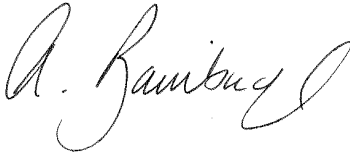


TEMPORARY & INTERIM STAFF FRAMEWORK AGREEMENT HANDBOOK

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Procedural Note Approval			
Title	Printed Name	Signature	Date
Procurement Officer	Anita Bainbridge		22-07-11

Amendment History

Version	Date	Author	Section Changed	Add / Del / Amend	Short Description
2.0	26/10/11	AB	Various	All	<p>Background Info: Content amended. Step 1- Content amended. Step 5 – Agency Worker Record info included. FAQ: Q1 - content update. Q2 – deleted. Q3 – Now Q2. Q4 – Pay Scale Information added and content updated to include AWR information Now Q3. Q5 – Now Q4 & Q6 – Now Q5. Lot 2: Asphalt Road Worker & Road sweeper removed. Lot 3: Reed phone number updated. Contact numbers added for 'out of hour' requests. Lot 6: ATR contact name amended. Job roles added: Roads Inspector/Clerk of Works, Roads Engineer, Asbestos Officer, Roads Sweeper, Asphalt Road Worker & Roads Technician. Con-10-086: Job roles added - Roads Inspector/Clerk of Works, Roads Engineer, Asphalt Road Worker, Asbestos Officer & Roads Technician.</p> <p>Agency Workers Regulations</p> <p>HR Brief and Guidelines included.</p>
3.0	27/01/12	AB	Various	All	<p>Background Info: Updated to include Trades. How do I use the Framework: Step 7 amended. FAQ – Questions updated. Lot 5: Asbestos Officer added, also £1.04 commission rate.</p> <p>Agency Workers Record: Amended</p>

Amendment History cont.

Version	Date	Author	Section Changed	Add / Del / Amend	Short Description
4.0	26/04/13	AB	Various	All	Background Info: Various cosmetic changes. Step 5: AWR - 'must' complete a record. Commission rate reduction for Pertemps, Hays & ASA. Contact details update for Pertemps, Hays, ASA, RAN, Reed, Brightwork, ATR, Harvey Nash, Harvey Nash Consortium, Certes, Hudson, Morson & CPR. Lot 3: Removal of rates per hour pages.
5.0	24/05/13	AB	Various	Amend	How do I use the framework: Steps 5 & 7 - Changes made to email address. Agency Worker Record - Email address updated. Name amended to include Title/Forename/Surname. Filling a Vacant Post – amended to include 'reason' tick boxes.
6.0	24/07/14	AB	Various	Amend	Background: SPCD Contract extension update. Expiry info included for East Lothian Council CON-10-086 contract. FAQ: Q3 amended, Q6 & Q7 added. Lot 2: Contact update. Lot 6: ATR contact update. Lot 7: Certes & Hays contact update.

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Background

Scottish Procurement and Commercial Directorate (SPCD) conducted a competitive procurement process, on behalf of the whole of the public sector in Scotland, for Temporary and Interim Staff for the period 26th April 2010 to 25th April 2013 with a twelve months option to extend. West Lothian Council however did not implement this contract until 1st August 2011. The contract has been subsequently extended until 25th October 2014. This is to allow SPCD to conclude the tender process for the 2nd Generation Framework Agreement.

This national framework has 7 “lots”. The lots are a mix of single and ranked suppliers. Lots 1 - 5 are “Direct Buy” i.e. you approach one agency at a time. Lots 6 & 7 require a “Micro-Competition” to be conducted, as all agencies must be contacted at the same time. Please contact Anita Bainbridge, (anita.bainbridge@westlothian.gov.uk) if you require clarification on how to deal with lots 6 & 7.

Terms & Conditions have been agreed and in particular there are no temporary to permanent fees after a certain number of weeks, the number of weeks varies in each lot. Details in respect of temporary to permanent fees can be obtained from Anita Bainbridge on request.

East Lothian Council conducted a competitive procurement process on behalf of a number of Local Authorities for temporary Trades staff (CON-10-086). This framework has 3 suppliers and are ranked accordingly i.e. you must approach one agency at a time. Please note, although this framework is classed as ‘trades’, a number of specialised roles have been added. Please note this contract will expire on 1st April 2015.

How do I use the framework?

Step 1 – The recruiting manager identifies a requirement for a temporary agency staff worker and refers to the handbook to identify the “lot” that the worker falls under, and contacts the first (or only) agency, by phone or email. The following information must be provided to the agency before an agency worker can be supplied:

- the council’s business and location
- start date and duration of assignment
- job role, responsibilities and hours
- the experience, training, qualifications and any authorisation which the council considers are necessary, or which are required by law, or by any professional body in order to work in the position
- any risks to health or safety known to the council and what steps the council has taken to prevent or control such risks
- any expenses payable by or to the agency worker

Please note you should agree a timescale for the agency to respond to your request.

In respect of a micro-competition, an email should be sent to all agencies at the same time and must include the information as stated above. However, if you have been trained to use the “Quick Quote” facility within Public Contracts Scotland, please submit your request via this site. Please set a closing date and time as required.

Step 2 – The agency will respond as requested.

Step 3 – The hourly rate payable to the agency worker will be discussed and agreed. It should be noted that WLC can set the hourly rate for Lots 1 – 7 and as such could be advised to the agency at Step 1. Where applicable, the agency will show you the calculation for the hourly rate payable by West Lothian Council.

Step 4 – Recruiting Manager or Representative raises an Advance Order on Pecos. The order should detail as a minimum the following;

- Name of person being recruited & Job Title
- Number of estimated hours
- Cost per hour

When submitting an Advance Order, please remember to add an external comment (where applicable), for example;

“This is an advance order for an estimated number of hours. West Lothian Council does not guarantee to purchase the full quantity of the services stated”.

Step 5 – Agency worker commences placement and the Recruiting Manager or Representative either signs a weekly timesheet or authorises an electronic timesheet online. The Recruiting Manager or Representative then receipts the relevant number of hours from the order on Pecos.

An Agency Worker Record (Appendix 1) **must** be completed as soon as possible after placement begins and emailed to hrsupport@westlothian.gov.uk.

Step 6 – The agency sends an invoice as per the invoice address on the order. The relevant WLC representative will match the invoice against the order and payment will be made.

Step 7 – On completion of the placement, please update the Agency Worker Record with the termination details and email to hrsupport@westlothian.gov.uk.

If you experience any problems, please contact Anita Bainbridge (anita.bainbridge@westlothian.gov.uk). Please ensure you provide full details of the problem you are experiencing.

Who are the Suppliers?

TEMPORARY & INTERIM STAFF: SPCED FRAMEWORK AGREEMENT – QUICK REFERENCE

SP Framework	SP Framework Rates	Direct Buy / Micro	Ranked / Single Supplier
1. Administrative & Finance Staff	Fixed commission rate/hour	Direct Buy	Ranked: 1. Pertemps 2. Hays 3. Manpower
2. Manual, Industrial & Cleaning Staff	Fixed commission rate/hour	Direct Buy	Single supplier: Pertemps
3. Social, Care & Housing Staff	Fixed commission rate/hour	Direct Buy	Ranked: 1. ASA 2. RAN 3. Reed
4. Catering Staff	Fixed commission rate/hour	Direct Buy	Ranked: 1. Pertemps 2. Manpower

			3. Brightwork 4. Reed
5. Interim Specialists	Fixed commission rate/hour	Direct Buy	Single supplier: Pertemps
6. Interim Managers	Fixed % commission rate	Micro Competition – All suppliers must be invited to supply.	Various Suppliers: ATR, Harvey Nash, Harvey Nash Consortium, Head Resourcing, Parity Resources, Recruitment Zone & RAN.
7. IT Staff	Fixed % commission rate	Micro Competition – All suppliers must be invited to supply.	Various Suppliers: Certes, Harvey Nash, Harvey Nash Consortium, Hays, Hudson, Parity Resources, Pertemps & Recruitment Zone.

In addition, a supplementary EU procurement was tendered for “Trades” (CON-10-086). The suppliers are again ranked and are Blueprint, Morson International and Construction & Property Management (CPR).

Frequently Asked Questions (FAQ)

(Q1) I have a requirement for a job that is not on any of the lists?

The lists are indicative only and are not intended to be a definitive list. By looking at the headings and jobs, determine which lot your job is most likely to come under. If you have reviewed the lists but are still unsure as to which supplier(s) to contact, please email Anita Bainbridge (anita.bainbridge@westlothian.gov.uk) with your temporary worker requirements.

(Q2) How do I know what hourly rate I should pay?

If the role corresponds to an existing role within WLC and you do not know the hourly rate paid, Pay Scale information can be found by clicking the link <http://mytoolkit.westlothian.gov.uk/payroll/payscales.asp>.

If there is no WLC comparison you may have to benchmark in other ways. The market may, in some cases, determine an hourly rate of pay. Please note enhanced rates may apply for Public Holidays, Weekend Working, Nights etc.

Please note, following a 12 week qualifying period, the temporary agency worker will be entitled to have the same basic terms and conditions of employment as if they had been employed directly by the Council. Please refer to the AWR Brief and Guidelines (page 19 onwards) for further information.

(Q3) None of the agencies on the list are able to meet my requirements, what do I do next?

Firstly, please ensure that you have a good audit trail of your attempts to fill the post with the agencies. Next, you could contact any of the agencies on the framework, but not necessarily in the “lot” that your role relates to. There are 7 ‘Direct Buy’ agencies in total so one of them should be able to fill the role. If not, please contact Anita Bainbridge (anita.bainbridge@westlothian.gov.uk) for further advice.

Please note however you may be subject to the agencies Terms and Conditions as you are requesting staff which are not listed within their contracted “lot”. If in doubt please contact Anita Bainbridge.

(Q4) One of my temporary workers is now entitled to have the same basic terms as their comparator, does this include Flexi-Time?

No, the temporary worker is not entitled to flexi-time as this is seen as a ‘perk’ of permanency.

(Q5) I am required to pay 'expenses' to the temporary worker, what should I be charged from the Agency?

You should only be charged the amount that the temporary worker has incurred for example;

- Temporary worker is claiming 100 business miles – $100 \times £0.45 = £45.00$ to be charged by the Agency
- Temporary worker is claiming Car Parking @ $£4.50 = £4.50$ to be charged by the Agency

Under no circumstances should any of the Agencies charge the Council a 'handling fee' in respect of expense claimed by the temporary worker.

If you think you have been overcharged by one of the Agencies, please contact Anita Bainbridge (anita.bainbridge@westlothian.gov.uk), providing details of the suspected overcharge.

(Q6) We advertised a post internally which resulted in the agency worker being offered the post, are we entitled to pay a Temp to Perm/Finders Fee?

There is no temp to perm fees after 6 weeks, if advertised. However the current framework T's & C's are not explicit in respect of internal and external adverts.

Please note however the assumption by most suppliers will be that the post has been advertised via an 'external' advert.

(Q7) Are agency workers entitled to the annual pay award?

Agency workers are only entitled to the annual pay award once they have completed the 12 week qualifying period as per the Agency Worker Regulations 2010.

LOT 1: TEMPORARY ADMINISTRATIVE & FINANCE STAFF – FIXED COMMISSION RATES PER HOUR

Typical Jobs in this Lot	Direct Buy Agencies – Ranked				
Clerical Assistant Administrative Assistant Mail Clerk Clerical Officer Administrative Officer Secretary Customer Services Support Staff Customer Support Officer Receptionist Office Manager Switchboard Operator PA Accounts Payable Administrator Executive Secretary Senior Administrator Data Processor General Secretary Administrator Customer Facing Call Centre Worker Credit Control Administrator Contact Centre Operative Banking Assistant Finance Officer (not qualified)	1. Pertemps	Commission - As detailed in Column 4.	Alan Paterson	procurementscotland@pertemps.co.uk Commission £0.55p/hr for £14.99p/hr charge rate or less. £1.00p/hr for £15.00+p/hr charge rate	0131 225 7531
	2. Hays	Commission £0.54p/hr to £0.91p/hr	Susan Walker	procurementscotland@hays.com or Susan.walker@hays.com	0131 226 2847
	3. Manpower	Commission £0.70p/hr	Jayne McNeil	jayne.mcneil@manpower.co.uk	01324 485090
	<p><u>THIS IS RANKED SO YOU MUST CONTACT THE AGENCIES IN ORDER</u></p> <p>Please email/call the supplier with your requirement. Job Descriptions should be sent to the supplier if available.</p> <p>Suppliers should provide you with a breakdown of the Charge rate per hour.</p> <p>For example:</p> <p>a) PAYE = Pay Rate + NI + WTR + Commission = Charge rate per hour (excl. VAT)</p> <p>b) LTD / UMBRELLA COMPANY = Pay Rate + Commission = Charge rate per hour (excl. VAT)</p>				

LOT 2: TEMPORARY MANUAL, INDUSTRIAL & CLEANING STAFF – FIXED COMMISSION RATE PER HOUR

Typical Jobs in this Lot	Direct Buy Agency				
Janitor Cleansing Staff Refuse Worker Gardener Street Sweeper Skilled Horticulturist Refuse Loader Driver (non-HGV) Refuse Driver HGV Driver Cleaner Cleaning supervisor Security Guard Stores Assistant Kerb Layer Skilled Labourer Refuse Collector Civic Amenity Site Operative	Pertemps	Commission £0.55p/hr for £14.99p/hr charge rate or less. £1.00p/hr for £15.00+p/hr charge rate.	Stuart Stevens (Drivers) Caroline Quinn (all other roles)	procurementscotland@pertemps.co.uk	01324 632 363
	Please email/call the supplier with your requirement. Job Descriptions should be sent to the supplier if available.				
	Suppliers should provide you with a breakdown of the Charge rate per hour. For example: c) PAYE = Pay Rate + NI + WTR + Commission = Charge rate per hour (excl. VAT) d) LTD / UMBRELLA COMPANY = Pay Rate + Commission = Charge rate per hour (excl. VAT)				

LOT 3: TEMPORARY SOCIAL, CARE & HOUSING STAFF – FIXED COMMISSION RATES PER HOUR

Typical Jobs in this Lot	Direct Buy Agencies – Ranked				
Care Assistant	1. ASA	Commission £1.29p/hr	Joyce Frankish	wlc@asarecruitment.co.uk	0131 226 6222
Care Worker				OUT OF HOURS	07918 617 326
Care Manager	2. The Recruitment Agency Network (RAN)	Commission £1.35p/hr	Hilary Bisset	hilary.bisset@ranjobs.co.uk	0131 226 6222
Domestic Assistant				OUT OF HOURS	07918 617 326
Home Manager	3. Reed Specialist Recruitment	Commission £070p/hr to £4.50p/hr	Vicki Hastie	vicki.hastie@reedglobal.com	0131 240 5342
Care Officer			Cc	edinburgh.care@reedglobal.com	
Social Work Assistant				OUT OF HOURS	0131 240 5342 or 07972 899 011
Social Worker	<u>THIS IS RANKED SO YOU MUST CONTACT THE AGENCIES IN ORDER</u>				
Social Care Officer	Please email/call the supplier with your requirement. Job Descriptions should be sent to the supplier if available.				
Support Worker	Suppliers should provide you with a breakdown of the Charge rate per hour.				
Housing Assistant	For example:				
Housing Officer	a) PAYE = Pay Rate + NI + WTR + Commission = Charge rate per hour (excl. VAT).				
Nursery Assistant	b) LTD / UMBRELLA COMPANY = Pay Rate + Commission = Charge rate per hour (excl. VAT).				
Nursery Manager					
Occupational Therapist					

LOT 4: TEMPORARY CATERING STAFF – FIXED COMMISSION RATES PER HOUR

Typical Jobs in this Lot	Direct Buy Agencies – Ranked				
Chef, Cook, Kitchen Supervisor, Waitress/Waiter, Kitchen Porter/Catering Assistant, Hospitality Services Team Leader, Hospitality Representative, Executive Chef, Commis Chef, Sous Chef, Head Porter, Kitchen Porter, Catering Assistant	1.Pertemps	Commission - As detailed in Column 4.	Alan Paterson or Mirna Hashwa	procurementscotland@pertemps.co.uk Commission £0.55p/hr for £14.99p/hr charge rate or less. £1.00p/hr for £15.00+p/hr charge rate.	0131 225 7531
	2.Manpower	Commission £0.75p/hr	Jayne McNeil	jayne.mcneil@manpower.co.uk	01324 485090
	3.Brightwork	Commission £0.72p/hr	Alex Ramsay	procscot@brightworkltd.com alex.ramsay@brightworkltd.com	0131 275 8006
	4.Reed	Commission £0.63p/hr to £1.05p/hr	Ron Crawford Cc	ron.crawford@reedglobal.com edinburgh.care@reedglobal.com	0131 240 8820
<u>THIS IS RANKED SO YOU MUST CONTACT THE AGENCIES IN ORDER</u>					
Please email/call the supplier with your requirement. Job Descriptions should be sent to the supplier if available.					
Suppliers should provide you with a breakdown of the Charge rate per hour.					
For example:					
a) PAYE = Pay Rate + NI + WTR + Commission = Charge rate per hour (excl. VAT).					
b) LTD / UMBRELLA COMPANY = Pay Rate + Commission = Charge rate per hour (excl. VAT).					

LOT 5: TEMPORARY INTERIM SPECIALIST STAFF – FIXED COMMISSION RATE PER HOUR

Typical Jobs in this Lot	Direct Buy Agency				
HR administrator, HR advisor, HR Officer, HR Specialist, Procurement Administrator, Procurement Officer, Procurement Analyst, Market Analyst, Buyer, Strategic Buyer, Commodity Specialist, Social Work Administrator, Benefits Administrator, Booking Clerk, Architect, Architect Officer, Architect Technician, Communications Officer, Business Support, Executive Officer, Site Managers, Legal Secretary, Financial Assistant, Financial Administrator, Financial Officer (CCBA qualified), Marketing Officer, IT Programmers, Accountant (Management, Financial qualified), Accountant (unqualified), Facilities Manager Policy Officer, IT Developers, Surveyor (Building, Construction, Quantity), Engineer, HR Advisor, Booking Clerk, Legal Assistant. Asbestos Officer	Pertemps	Commission – As detailed in Column 4.	Michael Phair	procurementscotland@pertemps.co.uk Commission £0.55p/hr for £14.99p/hr charge rate or less. £1.00 for £15.00+/hr charge rate	0131 225 7531
	Please email/call the supplier with your requirement. Job Descriptions should be sent to the supplier if available.				
	Suppliers should provide you with a breakdown of the Charge rate per hour. For example: a) PAYE = Pay Rate + NI + WTR + Commission = Charge rate per hour (excl. VAT). b) LTD / UMBRELLA COMPANY = Pay Rate + Commission = Charge rate per hour (excl. VAT).				

LOT 6: TEMPORARY INTERIM MANAGERS STAFF – COMMISSION % RATE

Typical Jobs in this Lot	Micro Competition : All 7 Suppliers must be invited to supply each requirement.				
Procurement Manager, IT Manager, Facilities Manager, Engineering Manager, HR Manager, Communications Manager, Marketing Manager, Programme Manager, Project Manager, Policy Manager Roads Inspector/Clerk of Works, Roads Engineer, Roads Sweeper, Asphalt Road Worker, Roads Technician, Asbestos Officer	Advantage Technical Resourcing	Commission 8.75%	Mark Murphy	mark.murphy@advantageresourcing.com	01256 365717
	Harvey Nash	Commission 10%	Rhona Hutchon	scotlandpublicsector@harveynash.com	0131 301 5115
	Harvey Nash Consortium	Commission 10%	Rhona Hutchon	scotlandpublicsector@harveynash.com	0131 301 5115
	Head Resourcing	Commission 10%	Mark Mackill Walker Wares	mark.mackill@go-escape.com (non Quick Quote only) WWares@headresourcing.com (for Quick Quote only)	01506 517220
	Parity Resources	Commission 12.5%	Andy Foskett Deborah D'Sa	a.foskett@parity.net d.dsa@parity.net	0845 873 9792 0845 873 9798
	Recruitment Zone	Commission 10.75%	Craig Yule	craig.yule@rzgroup.co.uk	0131 333 1555
	The Recruitment Agency Network	Commission 10%	H. Bisset	hilary.bisset@ranjobs.co.uk	0131 226 222

LOT 7: TEMPORARY IT STAFF – COMMISSION % RATE

Typical Jobs in this Lot	Micro Competition: All 8 Suppliers must be invited to supply each requirement.				
Service Desk Analyst, Desktop Support Analyst, Network Support Analyst, Helpdesk Analyst, Systems Analyst, Database Administrator, Business Analyst, IT Support Officer, IT Team Leader, Network Administrator, IT Security Officer, Helpdesk Officer, Systems Administrator	Certes	Commission 9.8%	Rebecca Sabin	rebecca.sabin@certes.co.uk	01675 468 928
	Harvey Nash	Commission 10%	Rhona Hutcheon	scotlandpublicsector@harveynash.com	0131 301 5115
	Harvey Nash Consortium	Commission 10%	Rhona Hutcheon	scotlandpublicsector@harveynash.com	0131 301 5115
	Hays	Commission 12.5%	Justin Black	procurementscotland@hays.com or justin.black@hays.com	0131 226 2847
	Hudson	Commission 10%	Keith Bowden	scotgovrecruitment@hudson.com	0131 555 9846
	Parity Resources	Commission 9.9%	Andy Foscett	a.foscett@parity.net	0845 873 9792
			Deborah D'Sa	d.dsa@parity.net	0845 873 9798
	Pertemps	Commission 11.5%	Michael Phair	procurementservices@pretemps.co.uk	0131 225 7531
	Recruitment Zone	Commission 9.75%	Craig Yule	craig.yule@rzgroup.co.uk	0131 333 1555

CON-10-086: TEMPORARY TRADES STAFF – FIXED COMMISSION RATES PER HOUR

Typical Jobs in this Lot	Direct Buy Agencies – Ranked				
Plumbers, Electricians, Joiners, Builders, Mechanics, Scaffolders, Glaziers, Blacksmiths, Painters, Labourers, Tilers, Slaters, Floor-layers, Stores Assistants	1.Blueprint	Commission 69p/hr	John McBain or Ronnie Harris	jmcbain@blueprint-recruitment.co.uk rharris@blueprint-recruitment.co.uk	0845 270 2242
	2.Morson International	Commission £1.00/hr	Gordon Clark or Graham Kay	gordon.clark@morson.com graham.kay@morson.com	01324 666 888
	3.Construction & Property Recruitment (CPR)	Commission £1.20/hr	Donald Wynn or Mike Wynn	donald.wynn@cprecruitment.co.uk mike.wynn@cprecruitment.co.uk	0131 467 0085 07917 578 700 07917 578 701
Specialised roles e.g.; Roads Inspector/Clerk of Works, Roads Engineer, Roads Sweeper, Asphalt Road Worker, Roads Technician, Asbestos Officer	<u>THIS IS RANKED SO YOU MUST CONTACT THE AGENCIES IN ORDER</u>				
	Please email/call the supplier with your requirement. Job Descriptions should be sent to the supplier if available.				
	Please note, Commission may differ for job roles out with ‘Trades’ i.e. Roads Inspectors, Engineers, and such like.				
	Suppliers should provide you with a breakdown of the Charge rate per hour. For example: a) PAYE = Pay Rate + NI + WTR + Commission = Charge rate per hour (excl. VAT). b) LTD / UMBRELLA COMPANY = Pay Rate + Commission = Charge rate per hour (excl. VAT).				

AGENCY WORKER REGULATIONS 2010

BRIEFING NOTE

SUMMARY OF CHANGES AND TIMESCALES

The Agency Worker Regulations 2010 came into force on 1 October 2011 giving agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly, if and when they complete a qualifying period of 12 weeks in the same job. They are entitled to equal treatment across a range of employment terms but their status does not convert from agency worker to council employee.

It is not retrospective for those agency workers already working with the council, the 12 week qualifying period will start from 1 October 2011.

From 1 October 2011, agency workers will also be entitled to access to collective facilities and information on job vacancies from day 1 of working for the council.

AGENCY WORKERS

The regulations apply to “agency workers” as defined. Workers hired on a temporary basis from an employment agency to work under the council’s supervision and direction are covered. These will be the most common type for the council.

Workers who are genuinely self-employed are not covered. Individuals working in the council’s premises as a permanent or fixed-term employee of an outside contractor are not covered. Council employees who do other work through an in-house staffing bank are not covered.

NEW ENTITLEMENTS

Day 1 Rights for All agency Workers:

As soon as an agency worker starts in a council role, the council is responsible for providing equal treatment for specified day 1 entitlements and is liable for any breach of this obligation.

Facilities

The council must ensure that all agency workers have access to our collective facilities from the first day of working with the council. These may include:

- Car parking facilities
- Toilets/shower facilities

- Transport services (eg local pick up and drop offs, transport between sites)
- Canteen or other similar facilities
- Staff rooms

These entitlements do not apply to pay, or to employee benefits or perks.

Services hiring agency workers will have to consider how they can make arrangements to ensure that agency workers are aware of and have access to such facilities from day one eg organising parking passes etc. The council will have to make this information available to an agency worker as part of an induction process.

Job Vacancies

The council must ensure that all agency workers have access to information on job vacancies from the first day of working with the council in the same way as do council employees.

Access to information is widely available to all through council bulletins posted on notice boards and jobs online. **Services will have to make that information available to agency workers as part of an induction process. The Recruitment Team must be advised that, with effect from 1 October 2011, agency workers will be eligible to apply for internal vacancies.**

If there is a restriction on the advertising of posts to council employees then that also applies to agency workers, since their right is to equal treatment, not to better treatment. This right does not apply where posts are ring fenced for redeployment purposes or internal moves which are a matter of restructuring and redeploying existing internal staff under workforce management procedures in order to prevent a redundancy situation.

After 12 weeks in the same job:

The equal treatment entitlements relate to pay and other basic working conditions and come into effect after an agency worker completes a **12 week qualifying period** in the **same job** with the council. They are:

- Key elements of pay (including basic pay, overtime payments, shift/unsocial hours allowances, payment for annual leave, vouchers or stamps which have monetary value eg child care vouchers)
- Duration of working time eg if working is limited to a maximum of 48 hours a week
- Night work
- Rest periods
- Rest breaks
- Annual leave

In addition, pregnant agency workers who have completed the 12 week qualifying period, will be entitled to paid time off for ante natal appointments.

The right in relation to pay does not include things like sick pay, pensions, redundancy payments, maternity pay, adoption pay and paternity pay.

Any employment rights requiring a period of service before the right arises (for example, the additional period of annual leave after five years service) will be calculated from the date the qualifying period began eg an entitlement that requires 12 months service would require the agency worker to have 12 months service, not 12 months and 12 weeks.

CALCULATING THE 12 WEEK QUALIFYING PERIOD

The 12 week qualifying period would be triggered by working in the same job for the council for 12 weeks. A calendar week is any period of seven days starting with the first day of work. Calendar weeks will be accrued regardless of how many hours the worker does on a weekly basis – all that is required is that the individual works in a placement with the council at some point in the week in question.

For agency workers already working with the council and in post on 1 October 2011 the date for accrual of the 12 week qualifying period will begin on 1 October 2011 – any time worked in the council before that date is disregarded.

The council should be aware that anti-avoidance provisions are in place, which prevent the council from using the same agency worker on a series of assignments which are structured so as to prevent the worker from completing the qualifying period. A tribunal can impose a punitive award of damages if it decides that an employer has taken deliberate action to try to avoid the effect of the regulations.

The 12 week qualifying period will be broken if:

- the agency worker begins a new assignment with a new hirer
- the agency worker remains with the council but is no longer in the same role (for the qualifying period to be broken the work or duties which make up the whole or main part of a role must be substantially different and the council must notify the agency in writing)
- there is a break between assignments with the council of more than 6 weeks

The 12 week qualifying period will be 'paused' (continue to accrue on the workers return to the same post) if:

- for any reason there is a break of no more than six calendar weeks and the agency worker returns to the same role with the council
- there is a break of up to 28 weeks because the agency worker is incapable of work because of sickness or injury
- the agency worker takes leave to which they are entitled, including annual leave

- there is a break of up to 28 weeks because the agency worker is performing jury duty
- there is a break caused by a regular and planned shutdown of the workplace by the council
- there is a break caused by strike, lock out or other industrial action at a council establishment

The 12 week qualifying period will continue to accrue during:

- breaks due to pregnancy, childbirth or maternity which take place during pregnancy and up to 26 weeks after childbirth (case law indicates, that it may be discrimination in certain circumstances where a company fails to allow an agency worker to return to the temporary post which she had previously occupied, following absence due to maternity)
- any breaks due to the worker taking maternity leave, adoption leave or paternity leave.

In each of these cases the 12 week qualifying period will continue to accrue for the originally intended duration of the assignment or the likely duration of the assignment (whichever is longer).

ESTABLISHMENT OF EQUAL TREATMENT

Deciding on what equal treatment means will usually be a matter of common sense – the requirement is simply to treat the worker as if he or she had been **recruited directly** to the same job.

For equal treatment on pay, each element of the pay package has to be looked at and compared individually – the council is not able to look at the overall package and decide that a deficit in one element is balanced out by some better treatment in another.

INFORMATION TO BE PROVIDED TO THE AGENCY

The following information must be provided to the agency before an agency worker can be supplied:

- the council's business and location
- start date and duration of assignment
- job role, responsibilities and hours
- the experience, training, qualifications and any authorisation which the council considers are necessary, or which are required by law, or by any professional body in order to work in the position
- any risks to health or safety known to the council and what steps the council has taken to prevent or control such risk
- any expenses payable by or to the agency worker

In addition the following information must be provided to the agency promptly if and when an agency worker completes 12 weeks in the same role:

- the level of basic pay (based on the annual salary an agency worker would have received if recruited directly), if and when there are overtime payments and shift/unsocial hours allowances or risk payments for hazardous duties
- types of bonus schemes the council operates (not applicable to the council for equal pay reasons) and how individual performance is appraised and information on annual pay increments
- if the council offer any vouchers which have monetary value
- annual leave entitlement

EXEMPTIONS TO THE REGULATIONS

There is an exemption from equal treatment provisions on pay (and holiday pay) where an agency can offer an agency worker a permanent contract of employment and pay the agency worker between assignments. This means that after 12 weeks in a given job, the agency worker will not be entitled to the same pay as if they had been recruited directly.

All agency workers, including those covered by this pay between assignments exemption, are entitled to other new provisions under the regulations – in particular equal treatment in relation to the duration of working time, night work, rest periods and rest breaks and annual leave after 12 weeks (in these circumstances the entitlement is to time off rather than pay – the paid annual leave entitlement will be as set out in the contract of employment between the agency and agency worker).

Additionally, all agency workers must receive day 1 entitlements as these rights apply regardless of pay between assignment contracts.

INFRINGEMENT OF ENTITLEMENTS

If an agency worker believes their entitlements under the Regulations have been infringed they are entitled to request information relating to such.

If it is in relation to day 1 entitlements the requirement to provide information lies with the council and information can be requested any time after the start of the assignment. The agency worker should approach the council with a written request for information before making a claim. The council has 28 days to respond in writing from receipt of the request.

If it is about entitlements after the 12 week qualifying period then the requirement to provide information lies with the agency and the agency worker can only request information after the 12 weeks have elapsed. In this instance the agency worker can request a written statement from the agency about any aspect of equal treatment before making a claim. The agency has 28 days from receipt of the request to respond in writing. If an agency worker has not received a written statement within 30 days of making that request, the agency worker can then write to the council requesting the same information.

If an agency worker is dissatisfied with the response or does not receive a response they can bring a claim to an Employment Tribunal in relation to their rights under the Regulations.

12 September 2011

AGENCY WORKER REGULATIONS 2010

GUIDELINES FOR SERVICES USING AGENCY WORKERS

The Regulations

When recruiting agency workers the council is required to comply with the Agency Worker Regulations 2010.

The regulations give agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly, if and when they complete a qualifying period of 12 weeks in the same job. Agency workers will also be entitled to access to facilities and information on job vacancies from the first day of their placement.

General Guidance

Services using agency workers must ensure that they do not act out with the regulations by following the guidelines below:

1. When recruiting agency workers the following information must be provided to the recruitment agency:
 - the council's business and location
 - start date and duration of assignment
 - job role, responsibilities and hours
 - the experience, training, qualifications and any authorisation which the council considers are necessary, or which are required by law, or by any professional body in order to work in the position (eg PVG Scheme membership)
 - any risks to health or safety known to the council and what steps the council has taken to prevent or control such risk
 - any expenses payable by or to the agency worker
2. On placement of an agency worker the manager must complete an Agency Worker Record Form (Appendix 1) and forward to Human Resources. Any prior placements as an Agency Worker with the council should be ascertained to enable further entitlements on completion of 12 weeks of work to be identified.
3. The Agency Worker must be advised of the following entitlements on Day 1 of their placement with the Council:
 - how to find out about and apply for internal vacancies and their rights to apply for them
 - right to make use of any collective facilities available such as parking facilities and how to access them, staff rooms, transport services (eg pick up & drop off), shower facilities etc (but not employee benefits such as discounted nursery vouchers)

4. If the Agency Worker continues in the same/similar position with the council for 12 weeks the following information must be provided promptly when requested by the employment agency:
 - the level of basic pay (based on the annual salary an agency worker would have received if recruited directly), if and when there are overtime payments and shift/unsocial hours allowances or risk payments for hazardous duties
 - types of bonus schemes the employer operates relevant to this post (not applicable to the council for equal pay reasons)and how individual performance is appraised and information on annual pay increments)
 - if the council offer any vouchers which have monetary value
 - annual leave entitlement

It may be clear at the start of an assignment that it will last for more than 12 weeks, in which case the employment agency may ask for the above information at an early stage or even in advance of the placement starting.

5. When the placement comes to an end, the manager must update the Agency Worker Record Form (Appendix 1) and forward to HR.

Further information on the Agency Worker Regulations and use of Agency Workers can be obtained from Human Resources.

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AGENCY WORKER RECORD

To be completed for every agency worker placement as soon as possible after placement begins and emailed to hrrsupport@westlothian.gov.uk

WORKER DETAILS	
Name: Title/Forename/Surname	
Employment Agency:	

PLACEMENT DETAILS	
Post Title:	
Service Area:	
Start Date:	
Expected End Date:	

IS THE AGENCY WORKER FILLING A VACANT POST?			
Yes <input type="checkbox"/>	Position Number of Vacant Post <input style="width: 100px;" type="text"/>		
No <input type="checkbox"/>	Position Number of Comparator (if applicable) <input style="width: 100px;" type="text"/>		
If No, please give reason for agency/contract placement:	Maternity Cover <input style="width: 50px;" type="text"/> Sickness Absence Cover <input style="width: 50px;" type="text"/> Vacancy Cover <input style="width: 50px;" type="text"/> Project Work <input style="width: 50px;" type="text"/> Secondment Cover <input style="width: 50px;" type="text"/>	Seasonal Work <input style="width: 50px;" type="text"/> Additional Workload <input style="width: 50px;" type="text"/> Extra Funding <input style="width: 50px;" type="text"/> Specialist Skills <input style="width: 50px;" type="text"/>	

Manager's Name:	
Date:	

Termination details should be completed at the end of the placement and updated form emailed to hrrsupport@westlothian.gov.uk

TERMINATION DETAILS	
Termination Date:	
Reason for Termination:	