

Temporary Agency Contractors (TACs)



Summary

Westminster City Council is committed to ensuring that it delivers excellent services to its residents. There may be times when we need additional people because of unexpected peaks in demand or due to unforeseen absences. We will therefore use temporary agency workers to help to fulfil short-term demands to maintain standards of service.

This policy sets out how Temporary Agency Contractors (TACs) can be used, how they are engaged and what rights they have. It also clarifies when a Consultant can be engaged instead of a TAC.

A TAC is a Temporary Agency Contractor. They have a contract with an agency who supplies them to WCC for a temporarily period. They are **not** a WCC employee.

A consultant is someone with specific skills who carries out a bespoke project or piece of work that is time bound, has an outcome and sits outside of any council job descriptions or the remit of any

employee. Consultants have specific tax status (outside IR35) so you are advised to contact your HRBP for further advice on engaging a consultant.

All TAC's must be assigned to a post in the structure, and should only be engaged when the recruitment of a WCC employee is not possible, practical or more cost effective.

In all cases, every effort must be made to minimise the number of TAC's engaged - vacancies must not be routinely covered by TAC's unless this is essential for service needs.

A Consultant may be engaged for a one off, time limited project where the skills are not available internally. Consultants do NOT have a job title on the structure.

Process of engagement

How do I engage a TAC?

Use the on-line TAC facility [click here](#) to engage, extend, vary, terminate and administer (e.g. authorise timesheet) a TAC or contact Matrix Helpline **0844 875 8553** or email westminster@matrix-scm.com

How do I engage a Consultant?

All requests and any re-engagements follow the process below to ensure the council complies with HMRC regulations.

A Hiring Manager (HM) determines a need to engage a consultant to fulfil a special project, or where a 'subject matter expert' is required and there are no job titles in the Council structure that match the requirement. The HM starts with a submission request on Matrix [matrix-cr.net](#)

As a consultant does not have a job title on the structure a HM will only be able to select a specific temporary consultant post that has been set up against their Business area e.g. HR Consultant, Finance Consultant etc. on the Matrix system. The Senior Account Manager (SAM) at Matrix will contact the business area's HRBP to advise them of the request and for them to set up a discussion.

HRBP will discuss the needs of the project with the HM and discuss if this is the most appropriate route to market or if there are alternatives. Together they will assess the needs and check on the HMRC site if the role sits outside IR35.

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

The HRBP and the HM will complete the [Consultant Specification](#). The form outlines the project, expected delivery and outcomes.

The project must be discussed, agreed and signed by the HM and the engaged consultant

The consultant cannot start until approval has been received from the HRBP as the Council may be liable to pay the consultants Tax and NI if retrospectively it is deemed that the role falls inside IR35.

Further details are available on the HMRC website <https://www.gov.uk/guidance/off-payroll-working-in-the-public-sector-reform-of-intermediaries-legislation>

- Completed documents should be attached to the placement. The forms act as an audit record and will be used as evidence of our assessment and processes for HMRC. Matrix can assist with

briefing specialised recruitment agencies that are signed up as suppliers. This document forms part of the checks to be compliant, failure to do so may cause payment delays to the consultant

If a LTD Company Consultant has been identified, Matrix can arrange for Client Directs Ltd (CDL) to manage the Consultants' payroll payroll@client-directs.com. Consultants should not be paid via invoice.

Who can authorise engagement of a TAC/Consultant?

For the engagement (and any subsequent extension) of a TAC you must seek approval from your Line Manager. Matrix will request an online approval at submission stage.

How do I work out the pay rate for a TAC?

Rates for TAC's fall within the appropriate pay band for the level of post. A hiring manager can select a pay rate in line with the minimum target salary up to the maximum premium zone for that band. Rates of pay are hourly or day rates for consultants and interims.

How long can I engage a TAC for?

Each TAC assignment can only be engaged (or extended) for up to a maximum period of 6 months, for longer assignments you should recruit to a Fixed Term contract. Seek advice from your HRBP for further options.

What notice periods apply to TAC's?

There is no notice period applicable to any TAC assignment procured via the Matrix agreement. However you should aim to give a minimum of a week's notice where possible. If you consider it necessary to specify a notice period for a particular assignment, please discuss with our Account Manager at Matrix, westminster@matrix-scm.com

Which Agencies can I use to engage a TAC?

The Council has contracted with Matrix to manage the engagement of all TAC's and Consultants. They have an agreed list of agencies that all vacancies are distributed to. Recruitment of all agency staff must be made through the arrangement with Matrix. Please do not go directly to agencies as this can affect the rates we are able to attract through the contract.

What do I do if I am not happy with the performance or conduct of the TAC?

Contact our Matrix Account Manager immediately if any issues arise in relation to the performance or engagement of the TAC (e.g. timekeeping, absence, poor performance etc) to ensure immediate resolution.

Can I move a TAC into a different post from the one I originally engaged them for?

If there is a need for a TAC to be engaged in a different post, this must be treated as a completely new and separate TAC request and submitted on Matrix. There you will be able to specify the individual you want to engage.

Can I engage a former WCC employee as a TAC after they have left the council's employment?

Where a former WCC employee, who has previously been declared redundant by WCC, is put forward as a TAC for a WCC role, there is a minimum break of 18 months between that person's last day of service with WCC and the proposed start date of the assignment – unless a shorter break is agreed by the relevant ELT member.

Agency Worker's Rights and Entitlements

As a result of the Agency Workers' Regulations 2010 agency workers covered by the Regulations now have the right to "equal treatment" after they have been in a role with the same organisation for a qualifying period of 12 weeks. This "equal treatment" principle ensures that in many respects agency workers will receive the same pay, holiday entitlement, working hours, benefits and working conditions as if they had been recruited directly by WCC to do the same role.

If a TAC is paid more than the minimum payable to a WCC employee in an equivalent post, there will be no change to the TAC's rate of pay. Equally if any pay rise is made to permanent employees, there will be no change to the TAC's rate of pay if it is still higher than the increased rate for WCC employees in equivalent posts.

Matrix will calculate when any individual reaches the 12 week qualifying period in each assignment and will advise manager's via email 14 days and 7 days prior to the 12 week qualifying period being met.

TACs have a further right to be informed of vacancies within WCC, so will have the right to have access to our job site, and to apply for any jobs advertised. However, they will not have the right to apply for posts in redeployment situations where there is a redundancy situation and existing staff are ring-fenced to a reduced number of posts.

What is not included?

Even after the 12 weeks qualifying period, TACs will not be entitled to equivalent treatment in respect of occupational pension schemes, occupational sick pay, contractual notice, contractual redundancy pay, contractual maternity or paternity rights, or any bonus arrangements designed to reward loyalty or long-term service and which is not directly attributable to the amount or quality of the work performed.

Consultants are out of scope of these Regulations, and will not therefore have the right to equal treatment. They are not able to claim expenses including, accommodation, travel or meals.

What protection will the Regulations provide for pregnant and new mother TACs?

- Pregnant TACs who have met the 12-week qualifying period are entitled to take paid time off for ante-natal appointments. The agency is primarily responsible for providing this right, and for paying the TAC for the time off. However, managers must put practical arrangements in place so that the TAC is able to take the time off.
- WCC, as now, will be required to carry out risk assessment for pregnant TACs, and where a risk is identified make reasonable adjustments to remove the risk. Where that is not possible, under the Regulations the agency will be responsible for offering alternative work, and where that is not possible, for paying the TAC for the remainder of the assignment for any period that she cannot work due to the health and safety risk.
- There is no obligation on WCC to keep a role open for a TAC who is on maternity leave

How do I make sure that any TAC I engage does not gain employment status?

You must make sure that in order to avoid any potential employment claims against the Council; TAC's are not regarded, treated or managed as Council employees. You should make sure that:

- There is no written contract between the worker and the Council, and no written statement of employment particulars is provided by the Council.
- They are active placements on the Matrix system
- References and other clearances should be taken up by the agency and not by the Council
- The Agency should apply for checks such as DBS etc.
- No disciplinary action should be taken against agency workers. They are still required to comply with the rules and regulations of the Council and any issues should be referred back to Matrix.
- Payment is not made directly to the agency worker, but is paid to the agency via Matrix.
- Payment is based for the number of hours actually worked and may well vary from week to week.
- There is no entitlement to occupational pension schemes, occupational sick pay, contractual notice, contractual redundancy pay, contractual maternity or paternity rights from WCC
- There is no entitlement to any kind of RYC or bonus payment.
- There is no entitlement to employee benefits such as car allowances, season ticket loans, free swimming pass and other benefits etc.
- There is no entitlement to any professional training. A limited form of induction training and health and safety training would be appropriate for agency workers.
- If the Council is not happy with the performance of the TAC, it can terminate the contract it has with the agency at short notice and the agency can likewise terminate the contract it has with the TAC at short notice.

Expenses

As a manager, you should ensure Temporary Agency Contractors (TAC) do not incur expenses wherever possible. For any unavoidable additional expenditure an alternative means of payment should be found e.g using the procurement card to rail travel or overnight accommodation.

Consultants are **not** able to claim expenses.

In all cases, as for WCC employees, the only expenses payable to TACs are those which are unavoidable and additional to normal expenditure.

Car mileage is payable for TACs who are authorised to use their own car for WCC business purposes. This is variable so please check with Matrix

All expenses claimed by TACs needs to be submitted via the Matrix system.

For any other TAC related query, please contact our Account Manager at Matrix on – 0844 875 8553 or westminster@matrix-scm.com

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