



Human Resources

CASUAL, FIXED TERM AND AGENCY WORKERS POLICY



Policy and Procedure for Casual, Fixed-Term and Temporary Workers

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1 Introduction

The Council is committed to creating employment stability wherever possible; therefore, there are certain circumstances in which it is more appropriate to employ people on a temporary contract. This policy and procedure sets out when such contracts should be used in place of permanent contracts, and will ensure that such contracts are used only when it is both fair and justifiable to do so.

Such a need may arise when:

- there is a need for extra members of staff to work for a limited duration on a one-off task or project;
- extra members of staff are needed to cover seasonal peaks (so as to avoid the need for permanent staff to work excessive overtime);
- extra members of staff are needed on a temporary basis to cope with a surge in demand or in order to meet a client deadline;
- extra members of staff are needed to cover the absence of permanent staff, for example with regard to holiday, sickness absence or maternity leave;
- there is a need to prevent or eliminate an excessive backlog of work.
- The process to request extra members of staff will be initiated by the manager completing a staffing resources form which has to be fully ~~to be~~ authorised before contacting an agency or HR.

If engaging consultants, please refer to the guidance notes on the Council's intranet <https://intranet.surreyheathonline.gov.uk/council/contracts-and-procurement>. SHBC will need to check whether a Contractor falls within scope of IR35 which would result in their tax and National Insurance being processed through our payroll systems. In all circumstances HR should be aware of the possible appointment of a consultant or agency worker to ensure IR35 regulations are followed as determined by HMRC.



The below link is a guide and not a definitive ruling on whether the individual should be treated as an employee or self employed.

<https://surreyheath.box.com/s/h09rk15ahbwaqqorby0viny7yvac9gp4>

2 Definitions

2.1 Casual worker

A casual worker is a worker employed directly by the Council on an as and when basis. A casual worker is used for covering absence or supporting workload peaks, but not on a regular basis. There will be no mutual obligation for either the employer to provide work or for the worker to undertake the work. Work offered may be refused by the casual worker.

From 6 April 2020 workers are entitled to receive a written statement of terms and conditions of employment which must include information on certain terms of employment, including benefits to which the worker is entitled.

Casual workers are protected from unlawful discrimination under the [Equality Act 2010](#). Therefore, employers should deal thoroughly with grievances or complaints that they bring where there is a suggestion of discrimination or harassment.

2.2 Fixed-term worker

A fixed-term worker is a person with a limited-time contract of employment with the Council which is due to end:

- after a specific project or when a task is complete
- at a specific date
- after a specific event

Fixed-term workers are employees of the Council and are therefore entitled to terms and conditions of employment that are no less favourable than the terms and conditions of a comparable permanent employee unless there is an objective reason for offering different terms. Under the Fixed-term Employees (Prevention of Less Favourable Treatment)



Regulations 2002 (SI 2002/2034), a fixed-term contract is automatically converted by law into a contract of indefinite duration (i.e., a permanent contract) once the employee has completed four years continuous employment under it or renewals of it (unless an exception applies). A fixed Term Worker also attracts redundancy rights once they have completed 2 years service (this includes Local Government Continuous Service). Managers must be mindful of these when extending contracts.

2.3 Temporary or Agency worker

A temporary worker is someone who has a contract with a **Temporary Work Agency (TWA)** (an employment contract or a contract to perform work personally) but works temporarily for and under the direction and supervision of a hirer (**the Council**).

A worker employed for a limited duration for the Council not on a fixed term contract:

- work experience
- ~~sponsor schemes~~
- ~~apprentices~~
- agency workers

Temporary workers may be engaged in one of two ways, these being:

- directly by the Council
- through an approved Temporary Work Agency.

2.3.1 [The Agency Workers Directive \(Appendix 1\)](#) gives agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly, if and when they complete a qualifying period of 12 calendar weeks in the same job. It is not retrospective and for those agency workers already on assignment, the 12 week qualifying period will start from day one of employment at SHBC.

2.3.4 Temporary Agency

Workers must:



- Comply with all requests for the necessary pre-engagement and safeguarding checks.
- Provide evidence of professional qualifications where required by the role.
- Participate fully in induction and training and comply with Council Policies and Procedures.

2.3.5 The Temporary Worker agency will:

- Comply with all requests for the necessary pre-engagement and safeguarding checks. Additional safeguarding checks are required for agency workers working with vulnerable people.
- Provide evidence of professional qualifications where required by the role.
- Follow the procedure [outline in Appendix I referring to regarding Equal Treatment](#)
- Notify the agency worker, in writing, when there is a change of work or duties with the following:
 - notification that the role is a new one that is substantially different from the previous role;
 - a description of the new role; and
 - an explanation that the qualifying period will start again.

During a strike or industrial action, temporary worker agencies may not lawfully assign a temporary worker to the Council that is seeking to obtain temporary cover for the duties normally performed by an employee taking part in the strike or industrial action.

3 Scope



This guidance on casual, fixed-term and temporary workers applies to all hiring managers. This policy and procedure should be read in conjunction with the following policy and all other relevant policies will apply:

- [Employment Stability Policy](#)
- [Organisational Change Policy and Procedure](#)
- [Recruitment Policy](#)

4 Policy Statement

The Council will use casual, fixed-term and temporary workers only to provide additional resources and allow for flexibility on a short-term basis from time to time.

5 Facilities and relevant vacancies

A worker who believes that they have not been provided with equal access or is being treated less favourably in relation to collective facilities or relevant vacancies may make a written request to the Council for information about such access.

Within 28 days of receiving such a request, the Council will provide the worker in writing with:

- relevant information about access to collective facilities and/or access to vacancies; and
- reasons for the treatment of the worker in relation to access to collective facilities and/or access to vacancies.

6 Equality Assessment

This policy will apply to all Strategic Directors, Heads of Service, Line Managers, and workers at the Council.



7 Principle and Aims

This policy sets out when such temporary contracts should be used in place of permanent contracts and will ensure that such contracts are used only when it is both fair and justifiable to do so.

8 Policy and Procedure

8.1 Line Manager

The Line Manager must:

- ~~Complete a staffing resources form~~ ~~Consider the Employment Stability Policy and consult Human Resources~~ prior to any decision to engage a fixed-term, agency worker, ~~consultant~~ or casual worker to ensure existing employees are considered. [The Staffing Resources Form will ask and needs to include the following:](#)
- ~~Set out a written request and authorisation to the Strategic Director for additional resources to include:~~
 - the worker's intended start date;
 - approximate length of the assignment;
 - reason why additional resources are required;
 - appropriate rate of pay (based on current market conditions);
 - ~~job description and advert; and~~
 - details of any preferred agency worker if a choice of worker is offered by the agency.
- ~~Ensure that a Staffing Resource Form has been completed before any arrangements are made with agencies to ensure all necessary authorisations are received. The Staffing Resource Form can be found on the intranet using the following link and selecting 'Staffing Resources':~~



<https://intranet.surreyheathonline.gov.uk/hr/downloadable-forms-and-letters>.

- ~~• Not liaise directly with the agencies but should contact Human Resources with their approved temporary hiring request.~~
- Contact Human Resources with their approved fixed-term or casual worker hiring request.
- Consult with the Strategic Director or Head of Service and Human Resources in advance of any proposed extension to the contract.
- Ensure that all necessary criminal record checks are completed through Disclosure and Barring Service (DBS) and safeguarding checks are conducted for fixed-term workers, agency workers and casual workers where required for the role (i.e. working with vulnerable people).
- Ensure that a Declaration of Interest Form is completed and forwarded to Human Resources in all cases where the person is authorised to act on behalf of the Council.
- In line with Council policy the Corporate Management Team are authorised to grant extensions of agency workers in excess of 12 weeks.
- If the agency worker's assignment is extended a further Staffing Resource Form should be completed to prevent additional costs accruing https://surreyheath.formstack.com/forms/staffing_resources_request.
- Contact the appropriate temporary agency worker agency once the written request has been approved and forwarded to Human Resources.
- Notify the temporary agency if the temporary agency worker's work or duties have changed and this information must be passed to the temporary agency worker.



- Inform Human Resources, ICT and Facilities promptly of all leavers, to ensure all Council property, passes etc. are returned and IT access is terminated.

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8.2 **Strategic Director** ~~or Head of Service~~ /Head of Service

_____ The Strategic Director ~~or Head of Service must:~~ /Head of Service

- Approve all requests for fixed-term, temporary agency and casual workers prior to any contract commencing.
- In conjunction with Human Resources review and monitor the continued business need for fixed-term, agency workers and casual workers.

- ~~Ensure compliance with this process.~~

8.3 **Fixed-Term, Casual Workers and Agency Workers**

Fixed-term, casual workers and Agency Workers must:

- Comply with all requests for the necessary pre-engagement and safeguarding checks.
- Provide evidence of professional qualifications where required by the role.
- Participate fully in induction and training and comply with Council Policies and Procedures.

8.4 **Human Resources**



Human Resources will:

- Provide advice to line managers on all requests for Fixed-Term, Casual and temporary agency workers to ensure that internal processes have been followed and employees have been considered first.

- Upload the new starts details in Itrent.

- HR work with the agency worker, fixed term employee, casual worker and consultant to complete all the pre employment checks via Jot forms.

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- Ahead of the new starter's first day HR will provide a link to Warbler with all the information to help their onboarding process with a valuable insight into Surrey Heath Borough Council.

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- HR will prepare a Statement of Terms and conditions of Employment contract for Casual and Fixed Term employees.

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- HR will carry out an induction on their first day of employment, go through our Health and Safety within the building and tour of the office.

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