

Notice of KEY Executive Decision

Subject Heading:	EHCP EP Advice Contract – Approval to undertake procurement
Decision Maker:	Councillor Oscar Ford
Cabinet Member:	Councillor Oscar Ford
ELT Lead:	Tara Geere
Report Author and contact details:	Dr Marcus Bennett marcus.bennett@havering.gov.uk 01708 433465
Policy context:	<p>The policy context for funding a contract for Educational Psychologists (EPs) involves several key considerations:</p> <p>Statutory Responsibilities: The Council needs 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) 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 deliver statutory work.</p>

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	Financial and Business Need: The engagement of agency workers should be based on a sound financial and business need.
Financial summary:	<p>We are seeking to award a contract to carry out an expected 550 assessments based on current projections across the period of the start of the contract until the end of August 2026, with the option of an extension for further assessments that would take the total contract value up to but not beyond £1.4m (excluding VAT) for the period until the end of August 2027, subject to demand and available funding.</p> <p>We are also looking to include the option of a contract extension based on evidence of strong performance against the following key performance indicators:</p> <ul style="list-style-type: none">- Timeliness of EP Advice; specifically, has at least 90% of advice been completed within statutory six weeks (factoring in shorter timescales to include internal QA, details TBC)- Quality of EP Advice; is advice consistently (i.e., above 90%) 'good' or 'outstanding' following agreed induction periods
Reason decision is Key	Indicate grounds for decision being Key: (a) Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	23 rd of April 2025

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Relevant Overview & Scrutiny Committee:	People OSSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

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

X People - Supporting our residents to stay safe and well

Place - A great place to live, work and enjoy

Resources - Enabling a resident-focused and resilient Council

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To agree to procure a contract for the provision of educational psychology assessments for a period of 10 - 12 months until 31 August 2026 with an optional extension of 12 months at a maximum value of £1.4 million as set out in this report

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3.2

3.3.8 To approve the commencement of the tender process, to award contracts, agree extensions of contract terms where the value of such matter is between £1,000,000 and £2,000,000 subject to consultation with the Strategic Director of Resources.

STATEMENT OF THE REASONS FOR THE DECISION

The decision requested is to approve funding for a contract to provide Educational Psychologists (EPs) to address the current backlog of cases for Education, Health, and Care needs assessments (EHCNAs), and continuing need for assessments that outstrips current and possible permanent staffing capacity.

The Council has previously had a contract with Linq, approved via direct award due to the urgent need for services and for a smaller number of assessments. As there is an ongoing need for these services a full procurement process will be undertaken.

It is proposed to award a contract to carry out an expected 550 assessments based on current projections across the period of the start of the contract until the end of August 2026, with the option of an extension for further assessments that would take the total contract value up to but not beyond £1.4m (excluding VAT) for the period until the end of August 2027. There would be no obligation to pay for a particular number of assessments in the absence of demand for services or due to insufficient funding.

The Council currently has a backlog of over 150 assessments cases due to a combination of national staff shortages in this specialist area, and a rapid increase in the need for EHCNAs which is particularly fast at a local level, but broadly in-keeping with national increases.

The services fall under the Provider Selection Regime (PSR). The PSR provides three types of procurement provider selection processes: direct award processes A, B and C; most suitable provider process; competitive process procurement. Where a procurement qualifies for either processes A and B, those processes must be used. Neither A or B apply to this procurement.

Direct award process C may be used when an existing contract is about to expire and will be replaced with a similar one, and the relevant authority believes the existing provider is satisfying the existing contract and will likely satisfy the new one. In this respect, the difference between the proposed value of the new contract and the existing one are too dissimilar and direct award process C may not be used.

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It is proposed to use the competitive process under the provider selection regime (PSR). This will ensure the Council obtains best value measured against price and quality: -

In addition to value (price), the evaluation of tenders will include measurement against the PSR key criteria of quality and innovation; integration, collaboration and service sustainability; improving access, reducing health inequalities and facilitating choice; and social value. This will ensure high quality services, as poor services will lead to reduced parental confidence and associated costs and reputational damage via complaints, tribunals and other disputes. It is intended to maximise the proportion of assessments that will be undertaken face to face rather than remotely.

The Council has a statutory responsibility to deliver these services and were we not to this would increase the risk to children and families, compromise positive outcomes for children and young people with special educational needs and disabilities, and pose a significant reputational and financial risk to the Council via disputes and complaints.

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

One alternative to the award of this contract would be to increase the number of permanently employed EPs, who would then be able to fulfil these statutory responsibilities. As stated above, this is an option actively pursued through ongoing recruitment, though never likely to be sufficient due to a national shortage of EPs and rapidly increasing need for EHC needs assessments, and despite Havering EP Service having a much stronger record of recruitment and retention of EPs than other services, indicating there is little to no scope for improvement in this regard.

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The second alternative to awarding a contract to an agency to deliver EP advice, is to look to work directly with individual associate EPs. This has been the approach taken over recent years, however this has three disadvantages compared to the proposed contract. Firstly, this approach is unlikely to yield the capacity needed. Secondly, this approach requires far more administrative capacity in terms of working with multiple agencies, directly with multiple associates, compared to having a single point of contact with one agency. Thirdly, financially this option is more expensive. Specifically, costs for one piece of EP advice from a directly employed associated are in the region on £1900 with agency fees, whereas initial discussions with agencies with whom we might award a single contract see the figure at around £1500. For 550 assessments, the saving via a single agency would therefore be in the region of £220,000.

PRE-DECISION CONSULTATION

N/A

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

Name: Marcus Bennett

Designation: Head of Special Educational Needs, Disabilities (SEND) and Alternative Provision (AP)

Signature:



Date: 27.06.25

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has the power to procure contracts under Section 111 of the Local Government Act 1972 which, permits the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

Additionally, the Council has the general power of competence under Section 1 of the Localism Act 2011 to do anything an individual may generally do, subject to limitations. No limitations are engaged by this decision.

The contract falls under the provisions of the Provider Selection Regime Regulations 2023 (PSR). As set out in the body of the report, the Council has considered whether it is required to use mandatory PSR routes A or B and has concluded they do not apply. The competitive process may therefore be used.

For the reasons set out in the report, the Council may commence the procurement.

FINANCIAL IMPLICATIONS AND RISKS

This contract is required to meet the council's statutory responsibility of conducting assessments within 20 weeks. This is a statutory responsibility funded from the Council's general fund budget (not DSG.)

The demand for assessments has been rising year on year and the projected number of assessments required in an academic year is in the region of 880 to 930. There is currently a waiting list of 150 outstanding assessments and this is expected to rise in the next academic year. The Council has a budget for the Educational Psychology service of £1.6m of which around £1.075m funds the staff team and £0.54m is available for this contract. The budget has been increased by £0.520 since 2023/24 to address this increased demand for EHCPs however the number of assessments applied for has continued to grow.

Prompt interventions promote better outcomes and can prevent greater costs later such as tribunal costs however recruitment of qualified Educational Psychologists is extremely challenging as demand exceeds supply. The contract will also be a more cost effective method than contracting directly with EPs or using internal staff.

The permanent staff team will be able to carry out around 330 assessments in addition to their other work. This means that 550 to 600 externally contracted assessments will be required in the 25/26 academic year.

There is around £0.54m remaining funding available in the existing approved educational psychology service budget for the 25/26 financial year. This will cover around 350 assessments (although this figure may change if permanent staff leave or are recruited.) The position will be closely monitored to ensure that assessments will only be commissioned if they are affordable within the budget. The remaining assessments (c200) will be delivered in the next financial year (i.e. in the summer term.) The total cost for 550 assessments is estimated to be in the region of £0.850m spread over two financial years.

Key Executive Decision

Subject to satisfactory performance it will be possible to extend the contract to cover the 2026/27 academic year. The number of assessments commissioned in that year will depend on demand and on the amount of budget that is remaining. As the number of applications is rising we are seeking to identify further funding through the council's MTFS process – if this cannot be identified the number of assessments will be limited to what is affordable. The extension however is to a potential maximum of £1.4m which would equate to roughly 900 to 950 assessments over the two academic years 25/26 and 26/27.

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

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The contract sought is to fulfil statutory responsibilities the Council already has and delivers, addressing challenges relating to having insufficient staffing capacity to do so. It therefore has no potential to have any negative impacts, and agreement to seek a contract of this nature will benefit children and young people with special educational needs and disabilities.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

Havering Council is committed to improving the health and wellbeing of its residents.

Ensuring that children and young people with special educational needs and disabilities (SEND) have timely access to EP assessments is vital to ensure that appropriate interventions can be put in place via an EHC to promote their welfare. These interventions can support positive outcomes across a broad range of factors associated with physical and mental health and wellbeing, including education, employment, and social and emotional development. Ensuring that children and young people with SEND are assessed to access suitable interventions also has implications for the health and wellbeing of their parents, carers and families.

There are no health and wellbeing risks associated with the approval of this decision. Failure to take action to address the current backlog of EP assessments will likely further compound delays in assessment, compromising positive health and wellbeing outcomes for children and young people with SEND.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The contract sought is to fulfil statutory responsibilities the Council already has and delivers, addressing challenges relating to having insufficient staffing capacity to do so. It therefore has no potential to have any negative impacts above and beyond business as usual.

BACKGROUND PAPERS

Key Executive Decision

N/A

APPENDICES

N/A

Key Executive Decision

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

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name: **Councillor Oscar Ford**

Cabinet Portfolio held:

CMT Member title: Director of Starting Well

Head of Service title: Director of Starting Well

Other manager title:

Date:

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 _____