

Notice of Key Executive Decision

Subject:	Contract for the Supply of Temporary Workers
Cabinet Member:	Cllr Damian White Leader of the Council
SLT lead:	Simon Pollock Executive Director, one source
Report author and contact details:	Ben Plant Director of HR and Organisational Development ben.plant@onesource.co.uk
Policy context:	N/A
Financial summary:	Monthly spend of c.£1.9m
Reason decision is key:	Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	N/A – urgent decision
Relevant OSC:	Overview and Scrutiny Board
Is this an urgent decision?	<p>Yes, the Council's existing contractual arrangements come to an end in December. A short extension is required until Cabinet can determine the substantive contract award in January.</p> <p>Any delay to the implementation of the decision to award a one month contract caused by the call in process would seriously prejudice the Council's and the public interests.</p>

Key Executive Decision

Is this decision exempt from being called in?	Yes
--	-----

The subject matter of this report deals with the following council objectives:

- Communities making Havering []
- Places making Havering []
- Opportunities making Havering [X]
- Connections making Havering []

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

In consideration of the contents of this report, the Leader of the Council is asked to agree:

- to extend the Council's contract with Adecco by a period of one month to enable a decision on the future sourcing model for temporary workers to be presented to Cabinet in January
- to vary the terms of the Council's existing contract with Adecco

AUTHORITY UNDER WHICH THE DECISION IS TO BE MADE

- **Rule 19 of the Contract Procedure Rules** permitting variations, extensions and modifications of contracts;
- **Article 5.01 of the Constitution:** "The Leader is responsible for arranging for the exercise of all executive functions"; and
- **Article 9.03 of the Constitution, Executive Decisions:** "Executive decisions" are those that are required to be taken by the Leader or in accordance with delegations agreed by the Leader to Cabinet, to individual members of the Cabinet, or to specific officers."

STATEMENT OF THE REASONS FOR THE DECISION

Contract extension

In 2016, Cabinet agreed to approve a contract award for the supply of temporary workers to Adecco. The original contract term was for three years with the option to extend for a further year. Following a Cabinet decision in January this year, the contract was extended until December 2020.

Since the Cabinet decision in January, officers have undertaken an extensive exercise to evaluate the different options available to the Council for sourcing temporary workers. This has included: engaging with stakeholders from across the Council to understand their requirements; researching all viable frameworks, suppliers and delivery models; and detailed financial analysis.

The outcome of this process was due to be reported to Cabinet in December 2020. However, this report has now been deferred until the Cabinet meeting in January 2021. This delay has arisen because of the need to consider how officers can best approach the implementation of a new sourcing model while many employees and temporary workers are continuing to play a critical role in supporting the Council's Covid-19 response.

As a result, a one month extension of the Council's contract with Adecco is required to take the contract end date past the date of the January Cabinet meeting.

Key Executive Decision

Contract variation

Adecco have recently requested some amendments to the terms of their existing contract with the Council which, if accepted, would apply to the extension approved by Cabinet in January 2020. Since the Council's contract with Adecco is a call-off from an ESPO framework, officers have sought advice from ESPO, who have confirmed that, under the terms of the call-off agreement, the Council is able to agree (or reject) Adecco's proposed amendments. In addition, ESPO have advised that the amendments proposed by Adecco do not represent material changes to the contract – rather, their principal purpose is to clarify the Council's control over the supply chain that is used when Adecco cannot fill a requirement directly. The amendments do not create any additional financial liabilities for the Council and officers have obtained written confirmation that the proposed changes have already been accepted by a number of other London councils. On this basis, it is recommended that the amendments put forward by Adecco should be accepted.

OTHER OPTIONS CONSIDERED AND REJECTED

The principal alternative option would be to allow the Council's contract with Adecco to expire in advance of the January Cabinet meeting. However, this is not recommended, as it may unnecessarily expose the Council to contractual and operational risks.

PRE-DECISION CONSULTATION

Formal consultation on this decision is not required.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Ben Plant

Designation: Director of HR and Organisational Development

Signature: *B. Plant*

Date: 15 December 2020

Part B – Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Proposed Contract Extension

The estimated value of the proposed one month extension is £1.9m against a total contract value, over a period of four years, of c.£96m. Therefore the extension does not constitute a substantial modification of the contract under the purview of Regulation 72(1)(e) of the Public Contract Regulations.

Proposed Contract Variation

The procurement of the temporary worker contract by the Council falls within the purview of its general power of competence under Part 1, Chapter 1 of the Localism Act 2011, which entitles the Council to act as an individual would subject to other statutory provisions limiting or restricting the use of said power.

In so far as Adecco has warranted to the Council that the proposed variations will not result in an increase of risk or liability to the Council and the Council is able to confirm this, the proposed variation will not amount to a substantial change in accordance with Regulation 72(1)(e) of the Public Contracts Regulations, especially as the economic balance of the contract will not change in favour of Adecco as a result.

To further mitigate any possible risk to the Council, the Council has sought a warranty from Adecco in the amended version of the contract confirming no financial risk will fall to the Council as a result of this change and Adecco's liability for any direct losses were these to occur.

FINANCIAL IMPLICATIONS AND RISKS

The Council spends an average of £1.9m per month on its contract with Adecco, which includes the cost of temporary workers' pay (including employers' national insurance, pension contribution and apprenticeship levy) as well as Adecco's management fee.

The Council does not hold a dedicated budget for temporary workers of the margin and management fee associated with their use. Rather, directorates are expected to contain these costs within their agreed salary budgets.

Engaging a temporary worker is often more expensive than hiring a permanent employee. The Council's Senior Leadership Team is committed to reducing the use of temporary workers and building a highly-skilled permanent workforce. This is a key area of focus in the People Strategy adopted by Cabinet in November 2019.

HUMAN RESOURCES IMPLICATIONS AND RISKS

Human Resources implications are addressed throughout the body of the report.

Key Executive Decision

EQUALITIES IMPLICATIONS AND RISKS

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to:

- the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- the need to advance equality of opportunity between persons who share protected characteristics and those who do not; and
- the need to foster good relations between those who have protected characteristics and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

There are no significant equality implications to consider.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

There are no significant health and wellbeing implications to consider.

BACKGROUND PAPERS

N/A.

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed:

Name: Councillor Damian White

Cabinet Portfolio held: Leader of the Council

Date:

Key Executive Decision

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____