015 - 16	19,058,549 *	1,938,789	152,186
2016 - 17 (extrapolated @ Week 48)	22,984,917	2,298,492	172,068
Total	61,183,633	6,147,470	472,603

* Taken from (Comensura) Annual Contract Performance Report to CCRB 22/09/16

53. It is anticipated that under a future contract framework, payment arrangements would remain relatively unchanged from those currently in effect, i.e.:

- Payments are made to the managing agent on a weekly basis upon receipt of an invoice, which comprises an element for agency worker costs and a contractual fee element (an aggregation of the sums payable to the managing agent and the charge collected by managing agent on behalf of the framework)
- Expenditure relating to the fee element is retained within Human Resources, whilst agency worker costs are recharged to departments, with the addition of a 10% internal recharge (also retained within HR).

54. It is anticipated that there is scope for potential savings to be made under a new contract, presuming the recommended strategic delivery option is pursued, specifically:

- A reduction in costs as a result of anticipated declining agency worker usage, in line with the workforce strategy detailed elsewhere in this report
- A potential reduction in the fee payable to the framework (framework dependant).

55. With regard to the fee element – taking into consideration both the reduction in usage and potential reduced framework fee outlined above, it is anticipated that projected costs can be contained within the existing budget provision of £165,640.

56. There are no capital implications contained in this report.

Legal implications

57. Please see concurrent from the Director of Law and Democracy.

Consultation

58. This is not a matter which requires public consultation or referral to the council's trade unions.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance

59. There are no financial implications arising directly from this report. These will be identified in the procurement strategy and contract award reports.

Head of Procurement

60. This report seeks the approval of the cabinet member for finance, modernisation and performance to the pre-procurement strategic assessment for delivery of a managed service provider for temporary staff for the council. The report details the next steps to be taken in relation to this requirement.

61. The Contract Standing Orders require that a pre-procurement strategic assessment decision (Gateway 0) for services that are of a total estimated value of £10m or more.

62. The report sets out the current and future arrangements and requirements a managed service provider for temporary staff across the council and recommends that the option for this in the next few years is to continue with this provision via an outsourced provider. The full assessment of the options available will be detailed in the gateway 1 procurement strategy report relating to this requirement if this report is approved.

Director of Law and Democracy

63. This report seeks the approval of the cabinet member for finance, modernisation and performance to the pre-procurement assessment for delivery of a managed service provider for temporary staff for the council and to note the next steps as further detailed in the body of the report.

64. At this value, (being a services contract with an estimated contract value of £10m or more) a pre-procurement assessment decision/Gateway 0 is required. This must be taken by the relevant decision maker, after consideration of the Gateway 1 report by CCRB.

65. It should be noted that if approval is given, a gateway 1 report will be brought for approval of the procurement strategy route.

66. The cabinet member will be aware of the Public Sector Equality duty (PSED) under the Equality Act 2010, and when making decisions to have regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination. The cabinet member is specifically referred to the community impact statement at paragraph 40 setting out the consideration that has been given to equalities issues which should be considered.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 2 report	HR, Housing & Modernisation, Tooley St, SE1	Sarah Hedley 0207 525 7216
Link: ..\Contract 14 onwards\Gateway 2 & contract\Comensura GW2 Agency worker signed (18.11.13).pdf		
Gateway 3 report	HR, Housing & Modernisation, Tooley St, SE1	Sarah Hedley 0207 525 7216
Link: GW3 Agency contract (open) - signed Nov 2016.pdf		

APPENDICES

No	Title
None.	

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Finance, Modernisation and Performance	
Lead Officer	Emma Marinos, Director of Modernise, Housing and Modernisation	
Report Author	Sarah Hedley, HR Policy and Strategy Manager. Housing and Modernisation	
Version	Final	
Dated	11 April 2017	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		10 April 2017