



Appendix 2a

South Lakeland District Council

Assurance Review of the Use of Agency, Interim and Casual Workers

February 2019

FINAL

2018/19



Executive Summary

OVERALL ASSURANCE ASSESSMENT



OVERALL CONCLUSION

Procedures relating to the use of interim and casual workers are thorough and appropriate.

- Standard template forms are used to help ensure each recruitment is approved and processed consistently.
- The Council references the latest legislation and guidance in developing its procedures.
- Control over the use of agencies be centralised to ensure compliance with procurement legislation.
- Controls over the use of casual staff need to be strengthened relating to avoiding possible employment status claims and to Equality Impact Assessments.

SCOPE

The review considered the arrangements and controls in place for the use of agency, interim and casual workers. This review also considered the implications arising from IR35 legislation. The review covered the following areas: processes in place for identifying the need for agency, interim and casual workers; processes for booking and authorisation thereof; payment and authorisation of invoices, and; management information and reporting mechanisms.

ACTION POINTS

Urgent	Important	Routine	Operational
0	3	0	0

Management Action Plan - Priority 1, 2 and 3 Recommendations

Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
1	Directed	With reference to the LGA Guide to the Law on Casual Workers, specifically relating to 'umbrella' or 'global' contracts, it could not be readily determined that sufficient controls are in place to ensure that casual workers are not in a position to argue their status to be that of 'employee'; thus potentially entitling them to a wide range of statutory employment rights and benefits not afforded to casual workers.	Controls be strengthened to ensure that casual workers may not successfully seek employee status, for example by virtue of the length of their working relationship with the Council, or by arguing their working hours and patterns can be shown to be set and regular.	2	<i>Agree. Business as Usual HR colleagues will undertake periodic reviews. In line with Customer Connect the use of casual workers will be significantly reduced therefore mitigating current risk.</i>	Jan 2020	Senior Human Resources Advisor
2	Directed	The LGA Guide states that "local authorities are advised to include an assessment of [female casual] workers in their Equality Impact Assessments of their pay and reward policies". It could not be determined that such Equality Impact Assessments had taken place. Both the Partnerships and Community Project Officer and the Human Resources Advisor stated that they are not aware of any such equality claims having been made against the Council in the past two years.	In line with LGA advice, an assessment of female casual workers be included in any Equality Impact Assessments of pay and reward policies.	2	<i>Agree, these have not taken place previously.</i> <i>Given the fact that there have not been any quality claims in the past two years does not present an immediate risk. However as an EAI is required under the LGA we will commit to ensuring this is carried out in the future.</i>	Jan 2020	Senior Human Resources Advisor

PRIORITY GRADINGS

1 URGENT Fundamental control issue on which action should be taken immediately.

2 IMPORTANT Control issue on which action should be taken at the earliest opportunity.

3 ROUTINE Control issue on which action should be taken.

Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
3	Compliance	The choice of agency used to source agency staff was seen to be generally at the discretion of the recruiting manager. Given the level of spend on agency staff, without central control there may be a risk that EU Procurement Thresholds, as advised in the European public contracts directive (2014/24/EU), are exceeded. The directives set out detailed procedures for the award of contracts whose value equals or exceeds specific thresholds. From 1st January 2018, the threshold for supply, services and design contracts is £181,302.	Control over the use of agencies be centralised to ensure compliance with procurement legislation.	2	<p>Agree. There is one particular area of the Council that is heavily reliant on the use of agency. For this area it is proposed that on completion of Customer Connect this area is reviewed and options considered and a possible procurement exercise to be undertaken.</p> <p>Following completion of Customer Connect there will be minimal requirement for the utilisation of agency employees.</p> <p>Senior Management will be required to commit to the introduction of a strict agency process.</p>	Jan-June 2020 due to Customer Connect demands	Human Resources Manager

PRIORITY GRADINGS

1 URGENT Fundamental control issue on which action should be taken immediately.

2 IMPORTANT Control issue on which action should be taken at the earliest opportunity.

3 ROUTINE Control issue on which action should be taken.

Operational Effectiveness Matters

Ref	Risk Area	Item	Management Comments
No Operational Effectiveness Matters were identified.			

ADVISORY NOTE

Operational Effectiveness Matters need to be considered as part of management review of procedures.

Detailed Findings

Introduction

1. This review was carried out in November 2018 as part of the planned internal audit work for 2018/19. Based on the work carried out an overall assessment of the overall adequacy of the arrangements to mitigate the key control risk areas is provided in the Executive Summary.

Background

2. The rules relating to IR35 were recently changed, placing a greater onus on public authorities to correctly determine the capacity in which persons provide services. Also, some employers have suffered adverse publicity through allegations of using 'zero-hour contracts'.

Materiality

3. For the financial year 2018/19 to date, the Council has spent £421,000 on casual staff, contract and agency staff, and IR35 Off-Payroll Workers (excluding National Insurance).

Key Findings & Action Points

4. The key control and operational practice findings that need to be addressed in order to strengthen the control environment are set out in the Management and Operational Effectiveness Action Plans. Recommendations for improvements should be assessed for their full impact before they are implemented.

Scope and Limitations of the Review

5. The review considered the arrangements and controls in place for the use of agency, interim and casual workers. This review also considered the implications arising from IR35 legislation. The review covered the following areas: processes in place for identifying the need for agency, interim and casual workers; processes for booking and authorisation thereof; payment and authorisation of invoices, and; management information and reporting mechanisms.
6. The definition of the type of review, the limitations and the responsibilities of management in regard to this review are set out in the Annual Plan.

Disclaimer

7. The matters raised in this report are only those that came to the attention of the auditor during the course of the internal audit review and are not necessarily a comprehensive statement of all the weaknesses that exist or all the improvements that might be made. This report has been prepared solely for management's use and must not be recited or referred to in whole or in part to third parties without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose. TIAA neither owes nor accepts any duty of care to any other party who may receive this report and specifically disclaims any liability for loss, damage or expense of whatsoever nature, which is caused by their reliance on our report.

Risk Area Assurance Assessments

8. The definitions of the assurance assessments are:

Substantial Assurance	There is a robust system of internal controls operating effectively to ensure that risks are managed and process objectives achieved.
Reasonable Assurance	The system of internal controls is generally adequate and operating effectively but some improvements are required to ensure that risks are managed and process objectives achieved.
Limited Assurance	The system of internal controls is generally inadequate or not operating effectively and significant improvements are required to ensure that risks are managed and process objectives achieved.
No Assurance	There is a fundamental breakdown or absence of core internal controls requiring immediate action.

Audit Contacts

9. For any queries or to discuss the content of this report, please contact either of the following:

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Audit Report Distribution

10. We would like to thank staff for their co-operation and assistance during the course of our work.

For Action:	Kerry Wallace, Human Resources Manager
For Information:	Shelagh McGregor, Assistant Director Resources (Section 151 Officer) Helen Smith, Financial Services Manager

Release of Report

11. The table below sets out the history of this report.

Date draft report issued:	19 th November 2018
Date management responses received:	31 st January 2019
Date final report issued:	11 th February 2019
