

Temporary Worker Contract

Overview and Scrutiny Panel 16 January 2024

Report Author	Matt Elmer, Head of Cleansing Services
Portfolio Holder	Cllr Steve Albon - Cabinet Member for Cleansing and Coastal Services
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	An Executive Decision that involves incurring expenditure anticipated to be £250,000 or above
Ward:	All wards

Executive Summary:

To provide a consistent staffing provision in its frontline services, the council requires a contracted provider for temporary staff. This need is most prevalent in the Cleansing Department. The current contract, with provider HRGO, expired in April 2023, at which point the option to extend for an additional year was exercised. This extension expires on 12 April 2024.

It should be noted that this is a “call-down” contract so is not an obligation to spend the total value of the contract. Cabinet has requested a report into the use of temporary staff, which will be forthcoming and also shared with members of Overview and Scrutiny in due course.

This contract will need to be re-tendered for, to ensure that operational services can continue to be uninterrupted.

Recommendation(s):

Members of the Overview and Scrutiny Panel are asked to:

1. Note and scrutinise the report and consider any representations to Cabinet in advance of its meeting on 25 January 2024.

Corporate Implications

Financial and Value for Money

The use of temporary staff is managed across each service area within the organisation, with Cleansing Services being the most noteworthy user of this resource. There is a base budget for this activity to cover the most significant areas of spend, however over and above this, where there are vacant posts that require the use of agency staff, the savings generated from these vacancies are utilised to offset these increased costs. As a result budgets are flexed as and when required, in line with these vacancies. The budget for this contract therefore exists with the staffing budgets in totality for this organisation.

Legal

S.112 Local Government Act 1972 permits a Local Authority to appoint such staff as it thinks fit in order to deliver its functions. S.111 Local Government Act 1972 and S.1 Localism Act 2011 permits a Council to do anything calculated to facilitate the delivery of its powers, functions and duties and this includes entering into contracts and service arrangements necessary to deliver those function

Procurement will be subject to compliance with public procurement legislation and the Council's contract standing orders.

Risk Management

The Cleansing Service would not be able to function properly without the cover and flexibility offered by temporary/agency staff. So it is imperative that a compliant contract is in place to have access to short term staff. These staff are often employed to cover unplanned sickness and/or absenteeism, some of which can occur without warning at the start of the working day. While the first option would be to cover annual leave and planned/foreseen sickness with full time staff, this is only viable up to a point. Unpredictable fluctuations in attendance will need to be covered by temporary workers. Access to temporary staff is also critical to ensuring that seasonal services such as beach cleaning in the summer is fully staffed without impacting the standard service. Agency staff have been used in other areas within TDC to cover maternity leave, when it was not possible to cover this with fixed term contracts.

Corporate

The manual nature of the cleansing service means that only a very small amount of the work can be undertaken to a satisfactory standard with a reduced headcount. Not having the ability to call on staff to fill unexpected spaces in the daily deployment would have a negative impact on standards. Having to deliver the service without the full quota of staff would initially lead to street cleansing services being withdrawn for the day - this to lessen the impact upon

collections, but would of course have a detrimental impact on how many roads are swept and litter bins emptied.

Temporary staff are solely used to cover gaps made by absenteeism or seasonal needs and not as regular staff. The alternative of having additional TDC employees to cover these gaps would not be financially viable as there would be a considerable amount of time where they are surplus to operational needs.

The use of agency staff is monitored closely and can be controlled with efficient management of sickness and absenteeism. A report will be submitted to Cabinet to outline the level and justification of usage.

Equality Act 2010 & Public Sector Equality Duty

The proposal has limited relevance to the duty in respect of the protected characteristics. It is the officer's assessment that the duty is not engaged by this proposal.

An equalities screening tool has been completed and there is no requirement for an EQiA as there are no equalities implications arising.

Corporate Priorities

This report relates to the following corporate priorities: -

- Environment
- Communities

1.0 Introduction and Background

1.1 Agency contact covers eight areas across TDC:

- Cleansing
- Crematorium
- Open Spaces
- Port and Harbour
- Housing
- Parking
- Facilities
- Public Realm

1.2 The current contract is with HRGO and is a three year, with an option to extend this for a further year.

1.3 The option to extend was exercised in 2023 and will expire on 12 April 2024.

2.0 Current Situation and Proposed Works

- 2.1 A new contract needs to be produced and awarded prior to the completion of the current one in April. This task should be made easier due to the fact the parameters of the contract have not changed a great deal,

3.0 Options

- 3.1 Members of the Overview and Scrutiny Panel are invited to review and scrutinise this report, making any agreed recommendations to Cabinet in advance of its meeting on 25 January 2024. An options appraisal was conducted and the following options put forward:

Option 1 – Do Nothing. If the current contract expires without a compliant replacement, the Council will face risks associated with delivery of key services as capacity will not be available or the Council would require constant competition on the open market to engage temporary staff on an individual basis. **Not recommended.**

Option 2 – Continue as is. Continuing with the current supplier by rolling on the contract will breach the Public Contracts Regulations (PCR 2015) and the Councils Tender and Contract Regulations as there is no scope for further extensions within the current contract. This would expose the Council to considerable risk of litigation. **Not recommended.**

Option 3 – Further Competition under a Framework. This option is resource intensive and rates may not be as favourable when compared across managed service providers procured under the framework. **Recommended.**

4.0 Next Steps

- 4.1 This proposal will be presented to the Cabinet at its meeting on 25 January 2024.

Contact Officer: Matt Elmer - Head of Cleansing
Reporting to: Mike Humber - Director of Environment

Annex List

None

Corporate Consultation

Finance: Matthew Sanham (Head of Finance and Procurement)

Legal: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)