

Notice of Non-Key Executive Decision

Subject Heading:	EHCP Backlog Clearance - Waiver
Decision Maker:	Cllr Oscar Ford
Cabinet Member:	Cllr Oscar Ford
ELT Lead:	Tara Geere
Report Author and contact details:	marcus.bennett@havering.gov.uk 01708 433465
Policy context:	<p>The policy context for funding a contract to a locum agency for Educational Psychologists (EPs) involves several key considerations:</p> <p>Statutory Responsibilities: The Council may need to engage agency workers to comply with statutory responsibilities and fulfil operational demands. This is particularly relevant for positions required to undertake assessments as part of the Education, Health, and Care (EHC) needs assessments, in line with the Children and Families Act (2014).</p> <p>Workforce Demands: The recruitment of locum (widely known as Associate) Educational Psychologists (EPs) has become a critical necessity due to the national shortage of EPs. This shortage has led to a situation where councils, including Havering, are heavily reliant on associates to fulfil their statutory responsibilities. Despite having permanent staff, the demand for EPs is so high that most councils in England are unable to fill permanent positions. Consequently, they are compelled to enter into contracts with agencies to</p>

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	<p>deliver statutory work through the associate EPs on their books.</p> <p>Financial and Business Need: The engagement of agency workers should be based on a sound financial and business need. It is generally accepted that agency workers should be used for short-term cover (e.g., less than 12 weeks) pending longer-term resourcing solutions.</p>
Financial summary:	<p>An initial agreement with an agency called Linq, passed as a NKED, was for the total of £147,500 excluding VAT to delivery 100 assessments. This NKED relates to an extension for a further 90 assessments, at the costs of £132,750 excluding VAT. This contract will see savings of £18,628.20 compared to employing associate EPs directly as Council contingency workers, as we instead contract an agency who manage all personnel / HR aspects of the workers they employ.</p> <p>It will be fully funded from the 'EHCP Process' cost centre. Business partners confirm available budget to fulfil this contract, and the Procurement team have approved the contract via a waiver to the usual Contract Procedure Rules has been agreed due to the specialist nature of the service and its urgency, however a full procurement process has begun for future arrangements of this nature. This NKED is ensuring Cabinet Member authorisation to waive procurement rules, due to the urgent need for this service and while a concurrent procurement process takes place for the awarding of a longer term contract.</p>
Relevant Overview & Scrutiny Sub Committee:	People OSC
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well X

Place - A great place to live, work and enjoy

Resources - Enabling a resident-focused and resilient Council

Part A – Report seeking decision

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DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

We are requesting a decision to be made to waive Contract Procedure Rules. This is on the basis of the urgent need for services in order for the Council to comply with its statutory obligations, with these exceptional need having arisen due to unexpected increase in the need for services. A full procurement process will now take place for consideration of ongoing needs.

We are currently facing a backlog of 103 cases due to a combination of staff shortages and an unexpectedly rapid increase in EHCNAs.

AUTHORITY UNDER WHICH DECISION IS MADE

Scheme 3.2. (2.5) (g)

- To approve an exception to the Contracts Procedure Rules set out in Part 4 of this constitution, in accordance with Rule 14(1) of those Rules

STATEMENT OF THE REASONS FOR THE DECISION

To delay this process while undertaking a full tender would see hundreds of children and young with special needs have their support delayed, and in addition to compromising outcomes for Havering residents, it would pose a significant financial and reputational risk to the Council. A full procurement process will now take place for consideration of ongoing needs.

There are few equivalent specialist services available on the market. Linq is a highly specialist provider offering an opportunity to address the backlog of EHC needs assessments. The commitment to engaging with Linq ensures compliance with the Children and Families Act 2014 and the SEND code of practice (2014).

Failure to complete EHCNAs within the required 20-week period, as mandated by the Children and Families Act 2014, can have serious legal consequences for the Council. Non-compliance may lead to legal actions by parent/carers, including judicial reviews, and could result in orders to expedite assessments. Moreover, the Council risks reputational harm and loss of community trust.

This approach promotes inclusive practice by providing timely support to families and schools/settings, ensuring that children and young people with special educational needs and disabilities (SEND) receive the necessary assessments and interventions promptly. This helps to prevent delays in accessing support and **reduces the likelihood of more costly specialist placements in the future or costs associated with tribunals** due to delayed assessments.

OTHER OPTIONS CONSIDERED AND REJECTED

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Several other options were considered and ultimately rejected for addressing the backlog of EHC needs assessments:

- One option was to recruit additional permanent EPs, but the national shortage of EPs made this approach impractical and it is common practice for EP services to use a combination of permanent and locum staff.
- Other locum agencies were contacted and considered, but their proposals either did not meet the required timeline or were not cost-effective. Therefore, the decision to engage with Linq was made based on their balanced approach, cost-effectiveness, and ability to meet the project requirements within the desired timeframe.

PRE-DECISION CONSULTATION

None required.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Marcus Bennett, Head of SEND and AP Services

Name: Tara Geere

Designation: Director of Starting Well

Signature:



Date: 27.02.25

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Failure to complete Education, Health, and Care Needs Assessments (EHCNAs) within the statutory timeframe can have significant legal implications for the Council. Under the Children and Families Act 2014, the Council is legally obligated to complete EHCNAs within 20 weeks. Non-compliance with this requirement can result in legal challenges from parent/carers, potentially leading to judicial reviews. Additionally, the Council may face reputational damage and loss of trust from the community, as well as potential financial penalties. Ensuring **timely completion of EHCNAs is crucial to avoid these legal risks** and to provide the necessary support to children and young people with SEND.

FINANCIAL IMPLICATIONS AND RISKS

The total cost of the agreement with Linq is £132,750 excluding VAT. This contract will see savings of £18,628.20 compared to employing associate EPs directly as Council contingency workers, as we instead contract an agency who manage all personnel / HR aspects of the workers they employ.

The cost will be funded through the council's 'EHCP process' funding, and available budget has been confirmed.

This is a temporary purchase with no obligation for renewal, although renewal may be considered based on an assessment of the project's effectiveness in terms of outcomes, cost and the needs of the service.

A waiver to the standard Contract Procedure Rules has been granted due to the specialised nature of the service.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no further human resources implications or risks from this decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There are no further equalities and social inclusion implications or risks from this decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no further environmental and climate change inclusion implications or risks from this decision.

BACKGROUND PAPERS

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None

APPENDICES

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

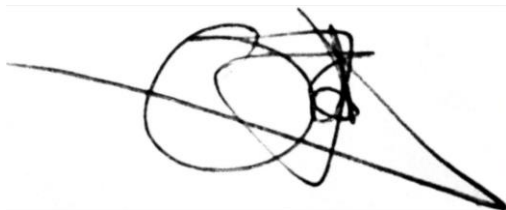
Decision

Proposal agreed

Proposal NOT agreed because

Details of decision maker

Signed

A handwritten signature in black ink, appearing to be 'Oscar Ford', written over a horizontal line.

Name: Councillor Oscar Ford

Cabinet Portfolio held: Children and Young People

CMT Member title:

Head of Service title

Other manager title:

Date: 3rd March 2025

Lodging this notice

The signed decision notice must be delivered to Committee Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

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