

**Forward Plan reference number:** FP/160/05/18

<b>Report title:</b> Future Resourcing Services to Deliver ECC's Workforce Strategy	
<b>Report to:</b> Cabinet	
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<b>Date:</b> 22 November 2018	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

### **Confidential Appendix**

**This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended.**

## **1 PURPOSE OF REPORT**

- 1.1 To seek agreement to bring Essex County Council's (ECC) permanent recruitment activity in-house, and to utilise framework agreement(s) to provide ECC with temporary recruitment solutions at the expiry of the current combined contract in September 2019, on an interim basis whilst a longer-term solution is fully explored.

## **2 RECOMMENDATIONS**

- 2.1 Agree to bring permanent recruitment and resourcing activity in-house
- 2.2 Agree the funding of £335,000 of one-off costs, including investment in technology solutions, relating to the in-house permanent recruitment service, from the Transformation Reserve to be spent and profiled in accordance with Table 7 contained in this document.
- 2.3 To note that budget transfers between portfolios will be required to centralise the budget for the in-house permanent recruitment team; this is required to realise the full year saving of £449,000 in the Medium Term Resource Strategy (MTRS) (£224,500 part year saving in 2019/20).
- 2.4 Agree to use an external OJEU compliant framework to provide temporary worker solutions for a maximum period of 3 years (2+1), whilst long-term options are explored. The total annual contract value is likely to be in the region of £17.5m
- 2.5 Authorise the Cabinet member for Customer and Corporate to award one or more call off contracts under framework agreements for temporary worker solutions upon consideration of a further report.

- 2.6 Authorise the Cabinet member for Customer and Corporate to award one or more call off contracts under framework agreements to provide talent attraction and selection services, to support the in-house permanent recruitment function upon consideration of a further report.

### **3 SUMMARY OF ISSUE**

- 3.1 Currently permanent and temporary recruitment activity (except for Executive level recruitment) is outsourced via a contract with Capita Resourcing.
- 3.2 Since outsourcing in 1999 the contract has been retendered three times. Capita has been the successful bidder each time.
- 3.3 The contract includes permanent recruitment activity, temporary worker recruitment and supply, and all necessary safeguarding/pre-employment check activities, e.g. Right to Work, references, Disclosure and Barring Service (DBS) checks, disqualification and medical checks etc.
- 3.4 The current contract for resourcing expires in September 2019. It has been extended once and cannot be extended further.
- 3.5 The contract value in the financial year of 2017/18 was £18.8m (£17.3m attributed to temporary worker supply and £1.5m for permanent recruitment).
- 3.6 Permanent recruitment and temporary worker volumes are as follows:

Table 1: Permanent Recruitment (number of permanent vacancies recruited)

Calendar Year	Volumes
2016	1316
2017	1501

Table 2: Temporary Worker Supply (average number of workers submitting a timesheet each week)

Calendar Year	Volumes
2016	647
2017	587

- 3.7 The increase in permanent recruitment activity in 2017 is largely attributed to ECC's Organisational Design process and an extensive senior officer recruitment campaign. Most recruitment activity was in the Social Care and Corporate & Customer Services functions.
- 3.8 The reduction in temporary workers in 2017 was largely due to changes in the tax position of temporary workers (IR35 intermediary's legislation that came into effect on 1 April 2017) and the non-replacement of interims and temps as a result of the organisation-wide restructuring programme.
- 3.9 The current service model is transactional and inflexible. It no longer meets ECC's needs.

3.10 Feedback from representative hiring managers across all functions and at all levels has been collected. Below is a summary of the key findings and where service users would like to see improvement:

- ensuring that service provision is proactive, flexible and able to adapt to meet the challenges of the future
- creating trusted relationships through co-location, where a deeper understanding of business need is gained and early interventions to build capability are put in place
- increased access to quality candidates and time to hire is perceived to be efficient
- continuous improvement that is proactively anticipated and implemented efficiently
- improvements to technology, specifically candidate and hiring manager experience
- establishing more flexible routes to secure resources at the right time; e.g. the use of resource banks and work-packaging through statement of works and use of output-based contracts.

3.11 The future requirement will need to align with ECC's future Workforce Strategy.

3.12 Early market engagement has been carried out to research delivery options to identify what is possible within the market.

3.13 Resourcing models used by other local authorities include:

- Recruitment Process Outsourcing (RPO) (whether self-tendered or via framework call-off) (ECC's current model)
- Separately tendered contracts temporary and permanent recruitment (whether self-tendered or via framework call-off)
- Permanent recruitment activity in-house
- Dynamic Purchasing Systems (DPS) for temporary workers
- Outsourcing of services to wholly or jointly owned company (for either temporary and permanent recruitment, or both)

3.14 At a high level, the new resourcing requirements have been identified as follows:

Table 3: Future Resourcing Requirement

Resourcing Requirement					
Overarching requirement for scalable, proactive, quality services that offer value for money					
<b>Value added resourcing</b>	Development of diverse talent pipelines	Resource Management/ internal moves	Strategic workforce planning	On-boarding & link to induction	Flexible services to districts/partner organisations
<b>Talent Attraction</b>	Digital selection tools, e.g. video screening	Talent pooling & passive market reach	Market insights, benchmarking and best fit approaches	Social media engagement	Market mapping and search
<b>Technology enablers</b>	ATS	Candidate application facility	Careers website/microsites	Website search optimisation & machine learning	Vendor management
<b>Service Provision</b>	Transactional recruitment & selection service	Pre-employment/ safeguarding checks	Work Packaging	Interim and agency recruitment – scalable provision	Access to compliant resource bank
Services underpinned by continuous improvement					

3.15 This approach will contribute to the step change required, moving away from transactional reactive recruitment activity towards strategic and tactical resourcing provision. It will also ensure that through continuous improvement ECC secures the very best talent available.

3.16 Overall, quality, flexible and value for money provision is the primary focus of the identified resourcing requirement.

### **Case for Identified Requirement Design**

3.17 To ensure delivery of best value, quality services that directly support ECC's strategic workforce plans; it is proposed to bring permanent recruitment activity in-house.

3.18 The advantages of this approach would be to have direct control of the quality of services provided, to respond swiftly to business change including service improvement and flexibility in the sourcing of candidates e.g. utilising supply chains to source candidates for hard to fill positions. The basic service offer would include the following operational activities:

- Advertise all permanent opportunities via Working for Essex / other job boards
- Proactively source for live/passive candidates
- Candidate shortlisting
- Creation and management of candidate Talent pools
- Facilitate the selection process
- Manage the job offer process
- Manage candidate onboarding process from offer to start date

3.19 This would be delivered by a team of up to 18 FTE covering recruitment and compliance activity for social care and non-social care roles.

3.20 Developing an in-house service would mean that we could adapt our service offer over time which would include:

- More focus on permanent talent management – e.g. creation of talent pipelines and internal and external resource pools; and delivery of workforce plan interventions
- Digital first approaches including development/simplification of careers website and application processes; as well as use of AI, machine learning and apps which achieve efficiencies and improve communications
- Improvements to support talent attraction strategies including brand awareness, employer value proposition, candidate experience and on-boarding etc.
- Ability to identify talent management opportunities and co-ordinate activity throughout the organisation, for example apprenticeship programmes across the Council rather than ad-hoc campaigns.

3.21 To ensure that ECC has a scalable value for money temporary worker supply service that anticipates and responds to future changes in demand it is proposed that ECC use an existing OJEU compliant framework. This approach will also allow ECC more time to develop its workforce plans, anticipate temporary worker demand and fully consider and evaluate potential long-term solutions..

### **Technology Requirements**

3.22 Regardless of the option selected, to enable improved quality of service, enhanced customer and candidate experience and develop efficiencies in the service, there will need to be significant improvement in the technology provision. The specific requirements are set out below.

#### *Enhancements of the careers website*

3.23 The current careers website is becoming outdated and will put ECC at a disadvantage compared to its competitors. The application process is unnecessarily complicated and so the overall candidate experience is poor. The careers website support and maintenance is currently delivered through the Capita contract and will need to be included in the setup and ongoing costs.

#### *Replacement Applicant Tracking System (ATS)*

3.24 Taleo Recruit is the core system that tracks progress of approved vacancies as well as supporting the application process. It is used by candidates, hiring managers and Capita. The feedback summarised above demonstrates that the limitations of Recruit are having an impact on sourcing candidates, hiring manager productivity and administrative resourcing.

3.25 The efficiencies found in bringing the permanent resourcing service in house are partly dependent on having a modern, fit for purpose application tracking system.

#### *Social Media Channels*

- 3.26 This is an area that could significantly improve candidate sourcing, creating our own social media channels and investing in an increased number of LinkedIn advertising slots that can be used by ECC worldwide.

*Talent Pool Software*

- 3.27 Capita currently offer as part of the current contract passive candidate searching and internal/external talent pooling using the software 'Avature'. ECC will need to continue to use Avature or an equivalent as a core part of the permanent recruitment offer, ensuring quicker response to source the right candidate.

*Other Technology Costs – Exit Plan*

- 3.28 ECC will need to secure the appropriate licences, for example the website URL, job board and video-screening software to ensure continuity of service.
- 3.29 The following tables contain the initial set up costs, the ongoing maintenance costs, and investment required in service delivery improvements to deliver in-house permanent recruitment services:

Table 4a: Estimated initial set- up costs

<b>Technology required to support in-house permanent service</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Technology procurement costs as part of exit plan including licences for Broadbean, Launchpad, Transfer of URL	£15,000	£0	£0
<b>Total costs</b>	<b>£15,000</b>	<b>£0</b>	<b>£0</b>

Table 4b: Estimated ongoing maintenance costs

<b>Technology required to support in-house permanent service</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Careers Website Support and Maintenance costs	£14,400	£14,400	£14,400
Talent Pool Software (Avature) Licences	£12,000	£12,000	£12,000
<b>Total costs</b>	<b>£26,400</b>	<b>£26,400</b>	<b>£26,400</b>

Table 4c: Estimated service investment costs

<b>Investment in technology to support permanent recruitment</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Enhance careers website	£100,000	£0	£0
Replacement of Applicant Tracking System (ATS)	£80,000	£40,000	£40,000
Social Media Channels Investment	£25,000	£25,000	£25,000
<b>Total investment</b>	<b>£205,000</b>	<b>£65,000</b>	<b>£65,000</b>

- 3.30 It is important to note that these items are required to ensure an improved and more efficient permanent resourcing operation. The forecast levels of savings from bringing the permanent recruitment services in house will not be realised unless the right technology is in place. Likewise, the improvement of service quality cannot be guaranteed to work unless the new team has the right tools at its disposal.

#### **TUPE Costs**

- 3.31 TUPE (Transfer of Undertakings - Protection of Employment Regulations) is likely to apply if the recommended option is agreed. Whilst this will have financial implications for the Council, these have been costed assuming the 'worst case' scenario. The potential benefit of TUPE is that critical knowledge and skills to deliver the service would be transferred to the ECC in-house function.

## **4 OPTIONS**

- 4.1 A range of options and combinations of service provision have been explored to ensure that ECC achieves value for money services which meet its future resourcing requirements for quality, flexible services.
- 4.2 To ensure ECC is able to adapt to any future requirements, the resource provision should be scalable and flexible in order to manage any significant resource variation(s).
- 4.3 The options identified are as follows:
- Option 1: Do nothing
  - Option 2: Procure all required recruitment services as a single contract either via ECC-run procurement or via a framework call-off contract
  - Option 3: Procure temporary and permanent services separately via ECC-run procurement or via a framework call-off contract
  - Option 4: Recommended. Take a two-phased approach to deliver the change required by bringing permanent recruitment activity in-house, to include investment in technology solutions; and procure temporary worker supply for up to three years via one or more existing frameworks/ call-off contract/s whilst a longer-term solution is fully explored.
- 4.4 Appendix 2 provides an overview of each option and the potential opportunities, risks and mitigations

#### **Option 1:**

- 4.5 The existing contract will expire in September 2019 and ECC would then have no provider for permanent and temporary resourcing. Resourcing is a key function within ECC and so this is not a viable option.

- 4.6 The lack of a corporate resourcing contract would result in hiring managers conducting significant procurement activity with a range of market providers to deliver ECC's resourcing requirements. A quality, value for money service provision is unlikely to be achieved in this way.

**Option 2:**

- 4.7 This option would see all recruitment services procured as a single contract either via an ECC-run procurement or via an ECC-run framework call-off contract
- 4.8 Whilst this option should result a shorter transition and implementation period, with potentially little change for hiring managers in the resourcing process it is not the recommended option because:
- ECC's long term requirements for permanent recruitment have already been identified. These requirements can be met if the service is brought in-house. In particular, an in-house provision will allow maximum flexibility for a service that can dynamically meet ECC's developing needs
  - Further time is required to determine the best delivery method for temporary recruitment.

**Option 3:**

- 4.9 Procure temporary and permanent services separately via long-term contracts either via an ECC-run procurement or via a framework call-off contract
- 4.10 This option would allow separate and tailored provision for each service and would result in the implementation of a long-term resourcing solution more quickly. However, it is not the recommended option because:
- ECC's long term requirements for permanent recruitment have already been identified. These requirements can be met if the service is brought in-house. In particular, an in-house provision will allow maximum flexibility for a service that can dynamically meet ECC's developing needs
  - Further time is required to determine the best delivery method for temporary recruitment.

**Option 4: Recommended**

- 4.11 Take a two-phased approach to deliver the change required by bringing permanent recruitment activity in-house, to include investment in technology solutions, and procuring temporary worker supply for up to three years via one or more existing framework contract/s whilst a longer-term solution is fully explored.



- ECC's long term requirements for permanent recruitment have already been identified. These requirements can be met if the service is brought in-house. In particular, an in-house provision will allow maximum flexibility for a service that can dynamically meet ECC's developing needs
- Further time is required to determine the best delivery method for temporary recruitment.

4.12 This is the recommended option because:

- ECC's long term requirements for permanent recruitment services have been identified and can be met if the service is brought in-house. In particular, an in-house provision will allow maximum flexibility for a service that can dynamically meet ECC's developing needs. The cost of providing this service in-house is less than the current contract.
- Accessing an existing OJEU compliant framework will achieve quicker access to market and value for money services comparable to the current contract. This will also allow further time to determine the long-term requirements for temporary worker supply and the best value delivery method to achieve this.

## **5 Next Steps**

- 5.1 Report to Cabinet by September 2020 to make recommendations on the long-term approach to delivering temporary recruitment services. This will also include assessment of the impact of the proposed change in temporary worker resourcing approach on technology and the wider organisation.
- 5.2 Recommendation report by September 2020 to the Cabinet member for Customer and Corporate in relation to award of call off contracts for temporary worker solutions
- 5.3 Recommendation report by September 2020 to the Cabinet member for Customer and Corporate in relation to award of call off contracts to provide talent attraction and selection services e.g. search, advertising and selection tools,

## **6 ISSUES FOR CONSIDERATION**

### **6.1 Financial implications**

The costs of permanent employee recruitment and temporary and interim workers are managed across all portfolio budgets; there is no central budget held for staff recruitment, all costs are met from existing local staff budgets. Services accrue under spends arising from vacant posts in order to fund permanent and temporary recruitment costs.

- 6.2 Total annual expenditure on the resourcing contract has reduced over the past three financial years (the costs of temporary workers and the recruitment of permanent employees are shown in brackets):
- £26.6m in 2015/16 (£25.3m / £1.3m)
  - £23.5m in 2016/17 (£22.3m / £1.2m)
  - £18.8m in 2017/18 (£17.3m / £1.5m).
- 6.3 The reduction in annual spend has been driven by changes in ECC's demand for temporary workers, there has not been any agency mark-up change by the current provider since 2015. The assumption in the MTRS is that headcount will continue to reduce due to savings required to deliver a sustainable budget.
- 6.4 The confidential appendix details the cost of the estimated agency mark-up for temporary worker supply; this covers workers sourced directly and via the supply chain.
- 6.5 The following table provides a functional breakdown of permanent recruitment costs and temporary worker spend in 2017/18:

Table 5: Expenditure on the resourcing contract for the financial year 2017/18

Function	Temporary Worker Supply Cost 2017/18		Average volume of temps at a point in time	Permanent Recruitment Cost 2017/18		Volume of permanent recruitment activity
Adult Social Care	£8.1m	46.8%	209	£0.3m	21.0%	328
Children & Families	£2.2m	12.5%	75	£0.3m	20.9%	372
Corporate & Customer	£2.0m	11.5%	65	£0.2m	15.6%	337
Corporate Development	£2.9m	16.9%	72	£0.1m	7.4%	144
Economy, Localities & Public Health	£0.3m	1.8%	33	£0.1m	6.7%	150
Education	£0.9m	5.2%	40	£0.1m	7.8%	145
Organisation Development & People	£0.5m	3.1%	60	£0.1m	2.8%	11
Infrastructure & Environment	£0.4m	2.2%	11	£0.3m	17.8%	43
<b>Total</b>	<b>£17.3m</b>		<b>564</b>	<b>£1.5m</b>		<b>1,530</b>
<b>Total permanent and temporary worker supply costs</b>						<b>£18.8m</b>

- 6.6 In addition to the £18.8m spend approximately £100,000 of further cost was incurred, the majority of which is attributed to additional advertising/media costs.

### **Costing of Options**

- 6.7 The costings for temporary worker supply have been based on current external, public sector resourcing framework pricing. The costings for all assumptions are based on current recruitment volumes (from 2017/18). It should be noted that ECC has not tested the market for prices of RPO contracts since the current contract was let in September 2015. More information is available in the confidential appendix to this report. It is not possible to obtain exact rates without a procurement process.

### **Option 1**

- 6.8 This is not a viable option and therefore no financial implications have been assessed.

### **Option 2**

- 6.9 Procure all required recruitment services (permanent recruitment and temporary worker supply) as a single contract either via ECC-run procurement or via a framework call-off contract.

#### *EC- run procurement:*

- It is not possible to provide an indicative cost for ECC to directly procure a service without undertaking a procurement exercise.

#### *Framework Agreements:*

- There are few public sector frameworks for permanent recruitment services. The indicative cost of the framework with the offer nearest to the services provided by the current contract is circa £2.8m per year (compared to £1.5m in 2017/18 for the current contract). However, it should be noted that the service level provided by the framework is greater than that specified in the current contract and therefore not directly comparable.
- The indicative cost of using frameworks for temporary worker supply ranges from £17.6m to £18.3m (a mean average across all role types of £17.8m); this is comparable with the current contract.
- Framework rates applied are shown in the confidential appendix.

The ongoing cost of Option 2 is estimated to be between £19.1m and £21.1m; this is more than the current contract when applying the same level of activity.

### **Option 3**

- 6.10 Procure temporary and permanent services separately via long-term contracts either via an ECC-run procurement or via a framework call-off contract.

- It is possible that splitting the current contract into two or more contracts would increase the price as a result of loss of economies of scale and increased management costs.
- The ongoing cost for Option 3 is likely to be the same as Option 2, between £19.1m and £21.1m and is therefore more than the current contract when applying the same level of activity.

#### **Option 4 Recommended**

- 6.11 Bring permanent recruitment activity in-house and procure temporary worker supply via one or more appropriate frameworks whilst a longer-term, best value solution is fully explored.

##### *Permanent Recruitment Activity*

- The cost of permanent recruitment activity in 2017/18 was £1.5m. The cost of bringing this service in house is estimated at £851,000 per annum:

Table 6: expected costs of in-house permanent recruitment service (delivery model based on current volumes):

<b>Expected costs</b>	<b>Recurrent £000</b>	<b>One-off £000</b>	<b>Total Yr1 £000</b>
Staffing requirements (as set out in paragraph 3.20)	760	160	<b>920</b>
Start up costs for team (equipment etc)	-	20	<b>20</b>
Technology requirements (as set out in tables 4a-c)	91	155	<b>246</b>
<b>Total</b>	<b>851</b>	<b>335</b>	<b>1,186</b>

- 6.12 There are currently 33 Capita staff working on the ECC contract. If TUPE applies to an in-house option all staff currently employed by the current provider to deliver the permanent recruitment element of the contract may transfer to ECC. The maximum estimated redundancy liability is £160,000. It is not expected that all staff (or necessarily any) would be made redundant; however the £160,000 has been used for the purpose of capturing the maximum potential TUPE cost risk. There will be one-off set up costs associated with office equipment for the team. The investment required in technology to support the service delivery for the in-house permanent recruitment service is set out in Tables 4a, 4b and 4c of this report.
- 6.13 It is proposed that the one-off and investment costs of £335,000 are met from the Transformation Reserve.
- 6.14 The £851,000 ongoing cost for establishing an in-house team for permanent recruitment activity, including the ongoing costs of technology investments, will require funding via transfers from existing budgets held within portfolios.

- 6.15 The average annual cost of permanent recruitment services for the financial years of 2015/16 to 2017/18 was £1.3m per year, therefore the anticipated costs of the in-house approach (£851,000) will enable the release of annual revenue savings in the region of £449,000 from September 2019 (a part year saving of £224,500 in 2019/20).

#### Temporary Worker Supply

- Based on the pricing of existing frameworks the comparative cost of procuring temporary workers ranges from £17.6m to £18.3m per year.

#### Overall cost- Permanent Recruitment Services and Temporary Worker Supply

- The total estimated ongoing annual cost for Option 4 would therefore equate to between £18.5m to £19.2m compared to £18.8m in 2017/18.

However, any spend within this area will be met from staff budgets across the organisation and budget management arrangements will oversee this heading as usual to ensure total staff spend does not exceed budget provision

- 6.16 It should be noted that there may be additional costs associated with system interfaces that cannot be calculated until we have greater clarity, through the procurement process, of what is required.

Table 7: Summary of all Options

Costs	2017/18 cost £000	Option 1 £000	Option 2 £000	Option 3 £000	Option 4 £000
Permanent Recruitment Solution	1,500	N/A	1,500 - 2,800	1,500 - 2,800	851
Temporary Recruitment Solution	17,300	N/A	17,600 - 18,300	17,600 - 18,300	17,600 - 18,300
<b>Estimated ongoing costs</b>	<b>18,800</b>	<b>N/A</b>	<b>19,100 - 21,100</b>	<b>19,100 - 21,100</b>	<b>18,500 - 19,200</b>
One-off staff-related costs		N/A	160	160	160
One-off start up costs		N/A	-	-	20
One-off technology costs: basic		N/A	-	-	15
One-off technology costs: investment		N/A	-	-	140
<b>Estimated one-off costs</b>		<b>N/A</b>	<b>160</b>	<b>160</b>	<b>335</b>
<b>Total estimated costs in Year 1</b>		<b>N/A</b>	<b>19,300 - 21,300</b>	<b>19,300 - 21,300</b>	<b>18,800 - 19,500</b>

Table 8: Estimated impact on MTRS for all options

Estimated Impact on MTRS	Average cost over last 3 years £000	Option 1 £000	Option 2 £000	Option 3 £000	Option 4 £000
Permanent Recruitment Solution annual cost / (cashable benefit)	1,300	N/A	200 to 1,500	200 to 1,500	(449)
		2019/20 £000	2020/21 £000	2021/22 £000	
Option 4 Cashable Benefit by financial year		(224.5)	(449)	(449)	

- 6.17 Although comparative costs have been calculated for temporary supply spend to demonstrate the possible cost implications of each option for appraisal purposes, there would be no negative impact on the Council's budget if agency rates increase or reduce. Services pay for temporary workers from budgeted vacancies as they arise therefore supply is already managed within the available funding envelope and this will not change. The impact of higher temporary worker rates would be reduced affordability resulting in fewer vacant roles being able to be covered. Conversely, should lower temporary worker rates be attained a greater number of vacant roles could afford to be covered across services.

## **6.18 Legal Implications**

- 6.19 ECC has a duty to secure best value in the delivery of its services. The duty is 'to make arrangements to secure continuous improvement in the way functions are exercised, having regard to a combination of economy, efficiency and effectiveness.'
- 6.20 If agreed, the recommendation to bring the permanent recruitment function back in-house would constitute a service provision change for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") as amended. TUPE would therefore apply to the in-house transfer. Where there is a potential transfer, there are legal duties to inform and consult with staff and their representatives. Employees transferring to ECC will also get access to the Local Government Pension Scheme and if they are transferred out of ECC in future then the Council would, under the current law be required to ensure that transferring employees have access to a broadly equivalent pension scheme.
- 6.21 Whilst ECC is bound to accept staff who qualify under the TUPE provisions, there is no guarantee that they will transfer – they may be offered alternative employment by their current employer or by someone else or they may simply resign rather than transferring. There is a possibility that this will lead to a skills gap. The same could be said for any new contractual arrangements for this service.
- 6.22 It is important to note that dismissal of any employee for a reason connected with the transfer is automatically unlawful unless it is carried out for an economic, technical or organisational reason entailing a change in the workforce. ECC would need to demonstrate this if an employee was dismissed as redundant and made a claim for unfair dismissal.
- 6.23 The estimated value of the temporary recruitment services is more than the EU threshold for Services of £181,302 which means that the Council must contract in a way which complies with the Public Contracts Regulations 2015. Use of one or more PCR 2015 compliant frameworks to call off contracts to fulfil the requirement will be in compliance with the PCR 2015. The call off procedure must comply with the rules laid down in the framework.

## **7 EQUALITY AND DIVERSITY IMPLICATIONS**

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **8 LIST OF APPENDICES**

Appendix 1: Confidential Appendix  
Appendix 2: Overview of Options  
Appendix 3: Equality Impact Assessment

## **9 LIST OF BACKGROUND PAPERS**

None.