



Response to Request for Information

Reference FOI 101573
Date 14 October 2015

Recruitment of Interims

Request:

(Re- Internal Process for the Recruitment of Interims)

Could you please provide me with a copy of the process referred to and give details of the procedure by which it was approved.

Response:

Please find below relevant procedures for the recruitment of interims:

BUSINESS CASE for Approval to Appoint Agency Workers and Consultants

This form is for managers to make the case for the appointment to roles within their services. It is part of Wolverhampton City Council's managed approach to recruitment.

This form should be submitted with all relevant supporting documentation. If the required documentation is not attached e.g. job description, personnel specification, advert (if applicable), structure chart your request will be returned.

- Section A Business case
- Section B Job details
- Section C Agency or consultancy arrangements
- Section D Signatures must be completed

SECTION A	BUSINESS CASE		
DIRECTORATE			
DIVISION		SECTION	
MANAGER'S CONTACT DETAILS	Name:		Title:
	Contact no:		Email:
TYPE OF RECRUITMENT or SUPPLEMENT: (please tick)	Agency recruitment <input type="checkbox"/>	new post <input type="checkbox"/>	
	Consultant appointment <input type="checkbox"/>	existing post <input type="checkbox"/>	
BUSINESS CASE FOR RECRUITMENT	Recruiting to this post is business critical for the following reasons: (identify which category applies and an explanation of why)		
	<input type="checkbox"/> Statutory (identify relevant law/ regulations)		
	<input type="checkbox"/> Financial risk <input type="checkbox"/> Legal risk <input type="checkbox"/> Performance risk		
	<input type="checkbox"/> Reputational risk <input type="checkbox"/> Other (for example, posts which create income or a substantial return on investment)		
RISK ANALYSIS IF REQUEST NOT APPROVED	Provide a risk analysis which includes likelihood, severity of impact and timeline for the realisation of the risk		

EXPLAIN HOW YOU HAVE LOOKED AT ALTERNATIVE WAYS OF COVERING THIS ROLE	
CONFIRM DOCUMENTS ATTACHED	<input type="checkbox"/> Job description & specification <input type="checkbox"/> structure chart

SECTION B	JOB DETAILS	
JOB TITLE		NO OF POSTS
GRADE / SALARY		JOB REF NO
COST CODE	_____	DBS required: YES / NO
POSITION ID	_____	
IF THIS IS A MANAGEMENT APPOINTMENT	_____ Title of the position against which this recruitment will be held	
HOURS	Full time <input type="checkbox"/> Part-time <input type="checkbox"/> Hours per week _____ Term-time <input type="checkbox"/> Weeks per year _____ Annualised hours <input type="checkbox"/> Hours per year _____	
CONTRACT DURATION	Fixed term for _____ months From _____ To _____	
DATE VACANCY OCCURRED		
PREVIOUS POST HOLDER	Name	Leaving date

SECTION C	AGENCY OR CONSULTANCY RESOURCING ARRANGEMENTS	
APPROVAL NUMBER	<p>All recruiting managers must use YOO Recruit Ltd in the first instance. The Agency Gateway system is to be used for alternative agencies. An Approval number will be allocated by HR once full approval to recruit to this post has been secured.</p> <p>Approval number ___ / ___ / ___</p>	
COSTS (Rates for roles on the Agency Gateway Framework for Agency Staff Contract Price Schedule available from HR or Procurement)	Rate Payable £_____ per hour/per day <i>(if day rate exceeds £350, additional approval must be sought – see below)</i> Annual Equivalent Cost £_____ per annum (calculat by multiplying the day rate x 210 days)	Total estimated cost of the appointment (based on likely length of contract) £ _____
FUNDING	Available budget for the post £ _____	Maximum funded days: _____ (Calculate by dividing the available budget by the day rate) The contract of appointment must not exceed this number of days without identifying additional budget funding.
DIFFERENCE BETWEEN TOTAL COST AND AVAILABLE BUDGET		
IF DAY RATE EXCEEDS £350 PER DAY		
HEAD OF HR SIGNATURE	Name _____ Date _____	Signature _____
MEMBER APPROVAL	Name _____ Date _____	Signature _____

SECTION D	SIGNATURES	
HEAD OF FINANCE SIGNATURE	Name _____ Date _____	Signature _____
ASSISTANT DIRECTOR SIGNATURE	Name _____ Date _____	Signature _____
HUMAN RESOURCES Confirmation that all supporting paperwork provided	Name _____ Date _____	Signature _____

Wolverhampton City Council



Human Resources Policy Framework

Agency Worker Protocol and Procedure

Approved by:	<i>Cabinet Resources Panel (12.03.2013)</i>
<i>Published:</i>	<i>01.04.2013</i>
<i>Review date:</i>	<i>31.03.2014</i>

CONSULTATION

The following officers and or bodies have been consulted on this protocol:

Officers and or Bodies	From	To
HR	15.01.2013	05.02.2013
CDB	12.12.2012	21.02.2013
SEB	12.12.2012	21.02.2013
PGSS	07.03.2013	

The following Trade Unions have been consulted on this protocol

	From	To
Unison	15.01.2013	31.01.2013
GMB	15.01.2013	31.01.2013
Unite	15.01.2013	31.01.2013

REVIEW LOG			
Date	Version	Comments/Review	Approved by
01.12.2012	0.1	JF	
10.12.2012	0.2	LH	
18.02.2013	0.3	HR moderation	

EQUALITY ANALYSIS
An equality analysis has been carried out on this policy and procedure. Contact HR Strategy and Policy Team for a copy. Contact HR on 01902 552345 or by email on HR.supportdesk@wolverhampton.gov.uk for HR advice.

ADVICE
Contact HR on 01902 552345 or email HR.supportdesk@wolverhampton.gov.uk for HR advice.

COMMENTS AND AMENDMENTS
Contact HR on 01902 552345 or email HR.supportdesk@wolverhampton.gov.uk to make any comments or suggest any feedback on this policy.

DISTRIBUTION
This policy and procedure is placed on the HR intranet for managers and employees to view. Copies will be provided to recognised Trade Unions and managers electronically.

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1.0 Protocol Statement

- 1.1 Wolverhampton City Council (the council) is committed to ensuring that it recruits from the widest possible field and will appoint on the sole criterion of merit, except where race or sex is a genuine occupational qualification.
- 1.2 The agency worker protocol is designed to support the organisation to deliver its services and improve the efficiency of the worker engagement process, whilst reducing overall agency worker procurement costs across the council. It will also improve available management information whilst ensuring the council remains compliant with legislative and policy requirements, by following a framework that defines roles and responsibilities in accordance with safeguarding principles.
- 1.3 The council reserves the right to review this protocol and procedure from time to time in line with statutory procedure and best practice.

2.0 Scope

- 2.1 This protocol applies to the appointment of workers through an agency. This includes workers who are employed through the agency and self employed workers or those with their own companies.
- 2.2 This arrangement does not include consultancy companies that bid for and are awarded a specific piece of work.
- 2.3 All Senior Executive interim workers recruitment must start with advice from the HR Team on the appropriate process.

3.0 Principles

- 3.1 Wolverhampton City Council is committed to the following principles, which underpin this protocol:
 - To ensure that all workers sourced through an agency are only selected from one of the approved agencies via the Agency Gateway electronic system
 - That employees on the redeployment register are considered prior to the use of workers sourced through an agency
 - Where the use of a worker through an agency exceeds the acceptable day rate that approval is sought from the HR Portfolio Member.

Who is an agency worker?

- 3.2 An agency worker is a worker who is supplied by an employment agency to carry out agreed tasks for a specified period of time. Agency workers are employed by the agency and assume the same employment rights (excluding pension rights) as permanent employees after working in the same assignment for 12 weeks. Agencies also supply interim consultants and self employed workers who do not acquire the employment rights after 12 weeks. Agency workers, interim consultants and self employed workers are not employees of the council.

When should an agency worker be used?

- 3.3 Agency workers must only be used in exceptional circumstances and when it is not possible to appoint employees through the normal recruitment processes including redeployment.
- 3.4 Managers should consider if existing staff can cover the duties of a vacant post (for example, acting up or as a development opportunity) so that, wherever possible, agency workers are used for the more general duties that require least experience and/or knowledge, and are subsequently more cost effective.
- 3.5 Agency workers should only be used for the following reasons:
- **Vacant Permanent Position** - To provide essential short term cover only during the recruitment of a substantive post holder. New Position –essential cover during the recruitment to a substantive position, as above.
 - **Planned Peak** - Essential cover only for planned peaks in workload.
 - **Holiday Cover** – Short term cover for holiday absence of one to two weeks. This should only be used for the essential cover in the provision of client care / essential support services (i.e. where minimum staffing levels must be in place for example - residential units).
 - **Short Term Sickness Absence** – Short term cover for sickness absence (up to 20 days). Again this should mainly be used for the essential cover in the provision of client care / essential support services.
 - **Short Term Demand** - Short term cover for any other unplanned absence, including suspension, unplanned peak workload etc.
 - **Long term Sickness Absence** - which is defined as more than 20 working days.
- 3.6 Agency workers should only be used for short term assignments. Short term is defined as up to 12 weeks. Assignments can be extended at the manager's discretion and if budget is available.

- 3.7 If the temporary cover is required for a longer term than 12 weeks, for instance to cover maternity leave, managers should recruit to the position using a temporary fixed term contract and should take into consideration both reviewing the redeployment list for a suitable match or advertising the vacancy as a secondment opportunity.

4.0 Agency worker becoming a permanent worker

- 4.1 There may be occasions where an agency worker becomes a permanent worker with the council and transfers to the council pay roll. In certain circumstances this may incur an introduction fee from the agency. This is calculated as a percentage of the annual salary of the vacancy. This percentage fee decreases over the time of the appointment.
- 4.2 Where a vacancy that is currently occupied by an agency worker is advertised externally and the agency worker chooses to apply for and is awarded the post through a competitive recruitment process, no agency introduction fee will apply. However an introduction fee will occur if the agency worker applied for an internally advertised post.
- 4.3 Where a vacancy that is currently occupied by an agency worker is advertised both internally and externally unsuccessfully, the manager may choose to offer the post to the agency worker. An introduction fee may apply in this instance. The level of the introduction fee will be dependent on the length of time the agency worker has worked on the assignment.
- 4.4 The manager should take into consideration the workers performance in the role and the cost of transferring the worker from the agency to our employment.
- 4.5 To ensure equality and fairness within the recruitment process, managers are advised to advertise all posts widely, either internally only, or externally, rather than award a post to an agency worker without exploring the market place first. This should also ensure that appointing managers identify the person with the best experience, skills and attributes to fulfil the role and therefore appoint on merit.

5.0 Roles and Responsibilities

Roles and Responsibility of Directors

- 5.1 Directors have a responsibility to ensure that agreed procedures are operated throughout the Directorate for the use of agency workers and that monitoring reports available from HR are used to manage the use, cost and length of assignment of agency workers.

- 5.2 Directors should ensure all managers are committed to this protocol and use.

Role and Responsibilities of Managers

- 5.3 Managers have a responsibility to ensure that this policy is applied within their own area. Any queries on the application or interpretation of this policy must be discussed with Human Resources.
- 5.4 Managers are accountable to Directors for the proper application of the provisions of this protocol and other supporting information.
- 5.5 Managers must ensure that local arrangements are in place to implement this protocol and procedures and that the correct documentation is in place for relevant agency worker positions.

Role and Responsibilities of HR

- 5.6 HR have a responsibility for ensuring the communication, maintenance, regular review and updating of this protocol.
- 5.7 HR will support managers in managing issues arising from the implementation of this protocol and will on behalf of Head of HR resolve issues that might arise with delivery against the contract
- 5.8 HR will monitor the performance of the Agency Gateway system against the contract.

Roles Responsibility of Head of HR

- 5.9 In consultation with the recognised Trade Unions, the Head of HR will exercise delegated authority for and be responsible for the on-going review and updating of this Policy to ensure compliance with changes in statutory requirements and operational delivery, including responsibility for identifying the appropriate process for the regular evaluation of the effectiveness of this policy. Any fundamental changes to this policy will be brought before the Resources Panel for approval.

Role and Responsibilities of Trade Unions

- 5.10 Any review and revisions of this protocol will be undertaken by HR in consultation with the Council's recognised trade unions.

6.0 Monitoring and Review

- 6.1 The use of agency workers and the operation of agency supply contracts will be reviewed on an annual basis.

7.0 Links to other Policies and Procedures

- Equality & Diversity(Employment)Policy
- Recruitment and Selection Policy

8.0 Equality

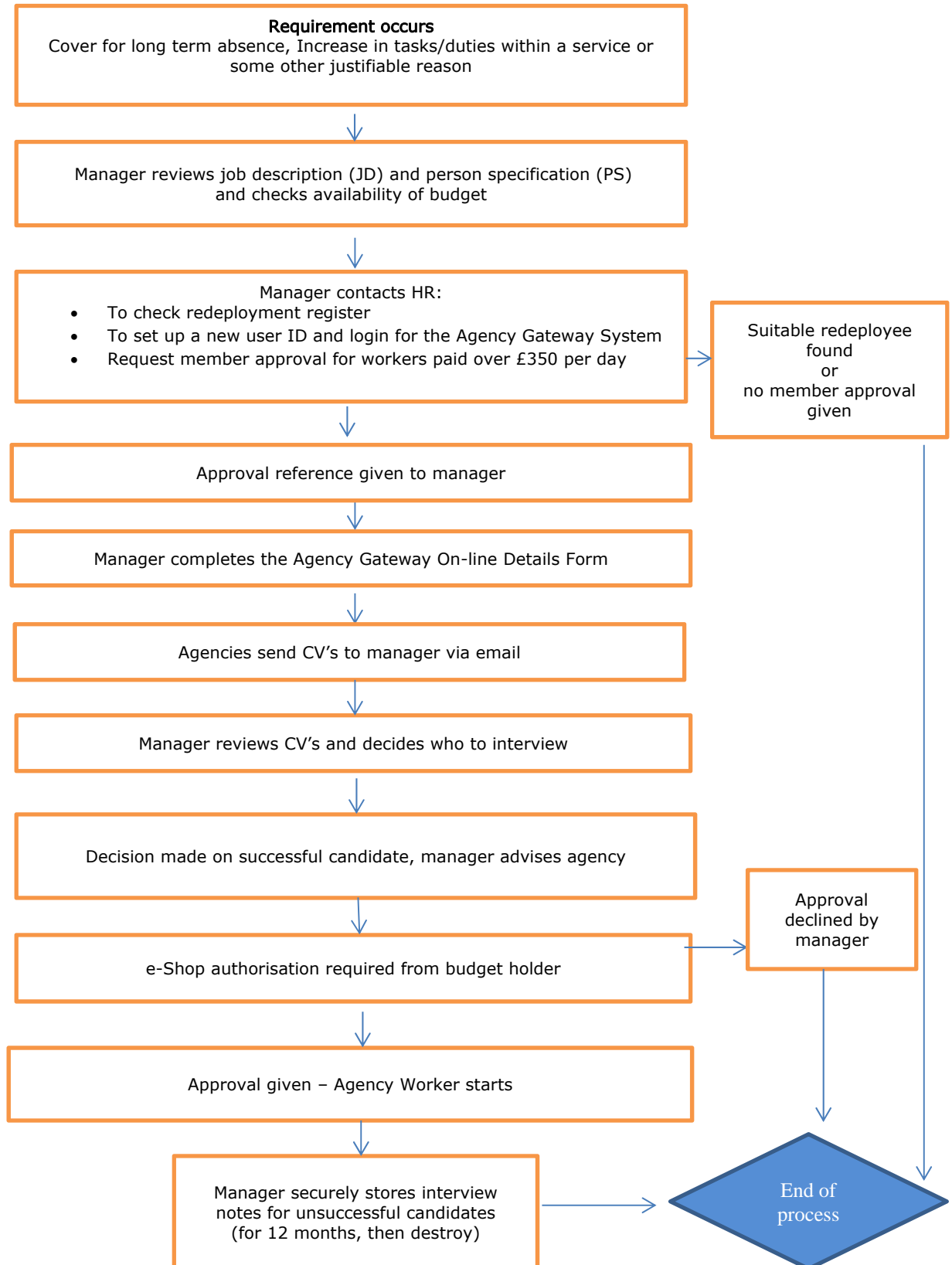
8.1 An Equality Analysis has been carried out on this protocol.

8.2 The Council has a duty to monitor the application of the protocol in relation to protected characteristics under the Equality Act 2010. This is reported annually in the Council's Equality Monitoring Report.

8.3 If any aspect of the agency worker protocol and procedure causes you difficulty on account of any disability that you may have, or if you need assistance because English is not your first language, you should raise this issue with HR, who will make appropriate arrangements.

Appointing an Agency Worker Process Chart

Appendix 1



Wolverhampton
City Council



Managers' Guidance

Managing the use of Agency Workers

Version	1.0
Published	April 2013
Review date	April 2014

Managers' Guidance

The guidance notes have been developed to assist managers when dealing with the appointment of agency workers. The guidance is designed to support the Council's protocol and procedure on agency workers and is not intended as a substitute for following the protocol and procedure.

The guidance is based on best practice and recent developments in employment law; it does not form part of the Council's agency worker protocol.

For further information, please contact HR on (01902) 552345 or email HR.supportdesk@wolverhampton.gov.uk

Managers' Guidance

The Use of Agency Workers

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1. The Agency Worker Regulations

From time to time the Council will require agency workers to supplement the workforce.

Agency workers are classed as "workers" rather than as employees. All workers, including agency workers, are entitled to certain rights under the Agency Worker Regulations 2010 which include:

- Paid annual leave
- Rest breaks and limits on working time
- The National Minimum Wage
- No unlawful deductions from wages
- Protection from discrimination rights under the Equality Act 2010
- Health and safety at work.

Who is covered by the regulations?

The regulations cover agency workers supplied by a temporary work agency to a hirer. This includes most agency workers that people refer to as 'temps'.

The regulations also cover agency workers supplied via intermediaries.

To establish the rights in these regulations, the agency worker needs to be able to identify a comparator.

Who is not covered by the regulations?

The regulations don't cover the genuinely self-employed, individuals working through their own limited liability company, or individuals working on managed service contracts.

2. The Agency Gateway System

Wolverhampton City Council (the Council) has a corporate contract for the provision of agency workers. The contract is with Birmingham City Council's Agency Gateway Team. The Agency Gateway Team (AGT) does not supply workers but allow their Agency Gateway System (AGS) to act as a third party between ourselves and the agencies providing workers to us.

The use of the AGS ensures that the council has a consistent approach to placing agency workers and adheres to all the necessary legal requirements for agency workers, including the implications for the hirers with regards to the Agency Worker Regulations (AWR).

The Agency Gateway Team manages all third party agencies for the council, limiting the amount of time spent on administration; the AGS requires the use of on-line timesheets and invoices, which will further reduce administration costs for the council.

The financial benefits of moving to the AGS will be considerable. As an organisation we aim to reduce our agency worker spend. This can be achieved by setting pay rates for workers and minimising the margins being paid to agencies. Managers will no longer be required to negotiate pay rates with individual agencies.

Managers should familiarise themselves with their responsibilities as outlined in the Agency Worker Protocol. This guidance provides information on how to procure and manage agency workers.

3. Finding Agency workers

All agency requirements require advance approval from the vacancy panel.

The AGS User Guide can be found on the HR Intranet; it gives step by step guidance on how to use the system.

You will require a Logon and password to use the AGS. To obtain these you must first contact HR at HR.supportdesk@wolverhampton.gov.uk

To find an agency worker a manager should log on to <http://ess.bcc.360-systems.com/apps/bcc/ess/main.nsf/summary?OpenForm>

Placing an order

To place an order all details regarding the type of agency worker required should be logged onto the AGS. The system will then send the request to all the relevant agencies on your behalf. CV's will then be sent via email directly to managers for selection. Managers can select a worker from the CV's alone or arrange for an interview before engagement.

The AGS contains job titles for roles that are regularly required within the council. Ordering managers are required to select a job title from this predetermined list.

If the job title for the order you are placing is not listed you can arrange for one to be uploaded by contacting HR, giving information on the job role, job description and person specification including pay rate and any comparator role. Please note that this may take a few days to be uploaded.

Managers must log the reason for their order of an agency worker to enable HR to monitor future policy.

If the agencies via AGS cannot find the required agency worker managers should contact HR to discuss the situation. Managers should not contact agencies directly. Any occasion reported of the AGS not being able to supply will be fed into the continuous monitoring of the process.

4. General guidance on managing agency workers

It is important that managers constantly review their use of agency workers. It is particularly important that agency worker cover does not become crucial to the delivery of services on a long term (over 3 months) basis; managers should consider the capacity and skill requirements for delivery to their service plans and recruit through the normal recruitment processes.

5. Safer recruitment and the Disclosure and Barring Service (DBS) (formally CRB)

If a post requires a DBS check, this will have been indicated to the agencies through the procurement process. Agencies have been instructed to provide the worker with a card/letter confirming their DBS clearance. The worker should present this on arrival at a new assignment. Failure to supply this information must be reported to HR.

Any agency worker supplied to work in a children's home must have an enhanced DBS that has been obtained within the 3 months previous to that assignment. This is a requirement of the Council and is above the Children's Home Regulation and National minimum standards of 12 months.

6. Pre-employment checks

Managers are responsible for checking that agency workers have been checked appropriately. Managers must see a letter/card outlining the clearance number of the DBS check.

Candidates will only be submitted to the council where the supplier agency has completed the required pre-employment checks specified for the job title. The type of checks required will vary according to the post, but will always include:

- Receipt of two satisfactory and independent references of which one will be from the immediate previous employer.
- Identity check - are they who they say they are?
- Evidence of eligibility to work in the UK – can they work here legally?
- Professional qualifications check - are they true and accurate?
- Medical (if necessary) – are they medically fit to undertake the role?

- Unspent convictions - have they been declared?
- Suitability check – do they have the right skills for the job?
- Diversity monitoring form - which requests information regarding a worker's gender, age, ethnicity, and disability

7. Payment of Agency Workers

In order for payments to be made, an order must also be raised in e-Shop; it is the responsibility of the manager to sign off the timesheet for their agency worker. If the manager is not available they should delegate their role to another AGS user. Managers are responsible for the amount of hours approved.

Managers approving a timesheet are agreeing to the payment of the fees associated with the worker. An order must also be raised in e-Shop.

- Timesheets for agency workers must be approved by a timesheet approver by midday on the Monday immediately following the week worked. This will ensure that payment is made to the agency worker.
- Each month the system will be monitored by the Agency Gateway Team to identify where this has not occurred and an investigation will take place to ascertain the reasons why.
- Agency workers will be supplied at the agreed pay rates for agency workers at the time of ordering.
- Agency workers are usually contracted to work a maximum of 37 hours per week.
- No overtime rates will be paid to agency workers although enhanced rates may be agreed with the suppliers in advance, where necessary.
- Managers must manage the hours worked for each agency worker.
- Reimbursement of travel and other personal expenditure incurred on Wolverhampton City Council business can only be claimed by agency workers in exceptional circumstances and by prior agreement which must be obtained from their manager. The agreed mileage rate per mile will apply. Expenses can only be claimed for mileage/bus fares/train fares for work journeys, excluding normal travel to and from work. Taxi fares can only be claimed if no public transport is available.
- All payment queries from agency workers are to be directed to the agency and not dealt with by the manager

8. Treatment of agency workers

All agency workers have certain statutory protection rights; those of particular relevance to the council are:

- The right not to be discriminated against on the grounds of race, sex, age, disability, sexual orientation, religion or belief.

- Rights under the Working Time Regulations e.g. maximum number of hours and the right to statutory paid holidays.
- Rights under the whistle-blowing provisions to protection from detriment on making a protected disclosure.

9. Termination of an agency worker

Reasons for termination

- The piece of work assigned to the agency worker has been completed
- The funding for the piece of work has ceased
- The agency worker has not met required standard of work

In all cases the termination of an agency worker is conducted via the appointing recruitment agency.

The manager must contact the agency to explain the reason for termination and the date on which it is to happen. The manager must also amend the end date of the appointment in AGS to close the request.

The agency will then contact the worker to advise them of their end date, as their contract of employment is with the agency and not the council.

Any application for an internal vacancy will only be honoured if the interview date falls within the placements dates i.e. if the agency worker has left the Council they will not be invited to an interview.

Manager Do's and Don'ts

Managers must ensure that any conduct, performance and attendance issues are communicated to the agency. Managers are not the agency workers employer and therefore should not tackle these issues directly with the worker.

Any change in assignment must be actioned by the agency e.g. if an agency worker needs to be moved from one team to another, then the manager must instruct the agency and not the worker directly.

Managers should not agree leave with the agency worker. Agency worker could let the manager know out of courtesy. However, formal leave arrangements MUST be made between the agency worker and the agency.

Managers should not liaise directly with the agency worker if s/he wishes to change the agency workers' hours, location, hiring manager/line supervisor, nature of assignment, length of assignment (shorter or longer), change in pay rate or replacement of worker. This should be done via agencies.

10. Agency Worker Regulations 2010

Qualifying for equal treatment after 12 weeks?

An agency worker qualifies for equal treatment if they've worked in the same job with the same hirer for 12 weeks. This is known as the 'qualifying period'.

However, if they have any breaks between jobs these can either:

- Count towards the qualifying period
- Pause the qualifying period
- Reset the qualifying period to zero

Breaks that count towards the qualifying period

These include breaks:

- During pregnancy and up to 26 weeks after childbirth
- Due to taking adoption or paternity leave

Pauses in the qualifying period

The qualifying period is paused if they have a break:

- Of 6 weeks or less, and they return to the same role with the same hirer
- Of up to 28 weeks because of sickness or injury
- That they're entitled to, such as annual leave
- Where the workplace closes (e.g. over the Christmas holidays, or because of industrial action)
- Because they're on jury service for up to 28 weeks

When the qualifying period starts again at zero

This happens if:

- They move to a new assignment with a new hirer
- There is a break of more than 6 weeks between jobs with the same hirer
- They remain with the same hirer but you're doing a 'substantively different' role

What is a 'substantively different' role?

If the job with the same hirer changes and the worker is doing very different work, this could count as 'substantively different'. The agency must tell you in writing that the role has substantively changed and the qualifying period is reset to zero.

A change of line manager or location isn't enough - there must be a genuine and real difference to the role e.g. a combination of the following being different:

- Skills used or new training
- Pay rate
- Location
- Working hours

Example:

The agency worker has worked in a warehouse on a production line to assemble a product. Simply moving them from a production line to a packing role requires little training and uses most of the same skills. This is unlikely to be substantively different.

However if the worker has worked on the production line and then move into an administrative role, then this is likely to be substantively different. In this situation the qualifying period starts again.

What rights will agency workers have?

From Day 1 of their employment, an agency worker will be entitled to:

- The same access to facilities such as staff canteens, childcare and transport as a comparable employee of the hirer
- Be informed about job vacancies.

After a 12-week qualifying period, an agency worker will be entitled to the same basic conditions of employment as if they had been directly employed by the hirer on day one of the assignment, specifically:

- Pay - including any fee, bonus, commission, or holiday pay relating to the assignment. It does not include redundancy pay, contractual sick pay, and maternity, paternity or adoption pay
- Working time rights - for example, including any annual leave above what is required by law.

Agency Workers (regardless of their employment status) will also be entitled to paid time off to attend ante-natal appointments during their working hours.

Does the 12-week qualifying period have to be continuous?

No, most breaks between or during an assignment to the same job that are less than six weeks in length will simply pause the accrual of the 12-week

qualifying period. Most breaks between or during an assignment to the same job that are six weeks or more will reset the 12-week qualifying period.

The accrual of 12 weeks qualifying period can be paused by:

- Absences for sickness and jury service (for up to 28 weeks)
- Annual leave, shut downs (e.g. factory closures and school holidays) and industrial action (for the duration of the absence).

Pregnancy and maternity-related absences, maternity leave, paternity leave and adoption leave will not pause the 12 week accrual at all - instead the 12 week accrual period will continue throughout the duration of the absence and include these weeks as those counting towards the 12-week total.

What if an agency worker is working on more than one assignment?

If an agency worker is working on more than one assignment the agency worker will have two or more assignments that need to accrue separately. In other words if an agency worker has assignment A and assignment B, they would need to work for 12 weeks on assignment A before their rights apply to assignment A and 12 weeks on assignment B before their rights apply to assignment B.

The regulations require that a new assignment would need to comprise 'substantively different work or duties' for the qualifying period to start again.

What is a 'comparable employee'?

The regulations aim to ensure an agency worker is engaged on the same relevant terms and conditions as a "comparable employee". In other words, "what terms and conditions would the agency worker have got if they had been directly recruited into the role?"

An employee is a 'comparable employee' if at the time of an alleged breach of the regulations:

- Both employee and agency worker are working for and under the supervision and direction of the hirer
- Both employee and agency worker are engaged in the same or broadly similar work (this could include an examination of qualification and skills)
- The employee works or is based at the same establishment as the agency worker (the employee can work or be based at a different establishment but only where such an employee cannot be found working or based at the same establishment).

11. Further advice

If you need any further advice on anything covered in this guidance please contact HR Shared Services on 2345 or HR.supportdesk@wolverhampton.gov.uk