

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No:
AHWB/095/2017 HEART:
To introduce annualised contracts in addition to permanent contracts

Box 1

DIRECTORATE: AHWB

Contact Name: Lisa Rockliff

DATE: 06/09/17

Tel. No.: 01302 735714

Subject Matter: HEART: To introduce annualised contracts in addition to permanent contracts

Box 2

DECISION TAKEN:

To create 5 x Assistive Technology Officer posts (grade 6) based on annualised hours of 208 hours, (104 hours for the remaining financial year 2017/2018, 6 months) temporary for 12 months.

To fund the additional contracts on an annualised hours basis to ensure service delivery can continue due to the restrictions to the additional hours worked, in line with the changes to terms and conditions of employment.

The funds are within the current staffing budget and no additional funding is being requested

Box 3

REASON FOR THE DECISION:

HEART provide an emergency response service to alarm activations for support to vulnerable adults living in the community. The team also install Telecare Equipment to enhance independent living.

The challenge we face to meet the demands of the service is increased by the restrictions imposed upon the service following changes to terms & conditions "A modern and productive workforce", which prevents a staff member working above 200 additional hours per annum. We need to fill all essential staffing vacancies, planned and unplanned absence to ensure minimum cover. These hours are to be used to

backfill essential roles that are needed to cover a rota between 2pm and 10pm, 7 days a week.

The inflexibility these changes bring restrict the back fill arrangements and there is a risk that we will be unable to meet the demands of the current service users and the potential of restricting admissions to the service and causing delays to hospital discharges and increase the amount of the Emergency Department attendances.

The risks are reduced dramatically by supplementing a staff member's permanent contract with an additional annualised contract. This promotes value for money and a consistent approach to service delivery.

Existing staff that are willing and able to work additional shifts that will hit the 200 hour restriction will be offered these additional contracts.

The alternative is to create new posts which will bring additional costs that could not be sustained within the current budget allocation or we could to use agency staff, which are not cost effective & do not add value to the service.

Box 4

OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:

Option 1: To create 5 x Assistive Technology Officer posts (grade 6) based on annualised hours of 208 hours, temporary for 12 months. Preferred option.

Option 2: Do Nothing. To not introduce annualised contracts and continue to provide backfill arrangements , using the 200 hours allocated & then use agency staff to cover.

Option 3: Create new posts to provide adequate backfill arrangements. This will increase the staffing budget & cause the rota to be over populated during quieter periods.

Reason for the Preferred Option: These additional contracts will provide additional capacity to ensure backfill arrangements are in place without risking breaching the terms & conditions of employment or increasing the staffing budget significantly, causing an overspend.

Box 5**LEGAL IMPLICATIONS:**

S112 of the Local Government Act 1972 allows a local authority to appoint such officers as are necessary for the proper discharge of its functions, on such reasonable terms and conditions as it thinks fit. Salary grade should be determined by job evaluation. The Council has policies to deal with recruitment which should be followed.

Given the nature of the posts required it is advisable to set up temporary contracts for a fixed term. In an annual hours system an employee works a certain number of hours over the whole year, but with a certain degree of flexibility about when those hours are worked. Normally, a period of regular hours or shifts forms the core of the arrangement, with the remaining time left unallocated and used on an 'as needed' basis. The arrangement for the hours should be included in the terms of the contract. Any employee regardless as to whether or not they are employed for a fixed term, part time or otherwise obtain certain employment protection, which includes protection from unfair dismissal after 2 year's employment service. In order for liability in relation to, inter alia, unfair dismissal, to be limited there must be a legitimate reason for a fixed term contract and the employee must be made aware of this reason and of the anticipated length of the contract at the commencement of the contract. After the 4th year of renewal the Employee may be entitled to the position on a permanent basis.

The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 confirm that employees should not be treated less favourably on the ground they are fixed term unless this is objectively justified. Less favourable treatment means, but is not limited to pay and terms and conditions.

If the length of the contract exceeds 1 year upon termination the Employee may be entitled to be placed on the redeployment register and after 2 years may be entitled to a redundancy payment.

If the Council terminates the contract early, then there may be some liability for payment of the outstanding salary to the employee unless a suitable break clause is included. Therefore terms of the contract must therefore be carefully considered to avoid additional liability and/or financial loss.

If the temporary employee is sourced through an agency care must be taken to ensure the Agency Worker Regulations and the Council's Policies relating to Agency workers and Recruitment in general are adhered to. In addition, from April 2017 the rules relating to the application of the Intermediaries Legislation (IR35) for individuals engaged 'off-payroll' in the public sector will be changing. In summary, the payments we make to such workers will be subject to the application of the new legislation which means that contractors supplying their services through their own personal service companies (PSCs) will be considered to fall within IR35 unless it can be proven otherwise. The application of IR35 will require the Council to deduct and national insurance contributions for all payments made to these contractors after 6 April 2017. The Council has processes that should be followed to prevent legal and financial liability

There are no legal restrictions on the use of Agency workers for a local authority. There is a legal obligation to consider best value and therefore it is recommended that there be regular reviews of the decision to use agency staff to ensure this obligation is

being met. There should also be a contract that sets out the terms of assignment in place prior to the commencement of the role. Reed were appointed as the Council's supplier of temporary staff following a procurement process which was compliant with both EU Procurement Regulations and Contract Procedure Rules.

Name: H Wilson Signature: By email Date: 15/09/2017
Signature of Assistant Director of Legal and Democratic Services (or representative)

Box 6
FINANCIAL IMPLICATIONS:

The Heart team is funded from the Better care fund. There is a budget allocation for staffing costs for 2017/18 of £671k.

This ODR is To create 5 x Assistive Technology Officer posts (grade 6) based on annualised hours of 208 hours,(104 hours for the remaining financial year 2017/2018, (6 months) temporary for 12 months.

The estimated cost of this proposal is £11.5k based on an assumed hourly rate with on costs of £11.14 per hour. Within the above £671k staffing budget there is a budget of £31k for additional hours / staff cover.

This proposal will therefore be met from the existing budget available.

These proposals are as a direct result of new rules implemented within the 'Modern an productive workforce' where it specifically states - under point 12. Additional hours working arrangements.

All additional hours for part time employees will be limited to a maximum of 200 hours per year and no more than 10 additional hours can be worked in a week. It will be for Human resources to confirm the validity of these proposals.

Financially the proposal is supported.

[redaction]

Name: Nick Cameron Signature: _____ Date: 11.9.2017
Signature of Assistant Director of Finance & Performance
(or representative)

Box 7**HUMAN RESOURCE IMPLICATIONS:**

HR support this proposal which has been introduced as a result of the MPW and the restriction of 200 additional hours per year. Annualised hours contracts are being implemented on a trial basis. These are fixed term, secondary contracts for employees already employed in these roles, therefore a formal recruitment practice was not required. Expressions of interest were requested from all interested staff.

Managers will need to manage and monitor the balance of the annualised hours to ensure there isn't a surplus of hours left to work towards the end of the term.

The contract will need to clearly state the reason for the fixed term period.

Name: Paula Monk **Signature:** P Monk **Date:** 12/09/17
Signature of Assistant Director of Human Resources and Communications (or representative)

Box 8**PROCUREMENT IMPLICATIONS:**

To ensure that the Council's contract with Reed is used, should there be a need to recruit any agency staff.

[redaction]

Name: D Bann **Signature:** **Date:** 14/09/17
Signature of Assistant Director of Finance & Performance (or representative)

Box 9**ICT IMPLICATIONS:**

As with any new starters, a support call would need to be raised via the ICT Self Service Portal for any new ICT equipment/non-standard software needed and for the necessary user account(s) to be created together with access permissions to relevant systems, where applicable. Requests for new ICT equipment will be considered in line with the principles of the WorkSmart strategy and 'Maximising ICT'.

In addition, the service should ensure any new starters have completed the adequate system training and reviewed and accepted all appropriate ICT and acceptable usage policies.

Name: Peter Ward (ICT Strategy Programme Manager)

Signature: [redaction] **Date:** 07/09/17

Signature of Assistant Director of Customers, Digital & ICT (or representative)

Box 10**ASSET IMPLICATIONS:**

Any requirement that might arise for additional accommodation or the reconfiguration of existing workstations to support the recruitment proposals as outlined should be directed to the Assets & Property team in the first instance in order that such needs can be provided for in line with the Council's wider Assets Transformation programme and WorkSmart strategy.

Name: Gillian Fairbrother (Assets Manager, Project Co-ordinator)

Signature: By email

Date: 6th September, 2017

Box 11**RISK IMPLICATIONS:****To be completed by the report author**

The inflexibility the changes to the Terms & Conditions bring restrict the back fill arrangements and there is a risk that we will be unable to meet the demands of the current service users and the potential of restricting admissions to the service and causing delays to hospital discharges and increase the amount of the Emergency Department attendances.

(Explain the impact of not taking this decision and in the case of capital schemes, any risks associated with the delivery of the project)

Box 12**EQUALITY IMPLICATIONS:****To be completed by the report author**

The introduction of annualised contracts will be offered to all staff within this area of work and is designed to promote equality and provide an opportunity for every individual to consider an additional contract.

All staff affected have been consulted on this proposal

Name: Lisa Rockliff **Signature:** L Rockliff **Date:** 06/09/2017
(Report author)

**Box 13
CONSULTATION**

Officers

(In addition to Finance, Legal and Human Resource implications and Procurement implications where necessary, please list below any other teams consulted on this decision, together with their comments)

Members

Under the Scheme of delegation, officers are responsible for day to day operational matters as well as implementing decisions that have been taken by Council, Cabinet, Committee or individual Cabinet members. Further consultation with Members is not ordinarily required. However, where an ODR relates to a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member before exercising the delegated powers. In appropriate cases, officers will also need to consult with the Chair of Council, Committee Chairs or the Chair of an Overview and Scrutiny Panel as required. Officers shall also ensure that local Members are kept informed of matters affecting their Wards.

Please list any comments from Members below:

**Box 14
INFORMATION NOT FOR PUBLICATION:**

In accordance with the Freedom of information Act 2000, it is in the Public's interests for this decision to be published in full, redacting only the signatures.

**Name: __Gillian Parker Signature: _By Email Date: __18/9/17
Signature of FOI Lead Officer for service area where ODR originates**

Box 15

Signed: _____ **Date:** 25/10/2017__
Director of People Damian Allen

Signed: _____ **Date:** _____
Additional Signature of Chief Financial Officer or nominated representative for Capital decisions.

Signed: _____ **Date:** _____
Signature of Mayor or relevant Cabinet Member consulted on the above decision (if required).

- **This decision can be implemented immediately unless it relates to a Capital Scheme that requires the approval of Cabinet. All Cabinet decisions are subject to call in.**
- **A record of this decision should be kept by the relevant Director's PA for accountability and published on the Council's website.**
- **A copy of this decision should be sent to the originating Directorate's FOI Lead Officer to consider 'information not for publication' prior to being published on the Council's website.**
- **A PDF copy of the signed decision record should be e-mailed to the LA Democratic Services mailbox**