

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

Employment Conditions Committee: 26 January 2005

Report of the Chief Executive

CARDIFF CONSULTANCY AND AGENCY REGISTER (CCAR)

Background

1. The Council on the 20 January 2005 approved a report relating to major infrastructure projects which incorporated an Audit Commission report that recommended that a review of the use of consultants be undertaken. The Council Executive has also requested that a report is prepared which will lead to a 10% reduction on consultants.
2. The term consultant is widely used within the Council but it is necessary to define the term more accurately to reflect the work that consultants undertake and therefore the areas covered in this report. This report therefore defines consultants as management advisers, specialist advisers, technical and professional advisers, and external agency employees. These categories of consultants are engaged by the Council to offer independent views, specialist advice, technical advice and also capacity support where there are peak workloads, gaps in the council staffing establishment or the Council does not carry the specialist and/or technical skills. This report addresses a framework for these consultants that will enable a 10% reduction in costs to be achieved during 2005/06.
3. The Corporate Director and Chief Officer's management teams have discussed some areas that can be addressed to ensure that the Council can implement more cost effective arrangements for consultants. Senior Managers have agreed that the approach needs to address the key area of higher private sector rates for consultants and agency workers and that the Council would benefit from establishing its own consultancy and agency register through which rates could be established more in line with public service costs than private sector costs.

Cardiff Consultants Agency Register (CCAR)

4. Chief Officers have a high degree of discretion in the use of consultants and agency workers which has been the responsibility of line managers in service areas and both consultants and agency workers have been a traditional flexibility to the Council in fulfilling urgent and short term needs for staff. In the past without the use of consultants and agency workers on a regular basis to fill certain front-line posts, many services would struggle to remain operational but there are currently a number of emerging issues that need to be tackled notably the escalating cost of using consultants and the implications of emerging case law regarding the employment status of agency workers.

5. The cost of employing consultancy and agency workers under the current arrangements is a concern at a time when financial budgets for service areas are continually being squeezed. In addition, practices vary significantly across service areas in terms of how and when consultants and agency workers are engaged and, more importantly, for how long they are required to work. In view of the sums of money being spent on the engagement of consultants and agency workers the Procurement and Supplies Officer has been addressing a consultancy framework contract and a preferred list of employment agencies.
6. With regards to agency workers there is the added complication of the need to address employment status as a result of a recent employment law ruling. It appears that agency workers could now be able to argue that they have an implied contract of employment with client. The implications of this ruling are significant in that there are now potential legal challenges to the current approach to the use of agency workers. Whilst a risk assessment, in the light of this ruling, on the current use of agency workers is ongoing there is a need to restrict any future commitments and liabilities from possible employment claims in the future and therefore a need to establish more effective agency arrangements.
7. Given the cost issues relating to consultants and the uncertainty regarding the employment status of agency workers it is proposed that the Council establishes its own register for consultants and this could be achieved through utilising the existing Cardiff Works initiative as the basis. Cardiff Works has been recruiting, testing and placing temporary staff since September 2003 and to date more than 300 people have been offered temporary work opportunities with the Council and 125 people have been placed in full time employment. To ensure that this initiative becomes a fully fledged Consultancy and Agency Worker Register (CCAR) it is proposed that the function and all the existing resources are transferred to the Chief Human Resources Officer with effect from 1 April 2005. This would allow the Chief Human Resources Officer to make an immediate start in creating a CCAR and allow the arrangements to be fully integrated into mainstream workforce planning under the Supporting Business project that the Council is progressing.
8. The CCAR could thereby become in 2005/06 the first choice agency for the Council for consultants and agency workers. This proposal would need to ensure that under the Supporting Business Project there was an electronic agency database established and available to all service areas that would cover the employment and skills range required by the Council. The individuals listed on the agency would need to be pre-vetted by the Chief Human Resources Officer to ensure that they were capable of discharging their required roles, and there would need to be maximum flexibility offered in working arrangements including working from home on set tasks and projects and also working flexibly to allow for agreement on working hours and location. The pay rates offered to consultants and agency workers on this register would be based on Council pay rates and individuals would need to enter into temporary employment contracts with the Council that would address the status of agency workers.
9. To make this arrangement work effectively there would need to be a phased implementation of CCAR during 2005/06 and in the first instance CCAR would be the first choice provider of staff for manual, clerical and administrative jobs and extend its work into more senior staff as the project and the market permits. An immediate start could be made through requesting staff that leave the employment of the Council under voluntary severance to be included on the CCAR for project tasks and one-off tasks that they have direct knowledge and experience of.

10. The Chief Human Resources Officer will need to prepare a business plan and establish a project team to develop an agreed specification as to how CCAR will operate and be integrated fully into the Supporting Business Project. The Supporting Business project will be reprogrammed so that CCAR becomes its key priority when it addresses human resources and payroll systems from April 2005. This may delay the introduction of a new payroll system to April 2006, but it is considered that the CCAR takes priority in business case terms.
11. Whilst this development is on-going the Council will need to have the fall-back position of turning to a select list of private sector consultants and agency workers if CCAR could not supply the needs of service areas

CCAR - New Deal Opportunities

12. As part of this project the project team will integrate with the Government's Welfare to Work Strategy, the New Deal programme which aims to give different categories of unemployed people opportunities to study, train and gain work experience so that they have the skills that employers want and are able to secure employment. The Council has already held discussions with Job Centre plus and a formal commitment to support this initiative would allow it to be integrated into the CCAR development during 2005/06.

CCAR – Consultants Opportunities

13. There is an immediate opportunity to approach staff who have left the employment of the Council under early retirement/redundancy recently to be included in the CCAR. The pensions of members of Local Government Pension Scheme who take early retirement /severance and are subsequently re-employed in the public sector are subject to abatement under the pension regulations. A re-employed pensioner's pension is abated so that the pension plus salary in the new employment does not exceed the salary of the former employment. For this reason, relatively few people seek re-employment and if they do, it is on a part time basis so that the pension threshold is not exceeded. The use of consultants or engaging individuals through agencies for complex and specialist work/services can be costly and can lack the advantage of knowledge/understanding. Often the fees for such individuals are very high if the best or most suitable person is to be retained. Occasionally, it may be more cost effective and efficient to obtain key specialist skills and knowledge by engaging the former local government employees who have left the Council's employment on the grounds of retirement/redundancy/severance.
14. Such arrangements could be made by way of a temporary employment contract of a contract for services and would be limited by time or by project. Such limited arrangements could be cost effective to bridge limited shortfalls in specialist knowledge. Such individuals would be able to build on pre-existing knowledge and would maintain continuity whilst longer term arrangements for the delivery of the specialist/technical ability are determined. It would be necessary to ensure that individuals would not be engaged to undertake their previous job or responsibilities.

Conclusions

15. Establishing the CCAR as outlined in this report will provide a real platform to reposition the approach the Council takes to engaging consultants which will reduce the costs of consultants, and thereby retaining the savings in the service areas who will commission the work of the consultants through CCAR.

Legal Implications

16. In addition to the legal implications in the body of the report, regard must be had to the following. Equal opportunity implications which will mean that the pool of agency workers may not be restricted to former Council employees but open to all those persons who are suitably qualified whom wish to register. Appointment must be on suitable qualifications and merit. Regard must be had to the application, if any, of the European Procurement Rules. Such other rules and limitations that apply to local authority employees and their recruitment. For example, in the case of re-engagement of former Council employees who received a severance package and/or pension, the proper application of a business case for re-engagement must be openly and transparently made.
17. All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

18. The cost of implementing these arrangements will need to be contained within the budgetary framework established for the Council for 2005/06. The reprogramming of the Supporting Business project to give priority to developing the CCAR from 1 April 2005 may defer the implementation of the new payroll systems to 1 April 2006.
19. The CCAR will need to develop its business plan and the fees that are charged to service areas, with the objective of providing a consultancy and agency service that is less in overall cost terms, inclusive of CCAR costs, than any external provider.
20. Any such procurement arising must be undertaken in accordance with the Council's Contract Procedure Rules and where applicable the EU Procurement Regulations. Advice and guidance on such matters can be obtained from the Council's Procurement Officer.
21. The Budget for 2005/06 will include a target saving to be achieved from consultancy costs. Arrangements for recording consultancy and agency costs will be strengthened to enable savings to be identified and captured in order to accord with the budget and to finance the CCAR project.
22. Where there is a re-engagement of Council staff who received a severance package/or pension then a business case will be made on each occasion to ensure that there is a financial saving to the Council.

Human Resource Implications

23. These arrangements would provide an effective approach to address the human resources capacity requirements of the Council within a framework that would lead to more cost effective use of consultants.

Trade Union Comments

24. The Trade Unions have been consulted on the principles contained in this report and are supportive of the aim of reducing the costs of consultants and therefore support the report provided that the arrangements do not displace existing jobs. The Trade Unions expressed a wish to be consulted on the detailed proposals in due course.

RECOMMENDATIONS

It is recommended that the Employment Conditions Committee authorises the Chief Executive to implement:

- (1) The principles contained in this report regarding the establishment of a Cardiff Consultancy and Agency Register (CCAR)
- (2) The development of an approach to the implementation of CCAR that reflects a commitment to the New Deal initiative
- (3) A consultancy element in the CCAR that includes suitable former employees of the Council who have left the employment of the Council by reason of retirement/severance/redundancy who may be engaged to provide specialist services/advice to the Council.
- (4) A system that ensures that pay rates offered to individuals on the CCAR would be based on Council pay rates and individuals would need to enter into temporary employment contracts with the Council that would address pension arrangements and the employment status of the individuals.
- (5) A process whereby all individuals listed on the agency would need to be pre-vetted to ensure that they were capable of discharging their required roles, and offer maximum flexibility in working arrangements including working from home on set tasks and projects and also working flexibly regarding working hours and location.
- (6) Arrangements for the engagement of consultants/agency workers that are consistent with existing practices in relation to managing and authorising staffing requirements within service areas, achieved through appropriate delegation to the Assistant Chief Executive and Chief Human Resources Officer.

BYRON DAVIES
CHIEF EXECUTIVE

25 January 2005