

## **EMPLOYMENT MATTERS COMMITTEE**

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### **USE OF CONSULTANTS**

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#### **Summary**

The report provides an update on the use of consultants in the Council.

#### **1. Budget and Policy Framework**

1.1 The resourcing of work to support the delivery of Council services is a matter for this committee.

#### **2. Background**

2.1 Following discussions at the last meeting of this committee, this report is an update on the use of consultants as a resource within the Council.

2.2 Consultants will only be engaged when the council does not have the relevant in-house expertise or capacity. Managers are expected, when proposing the use of consultants, to identify how they would support a project and to work within the budget, considering value for money aspects at that time.

2.3 HR Services have instigated and manage a process whereby all requests for consultants are co-ordinated and subsequently approved through the Resourcing Team to ensure that the council has a record of individuals and companies working in this capacity.

2.4 The approval from HR for the appointment of consultants ensures the council understands and has a record of who is being engaged and why, ensuring we can answer all the queries, avoid potential fines from HMRC and be compliant with all other employment legislation.

#### **3 Current position**

3.1 There are around 60 consultants/consultancy firms being used across the Council at any one time and they are used for a variety of reasons across a number of projects. In the main they are short-term projects where the Council does not have the specialist expertise and it is cost-effective to buy it in as required.

3.2 All placements/contracts are checked by the HR team to ensure that it is the best way of acquiring people, and since this checking has been instigated the use of consultants has reduced by 35%. The reasons for continue to use the diverse range of consultants is summarised as follows:

- No directly employed post holder with the level of technical or specialist expertise required
- More cost effective as on an “as required” basis
- External person considered critical for success
- Insufficient capacity in house
- Short, specific piece of work
- Specialist that understands the market
- Independent from the Council (certain appeals in Planning, Chair of Serious Case Review)
- Independent review as directed by Members.

3.3 The average charge for a consultant is around £400 per day, but the cost varies across the level and type of expertise. Many of the projects are charged on a single price for the delivery of a project and this is cost effective because the Council only pays for actual work done.

3.4 Whilst the daily rate of a consultant may at first appear high it is important to remember that this way of securing resources mitigates against the liabilities of employing staff. The average salary of a senior professional employed by the Council is around £40,000 per annum and with on-costs this cost the Council about 52,000. However it is important to take into account the cost of holidays, sickness, training plus the provision of accommodation and equipment when calculating the true cost of employee. Whilst it is difficult to cost this precisely it would not be unreasonable to add a further 30% to take into account all these factors. On this basis the cost of a comparable employee would be at least £300 per day. In addition there are the resources required to recruit, manage and where appropriate dismiss the relevant employee for such short-term projects. These are the factors taken into account when considering the use of consultants.

3.5 The consultants engaged have been for a wide ranging number of requirements from Children’s Social Care independent reviewing officers to archaeological specialists to give ad hoc advice on planning applications. The table below summarises where and how consultants are currently being used:

<b>Number of Consultants</b>	<b>Type of work</b>	<b>Reason for using a consultant</b>
2	Specialist IT work, information security, systems analyst	Specialist expertise and tight timescales
1	Specialist pay and grade advice/bench-marking data	Specialist advice and access to regional pay information
1	Housing Strategy	Could be subject to external challenge and so recognised expertise needed
2	Building Control Surveys	Specialist consultancy, including fire risk assessment

<b>Number of Consultants</b>	<b>Type of Work</b>	<b>Reasons for using a Consultant</b>
1	Transport – concessionary fares reimbursement	Specialist consultant with an understanding of the market
5	Bus shelter advertising contract, community transport scheme, public transport advice , transport assessments	Expert advice required on major planning applications and transport assessments, commercial understanding of the market
5	Development management, archaeology expertise, agricultural knowledge	Expertise does not exist in-house and could be subject to challenge
3	Housing related support covering procurement and contract specification. Also medical expertise for design.	Not cost-effective to provide in-house
3	Rochester castle, environmental monitoring and geophysical surveys	Specialist heritage and knowledge conservation knowledge
1	Feasibility studies and business case for development of tourist attractions	Detailed research and assessment required
1	Business case for use of landfill sites	Specialist multi-disciplinary project
1	Tree safety Surveys	Technical skills required, not cost effective to have in-house
4	Advice on planning applications and quantity surveyor work for in-house projects	Technical expertise not available in-house
1	Funding Strategy for tourist attraction	One-off specialist project
2	Project support for Better for Less	Lack of in-house capacity
2	Development of asset management system to become paperless	High level work to be provided by the supplier of the software
2	Traffic order support	Very specialised field of work
2	Street works inspections	Poor response to recruitment attempts, expertise used to increase income
4	Housing building surveying/inspecting/project management	Ad hoc work
1	Energy and sustainability consultancy	Interim arrangement whilst future of in-house service considered
1	Insurance brokerage	Skill set not available at the price we currently pay
1	Health and safety advice, eg legislation, risk assessment – schools are currently the biggest users	Access to up-to-date advice and best practice, cost effective

<b>Number of Consultants</b>	<b>Type of Work</b>	<b>Reasons for using a Consultant</b>
3	Specialist financial consultants, eg 5 year resourcing projections, treasury management and VAT advice	Expert intelligence service
4	Independent reviewing advice and safeguarding	Joint contract with KCC, specialist staff
3	Performance analysts (Children's)	Support for children's improvement programme, expertise needed urgently and for a short period
2	Support and consultancy for school leadership and governance	Additional capacity plus a mix of skills needed
1	Legal expertise on schools converting to academies	Capacity and specialist knowledge – short-term
1	Specialist support to Silverbank	Specific intervention required to respond to OFSTED
3	Management support for children's improvement	Extra capacity and expertise to respond to OFSED
2	Specialist support for workforce development (children's social care)	Additional capacity and expertise to respond to OFSTED

#### **4. Risk management**

- 4.1 There could be a risk that those being paid as consultants should be on the Council's payroll. However, we have a robust system in place to ensure that those who should be on the payroll are on the payroll. Every application for self employed status has to be examined in accordance with the Her Majesty's Revenue and Customs (HMRC) regulations.
- 4.2 Some decisions that we make are reviewed at different stages by external bodies, such as HMRC. In HR we provide managers with professional advice in order to make the right decision before appointing the person to work, as Medway Council will be liable for any underpayment in tax and national insurance, plus interest and penalties.

#### **5. Financial and legal implications**

- 5.1 Agency and external consultant costs are charged to the individual budget headings appropriate to the service being provided and therefore subject to the same constraints as other Council spending. Managers are expected to ensure they are getting value for money and are following the relevant procurement rules.
- 5.2 Her Majesty's Revenue and Customs (HMRC) have specific rules regarding the taxation status of individuals and 'companies' and the Council has to be cognisant of these rules or face the possibility of sanction should HMRC determine that there has not been a satisfactory treatment of taxation status.
- 5.3 The Council needs to be mindful that there could be a challenge from an individual consultant, say for example if their services are no longer required, that they should have been on a contract of employment and therefore

eligible for employment rights, such as the right not to be unfairly dismissed or the right to a redundancy payment. In addition, the Council could be held liable for the actions of external consultants for example, for acts of harassment under The Equality Act 2010.

## **6. Recommendation**

- 6.1 The Employment Matters Committee is asked to note the information in this report.

### **Lead officer contact**

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### **Background papers**

Employment Matters Committee 18 July 2012

Business Support Overview and Scrutiny Committee 8 August 2012

Employment Matters Committee 29 November 2012

Employment Matters Committee 4 July 2013