

People, Performance and Development Committee
26 April 2018



Surrey County Council's Approach to Flexible Pay and Working Arrangements

Purpose of the report:

To outline Surrey County Council's flexibility to engage workers, the risks and costs of these approaches and how the council promotes its employment rewards and benefits.

Recommendations:

It is recommended that the People, Performance and Development Committee notes and comments on:

- i. the different types of working arrangements, models, costs and risks;
- ii. the promotion of Surrey rewards and benefits to staff and potential candidates; and
- iii. Surrey County Council's plans to develop a total rewards statement for all staff.

Introduction:

1. Within Surrey County Council (SCC) there is an ongoing challenge in the recruitment and retention of staff. Members asked what flexibility the Council has to engage workers to respond to these challenges with associated risks and costs.
2. The Council has a range of recruitment options which come with risks and costs, central to this are the legal tests on whether a worker qualifies as an employee.
3. Given the financial challenges, the Council has worked to develop a rewards statement for hard to recruit posts which outlines the benefits to staff and the total value of rewards to potential candidates. SCC has current and ongoing plans to further improve our benefits offer to staff.

The legal position

4. UK employers must meet legislative requirements when hiring staff or workers on different contracts. An individual can be determined to have employee status if they meet certain criteria which includes:
 - i. An obligation on an employer to provide work and a reciprocal obligation on individuals to accept work on a regular basis (mutuality of obligation).
 - ii. Providing a personal service i.e. the work offered is to be carried out by a named individual with no right to provide a substitute or to subcontract the work offered to another. For example, social workers provide a personal service to families.
 - iii. Consideration of control i.e. how much direction, management supervision in how, when and where the work is performed and the right to discipline for non-performance. It is a requirement for social workers to receive supervision and direction within their roles.
 - iv. Integration: the degree to which the work performed forms part of the employer's business including line management responsibilities, application of staffing policies and procedures. For example, Surrey County Council (SCC) policies and procedures apply to locum staff.
 - v. Exclusivity: the extent of any restriction to work elsewhere.
 - vi. Consideration of payment arrangements (i.e. are the staff on payroll-and paid a salary.)
5. The longer a work assignment the greater the level of control, personal service and integration can be inferred over time.
6. Other legislation also affects workers provided in other ways:
 - workers whose services are provided through contracts for services, 'contractors' are governed by procurement legislation which requires there should be fair access to providers for these contracts and tax legislation (applying same tax arrangements as employed staff if for the purposes of work the person is treated in the same way as a directly employed person);
 - workers provided through agencies are also governed by tax legislation and agency worker regulations which means after 12 weeks of engagement these workers acquire the same rights to leave, training and pay as directly employed staff. The agency selection is also governed by procurement legislation which

requires there should be fair access for providers to these contracts.

Employment arrangements

7. There are different employment arrangements available for managers to resource staff, workers or contractors. The table in Annex 1 outlines the nature of each contract type, what an individual's payment and benefits are including the deductions made and the current use within the Council.
8. These are:
 - i. Direct Employees
 - ii. Bank Employees
 - iii. Agency / Locum Workers
 - iv. Directly Engaged Locum Workers and in scope of IR35
 - v. Gig Workers
 - vi. Volunteers
 - vii. Contracts for Services
9. There are different options available for hiring more employees or workers on the different contract types. There are benefits as well as risks when considering each contract type which are outlined in **Annex 2** and summarised below:
 - i. **Increase the number of Gig Workers** - A key benefits of hiring gig workers is that work can be allocated based on peaks and troughs. There is also a potential to attract a larger pool of candidates due to a more flexible working arrangement and potentially offering higher pay. However, a significant risk is the employment status on workers' rights is changing and the longer a worker is engaged by an organisation and works on a regular basis the greater the risk of them acquiring employment similar to directly employed staff. Furthermore, for certain roles in the Council, building relationships between staff and their customers is important and this would be an important consideration before using gig workers.
 - ii. **Increase the number of directly engaged Locums** - Although the offer of a higher hourly rate could attract a larger pool of candidates, in the long term, locum workers also acquire more employment rights which adds to the overhead of using these staff. There could also be an impact on the morale of permanent staff if they are working alongside Locum Workers who are being paid at a higher rate.
 - iii. **Increase the number of bank staff** - Bank staff are valuable as work can be allocated based on peaks and troughs however, as they are not expected to accept every work request, managers

cannot rely on their availability. Furthermore, bank staff who work regular hours may claim to be part-time employees.

- iv. **Transfer work areas to an agency** - The advantage of transferring work to an agency is that the agency is accountable for its staff. However, there will be an increase in costs as well a potential lack of management oversight of the staff.

Our Current Benefits and Total Reward Package

10. The benefits offer within the Council has been successful, it was actively promoted through bulletins, the Council's intranet page and posters. Annex 3 outlines the savings which staff have had from the current package which includes lifestyle offers such as supermarket, cinema and shopping vouchers:
 - i. the total value of spend between January and December 2017 was £853,407;
 - ii. the total value of the discount within this period was £63,536;
 - iii. there have been 12,113 registered users since the benefits package was launch in May 2013 to December 2017;
 - iv. the total savings for staff using the childcare voucher scheme for this period has been £384,121; and
 - v. the total savings for staff using the cycle to work and cycle plus scheme for this period has been £16,163.
11. The current contract with the Council's benefits provider expires on 21 May 2018. As part of the framework agreement with Orbis, a re-tendering process has taken place with East Sussex and Brighton and Hove. The councils will be working together with the successful provider in May 2018 to launch a new benefits package for staff.
12. The new benefits package will continue to offer lifestyle discounts for staff. It will also include the provision of a bespoke online or paper based system which can be accessed by multiple users and have the ability to reward and recognise individual staff and teams for various levels of contribution. The new recognition system will be configured in discussion with senior managers and promoted as a way of encouraging team success and organisational behaviours with roll out during 2018-19; fulfilling a commitment made as part of the pay and reward review.
13. A total rewards statement has been developed to support the recruitment and retention of social workers (Annex 4). These examples show:
 - i. for a Children's Social Worker in 2016/17 earning £32, 839 then the total reward was £41,442; and
 - ii. for a Children's Senior Social Worker in 2016/17 earning £39, 270 and the total reward was £47,910.

14. As part of the staff benefits re-tender, the Council sought a provider to provide such a statement for all staff which could be combined with the current pension statement which is currently available for staff. Unfortunately, no suitable providers came forward and so SCC will seek to review and re-tender during 2018-19.

Conclusions:

15. There are a variety of employment contracts which are deployed according to business needs. There are considerations which need to be taken when hiring staff or workers on different contracts.

16. Improvements have been made on SCC’s benefits offer which supports the recruitment and attraction of candidates. There are plans in place to build on this offer which will be as a joint project with East Sussex and Brighton and Hove. The Council is also planning to develop a total rewards statement for all staff to support retention.

Financial and value for money implications

17. It is proposed that the cost to introduce a total rewards statement for all staff will be funded via the savings obtained through the salary sacrifice scheme.

Equalities and Diversity Implications

18. The plans to build on our benefits offer and to develop a total rewards statement for all staff is not expected to result in significant changes to the way in which the Council manages equality and diversity in the workplace.

Risk Management Implications

19. The plans to build on our benefits offer and to develop a total rewards statement for all staff is not expected to result in significant changes to the Council’s overall approach to risk management and should support with recruitment of candidates and retention of employees.

Next steps:

20. To provide the Committee with an update on the development of a total rewards statement for all staff.



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Annexes:

Annex 1 – Employment Contract Types

Annex 2 – Benefits and challenges of employing staff on different types of contract

Annex 3 – Benefits offer to Staff

Sources/background papers:

None