

Portfolio Holder decision record sheet

Name of decision maker: Cllr Janice Marshall

Portfolio: Environmental Services, Regulatory Services and Sustainability

Date of Portfolio Holder decision: 21/02/2017

Title of decision:

To approve an exemption to comply with the Council's commissioning & procurement standing orders and award a contract directly without the need to carry out a competitive tendering process

Part II:

Part II reason:

Decision:

1. To retrospectively approve the suspension of the Council's commissioning & procurement standing orders to enable the direct appointment of Ranstad CPE for the provision of Agency Staff in Regulatory Services without undertaking a tendering process.
2. The Council have already incurred expenditure of £70,248.12 with Ranstad CPE, with a further £103,734.00 commitment and therefore breach the OJEU Threshold. As a result the Council should publish a contract award notice informing the market that it has awarded this contract to Ranstad CPE.

Reason

To maintain the statutory services in Regulatory Services, it has been necessary to make a range of agency appointments to cover key vacancies.

The Council have a corporate contract for Agency Staff with Comensura and all Agency staff requirements should be commissioned through this arrangement.

If for any reason Comensura are unable to provide the appropriate calibre of Agency Staff, then the Client Officer is able to commission outside of this arrangement, but must comply with the commissioning and procurement standing orders.

The Council acknowledges that the level of expenditure on this contract has exceeded the OJEU threshold and because a compliant tendering process was not undertaken at the outset, this has resulted in this contract now being in breach of the Public Contract Regulations 2015.

The Council should publish a contract award notice stating that it has awarded this contract to Ranstad CPE.

There is a risk that the Council could be challenged on the award of this contract from suppliers who may have bid for this requirement if it had originally been tendered; there is also a risk that the EU Commission may show an interest in the breach of the regulations.

However, suppliers only have 30 days to submit a challenge on this contract award from the publication date; once the 30 days has passed they are no longer able to challenge our decision.

Reports considered: (here reference can be made to specific documents)

N/A

Officers/Councillors/Ward Councillors/Stakeholders consulted:

James Deane Corporate Director, Finance and Operations

David Austin, Assistant Director, Neighbourhood Delivery

Ben Hosier, Group Manager Commissioning, Procurement and Compliance

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Dawn Rhoden, Team Leader (Operations), Regulatory Services
Emma Walker, Team Leader (Food, Health and Safety) Regulatory Services

Monitoring Officer comments:

This retrospective suspension of standing orders requires an exemption to procurement standing orders to be granted from the Portfolio Holder responsible for the service in accordance with paragraph 20 of the Commissioning and Procurement Standing Orders. The circumstances requiring the suspension are noted in the body of the report.

Failure to comply with the Council's procurement standing orders and EU procurement rules could result in an ombudsman complaint, legal proceedings or a fine by the EU commission. Accordingly Officers must ensure all future contract awards are tendered in accordance with standing orders for 2017/18.

Deputy S151 Officer comments:

The amounts set out are contained within the 2016/17 forecasts included in the regular budget monitoring reports to members and as such can be met from within the budgets available. The commitments in 2017/18 will need to be met from within existing approved budgets.

Implications:

Risk:

To not appoint into vacant roles would lead to a decline in Regulatory performance and put the Council at risk of standards intervention by governing bodies. Slow performance may also effect living and working conditions within the borough.

Value for money:

The hourly and daily rates put forward are understood to be competitive.

Options considered and reasons for rejection:

Appointment into vacant in-house roles.

Vacant roles will not be filled until the Regulatory Services Review is carried out. Recruitment into Environmental Health Officer roles has been unsuccessful throughout 2016. Two roles were downgraded to Trainee Environmental Health Officer role in 2016 with both posts being successfully recruited to and officers starting in the roles in 2017. There are currently 5 vacant roles in Regulatory Services including the Group Manager Role.

- There is an Environmental Health Officer role (Food and Health and Safety) temporarily filled by Ranstad until 31st March 2017.
- Team Leader (Pollution and Private Sector Housing) is filled by Ranstad until 28th Feb 2017.
- Maternity Cover in Environmental Health Officer role (Pollution and Housing) is in post by Ranstad until November 2017.

Portfolio Holder's signature:

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Date:
Details of any interests declared and any dispensations given by the Standards Committee:

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Date decision record sheet received from portfolio holder: 21/02/2017	
Date decision published: 21/02/2017	Decision no: PH-003-17
Date of expiry of call-in period: 28/02/2017	
Date any call-in received or decision implemented:	

Background

In 2016, the service suffered a high and unusual degree of turnover including staff leaving for new posts and maternity leave.

There was, after considering and deploying other options, the need to fill vacant posts swiftly. This was done with the Ranstad, as they were the only company able to supply suitably qualified Environmental Health Officers.

Expenditure with Ranstad CPE for providing agency staff for Regulatory Services, plus the commitment to date.

No	Cost Centre Name	Expenditure	Commitment	TOTAL
ED110	Pollution And Private Sector Housing	22,844.88	60,894.00	83,738.88
ED120	Food Safety	17,640.81	23,119.00	40,759.81
EF200	Enforcement	29,762.43	19,721.00	49,483.43
TOTAL		70,248.12	103,734.00	173,982.12

This report seeks authority to retrospectively award the contract to Ranstad CPE from 2015/16 until November 2017 as required.

Any future requirements for Agency Staff in Regulatory Services will be provided through the Council's corporate contract for Agency Staff, or in accordance with Commissioning and Procurement Standing Orders.