

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:

2122023

Box 1

DIRECTORATE: LOSC

DATE: 7th June 2021

Contact Name: Riana Nelson

Tel. No.: 01302 737800

Subject Matter: Additional staffing capacity and resource for Children's Social Care to support a targeted follow up of safeguarding concerns raised regarding a provider across Children's and Adult Services in the Borough.

Box 2

DECISION TAKEN:

To approve the expected costs of £807,000 up to 31st October 2021 for the additional staffing capacity and resources required are to be funded from the £2,975,000 Social Care Support Grant delegated to the Director of Learning, Opportunities and Skills and Assistant Director of Finance (Section 151) in consultation with the Portfolio Holder for Children, Young People and Skills.

Box 3

REASON FOR THE DECISION:

A significant safeguarding investigation is taking place within the Borough focused on a provider of Children and Adult's services. There is a joint adult and children's governance arrangement in place with a Strategic Management Group overseeing the investigation, making decisions and ensuring that it is adequately resourced. The Investigation Management Group coordinates the overall response and meets on a regular basis with the other Local Authorities who had children placed with the provider and CCG's to keep them informed. In order to complete the work within a timely way which will support the wider Police and multi-agency investigations we need additional experienced staff capacity to support the work. At the moment the resourcing needs of the investigation are as follows:

Care: Lead Senior Manager, Team Manager, 8 social workers, 2 x LADO's, 2 x SPOCS and a HOS

Health: 8 nurses, designated safeguarding nurse (funded by CCG)

Police: 8 police officers and SIO

The expected costs to the Council of the additional staffing capacity and resource up to 31st October 2021 are £807,000 broken down as follows:

Lead Senior Manager £58,340

Team Manager & 8 SW's £569,380

Head of Service (50% of time) £47,780

Additional Doncaster Children's Services Trust costs totalling £131,500 for LADO's, SPOC's, Business Support, Subject Matter Expert and Project Consultant.

It is anticipated that the current arrangement will need to continue for at least 6 months, but more likely 12 months +.

Previous ODR 2122001 titled "Social Care Support Grant" approved the planned spend of £2,975,000 for additional Social Care Support grant, which is delegated to the Director of Learning, Opportunities and Skills and Assistant Director of Finance (Section 151) in consultation with the Portfolio Holder for Children, Young People and Skills. The planned spend included up to £795,000 to Doncaster Children's Services Trust (DCST) for additional Social Workers during 2021/22 and £640,000 Social Care costs contingency to be used for service reviews and any in year demand pressures on the Care Ladder. The £640,000 contingency is now to be used for the additional staffing capacity and resource required, and the remaining balance of the expected costs of £167,000 will be funded from the £795,000 for additional Social Workers as this allocation will not be fully spent in 2021/22 due to the timings of when appointments are to be made.

Box 4

ALTERNATIVE OPTIONS CONSIDERED & REJECTED:

Release internal staff without backfill

It has become apparent as the scope and complexity of the situation has been revealed that it is not a sustainable approach. Within the current staffing capacity of the directorate there is not the level knowledge and expertise which we can take off line to focus without backfill.

Mutual Aid from other authorities

Due to the number of placing authorities this would prove to be extremely difficult to enact in practice in terms of oversight and accommodation (office space).

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.

Given the temporary nature of the post it is advisable to set up a temporary contract for a fixed term. Any employee regardless as to whether or not they are employed for a fixed term 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 goes on to exceed 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.

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 be a contract that sets out the terms of assignment in place prior to the renewal 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. In addition 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. Care should also be taken to manage the risk of an implied employment contract, As a minimum there should be regular assessment of the nature of work that agency workers are engaged to do; focus on using agency workers for specific projects or cover for fixed periods. Incorporate a review of requirements for agency workers into a regular review of staffing levels and needs.

The Agency Workers Regulations 2010 (SI 2010/93) provide rights for agency workers, including:

- The right to the same pay and other "basic working conditions" as equivalent permanent staff after a 12-week qualifying period.
- Access to collective facilities and to information about employment vacancies from day 1 of their assignment.

The Council should also note that should the worker become a permanent employee in the future, the time spent as an agency worker may count towards continuous service in order for employment rights to be conferred in terms of qualifying service to be able to bring an unfair dismissal.

An agency worker may also be deemed to be a DMBC employee for the purposes of vicarious liability depending on the amount of day-to-day control DMBC has of their work.

From April 2017 the rules relating to the application of the Intermediaries Legislation (IR35) for individuals engaged 'off-payroll' in the public sector has changed. 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 tax and national insurance contributions for all payments made to these contractors.

Off-payroll working rules change on 6 April 2021. From this date, all public authorities will be responsible for deciding the employment status of workers (sometimes known as contractors). Extra responsibilities require public authorities to decide the

employment status of every worker who operates through their own intermediary, even if they are provided through an agency.

Since 6 April 2020, agency workers have had the right to a written statement of terms under section 1 of the ERA 1996 which must be given on day one of their engagement.

The Council has a policy covering recruitment which should be followed.

The proposed additional posts will assist the Council in compliance with its various safeguarding duties, including under the Children Act 1989.

Name: Neil Concannon **Signature:**  **Date:** 9/6/21

Signature of Assistant Director of Legal and Democratic Services (or representative)

Box 6
FINANCIAL IMPLICATIONS:

The Council's Revenue budget approved at the Full Council meeting on 1st March 2021 allocated, in 2021/22 only, £2,975,000 additional Social Care Support grant to provide for additional Children Social Care pressures, delegated to the Director of Learning, Opportunities and Skills and Assistant Director of Finance (Section 151) in consultation with the Portfolio Holder for Children, Young People and Skills.

As outlined in the body of the report the expected costs to the Council of the additional staffing capacity and resource up to 31st October 2021 are £807,000 broken down as follows:

Lead Senior Manager £58,340

Team Manager & 8 SW's £569,380

Head of Service (50% of time) £47,780

Additional Doncaster Children's Services Trust (DCST) costs totalling £131,500 for LADO's, SPOC's, Business Support, Subject Matter Expert and Project Consultant. (These costs are to be paid by DCST and claimed back from the Council)

The expected costs up to 31st October 2021 are to be funded from £2,975,000 Social Care Support Grant.

Previous ODR 2122001 titled "Social Care Support Grant" approved the planned spend of £2,975,000 for additional Social Care Support grant. The plan included up to £795,000 to Doncaster Children's Services Trust (DCST) for additional Social Workers during 2021/22 and £640,000 Social Care costs contingency to be used for service reviews and any in year demand pressures on the Care Ladder. The £640,000 contingency is now to be used for the additional staffing capacity and resource required, and the remaining balance of the expected costs of £167,000 will be funded from the £795,000 for additional Social Workers as this allocation will not be fully spent in 2021/22 due to the timings of when appointments are to be made.

If the requirement for the additional staffing capacity and resource goes on beyond 31st October 2021 then further funding will need to be identified and approved.

Name: Aaron Bathgate **Signature:**  **Date:** 08/06/21

Signature of Chief Financial Officer and Assistant Director of Finance (or representative)

Box 7

OTHER RELEVANT IMPLICATIONS

Name: _____ **Signature:** _____ **Date:** _____
Signature of Assistant Director (or representative)

BOX 8

EQUALITY IMPLICATIONS: (To be completed by the author).

The recruitment process will be followed in accordance with the appropriate equality measures in place. Therefore there are no equality implications to be considered.

BOX 9

RISK IMPLICATIONS: (To be completed by the author)

The main risk issue is that we are not able to secure the capacity and resources needed to get the work completed in a timely way. This would result in us having a lack of capacity to complete the investigation or capacity to undertake the day to day business if we take staff off line.

If the information is not ready and available this could delay any Police/ Safeguarding or partner actions needed to protect vulnerable young adults.

BOX 10

CONSULTATION

This decision has been discussed and agreed in consultation with partners via SMG.

BOX 11
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: Riana Nelson **Signature:** [REDACTED] **Date:** 28/06/2021

Signature of FOI Lead Officer for service area where ODR originates

BOX 12
BACKGROUND PAPERS

Please confirm if any Background Papers are included with this ODR: [REDACTED] / NO

**BOX 13
AUTHORISATION**

Name: Riana Nelson Signature:  Date: 28/06/2021

Director of Learning Opportunities, Skills and Culture (DCS)

Does this decision require authorisation by the Chief Financial Officer or other Officer


YES

If yes please authorise below:

Name: Faye Tyas Signature:  Date: 06.07.21

Assistant Director of Finance and Chief Financial Officer (Section 151)

Consultation with Relevant Member(s)

Name: Cllr Rachael Blake Signature:  Date: 09/07/2021

Designation Cabinet Member for Children's Social Care

(e.g. Mayor, Cabinet Member or Committee Chair/Vice-Chair)

Declaration of Interest YES/NO

If YES please give details below:

PLEASE NOTE THIS FORM WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE IN FULL UNLESS IT CONTAINS EXEMPT OR CONFIDENTIAL INFORMATION.

Once completed a PDF copy of this form and any relevant background papers should be forwarded to Governance Services at Democratic.Services@doncaster.gov.uk who will arrange publication.

It is the responsibility of the decision taker to clearly identify any information that is confidential or exempt and should be redacted before publication.