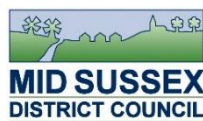


# Temporary Agency Staff DPS Service Managers Guide



Crawley Borough Council, Horsham District Council,  
Mid Sussex District Council and Mole Valley District Council

August 2021 – Version 1



## Introduction

A project team was developed in 2020 to review the use of temporary agency staff with the aim to obtain good quality staff whilst obtaining competitive rates and ensuring a fully compliant contract in line with the Councils' procurement codes / contract standing orders.

The procurement of the agency contract was undertaken through a joint partnership between Crawley Borough Council, Horsham, Mid Sussex and Mole Valley District Councils. Due to the diverse roles each authority require the contract was split into categories which are set out below. The Dynamic Purchasing System will be for the duration of 4 years from April 2021 to March 2025.

Any temporary staff contracts at the time the Dynamic Purchasing System was created will continue until that placement has ended.

Any new requirements as of June 2021 must be placed through the Council's Temporary Staff DPS contracts (hosted on the SE Shared Services Portal).

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## DPS Overview

### What is a Dynamic Purchasing System (DPS)?

A DPS is a procedure available for contracts for works, services and/or goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time.

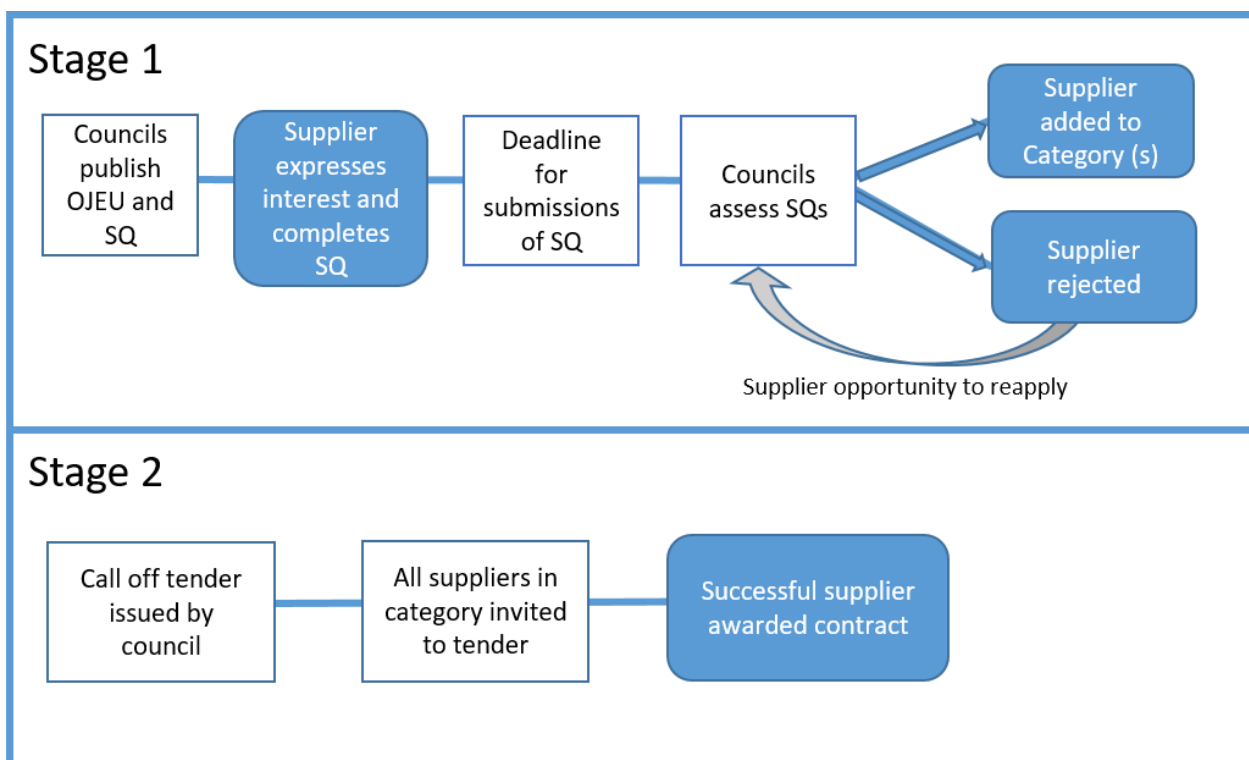
A DPS is a two-stage process. The first stage is the initial setup stage, all suppliers who meet the selection criteria and who are not excluded for any reason **must** be admitted to the DPS.

Suppliers can apply to join the DPS at any point during its lifetime. Individual 'Call-Off' contracts are awarded during the second stage. Each Council invites all suppliers within a specific category under the DPS to bid for a specific contract. Suppliers are not obliged to bid for every contract.

The first stage, the Standard Selection Questionnaire (SQ) stage, only requires suppliers to demonstrate their suitability, ability and capability to deliver the type of requirements for the applicable Service Category/Categories.

There is no requirement to submit any type of tender as part of the application for admission. The decision on the best value-for-money offering is decided at the Tender stage for each individual requirement, and all suppliers on the DPS Agreement must have the opportunity to bid.

The diagram below offers a simple illustration of how the DPS operates:



## About this Temporary Agency Staff DPS

The Shared Procurement Service undertakes an assessment of all the suppliers who have applied to join the DPS based on financial information, insurances and suitability to provide the staff in the categories that they have applied for.

Suppliers who are successful in securing a place on the DPS will be entered onto a Directory of 'Service Providers' where the Councils' Hiring Managers will access to source their local business requirements.

Individual Call-Off Contracts will be placed for each Hiring Manager's requirements for Temporary Agency Worker(s). Each Call-Off Contract placed under the DPS has no minimum/maximum call-off period and the duration is determined by the Hiring Manager.

Our DPS is hosted on our e-tendering portal, the SE Shared Services Portal.

## Categories under the DPS

Category	Description	Examples of types of roles included
<b>A</b>	<b>Business Support</b>	Corporate Support Officer; Corporate Support Assistant; Housing Assistant; Customer Service Representative; Customer Service Advisor; Planned Maintenance Administrator; Call Centre Advisor; Licensing Assistant; etc.
<b>B</b>	<b>Operational</b>	General Supervisor; Grounds Maintenance Operative; Grounds Maintenance Worker; Litter Picker; Street Cleansing Operative; etc.
<b>C</b>	<b>Drivers</b>	Loader; Street Sweeper; LGV Driver Class 1 & 2; Refuse & Recycling Loader; Street Cleansing Operative; Side Loader Operator; etc.
<b>D</b>	<b>Planning &amp; Development</b>	Compliance Officer; Development Manager; Planning Officer; Principal Planning Officer; Senior Compliance Officer; Senior Planning Officer; Team Leader: Planning; etc.
<b>E</b>	<b>Housing, Buildings &amp; Commercial Property</b>	Building Control Surveyor; Building Surveyor; Senior Building Surveyor; Housing Officer; Housing Options Officer; Responsive Repairs Surveyor; Scheme Manager; Asset Manager; Project Surveyor; etc.
<b>F</b>	<b>Finance, Revenues &amp; Benefits</b>	Accounts Payable Officer; Assessment Officer; Auditor; Benefits Assessor; Benefits Case Officer; Capital Accountant; Finance Business Partner; Accountant; Technical Accountant; etc.
<b>G</b>	<b>Legal, Democratic &amp; Elections</b>	Lawyer; Electoral Services Officer; Democratic Services Officer; Senior Solicitor; etc.
<b>H</b>	<b>Other professional staff</b>	Enforcement Officer; Parking Enforcement Officer; Parking Officer; Procurement Officer; Communications Officer; Policy Officer; etc.
<b>I</b>	<b>ICT</b>	2 <sup>nd</sup> Line Technical Support; Analyst; Developer; Helpdesk Technician; Infrastructure Analyst; etc.

## What is IR35 – Off Payroll Working?

The off payroll working rules (IR35) can apply if a worker/contractor/freelancer/consultant that you engage provides a service through either their own limited company or another type of intermediary to the council.

Examples of intermediary are:

- the worker/contractor's own personal service company or another personal service company
- a partnership
- an individual
- Recruitment/Consultant Agency
- Umbrella Companies

The purpose of the IR35 legislation is to ensure that all contractors/workers working in an organisation, in the same way as permanently hired staff would pay the same Tax and National Insurance contributions as an employee.

The council has to determine these figures and is liable for any discrepancies therefore any workers employed through the Temporary Agency Staff contract should be PAYE only (i.e. not IR35).

## How does IR35 affect me when I am engaging an individual or an intermediary?

If you use an individual (including Agency Staff) or intermediary to undertake a service within the council, you as a manager will be classed as the engager and will be responsible for determining if the off payroll working rules applies by completing the CEST tool (see link below), questionnaire and issuing the status determinations when required.

We strongly advise that no payment should be made until the Council Payroll team has received satisfactory evidence that Employment Status for Tax has been determined.

Please follow the IR35 Process flow and complete the [Check Employment Status for Tax \(CEST tool\)](#) and keep the outcome in your records.

If the engagement is through a recruitment agency/consultancy you will need to ensure the following:

- You have a record of all the individual engagements and the relevant agencies
- Ensure that you have a contract in place with the agency that states that PAYE will be operated
- We should not be employing Agency Staff who are not operating PAYE. Please contact the Payroll department for any queries regarding this.
- Keep a copy of any CEST results and Status determinations on file and send to Payroll department if requested.

# When should the CEST Tool & Questionnaire be carried out?

This should be carried out before the individual is engaged or carries out any work.

## When do the changes take place and what happens if I have already engaged an Agency, intermediary, individual or other company?

From 6 April 2021, a status determination statement will need to be completed and issued for any worker/ contractor etc that continues to provide a service past this date. If a service is due to expire before 5 April 2021 and there is due to be no continuation of service, then no further action will be required.

For payments made after 5 April 2021 a new [Check Employment Status for Tax \(C.E.S.T\)](#) will be required, once this has been received you will be required to complete and issue a status determination statement, a copy of the completed form should be kept on file. We strongly advise that payments should not be made until this process is complete.

## Temporary Agency Staff appointment process

### How to obtain a temporary agency worker

#### Step 1

Carry out IR35 check on CEST tool.

The Hiring Manager identifies a requirement for a temporary worker and identifies which Category the temporary worker/candidate falls under. They complete the **Agency Worker Request Form**.

We recommend that the following information be provided to the agencies when requesting a temporary worker:

- Name of organisation
- Name of hiring manager
- Service area
- Specialism/job title
- Description of role
- Wage rate including breakdown of total hourly rate
- Estimated start date and duration of assignment (eg. 9am to 5pm, Monday to Friday)
- Normal place of work
- Any travel required
- Essential skills, competences or qualifications
- Any DBS requirements (where required)
- Proof of driving licence (where required)
- Membership of a professional body (where required)
- Details of interviews (if required)
- Deadline for responses/CVs (please allow a reasonable time where possible)
- Number of CVs allowed from each agency (this must be the same for each agency)

## Step 2

You will need to email the **Agency Worker Request Form**, along with **the role profile/job description** and **Supplier Response Form** to all suppliers within the relevant Category (Lot). We recommend that you create one email and list all supplier emails addresses within the BCC section. This will mean that agencies cannot see other email addresses and adheres to GDPR rules.

## Step 3

The agencies will respond, completing the **Supplier Response Form (Appendix B)** and providing the CVs as requested – **please note**: that this will be dependent on their ability to fulfil the roles required and therefore some may not respond at all.

## Step 3

Once the CVs and supplier responses have come back it is up to the Hiring Manager to agree and confirm which Candidate, and therefore Agency, represents the best fit for the Council.

## Step 4

The Hiring Manager contacts the successful Agency / agencies and proceeds with the recruitment process as per the Council's procedures. Please note you might get requests for feedback from Agencies where their Candidates have not been successful.

# Roles and Responsibilities

## Hiring Managers' Responsibility

It is the responsibility of Hiring Managers to:

- Work within corporate DPS – this means approaching **all** agencies under the appropriate Lot.
- Complete the Agency Worker Request form.
- Ensure that the Agency is given clear information regarding how many CVs per Agency are to be submitted.
- Carry out interviews where deemed necessary.
- Ensure that any Temporary Agency Worker is provided with suitable induction, as agreed in consultation with the Agency.
- Provide the Temporary Agency Worker with any documentation required on commencement of the Assignment and any Council specific policies which are required for the role.
- Provide information on the use of Temporary Agency Workers as required for monitoring purposes.
- Keep the use of Temporary Agency Workers under regular review.
- Ensure the duration of the contract does not exceed 12 months.
- Arrange appropriate further checks which are not provided by the Agency under this Contract such as standard or enhanced DBS.
- Undertake IR35 checks



## General advice and information

### Who will pay the invoices?

Arrangements have been made with the relevant agencies so that hiring managers are able to pay invoices in the usual way through the council's FMS system.

### Who monitors the agency worker?

The recruiting manager has responsibility for the agency worker during the duration of the individual's employment. You will authorise timesheets. You are responsible for the performance of service delivery by the agency worker including an appropriate level of induction. As a minimum, all agency workers must be taken through the induction checklist.

### What if the booking is not working?

If you experience any difficulties with the agency worker you should in the first instance attempt to address those concerns with the worker and if they require escalation you should refer the issue to the Account Manager at the relevant agency.

### What if the agencies on the DPS aren't able to find anyone suitable for my needs?

All the agencies in each of the categories must be given the opportunity to source a candidate which meets your requirements however it is possible to add additional agencies throughout the duration of the DPS. Therefore you should contact the Procurement Team – [procurement@horsham.gov.uk](mailto:procurement@horsham.gov.uk) to request putting the agency on the DPS. Please note there is a standard turnaround of 10 working days however we will endeavour to do this as quickly as possible, please make early contact with us.

If you are not able to source staff through the DPS, please contact the Procurement Team – [procurement@horsham.gov.uk](mailto:procurement@horsham.gov.uk) so we can ensure that we can try to trade on more Council-favourable terms and conditions than general agency terms

### What if the Agency wants to charge more than the Introduction Fee stated in the Specification?

This is at the Hiring Manager's discretion however the agency caps have been applied on the basis that this should encompass the vast majority of hirings and therefore this should be the exception as opposed to the rule.

**The Key Points of the Specification are listed below** - full Specification can be found on the Intranet. (*hyperlink to the Specification on intranet*)

## Response Times

Under this DPS the following response times generally apply however there is flexibility for you to require different times (where reasonable) where required.

<b>Urgency of Assignment request:</b> Temporary Agency Worker required to commence an Assignment within:	<b>Type of worker</b>
<b>1 to 2 working days</b>	Emergency driver (Category C Drivers)
<b>2 to 3 working days</b>	General technical / operational / standard driver (Categories B and D)
<b>4 to 5 working days</b>	Technical and specialist roles (Categories D – I) Business support staff (Category A);
<b>Greater than 7 working days</b>	Specialist role with no comparable job description (Categories D – I)

## Employment Checks

The Agency must ensure that all vetting and compliance checks required by the Council are carried out prior to the placement of Temporary Agency Workers.

<b>Type of check required</b>	<b>Category A Business Support</b>	<b>Category B Operational</b>	<b>Category C Drivers</b>	<b>Categories D – I Specialist &amp; Technical Roles</b>
Employment history, together with a satisfactory explanation of any gaps of 4 weeks or more in employment	At least last 2 years (3 years min for Mole Valley DC)	At least last 2 years (3 years min for Mole Valley DC)	At least last 2 years (3 years min for Mole Valley DC)	Full history (3 years min for Mole Valley DC)
Provision of complete CV (not a synopsis)				Y
Documentary evidence of all relevant qualifications	Where applicable	Y	Y	Y
Proof of eligibility to work in the UK in accordance with the Asylum and Immigration Act.	Y	Y	Y	Y
Driving licence (for Crawley BC this shall also be accompanied with a DVLA check)	N	Dependent on job description	All candidates in this category	Dependent on job description
References – two employment references	Where agreed by the Hiring Manager	Where agreed by the Hiring Manager	Where agreed by the Hiring Manager	Where agreed by the Hiring Manager
Membership of a professional body	N	N	N	Dependent on job description

Safeguarding – DBS Check	Where required by the Council's Safeguarding policy	Where required by the Council's Safeguarding policy	Where required by the Council's Safeguarding policy	Where required by the Council's Safeguarding policy
Interview	Where agreed by the Hiring Manager	Where agreed by the Hiring Manager	Where agreed by the Hiring Manager	Where agreed by the Hiring Manager

## Fees, invoicing and payment requirements

### Payments for Temporary Agency Workers

For the purposes of this Contract, no Temporary Agency Workers shall be employed through Personal Service Companies or the like - they shall be employed directly by the Agency.

Therefore (because of 5.1.1) the councils believe that the rules around HMRC Off Payroll Working will therefore not apply to this Contract.

The Agency shall be responsible for the following for each Temporary Agency Worker that they employ under this Contract:

- (a) Payment of the actual cost of National Insurance contributions as required by law.
- (b) Meeting the obligations of Pension Auto Enrolment at the staging date/re-enrolment date as well as fully abiding by the rules of this process.
- (c) Providing the statutory leave entitlement under the Working Time Directive from the Temporary Agency Worker's first day of Assignment which shall be 28 days per annum (pro-rata) including any bank holidays and any paid breaks granted by the Council. This shall be calculated as 12.07% of pay.
- (d) Paying the Temporary Agency Worker in line with the grading for the equivalent established post, as per the Councils' job evaluations and pay schemes. Where there is a spinal column point grade range, they shall be paid at the lowest spinal column point in this range except where the market is unable to recruit to this post. This shall be for all standard hours.
- (e) Meeting the prescribed HMRC legislation or guidance in relation to sickness absence or maternity, paternity or shared parental leave pay (or further leave where approved and agreed by the Council).
- (f) Ensuring that the Temporary Agency Worker is paid for any breaks that they are entitled to under the Working Time Directive and not paid for any lunch breaks or rest periods or unpaid leave.

Temporary Agency Workers shall not be entitled to any additional benefits or perceived benefits such as flexi time, time off in lieu, essential car user allowance, paid car parking or any bonuses, unless communicated in writing by the Hiring Manager to the Agency.

Where there is a salary uplift (minimum NJC Local Government salary increase) for Council workers, the % uplift shall be applicable to Temporary Agency Workers.

**Use of the employee's own vehicle:** Where use of a car is stated by the Hiring Manager to be required as part of the service and journeys have been undertaken by the Temporary Agency Worker, the Agency shall pay appropriate mileage in line with the HMRC Approved scheme. Billing shall be at the agreed cost per mile and should not incorporate any mark up from the Agency.

Agreement to pay mileage allowance must be with the prior agreement of the Hiring Manager. Mileage allowance will not be paid for travel to and from the place of work. These rates may be adjusted by the councils during the Contract Period.

Temporary Agency Workers shall be required to complete a mileage claim form (determined by the Hiring Manager) which will be authorised by them and submitted on a monthly basis. A copy of this document shall be provided with the invoice.

The Agency shall be solely responsible for all arrangements associated with the reimbursement of all expenses.

## Agency Fees

Agencies should charge a fixed fee per hour per type of job for fulfilment of the Assignment. The charge covers all agency overheads associated with fulfilment of assignments for example, recruitment, processing, administration, staffing costs.

The charge may vary for different types of roles and pay rates.

## Introduction Fees

The councils shall pay the following maximum % rates where a worker is offered a fixed term or permanent contract from 0 – 12 weeks. The percentage charge is based on annualised salary.

Category	Description	Max % fee
<b>A</b>	<b>Business Support</b>	<b>15</b>
<b>B</b>	<b>Operational</b>	<b>10</b>
<b>C</b>	<b>Drivers</b>	<b>10</b>
<b>D</b>	<b>Planning &amp; Development</b>	<b>20</b>
<b>E</b>	<b>Housing, Buildings &amp; Commercial Property</b>	<b>20</b>
<b>F</b>	<b>Finance, Revenues &amp; Benefits</b>	<b>20</b>
<b>G</b>	<b>Legal, Democratic &amp; Elections</b>	<b>20</b>
<b>H</b>	<b>Other professional staff</b>	<b>20</b>
<b>I</b>	<b>ICT</b>	<b>20</b>

No such fee will apply where a Temporary Agency Worker leaves after working under this Contract for a total period of 12 weeks to take up a permanent position with the council.

No charge will apply where a Temporary Agency Worker applies for the permanent role that they are currently undertaking or another role at the council if it was advertised nationally unless it would be considered reasonable to do so in the case of a Temporary Agency Worker under Categories D to I . Agreement to pay such a charge would be subject to internal approval by the council.

The Agency shall make no charge to the council in the event that a Temporary Agency Worker:

- (a) fails to attend an Assignment at the reported time
- (b) rejects the Assignment or does not attend the Assignment
- (c) is found not to have the defined requirements for the role i.e. in terms of qualifications, eligibility to work, DBS check, etc.
- (d) is found not to have correct and valid credentials that would allow them to legally work unrestricted within the United Kingdom.

In any of the above circumstances the Agency shall offer the Hiring Manager the option of cancelling the booking or to use their best endeavours to find a suitable and timely replacement Temporary Agency Worker.

Rates above the % charges below may be increased subject to the Hiring Manager's approval and in exceptional circumstances.

## Invoices

Invoices are to be submitted in arrears on a weekly basis although the councils would be looking for the Agency to consider reductions / efficiencies throughout the life of the Contract. This may mean a reduction in the frequency of invoices received.

Payments will be made by BACS.

Invoices shall be supported by detailed information (preferably electronic) to include the following:

- Order reference number
- Job title
- Hours worked (regular hours, overtime hours including night shifts, double time hours and total hours)
- Total hourly/daily rate
- Hourly/daily pay rate to Temporary Agency Worker
- National Insurance contributions
- Working Time Regulations costs
- Pension Auto enrolment costs
- VAT
- Agency commission/fee
- Department and/or Section
- Cost code and Hiring Manager's name
- Name of individual Temporary Agency Worker reports to
- Date timesheet submitted and approved
- Any mileage claimed

All invoices are to be addressed to 'Accounts Payable'/'Payments' and submitted by email (wherever possible) to the following addresses:

<b>Council</b>	<b>Email address</b>
Crawley Borough Council	<a href="mailto:accounts.payable@ Crawley.gov.uk">accounts.payable@ Crawley.gov.uk</a>
Horsham District Council	<a href="mailto:accounts.payable@ Horsham.gov.uk">accounts.payable@ Horsham.gov.uk</a>
Mid Sussex District Council	<a href="mailto:payments@ Midsussex.gov.uk">payments@ Midsussex.gov.uk</a>
Mole Valley District Council	<a href="mailto:finance@ Molevalley.gov.uk">finance@ Molevalley.gov.uk</a>

Any invoices that are not correctly addressed or do not contain the requested information may not be paid on time.