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E-mail:

DATE 19 December 2018

Your reference:

Our reference: IG 01189

Dear

## **FREEDOM OF INFORMATION ACT 2000 - DISCLOSURE**

The council has completed its search relating to your request for information about IR35, which we received on 12 December 2018.

The council does hold information within the definition of your request.

## **REQUEST**

Please can you:

1. Tell us if you are familiar with these reforms – yes or no?
2. send us a copy of your internal guidelines used for any internal guidance,
3. send us any policies you use surrounding the reforms.
4. send us any documents you use to explain your policies to agencies who supply workers to you.
5. Send us your internal guidance explaining how you assess the status for each contractor.

## **RESPONSE**

### **QUESTION 1. YES**

### **QUESTIONS 2-5.**

Please see attached our guidance on externally provided workforce and a letter to contractors that includes details of how we assess the status of each contractor.

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## Cumbria County Council

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If you are dissatisfied with the way the council has responded to your request you can request an Internal Review. If you would like to request a Review please contact the Information Governance Team using the details at the top of this letter.

Further information can be found on the council's website: <http://www.cumbria.gov.uk/council-democracy/accesstoinformation/internalreviewscomplaints.asp>

Yours sincerely

Anita

Anita Timperon  
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Corporate, Customer and Community Services

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T: 01228 221231

Via email

Date:  
Our reference: IR35

Dear

### **Intermediaries Legislation (IR35)**

As you may be aware the tax rules around agency workers and self-employed interims and consultants changed with effect from 6 April 2017; the responsibility for determining what type of worker an individual is for tax purposes has transferred to the 'end client', or Cumbria County Council.

To assist with this assessment process HMRC produced an online employment status questionnaire, which determines if a worker should be classed as an employee, or self-employed for tax purposes.

We have attached below a link to the HMRC website for your information.

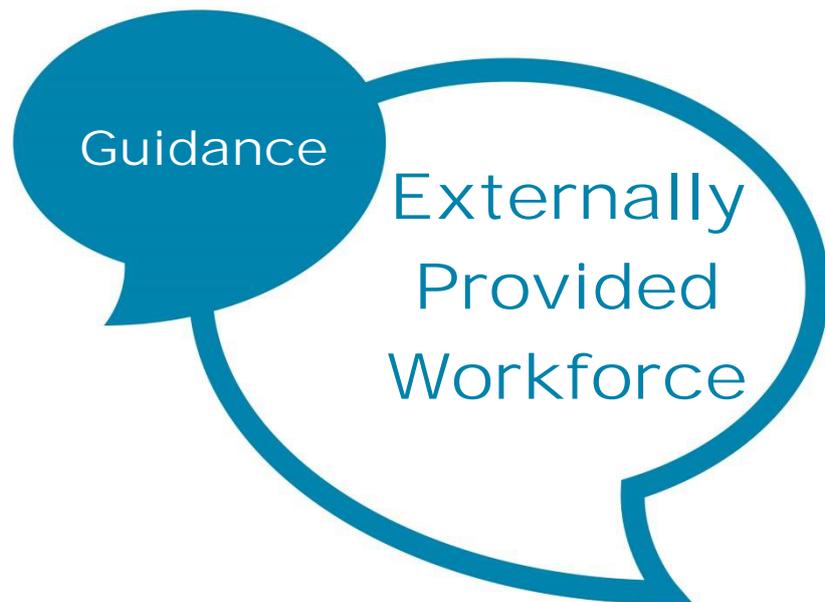
<https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>

Using this online tool the County Council have undertaken an assessment based upon the role and have determined that the IR35 regulations will apply to the engagement of \_\_\_\_\_ with the Council. You should make the required deductions for tax and NI and send them to HMRC on behalf of \_\_\_\_\_.

If you require any further information, regarding IR35, then please contact a colleague within People Management on 01228 221231.

Yours sincerely

Manager



## Introduction

1. The Council uses third party providers - employment agencies - to engage agency workers, interims, self-employed consultants or contractors (the 'Externally Provided Workforce', EPW). This document provides interim guidance for managers on how to engage these individuals in line with procurement and employment legislation and the Council's rules and procedures.
2. In the period to 2017/18 the Council will be making significant reductions to its workforce. In these circumstances the use of EPW can be a useful tool to cover short term requirements. However, the Council is under a legal duty to ensure that it does not put its permanent employees at risk of redundancy and this makes the careful use of external resource even more important.

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## When and How to use 'External Workers'

3. The use of EPW can only be considered once other resourcing options have been eliminated - see the HR guide "Resourcing Options for Managers". When it is proposed that an EPW be engaged the business case must be a clearly defined reason for this (e.g. requirement for a specific project or scarce skill set, as unavoidable cover for sickness).
4. The type of EPW to be engaged will depend on the nature of the assignment or the cover required – advice on the most suitable can be obtained from the People Management Service (see Appendix 1 for definitions). The proposed duration of the engagement must be for as short a period as possible and must be kept under review.
5. The costs of EPW staff are usually more than those for directly comparable employees. However, they can provide a pragmatic solution for filling a time-limited, resource/skill gap. Managers must make themselves aware of the likely costs and these must be set out in the business case – where the costs are not clear, the assumed costs and the period to which they apply must be clear in the business case. Accommodation and home to work travel costs will **not** be paid. Any travel undertaken in the course of their duties will be paid in accordance with the Council travel and subsistence scheme and rates
6. In the current period of downsizing and cost reduction all EPW requests must be discussed and challenged at the appropriate DMT. The Corporate Director and Assistant Director must then approve all requests. Please note frontline Traded Services (i.e. cooks and teaching assistants and frontline Cumbria Care (i.e. cooks, domestics, support workers) are exempt from this procedure due to the high turnover of individuals covering each engagement.

## Sourcing EPW

7. EPW sourcing must be undertaken in compliance with the Council's procurement processes. The Council has a contract with Randstad who are the primary provider of EPW and they must be utilised for all EPW other than in the circumstances set out below : -
  - a) for interims\* (grade 19 and above or specialist professional role) Professional Procurement Frameworks will be used i.e. NEPRO. These organisations provide specialist senior managers posts. Further advice should be sought from Commissioning Procurement & Contract Management team (CPCM) on the procurement process. See appendix 6 for managers responsibilities.
  - b) interim\* Corporate Directors and Assistant Directors will be undertaken with the support of People Management making use of any national Framework Agreements where applicable.
  - c) self-employed consultants\* may be used either where this represents better value for money or where the requirement cannot be met from the above. However, CPCM and People Management must be consulted at the planning stage.

\* Definitions are at Appendix 1.

## Process

8. The Process Map for engagement of EPW is set out at Appendix 3

## Business Case Approval

9. The first stage of any engagement is the approval of the Business Case (see Appendix 2) by the relevant DMT and the Corporate Director.
10. There are four reasons why an EPW may be engaged. You will be asked to detail the reason on the business case.

	Description on the business case and Service Centre Portal	Detail
1	Difficult to recruit	Roles which are essential to the delivery of CCC services, where repeated attempts to recruit internally and externally have been unsuccessful
2	Short term covering internal skills / capacity / change agenda	Roles where specific skills are required for a short period of time, which are not available internally, in the main to deliver organisation change
3	Must remain independent to CCC	Roles which either by their nature or because they are hosted on behalf of another organisation must be independent of CCC
4	To be reviewed as part of Service Review	Roles which are filled temporarily by externally provided workers and will be reviewed as part of a planned service review

## Engaging the EPW

11. Once the Business Case has been fully signed off the following is the process to be followed : -

### All grades

It is now the “end users” i.e. the County Council’s responsibility to assess whether the IR35 Intermediaries Tax legislation applies to each and every engagement. Failure to comply can result in large fines from HMRC. The outcome of this assessment then affects how the EPW’s tax and National Insurance contributions are collected and sent to HMRC.

Managers should undertake the assessment using the HMRC tool

<https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>

Whatever the outcome of the assessment, the agency and the engaged individual must be informed about the IR status of the engagement.

If the IR 35 legislation **does** apply then:-

- If engaged through an agency, then the agency collects the tax and NI
- If self-employed through their own personal service Ltd company then they send their invoice into payroll and the County Council collects and sends the tax and NI contributions and send them direct to HMRC. The rest of the

invoice is then paid through accounts payable as before. We will need official notification from tax office about their tax code and their NI number.

If the legislation **does not** apply then:-

- It is the responsibility of the individual to pay their own tax and NI contributions

#### **a) Grades 1-18**

The engaging manager contacts the providers on:-

ROLES	PROVIDER	TELEPHONE
Social Care roles	Randstad Care	0191 233 1381
Clerical roles	Randstad	0191 233 1381
Other roles	Randstad booking team	01489560040

Please complete the “Requirements of the role” part of the business case including the IR35 intermediaries’ tax assessment.

As well as completing all the checks details in appendix 6, they will also undertake the VR/CR screening ensuring that no former employees of the council who left on VR or CR within specified times are engaged. Randstad or the selected agency will provide the hiring manager with CV’s of applicants who meet their criteria.

Once the hiring manager has selected the preferred applicant they will need to advise the agency. The agency will then liaise with the individual regarding start dates etc. Please note a Randstad worker will not be released until a purchase order number is confirmed via the Service Centre.

The individual’s NI number will also be required as it will be used as a unique identifier for iTrent and E-Procurement.

Where Randstad is the provider they will advise the hiring manager which e-procurement item code to choose from the catalogue (e.g. R500).

Where a procurement process is not being followed and engagements made “off contract” the Council is vulnerable to challenge and/or fines and also increased costs. For example there have been instances of people signed up with two agencies – one part of the Council’s third party provider contract and one “off Contract”. Because the individual was engaged through the “off contract” agency then it cost an additional £15k or 20%. If the person in appointed permanently there will also be a finders fee of £22k. This wouldn’t be payable through the contract agency.

#### **b) Interims (grade 19 or specific specialist roles)**

Contact: The Procurement & Contract Management Team Tel: 01228 221742 for further advice. The agencies will require the information as detailed above.

Hiring managers will need to ensure the agency checks that an individual has not left the County Council under VR/CR. **See appendix 6** for managers responsibilities when they are not using the Council’s EPW provider.

## c) Corporate Directors and Assistant Directors

People Management will provide support and advice to this process.

12. The hiring manager must complete an Externally Provided Worker ticket on the Service Centre portal. Either click on the appropriate link below or follow the instructions in appendix 5. The nominal code for all third party providers will be **17610**, this will be required for budget purposes on E-procurement.

To input the information onto the Service Centre Portal please

- Click on the link below for those engaged with a third party provider:-

<https://servicecentre.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wa/TicketActions/new?rt=227>

- Click on the link below for those who are self – employed consultants:-

<https://servicecentre.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wa/TicketActions/new?rt=230>

13. The Service Centre will then raise a purchase order on E-Procurement.
14. If the requisition for the work undertaken is less than £100,000 an order will be sent direct to the agency. If the requisition is over £100,000 it will be passed to the engaging manager for authorisation before being sent to the agency.
15. On the rare occasion where engagement is on a self-employed basis a contract for services will be issued by the Service Centre. The nominal code for self-employed consultants is **32826**. Managers will also need to check that the self-employed person has the correct insurances – see Appendix 4.

- Click on the link below to go to the portal:-

<https://servicecentre.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wa/TicketActions/new?rt=230>

### During the engagement

#### 16. Managers **must**:-

- induct the EPW into the workplace using the induction toolkit in the same way as an employee
- ensure the EPW completes the Information Security training (ideally this should be completed in advance of the person starting but must be done in the first week)
- ensure the EPW is made aware of key CCC policies and procedures and arrangements for notify managers when on holidays or off sick. Timesheets should not be authorised for payment when off sick or on holiday (the agency pays this).
- manage the day to day work of the EPW. Monitor performance and inform the provider of any issues.
- Check the EPW's timesheets and send to the agency (Randstad Electronic System)
- E-proc will match invoices against a valid purchase order. Any anomalies will be highlighted to the manager for clarification / approval

17. Agency Worker Regulations provide statutory protection for agency workers which are similar in some respects to those applying to an employee. Randstad will monitor these elements and ensure appropriate application. For other engagements the manager is responsible for ensuring these provisions are applied.

The key elements applicable to the Council are: -

- From day 1- they are entitled to see and apply for internally advertised roles.
- After 12 weeks with the Council they are entitled to : -
  - Annual leave (this should be included in the hourly rate)
  - Paid time off for ante-natal appointments
  - car allowance (if applicable)
  - sessional allowances (if applicable)

18. A breach of these Regulations could lead to a fine of £5,000.

### **Timesheets and Invoices**

19. The manager must authorise the workers timesheet and/or mileage on a weekly basis. Mileage must be in accordance with CCC mileage policy including the deduction of home to work mileage.

- For Randstad and their subsidiary organisations (i.e. Adecco) this will be done electronically and managers will be given instructions as to how to do this
- For other providers the manager must send the timesheet to the provider.

20. Randstad invoice the Council weekly. If this matches a valid Purchase order the invoice will be paid and show in Budget Manager.

### **Termination of the engagement**

21. During the engagement the manager should regularly review the need for the engagement. If circumstances change and the need for the engagement ceases prior to its official end, the manager should follow the termination process below. If an extension is required then the manager should obtain approval through the business case process.

They will then need to update iTrent by notifying the service centre through the portal attaching a new authorised business case

- Click on the link below if the engagement is to be extended:-

<https://servicecentre.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wa/TicketActions/new?rt=233>

- Click on the link below if there are any other changes to the engagement:-

<https://servicecentre.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wa/TicketActions/new?rt=232>

22. If the engagement is to end then the manager must :-

- complete an external workers termination form on the Service Centre Portal by clicking on the link below:-

<https://servicecentre.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wa/TicketActions/new?rt=234>

- inform the agency.

The Service Centre will then make the necessary changes to iTrent and close the purchase order once the last invoice has been received.

**Note :** Where an agency worker is filling a role that can be undertaken by a Council employee whose role is at risk, the contract with the EPW worker must be terminated to allow the employee to take up the role.

Version Control	Changes Made	Author
Version 7.0 April 2017	Updated with IR35 Intermediaries tax legislation information	Kate Yardley

## Externally Provided Workforce (Agency Workers / Interims, Consultants) - Definitions

The following definitions are provided in order to assist in the engaging of individuals on an Agency / Interim or self-employed basis.

Description	Use when	Timeframe	Provider
<p><b>3<sup>rd</sup> Party Engagement</b></p> <p><i>“A worker supplied by a 3<sup>rd</sup> party temporary work agency where existing in-house resources are not available”</i></p> <p>This will include Agency Workers and Interims (including IT “Contractors”) where sourced and engaged through 3<sup>rd</sup> Party Provider with payment being paid to that provider (not the individual).</p> <p>Individuals will have no employment status with CCC (but may have employment status with agency).</p> <p>They will be protected by Agency Worker Regulations 2010 (pay parity etc).</p>	<p>An <b>Interim</b> worker is generally</p> <ul style="list-style-type: none"> <li>engaged where senior managerial expertise (usually Grade 19 or above) or specialist professional / technical (eg IT, Systems implementation) experience is required;</li> <li>on a short to medium term basis, and</li> <li>which cannot be resourced in-house.</li> <li>They are normally used to deliver a strategic piece of work eg major change programme, or</li> <li>to cover a senior / specialist role pending recruitment / restructure.</li> </ul>	<p>Likely to be at least 3 months and usually full time.</p> <p>Must be reviewed on a regular basis.</p>	<p><b>Randstad</b> (CCC Managed Service Provider)</p> <p><b>Nominal code</b> <b>17610</b></p>
	<p><b>In general terms, an Agency Worker may be engaged where</b></p> <ul style="list-style-type: none"> <li>there is a temporary or ad hoc need for staff at a less senior level (Grades 1-18)</li> <li>for short-term, clearly defined work for a limited period, eg to cover unexpected short term absence, seasonal variations</li> <li>or a temporary influx of work (eg a preplanned event) or while determining the level of long-term / permanent need</li> </ul>	<p>Short-term.</p> <p>Must be reviewed on a regular basis.</p>	
<p><b>Self Employed Consultant</b></p> <p><i>“A provider of professional specialist knowledge, skill or service, invoicing us directly for services”</i></p> <p>They will have experience of technical methodologies and will normally advise rather than deliver. They will be unlikely to be in a line management role.</p> <p>They will work on their own account, providing their own insurance and services (see Appendix 4).</p>	<ul style="list-style-type: none"> <li>Highly specific expertise is not available in-house or where an external analysis, objective advice and / or professional assistance is required.</li> <li>It is a discrete project with a measureable or defined outcome</li> <li>Day to day presence is not required</li> <li>Where new ideas or the latest thinking is needed</li> <li>A critical project needs to be fast tracked</li> </ul>	<p>Project is defined by key outputs.</p> <p>Must be reviewed on a regular basis.</p>	<p>Contract <b>for</b> services.</p> <p>Self-employed (HMRC rules)</p> <p><b>Nominal code</b> <b>32826</b></p>

Description	Use when	Timeframe	Provider
Will be outcome based with a clear timeframe.			

## Appendix 2

### Business Case Template



All Requests		
Directorate		
Post		
Position Number		
Recruiting / Line Manager	Name	
	Role	

\*Please delete      \*\*Please tick as necessary

Post Details						
Please specify reason for vacant post	Left CCC	**	Transfer	**	Secondment	**
Service Area		Unit				
Location		Hours per week				
Request to engage through third party provider / extend current arrangements						
Is the engagement ?	New		Extension			
State agency i.e. Randstad (or other approved third party provider)			End date of engagement			

Business Case – complete in all cases
<p>What resourcing alternatives have been considered other than filling the post?  <i>The following must have been considered and reasons must be given for discounting them</i></p> <ul style="list-style-type: none"> <li>• Can the role be undertaken in a different way?</li> <li>• Can tasks / responsibilities be re-allocated within the team or elsewhere (including with partners)?</li> <li>• Do the skills required already exist within the team or can they be developed?</li> <li>• Can the role be undertaken on less hours?</li> </ul>
<p>Approval will only be granted for posts that are deemed as essential.                      Please provide:-</p> <ul style="list-style-type: none"> <li>• supporting arguments</li> <li>• the consequences if approval is not given</li> </ul>

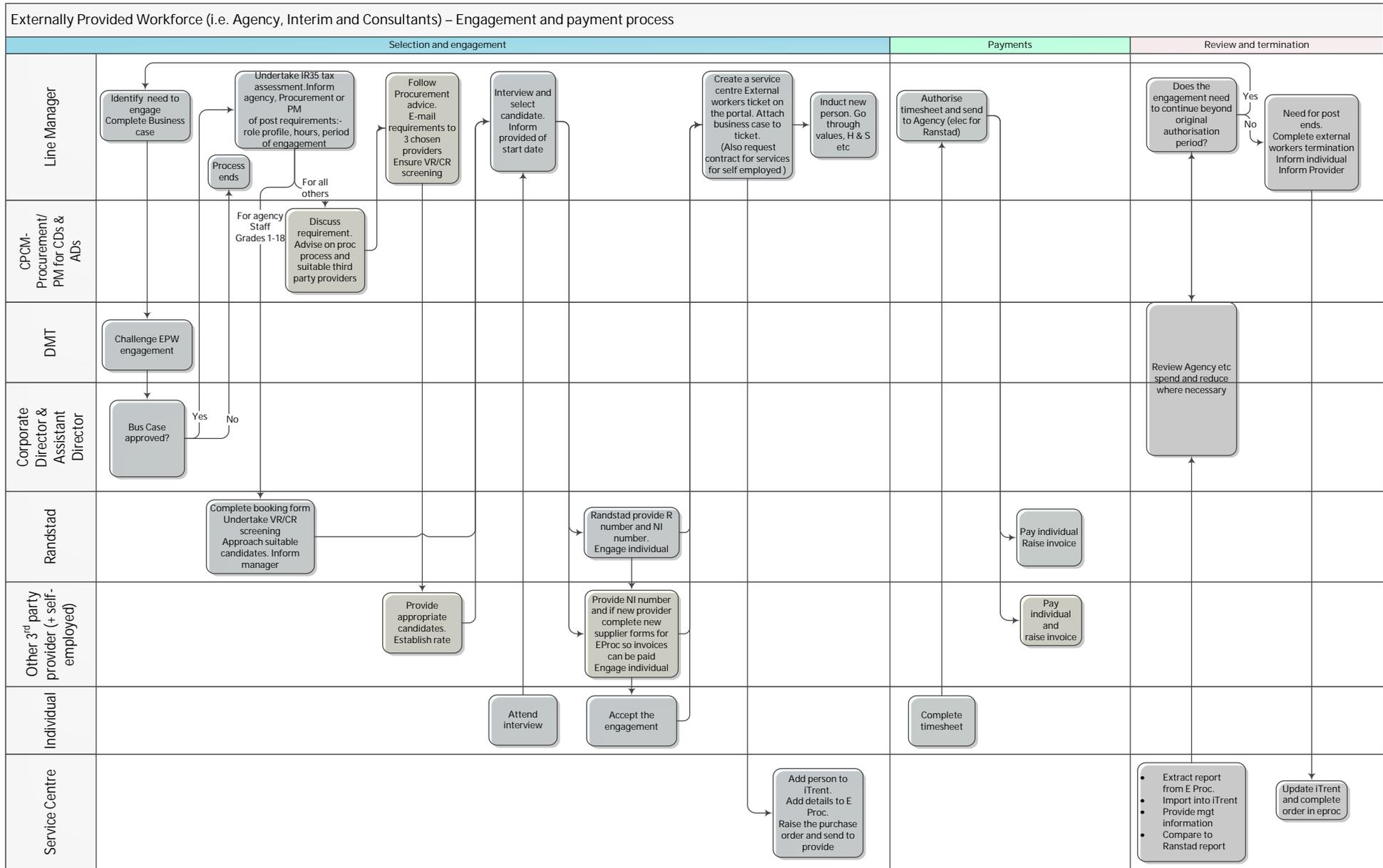
For all EPW engagements please provide details of the role:-			
<ul style="list-style-type: none"> <li>• Details of the work to be carried out;</li> <li>• Reporting procedure</li> <li>• Any milestones for completion of particular projects; and</li> <li>• Whether the services will need to be provided to any other bodies</li> </ul>		Please note: for self-employed consultants this will also be used in the "contract for service".	
<b>Funding</b>			
Grant or external funding	Organisation where the funding is coming from		
	How much will be provided?		
	How long does the funding last? (state end date)		
Mainstream County Council Budget	Budget line cost centre		
	Budget holder's name		
	Total cost of post, salary and on-costs, start-up etc		£
<b>Internal provision – Complete for all EPW's</b>			
EPW reason - please tick one of the reasons below:- *Please see guidance for further definitions		For EPW's please provide the cost comparison of a directly recruited permanent employee:-	
1. Difficult to recruit posts		Post	
2. Short term covering internal skills/ capacity/ change agenda		PG number	
3. Must remain independent of the County Council		Grade	
4. To be reviewed as part of service review		FTE salary (Level b)	
5. Flood recovery			
Please note: Accommodation and home to work travel costs will <b>not</b> be paid. Any travel undertaken in the course of their duties will be paid in accordance with the Council travel and subsistence scheme and rates.			

<b>Authorisation</b>			
Please tick the relevant box:			
Recruitment/ Engagement Approved	Reason for decision:		
	Randstad (or other approved third party provider)		End date of fixed term
Recruitment / Engagement not approved	Reason for decision:		
Date Discussed at DMT			
Assistant Director Approval	Name	Signature	Date
Corporate Director Approval	Name	Signature	Date

Once authorisation has been received the recruiting manager will need to complete an external workers ticket on the service centre portal and attach this completed business case. Also complete Role Requirements on this page and send to Randstad.

**Please keep a copy of this form on your records.**

Requirements for Role			
<p><b>This form must be completed by the hiring manager giving all relevant details to the supplier so they can source suitable EPW's.</b></p> <p><b>Once the Business Case has been approved send the complete document to Randstad. <a href="mailto:cumbriajobs@randstad.co.uk">cumbriajobs@randstad.co.uk</a></b></p>			
CCC Job Code (supplier will complete this)		CCC Job description attached Y/N	
<b><u>CCC Purchase Order Number</u> - A failure to provide this asap after candidate selection may result in delays in the candidate starting</b>		PO No:	
Safeguarding & Compliance			
DBS Level Required:- Please check the post requirements on iTrent. Please tick one box only	Adults	Children's	Both
Standard			
Enhanced			
Enhanced with barred list check			
IR35 - Assessment			
<p><b>All engagements must be individually assessed for the IR status.</b></p> <p>Please access the HMRC website and answer the questions.</p> <p><a href="https://www.tax.service.gov.uk/check-employment-status-for-tax/setup">https://www.tax.service.gov.uk/check-employment-status-for-tax/setup</a></p> <p>Please retain a copy of the results and attach it to the Service Centre portal ticket</p>			
IR 35 status assessment result:	IR35 applies / IR35 does not apply *		
Hiring Manager			
Name:	Department/ Unit:	Contact Number:	
Job Title:	Directorate:	Fax:	
Email:			
Business Support – with responsibility for placing orders and receipting			
Name:	Department/ Unit:	Contact Number:	
Job Title:	Directorate:		
Email:			



## LIABILITY INSURANCE APPLICABLE TO CONTRACTORS SUPPLYING SERVICES/WORKS TO CUMBRIA COUNTY COUNCIL

### **TYPES OF LIABILITY INSURANCE**

When individuals, partnerships, companies and other organisations are being appointed to undertake work on behalf of Cumbria County Council then it is important to ensure that the contractor / service provider in question has its own liability insurance in force at the right level.

A contractor / service provider with liability insurance in force gives the Council an avenue to claim compensation from their insurer if they were negligent in some way (usually where someone is accidentally injured or property has been damaged).

Liability insurance takes many forms. The main types are:

- Public Liability Insurance
- Employer's Liability Insurance
- Products Liability Insurance
- Professional Negligence (also known as Professional Indemnity Insurance)
- Motor Liability Insurance (arising from use of vehicles on the public road)

For more information about the first four forms of insurance, please see Appendix A – Common Types of Liability Insurance

The nature of the work/service to be undertaken will determine which types of liability insurance are required.

### **INDEMNITY LIMITS**

Under each of the above types of liability insurance cover is usually restricted by a limit (often referred to as the limit of liability or limit of indemnity). This limit of liability/indemnity is the maximum amount that the insurance will cover.

This limit can be expressed either as the limit per event or the limit in aggregate, depending on the terms of the cover.

E.g.1: Employer's Liability insurance with limit of indemnity of £10 million per event will pay up to this amount per claim regardless of how many claims occur in the period of insurance.

E.g.2: Products Liability insurance with an aggregate limit of indemnity of £5 million limit will pay no more than this amount for a claim or series of claims during the period of insurance.

The following indemnity limits are recommended minimums that should be requested however higher limits should be considered depending upon the nature of the work, regardless of the contract price.

### **LOW VALUE ADMINISTRATIVE CONTRACTS LESS THAN £100,000 IN VALUE**

If the contract is of a low value and is entirely of an administrative nature lower limits could be accepted as follows:

Public Liability Insurance: £2 million per event with no aggregate limit  
Employer's Liability Insurance: £5 million per event.

### **NON ADMINISTRATIVE CONTRACTS OR CONTRACTS OVER £ 100,000 IN VALUE**

The generally recommended minimum indemnity limits are as follows:

Public Liability Insurance: £5 million per event - no aggregate limit.  
Employer's Liability Insurance: £10 million per event.  
Products Liability Insurance\*: £5 million per event and in aggregate.

\*if appropriate to the nature of the contract

### **CONTRACTS INVOLVING WORK OF A HAZARDOUS NATURE**

If work of a hazardous nature is being undertaken then higher limits for Public Liability insurance should be considered, regardless of the contract value, as follows:

Public Liability Insurance: £10 million per event - no aggregate limit.

Examples of hazardous work include where hot work is involved, electrical or mechanical work, pile driving, removing or weakening of support, ground reclamation, underground services or demolition, work on bridges etc.

Eg: A contractor with Public Liability insurance with a limit of indemnity of £2 million accidentally sets fire to a building using a blow torch where the building is worth £5 million clearly isn't in the Council's interest!

### **MOTOR VEHICLES INDEMNITY LIMITS**

Where a company is using motor vehicles to carry out the service the following limits should be requested:

Bodily injury to third parties: Unlimited  
Third party property damage: £5 million.

### **PROFESSIONAL INDEMNITY INSURANCE WHERE APPROPRIATE AND SETTING INDEMNITY LIMITS**

As stated in Appendix 1, Professional Indemnity insurance would only be required if the company was providing professional advice, design or specification as part of its services to Cumbria County Council where errors or omission could lead to losses to the County Council.

In setting a limit of indemnity managers should undertake a basic risk assessment in each case, asking what could go wrong should the company fail to meet their professional obligations and then build an insurance requirement around the potential outcome.

Whilst doing this it should be kept in mind that the Council is relying on the professional competence of the company to deliver agreed services:

- if they fail to deliver, either completely or in part, the Council would incur financial loss in making alternative arrangements and/or re-letting the contract. PI cover therefore, provides a degree of comfort against 'mismanagement' by the service provider.
- there are also specific operational risks where negligent acts, errors or omissions on the service provider's part could give rise to civil liability claims which do not involve third party bodily injury or property damage e.g. failure to identify, incorrect or inadequate assessments, providing erroneous advice etc.

The limit of indemnity under Professional Indemnity insurance is usually expressed as an aggregate limit in each period of insurance.

### **DURATION OF PROFESSIONAL INDEMNITY INSURANCE**

Due to the way claims are met under the insurance. The Professional Indemnity insurance should be maintained for a set period after the completion of the contract and this condition needs to be built into the contract.

#### **Construction Services**

For contracts associated construction (e.g. architect, building surveyors, etc) the contract should stipulate that the insurance cover should be renewed for 12 years after completion of the service.

#### **Non-construction Services**

For non-construction services the contract should stipulate that the insurance cover should be renewed for 6 years after completion of the service.

### **OTHER FACTORS TO CONSIDER**

Indemnity limits should be based on the potential risk and not the value of the contract. A relatively small contract could potentially result in a large loss.

An indemnity needs to be provided to the County Council either specifically or via a general Indemnity to Principals' clause in the policy document.

Some contractors insurance may have large deductible (excess) and consideration has to be given to how claims under the deductible will be funded. Is the contractor able to afford to finance claims below the deductible?

Care needs to be taken to ensure that contractor's insurance policy applies to the full range of services being delivered to the Council and that there no exclusion clauses or other policy conditions or restrictions which could render cover inoperative.

Please refer to the Council's Insurance officer in the event of doubt.

Martin Harrison  
Principal Finance Officer – Insurance  
December 2011

## **APPENDIX A - COMMON TYPES OF LIABILITY INSURANCE**

### **Employers Liability (EL) Insurance**

This type of insurance indemnifies a company against compensation claims from its own employees who are injured during the course of their employment with the company.

E.g. An employee injures their back whilst lifting heavy items at work.

This insurance is compulsory by law, under the Employers Liability Compulsory Insurance Act, to any business which employs staff however there are a few exemptions.

### **Public Liability (PL) Insurance**

This type of insurance indemnifies the policyholder against compensation claims from members of the public (or other third parties) who are accidentally injured or whose property is accidentally damaged from their activities

E.g.1 - A visitor slips and injures themselves on a wet floor which was in the process of being cleaned by contractors.

E.g.2. - A painter/decorator contractor accidentally sets fire to a client's premises whilst using a blow torch.

### **Products Liability Insurance**

This type of insurance indemnifies the policyholder against compensation claims from anyone who is injured from a product that they have manufactured, distributed, supplied or sold.

E.g. A retailer sells a defective ladder that someone uses and is injured as a result of the defect.

This type of insurance is sometimes included within Public Liability insurance.

### **Professional Negligence Insurance (also know as Professional Indemnity Insurance)**

This form of insurance indemnifies the policyholder against compensation claims from third parties (individuals, companies, etc.) who have incurred some form of financial loss as a result of acting upon an error or omission in advice, design or specification that they have provided.

E.g. An error in plans drawn up by an architect which lead to a defect in a building that costs additional expenditure in order to rectify.

All contractors will say they provide a professional service, however, not all will be expected to have Professional Negligence Insurance. Generally, only entities that provide advice, design or specification for a fee such as Architects, Surveyors, Consultants, etc. would require this type of insurance.

## Instructions for putting EPW information onto the service centre portal

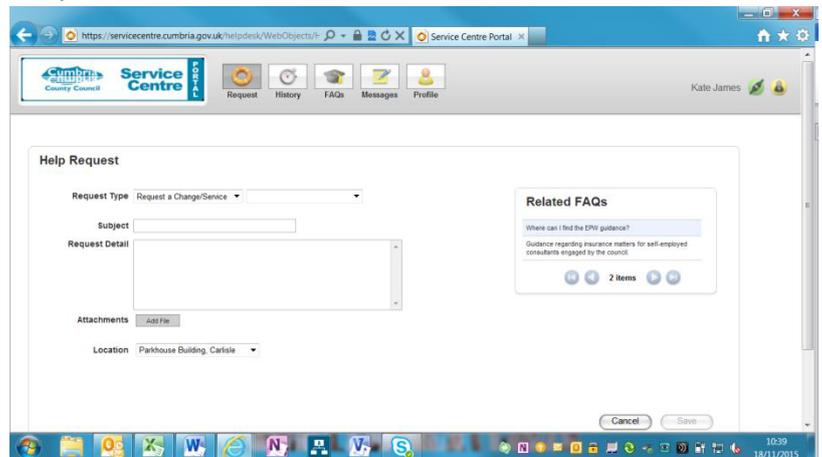
1. Go to the County Council Intranet home page
2. Click on “Human Resources” (3<sup>rd</sup> tab along)
3. Click on “Service Centre Portal” – this is the top option on the list on the right hand side of the drop down
4. If you need to, logon – this is your normal county council login details
5. If you have previous tickets then your ticket history will appear – you can search for previous tickets from this point.
6. To add a new ticket. Click on “request”. This is the first box on the top row by the service centre logo.
7. Complete the help request fields:-

Request type = “Request a change/service” followed by  
“Recruitment, HR and Payroll” followed by  
“Externally Provided Workforce”

You then have 5 choices:-

1. New 3<sup>rd</sup> Party Engagement
2. New Self-employed Consultant
3. Change to EPW engagement
4. Continuation of existing EPW
5. End of EPW engagement

Choose the option you require.  
The appropriate fields for each option will appear and will need to be completed.



This is the minimum data required to successfully make the changes on iTrent.

We require additional data for self-employed consultants as the service centre will send them a county council standard contract for service. We do not accept contracts written by the individual themselves. Please note we also do not pay accommodation costs or travel from their home to work.

9. In the subject field put the EPW’s Surname, forename and NI number
10. For options 1-4 attach the business case.  
Click on the “Add file” button  
Click on the “Browse” button  
Find the signed business case in your files.  
Click on “open”  
Click on “Upload”  
Click on “Save”
11. You will then be given a ticket number and an email will be sent confirming the ticket number.
12. If you need to make any changes to the details use this ticket number to search in the system.

### To make changes to tickets

1. Log into the Service Centre portal as before – numbers 1 – 5 above

2. Click on "History" the second button along on the top row.  
Either
  - Scroll down to find the ticket you are looking for or
  - add the number to the ticket number box and click search
3. If you need to send a message to the service centre. Go to the bottom of the ticket and click the "add note" button on the right hand side.
4. Add the details and click on "save"

## Manager's checklist if not using an approved provider

The County Council has a contract with Randstad to provide EPW's. There are also a number of 2<sup>nd</sup> tier organisations who have signed up to the same contract as Randstad. By going through these organisations the Council get:

- Competitive rates
- No introductory fees (some can be as much as 30% of the starting salary)

Managers will send Randstad details of the post they are trying to fill and a brief description of the skills they are looking for. Under the contract regulations Randstad must be given a minimum of **48 hours** to send through appropriate candidates. If candidates are not suitable managers will have to give reasons why they are not suitable to Randstad so they can feedback to candidates.

If managers are approached directly by individuals looking for work they should be told that they should sign up with Randstad. They can then be included in the next appropriate candidate pool.

If a manager then decides to approach non-contract organisations it is the **managers responsibility** to:-

1. Follow the correct procurement processes. Contact procurement if necessary.
2. Negotiate prices – in line with EPW contract amounts. The amount paid to the agency should not be more than permanent post holder's salary plus 30%. Accommodation and home to Cumbria travel will not be paid. Normal business mileage will be paid at the CCC rates.
3. Negotiate so that finders fees are not payable if a permanent contract is offered to the individual.
4. Send the contract with the agency to legal services so that it can be checked.
5. Ensure individuals details have been checked as per the lists below.
6. Ensure individuals have read and signed the code of conduct.
7. Ensure the appropriate induction and training has been carried out.
8. Raise a ticket using the service centre portal to provide details for iTrent and e-proc. Ensure that a purchase order has been raised for the engagement.

### To be completed by the Manager:-

Worker Name		Job Role	
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Worker Checks	Checked by Manager Detail Provided
CV	
Copy of Registration Form (signed & dated by Candidate)	
Has the candidate previously worked for CCC? Did they take VR/CR? If the did then please check that they can be engaged with the Senior Manager – People Management	
Has the candidate declared any criminal convictions	
National Insurance Number	
Proof of National Insurance Number – NI card or official document showing number	
Proof of Eligibility to Work in the UK	
Visa Type (if applicable)	
Visa Expiry Date (if applicable)	
Proof of Identity	
Proof of Address	
Copy of (verified) Qualification (if applicable)	
Copy of Professional registration (if applicable)	
Personal/ Business interests. Individual to read and sign the code of conduct. See below	
Insurances documentation checked	

References	Enclosed
2 per candidate For Care / Nursing Roles – Proof of 5 years references	

Enhanced DBS Check – for Care / Teaching posts	Details		
DBS Level Required:- Please check the post requirements on iTrent. Please tick one box only	Adults	Children's	Both
Standard			
Enhanced			
Enhanced with barred list check			
'Employer' (Name of agency requesting the check)			
Disclosure Number			
Date of Issue			
Does the DBS provide any disclosures?			

Nursing Pin	Enclosed / Details
NMC Pin Number	N/A
Proof of NMC Online Check *	Yes / No
Expiry Date	N/A

IR35 – Intermediaries Tax Assessment	Enclosed / Details
<p><b>All engagements must be individually assessed for the IR status.</b></p> <p>Please access the HMRC website and answer the questions.</p> <p><a href="https://www.tax.service.gov.uk/check-employment-status-for-tax/setup">https://www.tax.service.gov.uk/check-employment-status-for-tax/setup</a></p> <p>Please retain a copy of the results and attach it to the Service Centre portal ticket</p>	
Date of assessment	
IR35 status assessment result	IR35 applies / IR35 does not apply *

Training records	Training Complete	Expiry date
Induction		
ICT security training		
Manual Handling		
First Aid		
Medication		
Infection Control		
Food Hygiene		
Nutrition		
Safeguarding		
Record Keeping & Confidentiality		
Health & Safety		
Fire Awareness		

## Personal or business interests – Code of Conduct

To be read and signed by all EPW's

The County Council has a code of conduct which all EPW's must comply with whilst engaged by the County Council:-

- You must not use any confidential information obtained in the course of your work for personal gain or benefit; nor should you pass it on to others who might use it in such a way.
- All relationships of a business or personal nature with external contractors, potential contractors or suppliers must be declared to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition and in accordance with the **Contracts Procedure Rules**, and no special favour should be shown to businesses run by, for example, friends, partners or relatives.
- You should not allow duties you undertake as an EPW and private interests to conflict. EPW's should not take up any outside employment or appointment which conflicts with the County Council's interests whilst engaged by the County Council.

I confirm that I will comply with the council's code of conduct for EPW's

Signed		Date	
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