

Item No.	Classification: Open	Date: 26 May 2021	Meeting Name: Cabinet Member Finance, Performance and Democracy
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:		Head of Human Resources (Interim)	

RECOMMENDATION

1. That the Cabinet Member for Finance, Performance and Democracy notes the Strategic Options Assessment for delivery of a managed service provider for the supply of temporary staff to Southwark Council and approves the next steps set out in the report.

BACKGROUND INFORMATION

2. This service contract is for a single umbrella organisation to coordinate the engagement and management of temporary staff and agency workers, via a technology platform providing a single point of access to a range of agencies on standardised terms and conditions, controlled 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. The service is currently provided externally by Comensura Ltd and has been under two various/number of contracts since April 2006.
3. The current contract began in April 2018 for an initial three year period with the option to extend for one year which was approved giving a revised end date of 31 March 2022.
4. The contract provides for the managed supply of temporary staff/agency workers on a vendor neutral basis. The incumbent managed service provider, Comensura Ltd, does not directly supply workers but sources temporary staff/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 Southwark council hiring 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.5

- Managers select relevant job role and details of the assignment requirements in terms of duration and provides any supplemental information or criteria.
 - 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 to ensure the tiering remains fair and in line with performance measures.
 - 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 by the ordering manager
 - The architecture of the technology allows sight and reporting appropriate to the authorised user.
5. 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 and Organisation Transformation (HR & OT). Variations are approved by a delegated official in line with labour market factors and demands.
6. Payments to the agencies are made via 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. Comensura receives no commission from the vendors in relation to these sums. There are currently 123 active agencies supplying the council that would otherwise be invoicing the council weekly.

Previous procurement route

7. The current contract was procured via the Yorkshire Purchasing Organisation HR Services and Solutions Framework (YPO) on a vendor neutral model which, at the time, met the council's requirements. This contract award was approved via a Gateway 2 report in April 2017.
8. 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.
9. 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 June 2018 reported 462 workers were in use on a sample date. Snapshot reports

have been taken monthly since and the latest information (April 2021) showed numbers increase 525. Whilst numbers fluctuate over the duration of the current contract from April 2018, the average has been 495.

- The type of worker has changed during the last few years with increasing use of high-level interim managers impacting spend. There has been a number of specialist skills hard to fill engineering, housing and planning roles recruited under permanent and fixed term contract roles.
- The existing contract has captured up to £100k off contract spend of Arboriculture staff and there has been a higher number of referrals in senior interim roles which previously was unknown and was 'off contract' spend.
- There has been an increase in social care activity in the last couple of years but particularly in the last 14-15 months as a result of the pandemic and there has been increased usage and cost due to market conditions.

KEY ISSUES FOR CONSIDERATION

Future service requirements and outcomes

10. Agency workers currently make up approximately 12% of our workforce and despite an ongoing commitment to reduce the reliance on an agency workers this is an increase of approximately 4% since the last procurement exercise. The council has had an ongoing commitment to reduce its reliance on agency workers over the life of the contract; however there is a recognition that with the expansion of council service's, the impact of Brexit and the international coronavirus pandemic there is likely to be an increased requirement to utilise agency workers as part of workforce planning over the next few years.
11. The reasons for use of agency workers 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, legal and IT. In other areas the use may mitigate against uncertainty to support transition and change or bridge technical skills gaps.
12. 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. Although, a number of factors will reduce demand for agency use over the coming years. For example:-
 - Streamlining of the recruitment process to fill vacancies more quickly.
 - Retention initiatives to retain employees particularly in hard to recruit areas

- Pressure to ensure the most cost effective resourcing solution is achieved.
 - Greater use of temporary positions to mitigate redundancy.
 - Development of talent management and succession planning initiatives within the current workforce to meet the demands for future roles.
 - Changes in tax liability (i.e.IR35) has encouraged some high paid interim workers to seek substantive positions.
13. There remains an immediate and long term requirement for an element of the workforce to be transient:
- 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.
14. A managed supply of agency workers is required from 1 April 2022 that can deliver:-
- A suitably skilled and diverse agency 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.

Strategic service delivery options and assessment

15. Detailed below are the main options available to the council when looking to provide a services of a managed service provider for temporary staff.

External Procurement

16. For the delivery of agency workers, the following options were considered as part of the initial review.

Procure via a full Public Contracts Regulations 2015 (PCR 2015) compliant process

17. The council could undertake a competitive procurement exercise, however, this would impact on staff resources, costs, and take much longer to procure. Such a procurement would not guarantee to attract suppliers other than those already available through an existing framework such as the frameworks mentioned below. This option may not achieve a better pricing or 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

18. 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) YPO framework (Lot 1 – managed services for contingent labour);
 - b) Eastern Shires Purchasing Organisation framework MSTAR2 (ESPO);
 - c) Crown Commercial Service (CCS); and
 - d) Local Government Recruitment Partnership (LGRP)

Market considerations

19. 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.
20. 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.
21. 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.

22. 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 via frameworks e.g. YPO or ESPO.
23. Early discussions with the framework holders indicate a buoyant and competitive market within which the council would be an attractive proposal.

In-Source

24. The council ceased to have a managed service that undertakes all related activities in-house. This was 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 (AWR).
 - 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 AWR and IR35 etc. would fall directly with the council rather than being managed via the managed agency, who have more expertise, resource and experience with this, working with multiple organisations.

Shared Service Delivery

25. 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. However, this is not considered to be 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.
26. 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. This produces a range of benefits for the council for example no temp to perm costs

after 13 weeks of tenure, efficiencies in the invoicing and payment processes, a wide selection of suppliers to meet the flexing needs of the council's workforce.

Voluntary sector / not for profit

27. 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

28. 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 agency workers. Without a managed service in place, 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.
29. For some areas with statutory functions or staffing ratios, access to suitable agency workers are essential in covering these roles, often at short notice.

Policy Implications

30. As referenced in the workforce strategy re-fresh 2019 – 2022 reducing the Councils reliance on temporary staff/agency workers has been an aspiration. As a result, targeted action at departmental level lead by Chief Officer Team is planned to reduce the council's reliance on agency workers. The use of a managed service provider is key in achieving the 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

31. Based upon the information and details outlined in this report, the recommended strategic delivery option for temporary/agency staff is via a framework and future investigation and details of the approach to delivery of this service will be undertaken to progress that option.

Identified risks for the service and recommended strategic option

32. 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 workers 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.
33. Hiring Managers are consulted as part of quarterly monitoring of the contract and are able to supply immediate feedback to the dedicated contract Business Partner on a daily basis. This ensures the service to hiring managers remains agile enough to flex with demand and meet the needs of the business.
34. 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 exist in relation to the application of the apprentice levy and the shift in liability for compliance with tax regulation IR35.
35. 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.
36. 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 procurement rules and published tender requirements.
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	The council may consider whether 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.
R5	The procurement process is affected by the current international coronavirus pandemic	Low	The council may consider whether a short extension with the incumbent provider would be possible.

Key /Non Key decisions

37. This is a key decision.

Next Steps

38. 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 2022.
39. 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.
40. 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 2022.

Service Delivery Project Plan (Key Decisions)

Activity	Complete by:
Enter Gateway 0 decision on the Forward Plan	01/05/2021
DCRB Review Gateway 0	17/05/2021
CCRB Review Gateway 0	20/05/2021
Notification of forthcoming decision - IDM	08/06/2021
Approval of Gateway 0: Strategic Options Assessment	15/06/2021
Scrutiny Call-in period and notification of implementation of Gateway 0 decision	23/06/2021
IDM approval Gateway 1	14/07/2021
Current contract end date	31/03/2022

Community impact statement

41. This contract will not have a direct link to local residents, unless they are in the potential temporary staffing/agency workforce or supported by the social value commitments to support the local long term unemployed into employment. It would be expected that the supplier complies with the council's policies and

specific requirements of temporary/agency staff delivering services for the council.

Social Value considerations

42. 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 wellbeing 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

43. All agency rates and therefore payments made will ensure the Council is via its contractors complying with London Living Wage.

Social considerations

44. 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

45. 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

46. There are robust processes in place for monitoring a managed service contract within HR & OT. Quarterly and annual review against the KPIs are undertaken with the Head of HR & OT 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.
47. Annual performance is reported via the departmental and corporate contracts review boards.

48. 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

49. The HR & OT 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

50. 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

51. This report seeks the approval of Cabinet for the proposed strategic options assessment outlined in the body of this report.
52. The value of the proposed initial three year contract (1 April 2022 to 31 March 2025) equates to an estimated £78m 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 £100m over a four year period, profiled as follows:

Year	Usage Costs/ Fees £m
2022-23	28
2023-24	26
2024-25	24
Sub-Total	78
2025-26	22
Total	100

53. Payments under the present contract (estimated for current year) are detailed in the table below.

Year	Usage Costs/ Fees £m
2018-19	23
2019-20	27
2020-21	32
Total Initial 3 Year Contract	82
2021-22*	30
Revised Estimated Contract Total (Including One Year Extension)	112

* Estimate quantified by HR based on likely resource requirements. Future years' agency staff expenditure is expected to reduce in accordance with strategy presently being developed for Chief Officer approval.

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

Legal implications

55. Please see concurrent from the Director of Law and Governance

Consultation

56. 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 (FC21/032)

57. The strategic director of finance and governance notes the recommendations in this report. The implications as noted will be managed within existing agreed establishments within the council's general fund and housing revenue account.

Head of Procurement

58. This report seeks approval from the Cabinet Member for Finance, Performance and Democracy for the Strategic Options Assessment for delivery of a managed service provider for the supply of temporary staff to Southwark Council.

59. Paragraphs 15 to 31 detail the procurement options to be reviewed as part of the Gateway 1 process, the risks are detailed in paragraphs 32 to 36, paragraph 43 confirms payment of London Living Wage (LLW) and details of the management and monitoring of the contract are in paragraphs 46 to 48.

Director of Law and Governance

60. This report seeks the approval of the Cabinet Member for Finance, Performance and Democracy to the strategic options assessment for the delivery of a managed service provider for the supply of temporary staff for the council and to note the next steps as further detailed in the body of this report.
61. Under council's Contract Standing Orders, a pre-procurement/Gateway 0 is required for any service contract with an estimated contract value of £10m or more. This must be taken by the relevant decision maker, after consideration of the Gateway 1 report by CCRB. Paragraphs 51 to 53 of this report confirms that the estimated contract value of the proposed procurement is more than £10m.
62. The strategic service delivery options and assessments are outlined in paragraphs 15 to 31 of this report and will be confirmed in a future Gateway 1 report, if approval is given to this report.
63. 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 41 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	Kate Enver Strategic HR Lead
Link: T:\Corporate HR and H&S\Agency\Procurement project for 2018\Gateway 2		
Gateway 3 report	HR, Housing & Modernisation, Tooley St, SE1	Kate Enver Strategic HR Lead
Link: T:\Corporate HR and H&S\Agency\Gateway 3 Comensura 20212022		

APPENDICES

No	Title
None	

AUDIT TRAIL

Cabinet Member	Cabinet Member for Finance, Modernisation and Performance	
Lead Officer	Melanie Medley, Head of HR & OT (Interim)	
Report Author	Kate Enver, Strategic Lead HR Policies and Projects	
Version	Final	
Dated	14 May 2021	
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 Governance	Yes	Yes
Director of Exchequer (For Housing contracts only)	N/A	N/A
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	
Date final report sent to Constitutional Team		26 May 2021