

EMPLOYMENT MATTERS COMMITTEE

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REVIEW OF 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 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.

2.5 A number of projects are financed by European Union funding bids which have been successful. Currently the number of consultant appointments this relates to is 8.

3. Current Position

3.1 There are around 51 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. The reasons for continuing 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 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
- Independent review as directed by Members

3.3 The average charge for a consultant for the period June 2014 to end May 2015 is around £332 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 costs 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 an 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 over the last twelve months have been for a wide ranging number of requirements from Children’s Social Care to Archaeological specialists to give ad hoc advice on planning applications. The table below summarises where and how consultants are currently being used.

Number of Consultants	Type of Work	Reason for using a Consultant
8	Development management, archaeology expertise, agricultural knowledge, specialist planning advice	Expertise does not exist in-house and could be subject to challenge
2	Rochester Airport environmental monitoring and noise surveys plus specialist media support	Specialist knowledge which does not exist in-house and additional support for in-house teams.
2	Feasibility studies and business case for development of tourist attractions and festivals	Detailed research and assessment required.
3	Tree safety surveys and greenspace development	Technical skills required, not cost effective to have in-house
8	Advice on planning applications and quantity surveyor work for in-house projects, including energy and water usage consultancy and fire safety inspections.	Technical expertise not available in-house.
4	Specialist technical support for tunnel and structures and street work inspections	Very specialist field of work
8	Variety of integrated transport and traffic management transport initiatives, such as concessionary fares, road safety audits, cycle data, highway and footpath inspections	Ad hoc specialist work which would not be cost effective to provide in-house
2	Specialist financial consultants e.g. housing benefit subsidy, specialist audit requirements	Expert intelligence service
2	Re-commissioning of specialist public health and OT services	Ad hoc work
3	Management support for children's services improvement	Extra capacity and expertise to respond to OFSTED

2	Specialist support for workforce development (children's social care)	Additional capacity and expertise to respond to OFSTED
2	Commissioning support for Mental Health Review	No in-house capacity
2	Specialist veterinary services, stable and kennel inspections environmental health	Expertise not available in-house

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 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. Human Resources provides 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 HMRC have specific rules regarding the taxation status of individuals and "companies" and the Council has to be cogniscent 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.

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Background papers

None