

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: 2021040

Box 1

DIRECTORATE: LOSC

DATE: 1st February 2021

Contact Name: Leanne Hornsby

Tel. No.: 01302 734865

Subject Matter: Temporary additional staffing requirement to manage the response to the pandemic alongside DLT

Box 2

DECISION TAKEN:

To recruit to 4 temporary posts to assist LOSC DLT in managing the response to the pandemic and wider key priorities and request funding of £183k from the Council's COVID-19 pressures funding allocated.

Box 3

REASON FOR THE DECISION:

The ongoing impact of the COVID-19 pandemic has necessitated the establishment of a Children's Resilience and Recovery Programme, which in turn has impacted on resources, in particular at leadership level, therefore in order to ensure continuity in key areas of work across portfolios a number of temporary resources are required on a fixed term and interim basis.

The roles identified below will manage the Directorate's business, change and transformation programme work to ensure that key directorate priorities continue to be met. The roles will also support the work of the review programme, underway across Libraries and Heritage, Archives, governance reviews and support the Business re-engineering requirements of the Safeguarding Business Unit.

Due to the above this ODR seeks to establish the following 4 posts:

- Business Change and transformation lead - Head of service level agency appointment for a period of 6 months (5 days per week).
- Business lead – service manager level agency appointment for a period of 6 months (5 days per week).
- Development Officer (grade 9 subject to job evaluation) for 12 months.
- Development Support Officer (grade 6 subject to job evaluation) for 12 months.

The 2 business leads and 2 development officers will be managed under Leanne Hornsby, Assistant Director Education, Skills, Culture and Heritage.

Box 4**ALTERNATIVE OPTIONS CONSIDERED & REJECTED:**

Do Nothing, resulting in critical pieces of work not being completed within timescales or against external compliance or ceased/paused.

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.

It is advisable to set up a temporary contract for a fixed term. In order for liability in relation to 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.

When recruiting to these posts consideration should be given to establishing them as temporary contracts for a fixed term and appropriate advice sought from HR and Legal. If the length of the contract exceeds 1 year upon termination the employees may be entitled to be placed on the redeployment register and after 2 years may be entitled to a redundancy payment.

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.

Agency posts

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 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 a claim for 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.

It is important that sight is not lost of the Council's recruitment, retention, and vacancy management policies, which should be followed.

Name: Gemma Ashton **Signature:**  **Date: 24.02.21**


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

Box 6
FINANCIAL IMPLICATIONS:

The cost of this decision is £183k as detailed in the table below with the breakdown of cost expected to be £35k in 20/21 and £149k in 21/22 (subject to start dates and assumed scale points / agency rates).

This will be funded from the COVID-19 pressures funding allocated.

Post / Activity	Estimated Period	Cost	20/21	21/22
Business Change and transformation lead	mid feb - mid Aug 21	71,500	17,875	53,625
Business Lead	mid feb - mid Aug 21	45,500	11,375	34,125
Development Officer	1st March - 28 Feb 2022	41,900	3,492	38,408
Development Support Officer	1st March - 28 Feb 2022	24,540	2,045	22,495
		183,440	34,787	148,653

Name: David Blakesley **Signature:**  **Date: 07/02/21**

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

Box 7**OTHER RELEVANT IMPLICATIONS****HR Implications**

There are four posts in total; two temporary posts will be added to the structure, which are currently going through the job evaluation grading process.

For the posts employed directly by the Council, they should be recruited to in line with Doncaster Council's Recruitment Policy looking at Redeployment in the first instance.

Employees who were employed before 6 April 2012 and have 1 year's continuous service, or after 6 April 2012 and have at least two years continuous service, accrue employment rights. Employees who complete 2 years continuous service accrue rights to a redundancy payment.

Fixed-term employees have the right not to be treated less favourably than comparable permanent employees because they are on a fixed-term contract. This means you must treat fixed-term employees the same as comparable permanent employees unless there are 'objectively justifiable' circumstances for not doing so (i.e. there is a genuine, necessary and appropriate business reason). This means the same or equivalent (pro-rata) pay and conditions, benefits, pension rights and opportunity to apply for permanent positions within the business.

Under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, employees who have been on a fixed-term contract for four years or longer will usually be legally classed as permanent if their contract is renewed or if they are re-engaged on a new fixed-term contract.

The only exemptions are when employment on a further fixed-term contract is objectively justified to achieve a legitimate business aim or when the period of four years has been lengthened under a collective or workplace agreement.

For the remaining two posts, these are agency sourced and as such separate ADR's will/have been completed.

Name: J Carter **Signature:**  **Date:** 24/02/2021
Signature of Assistant Director (or representative)

ANY IMPLICATIONS SENT TO DEPARTMENTS SHOULD GENERALLY BE SUBMITTED AT LEAST 5 WORKING DAYS IN ADVANCE TO ENSURE THESE CAN BE GIVEN THE RELEVANT CONSIDERATION.

BOX 8

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

Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.

The support that these resources provide and developments that continue to support the Councils key priorities will enable improvements to service delivery processes. Improved outcomes will ensure that outcomes will improve for persons of all backgrounds, regardless of their sexual orientation, marital status, disability, gender, pregnancy, religion or belief. The proposed areas for action will increase and strengthen our local offer and support our obligations under the Equality Act 2010.

BOX 9

RISK IMPLICATIONS: (To be completed by the author)

Due to the current pressures in the system, taking no action to respond to the increased demand pressures and changed circumstances would result ultimately in further inconsistencies in the quality of services to support the needs of young people across the Borough.

**BOX 10
CONSULTATION**

Consultation across services in the directorate and cross Council have been undertaken, measured against key priorities identified as part of the work to be undertaken during this period to ensure continuity of service.

**BOX 11
INFORMATION NOT FOR PUBLICATION**

Signatures only require redaction.

Name: Leanne Hornsby **Signature:**  **Date:** 24/02/2021

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

N/A

**BOX 13
AUTHORISATION**

Name: Riana Nelson

Signature:



Date: 26/02/2021

Director of Learning, Opportunities, Skills and Culture

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

NO

If yes please authorise below:

Name: _____ Signature: _____ Date: _____

Chief Executive/Director/Assistant Director of _____

Consultation with Relevant Member(s)

Name: Ros Jones

Signature:



Date: 1/3/2021

Designation Mayor

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

Declaration of Interest YES/NO

If YES please give details below:

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.