# Resourcing Options Guidance

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### Resourcing Options Guidance

The below information on resourcing options is designed to support and guide recruiting managers in engaging and managing the most appropriate resource for their team/the service.

The right option will vary dependent on a number of factors, which include the following:

* the operational requirements of the service in terms of what types of work patterns etc. are required and can be accommodated.
* the urgency of the need.
* whether the need is on a permanent or fixed term basis.
* whether the need is for a short-term ad hoc assignment(s).
* whether there is any regularity to the hours of work.

For any managers considering any of the below options, it is advised to have a discussion with the Resourcing and Talent team.

###

### Full-time/Wholetime

* For corporate employees, full-time work is 37 hours per week.
* For operational employees, this is 42 hours per week.
* For applicants, full time hours can often be sought after when applying for roles.
* In corporate roles, full time hours can be worked in varying patterns from a standard week of office-type hours to compressed hours e.g. an average of 37 hours per week across 2 or 4 weeks.
* Full-time hours can be offered on a fixed-term or permanent basis, depending on service need and vacancy information.

### Part-time

* When an employee works fewer than 37 or 42 hours per week
* This can be an attractive option for applicants who may want to balance work with other commitments, or who are only wanting to work part time.
* Part time hours can sometimes better fit business need and support work-life balance.
* Part-time hours can be offered on a fixed-term or permanent basis, depending on service need and vacancy information.

### Part Year Working

* Where an employee works for an agreed number of weeks per year
* Hours are worked during specified weeks of the year depending on operational need or the needs of a work-life balance provision (assuming business need can be met).
* The employee receives a pro rata salary (including pro rata holiday entitlement), but this is paid all year round in equal instalments (equated pay).
* Part year hours can be used to support work-life balance as an alternative to term-time working or annualised hours where this can be accommodated in the service area.

### Annualised Hours

* Weekly hours (whether full or part-time) are calculated across the year (52.14 weeks). E.g. 37 hours per week equates to 1929 hours per year; and 18.5 hours per week equates to 964.5 hours per year.
* Annualised hours contracts can only be offered on a fixed term basis in the first instance (max 1 year in length) and, following subsequent review, could be confirmed as permanent where appropriate and where these best meet business need.
* Weekly hours are scheduled on a rota basis around varying levels of workload.
* Hours per week may vary between ‘nil’ hours some weeks to 37 hours or more other weeks.
* Annualised hours can support an employee’s work-life balance and aid retention.
* Salary is based on annual contracted hours and is paid in equal monthly instalments throughout the year (equated pay).
* Leave entitlement is allocated based on contracted ‘*working’* hours and must be managed in the normal way.
* Areas which might benefit from annualised hours include seasonal work; project work; where work is ad hoc but there is a need for an experienced retained staff group e.g. cover for absence across the year; fluctuations in the needs of service users etc.
* Managers must ensure that, during more intense working weeks, the provisions of the working time regulations are observed e.g. daily and weekly breaks; average 48-hour week (over 17-week reference period).
* If using this option, Managers are required to ensure proper recording of hours worked and to closely manage the “call off” of hours worked.

### Zero Hour Contracts

* Zero-hour contracts are where hours are worked on an “as and when required” basis. This is where there is an ongoing need, but weekly hours cannot be determined and contracted on a weekly or annualised hours basis.
* Zero hours contracts can **only** be offered on a fixed term basis (max 1 year duration). In the event of continuing need after 1 year, Managers must review hours worked and determine future need.
* Managers need to regularly review hours worked under a zero hour contract and ensure that staff are not actually working on a regular part-time basis.
* Managers should be mindful that where hours are worked on a regular basis a contract of employment could be implied based on the working pattern regardless of whether a written contract of employment has been provided.
* “Regular patterns of work” can include where hours are worked on a regular basis over a period (weeks/months), but not necessarily in every week, and may include where hours are worked at specific times every year, e.g. seasonal work.
* Individuals on Zero-hour contracts are employees and have full employment rights.
* Where hours are ‘reasonably offered’ (i.e. in line with an employee’s stated availability) there is an expectation that these will be accepted under normal circumstances.
* Failure to accept hours ‘reasonably offered’ on 3 occasions will normally result in no future offers of work.
* Pay is based on hours worked.
* Leave entitlement is accrued based on hours worked.
* Sick pay is based on an average day’s pay (calculated over previous 12 calendar weeks)
* Areas which might benefit from zero hours arrangements are where there is an on-going need for short-term ad hoc shifts to be worked.
* Managers must ensure the provisions and requirements of the Working Time Directive are met, particularly where individuals work over several different posts either within or between service areas. Relevant Managers are expected to liaise accordingly with each other.
* Employees on zero hours contracts are not eligible for the Flexi-time Scheme as it is not compatible with working under a zero-hour contract.

### Casual Worker Agreements

* Casual Worker Agreements should be used where hours are worked on an ‘as and when required’ basis where there would otherwise be a significant impact on service provision e.g. to cover sickness absence, unforeseen circumstances, or short-term peak workloads.
* A Casual Worker Agreement encompasses all casual, relief, “supply”, “bank” worker requirements.
* Casual Worker Agreements can **only** be made on a fixed term basis and cannot exceed 1 year in length.
* Casual workers are “workers” not employees; they have no “contract of employment” and have limited employment rights.
* Casual Worker Agreements should not be used for ongoing or regular working patterns or where there is an intention of continual employment.
* Managers **must** ensure continuous monitoring of their use of casual workers and review hours worked on casual agreements **regularly.** They **must** ensure that casual workers are not actually working on a regular part-time basis or that they could be deemed to have become employees through a regular working pattern.
* Where a regular/ongoing pattern of work develops and/or where there is an expectation that hours will be offered/should be accepted, it is likely that a Tribunal would consider there to have been a change in the employment relationship regardless of there being a casual worker agreement in place. The individual could then be deemed to have become an employee with full employment rights. Therefore, Managers will be required to ensure such “drift” does not occur and where the operational need moves from that of a casual worker to a more regularised arrangement then a different resourcing option may be more appropriate, e.g., annualised hours, part-time, fixed term, zero hours.
* No hours are guaranteed; there is no obligation on the Service to offer work and where hours are offered there is no obligation on the worker to accept them (no mutuality of obligation).
* Failure to accept hours ‘reasonably offered’ on 3 occasions will normally result in no future offers of work.
* Pay is based on hours worked.
* Leave entitlement is accrued based on hours worked and is “earned” at statutory levels only, i.e. 20 days annual leave + 8 days’ bank holidays.
* Areas which might benefit from casual worker agreements are where there is an on-going need for short-term ad hoc shifts to be worked.
* Whilst the nature of a Casual Worker Agreement means it is unlikely that workers will exceed 48 hours pw over a 17 week reference period, Managers must ensure the provisions and requirements of the Working Time Directive are met, particularly where individuals work over a number of different posts either within or between service areas. Relevant Managers are expected to liaise accordingly with each other.
* Casual Workers are not eligible for the Flexi-time Scheme.

Further information on Casual Workers can be found at Appendix B – Casual Workers Further Guidance.

### Externally Provided Workforce

* CFRS uses third party providers – employment agencies – to engage agency workers, interims, self-employed consultants, or contractors: these are all called the ‘Externally Provided Workforce’ (or EPWs).
* EPWs can be a useful tool to cover short term requirements, however the engagement of EPWs must not be considered until all other options have been considered.
* EPWs are not employees.
* To engage with EPWs, Managers must complete RT9 – EPW Business Case. The Business Case includes details of the reasons why an EPW is required.
* RT9 must be sent to SLT and approval **MUST** be undertaken prior to engagement.
* The proposed duration of the engagement must be for as short a period as possible and must be kept under review.
* The costs of EPW staff are usually more than those for directly comparable employees. Managers must make themselves aware of the likely costs and these must be set out in RT9 – where the costs are not clear, the assumed costs and the period to which they apply must be clear in the business case.
* Accommodation and home to work travel costs will **not** be paid. Any travel undertaken in the course of their duties will be paid in accordance with the Service travel and subsistence scheme and rates.
* Where an EPW is supplied by a 3rd party temporary work agency, The agency supplies candidate(s) to fill a defined length resource gap. The agency submits invoices to the end user (CFRS) and then pays the agency worker.
* Agency workers should only be engaged through our framework provider (currently Randstad). The Service has a contract with Randstad who are the primary provider of EPWs and they must be utilised for all EPW other than in the circumstances set out Below:
1. for interims (grade 19 and above or specialist professional role) Professional Procurement Frameworks will be used i.e. NEPRO. These organisations provide specialist senior managers posts.
2. interim Principal Officers and leadership roles will be undertaken with the support of People and Talent, making use of any national Framework Agreements where applicable.
3. self-employed consultants may be used either where this represents better value for money or where the requirement cannot be met from the above. However, People and Talent must be consulted at the planning stage.
* For Self-employed consultants/contractors, they provide services to an organisation either personally or through their company but remain independent. They submit invoices to the end user (CFRS) and are responsible for their own tax and NI.

Further information on Casual Workers can be found at Appendix D – Externally Provided Workers Further Guidance and RT9 – EPW Business Case.

# Appendix A – Fixed Term Contracts Further Guidance

A fixed-term contract is one that ends on a specified date or on the occurrence of a particular event such as the completion of a task, the loss of funding, or the return to work/resignation of the person being covered.

The service must provide a valid reason for the fixed term nature of the appointment, and this must be stated in the contract; in line with one of the following template fixed term clauses:

**If covering for someone**

* You are employed in this post on a fixed term basis for the purpose of providing cover for the post of << Post\_Title >> whilst the current post holder is absent from the post. Your employment in this post will terminate when the current post holder returns to the post or resigns from the post, at which time it will automatically expire without further notice unless otherwise agreed in writing by the Service with yourself. The Service cannot confirm how long the current post holder's absence from the post will last but it is likely that your employment will come to an end on or around <<Occupancy\_End\_Date>>. It is a condition of this contract that you agree that your contract of employment will terminate when the post holder returns to the post or resigns from the post.

**If employed on a fixed term contract for a specific reason:**

* You are employed in this post on a fixed term basis from <<Occupancy start date>> to <<Occupancy\_End\_Date >>for the specific purpose of Type in reason for the fixed term Your employment in this post will terminate on <<Occupancy\_End\_Date>>, at which time it will automatically expire without further notice unless otherwise agreed in writing by the Service with yourself. It is a condition of this contract that you agree that your post will terminate on <<Occupancy\_End\_Date>>.

**If employed on a fixed term contract due to specific funding:**

* You are employed in this post on a fixed term basis <Occupancy start date>> to <<Occupancy\_End\_Date >> as your employment is dependent on Type in name of funding funding. Your employment in this post will terminate on << Occupancy\_End\_Date>> at which time it will automatically expire without further notice unless otherwise agreed in writing by the Service with yourself. It is a condition of this contract that you agree that your post will terminate on <<Occupancy\_End\_Date>>.

Fixed term appointments are protected in law under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and have specific employment protection from Day 1.

Normally, the expiry of a fixed term contract will be fair, **as long as** the expiry of the fixed term is the real reason, and the employer has acted reasonably. There is an expectation that employers will review carefully whether alternative employment can be offered. Within the Service, this would include providing Alternative Employment Support (AEP) where the employee has more than 1 years’ service. This support should be in place for the duration of the employee’s notice period and Managers should consider the notice which the employee is entitled to receive when arranging this.

Dependant on service (2+ years) the employee could be entitled to redundancy pay (but not normally if they are covering the absence of an individual).

The natural expiry (without renewal) of a fixed term contract is automatic and neither party need give notice BUT Managers must follow a normal fair procedure; see ***“How to deal with the natural expiry of a Fixed-term contract”*** below.

In addition, notice can be issued to end a fixed term contract prior to the natural date of expiry. Again, Managers must follow a fair procedure see ***“Dismissal Procedure for the termination of a fixed-term appointment for reasons other than natural expiry”*** below.

A fixed term contract could be extended where operationally necessary. An offer and acceptance to extend a fixed term appointment prior to the expiry date is a contract variation (not dismissal and re-engagement). An employee who has four years' continuity of employment on multiple fixed-term contracts will automatically become a permanent employee (except in exceptional circumstances) and will be confirmed with a permanent contract. A single fixed term contract can be for 4 years or more without being deemed to be permanent.

Selection for termination/redundancy purely on the basis of fixed term status is unlikely to be deemed to be fair and highly likely to be unlawful.

**Fixed Term to Permanent Post**

Where funding becomes available to allow for a fixed term post to be made permanent

**and**

* where the current post holder has a year or more service in the post

**and**

* where a selection process was originally undertaken, then the employee may be confirmed as being permanent in post without having to advertise the position.

This is subject to there being no disciplinary or performance management issues outstanding with the current post holder and that they have not been subject to the formal Absence and Wellbeing procedure.

Where a permanent post becomes available and there is more than one person carrying out the role then all candidates must go through a competitive interview process.

**This does not apply to casual employees, or employees who are acting up in the role or to external secondees.**

### How to deal with the natural expiry of a Fixed-term contract

As mentioned above, the fixed-term contract will terminate automatically at the end of the fixed term without the need for the employer or the employee to give notice. However, as a matter of good practice, Managers should keep fixed-term employees informed of their intentions around the contract's expiry.

Managers must establish a fair reason for non-renewal ahead of expiry of the fixed-term contract and be able to demonstrate the reason. This could be redundancy (where the work has ceased or diminished) or “some other substantial reason” (e.g. end of a maternity cover). The manager should invite the fixed-term employee, in writing, to a meeting to discuss the intended non-renewal of the contract and provide the opportunity for them to appeal the decision not to renew the contract. The right of appeal should be to a manager more senior than the line manager of the employee.

The employee may be accompanied to this meeting by either a Trade Union Representative or a work place colleague, but if not available this should not delay the meeting. A template letter for this meeting can be provided by HR on request.

Natural expiry of a fixed term contract must not be used to manage a performance management issue. Allowing a contract to naturally expire and then engaging someone else to do the same job could be seen as discriminatory.

Where the non-renewal of the fixed term contract is due to redundancy, any redundancy payment will be dependent on length of service.

### Dismissal Procedure for the termination of a fixed-term appointment for reasons other than natural expiry

The manager must write to the employee confirming:

* the circumstances that are leading to potential dismissal,
* invitation to a meeting to discuss the matter,
* their right to be accompanied by a trade union representative or work colleague.

The employee will be notified of the meeting as soon as possible but must be given no less than five working days' notice in writing of the date, time, and place of the hearing.

The manager will notify an assigned more senior manager who will hear the meeting.

The employee must take all reasonable steps to attend the meeting. If the employee has a reasonable excuse for being unable to attend the meeting, or their trade union representative or work colleague is unable to attend, a postponement will be arranged. A new date will be set which does not delay the process unduly. However, where the employee is persistently unable or unwilling to attend without good cause, a decision will be made on the available evidence.

The employee and/or their representative will be given the opportunity to state their case. The manager will provide information on what actions have been taken.

After the meeting, the assigned hearing manager must notify the employee in writing of the decision and notify the employee of their right to appeal against the decision if they are not satisfied with it. This will include details of the senior manager who the appeal should be addressed to.

If the employee does wish to appeal they must inform the senior manager within 7 working days of the date of notification of the decision of the meeting. The appeal will be acknowledged within 5 working days.

The employee will be invited to a further meeting and must take all reasonable steps to attend. Employees have the right to be accompanied by a trade union representative or work colleague at this meeting.

After the appeal meeting the senior manager concerned must inform the employee in writing of the final decision.

There is no further right of appeal.

# Appendix B – Casual Workers Further Guidance

### Guidance on the Use and Management of Casual Workers

Casual workers are workers as opposed to employees. This means that they have a limited set of employment rights.

Casual workers may be offered work as and when there is a need but are under no obligation to accept this i.e. there is no “mutuality of obligation”.

Casual workers are paid only for the work they undertake and are engaged (not employed) on the terms and conditions set out at the end of this document (extracted from the Cumbria Fire and Rescue Service RT11 - Casual Worker Agreement).

### Management of Casual Workers

Managers should ensure that the terms and conditions of casual workers are observed for all casual workers in their area.

Managers are responsible for monitoring the use of casual workers and ensuring that, if the need becomes more regular or changes from purely ‘as and when required’ that consideration is given to the casual worker being engaged on a different type of agreement e.g. fixed term contract or annualised hours contract.

### Regularity of Hours and Work Pattern

Casual workers should be used for short-term cover only. Where the work requires regular hours or hours over a longer period of time, it may be more appropriate to engage an employee on a fixed term contract, annualised hours contract or zero hours contract.

### Agreement Length

Casual worker agreements are issued for a fixed term of one year maximum. The reason for this is to ensure that only casual workers required for assignments remain live ‘on the books’.

Managers must review the use of casual workers in their area prior to expiry of the fixed term. Managers may wish to use a standard end date (e.g. 31st March) on which all casual agreements in their area end so that a review of all casual workers and any renewals or change to the type of engagement (e.g. move to fixed term part time contract) can be carried out simultaneously.

### Terminating or Extending an Agreement

If there is no need for the casual worker to remain ‘on the books’ at the end of the agreement they should be processed as a leaver in the usual way.

If there is an on-going need for the casual worker to remain engaged to undertake work on an ‘as and when required’ basis, the casual worker should be offered an extension to their casual worker agreement. Any agreement should be extended by informing the HR and Workforce Development Group, via Resourcing and Talent.

If there is an on-going need for the work the casual worker is undertaking which is more than on an ‘as and when required’ basis, it may be more appropriate to agree a fixed term contract, annualised hours contract or zero hours contract. Any change should be agreed with People and Talent.

It is imperative that any shifts a casual worker is offered and accepts fall within the dates of the casual worker agreement. No shifts outside of the agreement dates should be offered or worked.

If a casual worker unreasonably declines work offered on more than 3 occasions the agreement will normally be terminated and they should be processed as a leaver in the usual way.

### New Casual Workers

Casual workers should only be engaged via standard recruitment and selection procedures and not via word of mouth.

Word of mouth recruitment may lead to claims of indirect discrimination because not advertising, or only advertising in a very limited way, may stop people with a particular protected characteristic finding out about a job, which could count as detrimental treatment.

### Casual Work Register General Terms and Conditions

1. **Casual work register**

 Your placement on the Cumbria Fire and Rescue Service’s (“the Service’s”) casuals’ register is subject to relevant pre-engagement checks which may include a criminal records (DBS) check, satisfactory references and medical report, examination, and entitlement to work in the UK, as required.

 Please note that the Service may offer but is not required or obliged to offer work and you are not required or obliged to accept the offer of work from the Service. This means that there is no mutuality of obligation between the Service and yourself. This statement does not therefore, and is not intended to, constitute a Contract of Employment.

1. **Agreement dates and termination of the agreement**

 The dates of this agreement are the dates within which you may be offered and may carry out work for the Service.

The agreement will terminate on the end date of the casual agreement and the Service will be unable to offer you work outside of these dates.

Should you no longer be available to undertake work, or no longer wish to undertake work, on this casual worker agreement you must advise the Service in writing and you will be removed from the casual work register.

If you decline work on 3 successive occasions you will be removed from the casual register and this agreement will terminate.

1. **Contact details**

You are required to inform the Service if any of your contact details change as this may affect the Services’ ability to offer you work on this agreement.

1. **Place of work**

Under this agreement you may be offered work at ESTABLISHMENT NAME to undertake assignments as a JOB TITLE.

1. **Workplace complaints and disciplinary procedures**

 During each individual engagement, you will be subject to the Services’ standard policies, procedures and rules and you will be expected to maintain high standards of work and personal conduct. Details of the Services’ Workplace Complaints and disciplinary procedures are available on the Services’ external Employee web pages. These procedures only apply when you are working. Your manager during the assignment has the authority to terminate your engagement at any time should there be a breach on your part of the relevant standards.

1. **Hours of work**

Your hours of work will be on an as and when required basis. There are no set hours of work. Attendance at work will be as agreed between yourself and the Manager.

Rest breaks and limits on working time are in line with the requirements of the Working Time Regulations.

1. **Training to ensure you are ‘work ready’**

For all types of role there will be an element of induction and / or other training that you will be required to undertake before you are considered to be ‘work ready’ to undertake work.

The type and length of this training will vary dependent on the type of role.

Before you are offered work you will be advised of the type and length of any training as well as any requirement to undertake any refresher or repeat training at a later date. You will be paid the hourly rate specified on this agreement for all training hours undertaken.

Attendance at, and completion of, training is mandatory and Cumbria Fire and Rescue Service will be unable to offer you any work until this has been satisfactorily completed and / or is in date.

1. **Acceptance of assignments**

Once you have accepted an assignment you are expected to work that assignment as agreed. If you are unable to work an assignment you have already accepted you are expected to notify the workplace from which the work was offered as soon as you are able.

1. **Management arrangements**

For each assignment you will be under the supervision of a manager or supervisor.

1. **Holidays and holiday pay**

Under the Working Time Regulations all casual workers are entitled to paid holiday.

Your entitlement to paid holiday is accrued as and when assignments are worked and is based on the statutory 28 days per annum inclusive of bank holidays.

Holiday entitlement will accrue on actual hours worked and must be recorded and claimed in line with the Services’ ready reckoner.

Holiday can be booked via the Manager offering you assignments. Holiday hours should be claimed in the same way as casual hours are claimed for payment.

Accrued holiday may be booked and taken in full half hours. If a proportion of half an hour remains at leaving this will be rounded up to the nearest half hour and paid in final pay.

1. **Sickness**

There is no occupational sick pay scheme to which you are entitled. As you are not an employee, you do not qualify for occupational or statutory sick pay.

1. **Pension**

As a casual worker you may opt to join the Local Government Pension Scheme. Details of the scheme can be found on the Council’s intranet or on the ‘Your Pension service’ website: <http://www.yourpensionservice.org.uk/>

1. **Health and safety at work**

Under the Health and Safety at Work Act everyone has a legal responsibility for their own welfare and for the health and safety of others. Any queries you may have relating to health and safety matters should be raised in the first instance with your Manager.

1. **Equalities**

 You are required to comply with the Equality Act 2010 and to act in accordance with the Services’ equality objectives.

# Appendix C – Secondment Guidance

### Introduction

A secondment is where an individual (the “secondee”) transfers on a fixed term basis, for a specific purpose, either

* into the council from another organisation (“inward” secondment),

or

* out of the council to another organisation (“outward” secondment).

An individual’s original organisation will be known as the “seconding” organisation and the organisation to which they are seconded will be the “Host”.

All secondments will be on agreed terms and conditions of employment and set out in writing in RT12 - [Secondment Agreement](#secondmenttemplate)**.**

The secondee will return to their original (“seconding”) organisation when the secondment agreement comes to an end.

Participation in a secondment must not adversely impact on a secondee’s terms and conditions of employment or employment status.

A secondment should bring benefits to all parties. The most successful secondments occur when there has been thorough planning and preparation and achievable outcomes and benefits are clearly identified at the outset.

All secondments will normally be for a maximum of two years, reviewable at least annually. Any extension beyond two years will be on an exceptional basis only and only on the authorisation of the relevant Principal Officer.

Where an individual is “loaned” on a fixed term basis internally to a different service area / directorate within the service, this is a **Fixed Term Internal Transfer** (not a secondment). Please see the relevant guidance.

### [Principles](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

Patterns of working life are changing and people are likely to have more varied and developmental career paths in flatter organisational structures. In the context of lifelong learning, employees need to be increasingly adaptable and have broad-based skills and be capable of responding positively to new and unfamiliar situations. Where available and operationally possible, the opportunity to experience and understand different cultures, values and ways of working within different organisations will assist in this.

The use of well-managed secondments in the Service is encouraged as a means of contributing to our wider goals on a flexible workforce and the development of people.

Authorisation of an inward secondment will always be subject to operational business need.

There may be instances where a significant business need, restructure and / or the requirement for specific skills / experience requires the directed secondment of an individual. Such cases will be dealt with in a fair and consistent way and in line with the principles of the Service’s Managing Change policy, procedure and guidance.

### [Objectives](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

The objectives of each secondment must be closely related to the Service’s People and Talent Strategy or to a clearly identified business need. All parties must be able to clearly identify this link.

Secondments are most likely to arise in the following circumstances (although this list is not exhaustive):

* to stimulate culture change and work on ‘cross-cutting’ issues;
* to embed partnership working;
* to transfer expertise;
* to undertake a specific project assignment;
* to support development opportunities for both the host and the seconding organisations;
* to support development opportunities for the secondee;

### [Eligibility](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

A secondee may come from any level in the service / seconding organisation and be at any stage of their career. Individuals may apply for an advertised secondment or may be advised of a secondment opportunity in another organisation.

It is advised to allow newly appointed individuals time to settle into their substantive role before considering secondment opportunities.

An employee may also request a secondment in support of their development needs or for other reasons (e.g. flexible working, personal circumstances etc). These should be considered in the normal way and with due regard to operational need.

### [Potential Outcomes and Benefits](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

To the Service:

* Greater flexibility in developing and utilising the skills of the workforce
* Development opportunities for employees to learn and perform in challenging new situations
* Enhanced employee motivation and confidence
* Increased lateral thinking capacity of secondee
* Opportunity to develop closer working links with other organisations and support partner working environments
* Enhanced profile as a flexible employer

To the secondee:

* Increased motivation through the widening of perspectives and experiencing of different concepts, values, priorities and cultures
* Exchanging ideas and good practice
* Greater ability and confidence to deal with change
* Personal and career development through enhancement of a range of skills eg managerial, professional, communication and technical skills and knowledge
* Enhanced personal profile and development of wider network group

To the external organisation:

* Cost-effective access to skills and experience not otherwise available
* Increased capacity to undertake specific work
* Flexibility in addressing short-term need
* Fresh thinking and new approaches to organisational or role specific issues
* Enhanced links with the council

### Selection

Where it is likely that more than one person could make an effective contribution to a particular secondment opportunity, the position must be openly advertised internally in the Service and filled in accordance with the **Resourcing and Talent Policy**.

There will be some occasions when a secondment is set up specifically to tap into and develop a particular person’s skills and experience. In such circumstances only that person will be considered.

A secondment opportunity needs to be seen by all parties as providing the secondee with a reasonable alternative to their substantive post in respect of terms and conditions and job content, and the role must be within the capability and skills of the secondee.

### [Planning and Preparation](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

When setting up a secondment both the host and the seconding organisations should ensure that the objectives of the secondment and role of the secondee are clearly defined and documented along with the required outcomes.

The host organisation should meet with the proposed seconding organisation and the proposed secondee to agree the content of the Secondment Agreement to ensure all parties clearly understand the role, responsibility, objectives and expected outcomes and benefits prior to the start of the secondment.

All parties must receive a copy of the Secondment Agreement which will include written confirmation of the terms and conditions applicable to the secondment, including confirmation of the secondee’s right to return to their substantive job at the end of the secondment (or suitable alternative post in the event that the substantive post has been made redundant during the period of the secondment).

In the case of an “Inward secondment” normal appointment procedures must be followed, including Medical and DBS checks in line with Safer Recruitment etc.

### [Terms and Conditions](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

The terms and conditions of a secondment will be set out in a RT12 - Secondment Agreement. This will clarify the individual’s employment status and their terms and conditions of employment, together with the obligations and requirements on both parties and any specific additional working arrangements.

Advice and guidance **must** be sought from Resourcing and Talent, who will provide a template document. The template must be used as a minimum, i.e sections cannot be removed.

Where an external organisation wishes to draft their own secondment agreement it must meet the minimum requirements of the service’s template.

# Appendix D – Externally Provided Workforce Further Guidance

### [Introduction](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

The Service uses third party providers - employment agencies - to engage agency workers, interims, self-employed consultants or contractors (the ‘Externally Provided Workforce’, EPW). This document provides guidance for managers on how to engage these individuals in line with procurement and employment legislation and the Service’s rules and procedures.

The use of EPW’s can be a useful tool to cover short term requirements. However, the Service is under a legal duty to ensure that it does not put its permanent employees at risk of redundancy and this makes the careful use of external resource even more important.

### Externally Provided Workforce (Agency Workers / Interims, Consultants) - Definitions

The following definitions are provided in order to assist in the engaging of individuals on an Agency / Interim or self-employed basis.

| **Description**  | **Use when** | **Timeframe** | **Provider** |
| --- | --- | --- | --- |
| **3rd Party Engagement***“A worker supplied by a 3rd party temporary work agency where existing in-house resources are not available”*This will include Agency Workers and Interims (including IT “Contractors”) where sourced and engaged through 3rd Party Provider with payment being paid to that provider (not the individual). Individuals will have no employment status with CCC (but may have employment status with agency). They will be protected by Agency Worker Regulations 2010 (pay parity etc). | An **Interim** worker is generally * engaged where senior managerial expertise (usually Grade 19 or above) or specialist professional / technical (eg IT, Systems implementation) experience is required;
* on a short to medium term basis, and
* which cannot be resourced in-house.
* They are normally used to deliver a strategic piece of work eg major change programme, or
* to cover a senior / specialist role pending recruitment / restructure.
 | Likely to be at least 3 months and usually full time.Must be reviewed on a regular basis.  | **Randstad** (CCC Managed Service Provider)**Nominal code 17610** |
| **In general terms, an Agency Worker may be engaged where** * **t**here is a temporary or ad hoc need for staff at a less senior level (Grades 1-18)
* for short-term, clearly defined work for a limited period, eg to cover unexpected short term absence, seasonal variations
* or a temporary influx of work (eg a preplanned event) or while determining the level of long-term / permanent need
 | Short-term. Must be reviewed on a regular basis.  |
| **Self Employed Consultant***“A provider of professional specialist knowledge, skill or service, invoicing us directly for services”*They will have experience of technical methodologies and will normally advise rather than deliver. They will be unlikely to be in a line management role.They will work on their own account, providing their own insurance and services (see Appendix 4).Will be outcome based with a clear timeframe. | * Highly specific expertise is not available in-house or where an external analysis, objective advice and / or professional assistance is required.
* It is a discrete project with a measureable or defined outcome
* Day to day presence is not required
* Where new ideas or the latest thinking is needed
* A critical project needs to be fast tracked
 | Project is defined by key outputs.Must be reviewed on a regular basis.  | Contract **for** services.Self-employed(HMRC rules)**Nominal code 32826** |

### When and How to use ‘External Workers’

The use of EPWs can only be considered once other resourcing options have been eliminated. When it is proposed that an EPW be engaged the business case must be a clearly defined reason for this (e.g. requirement for a specific project or scarce skill set, as unavoidable cover for sickness).

The type of EPW to be engaged will depend on the nature of the assignment or the cover required – advice on the most suitable can be obtained from the Resourcing and Talent team. The proposed duration of the engagement must be for as short a period as possible and must be kept under review.

The costs of EPW staff are usually more than those for directly comparable employees. However, they can provide a pragmatic solution for filling a time-limited, resource/skill gap. Managers must make themselves aware of the likely costs and these must be set out in the business case – where the costs are not clear, the assumed costs and the period to which they apply must be clear in the business case.

Accommodation and home to work travel costs will **not** be paid. Any travel undertaken in the course of their duties will be paid in accordance with the Council travel and subsistence scheme and rates

All EPW requests must be discussed and challenged at SLT. The relevant Principal Officer must then approve all requests.

### Sourcing EPWs

EPW sourcing must be undertaken in compliance with the Service’s procurement processes. The Service has a contract with **Randstad** who are the primary provider of EPW and they must be utilised for **all** EPW other than in the circumstances set out below : -

1. For interims (grade 19 and above or specialist professional roles), Professional Procurement Frameworks will be used. Further advice should be sought from the relevant team on the procurement process.
2. interim Principal Officers and Heads of Dept. will be undertaken with the guidance and support of Resourcing and Talent, making use of any national Framework Agreements where applicable.
3. self-employed consultants may be used either where this represents better value for money or where the requirement cannot be met from the above. However, CPCM and Resourcing and Talent must be consulted at the planning stage.

### Process

The first stage of any engagement is the approval of RT9 - Business Case by the relevant Principal Officer.

There are five reasons why an EPW may be engaged. You will be asked to detail the reason on the business case.

|  |  |
| --- | --- |
| Description on the Business Case  | Detail |
| Difficult to recruit | Roles which are essential to the delivery of services, where repeated attempts to recruit internally and externally have been unsuccessful |
| Short term covering internal skills / capacity challenges  | Roles where specifics skills are required for a short  period of time, which are not available internally |
| Must remain independent to CFRS | Roles which are hosted on behalf of another organisation or by their nature must be independent of CFRS |
| To be reviewed as part of Service Review | Roles which are filled temporarily by externally provided workers and will be reviewed as part of a planned service review |
| Invest-to-Save/Earn | Roles engaged on projects with the specific aim of delivering cost savings (or income generation) which exceeds the cost of the externally provided workers |

### IR35 Assessment

Once the RT9 - Business Case has been fully signed off, the “hirer”, i.e. Cumbria Fire and Rescue Service, **must** assess whether the IR35 Intermediaries Tax legislation applies to each and every engagement.

Failure to comply can result in large fines from HMRC. The outcome of this assessment then affects how the EPW’s tax and National Insurance contributions are collected and sent to HMRC.

Managers should contact Resourcing and Talent, whol will undertake the assessment using the HMRC tool, linked below. Further information and guidance on IR35 Assessments can be found at Appendix E – Completing IR35 Assessments.

<https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>

Whatever, the outcome of the assessment, the agency and the engaged individual must be informed about the IR status of the engagement by Resourcing and Talent completing and issuing the RT10 – IR35 Status determination statement.

Please note that individuals have the right to appeal the IR35 assessment decision. If they wish to do this then they should write to the HR Manager, People and Talent.

If the IR 35 legislation **does** apply then:-

* If engaged through an agency, then the agency collects the tax and NI
* If self-employed through their own personal service Ltd company then they send their invoice into payroll and the County Council collects and sends the tax and NI contributions and send them direct to HMRC. The rest of the invoice is then paid through accounts payable as before. We will need official notification from tax office about their tax code and their NI number.

If the legislation **does not** apply then:-

* It is the responsibility of the individual to pay their own tax and NI contributions

### Corporate Roles Grades 1 – 18

Before contacting Randstad, Managers will need to have:

* Completed RT9 - EPW Business Case, including Requirements of Role
* Post Specification/job description
* IR35 intermediaries’ tax assessment
* RT10 – IR35 Status determination statement

The recruiting manager should contact Randstad via the below contact details.

|  |  |  |
| --- | --- | --- |
| ROLES | PROVIDER | TELEPHONE |
| Clerical roles | Randstad  | 0191 233 1381 |
| Other roles | Randstad booking team | 01489560040 |

Under the contract regulations Randstad must be given a minimum of **48 hours** to send through appropriate candidates. If candidates are not suitable managers will have to give reasons why they are not suitable to Randstad so they can feedback to candidates.

If managers are approached directly by individuals looking for work they should be told that they should sign up with Randstad. They can then be included in the next appropriate candidate pool.

Randstad will undertake the VR/CR screening ensuring that no former employees of the Service who left on VR or CR within specified times are engaged.

Once the hiring manager has selected the preferred applicant they will need to advise Randstad, who will then liaise with the individual regarding start dates etc. Please note: a Randstad worker will not be released until a purchase order number is confirmed.

The individual’s NI number will also be required as it will be used as a unique identifier for the HR system and E-Procurement.

Where Randstad is the provider they will advise the hiring manager which e-procurement item code to choose from the catalogue (e.g. R500).

If a procurement process is not being followed and engagements are made “off contract”, the Service is vulnerable to challenge and/or fines and also increased costs. For example there have been instances of people signed up with two agencies – one third party provider contract and one “off Contract”. Because the individual was engaged through the “off contract” agency then it cost an additional £15k or 20%. If the person in appointed permanently there will also be a finders fee of £22k. This wouldn’t be payable through the contract agency.

### Interims (Corporate Grade 19 or specific specialist roles)

Hiring managers will need to ensure the agency checks that an individual has not left the Service under VR/CR. This can be done with the support of Human Resources.

If a manager then decides to approach non-contract organisations it is the **managers responsibility** to:-

1. Follow the correct procurement processes. Contact Resourcing if necessary.
2. Negotiate prices – in line with EPW contract amounts. The amount paid to the agency should not be more than permanent post holder’s salary plus 30%. Accommodation and home to Cumbria travel will not be paid. Normal business mileage will be paid at the CFRS rates.
3. Negotiate so that finders fees are not payable if a permanent contract is offered to the individual.
4. Send the contract with the agency to the relevant legal post so that it can be checked.
5. Link with Resourcing and Talent so they can complete all relevant Worker Checks. A start date **must** not be agreed without the Worker checks being confirmed as completed.
6. Ensure that a purchase order has been raised for the engagement.
7. Ensure the appropriate induction and training has been carried out.

The Resourcing and Talent team will undertake the below Workers Checks:

|  |
| --- |
| CV  |
| Has the candidate previously worked for CFRS?Did they take VR/CR?  |
| Has the candidate declared any criminal convictions |
| National Insurance Number |
| Proof of National Insurance Number – NI card or official document showing number |
| Proof of Eligibility to Work in the UK |
| Visa Type (if applicable) |
| Visa Expiry Date (if applicable) |
| Proof of Identity |
| Proof of Address |
| Copy of (verified) Qualification (if applicable) |
| Copy of Professional registration (if applicable) |
| Personal/ Business interests. Individual to read and sign the code of conduct. See below |
| Insurances documentation checked  |
| 2 references per candidate |
| DBS Check |
| IR35 – Intermediaries Tax Assessment |

The Resourcing and Talent team will issue an EPW Agreement.

### Principal Officers and Heads of Department

Resourcing and Talent will provide support and advice to this process.

### During the engagement of an EPW

Managers **must**:-

* induct the EPW into the workplace in the same way as an employee
* ensure the EPW completes the Information Security training (ideally this should be completed in advance of the person starting but must be done in the first week)
* ensure the EPW is made aware of key CFRS policies and procedures and arrangements for notifying managers when on holidays or off sick. Timesheets should not be authorised for payment when off sick or on holiday (the agency pays this).
* manage the day to day work of the EPW. Monitor performance and inform the provider of any issues.
* Check the EPW’s timesheets and send to the agency (for Randstad, this will be via Randstad Electronic System).
* E-proc will match invoices against a valid purchase order. Any anomalies will be highlighted to the manager for clarification / approval

Agency Worker Regulations provide statutory protection for agency workers which are similar in some respects to those applying to an employee. Randstad will monitor these elements and ensure appropriate application. For other engagements the manager is responsible for ensuring these provisions are applied.

The key elements applicable to CFRS are: -

* From day 1- they are entitled to see and apply for internally advertised roles.
* After 12 weeks with the Service they are entitled to : -
	+ Annual leave (this should be included in the hourly rate)
	+ Paid time off for ante-natal appointments
	+ car allowance (if applicable)
	+ sessional allowances (if applicable)

A breach of these Regulations could result in a significant fine.

### Timesheets and Invoices

The manager must authorise the workers timesheet and/or mileage on a weekly basis. Mileage must be in accordance with CFRS mileage policy including the deduction of home to work mileage.

For Randstad and their subsidiary organisations (i.e. Adecco) this will be done electronically and managers will be given instructions as to how to do this.

For other providers the manager must send the timesheet to the provider.

Randstad invoice the Service weekly. If this matches a valid Purchase order the invoice will be paid and show in Budget Manager.

### Termination of the engagement

During the engagement the manager should regularly review the need for the engagement. If circumstances change and the need for the engagement ceases prior to its official end, the manager should follow the termination process below. If an extension is required then the manager should obtain approval through the business case process.

They will then need to update the HR system and attach a new authorised business case.

If the engagement is to end then the manager must inform Resourcing and Talent, and the agency.

The Resourcing and Talent team will then make the necessary changes to the HR system and organise the closing of the purchase order, once the last invoice has been received.

**Note :** Where an agency worker is filling a role that can be undertaken by a Service employee whose role is at risk, the contract with the EPW worker must be terminated to allow the employee to take up the role.

# Appendix E – Completing IR35 Assessments

### Introduction

Whenever a manager engages a new Externally Provided Worker (EPW), either through an agency, self-employed or through their own limited company, then the Service **MUST** do an IR35 assessment.

The assessment determines how and when their tax and NI is deducted. If they are deemed to be inside the IR35 regulation then the agency that pays the individual, pays the correct tax and NI direct to HMRC in line with the tax paid by employees.This does not mean that they become an employee of the Service or accrue employment rights.

If they are outside the IR35 regulations, the individual pays their own company’s taxation and NI contributions direct to HMRC. The IR35 assessment process was changed to stop tax evasion.

Failure to do the assessment, or failure to answer the questions correctly and honestly can result in substantial fines for the Service for each EPW inaccurately assessed from HMRC. The EPW will also have to back pay the sums due for Tax and NI and may be penalised with an additional fine.

We would normally expect that any EPW covering a normal CFRS post will be classed as employed for tax purposes and IR35 will therefore apply.

**If the assessment states IR35 does not apply then please contact Resourcing and Talent for further guidance.**

### Questions for the IR35 Assessment

Prior to completing the IR35 assessment, you will need to ask the EPW some questions to aid you when completing the online assessment.

The Service should not accept an IR35 assessment completed by the EPW as accurate.

**Questions for the IR35 Assessment:**

* Is the person self-employed or a sole trader?
* Does the person have their own limited company?
* Are they being hired through an agency?
* Has the worker had a previous contract with CFRS?
* Will the work take up the majority of the worker’s available working time?
* Has the worker done any self-employed work of a similar nature for other clients in the last 12 months?
* Will the EPW need to provide any of their own equipment (Not laptops, tablets or phones) or materials (not stationary)? If yes, what exactly?
* Does the contract with us stop the worker doing similar work for other organisations?
* Is the worker required to ask for permission to work for other organisations?
* Are there any ownership rights relating to this contract? e.g. Media, arts, intellectual property rights, copyright, trademarks etc
* Will you accept a substitute?
* Are they an office holder?

### Completing the assessment

The link to the HMRC tool is below:

<https://www.tax.service.gov.uk/check-employment-status-for-tax/disclaimer>

The tool is basically an algorithm, so how you answer each question determines the next question.

Once the assessment has been completed, it will be saved by the Resourcing and Talent team. You need to add in details of who the assessment relates to. The service will need to advise both the EPW and any agency of the result, please see detail in Appendix D – Externally Provided Workers Further Guidance.

Please note a new assessment MUST be completed for each new engagement or extension to an engagement.

### Outcomes

If the result states:-

* **"Employed for tax purposes for this work” or**
* **“Off-Payroll working rules (IR35) apply"**

Then it means in both cases that IR35 applies and the tax and NI needs to be sent direct to the tax office by the Service or the agency before the payment is made to the individual.

If the result states:-

* **“Off-payroll working rules (IR35) cannot apply”** then you should restart the tool and choose the “If some work is classed as employment or self-employment for tax purposes” option.

If the result states:-

* **“Self employed for tax purposes for this work”**
* **“Off-payroll working rules (IR35) does not apply”**

This means that IR35 does not apply.

If this is the result, the EPW is responsible for paying their own tax and NI. The Service need to inform the EPW and the agency if necessary and make sure the assessment is retained should HMRC query the position.

If you have any queries, please contact Resourcing and Talent.