

Report

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Report to:	Corporate Resources Committee
Date of Meeting:	23 November 2011
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Agency Workers Regulations 2010
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ advise the Committee of legislation introducing equal treatment for agency workers

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the implementation of the Agency Workers Regulations 2010 be noted.

3. Background

3.1. The Agency Workers Regulations 2010 (AWR) came into force on 1 October 2011. The Regulations are intended to provide equal treatment for agency workers with respect to basic employment and working conditions following a qualifying period of 12 weeks. Agency workers will be entitled to access facilities and information on job vacancies from day 1 of their assignment and their contracts will require to be in accordance with the National Procurement Framework.

4. Equal Treatment for Agency Workers

4.1. The AWR states that the agency worker has the right to receive the same basic working and employment conditions as those who have been directly employed by the Council to carry out the same or broadly similar work. These conditions will reflect the Council's terms and conditions included in employees' contracts.

4.2. From day 1, agency workers will have access to facilities such as employee canteens, transport facilities, car parking, and be made aware of any vacancies within the organisation.

4.3. After 12 weeks in the same job, agency workers will be entitled to basic employment rights such as duration of working time, overtime, breaks, rest periods, night work, holidays, public holidays, pay and paid time off for ante natal appointments. The AWR regulations exclude matters that are not directly related to the work done by the agency worker, such as occupational pension contributions, occupational redundancy or sick pay, and benefits in kind.

5. Current Position

5.1. The Council only uses agency workers in exceptional circumstances, subject to the proviso that such cover will be for as short a period as possible, with a view to filling the post on a temporary or permanent basis.

- 5.2 Formal authorisation for the use of agency workers is controlled through vacancy vetting, following consultation with the appropriate Trade Union(s) and supported by justification of the particular special circumstances.
- 6. Revision to Procedures**
- 6.1 Requests for agency workers will continue to be approved by the vacancy vetting panel and the length of appointments will be monitored by Personnel Services, Finance and Corporate Resources and Resource Personnel teams.
- 6.2 Where there is a requirement for an agency appointment to last 12 weeks or more, the Council is required to identify a comparator employee. Pay information, including details of the relevant terms and conditions, should be provided to the agency at the onset of the appointment. The agency is responsible for ensuring that the agency worker receives these terms and conditions if they complete the 12-week qualifying period. Personnel teams will be responsible for notifying the agency of these requirements.
- 7. Employee Implications**
- 7.1 There are no employee implications.
- 8. Financial Implications**
- 8.1 If the agency is to pay the “going rate” for the worker, this may have an impact on the overall cost of the contract with the agency.
- 9. Other Implications**
- 9.1 The risk to the Council is that failing to comply with legislation could lead to litigation.
- 9.2 There are no sustainability implications associated with the introduction of this legislation.
- 10. Equality Impact Assessment and Consultation Arrangements**
- 10.1 This report does not introduce a new policy, function or strategy; however, there is an addition to an existing policy in line with legislative changes, therefore, no impact assessment is required.
- 10.2 Discussions regarding the legislative changes have taken place via the JTUC Executive Group and Personnel Managers.

Paul Manning
Executive Director (Finance and Corporate Resources)

7 October 2011

Link(s) to Council Objectives/Improvement Themes/Values

- ◆ Fair and open
- ◆ People focused
- ◆ Excellent employer

Previous References

None

List of Background Papers

The Agency Workers Regulations 2010

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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