



**CABINET – 24 MAY 2024**

**EXCEPTION TO CONTRACT PROCEDURE RULES - URGENT ACTION  
TAKEN BY THE CHIEF EXECUTIVE IN RELATION TO THE  
EDUCATIONAL PSYCHOLOGY SERVICE**

**REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY SERVICES**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to advise the Cabinet of urgent action taken by the Chief Executive to approve an exception to the Council's Contract Procedure Rules to enable the direct award of a contract to Liquid Personnel Ltd. for the provision of Education Psychologist Locums to provide assessment for children and young people undergoing an Education, Health and Care Plan Needs Assessment.

**Recommendation**

2. It is recommended that the Cabinet notes the urgent action taken by the Chief Executive (following consultation with the Leader) to directly award by an exception in accordance with the Contract Procedure Rules to enable the Director of Children and Family Services to agree a contract with Liquid Personnel Ltd. to provide 500 assessments for children and young people undergoing Education Health and Care Plan Assessments, up to a maximum value of £801,500, up to 15 May 2025.

**Reasons for Recommendation**

3. The County Council's Contract Procedure Rules (Part 4G of the Constitution) require that, where the estimated value of a contract exceeds £179,087, formal tenders must be invited.
4. Where an exception to the Contract Procedure Rules is required for contracts over £179,087, Rule 6 e) provides that Cabinet approval be obtained to the exception where this is justified on its merits and that in urgent cases the Chief Executive (after consultation with the Leader or Deputy Leader save where this is not practicable) may direct that an exception be made subject to it being reported to the Cabinet. The exception was necessary to enable the Council to fulfil its duties under the relevant legislation to complete Education Health and Care Plan Assessments (EHCPAs) for eligible children and young people. Alongside this the Council will undertake a review of service requirements and,

depending on the outcome of the review, a compliant procurement process to award a contract or contracts for Education Health Care Plan Assessments by January 2025.

### **Timetable for Decisions (including Scrutiny)**

5. The exception was agreed by the Chief Executive on 3 May 2024.

### **Policy Framework and Previous Decisions**

6. The exception to the Contract Procedure Rules follows the Council's Constitution (Contract Procedure Rule 6 e)).

### **Resource Implications**

7. The exception is to allow an award for 9 months initially (with flexibility for this to be extended for a further 3 months) to enable an additional 500 assessments (300 remote, 200 face-to-face) over a 9-month period to a maximum of £801,500. This will ensure statutory duties and compliance with the Children and Families Act (2014) and support the current Accelerated Progress Plan following the written statement of action November 2020.
8. National and local evidence and data consistently indicates the considerable pressures that Local Authority Educational Psychology Services face in their role in undertaking Statutory Assessments. These Assessments are critical to enabling local authorities to meet their statutory obligations in undertaking EHCPAs, for children and young people with special educational needs and disabilities (SEND), as outlined in the Children and Families Act (2014).
9. Addressing the extensive waiting times for Statutory Educational Psychology Advice, which forms part of the EHCPA process is a key priority for the Department. As demand for EHCPs and professional advice continues to increase, requests for Educational Psychologist advice continue to significantly outstrip supply. This tension is seen nationally and reflects to ongoing challenges with Educational Psychologist workforce, local authority retention issues, and rising demand for ECHPAs. The County Council's Accelerated Progress Plan forms its response to the issues raised by OFSTED in the reinspection undertaken in November 2022 and includes the timeliness of Educational Psychology statutory advice as a key area requiring attention.
10. Subject to the outcome of the service review, a procurement exercise is required (in accordance with the procurement rules) to put in place a contract agreement, as soon as possible and in any event, by January 2025.
11. The contract will be funded through the Educational Psychology Budget
12. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

**Circulation under the Local Issues Alert Procedure**

13. None.

**Officers to Contact**

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## PART B

### Background

14. The SEND Code of Practice 2014 sets out a number of requirements in relation to the EHCPA process including:-
  - That the purpose of an EHCP is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood.
  - A local authority must conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHCP.
  - The local authority must gather advice from relevant professionals about the child or young person's education, health and care needs, desired outcomes and special educational, health and care provision that may be required to meet identified needs and achieve desired outcomes.
  - Advice and information must be sought from a number of parties including 'Psychological advice and information from an educational psychologist who should normally be employed or commissioned by the local authority. The educational psychologist should consult any other psychologists known to be involved with the child or young person'.
  
15. In Leicestershire, the average number of EHCPA requests agreed for assessment is currently 100 per month, in line with many local authorities.
  
16. The SEND Code of Practice sets out that 'the whole process of EHC needs assessment and EHC plan development, from the point when an assessment is requested (or a child or young person is brought to the local authority's attention) until the final EHC plan is issued, must take no more than 20 weeks'. In Leicestershire, increasing numbers of EHCPAs are well outside of this timescale. In the main this is due to resource challenges in relation to availability of Educational Psychologists and therefore the Department is unable to respond to the request for Education Psychology within the required timeframes.
  
17. The number of Educational Psychologist required to undertake the volume of assessments require far exceeds the number of Educational Psychologists employed by the Council's Educational Psychology Service. Despite a significant recruitment drive, the Department has been unable to fill 8 vacant posts. Challenges with recruitment and retention of Educational Psychologists within local authorities is national issue; 88% of Principal Educational Psychologists report that they are currently experiencing issues recruiting (DfE, June 2023).
  
18. Over the last two years, as a result of the increased demand, the Department has needed to procure additional Educational Psychologists externally in order to meet the demand. Careful consideration is given to the number needed.

### Award of Contract

19. In September 2023 a request for quotation process was carried out to award a 6- month contract for the provision of Educational Psychologist Locums. Liquid Personnel Ltd. were successful in being awarded the contract. This contract ends on 14 May 2024 with no extension options. The direct award of a new contract to Liquid Personnel Ltd. will continue provision of the services on the same terms and conditions as the original contract and will provide an additional 20 Educational Psychologists to undertake 500 assessments.
20. In the meantime, the Department is undertaking a review of service requirements following which a procurement exercise will be undertaken by January 2025 for the ongoing provision of Education Psychology services.

### **Equality Implications**

21. There are no equalities implications arising from the recommendations in this report.

### **Human Rights Implications**

22. There are no human rights implications arising from the recommendations in this report.

### **Background Papers**

None.

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