

# Procurement of temporary, agency and interim staff: toolkit update 2010



OGC



Havering  
LONDON BOROUGH



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# 1. Executive Summary

The London Centre of Excellence (now Capital Ambition) granted funding to the London Borough of Havering to study the use of agency staff across London local authorities, and to find ways of achieving cashable and non-cashable savings. Expenditure on agency staff within London is estimated to be £500 million a year. Furthermore, in some local authorities, when comparing headcounts on a full-time equivalent basis, agency workers accounted for up to 25 per cent of the total workforce. Over the course of the last four years, since the first version of the toolkit was released, it is estimated that there have been savings in excess of £25 million a year through improved procurement processes.

The key issues faced previously with the agency workforce were a lack of visibility or control over how money was spent and the often complex and legally ambiguous status of temporary agency workers. Managers are tempted by the ease and speed of recruitment of temporary agency workers, so it is no wonder that the market for temporary agency staff has grown.

This new edition of the toolkit serves as a step-by-step guide to taking control and achieving efficiency savings in your local authority in the realm of agency, temporary and interim staff – from examining spending, to choosing the right system to manage your agency workers and their agencies, to best practice advice on your organisation's policies and legal risks.

One option is to introduce a managed service for agency workers. There are four basic types of managed service<sup>1</sup> to choose from:

- vendor neutral
- master vendor
- internal
- partially-outsourced human resources

This toolkit lists the pros and cons of each, with a self-assessment test to help you choose the right one for your authority. The cashable savings achieved when adopting a managed service typically can be in the region of 3 to 9 per cent depending on the starting point<sup>2</sup>. This is before considering the non-cashable savings available from business process re-engineering. Case studies illustrating these benefits have been included in this toolkit, which detail the experiences of a number of local authorities.

By using this toolkit you can achieve savings and ensure that your contracting authority has access to best practice advice for agency workers. In addition, better management information should be available on temporary staff, so that they are no longer your “invisible” workforce.

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<sup>1</sup> See section 7 for explanations of the models of managed services  
<sup>2</sup> OGC Temporary Staff Benefits Methodology

## 2. Background and introduction

### 2.1 Employment

Local authorities employ large numbers of people and have a significant influence in the market.

Concern has been rising in a number of local authorities over the increasing use of agency staff. The concerns have been raised for a variety of reasons, including cost, control, risk and legal compliance.

Temporary and interim staff that are hired direct and not sourced from an agency are excluded from the scope of this toolkit. The risks and procurement processes are identical, although there may be different market characteristics. Some authorities may decide not to address the provision of direct temporary staff and interims through their managed service, but it is very important they have an aligned procurement strategy and process in place, otherwise valuable cashable savings and overall visibility on contingent labour will be lost.

### 2.2 Defining temporary workers and agency workers

There are no special provisions in UK statutes that specifically define 'temporary' workers. The term is often used to denote staff engaged on a non-permanent basis who may be:

- employees engaged directly for a short period
- or
- self-employed workers engaged for a short period
- or
- casual workers
- or
- agency workers supplied by an 'employment business'.

At present the rights afforded to temporary staff depend upon whether:

- they have employee status
- they have completed any required period of continuous employment for the particular right being claimed
- they fall within the definition of 'worker'.

The scope of this toolkit includes agency workers, interims and contractors who are procured (and continue to be supplied throughout their assignment) through a recruitment agency (technically speaking, an "employment business" but referred to as an "agency" within this toolkit). It does not include temporary workers who are

directly engaged by the authority, even if they were originally found for the authority by an employment agency. It is recommended however that directly engaged temporary workers are included when authorities are conducting workforce planning, demand management and best value reviews.

### 2.3 Consultancy

Parallel work on consultants has been undertaken and continues to be supported by Capital Ambition. The outputs from the first and second stages of the project can be accessed at: [www.londoncouncils.gov.uk/capitalambition/projects/consultandprocurement/default](http://www.londoncouncils.gov.uk/capitalambition/projects/consultandprocurement/default)

Currently work is underway to develop a knowledge centre for use across London boroughs to allow comparison and share the experience of procuring consultants.

In addition, the Consultancy Value Programme has been implemented across central government and is being adapted for local government. For further details see: [www.ogc.gov.uk/temporarystaff\\_7133.asp](http://www.ogc.gov.uk/temporarystaff_7133.asp)  
[www.ogc.gov.uk/lgpsg.asp](http://www.ogc.gov.uk/lgpsg.asp)

### 2.4 What is meant by the term Consultant?

Consultants usually have more responsibility (and legal liability) for achieving a particular outcome or producing a specific product than other temporary workers. Consultants are more likely to be self-employed or employed by a separate employer (not an agency) which may specialise in providing a particular service. They will usually have specific expertise.

A definition of 'Consultancy Services' provided by OGC supported by the Professional Services Collaborative Board is as follows:

'The provision to management of objective advice relating to strategy, structure, management or operations of an organisation in pursuit of its purposes and objectives. Such advice will be provided outside the 'business-as-usual' environment when in-house skills are not available and will be time-limited. Consultancy may include the identification of options with recommendations, or assistance with (but not the delivery of) the implementation of solution.'

For further guidance see the External Resource decision toolkit designed to assist public sector bodies to identify the most suitable type of resource for their requirement: [http://www.ogc.gov.uk/temporarystaff\\_7133.asp](http://www.ogc.gov.uk/temporarystaff_7133.asp) or via [tempstaff@ogc.gsi.gov.uk](mailto:tempstaff@ogc.gsi.gov.uk)

# 3. How to use this toolkit

This toolkit is designed to be used by procurement managers, human resources managers, and local authority treasurers in reviewing their organisation's approach to agency worker procurement and management. The toolkit can also be used by the public sector generally (e.g. police and fire authorities), although other public organisations should bear in mind that certain issues are local authority-specific, and that they may have their own sector-specific issues to consider.

The toolkit recommends that local authorities take control of unmanaged agency staff expenditure, explore the reasons for it and understand the current issues. It also presents several solutions for authorities, with a self-assessment test to help choose the right model of management for the organisation. Also included are case studies of various models discussed in this toolkit.

The feedback received from reviewers has indicated that it is helpful even to authorities who already have a managed service in place, as it highlights issues including the latest case law and end-of-contract procedures.

This guidance is not intended as a substitute for project-specific legal advice, which should always be sought by an authority or other organisation when required.

The material contained within each case study has been provided by the individual authority referred to in that case study and the facts and opinions contained therein reflect the facts and opinions as provided by the individual authority and not of Capital Ambition/LB Havering/OGC.

The material contained within the case studies is for general information purposes only and is not intended to be used as a substitute for professional procurement or employment advice and should not be used as such.

Capital Ambition/LB Havering/OGC do not accept any liability for loss or damage, which may arise from any reliance placed upon the contents of the case studies.

# 4. Possible reasons for using agency staff

## 4.1 Categories of agency workers

The types and categories of staff available to fulfil a temporary requirement are vast. The standard commercial or “white collar” roles include:

- pa/secretarial
- data entry clerk
- telephonist
- customer services operator
- administrator

Recruitment agencies also provide individuals for industrial “blue collar”:

- street orderlies
- drivers
- gardeners
- cleaners
- care workers

There is a growing need for more specialist staff to be placed within temporary positions which may be hard to fill:

- social workers
- social care workers
- accountants
- human resources
- IT specialists
- executive level – manager/head of service
- teachers
- planners
- engineers

These positions can be recruited on a long or short-term basis, depending on the needs of the particular area and on the variety of working hours and shifts.

## 4.2 Flexibility

It is important for managers to recognise that there are often peaks and troughs in workloads, such as a sudden need for project workers, or when cover is required for leave taken by permanent staff. It is sometimes impossible to predict when permanent workers on sick leave will return to work, so contingency plans must be in place to deal with such eventualities. When managers are placed in the difficult position of having to continue to provide services without recruiting permanently, the use of agency staff is often their only option.

However, one should guard against the over use of agency workers. Owing to the current uncertain legal position, it is advised that agency workers are not used as permanent employees, and not engaged continuously for long periods of time, for example, more than one year. If agency workers are treated in the same way as permanent employees, there is a risk that they may be deemed to be “employees” of the local authority by the courts. See section 5.3.2 for more details.

## 4.3 Inability to recruit permanent staff

Agency staff are frequently used when it is difficult to recruit permanent staff. Local authority services often have statutory targets that must be met and so leaving positions unfilled is not an option. These positions are often classed as hard-to-fill, and may exist because of a lack of capacity or skills in the market.

If permanent employment with the local authority is not pursued by managers or candidates, or candidates consider an unattractive option (due to lower wages, perceived less flexibility with scheduling), there will be difficulty in recruiting permanent employees.

Furthermore, some workers may prefer to be an agency worker than a permanent employee. This could be due to higher wages, benefits, shorter recruitment phases or job variety. This may in turn negatively affect retention of existing permanent staff, as they may leave to become agency workers themselves.

#### 4.4 Time to recruit

The requirement for temporary workers can vary from next-month availability, to needing someone within hours. In urgent situations, for example, if a key member of staff calls in sick, there may be a need to cover a position very quickly indeed. As the time from job advertisement to permanent employment can take months, it can be much quicker to telephone an agency to cover a position.

#### 4.5 Seasonal

Agency workers are particularly useful in completing seasonal work, as in street care or horticulture.

The costs associated with a permanent recruitment process may not even justify having such seasonal workers on short-term contracts; rather, it is likely that seasonal workers may still be best recruited through agencies.

#### 4.6 Business process

After following any corporate business case procedure to authorise the requirement, managers have two choices when faced with a vacant post which needs to be filled; either use their human resources department to recruit (either permanently or to a short term contract), or contact an agency or managed service to arrange cover by a temporary worker. If existing agreements with preferred agencies are available, but the agencies do not have the right person for the job at the time needed, managers often go outside the corporately-contracted arrangements to find an agency who can supply. This can result in higher commissions paid, more time lost by managers telephoning various agencies, and contracts made on the agencies' standard terms rather than the local authority's terms and conditions of contract.

Sometimes the length of the assignment and immediacy of the need does not justify going through a potentially lengthy and bureaucratic HR recruitment process.



# 5. Issues faced by a local authority without a controlled approach to agency staff

## 5.1 Procurement Issues

### 5.1.1 Cost

There are four parts to every agency worker's rate:

#### ■ Agency Worker Pay Rate

This is the rate that the agency worker is paid.

#### ■ Working Time Regulations (WTR)

The Working Time Regulations 1998 came into force in October 1998. This legislation affects the vast majority of workers. The basic rights and protections that the WTR provide are:

- a limit of an average of 48 hours a week which a worker can be required to work (though workers can choose to work more if they want to)
- a limit of an average of eight hours work in 24 which night workers can be required to work
- a right for night workers to receive free health assessments
- a right to 11 hours' rest a day
- a right to a day off each week
- a right to an in-work rest break if the working day is longer than six hours (the break should be at least 20 minutes away from the work station).

In addition to these protections the WTR also gives workers the right to 5.6 weeks (28 days) of holiday, pro-rata for part time workers. This holiday entitlement is inclusive of public and bank holidays.

The average percentage charged by agencies, to enable the individual worker to accrue the correct amount of paid annual leave, is 12.07 per cent. This charge should be calculated as a percentage of the temporary worker's hourly pay rate, and should not be accrued on hours worked as overtime.

#### ■ National Insurance (NI)

Class 1 National Insurance Contributions are paid by employed people and their employers. Temporary workers who work on a PAYE basis must have their contributions collected via their wages/salary and passed to HM Revenue & Customs.

Employers are required to pay a percentage contribution for a worker's National Insurance, once the Lower Earnings Limit (LEL) has been reached. (The worker can earn up to the LEL without paying any NI contributions).

Once the individual worker exceeds the LEL, this percentage charge is processed by the agency, and deducted via PAYE from the temporary worker's pay. The supplying agency will then incorporate the percentage amount within the total hourly charge rate (excluding VAT) to the local authority.

- The current (2010 – 2011) LEL is £110, (this first £110 of earnings by the individual does not incur an employers NI contribution). For information on thresholds please go to <http://www.hmrc.gov.uk/rates/nic.htm>

- The current National Insurance rate is 12.8 per cent and should be levied on the temporary worker's pay after the LEL threshold has been reached.

#### ■ Agency Fee

This is the commission, or fee, that the agency charges.

In some cases, agency staff are considered to be cheaper than permanent staff. However, analyses undertaken in the London Borough of Havering and other London local authorities have shown that commission levels for agencies prior to the implementation of a managed service were as high as 50 per cent of a worker's wage per hour. Estimates by other local authorities have found that commission levels can be successfully reduced to 14-15 per cent or lower by using a managed service, for all categories of staff – from administrative and clerical to social work.

Furthermore, analyses have shown across the country that agencies can overcharge the employer's element of National Insurance and the charges for holiday pay resulting from the Working Time Regulations. This discrepancy can in some cases equate to 33p per hour.

The Conduct of Employment Agencies and Employment Businesses 2003 Regulations require that before providing services to a hirer, the agency/employment business and the hirer must agree the terms that will apply, and they should be recorded in a single document.

This means that organisations can request the information directly from the agencies on the method of fee calculation for their own analysis. Overall, following requests from authorities, recruitment agencies (operating as “employment businesses”) have typically responded positively and have provided details of pay rates, on-costs and commissions in the format requested.

Some agency workers are not paid via PAYE from their agency as they operate through personal service limited companies. In this instance, the agency charges the local authority for the worker’s pay rate plus their commission. There are no employer’s National Insurance contributions or Working Time Regulations payments.

A further guide to agency pricing and commissions, ‘*Margins Mark-ups and Multipliers*’ accompanied by an invoice checker calculation tool, can be found at:  
[http://www.ogc.gov.uk/temporarystaff\\_7133.asp](http://www.ogc.gov.uk/temporarystaff_7133.asp)

### **5.1.2 Timesheet and invoice processing**

Paper timesheets were (and sometimes still are) part of the business process for thousands of agency staff across London. They required signature in hard copy by managers. The timesheets are then submitted to the agency which in turn sends invoices to the local authority for payment. The invoices are then approved and paid according to the authority’s financial procedures, which could be labour-intensive and time consuming. It is not uncommon for a local authority without a managed service to have over 150 agencies on its books.

Typically, managed services provide electronic consolidated invoices and time sheets are on line. Invoice consolidation may help, where bills are sent monthly instead of weekly.

Whichever transactional method is applied, it is essential the authority has checks and balances in place to ensure invoices are accurate, valid, correctly authorised by the appropriate manager and in line with the organisation’s financial policies and procedures.

### **5.1.3 Terms and conditions**

With an unmanaged approach to agency staff, usually the agencies’ standard terms and conditions are offered to managers. There is little room for negotiation, which may result in a one-sided agreement with terms and conditions often unfavourable to the local authority. These can include high charges for taking staff on permanently.

## **5.2 HR Issues**

### **5.2.1 No management information**

Without a master database of its agency workers recording their pay rates, the commission charged and the length of time in post, an authority’s agency workforce cannot be monitored.

Without proper management information, comparisons cannot be made between pay and benefits for agency workers and for permanent staff, or to capture a true picture of the local authority’s workforce.

### **5.2.2 Equalities and a two-tier workforce**

If there is no data on the agency workforce as a whole, information that compares agency staff with permanent employees is unavailable.

Without information on pay rates, there is a risk of having a two-tier workforce, where pay and benefits differ from agency workers to permanent employees. The standard recruitment process is usually “equality proofed” for permanent workers, but without a consistent approach to agency worker recruitment, commitment to equalities and diversity within the agency workforce may be lacking.

### **5.2.3 Supplier audits – work eligibility, CRB checks**

As the supply of agency workers into any local authority is likely to be critical, it is important that agencies are audited to ensure they are operating correctly. They need to carry sufficient levels of insurance, to follow proper procedures for assessing workers’ eligibility to work in the UK and to carry out Criminal Records Bureau (CRB) checks where appropriate. Random sampling can show whether references were obtained, and training records verified.

### **5.2.4 Training and basic induction**

Records of work inductions and training received ought to be kept for agency workers. In the unfortunate event of an accident, training records will aid the resulting investigation.

### **5.2.5 Lack of continuity**

When relying on agency staff to provide a service, there may be issues surrounding a lack of continuity. Within social care, for example, it may be important for a client to have the same carer(s) attending to their needs. However, as some agency staff are working with notice periods of one week or less, service delivery may be affected by high staff turnover.

### **5.2.6 Lack of local promotion**

If it is important to a local authority to be recognised as a good employer, it is important to evaluate whether the agencies are promoting the local authority positively. Agency workers in London can account for up to 25 per cent

of an authority's headcount on a full-time equivalent (FTE) basis; as such those workers may have a positive or negative view of the local authority based on their experiences through the agency.

### 5.2.7 Community priorities

It may be unknown whether local authorities are fulfilling their stated community priorities as they relate to agency workers. For example, if it is important to provide employment opportunities that are accessible to everyone, you must examine all the jobs available to the whole workforce, not just to permanent staff.

## 5.3 Legal Risks

### 5.3.1 Agency Workers Directive

Legislation to implement the Agency Workers Directive is expected to come into force in 2011. The purpose of the new laws will be to give temporary workers limited equal treatment with comparable permanent employees. The concept of "equal treatment" under the directive relates only to basic working and employment conditions, such as pay, working hours, overtime, breaks, rest periods, holidays, access to training and collective facilities like childcare. For the majority of these rights equal treatment will not be required until the agency worker has worked in the relevant role for 12 weeks. Implementation by EU member states is required by 5 December 2011.

For further information please see:

<http://www.bis.gov.uk/policies/employment-matters/strategies/awd>

<http://www.lge.gov.uk/lge/core/page.do?pageId=1192366>

### 5.3.2 Employment status of agency workers

Generally speaking temporary staff who work through an agency will not be employees of the end user (the hiring authority) - see the judgment of the Court of Appeal in 2008 in the case of *James v London Borough of Greenwich*. A recent case (*Tilson v Alstom Transport*) has however cast doubt on this general principle. The case included some unusual facts and was decided by an employment tribunal (i.e. the lowest type of employment court), so it may not be followed in other cases, but in the current uncertainty it is still worth making sure that the following precautions are taken:

- a. get confirmation from the agency that they have a contract of employment with the worker.
- b. do not use agency workers for long periods.
- c. do not control the way the worker does his/her work more than necessary (as opposed to controlling what the results of that work are). How far this can be done will obviously vary from job to job and even from worker to worker.

- d. do not integrate the worker into the organisation more than is necessary. Deal with matters of pay, sick leave, annual leave and any performance problems through the agency. If possible, avoid giving the worker management responsibility. Don't pay the worker directly.
- e. avoid taking a worker on through an agency after he/she has already been an employee of the organisation – this is a situation which is more likely to result in deemed employment, and legal advice should be taken before this is done.

If an agency worker is deemed to be a de facto employee of the end user, it may give rise to employment claims. This may include:

- **unfair dismissal**

Agency workers could have the same rights as employees against unfair dismissal.

- **redundancy**

Agency workers could have the same payments and rights in the event of redundancy.

- **minimum notice**

Agency workers could be subject to the same minimum notice requirements as permanent workers.

- **access to benefits and pensions**

Agency workers might be able to claim that they were denied access to benefits and pensions that permanent workers have.

- **increased likelihood of discrimination claims**

Although agency workers can already claim for unlawful discrimination (for example, on grounds of race or sex), they may be more likely to do so if they believe themselves to be employees.

## 6. Self analysis: understanding your organisation

Before you begin any tender exercise to select a managed service, it is vital to analyse the organisation's expenditure and categories of agency workers to create a picture of the agency workforce. The organisation will need:

- a database of the current agency workers, including the agency worker pay rate, the National Insurance (NI) charge, the Working Time Regulations (WTR) charge, the agency fee, the length of time in post, and the expected future duration of the post. The organisation may want to consider including diversity issues, such as disability or ethnicity. In carrying out this exercise, authorities should consider data protection obligations.
- an analysis of the job roles covered by agency workers.

There are many commercial organisations who will undertake this analysis for you. In conducting such an exercise, care should be taken as to the level of sensitive information available to the researcher if they are a potential candidate for future tendered work (for example, they may wish to tender to provide a managed service). Contracting authorities must not give any potential tenderer an unfair advantage. Alternatively many authorities have collected this data themselves<sup>3</sup>.

It would be useful to compare your authority's worker database with the accounts payable expenditure to see if they match, as some managers may have charged agency worker costs to other non-staffing accounting codes.

In order to determine the reasons for using agency workers, authorities need to consider the following reasons as a minimum<sup>4</sup>.

- sickness cover
- recruitment difficulties
- seasonal; flexibility
- other

An authority will also need to survey managers as changes may be needed to working practices. If there are any barriers to permanent recruitment, such as lengthy, bureaucratic HR processes, identification of those barriers and finding solutions to them are critical.

You also need to understand how agency staff perceive your organisation and if this is a perception that you want, in order to best plan the best way forward for your authority.

The final element is to understand the risks your organisation is taking having regard to the issues faced in section 5. This can only be undertaken in a qualitative way but should be used to inform your judgment.

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<sup>3</sup> A template for collecting information is available from [tempstaff@ogc.gsi.gov.uk](mailto:tempstaff@ogc.gsi.gov.uk)

<sup>4</sup> A more detailed list is likely to be available in 2010 as the work on demand management of temporary agency workers develops.

# 7. The options available

## 7.1 Managed service – definition

A managed service is one that serves as an interface between a local authority and its agencies to manage its temporary worker needs. It acts as one point of contact for all agency worker procurement, and sends out vacancy notices electronically to the agencies (which can be arranged on a tiering system). It can be either an external organisation or an in-house department, depending on your needs.

The managed service can collate and report on information for each candidate, their roles, pay rates and equalities and diversity data. It can also negotiate with the agencies for better rates of commission. The managed service can also ensure the accuracy of all agency charges, particularly as analysis has shown that overcharges on National Insurance (NI) and the Working Time Regulations (WTR) are not uncommon.

The managed service can also audit the agencies to ensure that they carry appropriate levels of insurance, and that they follow proper procedures to ensure that candidates are reference checked and eligible to work in the UK.

Finally, the managed service can support a more effective agency workforce on behalf of the authority. For example, it can send reminder notices to managers after a certain period of time (for example, three months) to ask if they wish to continue hiring someone as an agency worker, take them on permanently or terminate their assignment.

A managed service will bring a consistent approach to the procurement and usage of agency workers throughout the authority.

The Local Government Professional Services Group (the LGPSG), in association with OGC, has published a guide covering 'What good looks like for Agency Managed Service within the Local Government context'. This can be found at: [www.ogc.gov.uk/temporarystaff\\_7133.asp](http://www.ogc.gov.uk/temporarystaff_7133.asp)

## 7.2 Managed services – what are the basic models?

There are four possible basic models for a managed service:

- vendor neutral
- master vendor
- internal solution
- partially-outsourced human resources

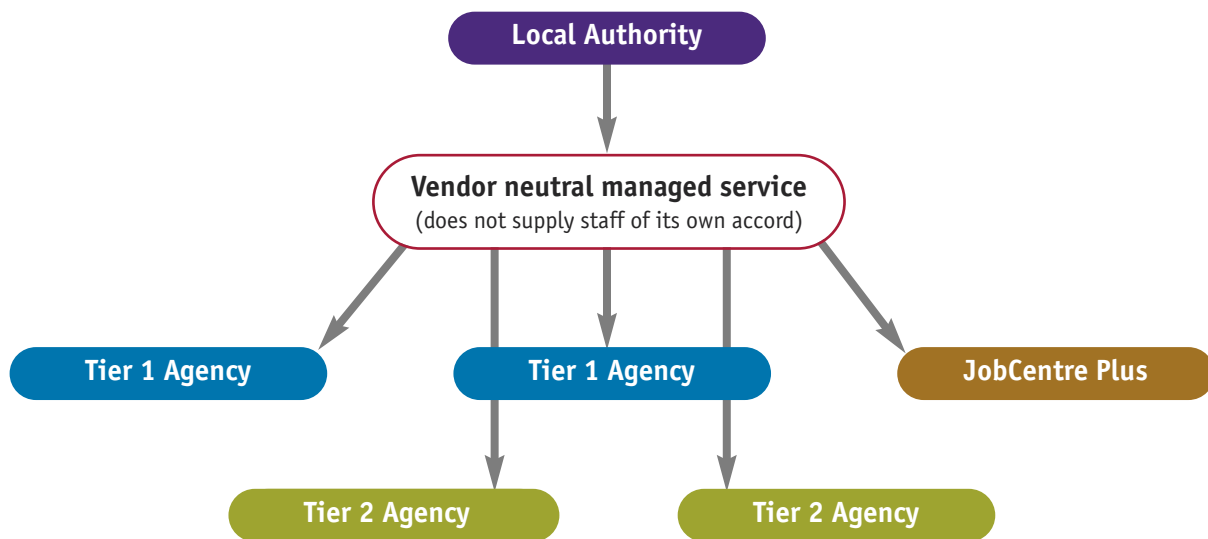
## 7.3 Other agency supply models: multi agency frameworks and PSLs.

Historically, many organisations had preferred supplier lists (PSLs) or framework agreements, which provide a list of approved or vetted agencies that can be used across the organisation. Authorities need to consider their legal obligations imposed by EU and UK procurement laws. Where the anticipated expenditure on such an agreement is expected to be above the EU procurement threshold they would need to advertise the contract in the Official Journal of the EU (OJEU). Authorities should also note that, even if the requirement consists primarily of Part B services (or is otherwise not subject to the full scope of the EU rules), the EC Treaty principles still apply. For instance, authorities must ensure a degree of advertising – based on the individual circumstances of the case - sufficient to allow the services market to be opened up to competition. See the OGC website for more guidance on EU procurement requirements [http://www.ogc.gov.uk/key\\_cross-cutting\\_government\\_policies\\_the\\_policy\\_and\\_legal\\_framework.asp](http://www.ogc.gov.uk/key_cross-cutting_government_policies_the_policy_and_legal_framework.asp)

While a multi agency framework agreement can still work for organisations with very low expenditure on agency staff and a culture of compliance, implementing a managed service would be recommended for large spending organisations to improve their management of risk, visibility, controls and to reduce costs.



## 7.4 Vendor neutral managed service (VNMS)



A vendor neutral managed service is one that does not provide staff of its own accord. A vacancy could be phoned or emailed in to the managed service, which is then sent out to the agencies, which typically are arranged in tiers. Agencies that perform better can be placed into higher tiers, which means they are offered the assignments before agencies on lower tiers. An authority should consider the mechanism for evaluating agencies which could result in movement between the pre-established tiers. The performance criteria applied will need to be based on objective and measurable evidence, for example, number of positions filled.

Agencies then send their CVs of candidates back to the managed service, which sorts them and forwards the CVs that are most appropriate for the position to managers. (Some agencies send them directly to managers depending on the procedure agreed with the managed service). The vendor neutral managed service does not supply staff as an agency so that it can be neutral in selecting agencies and candidates. In this way, quality candidates can compete against each other from many agencies whilst managers only have one phone call or email to make to the managed service for their request. The vendor neutral model can be open to small and medium-sized enterprises (SMEs) and black, Asian and minority ethnic (BAME) businesses because it allows clear competition between agencies.

It is important to examine the relationship between the managed service and any of its associated agencies. A vendor-neutral managed service may be within a corporate

group which includes agencies or employment businesses (for example, they may be sister companies owned by the same parent company). It is wise to insist upon equal treatment and open, transparent competition between any associated agencies and rival agencies. Alternatively, you could stipulate that associated agencies are not allowed to supply staff.

Costs for this model depend on the payment plan selected. For example, a flat management fee could be chosen, which other local authorities have estimated at £200,000 a year. This however offers no incentive to the managed service to achieve savings. Alternatively, a transactional fee can be levied, based on number of placements or hours worked. Finally, there is the shared savings option, where the managed service has an incentive to create savings for the local authority. The savings would then be split, for example 70 per cent to the local authority and 30 per cent to the managed service (although some authorities may consider that such a split is "giving away" too many of the savings). Again, the savings need to be tracked against the original baseline expenditure to track any efficiencies or savings achieved. Local authorities may also require that quality of service must be maintained or increased, so the use of objective, measurable criteria to score the performance of the agencies is recommended.

### Advantages:

- attracts quality candidates from a variety of agencies
- allows clear competition

- open to small and medium-sized enterprises (SMEs) and black, Asian and minority ethnic (BAME) businesses as against larger competitors by allowing an equal playing field between all agencies based on performance
- Small numbers of staff potentially transferring under TUPE at the end of the contract
- Existing agencies retained and scored on performance
- Easiest to implement with existing workforce.

#### Disadvantages:

- may be more expensive than other models
- managers may prefer direct contact with agencies
- there may be management resistance to using the managed service's forms and IT systems
- some suppliers, particularly those supplying specialist skills, may refuse to participate.

## Case Study Vendor neutral managed service (London Borough of Havering)

### Background

In early 2006, the London Borough of Havering (LBH) began a competitive tender process to appoint a vendor neutral managed service provider for the provision of temporary agency staff.

LBH spent in the region of £15million annually using approximately 450 temporary agency staff. The key objectives for the project centred on:

- achieving optimised savings on the engagement of temporary agency workers
- automation of the ordering, invoicing and payment process in compliance with existing and future authorisation procedures
- accessing real time management information
- reducing risks associated with engaging temporary agency staff
- ensuring the quality of temporary agency workers supplied
- effective performance measurement of suppliers
- supporting community strategy, especially around diversity and equality issues
- ensuring continuous improvement

A vendor neutral managed service model was identified as best meeting these objectives.

### The tender process

Initially LBH evaluated an existing framework contract for a vendor neutral managed service but felt that it did not at the time satisfy its requirements. LBH subsequently began a separate procurement exercise. After receiving 40 expressions of interest, LBH invited seven companies to tender. Using an extremely detailed, output-based specification, bidders were evaluated against price (50 per cent) and quality (50 per cent). Bidders were asked to

propose options based on four pricing models, with the four best quality submissions asked to further refine their offers at a best and final offer stage. LBH decided to opt for a shared savings model as this would offer the lowest risk and all costs would be contained within savings, thus making the project self funding and ensuring cashable savings. The contract was awarded to Comensura Limited for three years, with an option to extend for a further two years.

The benefits of the Comensura offer included their ability to retain existing supply arrangements. Their buying power could deliver the requisite level of quality whilst achieving desired savings. Additionally Comensura was able to provide full procure-to-pay technology, plus fully automated ordering, time-sheeting and invoicing to make these processes quicker and more efficient.

### Implementation

LBH had carried out a great deal of research prior to going out to tender. This ensured that the required level of information from LBH was provided to Comensura in order for them to replicate LBH's organisational structure within their IT system set-up. This in turn let the correct level of user place orders, create assignments and approve time-sheets simply, effectively and in line with LBH's internal rules. Comensura provided a highly detailed implementation project plan to achieve this, clearly outlining their responsibilities and those of LBH.

LBH stress that the importance of effective communication at all levels cannot be underestimated. It was recognised that both parties were united to deliver certain objectives and would be able to address issues as and when they arose in a frank and honest fashion. A project of this magnitude invariably requires participation and agreement from a number of stakeholders with differing agendas and as such pragmatism and openness were paramount in ensuring a smooth transition. A clear example of how this has led to successful outcomes can

be seen by the fact that LBH has minimised the number of timesheet queries purely by issuing an email each Friday afternoon reminding staff that they need to authorise their timesheets – a simple, but effective step.

LBH believed that the most challenging aspect of implementation came through the management of an incumbent supplier who held the majority of supply of agency staff to the authority. To this end Comensura and LBH have worked in partnership to ensure an amicable resolution for all parties, adopting a flexible approach to enable the supplier to continue supplying workers as before, but through an open, transparent and competitive process.

### Post Go live

Given the level of detail addressed at implementation, the vendor neutral managed service has proved to be a success. LBH's objectives have been met, with £30,000 cashable savings delivered in the first month alone on new and legacy orders. More importantly LBH has far greater control over its temporary staff and is more able to understand and address workforce issues.

As expected with a change management programme of this nature, initially pockets of resistance surfaced, but these were addressed and largely won over using the same level of pragmatism and openness employed throughout the implementation stage. One key sceptic, a head of service (whose department was a heavy user of temporary agency staff) had, throughout the tender and

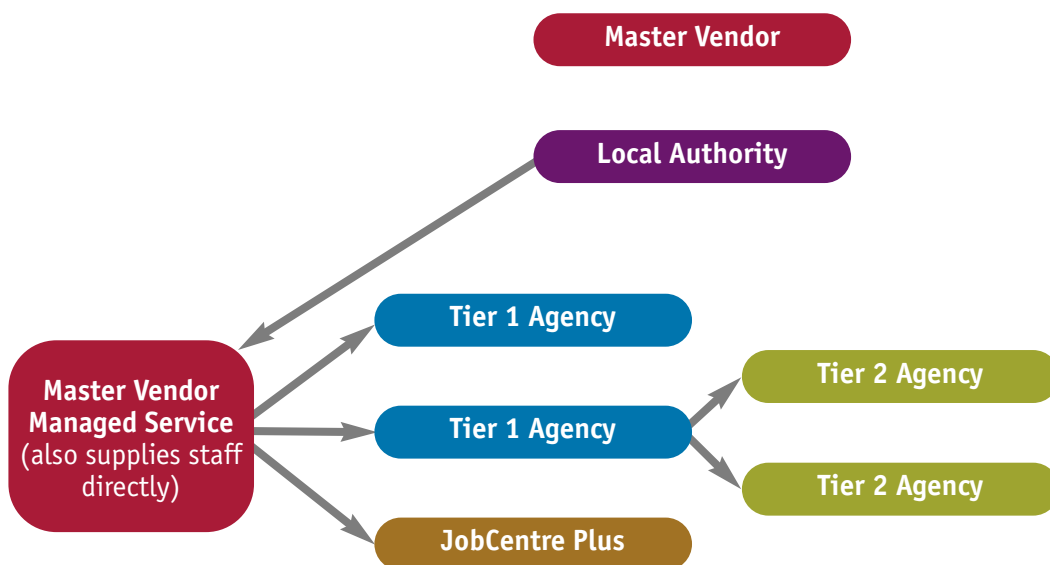
implementation process, been highly dubious of the merits of such a project, but now speaks very positively and supportively about the benefits delivered.

Feedback is regularly sought from users, drawing out teething problems and confronting issues early to seek speedy resolution. Users are asked to relay positive experiences to LBH's project manager which helps to create goodwill and a sense of satisfaction both for the project manager and Comensura.

### Electronic Knowledge Exchange

In addition to introducing a vendor neutral managed service within the authority, LBH have also taken the lead, and are working in partnership with Comensura, on a Capital Ambition project, the 'Electronic Knowledge Exchange' (EKE). The EKE is one of a number of pan-London initiatives identified to promote further collaborative working and promote the efficiency agenda, with the intention to pool aggregated information about the agency workforce across London. The project entered into its pilot stage in November 2007 with Comensura providing information on the 11 London boroughs under their management. Sharing this information will enable trend analysis and better budget planning. It is also hoped this will prevent the escalation of pay in areas of skill shortage. Those boroughs not currently associated with EKE have been approached and presented with the data that the EKE can provide. From this many boroughs have requested their managed service providers join the EKE.

## 7.5 Master vendor managed service



A master vendor managed service is one that does provide staff itself, as well as from other agencies. A vacancy is phoned or emailed to the managed service, which then attempts to fill it based on its own pool of candidates. If it cannot fill the vacancy, it will then send it out to the other agencies based on their tiering score or the model of agency supply used.

The master vendor has a vested interest in putting forward its own candidates because it can make economies of scale. The master vendor model is not “neutral” in selecting agencies and candidates because it will always consider its own candidates first.

A master vendor might be willing to provide this service at little cost because of the advantages of the economies of scale. However, it is extremely difficult to prove that all candidates sent to a manager for review are the best, because of the master vendor’s vested interest in preferring its own candidates. A master vendor model requires sufficient contract management to secure both quality and price advantages. The management of the supply chain of agencies also requires careful organisation to ensure that they are not isolated nor given only the difficult-to-fill positions. Furthermore, this model may disadvantage small

and medium-sized enterprises (SMEs) and black, Asian and minority ethnic (BAME) businesses because it does not allow a level playing field between the managed service provider and the other agencies.

#### Advantages

- Is generally recognised as cheaper
- Assists in developing a quality pool of agency workers
- Better understanding of the requirements of individual service areas.

#### Disadvantages

- Candidates from master vendor are given priority
- Model may not support SMEs and BMEs well
- TUPE at end of contract would be a concern (if agency workers who worked for the master agency had to transfer in addition to staff managing the contract).
- Lack of ability to provide the volume and quality of candidates across all local authority services particularly if there is a high use of qualified and professional services agency staff.

## Case Study Solihull Metropolitan Borough Council – Master vendor managed service

Solihull Metropolitan Borough Council (Solihull MBC) has recently concluded a procurement exercise for its second managed service temporary agency staff contract. This case study seeks to provide insight into the process, challenges and lessons learned by Solihull MBC when transferring from a preferred supplier list (PSL) to a managed service and, then, transferring from one managed service to another.

Prior to tendering for a managed service provider of temporary agency staff, Solihull MBC conducted a supplier baseline study to determine the number of agencies supplying the authority and to establish at what frequency, volume and margin the temporary staff were provided. It discovered that in excess of 100 agencies were supplying the authority, with margins ranging from 15 per cent to 45 per cent. Initial efforts were made to reduce the number of suppliers by implementing a preferred suppliers’ list with preferential rates. This approach had limited success and a more fundamental change to how Solihull MBC procured temporary staff was required if it was to meet its demand management and budgetary objectives. Following an internal consultation, Solihull MBC decided the best way forward would be to tender for a managed service provider for all categories of agency staff. Solihull MBC’s agency workforce consisted predominantly of office,

catering, children’s social care and professional staff. Having outsourced its grounds maintenance, refuse collection and other related services, Solihull MBC had little need for “blue collar” temps.

It was anticipated that in tendering for a managed service provider for agency staff, Solihull MBC would gain better control of its temporary staff demand and achieve improved margin/mark-up rates. By centralising the requirement for agency and temporary staff, it also hoped to gain useful, accurate and complete management information for this section of its workforce.

Following a restricted EU tender process, a managed service was implemented in November 2005. During the procurement exercise, Solihull MBC invited proposals on both a master vendor and neutral vendor basis. The exercise was jointly managed by the Corporate Procurement Service and HR management personnel teams within Solihull MBC. Following a detailed evaluation in accordance with the procurement procedure, Hays plc was selected to provide a master vendor managed service.

During the implementation, it was mandatory for all council managers who wished to use agency staff to

engage them through the master vendor managed service provided by Hays plc. Whilst this initially detracted from the popularity of the managed service (predominantly due to the working relationships that had developed between managers and agencies), resistance diminished with time once the ability of the managed service provider was established. Solihull MBC has a strong corporate ethos and compliance with the managed service provider was high. In the event of non-compliance, the Council's i-procurement system was configured to prevent the use of any provider of agency staff other than the managed service. The system immediately highlighted supplier set-up requests for any other agency; this prevented agency staff being procured from outside of the managed service through tight financial controls.

Initial consideration was given to making the contract optional for council managers. However, in retrospect, the council acknowledged that making use of the managed service mandatory was key to its success in achieving progress towards its demand management, savings and management information objectives.

The original master vendor after implementation supplied approximately 30 – 35 per cent of the council's agency staff, with a further 25 per cent being supplied by other agencies within Hays' corporate group.

To collect the savings made where no specific budgets existed, it was decided that council managers should continue to pay the same rates for hiring temporary workers as they did prior to the introduction of the managed service. As such, an on-cost equivalent to this difference was introduced, to be rebated centrally on a quarterly basis. There were difficulties in determining existing and new temps and assigning the individual mark-ups for first and second tier staff within their particular categories. Therefore it was decided that a flat 6.2 per cent would be rebated centrally on the total invoice value, to be reconciled to an accurate figure on the anniversary of the contract.

Due to the nature of Solihull MBC's previous arrangements for the provision of staff, the implementation of a managed service was quite a long and intensive process. There were a number of initial difficulties in establishing accurate management information and accrual values. This was compounded by difficulties arising from this being one of the first managed service provider contracts for temporary staff, so systems and processes needed to be developed along the way. Significant improvements were identified once the contract had been in place for approximately 18 months including invoice accuracy, suitability of workers sent to fulfil assignments and

quality of management information. Council managers who had initially expressed reservations could see and appreciate the advantages of a managed service provider.

The duration of the contract with Hays plc was four years, from November 2005 until November 2009. Solihull MBC commenced a new procurement exercise in December 2008. Again, it was not specified which model of managed service was preferred despite already having a master vendor service. As the market had changed significantly since the tendering of the original contract, it was decided to retest the whole market, considering all of the different models and approaches proposed by tenderers. Reed Specialist Recruitment was successful in its submission, once again with a master vendor proposal, and was subsequently appointed at the end of 2009.

Following the implementation of the initial master vendor service with Hays plc, expenditure on agency staff has reduced from approximately £5 million to £4 million. This was achieved by managing the demand for temporary staff and the rates charged. Further savings have been achieved following the re-tendering and award of the contract to Reed Specialist Recruitment reducing spend to approximately £3.7 million and work is continuing on the development of new demand management techniques and proposals.

Work is also underway to regularise pay rates for temporary social workers and employed social workers to reduce the perceived pay advantage that can result from working as an agency temp rather than as a directly employed social worker.

Key learning points from the two Solihull MBC procurement exercises are:

- any new system introduced should be supported by senior management and made mandatory, and systems adjusted so that the new ways of working cannot be circumvented. Key stakeholders should be consulted during the process to achieve early buy-in and support of the process. Culturally, promotion of a corporate ethos is also an advantage.
- fees charged by an agency if a temp transfers to a different agency can be problematic; ensure that the managed service has a clear protocol for managing these fees. In Solihull MBC's case, it was stated that no fee would be payable on termination or expiry of the contract and that temps would transfer (as a complete entity, including rights to administer, margins etc) within the last three months of the contract period.

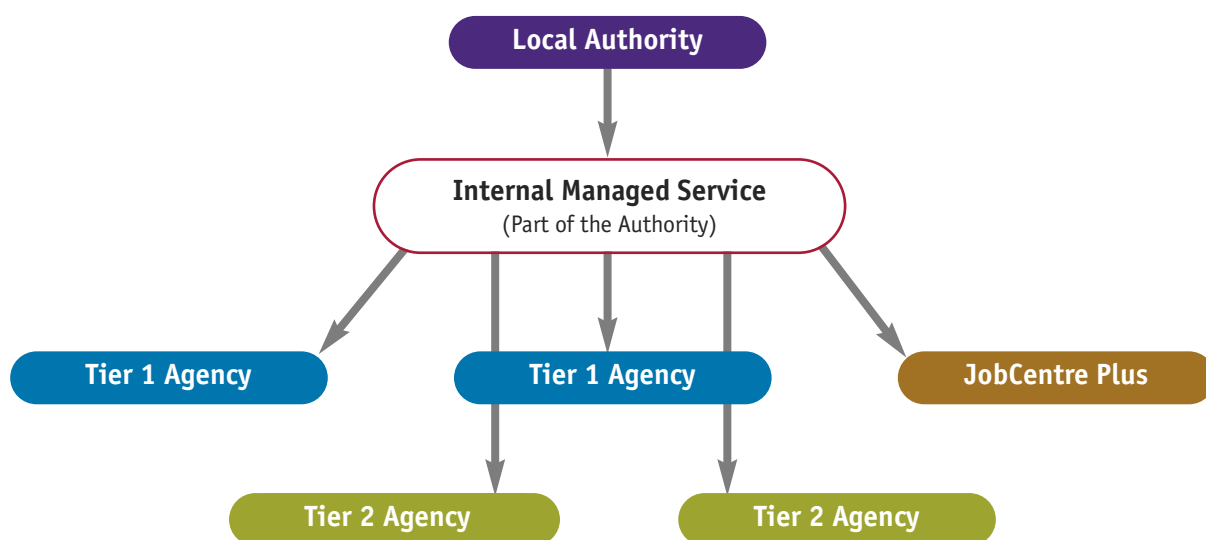


- ensure that there are clear exit provisions agreed in advance for when there is a change of managed service provider.

The contract continues to be managed jointly by the Corporate Procurement Service and HR teams in Solihull MBC, with HR focusing more closely on the day to day running of the contract, and Procurement focused on contractual developments and the process of procurement of temporary staff across the authority. Contract review meetings are held with the service provider on a monthly basis facilitated by the HR and Procurement contract managers.

Going forward, Solihull MBC considers that it would now be difficult to change from a master vendor model to a vendor neutral model. As Solihull MBC is a relatively small unitary authority with some outsourced services and a relatively small geographical location, a master vendor model is more suitable for meeting its requirements. This is because most of its needs can be met by one supplier and so the master vendor model from Solihull's perspective tends to provide the best value for money in such a situation.

## 7.6 Internally managed service



It is always an option to do it yourself, hence the internally managed service option. A new department can be created that will act neutrally via a framework with suppliers, in a similar way to a vendor neutral managed service.

Again, quality candidates can compete against each other from many agencies whilst managers only have one phone call or email to make to the managed service for their request. This model is also more open to SMEs and BAME businesses because it allows clear competition.

Under the internal managed service model a number of successful agencies would typically be appointed to a framework agreement and placed in tiers following the initial procurement procedure. The type of criteria to be applied when evaluating bids at this stage would be quality of proposal and price. There would be a number of agencies in each tier.

Once a framework is set up, each time a local authority had a need for agency services it would go to the suppliers in the first tier who would then put forward agency staff for consideration by the local authority. If no successful candidates were found, the local authority would then go to the second tier suppliers if one had been created. This is the "call-off" stage under the framework.

The framework is set up so that call-off contracts are either awarded:

(a) without re-opening competition where all the terms are laid down in the framework agreement. The procedure for choosing the supplier will be set out in the framework agreement and can be done, for example, by ranking suppliers according to their original bids and operating a cascade system so that the supplier who came first is approached first when there is a need for the services; or

(b) by re-opening competition between suppliers on the framework who are capable of performing the proposed contract. This would involve the authority running a mini-competition and evaluating tenders for the specific call-off contract.

Any potential movement between tiers would need to be carefully considered in light of the Public Contracts Regulations 2006 which set out the procedures for framework agreements which are governed by the full ambit of the procurement regime. The rationale behind these procedures is that they provide a transparent and fair way of running frameworks.

For advice on legal matters related to setting up frameworks or using existing frameworks by a managed service and tiering, consult your own legal team.

There also would not be any end-of-contract procedures for the internal managed service itself or any TUPE implications unless the service was externalised in future. However, it is recognised that software would have to be developed as well as management of that software, which may prove costly. The software would need to be a database of agency workers, their positions and pay rates, and timesheets. An element of e-procurement would be desirable to reduce paper processing, and vacancies would need to be sent

through the system to the various tier structures. A full range of management information reports would also be necessary to provide a corporate overview of agency workers within the authority and the transparency of the procurement process.

### Advantages

- attracts quality candidates from a variety of agencies
- open to SMEs and BAME businesses
- easy to amend terms of service provided to internal departments
- low risk of TUPE concerns unless service is externalised
- exclusive control of service and could be used to challenge managers on their use of agency workers
- net savings are all internalised

### Disadvantages

- can be expensive as software and management of that software is needed
- expertise to manage supply market needed
- out of hours service may be needed in addition to standard business hours

## Case Study (Internal managed service) Cambridgeshire County Council

In 2008, Cambridgeshire County Council implemented an internal managed service for the management of temporary agency workers.

An options appraisal decided that an internal managed service seemed most suitable to meet the council's needs. The council also decided to set up a framework contract for the supply of temporary workers which would be managed by the internal service. Consultation was undertaken with key users who were offered the opportunity to be involved in specification design. Managers who used temporary staff regularly were invited to participate in the framework supplier selection to ensure ownership of the outcome and that differing service needs were considered.

The project team tendered the framework contract via the council's purchasing consortium, the Eastern Shires Purchasing Organisation (ESPO), to allow opportunity for collaboration with other public sector purchasers of such services. 15 agencies were appointed to the framework and four category lots were created:

- office/administration
- manual
- professional
- social care.

The procedures for hiring temporary staff are now as follows:

- managers submit a request to the internal managed service team for temporary staff using an online form
- the internal managed service team review the request and either submit it to all the suitable agencies on the framework, or return it to the manager if an alternative should be used, or more information is required
- all suitable agencies are invited to bid
- agencies return candidate CVs and pay rates are broken down so all costs are visible
- CVs are sent to the hiring manager directly and a copy sent to the internal managed service team for auditing and reviewing purposes. The hiring manager then contacts the internal managed service team to arrange any appropriate interviews/start dates

- managers make their selection and all agencies are informed of the successful supplier
- the internal managed service team arranges the worker's start dates, provision of induction information, building access, IT access and raises the purchase order for the relevant framework agency

The internal managed service team also reconcile timesheets, orders and invoices, monitor overall expenditure on temporary staff and give managers four weeks' notice of any placement expiry.

Any extensions to temporary work periods are challenged by the internal managed service team. In some cases managers may only be granted a temporary extension while an alternative solution is pursued. Agencies submit their invoices weekly to the internal managed service team, with all necessary information (such as purchase order numbers) for ease of matching to receipted amounts. Any incorrect invoices or invoices with missing data are returned to agencies by the internal managed service team for correction.

The internal managed service team sends agencies monthly reports on the volumes required for the different types of workers. The council's directors of finance and HR, who took joint ownership of the managed service, receive regular updates.

Another key role of the internal managed service team is agency management. The team has a post dedicated to managing agencies and undertaking regular quarterly performance reviews. This includes an audit to ensure all pre-employment checks eligibility to work in the UK, validity of qualifications, references have been completed.

The booking processing and all financial transactions are undertaken by the internal managed service team on behalf of council managers. This ensures that transactions and data are captured consistently, significantly improving the quality of management information. Recruiting managers believe that the internal managed service team is providing a value added service – not just by ensuring compliance with the relevant procedures, but by helping make their day easier by removing routine transactions and setting the groundwork for automation of such processes. The council has also found that implementing changes to systems and activity has been easier when it only affects the small number of people in the managed service team.

As details of the new process spread by word of mouth, other council departments outside the scope of the initial project requested support. The internal managed service team began to understand more about their issues, found

solutions and incorporated new areas such as children's support workers.

The expansion of the service required new routes of contact, for example an out-of-hours service where managers can call requests directly through to agencies.

As the service became more established, the council's HR and procurement teams identified additional areas which could be brought within the internal managed service team's remit, such as interim staff and consultants, together with search and selection of permanent staff.

## Costs

The cost of the internal managed service is in the region of £150,000 a year. This includes salary costs for five members of staff, covering all contract and supplier management (including six-monthly audits), transaction management, advice and support to recruiting managers, demand challenge and performance reporting on temporary staffing within the council. This is part-funded by the HR section, but the majority of the cost is covered by a 5 per cent rebate collected from framework agencies annually.

For comparison, costs for an external vendor neutral managed service provider could typically be in the region of between 1.5- 5 per cent of expenditure depending on the service requirement, and agency spend and usage of the authority. Additional costs to the organisation could include salary costs for a contract manager, resources to manage and oversee compliance and performance, plus possible IT system integration costs.

## Benefits

At the time of creating this case study, the council was spending in the region of £4m on temporary staff and the internal managed service was achieving:

- 95 per cent + fill rates for requests
- 90 per cent compliance (plus 5 per cent explained alternative routes)
- savings of £130,000
- avoidance of approximately £164,000 of temp-to-perm fees
- non-cashable process efficiencies.

Information is now available centrally on all temporary workers in the council, including rates paid, duration of assignment and reasons for engagement. This enables the council to challenge long-term or inappropriate use of temporary staff by redirecting managers to an alternative option (such as fixed-term recruitment). The council can

also ensure it is meeting its legal obligations and that suitable contract terms and conditions are used for temporary work assignments. Furthermore, it can manage the risks it is exposed to, both before taking the worker on (by ensuring all checks have been done) and once the worker is in post.

The council's managers are satisfied with the service. They receive fewer sales calls from agencies and can redirect those they do receive to the internal managed service team. They have greater assurance of getting the right worker, as the team ensures the agencies get sufficient information to provide suitable candidates. The team sifts unsuitable responses and deals with chasing agencies, resolving problems, processing the transactions and ensuring value for money.

A representative from the internal managed service team sits on two key boards in the council – the Safeguarding Board and the Children and Young People's Services Employment and Recruitment Strategy Board. This enables the team to incorporate emerging needs (such as changes to internal policy) and to work with suppliers to find solutions to problems with supply (such as recruitment and retention of children's social workers).

### Notes of caution

Do not assume that an internal managed service is a simple or cheap solution – you need to invest enough resources to match a commercial managed service

offering. The service should look at compliance, assess booking and fill rates, obtain and analyse management information to understand the business, incorporate IT systems and audit suppliers.

Ensure you have the IT systems in place to support an internal managed service – the ability to track and manage data such as requests and pay rates etc is essential to demonstrating savings and being able to address more strategic considerations such as demand management. IT systems can be bought off-the-shelf, but it is worth investigating what existing systems are available internally and whether there are the in-house skills to adapt it to suit.

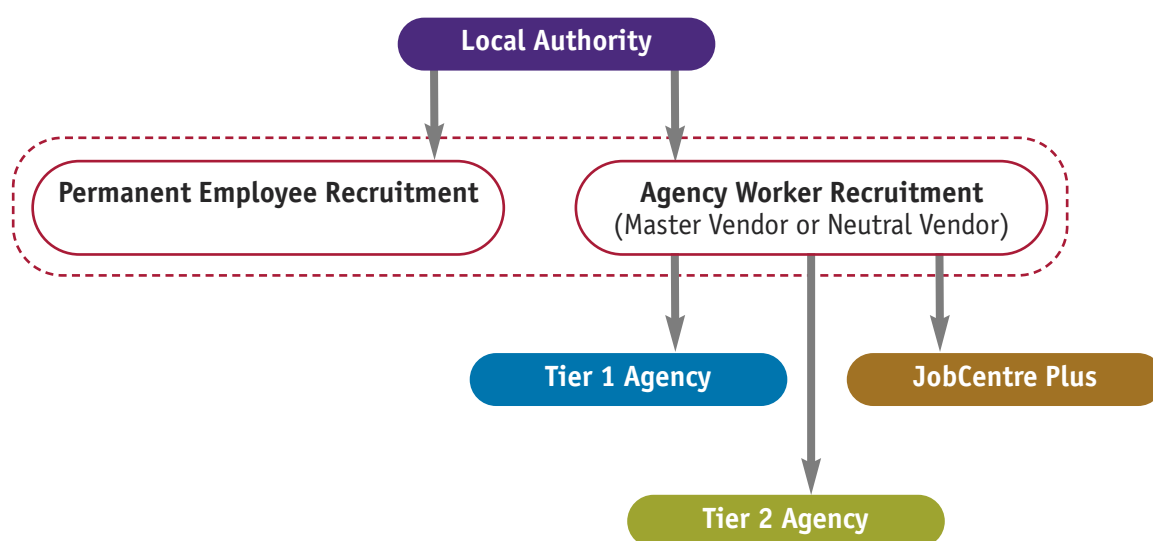
### Effectiveness and next steps

The control offered by the internal managed service model allowed the council to retain flexibility – the model could be expanded, reduced, or adapted to address emerging or additional needs, and moved into shared services or disbanded if no longer needed.

It was recognised from the beginning that, while an internal managed service would enable the priorities at the time to be addressed, it might not be the appropriate long-term solution.

A more detailed case study of this project can be obtained from the OGC at [tempstaff@ogc.gsi.gov.uk](mailto:tempstaff@ogc.gsi.gov.uk)

## 7.7 Partially outsourced human resources managed service



Perhaps the most radical of the options is the partially outsourced Human Resources managed service. In this model, all recruitment is outsourced, both permanent and temporary. The managed service handles recruitment packs, applications advertising, for all job sets. This allows for the same corporate branding on all positions. For temporary recruitment, the managed service acts as either a neutral vendor or master vendor (see section 7.5).

It is difficult to quantify cost and savings comparisons overall with this model entered into in terms of service provision and the baseline recruitment overheads and costs eg current recruitment advertising budget. Typically, for the temporary agency worker requirements, the pricing schedule is similar to the vendor neutral and master vendor models so comparisons here can be made. There is a need to incentivise the managed service provider to fill permanent positions, as it may be inclined to fill with agency staff to generate more revenue. This model has many TUPE implications both at start of and end of the contract, as the current recruitment department would be effectively outsourced. This model has the least amount of control by the authority as all recruitment is done by the managed service provider.

The public sector equality duties apply to public bodies and their functions. Where a public body contracts out one of its functions and that function is subject to the public sector equality duties, the public body must consider whether the relevant obligations under the public sector equality duties should be passed onto the contractor. Where the duties are passed onto the contractor, this should be included in the contract conditions. It is important to note that the public body still retains responsibility for meeting the duties and would therefore remain liable for any non-compliance. In instances where the duties have been passed on to the contractor, the public body should monitor the performance of the contract to ensure that the obligations under the duties are being met. Further details on the public sector equality duties in the context of public procurement can be found in the OGC's guidance, 'Make Equality Count', which provides advice on when and how equality-related considerations can be reflected in the procurement process.

[www.ogc.gov.uk/documents/Equality\\_Brochure.pdf](http://www.ogc.gov.uk/documents/Equality_Brochure.pdf)

## Advantages

- handles all recruitment, both permanent and temporary
- acts as master vendor/neutral vendor for temporary vacancies
- has advantage of externalising in-house service (permanent recruitment)
- may help to support demand management initiatives for the use of agency workers as temporary and permanent recruitment is linked closely
- identical corporate branding for permanent and temporary agency recruitment.

## Disadvantages

- may be difficult to incentivise the filling of permanent vacancies (although this could be considered as part of the pricing and service credit strategy)
- large numbers of potential tupe staff transfers at the start and end of the contract
- if use a master vendor arrangement on the permanent side candidates from the vendor are given priority
- this model may restrict the use of SMEs or BAME businesses, particularly where a master vendor is used for sourcing agency staff
- least control of service
- outsourcing an organisation's permanent recruitment may not always provide cashable and non-cashable savings



## Case Study Outsourced HR model (Hertfordshire County Council)

Hertfordshire County Council (HCC) have won awards from Personnel Today, for innovation in recruitment and retention. HCC created the first fully-outsourced recruitment operation in the public sector. This involved the outsourcing of both temporary and permanent recruitment to Manpower, which has reduced direct costs significantly through improved supply chain management, and the contract is on track to cut HCC's recruitment budget by 5 per cent.

HCC embarked on the project when its advertising contract required renewal. At the same time, the potential for e-recruitment and database solutions was recognised, temporary staff costs were increasing but existing solutions were not well managed, and major reorganisations were planned where the potential for high redundancy costs existed.

HCC made the decision to outsource all recruitment resourcing to Manpower, including advertising, management of temporary and permanent staff and redeployment. Since appointing Manpower, responses to recruitment campaigns have dramatically improved and e-recruitment is now in place, as well as web-enabled candidate-to-vacancy matching facilities. As temporary and permanent staff benefit from 24/7 internet access they can apply for jobs online and look up career advice.

The Recruitment Centre, as it is called, offers one point of contact for managers and applicants. Candidates need only apply once, as permission details are stored on a database for future vacancy matching. Information is sent by email, text, or post rather than relying on the chance of seeing an advertisement.

Temp-to-perm arrangements allow for job and employer previews. The Human Resources team found that there was a significant improvement to the recruitment process, by streamlining and standardising practices. The transfer of response handling (high volume administration) to the Recruitment Centre freed HR teams to do professional advice work. Marketing of jobs was being conducted more effectively through the creative use of media and markets. In order to effect change, a team was created of HR specialists across departments, and from specialist teams including finance, legal, and IT. Top management, line managers and trade union representatives were included too.

As a result, HCC became more competitive in a tough recruitment marketplace, reduced process costs, made savings across the board, reduced staff turnover, improved recruitment performance, and reduced the risks in the

management of temporary staff. Non-cashable savings included the reduction in invoices, and the standardisation of processes. The managed service created a master workforce database, which was jointly registered with Manpower under the Data Protection Act.

Hertfordshire's personnel management noted the following as lessons learned:

- incentives to fill permanent posts and reduce the number of temporary agency workers are necessary; otherwise the managed service may continue to engage agency workers from their own pool to increase their revenue.
- although the recruitment portion of the contract was classified as a "Part B Service" under the Public Contracts Regulations 2006, the amount of advertising expenditure required under the contract meant that overall, the contract would be classed as a "Part A Services" contract under those Regulations. The tendering exercise therefore had to comply with all the rules set out in those Regulations for tendering contracts which are for the supply of Part A services.
- authorities must work with the Home Office to deal with agency workers who do not have the right to work in the UK, where this is permitted by the Data Protection Act 1998.
- authorities should not underestimate change management needs.

HCC took a varied procurement approach depending on the differing market characteristics of jobs. For example, high volume jobs were subject to a fast-track recruitment process. If people did not have experience they would train them and help with paperwork.

In tight labour markets, for example social work, HCC has had to recruit internationally, especially where posts must be filled to meet statutory requirements. HCC also planned a programme of "training their own" social workers and instituted a stepped arrangement – social work assistants were trained first, moving then up towards senior practitioner level.

New suppliers to the managed service have to go through HCC for approval. During implementation it was noted that the agencies were reluctant to use other timesheets because their own timesheets had their own terms and conditions printed on the back of them.

One loss noted from this project was the previous direct relationship between managers and the agencies.

Managers went through a period of adjustment in dealing with the changes and there was a level of uncertainty and fear, which, if left unmanaged, could have been disruptive to the process.

One interesting finding was that some current HCC employees were working outside of their contracted HR hours via an agency. Once this issue was identified it allowed management to address such working practices.

There were also serious concerns over potentially recruiting workers not eligible to work in the United Kingdom. A process was applied whereby if any workers were found to be applying to work as an agency worker with the authority without eligibility to work in the United Kingdom their details were sent to the Home Office for further investigation. HCC found the support and advice of the Home Office to be extremely useful.

HCC met with the trade union UNISON before they let the contract to keep them abreast of any issues. Temporary agency staff are paid according to the permanent pay scale except in cases where it is extremely difficult to recruit. After 12 weeks appointment, a decision is made whether

to bring the temporary agency workers in on a permanent basis, in which case a recruitment process follows. If the rate of pay of the agency worker was higher than the pay scale for that post, they would not recruit that worker permanently. A future plan is to have locums and interims who are self-employed to join on a permanent basis with step-down salaries but the added bonus of guaranteed work.

A temp-to-perm policy is being finalised, and under their equal opportunities policy, HCC are advertising “how to” get a job with the authority, whether it be permanent or temporary.

Temporary staff are not included in their SAP HR system; weekly spreadsheets are however prepared to provide a corporate overview of temporary staff. Timesheets are not done electronically but HCC do utilise a self-billing system.

Prior to the contract HCC estimated that they were being charged up to 35 per cent mark-up by agencies. The contract is expected to save £5 million in its first five years.

## 7.8 Development of the Hybrid model

Over the last couple of years, there has also been some development of hybrid models, typically combining elements of master and neutral vendors. For example, in high volume, easier-to-fill categories such as administration and clerical, or industrial, a master vendor has been appointed for these categories and a neutral vendor across all other requirements. In Hampshire for example, they have implemented a neutral vendor across social care and master vendor across all other categories.

In January 2007 the London Borough of Lewisham introduced a neutral vendor agency managed service (AMS) for supplying temporary agency workers to the local authority. There is a master vendor setup for administration and clerical workers, and a monthly management fee payable to the master vendor agency. The AMS team coordinates all of the local authority's agency worker requirements. All managers requiring agency workers must go through the AMS and not directly to individual agencies. All requests for agency workers should be sent to the AMS via the electronic booking system. Suitable candidates are then sourced from the approved agencies.

## 7.9 Advantages and disadvantages of each model

Managed Service	Advantages	Disadvantages
<b>Vendor neutral managed service</b>	<ul style="list-style-type: none"> <li>■ attracts quality candidates from a variety of agencies</li> <li>■ open to SMEs and BAME businesses as against larger competitors by allowing an equal playing field</li> <li>■ small numbers of staff possibly transferring under TUPE at the end of contract</li> <li>■ existing agencies retained and scored on performance</li> <li>■ easiest to implement with existing workforce</li> </ul>	<ul style="list-style-type: none"> <li>■ may be more expensive than other models, but allows clear competition</li> </ul>
<b>Master vendor managed service</b>	<ul style="list-style-type: none"> <li>■ is generally recognised as cheaper</li> <li>■ assists in developing a quality pool of temporary candidates.</li> <li>■ better understanding of the requirements of individual service areas.</li> </ul>	<ul style="list-style-type: none"> <li>■ candidates from master vendor are given priority</li> <li>■ model may not be very accessible to SMEs/BAME businesses</li> <li>■ TUPE at end of contract would be a concern</li> </ul>
<b>Internally managed service</b>	<ul style="list-style-type: none"> <li>■ attracts quality candidates from a variety of agencies</li> <li>■ open to SMEs and BAME businesses</li> <li>■ low risk of TUPE concerns unless service is externalised</li> <li>■ exclusive control of service</li> <li>■ net savings are all internalised</li> </ul>	<ul style="list-style-type: none"> <li>■ expensive as software and management of that software is needed</li> <li>■ expertise to manage supply market</li> <li>■ out of hours service may be needed in addition to standard business hours</li> </ul>
<b>Partially outsourced Human Resources managed service</b>	<ul style="list-style-type: none"> <li>■ handles all recruitment, both permanent and temporary</li> <li>■ acts as master vendor or neutral vendor for temporary vacancies</li> <li>■ has advantage of externalising in-house service (permanent recruitment)</li> <li>■ identical corporate branding for permanent and temporary recruitment</li> </ul>	<ul style="list-style-type: none"> <li>■ difficult to incentivise the filling of permanent vacancies</li> <li>■ large numbers of TUPE staff at start and end of contract</li> <li>■ if a master vendor model is deployed agency workers from this supplier are given priority</li> <li>■ Model may not be very accessible to SMEs/BAME businesses</li> <li>■ least control of service</li> <li>■ outsourcing of permanent recruitment may not always provide a cost saving</li> </ul>

# 8. Which one is right for your organisation?

## 8.1 Relationships

It is important to give consideration to your existing agency workers. The analysis in section 6 will aid in a better understanding of the agency workforce. The issues you may then need to assess include:

- What do I do with workers who have been in post on a long-term basis?
- For new workers recruited through the managed service, should their pay rates be pegged to existing scales, or should they remain fluid to reflect market supply and demand?
- The relationships you have with your agencies are also important. Are they local suppliers? Are they small-to-medium sized enterprises (SMEs) or black, Asian and minority ethnic (BAME) businesses? Would there be any political implications with any changes to your procurement practices?
- Managers also have relationships with suppliers. How will they be affected by changes?

The answers to these questions can only be answered on an authority-by-authority basis, and stakeholder involvement is key to the success of the project. Include the risks associated with any changes to the relationships when compiling a risk register for your project.

## 8.2 Self assessment

There are five issues that differentiate the four managed services: cost, control and quality, impact on SMEs /BAME businesses, and TUPE implications at the end of the contract. You can use the test below to see which model might be the right one for your authority:

In choosing a managed service:

- 1) Are direct cost savings a priority?
  - a. Top priority, above all else (10 points)
  - b. Equal priority with quality of candidates, support of SMEs and BAME businesses (20 points)
- 2) How important is the issue of supporting SMEs and BAME businesses in your authority?
  - a. Very important (20 points)
  - b. Important, but not overriding (10 points)
- 3) How concerned is your authority about ensuring the

provision of quality agency worker candidates?

- a. Very important; it needs to be measured (20 points)
  - b. Important, but it does not need to be measured (10 points)
- 4) At the end of contract, would you prefer to have:
    - a. Minimal TUPE transfers of staff to the next provider (external or in-house) (20 points)
    - b. The number of TUPE transfers does not concern my authority (10 points)
  - 5) How much control do you want to have over your managed service?
    - a. Exclusive control (40 points)
    - b. Strong control (30 points)
    - c. Medium control (20 points)
    - d. Minimal control (10 points)

Add up all points.

If you scored 50 points, you may want to consider a partially outsourced Human Resources managed service.

If you scored 60 points, you may want to consider a master vendor managed service.

If you scored between 70 and 100 points, you may want to consider a hybrid model.

If you scored 110 points, you may want to consider a vendor neutral managed service.

If you scored 120 points, you may want to consider an internally managed service.

The methodology used to develop this test was based on the "Advantages and Disadvantages of each model" at section 7.9.

### 8.3 Additional considerations on selecting a model

There are a number of additional factors which are important when considering your model selection. These include:

- range and volume of occupations you require - for example, how can the organisation best fulfil requirements in hard-to-fill roles such as social work and planning, and where they have a high use of temporary agency workers? Or where the majority of their requirements are easy-to-fill roles where candidate availability is high?
- geographical span - are your requirements across a small or larger geographical area? Are your requirements urban, rural or a mix? Does this have an impact on the supply chain and model adopted?
- quality and coverage of supply chain (agencies) - how vibrant is the agency market within your area? What volumes and quality across the occupational sectors you require can agencies provide in your area?



# 9. Matters to consider when you have made your overall decision

## 9.1 Procurement matters

### 9.1.1 Cost negotiation with agencies

The managed service can take over the payment relationship with agencies and contract with them directly. The models, and therefore the providers, can be incentivised in order to ensure that the managed service drives down commission rates, and ensures accurate charges for National Insurance and Working Time Regulations.

Existing agency workers should not have any changes to their pay rates to maintain business continuity when implementing. It is important to ensure that the agencies have robust business continuity plans in place.

### 9.1.2 Tier determination

Each of the four possible managed service options has tiers of suppliers. It can be agreed for how long agencies on each tier will be given the opportunity to supply candidates' CVs before the vacancies are offered to agencies on the next tier. The managed service can then select the best candidates from the CVs sent and the worker history developed through the managed service's historical information.

It is suggested that a scoring approach on performance is taken to decide to which tier an agency will belong. The scoring will take into account whether an agency sends CVs when a vacancy is sent; whether the CVs are of the right quality (meaning that they fit the job description); whether the agency commits to a diversity charter, their audit scores, etc. The percentages can vary depending on the importance given by your authority to each criterion.

Please note that it is important to be open and transparent and ensure that all requirements are imposed equally on all suppliers.

### 9.1.3 Impact on SMEs/BAME businesses

It is important to recognise that many agencies may be small-to-medium enterprises (SMEs), or black, Asian and minority ethnic enterprises (BAME businesses). Any changes you make to your existing systems may have an impact on the sustainability of your SMEs and BAME businesses.

A market research study can be done to find out whether your suppliers would be classified as SMEs or BAME businesses. Spikes Cavell & Co., MORI and Bostock Marketing Group Research are just three of the companies that can do research on your behalf; they can also advise on whether the companies are local.

### 9.1.4 Payments

Payments for agency workers will only be made to the managed service, so that there will be a reduction in invoices, and just one payment relationship for your authority to handle. The managed service will pay the agencies directly for services rendered, and if implemented electronically, it can reduce the time it takes to pay invoices. This should be part of the service level agreement that the managed service holds with the agencies themselves.

Payment for the work performed by the managed service can be done in several ways. See the table on page 29 for the advantages and disadvantages of each method.

Another possibility is a split between methods, for example: a flat fee combined with a small shared savings arrangement. Some authorities have asked in their tender documents how the managed service staff themselves are incentivised to achieve savings. Again, this needs consideration in your overall decision.

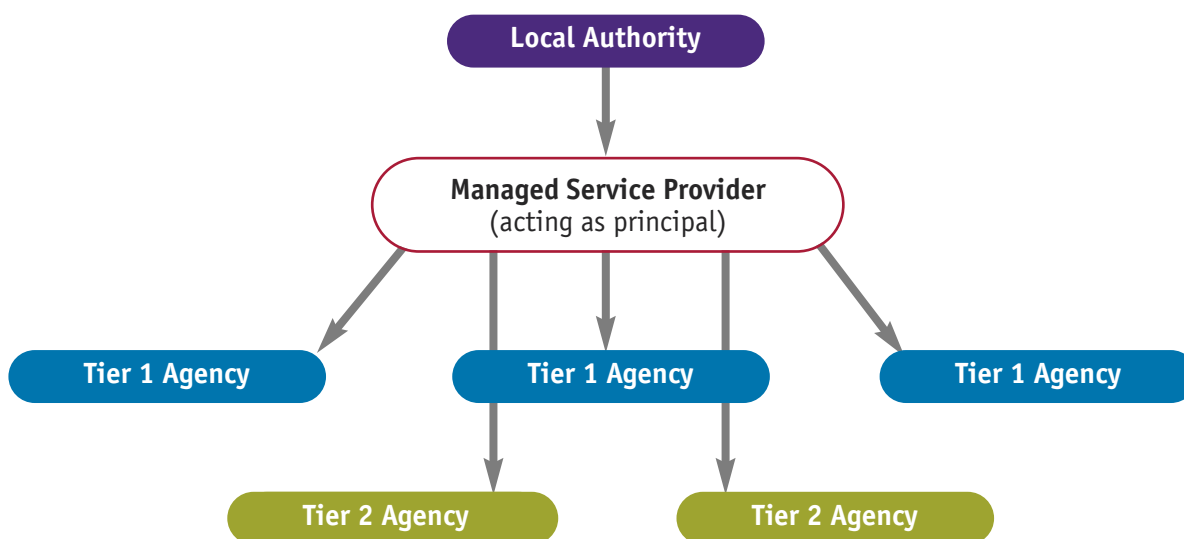
### 9.1.5 Contractual relationships – agent or principal?

There are two different ways of contracting with the managed service; one is where the managed service acts as an agent for the local authority, and the other is where the managed service acts as a principal. If the managed service acts as an agent on behalf of the authority, the contractual relationship is directly between the authority and the agencies, with the managed service managing and coordinating the agencies and payments via a trust account. This is a better option in the event that the managed service provider must be changed, or becomes insolvent, as the contracts with the agencies are held by the authority. However it may expose the authority to more legal liability, as it will be responsible for the acts of its agent managed service.

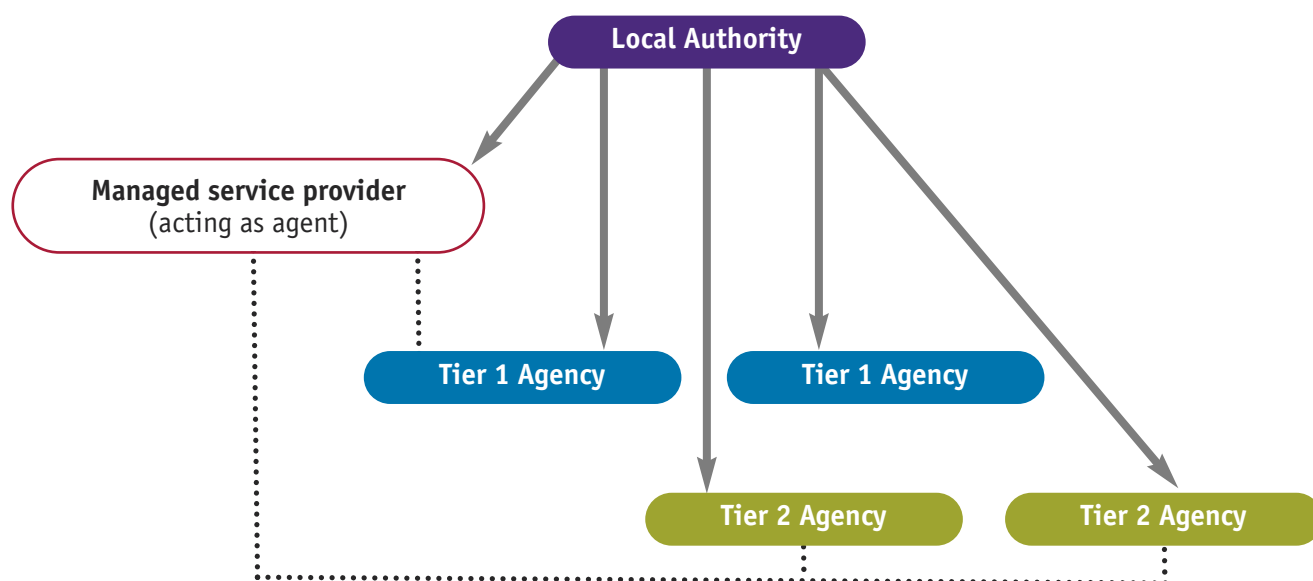
If the managed service acts as a principal, the contractual relationship is between the authority and the managed service, and the managed service subcontracts to the agencies. This is more difficult at end-of-contract stage because each agency must therefore have a new subcontract with the new managed service provider. However, if there are any grievances during the contract, the authority can address these with the managed service and not the agencies.

Payment Method	Advantages	Disadvantages
<b>Flat fee</b>	<ul style="list-style-type: none"> <li>■ easy to calculate</li> <li>■ easy to evaluate tenders</li> <li>■ will be cheaper per worker if spend level on agency staff goes up</li> </ul>	<ul style="list-style-type: none"> <li>■ is not incentivised for savings</li> <li>■ will be expensive per worker if spend level on agency staff goes down</li> </ul>
<b>Transactional fees (% of total cost)</b>	<ul style="list-style-type: none"> <li>■ easy to calculate</li> <li>■ easy to evaluate tenders</li> <li>■ total paid fluctuates on overall spend</li> </ul>	<ul style="list-style-type: none"> <li>■ is not incentivised for savings</li> </ul>
<b>Transactional fees (fixed pence margin per hour worked for each agency worker)</b>	<ul style="list-style-type: none"> <li>■ easy to calculate</li> <li>■ easy to evaluate tenders</li> <li>■ fee is fixed if wage cost rises</li> <li>■ total paid fluctuates on volumes of business</li> </ul>	<ul style="list-style-type: none"> <li>■ is not incentivised for savings</li> <li>■ not proportional to the agency worker's wage</li> </ul>
<b>Shared savings (Gain-Share)</b>	<ul style="list-style-type: none"> <li>■ is incentivised for savings</li> </ul>	<ul style="list-style-type: none"> <li>■ may be difficult to calculate baseline for savings</li> <li>■ may give away "too much" of the savings</li> <li>■ need to identify what further savings potential at the end of the contract for the next period</li> </ul>

#### Contract where managed service acts as principal



### Contract where managed service acts as agent



*Solid lines represent contractual relationships; dotted lines represent relationships managed through the managed service provider on behalf of the authority.*

Although personnel placement and supply services are “Part B” services for the purposes of the Public Contracts Regulations 2006, and therefore are not as heavily regulated in the procurement process as other “Part A” services, contracting authorities should still give consideration to EU treaty obligations of transparency and fairness in conducting their procurements. In particular, it would be strongly advisable to advertise as widely as possible, so that interested parties have an opportunity to compete for the work. Consider too whether a notice in the Official Journal for the European Union (OJEU) would be appropriate.

#### 9.1.6 Business processes

Business processes can be improved as a managed service establishes one clear point of contact for the service; managers can email, fax or phone their requirements through to the managed service even on a 24-hour basis if needed. The managed service should provide procedures for short-notice bookings.

Cold calling by agencies to local authority managers can also be eliminated as agencies should be advised that cold calling can reflect negatively on their tiering score. As lower tiering affects the amount of business they would receive, agencies would therefore be incentivised against cold calling.

The reduction in paper documents, reduction in the opportunities for fraud from changing to an electronic process, the elimination of cold calling and the elimination of the need to phone several agencies are all non-cashable efficiency savings.

#### 9.1.7 Levels of insurance by the managed service

Installation of a managed service includes two sets of contracts; one with the managed service and one with the agencies. Both sets of contracts need to have adequate levels of insurance should anything go wrong.

The common insurance types found in contracts are public liability, professional indemnity, and employer’s liability. As master vendors supply staff as well as operate the managed service, they may need higher levels than a purely vendor neutral provider. The minimum levels of insurance across the agency tiers should be the same.

Potential claims brought against the local authority	Who can insure?
Negligence and wrongful acts of an agency (workers ineligible to work in the UK)	Agency
Negligence and wrongful acts of agency workers and contractors	Agency could insure, but because the worker is not under the agency's control this can be difficult for agencies to obtain and so most agencies do not insure this, and larger agencies could refuse to indemnify.
Discrimination claims by agency workers and contractors	Agency cannot easily insure, so the local authority should consider insurance to protect itself.
Employment claims by agency workers	Agency cannot easily insure UNLESS they have contracted with the workers under contracts of employment themselves. Indemnities may also be offered by the agency, but the increased cost could be passed on.
Tax assessments	Agency cannot easily insure, so local authority should consider.

*The advice in the above table was provided by Kevin Barrow of the solicitors' firm Osborne Clarke to the London Borough of Havering for general purposes only. Osborne Clarke does not accept liability for the contents of these materials and legal advice should be taken in respect of a particular matter.*

It is recommended that authorities consider the following hypothetical events when determining adequate levels of insurance:

The local authority should consult with their legal and insurance specialists to determine the appropriate levels of insurance needed for the authority, although employers' liability insurance of £5 million is a legal requirement.

More information on insurance, liability and indemnity requirements can be found at:  
[www.ogc.gov.uk/other\\_key\\_procurement\\_policy\\_issues\\_liability\\_in\\_government\\_contracts.asp](http://www.ogc.gov.uk/other_key_procurement_policy_issues_liability_in_government_contracts.asp)

#### 9.1.8 Managed service hours and location

A decision needs to be made whether to have the service run 24 hours, or business hours only; and whether the managed service operates through an office on-site or off-site. This decision should be made after authorities have evaluated the staffing needs and patterns, and questioned whether an on-site or off-site presence is warranted. An on-site presence may allow for improvement in supply chain management, improved partnership working and better contract management level of service, but it may be difficult to allocate space. In such arrangements authorities should also consider commercial issues including rent, utilities,

liabilities and insurance. An off-site presence may be offered at lower cost.

#### 9.1.9 Business continuity

It is important that authorities consider their business continuity plans for a number of different scenarios (for example supplier failure, systems downtime and pandemic flu), and how the service can be maintained in these situations.

#### 9.1.10 End of contract procedures

At the end of the managed service contract, a re-tendering process will be necessary. You will need to consider:

- changes to existing IT interfaces, contractual changes with the agencies, particularly if a managed service acts as principal (see section 9.1.5)
- any TUPE implications in relation to staff dedicated to the service performed in the contract
- transfer of ownership of data
- retention of records of when, who and what agencies were audited
- ensuring the end of contract aligns with the start of the new contract.

### 9.1.11 Risk assessment

A method for assessing and managing risks should be adopted to suit your project management needs.

### 9.1.12 Supplier management

The average London local authority had 150 agencies on their books, used by many different service areas. Managing the relationships for all these agencies can be complex and time consuming.

It is recommended all existing agencies are engaged by the managed service (where the managed service contracts directly with the agencies) or that the managed service takes over the management of the local authority's contracts with the agencies. Local authorities will need to plan transitional arrangements as they may have existing contractual commitments that need to be taken into account in moving to a managed service model. They will need to produce a method (often called a "scorecard") to enable objective assessment of agencies in terms of quality and cost.

Possible measures and scores are as follows:

Metric	Maximum Score Available	Benchmark Score
1.1 Orders received vs. orders accepted	2	1
1.2 Orders accepted vs. candidates submitted	6	4
1.3 Positions accepted vs. positions filled	6	3
1.4 Candidates submitted vs. positions filled	6	3
1.5 Overall fill percentage	2	1
2.1 Candidate compliance to requirements including referencing and checks	15	9
2.2 Assignment starts / first day attendance	5	4
2.3 Replacement ratio	5	3
2.4 Quality service and candidate evaluation	15	10
3.1 Timesheets submitted	8	3
4.1 Cost	30	20
<b>Total score available</b>	<b>100</b>	

Once scorecards have been agreed and data from those scorecards collected, the process of filtering out higher performing agencies from the lesser-performing agencies can begin.

In theory, with e-procurement systems, the number of suppliers on a local authority's books should not matter as the transactional cost is minimal. However, from a relationship perspective, you may choose to have fewer suppliers through the managed service than previously.

### 9.1.13 Standardised terms and conditions

A managed service can standardise the terms and conditions of contract with agencies as agreed with the local authority. It is also important to ensure that the terms and conditions are reflected along the supply chain so that issues such as insurance, payment terms and liability on references etc, are passed to agencies.

### 9.1.14 e-auctions

Recent procurement trends in the use of e-auctions could be applied to the procurement of a managed service. Once a payment model is decided, suppliers could compete against each other in an e-auction to allow the authority to obtain the best price possible for the service.

However, the decision should not be based solely on price. Other factors including quality and technology integration, need to be taken into consideration. These criteria should be decided in advance and made available to the tenderers

### 9.1.15 Outsourcing where there is high usage of temporary staff

Once a greater picture of the agency workforce is developed, there may be some services which have a high usage of agency staff, which could be better served by outsourcing through alternative service delivery (ASD) plans. Joint procurement of ASD contracts by boroughs that share the same high usage patterns would also be possible on a collaborative basis.

## Case Study London Borough of Havering - working with a third party to deliver benefits

Within Benefit Services at the London Borough of Havering (LBH), there has been a significant increase in work due to the recession. The work is processing claims for housing and council tax benefit which provides money to help people pay their rent either to the local authority or a private landlord and pay their council tax bills.

Benefits Services is a relatively large section with around 35 staff alone processing housing and council tax benefit applications. When staff cover is required, temporary staff are generally used to provide the necessary cover. Prior to ordering temporary staff, the Benefits Service will always undertake a full recruitment drive but staff absences do not always coincide in a timely fashion with recruitment exercises.

The use of temporary staff is not cost effective for Benefit Services but necessary to maintain performance. This made the Benefits Service consider a resilience contract with an external provider to meet increased demands on benefit processing. This external service provides additional stable experienced resources at a reasonable price because the processing staff are permanent members of staff under their contract. In addition, the external provider has a quality assurance team who monitor the work of their

processing staff so reducing the burden on the local authority's benefits management team.

The offices of the external provider are located off-site which means the authority is not burdened with the responsibility of providing accommodation or equipment other than a token to enable remote access to its electronic benefit systems. The processing staff are managed by the external provider again freeing resources that would have been committed to providing day-to-day supervision, induction programmes and training.

The external provider can also promptly vary the number of processing staff required dependent upon needs. This is much quicker and easier to manage administratively rather than going through the process of ordering temporary staff through the vendor neutral managed service.

Finally and most importantly the quality of work generated by the external provider is comparable with temporary and permanent staff employed through more conventional means. Their staff are experienced benefit processors and a small regular check of their work by LBH's Benefits Services team confirms this.

### 9.1.16 Benefits methodology

In order to ensure the effectiveness of your overall choice of route of supply, it is essential to establish what benefits or gains you hope to achieve - both cashable and non-cashable. Listed below are a few examples of how you might establish exactly what you want these benefits to be:

#### Cashable

- reduction in margins charged by supplying agencies for temporary workers
- reduction of time and cost taken to process payments to agencies and any queries that may result from incorrect invoicing (cashable if resource applied has decreased)
- reduction in duplicate payments and errors

#### Non Cashable

- agency providers will become accountable for the quality of service they provide and their response times and fulfilment ratios
- greater access to more accurate and appropriate management information, to enable managers to take greater responsibility and control over their budgets and expenditure.

- a more in-depth understanding can be gained of the temporary workforce engaged by the organisation. for example: number of temporary workers with over 12 months' continuous service and therefore potential employee rights; number of temporary workers with 12 weeks' service and therefore the right to the same basic terms as employed staff (this 12 week watershed only applies from the time when the agency workers directive is implemented)
- greater audit controls - particularly over issues concerning eligibility and identity to work in the UK and CRB checks (where appropriate to the business)
- standardisation of pay rates, overtime, and expenses (this could be cashable depending on the approach).

### 9.1.17 KPIs for the managed service

To monitor and move the contract forward in line with the needs of the business, it is essential to carry out regular review meetings to discuss implementation and the success of the managed service contract. Key Performance Indicators (KPIs) should be mutually agreed and then assessed at these review meetings. KPIs can be created in line with any of the managed service provider's original method statement submitted during the tender process. For example:



- amount of orders filled vs. number taken
- amount of time taken to fill orders
- cashable savings achieved.
- feedback from line managers of the quality of service and candidates
- where they are supporting a demand management initiative reduction in spend and usage

If you would like further information on pricing, service level agreements or any matter related to procurement of temporary staff and agency managed services, please email: <mailto:tempstaff@ogc.gsi.gov.uk>

## 9.2 HR Matters

### 9.2.1 Management information

A database should be created by the managed service of all agency workers, their pay rates and positions held. This database will be the responsibility of the managed service to maintain. Local authorities should consider incorporating provisions in their contractual arrangements to enable them to require the managed service to transfer the database to any subsequent managed service provider. In doing so they should also consider data protection compliance and confidentiality issues in collecting, storing, and transferring personal data.

Detailed reports will need to be developed in order to maximise the use of the database. This could include pay comparisons between worker roles or length of time in post reports. Reporting on equalities and diversity issues could also be provided on an aggregate level so that comparisons with the permanent workforce can be made.

### 9.2.2 Impact on existing agency workers

Existing agency workers should be informed of the changes to the recruitment practice and should be reassured that their pay rates will not change (if this is part of your procurement strategy). There may be instances though where rates do change following the procurement process. They may only have changes to the way they complete timesheets (online), or the way their data is captured, but it is important for them to understand the new systems and any potential impact.

Through the managed service contract, agency workers can have a clearer relationship with their agency. One positive change has occurred in the London Borough of Enfield, where they have added a condition to their contracts with agencies to allow workers who are unhappy with their agency to transfer to another without making the local authority incur a transfer fee.

### 9.2.3 Quality checks and audit

Quality checks need to be carried out on suppliers and candidates, as well as regular auditing. A managed service should provide a plan for the conduct and frequency of the audits within the contract.

Checks for adherence to equalities and diversity policies can also be carried out. See section 13.2 (Equalities and Diversity) for more information.

### 9.2.4 Considerations of fairness

It is important that agencies recruit using policies that treat candidates and workers fairly. Not only should the managed service provide a database to track diversity issues surrounding existing and new agency workers, it can compare successful candidates to those not selected for posts to see if there are causes for concern.

In the contract with the managed service it is wise to ensure that agencies treat all candidates equally, with the same standards as the local authority.

In deciding whether to use a managed service and which version to choose, authorities will want to have regard to their statutory equality duties.

### 9.2.5 Links with other initiatives

The development of any pay and workforce strategy will also be enhanced by the installation of a managed service, as the usage of agency workers can be tracked.

Regeneration and welfare to work initiatives can also be aided with the installation of a managed service. Such initiatives, including social enterprises aimed at regenerating local economies and/or engaging with local communities, could be a source of temporary labour for the local authority at little cost, and could operate in the tiering scheme of the distribution of job opportunities. These groups may contribute to local authority priorities particularly if they benefit disadvantaged groups.

### 9.2.6 JobCentre Plus

As a community initiative, it is important that local authorities take advantage of the services available from JobCentre Plus. They can provide many value-added services to assist in recruitment at little or no cost. JobCentre Plus can:

- access a significant number of local jobseekers from all sections of the community, as well as allow wider access to jobseekers in neighbouring areas
- advertise vacancies on the Jobcentre Plus website, Touch Screen Jobpoints within Jobcentres, at jobs fairs and in some circumstances via the local press

- JobCentre Plus may be able to assist with, or provide through training partners, some form of short-term pre-employment training to address particular needs for job roles that have traditionally proved hard to fill or that have high turnover (for example these may be in the social care or street warden areas).

### 9.2.7 Reference checks

Each candidate provided via the managed service must be subject to adequate reference checks, performed either by the managed service provider or by the agency supplying the candidate. This process, the number of references and the period of time they must account for, are an essential part of any terms agreed with the managed service.

Senior appointments, and candidates who will have contact with vulnerable people, will require more thorough reference and criminal records checking procedures. With more ad hoc or generalist positions in administration support, references can provide a useful tool and insight into an individual's suitability to undertake and carry out a specific role or tasks required of them. References can substantiate and support the claim that a person is who they say they are. However, they must never be confused with the legal requirement to check identity and eligibility to work in the UK – which must be seen and copies of evidence taken prior to the commencement of any type of work. This should be done by the managed service or the agency provider.

In the case of general support roles, when agreeing the length of time for which individual worker should supply references, or the number of references to be taken, the needs of the business should also be taken into consideration. For example if a person is required to commence work at very short notice it may be unrealistic for the agency supplier to acquire written references covering a five year period prior to the commencement of the assignment.

### 9.2.8 Workforce planning and demand management

The current demands of local government are such that in order to achieve business or financial plans, it is critical that individuals are placed appropriately throughout the organisation.

Workforce planning involves deciding the vision for the future success of business strategies, and using people in the correct places to achieve these aims. By understanding and planning ahead it is possible to place individuals within the right roles, utilising the best of their capabilities.

'Nine Steps to Demand Management for Temporary Agency Staff' is available from OGC. Some further work is also being undertaken on demand management for example case studies, and potential guidance which should be available

from summer 2010.

Phone: 0845 000 4999

Email: ServiceDesk@ogc.gsi.gov.uk

## 9.3 Legal, IT and Finance matters

### 9.3.1 Data protection

Confidential data will need to be held by the managed service on each candidate, and this must be held in compliance with data protection laws. The managed service should require that the agencies, when engaging workers, should obtain the necessary consents to enable personal data to be shared by the agency with the managed service and the local authority.

Example types of personal information held by a managed service for each candidate:

Name	Address
Date of birth	Post/role
Pay Rate/Hour	Agency associated with
2nd agency (if applicable)	Gender
Ethnicity	Disability
Date when inducted	Training records/history
Eligibility to work in UK	National Insurance No.
Driving Licence checked	CRB checked and date
Attendance records	Employment history

Personal data should not be kept for longer or in more detail than reasonably necessary for the purposes of the contract.

### 9.3.2 e-procurement, data transfer and system interfaces/integration

Managed services ought to be required to integrate with financial systems and e-procurement systems, so that, for example, commitment accounting can be captured.

Commitment accounting is the process whereby systems take into account expenditure which has been committed to, but where the money has not yet been paid. Not all authorities perform this task, as it may be costly to run. Commitment accounting may also be difficult to capture accurately due to fluctuations in working patterns. Invoice and timesheet processing could be handled electronically so that there is a reduction in paper-based processes.

Electronic procurement (e-procurement) has the potential to generate significant savings by reducing paperwork and capturing commitment accounting.

Ordering can be done online, and interfaced with an e-procurement solution. Invoicing and self-billing can also be done online, and with the average invoice costing

between £25 and £50<sup>5</sup> to process, there may be significant savings, particularly if invoices are processed weekly based on timesheets.

Possible non-cashable savings which can be achieved by interfacing a managed service with e-procurement systems are as follows:

#### ■ In-Office

For office-based workers, timesheets can be completed online, and sent through the e-procurement system against the original order. Timesheets processed electronically can help guard against fraud.

#### ■ Field workers

Field workers, such as carers and social workers, may have to rely on paper timesheets unless an investment in technology is warranted. The average London borough spends 40% of its agency expenditure in social care, so mobile technology to capture time-recording should be considered to track workers and obtain accurate billing.

### Case Study Oxfordshire County Council

Oxfordshire County Council implemented a project to install electronic time monitoring systems for the 450 home support workers who care for over 2,700 clients. Just to monitor the purchasing and payments of the 26 agencies that supplied the workers required 12 finance assistants employed by the local authority.

Oxfordshire felt that without an electronic system, there was a risk of fraudulent invoicing, incorrect timesheet completion and incorrect charging for their vulnerable client population.

Their chosen system involves a carer phoning a 0800 number upon arrival and departure from a client's home. They expected to have some resistance from clients, but found more resistance from carers who were concerned about being checked upon. The result however has been a success with savings being made and accurate billing to clients, thus improving the image of the local authority as being fiscally prudent and maintaining high standards of care.

#### Electronic invoicing

Electronic invoicing, even self-billing, can be achieved through the use of a managed service. As worker pay rates are agreed in advance, once a manager approves the number of hours an agency worker has worked, the electronic approval of payment to the managed service, and in turn to the agencies and workers, can occur.

### 9.3.3 Accidents and insurance claims and training records

In the event of an accident, records should be easily accessible for any resulting investigation. Accident records should be maintained by the authority, and the managed service should also keep a record of any incidents and claims involving agency workers.

In terms of training records it is recommended that these are maintained and held for all agency workers either by the managed service and/or the local authority. In some service areas, there may be a mandatory requirement for the authority to hold the records.

## 9.4 Schools

Schools have delegated budgets so they cannot be compelled to use a local authority's managed service arrangement. However, contracts could be opened to schools so that they can use them should they wish. For example, this may be helpful to them in managing the use of supply teachers.

It is important to bear in mind that if schools are to be allowed to contract with a managed service, they must have been identified as possible purchasers of the service in any OJEU notice or contract opportunity advert published at the start of the managed service procurement exercise.

The Department for Children, Schools and Families (now the Department for Education) has been exploring options for temporary workers in education. See [www.dfe.gov.uk](http://www.dfe.gov.uk) for further information about this project from August 2010.

## 9.5 Consortia Contracts

Several authorities have written contractual agreements where any other authority who wishes to join in may do so. All authorities will need to conduct their own due diligence and take legal advice before joining any framework arrangements. Savings can be achieved by using collaborative contracts to avoid a lengthy and expensive tender process. More information can be found on the OGC contracts database and/or RIEP contracts database: <http://www.ogc.gov.uk/contractsdatabase> or <http://www.contractsregister.com/Spaces/CRS/Home>

To register, contact your in-borough administrator or Aramide Adeboye at Capital Ambition (020 7934 9961) or [aramide.adeboye@londoncouncils.gov.uk](mailto:aramide.adeboye@londoncouncils.gov.uk)

<sup>5</sup> This range is currently under review by the OGC based upon the National Audit Office's report Modernising Procurement dated 20 October 1999 and via empirical evidence of local authorities' experiences

# 10. Communications plan

As the business process re-engineering is significant with the installation of a managed service, it is necessary to have a robust communications plan to ensure smooth implementation and culture change. A sample communications plan is below.

Interested party	Information required	Person responsible	Method and frequency
Local authority staff	<ul style="list-style-type: none"> <li>■ contract being proposed</li> <li>■ contract being awarded</li> <li>■ details of how to place orders</li> <li>■ benefits</li> </ul>	Project manager, and line managers	<ul style="list-style-type: none"> <li>■ internal one-to-one meetings as required</li> <li>■ directorate meetings</li> <li>■ team briefings</li> <li>■ screen pop-ups</li> <li>■ HR</li> <li>■ newsletter</li> <li>■ open day</li> </ul>
Existing agency staff	<ul style="list-style-type: none"> <li>■ any changes to their terms and conditions, or process changes (for example, online timesheets)</li> </ul>	Line managers, and Agencies	<ul style="list-style-type: none"> <li>■ briefings</li> <li>■ checklist of process changes</li> </ul>
Chief executive	<ul style="list-style-type: none"> <li>■ formal report</li> </ul>	Group director, finance	<ul style="list-style-type: none"> <li>■ formal report at beginning of implementation and at end, to include lessons learned</li> </ul>
Senior management team	<ul style="list-style-type: none"> <li>■ briefing paper</li> </ul>	Group director, finance and commercial services	<ul style="list-style-type: none"> <li>■ paper once cabinet gives approval for the tender</li> <li>■ paper upon award of contract</li> </ul>
Public	<ul style="list-style-type: none"> <li>■ press release</li> </ul>	Project manager	<ul style="list-style-type: none"> <li>■ paper upon award of contract</li> </ul>
Agencies	<ul style="list-style-type: none"> <li>■ press release</li> <li>■ suppliers forum</li> </ul>	Project manager	<ul style="list-style-type: none"> <li>■ paper upon award of contract</li> <li>■ suppliers forum to deal with questions/concerns re: implementation</li> </ul>
Relevant trade unions	<ul style="list-style-type: none"> <li>■ briefing</li> </ul>	Head of HR	<ul style="list-style-type: none"> <li>■ paper upon award of contract</li> </ul>

# 11. TUPE issues

If any authority staff are going to be affected by a TUPE transfer i.e. some of the work of managing agency workers is moving from the authority to an outside body, the authority will have to fulfil various consultation requirements in relation to those people. This could also apply on second generation contracting out, since a change of contractor (or even more so, a change in the type of managed service) could lead to changes affecting the authority's own staff, even if those staff are not transferring. Authorities should always take detailed legal advice if TUPE could apply.

## 12. Making your managed service work

### 12.1 Contract relationship management

Regular contract meetings will need to be scheduled between the managed service, and the local authority's human resources and corporate procurement teams to ensure that any problems or issues can be addressed. Continuous improvement should be on each meeting's agenda. Advice on contract relationship management can be found from the Office of Government Commerce (OGC) at [http://www.ogc.gov.uk/policy\\_and\\_standards\\_framework\\_contract\\_management\\_8023.asp](http://www.ogc.gov.uk/policy_and_standards_framework_contract_management_8023.asp). A 2007 status review of contract relationship management in London, sponsored by the London Centre of Excellence, noted that "almost no generic contract relationship management guidance was in regular use," and that contract relationship management needed to be further improved to achieve best value for authorities. Links to both papers can be found on the Capital Ambition website, <http://www.londoncouncils.gov.uk/capitalambition/projects/supplierrelationshipdevelopment/default.htm>

Savings should be incentivised in some way in the contract so that the managed service is continually aiming to achieve the best rates of commission. This can be done by incentivising the managed service staff, or by ensuring that the payment structure is incentivised.

### 12.2 Enforcing use by managers

A strong mandate from a local authority's finance management will need to be given to all finance personnel and to the agencies themselves (after a handover period) to ensure that invoicing is carried out in accordance with the new agreed arrangements. This may involve a system change to ensure that agency invoices are sent via the managed service and not directly to the authority.

Agencies that attempt to circumvent the system should find that their invoices will not be paid, and that they must work with the managed service to continue doing business with the local authority. This will lead to savings by stopping contract leakage, and creating efficiency in reducing unnecessary paper administration. Any circumvention attempts, including documented incidents of cold calling by the agencies, could result in a lower tiering score.

With e-procurement systems, local authorities should be able to disable all agencies without proper contracts. Arrangements which fall outside of formal contracts can often represent up to 50 per cent of expenditure if there is little contract management, financial overview or financial controls. Poor compliance with the new systems can lead to much lower savings being delivered.

For further information on managing your managed service, a guide on 'What Good Looks Like?' for agency managed services can be found at: [http://www.ogc.gov.uk/documents/commodities\\_database/What\\_good\\_looks\\_like\\_for\\_agency\\_managed\\_services.pdf](http://www.ogc.gov.uk/documents/commodities_database/What_good_looks_like_for_agency_managed_services.pdf)

# 13. Best practice policy guidelines

## 13.1 Agency worker guidelines

Agency worker guidelines have been created by the London Borough of Havering to develop a corporate standard for recruiting agency staff. The guidelines cover when it is appropriate to engage agency workers, how to engage them, and for how long. They provide generic advice to managers about the legal risks inherent in engaging agency workers. Contact Jackie Atchinson at the London Borough of Havering for more details ([jackie.atchinson@haverling.gov.uk](mailto:jackie.atchinson@haverling.gov.uk)).

## 13.2 Equalities and diversity

Equalities and diversity policies should be reviewed to ensure that they are inclusive towards agency staff. Also, within the contract with a managed service, it is good practice to include an equalities and diversity 'charter', requiring agencies to commit themselves to acting within the local authority's equalities and diversity policies while delivering the contract.

One example of checking how well equalities and diversity policies are being implemented could be to require the agency to review their recruitment statistics at regular intervals, in order to check whether there are any groups which appear to be under-represented or disproportionately unsuccessful at being awarded assignments. Such results may indicate that there are areas that need to be addressed in the recruitment process.

However, statistics alone will not provide the whole picture, so should not, in themselves, be taken as evidence of a breach of equality law or policies, but rather as a means of identifying areas for possible improvements in terms of attracting and recruiting a diverse workforce.

Authorities should take account of their statutory equality duties in making decisions in relation to a possible managed service.

## 13.3 Learning and Development

The guidance given by Investors in People does not refer to agency workers specifically, however, throughout the standard, all workers are referred to as "people" rather than "employees." Investors in People define "people" as "anyone who helps the organisation to achieve its objectives – whatever role they play. It includes part-time workers, voluntary workers, people on renewable short-term contracts and regular, casual employees."

Again, the risks from training and development of agency workers may outweigh the benefits, because providing training and development (other than the basic training needed to do the job) may be a factor in favour of workers being classed as de facto employees of the end user. This must be taken into consideration and included on your risk register. (However, please note that once the Agency Workers Directive has been implemented it may be necessary to provide the same training and development to agency workers as for employees.)

## 13.4 Community strategy

Community strategy policies across London often include wording such as "We will support people to develop the right skills to access jobs" and "We will create the right conditions to encourage inward investment."

A managed service will be able to determine whether those community strategy aims are being met for the agency workforce, by producing regular quarterly reports.

## 13.5 In house agency (staff bank)

Some local authorities operate staff banks, which are pre-vetted casual staff paid via the local authority's payroll system. Normally these staff would be employees of the local authority but the legal position is complex and may vary depending on the circumstances. Staff banks may save agency commission if used properly. Some staff banks even have policies of charging out workers to the various departments and including their own internal "margin" to cover costs. It is recommended when considering a staff bank a cost-benefit analysis is conducted to ensure value for money will be achieved.

Staff banks can be turned into an internal managed service, or wound up completely depending on the evaluation of their effectiveness and investments needed.

## 13.6 Temp-to-perm policy

It is quite likely that you may encounter agency workers that you wish to take on permanently. Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 provides that an agency cannot charge what is commonly known as a "transfer fee" unless the contract provides that instead of a transfer fee the hirer



has the option to hire the worker for an extended period. The relevant extended period must be specified in the contract.

If there is no such extended hire provision in the contract, the hirer can take the worker on permanently without payment of a transfer fee, even if the contract says a transfer fee must be paid.

If there is a provision within the contract then the hirer must (i) hire the worker for an extended period; or (ii) pay the transfer fee; or (iii) wait at least eight weeks after the hire arrangement has ended before taking the worker on permanently; or (iv) wait 14 weeks from when the worker first started working as an agency worker with the hirer (but special rules apply if there has been more than one assignment and the break between the two assignments was more than six weeks).

If workers are identified to transfer into permanent employment with the local authority, it is important to remember that there is some risk that those who work “temp-to-perm” may have accrued employment rights from the beginning of their assignment rather than from the date they become permanent. This is not very likely if the original assignment was properly handled (see section 5.3.2), but it is a possibility. If it happens it means that the worker will obtain the right to claim unfair dismissal and/or redundancy pay earlier than would be the case if his/her status as an employee only started when he/she became permanent.

# 14. Glossary

<b>CRB</b>	Criminal Records Bureau
<b>PAYE</b>	Pay as you earn system for paying income tax and national insurance contributions via deductions from wages
<b>SME</b>	Small or medium-sized enterprise
<b>TUPE</b>	Transfer of Undertakings (Protection of Employment) Regulations 2006
<b>WTR</b>	Working Time Regulations 1998, as amended by the Working Time (Amendment) Regulations 2006

# 15. Appendices

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