

Part 2 Specification

Contract Reference

TCS4623

Contract Title

**Torbay Council Framework Agreements for:
Lot 1 – Approved Temporary Agency Staff
Providers,
Lot 2 – Social Worker Agency Staff
Providers
2024-2028**

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A Overall Scope and Nature of the Requirement

A1 The Requirement

The purpose of this Tender process is to identify successful Agency Providers who will be selected for a place on a Framework of Approved Temporary Agency Staff Providers. There is no limit to the number of Providers that will be selected to join the List.

The Framework of Approved Temporary Agency Staff Providers provides no guarantee of any work to the Provider. The Framework contains only a list of Providers who are pre-qualified to put forward Candidates for a temporary position when the need arises.

When a new requirement for an Agency Worker arises, all Providers on the relevant Framework Lot will be invited to put forward Candidate's for the available temporary position and the selection will be based upon an assessment of the Candidate's CV and the outcome following an interview undertaken by the Authority.

The Authority requires Agency Providers that are able to supply for temporary (Professional and other role) positions. The types of positions that will typically be requested are listed below.

Lot 1 - Approved Temporary Agency Staff Providers.

The Authority requires Agency Providers that are able to supply for temporary (Professional and other roles) positions. The types of positions that will typically be requested are listed below:

- Accountant
- Barrister
- Lawyer
- Business Support Officer
- Customer Services Advisor
- Environmental Health Officer
- Finance Officer
- Housing Options Officer
- Human Resources Business Partner
- Hut Moving Crew (Beaches)
- Legal Officer
- Parking Services Manager
- Parking attendant
- IT Analyst
- Personal Assistant
- Payroll Officer
- Planning Officer

Applicants should note that this is not an exhaustive list of the roles that may be required to be filled during the life of the Contract and is only an example.

Lot 2 – Childrens Services (Social Work) and Education

The Authority requires Agency Providers that can supply:

- Service Manger
- Head of Service
- Social Worker
- Experienced Social Worker
- Specialist (Advanced/Consultant) Social Worker
- Assistant Team Manager
- Team Manager/Independent Reviewing Officer
- Special Educational Needs and Disability (SEND) Caseworkers
- Special Educational Needs and Disability (SEND) EHCP Co-ordinators
- Special Educational Needs and Disability (SEND) Amendment Officers

Applicants should note that this is not an exhaustive list of the roles that may be required to be filled during the life of the Contract.

B Core Requirements

This section sets out the Authority's core requirements for this Contract, which Applicants are required to demonstrate within their response that they are capable of meeting.

B1 Contract Specific Requirements

B1.1 Disclosure and Barring Service Checks

Roles may require basic, standard or enhanced Disclosure and Barring Service checks.

The Agency Provider must undertake a new DBS for the Agency Worker (if it is a requirement of the role) unless the DBS Update Service has been used. It is a requirement that no Agency Worker should commence working for Torbay Council, without the DBS being confirmed and in place.

In the event of any query the Agency Provider must contact the Human Resources Contract Manager prior to the commencement of any worker.

The Agency Provider must cover the costs associated for undertaking a Disclosure and Barring Service check. Torbay Council will not reimburse any costs associated with this, whether they are the direct costs of the check or for the administrative costs involved.

B1.2 Professional Registrations

Torbay Council requires proof of professional membership registration and status to the appropriate professional body. Social Care roles require proof of professional membership registration (SWE Registration) and status to the appropriate professional body, for each proposed candidate.

B1.3 Temporary to Permanent

There may be occasions when an Agency Worker who is or has been on placement from the Agency Provider to Torbay Council, wishes to apply for direct employment. Should this occur, then there will be an agreed finder's fee of the annual salary, subject to the paragraphs below (within this section B1.3), on provision of an invoice.

Torbay Council always advertises permanent positions. They will not offer permanent employment to an Agency Worker without inviting other applications and going through a process of assessing the merits of applicants in relation to the specific position.

If an agency worker is successful after the 12-week qualifying period in securing permanent employment within the Council, it is a requirement of the Call-Off Contract that there is no temporary to permanent introduction fee.

B1.4 Introductory Fees

Where an Agency introduces a worker to Torbay Council and they are then subsequently employed on a contract of employment, an introductory 'finders fee' of no more than

10.00% of the annual salary should be invoiced to the Council. An Introductory fee will not be paid where the worker is already known to the Council, for example if they are currently working in a different or the same assignment, through the same or another agency, sub-contract or temporary arrangement.

B1.5 Auto Enrolment

The Agency Provider will confirm to automatic enrolment regulations and ensure that Agency Workers are enrolled into a pension scheme.

B1.6 Placement Not Required

There may be occasions when Torbay Council has notified the Agency Provider of an anticipated placement for an Agency Worker, but in the event the placement does not materialise (for example because a permanent worker returns to work after sick leave). The Agency Provider will make no charge to Torbay Council, in such a case, where an Agency Worker reports for work, but there is no work to be done.

B1.7 Previously Employed by Torbay Council

The Agency Provider shall check with Torbay Council's Human Resources, prior to the placement, to ensure that they do not provide Agency Workers in any of the following instances:

- a. Where the Agency Worker has previously been an employee of Torbay Council and has left within the last two years on grounds of early retirement and/or redundancy;
- b. An ex-employee of Torbay Council who has been fairly dismissed under the Authority's disciplinary or capability procedures or on the grounds of absence, or where proposed work to be carried out by the Agency Worker is the same, or very similar to that from which they were dismissed;
- c. An existing Torbay Council employee who is currently working more than sixteen hours per week.

B1.8 Advertising

Torbay Council will not jointly fund or contribute financially towards any commercial advertising.

B1.9 Terms and Conditions

Agency Workers provided from the Framework of Approved Temporary Agency Staff must be provided in accordance with the Torbay Council Contract Agency Worker Call-Off Terms and Conditions. It is a requirement that the Agency Worker is not provided under the Agency Provider's own Terms and Conditions.

The Provider will need to accept the Authority's Framework Terms and Conditions, and Call-Off Terms and Conditions, and this will be required as part of the Supplier's Tender bid submission, via Supplying The South West (ProContract).

B1.10 Working Practice

The Agency Provider must:

- a. Conform to automatic enrolment regulations and ensure that Agency Workers are

enrolled into a pension scheme;

- b. Have full working knowledge and be fully compliant with the current Working Time Directive and the Agency Worker Directive and be able to commit to future legislative changes and remain compliant;
- c. Demonstrate appropriate working practices in its day-to-day operation and that they are fully compliant with current, future and proposed legislation in relation to relevant employment checks and other recruitment practice;
- d. Maintain its qualifications and membership/s to professional bodies. Likewise, the Agency Provider's Staff must have relevant training and or experience to ensure they act in accordance with the requirements of the Contract.

B1.11 Equal Opportunities and Disability Monitoring

Torbay Council aims to offer equal opportunities in employment to all sections of the community, regardless of race, ethnic origin, gender, sex, gender re-assignment, , religious belief, age, marital status and civil partnership or disability. Torbay Council will accept any person referred by the Agency Provider for placement, provided they can fulfil the requirements for the work involved and satisfy any other employment related requirements.

In the same way that Torbay Council is committed to offering equal opportunities the Agency Provider must also ensure that all sections of the community, candidates from ethnic or minority groups and those with physical or mental disabilities have equal access to any assignments available from Torbay Council under this Contract.

In recruiting and employing temporary staff the Agency Provider will take all reasonable steps to achieve and maintain a workforce that reflects each of the various groups represented in the local community and that all vacancies are advertised in accordance with the relevant equalities' legislation.

B1.12 Data Protection and Record Retention

The Agency Provider must be fully compliant with current Data Protection Legislation and should be able to demonstrate that there is an effective policy throughout the workplace, which shows how sensitive data is collected and collated for discussion with Torbay Council if required.

Suppliers on the Framework should have a Data Protection/Information Governance policy in place and will protect data shared between the Authority and your organisation using a secure encryption platform.

The Agency Provider will ensure that all Agency Workers supplied to Torbay Council give permission to share their details and that their data may also be released to the National Fraud Register, and in the event of suspected fraudulent / criminal activity the relevant law enforcement agencies will be contacted.

Information on Agency Workers should be held by the Agency Provider for six years from the last date of engagement with Torbay Council.

B1.13 Agency Provider's Recruitment and Selection Process Requirements

When recruiting and selecting Agency Workers, the Agency provider must ensure the following is covered:

- a. Torbay Council policies on safer recruitment are followed (the Authority's Recruitment Policy is contained as Appendix L);
- b. The Agency Provider will undertake analysis and qualification of the role requirement, when received by email, fax or on-line. The Provider should have the ability to deal with all methods of requirement communication;
- c. The Provider will undertake candidate searching sourcing, via database, advert or other;
- d. The Provider will undertake matching and short listing of CVs. A skills assessment is undertaken and verified, together with the verification of relevant required qualifications, which are all documented. The Agency provider must be able to demonstrate and provide evidence that the Worker has the relevant qualification and experience. Spot audits may be carried out by Torbay Council to check this is being undertaken;
- e. The Provider will manage submission of CVs, arrangement of interviews where required, management of offer and rejection of candidates including feedback;
- f. The Council will identify from the CVs which potential candidates it wishes to interview and notify the Agency Provider accordingly, and provide relevant details about the interview. Virtual or Face-to-face interviews are held with potential candidates who are appropriate to the assignment that they are being pre-selected for;
- g. The Provider is required to make the necessary provisions for the individual to attend the interview. Following the interview process the Council will provide the Agency Provider with relevant feedback on the introductions made;
- h. The interview process followed covers previous work experience, qualifications, knowledge and skills, together with aptitude and ability. Professional certificates, licences or registrations must also be seen and documented;
- i. Where face-to-face interviews may not be practical, an alternative fully documented process is followed for interviewing candidates, except for those roles which require an Enhanced DBS check whereby an alternative process is not acceptable (please refer to the Authority's Guidelines for Criminal Records Checks is at Appendix M);
- j. Administering Disclosure and Barring Service Checks: For some Agency Workers a standard or enhanced disclosure (as appropriate to the role) may be required. When required the disclosure information must be no more than twelve (12) months old when the Agency Worker is supplied;
- k. Standard or enhanced checks must be requested by the Agency Provider through the Disclosure and Barring Service;
- l. The Provider must observe the Disclosure and Barring Service Code of Practice when using disclosure information. A self-declaration must be requested from the non-permanent worker;

- m. Basic checks for England and Wales can be requested from Disclosure Scotland – www.disclosurescotland.co.uk
- n. The Provider must cover the costs incurred by the Agency Worker undertaking a Disclosure and Barring Service check. The Contracting Authorities will not reimburse the Provider for any costs associated with this, whether they are the direct costs of the check or the administrative costs involved;
- o. For those roles which require the Agency Worker to have a Disclosure and Barring Service check, if an Agency Worker is a foreign national, then in addition to the Disclosure and Barring Service check, the Provider will require the Agency Worker to provide a Certificate of Good Conduct obtained from their country of origin or from the countries in which they have lived for the past five years up to the date of their application to the Agency Provider;
- p. There are two acceptable ways for an Agency Worker to authenticate the Certificate of Good Conduct. The first is that it is authenticated by the Agency Worker's country's Embassy in the UK. The second is that the Agency Worker obtains an Apostille from the country which issued the document. The Apostille authenticates a document for legal purposes in signatory countries to the Apostille Convention;
- q. An authorisation from the Provider's candidates for submission of CV's for prospective roles must be sought;
- r. Evidence must be provided that the candidates have given explicit permission for their information to be
- verified; and
 - shared with other interested parties in pursuance of arrangements under the Contract.
- s. A candidate must signify their willingness to work in the proposed position before his/her name is introduced to the Council.
- t. Any offer of engagement will be withdrawn without charge to the Council, if the candidate introduced:
- is not who they claimed to be;
 - does not have entitlement to work in the UK;
 - has an unacceptable criminal record;
 - has knowingly withheld information or provided false or misleading information
- u. Where an Enhanced DBS service check is required for the role, Torbay Council safer recruitment policies are followed and all gaps in employment are explored, with reasons documented. For assignments that do not require such checks to be carried out the Agency Worker will be required to sign a self-declaration form;
- v. In presenting a candidate to the Council the Agency Provider is required to provide:
- A brief CV for the candidate; maximum of four (4) pages;
 - A template providing evidence of the candidate's experience and

qualifications against the project scope; and

- A completed declaration of interests;
- w. Interview notes and all correspondence pertaining to the references must be available upon request. In addition to the above, if a candidate is selected for a placement, Torbay Council will interview potential Agency Workers face to face or by other methods prior to engagement, at no extra cost to Torbay Council;
- x. In accordance with Torbay Council's policy, references and checks from all previous employers and/or academic institutions must be undertaken by the Agency Provider, One of the referees provided must be from a previous or current employer, this reference must be for the preceding three years before a selected candidate starts a placement. One of the references must be from the Agency Worker's last employment or last place of study. For safeguarding roles, such as social work, one of the referees should ideally be from the workers' previous experience of working within a Children's Services setting if the reference from the last employer is not available;
- y. All references must be verified by the agency to ensure that they are valid and have been issued by the appropriate officer within the organisation, Bearer References are not acceptable. The same applies for all positions included in the Exceptions Order to the Rehabilitation of Offenders Act 1974 and in respect to any regulated positions as defined by the Criminal Justice and Court Services Act 2000. The Authority is amending its References Policy, this will be shared with bidders once this is finalised. The current policy is provided as Appendix N;
- z. Gaps in employment or education must be explored and the reasons documented. In addition the gaps in employment or education must be covered by additional character references. As a minimum, references are required from the two (2) most substantial, recent assignments. Verbal references will not be acceptable under any circumstances.
The candidate's registration form must detail the full employment history for a minimum of ten (10) years continuous employment (or all years since employment started, if less than ten (10)), with no unexplained gaps. The employment history must be cross-checked against appropriate employment references by the Provider, especially in respect of dates of employment and positions held;
- aa. Where a reference indicates or suggests that the Agency Worker does not meet the standards required by Torbay Council they will not be engaged in work under this Contract;
- ab. Where a Worker is required by law or any professional body to have any qualifications, authorisations or certification to work on the Assignment, or the Assignment involves working with any Vulnerable Persons, the Provider will take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations or certification and two references. The Provider will also take all reasonably practicable steps to confirm that the Worker is suitable for the Assignment.
If the Provide is unable to fully comply with these requirements, it shall inform the Council of the steps it has taken to obtain the necessary information, and the Council

reserves the right not to accept the candidate.

- ac. A full eligibility to work check must be undertaken on every Agency Worker before they are put forward to Torbay Council as a potential candidate, taking into account the relevant Employment Legislation. Torbay Council must be informed that this check has been undertaken, which must include a copy of the verification of identity check document. The Agency Provider shall introduce only Workers who have the right to work in the Territory and, in particular, the Employment Business shall comply with the Immigration Asylum and Nationality Act 2006, the Immigration Act 2016 and other relevant UK legislation or equivalent legislation in the relevant jurisdiction, as well as any regulations or relevant codes of practice regarding the reporting of labour movements, concealed employment and the employment of foreign workers;
- ac. Authenticity: the Agency Provider is expected to be able to demonstrate that all documents (not just those for verification of identity) are checked for authenticity and that the verification process is cumulative by the use of intelligent cross-referencing. The guidance in the Good Practice Guide on Pre-employment screening - *Document Verification* from the Centre for the Protection of National Infrastructure (see www.cpni.gov.uk/ProtectingYourAssets/personnelsecurity-268.aspx) must be applied.
- ad. No agency worker will be able to commence an assignment until identity verification has been undertaken in accordance with the Authority's Eligibility to Work in the UK policy, attached as Appendix O;
- ae. Torbay Council will not be held accountable for any Agency Worker found not to have eligibility to work in the UK as this is an explicit requirement and responsibility of the Agency Provider. If the Agency Provider is found not to have verified an Agency Worker's eligibility to work in the UK they would be in breach of this Contract and Torbay Council reserves the right to terminate the Contract;
- af. In the case of an Agency Worker that is working on a restricted visa or that is only eligible to work in the UK for a specified length of time or a student that may be eligible to only work restricted hours it will be the responsibility of the Agency Provider to keep Torbay Council informed as to the continued eligibility status of that Agency Worker. Should this status change to the extent that the Agency Worker is no longer eligible to work in the UK, the Agency Provider must inform Torbay Council that the Worker must be removed from the placement. If this is not followed the Agency Provider is in breach of this Contract and Torbay Council reserves the right to terminate the Contract for this reason;
- ag. A written set of terms and conditions is provided by the Agency to their Worker to cover the assignment on which they are engaged. These are typically classed as a contract of/for services depending on the employment status of the Agency Provider;
- ah. All recruitment check information and evidence of the recruitment and evidence of recruitment process, (to include for all successful candidate pre-engagement checks), should be documented and sent by an encryption platform such as Egress or TLS to the Recruitment team at Torbay Council, recruitment@torbay.gov.uk, prior to the Agency Worker commencing on the Torbay contract. In the event of any query the Agency Provider must contact the assigned manager or the Recruitment Team

prior to the commencement of any worker;

- ai. Where the Provider has made a successful introduction the Council will submit an Order to confirm the placement;
- aj. Prior to the commencement of the Assignment, the Provider will send to SWISCo, written confirmation of:
 - the identity of the Temporary Worker;
 - the Temporary Worker's experience, training, qualifications and authorisations necessary for the Assignment;
 - the Temporary Worker's willingness to carry out the Assignment;
 - the agreed hourly rate charged by the Provider;
 - any notice period to terminate the Assignment; and
 - the intervals at which invoices shall be sent to SWISCo by the Provider.
- ak. The Provider must manage and agree the start date with the Council and the assigned worker.
- al. Updating of candidate CV's and references with new and relevant information, shall be carried out by the Provider, every six months as a minimum.
- am. Assignment Agency Worker performance checks: Authority satisfaction milestones.
 - The Provider must be willing to work in a co-operative manner to resolve problems and issues that may affect successful achievement of the outcomes of any placement.
 - The Provider must ensure that there are processes in place to identify any issues associated with the smooth running of this Contract early and to be able offer possible solutions.
 - The Provider is to ensure that a process is in place to deal with Authority dissatisfaction and/or complaints.

B1.14 The Process for Booking an Agency Worker

The following process will be followed when a new placement is required by Torbay Council:

An Instruction form will be emailed out to all Agency Providers on the relevant Framework Lot, this will detail the placement that is required and the submission deadline. The following information will be provided:

- Date and time of instruction
- Agreed response time for applications
- Job Title and Job Description
- Whether a curriculum vitae is required
- Provisional start date of assignment
- Location

- Hours of work
- Disclosure and Barring service check requirement, a DBS should be no older than 3 years unless the update service is being used.
- Essential qualifications/professional registration/licence requirements etc

Completed cover sheets detailing all relevant information must be submitted via email for each potential candidate that is being put forward for consideration.

The email must list the potential candidates that are attached, also confirming that the right to represent has been sought.

The list will be shortlisted in accordance with the relevant job description and person specification and the appropriate candidates will be invited to interview.

Following the interview process, the most suitable candidate will be selected.

A Booking Form will be sent to the Agency Provider to formally request the selected candidate. The Agency Provider must confirm acceptance of this booking, also providing the weekly total cost and projected cost of booking exclusive of VAT.

The following information will be provided:

- Date and time of booking request
- Business unit/department
- Recruiting manager name and contact details
- Line manager's name and contact details
- Job title of Agency Worker
- Name of the Agency Worker
- Start date and time of assignment
- Location
- Hours of work
- End date of assignment
- Pay rate
- Bill rate
- Purchase order number
- DBS check requirements
- Essential qualifications / professional registrations/licences etc.
- PPE requirements
- IR35 check
- Fluency Duty check
- Signed Recovery of Payments and Costs form – provided as Appendix P
- Signed Agency Assignment Privacy Notice – provided as Appendix Q
- Signed Confidentiality Statement – provided as Appendix R

Before an Agency Worker starts a new placement, the Agency Provider shall confirm the following with the Recruiting Manager by submitting a verification document:-

- A registration or application form has been completed;
- An interview was undertaken by the Agency Provider;
- A skills-assessment has been completed, their qualifications and experience

- validated and has been fully referenced for the previous three years;
- That relevant DBS checks and/or professional registration is satisfactory and relevant for the post they are assigned to;
- Evidence of their eligibility to work in the UK has been received and copies of such eligibility has been, with a copy provided to Torbay Council;
- Written terms and conditions of employment or service have been provided;
- A signed confidentiality agreement has been received;
- That the recruiting manager has placed the order in accordance with the required guidelines and that a purchase order has been provided with the booking (and included on the verification documentation);
- All evidence of the recruitment process has been documented and is available to Torbay Council to inspect at any time and without notice.

B1.15 Agency Worker Induction Supervision and Management

For any assignment of one week or more the Agency Provider will not charge Torbay Council for the first hour of the assignment in order that the required induction can be carried out, if required on site. This will only apply to new Agency Workers assigned to Torbay Council for the first time, or if an Agency Worker is assigned to a different building or an assignment in another location. The Agency Worker must however be paid for their time.

For each new placement, the Agency Worker must undergo a full induction by the Agency Provider before they can begin their assignment. This should be a comprehensive guide covering a range of useful information to include the following:

- The Code of Conduct for Agency Workers
- Maps detailing the relevant locations and access arrangements
- Necessary contact numbers
- Information concerning parking arrangements and smoking
- The working hours expected of the Agency Worker
- Dress code and working environments
- Health and safety and procedural information

Torbay Council will provide information outside of the above to Agency Workers on the following matters:

- Facilities at the workplace
- Workstation arrangements
- Fire and emergency procedures – evacuation and assembly point
- First aid arrangements
- Security arrangements
- Dealing with customers
- Work contacts
- Internal and external communications
- Tasks involved in the placement
- Methods and performance standards
- Sources of information, materials, supplies etc.
- Authority to act – limits
- Specific risks and precautions

- Supervision arrangements.
- Mandatory training as required by Torbay Council (classroom based and/or e-learning).

Each Agency Worker will be allocated to a permanent member of staff who will act as the Agency Worker's supervisor, provide guidance and deal with any questions the Agency Worker may have.

B1.16 Training

The Agency Provider shall be required to provide training and updates for their Agency Workers on commonly used software packages such as Microsoft Office, to include Word, Excel, PowerPoint and Outlook. The Agency will be expected to meet the cost of this training if it is required.

The Authority will ensure all Agency Workers adhere to the Council's mandatory e-learning training. Agency Workers will be reminded of the importance of compliance and risks to the organisation if Council training policy and procedure is not followed.

B1.17 Absence and Holiday

It is the Agency Provider's responsibility to have suitable controls in place to track an Agency Worker's leave entitlement and to ensure appropriate leave is taken in accordance with the Working Time Directive.

Agency Workers are required to book any request for leave through their Agency Provider. It will be the Agency Provider's responsibility to inform Torbay Council that the Agency Worker on placement has requested holiday. The Agency Provider will provide a replacement Agency Worker if required.

All absences must be reported to Torbay Council's hiring manager prior to the Agency Worker's usual start time. If an Agency Worker on assignment with Torbay Council is absent from work, it is the responsibility of the Agency Provider to notify the hiring manager and offer a replacement if required.

B1.18 Performance Management

The Agency Provider must conduct some form of on-the-job performance assessment of their Agency Worker, which can be completed in association with Torbay Council as part of a service review or individually via electronic communication. This will include assessment of the ability of the individual to carry out specific tasks required during the course of the placement. The Agency Provider will use this information to assess the suitability of Agency Worker for specific placements with Torbay Council. This evidence must be made available to Torbay Council

In the event that an Agency Worker placed with Torbay Council does not meet their requirements Torbay Council will immediately notify the Agency Provider. If this notification is made within eight hours of the start of a placement, Torbay Council will not pay for the hours worked by the Agency Worker for that day. Torbay Council will not evoke any of the Council's disciplinary procedures.

If required, the Agency Provider will arrange for a suitable replacement to take over the placement as soon as is practicable and in any event within twenty-four hours of the start

of the original placement. Agencies will not levy any charges for the first day in these circumstances.

It is the Agency Providers responsibility to undertake any disciplinary action in line with their own policies and procedures. Torbay Council may be able to support this process.

B1.19 Placement Terminated

The booking for the Agency Worker is with the Agency and not the Agency Worker, therefore if an Agency Worker swaps to a different Agency, the booking is automatically terminated with the original agency. Should the agency worker choose to be represented by an alternative agency who supplies to Torbay Council, within this Framework Agreement, there will be no fee charged to the Council, in relation to introductory or cancellation fees.

If it is not possible to specify the duration of a placement at the booking stage (for example because it is to cover sick leave of uncertain duration) Torbay Council will give the Agency Provider as much notice as possible to terminate the placement. However, there may be occasions when it is not possible to give advance notice of termination of a placement. The Agency Provider will withdraw a temporary worker immediately if required.

The Agency Worker will be responsible for all equipment issued which must be returned at the end of the placement. A charge to the Agency Provider will be made for any lost/damaged/unreturned equipment. It is the responsibility of the worker to courier back equipment via tracked/secure courier if they are not located in Torbay.

When a placement is due to end, the Agency Worker must complete all planned work to a satisfactory level. The Agency Worker will not be allowed to finish off or complete work after the placement has ended.

B1.20 Timesheets, Pay and Expenses

Each Agency Worker must be provided with a weekly timesheet at the start of their placement or at the beginning of each calendar new week. They must also receive payslips detailing their gross and net pay, holiday entitlement and details of any deductions.

Should an Agency Worker identify any discrepancies with their pay or deductions the Agency Provider must resolve issues directly with Torbay Council, the hiring manager and the Agency Worker within the week that the issues are raised so that if adjustments are required they occur the following week so as to cause minimum inconvenience to those involved.

The Provider must invoice the Authority for the expenses the Provider incurs separately from the Provider's Day Rate charged to the Authority. The Provider must adhere to the Council's Expenses policy – provided as Appendix S.

Agency Workers cannot claim travelling expenses to get to and from their normal place of work. Torbay Council may agree with an Agency Worker that they will use their own transport in the course of working for the Authority (subject to appropriate insurance being in place). In such cases Torbay Council will pay an appropriate mileage allowance in line with the Torbay Council's Expenses policy – provided as Appendix S.

In the unlikely event that an Agency Worker is asked to incur out of pocket expenses

during the course of their placement then these must be reimbursed by the Agency Provider. Torbay Council will only reimburse the Agency in line with Torbay Council's Expenses Policy for any legitimate expenses incurred by the Agency Worker associated with the performance of their assigned duties on behalf of Torbay Council. Torbay Council will not pay administration costs for the payment of expenses.

Agency Workers cannot claim for any parking-related costs incurred whilst carrying out placements for Torbay Council; this includes fixed penalty fines, clamping costs and so on.

Successful Agencies awarded a place onto the Framework Agreement will take appropriate steps to ensure that umbrella companies used by workers, are compliant and work within HMRC guidelines. These checks will be undertaken on first use and periodically checked with reference to pay slips issued. This information will be available to Torbay Council on request.

The Authority's guidance to managers on the above sections B10.13 to B10.20 is contained within its Agency Worker policy, provided as Appendix T.

Management of time-sheeting and invoicing – manual and electronic as required by the Council and any Council wholly owned subsidiary companies:

Whether these are paper or electronic, the most basic requirements are that they are provided in a timely fashion, accurately record the Provider's supply and correctly charge at tendered rates. The Provider must ensure that all timesheet and invoice processes are secure and meet current financial audit requirements.

Where the Council and any Council wholly owned subsidiary companies has provided a booking reference, or purchase order number, then this must be quoted on the timesheet and the related invoice. Each invoice as a minimum must include:

- name of the Agency Worker and where the Agency Worker is a company, the name of the company, company registration number and VAT number;
- title of the Agency Worker's role;
- the date (from/to) of work invoiced;
- the number of days worked by the Agency Worker;
- the applicable Mark Up Percentage;
- the Agency Worker's Day Rate;
- the Maximum Contract Sum;
- where the Agency Worker is an employee of the Contractor, the Agency Worker's National Insurance details;
- details of any travel expenses, other disbursements or accommodation payments; and
- details of VAT calculation.

B1.21 Health and Safety and Welfare

Health and Safety is a three-way responsibility between the Agency Provider, the Agency Worker and Torbay Council. The Agency Provider will ensure that they have conducted appropriate risk assessments and provide all necessary PPE. The Agency Worker will be required to wear all PPE provided to them by the Agency Provider or required to be worn by Torbay Council. Torbay Council will ensure that Agency Workers are only assigned in places of work where all relevant precautions are in place. Any changes in legislation will be adhered to by all parties.

Any Agency Worker who refuses to comply with health and safety guidelines and/or legislation when instructed by Torbay Council will be asked to leave. The Agency Provider will then be required to remove the Agency Worker from site and provide a replacement Agency Worker (if required).

Torbay Council is responsible for:

- Providing a place of work that is safe and free from unmitigated risk to health
- Providing safe equipment and materials
- Providing safe systems of work
- Providing adequate welfare facilities – toilets, washing and refreshment facilities, and accommodation for outdoor clothing.

The Agency Provider is responsible for ensuring that Agency Workers have the appropriate knowledge, skills and experience to carry out the work involved without risk to the health and safety of themselves or other people. This includes providing manual handling and COSHH training as required and also First Aid at Work qualifications if applicable to the role.

It is important that each Agency Workers is familiar with Torbay Council's safe working practices for the tasks involved. Torbay Council will work with the Agency to provide appropriate health and safety training to Agency Workers. This may involve jointly arranging induction-training sessions outside of normal working hours.

Where the Agency Workers is required to use a computer, the Agency Provider will arrange for the Agency Workers to have periodic eyesight checks and, if necessary, spectacles for computer use, in accordance with the Display Screen Equipment Regulations.

Torbay Council's Responsibilities

Torbay Council will:

- Provide clear information as to the requirements for each placement
- Provide as much notice as is reasonably practicable when a placement is required. However there may be occasions when the Council has an immediate requirement and therefore notice will not be given
- Provide official orders for the placements (either individually or to cover a longer period)
- Make appropriate arrangements for the safety health and welfare of each Agency Worker
- Pay the sums due to the Agency Provider under the Contract in accordance with Torbay Council's payment terms and conditions.

- Meet with the Agency Worker's representative as often as is required.

The Agency Provider's Responsibilities

The Agency Provider will:

- Meet with Torbay Councils representatives as often as is required
- Ensure that the Agency's Staff allocated to the Agency Worker must not visit them on the office floor. Visits must be arranged off site
- Have sufficient Staff available in the Agency Provider's office to receive and respond to Torbay Council's bookings and other instructions throughout normal office hours (09:00 to 17:00 Monday to Friday)
- Provide Agency Workers to fulfil Torbay Councils requirements for placements covered by this Contract whenever required and often at short notice
- Ensure that the Torbay Councils requirements for each placement are fully understood, both by the Staff of the Agency Provider who arrange the placement, and by the Agency Workers appointed to work for the Authorities.
- Ensure that the Agency Workers provided have the skills and attributes required to perform the type of work specified safely and efficiently for each placement
- Ensure that Agency Workers provided are eligible to work in the United Kingdom in the type of work concerned
- As far as possible, ensure that the Agency Workers engaged on a particular placement is able to work for the duration of the placement (where specified)
- Ensure that adequate checks have been carried out to satisfy Torbay Council that Agency Workers are honest and trustworthy
- Ensure that the number of hours worked during each placement is accounted for and that Torbay Council is invoiced accurately
- Pay wages, National Insurance contributions, taxes and holiday pay as required under the law to, or in respect of, the Agency Workers involved.
- Fulfil all other statutory requirements, including health and safety requirements, as the employer of the Agency Worker, save for the following:
 - Direct on-the-job supervision
 - A safe and healthy place of work
 - Safe equipment and materials for use at work, and
 - Safe systems of work.

B1.22 Charge Rate

Lot 1 - Approved Temporary Agency Staff Providers

With reference to the Pricing for Lot 1 - Torbay Council rates the pay of all job roles under a Job Evaluation Scheme. The Applicant agrees that workers placed on assignment, will be paid in accordance with Torbay Council rates of pay, appropriate for the role. The current rates of pay are provided as Appendix U – Pay Rates 2023/24.

Applicants are requested to provide a breakdown of how the charge rate is made up. Applicants should also ensure that all of their employment costs are included within the Charge Rate. This must be expressed as a percentage figure of the Pay Rate per Hour.

If an agency worker is successful after the 12-week qualifying period in securing permanent employment within the Council, it is a requirement of the Call-Off Contract that there is no temporary to permanent introduction fee.

Lot 2 - Approved Social Worker Agency Providers

Due to market conditions for Lot 2 it has been decided that set per-hour Pay Rates will be paid for each type of Social Worker provided. This set Pay Rate will be the same for every Agency Provider on the Social Worker Lot. Please refer to Part 7 Pricing for further information.

It is a requirement that Applicants agree to be paid these set Pay Rates, in accordance with the Memorandum of Co-Operation.

If an agency worker is successful after the 12-week qualifying period in securing permanent employment within the Council, it is a requirement of the Call-Off Contract that there is no temporary to permanent introduction fee.

It should be noted as of 1st July 2023, the pay rates within the Memorandum of Co-Operation for Lot 2, social care roles are being reviewed by the Southwest Employers. Once the new rates are available these will be shared.

B1.23 Contract Management

The Agency Provider is expected to have the following Staff in place to assist with its contract management responsibilities:

- Daily Point of Contact (Branch Consultant)
- Account Manager (Branch Manager)
- Contract Manager (Regional or Area Manager)

The details of these members of Staff must be provided. The Agency Provider must be available to attend a quarterly teams meeting if required. These will be agreed with the providers as required. On site meetings at any time, may be accommodated if required, as necessary. The Council shall give the Agency Provider reasonable notice of any such meeting. The Provider shall co-operate with the Council in relation to attending meetings and the provision of any information reasonably requested by the Council.

Such meetings will be used to discuss any issues in relation to the performance of the Agreement or to agree any changes to the Agreement and Call-off Contract, as required.

The Agency Provider is expected to conduct effective contract management tasks throughout the terms of the Contract, which includes clearly demonstrating how it monitors its own performance and ensures that its Agency Workers are also satisfied with the service that they receive.

Torbay Council reserves the right to request full access to Agency Workers' personnel files for the purpose of safer recruitment audits and overall compliance with the terms of the Contract. Periodically throughout the Contract term and without notice the Torbay Council's authorised representative may visit the Agency Provider's offices and conduct spot audits on the Agency Worker's files currently on assignment with Torbay Council. The

Agency Provider is therefore required to make their workers aware that their personnel file may be accessed by Torbay Council.

Performance and account management: Clear deliverables will be set out by the Council and issued to the Provider, as part of the Order placed. These will include deliverables in relation to skills/knowledge transfer.

Management off boarding, assignment completion or extension: provision of monthly management information (as required by the Contract) - plus ad hoc reports as required and defined by the Authority.

B1.24 Corrective Action

Where it is evident that the Agency Provider is not performing to the agreed service levels, it will be raised in writing and the Agency Provider's duly authorised representative will be required to take action to rectify the situation.

The Agency Provider will be required to submit a written Corrective Action within five working days of the date of the original written notification. The Corrective Action Plan must detail all of the steps required of all of the parties involved to resolve the situation.

Where within two weeks the performance has not improved to an acceptable level as detailed in the Corrective Action Plan, a further written complaint will be submitted to the Agency Provider's authorised representative who will be required to submit a written response, including the action to be taken, within ten working days.

Where the performance still does not improve to an acceptable level within four weeks of the original written notification, a default notice will be issued. Where a default notice is served, the Agency Provider will be required to credit Torbay Council with a rebate totalling one per cent of the total of the next monthly consolidated invoice. The rebate will continue until the Agency Provider's performance is judged by the Contracting Authority to have returned to an acceptable level. In addition the Agency Provider will not be able to submit any potential candidates for any new positions until the Agency Provider's performance is judged by Torbay Council to have returned to an acceptable level.

B1.25 Reports

The Agency Provider will be required to provide monthly data where they have placed workers on assignment. This will include the following information:

List of Agency Workers on placement to include:

- Agency Worker's name
- Assignment details (job title, department, etc)
- Hiring manager's details
- Pay and bill rates
- FIMS/PO reference number
- DBS disclosure (where applicable)
- Length of current assignment – start and anticipated end date
- Reason for use of Agency Worker
- Cumulative cost per assignment

This information will be required to be provided in a secure format to

Recruitment@torbay.gov.uk by the agreed date and in sufficient time to support quarterly review meetings. This will also ensure that Torbay Council can monitor the use of Agency Workers. Where possible the Agency Provider must be willing to capture and provide additional statistical data at any time, as and when required.

B1.26 Complaints

The Agency Provider is required to provide formal procedures for dealing with complaints to include timescales for response and resolution. The Agency Provider must be aware that complaints may be forthcoming from Councillors, officers, members of the public, Agency Workers and its own Staff.

The Agency Provider must demonstrate the measures that it has in place to reduce complaints about the conduct and performance of both its Staff and Agency Workers. Any formal complaint must be acknowledged within twenty-four hours and those involved be made aware of the timescales involved to resolve the complaint, together with any right to appeal that may be in place. The timescales to resolve the complaint must be reasonable and timely.

The Agency will be expected to escalate to Social Work England any complaint regarding their agency worker where this is deemed appropriate. Torbay Council will assist with information and evidence where applicable, but it remains the responsibility of the Agency to pursue this action.

B1.27 Safe Recruitment

To ensure the Service creates a safer recruitment culture for clients and staff, it is expected that Suppliers will meet the following requirements:

- At least one member of each interview panel must have undertaken safer recruitment training;
- The Provider must have effective procedures in place, which are regularly updated and communicated to staff;
- The Provider must set a code for acceptable standards of behaviour for all staff and ensure this is effectively communicated to staff;
- The Provider must take seriously all concerns that are raised;
- The Provider must, on an ongoing basis, increase awareness and commitment to safeguarding across its organisation.

B1.28 Invoicing

The Agency Provider must send invoices and remittance advice in the format requested by Torbay Council, paper or electronic, to the duly authorised hiring Torbay Council manager at the agreed frequency, whether this is weekly, fortnightly or monthly. Each invoice must be a valid VAT invoice and must include:

B1.28.1 The purchase order number

B1.28.2 Details of the hiring manager, either the person that placed the order or the person to whom the Agency Worker reports;

B1.28.3 The total number of hours worked by the Agency Worker for both standard and overtime hours; note Torbay Council's standard working day is 7.4 hours.

B1.28.4 The dates to which this assignment relates to;

B1.28.5 The agreed rate for each assignment;

B1.28.6 Expenses (together with the duly authorised claim form);

B1.28.7 VAT;

B1.28.8 The total charge;

B1.28.9 Copy time sheets must be supplied with each invoice if requested.

Payment will be made in accordance with Torbay Council's specific payment terms and conditions:

- The Council's settlement terms are 30 days in arrears, from the date of an undisputed invoice.
- The Provider must provide a consolidated invoicing approach as standard, including for third party services unless otherwise specified. Any information specific to the invoice and the provision of services, must be attached to the invoice, to enable prompt processing / payment;
- The invoice must contain a full breakdown of costs and must match the agreed pricing stated on the final quotation and official purchase order.
- Disputed parts of invoices and invoices not bearing purchase order numbers will not be paid and a corrected invoice will be required.
- Payment will be by BACS and remittance advices will be transmitted to the Provider by email (the Provider's appropriate email address must be supplied).

Any invoice received by Torbay Council that does not meet the terms outlined above will be automatically rejected and returned to the Agency Provider without payment. The Agency Provider will be expected to correct any and all errors and re-submit the invoice to Torbay Council. Torbay Council will record each instance of a query or dispute, the nature of the query or dispute and the time taken to resolve the query or dispute in order that it may better manage those instances to avoid recurrence.

B2 Not Used

B3 Not Used

C Additional Requirements

C1 Social Value

- C1.1 The Council is committed to its responsibilities under The Public Services (Social Value) Act 2012. Therefore the Council is seeking Participants who will add value to the Agreement by providing additional community benefits (above the services described within this specification).
- C1.2 The Council is committed to a performance and evidence-based approach to Social Value.
- C1.3 Further information on the Council's approach to Social Value and resources to support you in your submission are available to bidders in Part 6 Social Value Requirement, Appendix G Do's and Don'ts for Social Value Bids, Appendix H The Torbay TOMs Framework and at:
<https://socialvalueportal.force.com/s/supplierregistration?svpprojectid=8e0-0000-7HBmp>

C2 Scope and Nature of Possible Modifications or Options

- C2.1 The Framework will be used by Torbay Council and may also be used in the future by the Torbay Development Agency, SWISCo, and any current or future arms-length companies wholly owned by the Authority and by maintained schools, academies and multi-academy trusts, within the Torbay Council Local Authority area.
- C2.2 Any relevant changes in legislation and/or regulatory requirements, relating to recruitment practice and compliance;
- C2.3 Changes to agreed rates of pay;
- C2.4 Legislative changes to Social Work Practice;
- C2.5 Agency staff booking may become electronic – with future bookings made through the Council's 'My View' intranet system;
- C2.6 Secure emailing system is currently Egress Switch. If Applicants can offer the TLS facility, then providing a compatibility test is carried out satisfactorily, between the Council's IT Services and the Applicant's organisation, there may or may not be a future requirement to use Egress Switch – although this is required for the immediate future;
- C2.7 Addition of other job roles, such as Social Workers specialising in Adult Social Care;
- C2.6 Changes to the Award Procedures for appointing workers
- C2.7 Changes to the insurance and indemnity requirements.
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C3 Further Services Offered

The Applicant will be expected to suggest as part of its response to the Evaluation Questions any additional products or services that they may be able to offer as part of this Contract or any other added value that their offer might be able to bring to the Authority. Applicants are expected to build any such offers into their submissions regardless of whether specific questions are asked along these lines or not.