

CABINET

16 November 2021

EDUCATIONAL PSYCHOLOGY CONTRACT

Report of the Portfolio Holder for Education and Children's Services

Strategic Aim:	Protecting the vulnerable	
Key Decision: Yes	Forward Plan Reference: FP/151021	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr D Wilby, Portfolio Holder for Education and Children's Services	
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Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Cabinet:

- 1) Approves the recommissioning of the Educational Psychology contract which would commence September 2022.
- 2) Approves the increased contract value.
- 3) Approves the increase in the SEN Operations Budget – up to a maximum of £85,500 but notes that, where possible some of this cost may be offset via a recharge to the Dedicated Schools Grant (DSG).
- 4) Delegates the award of a contract to the Strategic Director for Children's Services in consultation with the Portfolio Holder for Education and Children's Services

1 PURPOSE OF THE REPORT

- 1.1 To seek approval to progress the recommissioning of the Educational Psychology contract, the contract to commence September 2022, and to seek approval to increase the value of the new contract.
- 1.2 To request authorisation to go to procurement on the new contract and for Cabinet

to delegate the award of contract to the Strategic Director for Children's Services in consultation with the Portfolio Holder for Education and Children's Services

2 BACKGROUND AND MAIN CONSIDERATIONS

2.1 Introduction

2.1.1 Educational Psychology (EP) is a statutory provision required under the Children and Families Act 2014 and the Special Educational Need and Disability (SEND) Code of Practice 2015. The Educational Psychology service supports the effective implementation of this legislation and the delivery of the legal timescales for Education Health and Care assessments under the Act. Educational Psychologists carry out assessments of children to understand their cognitive and emotional needs and to provide expert advice to practitioners to inform the most appropriate intervention and educational provision for children and young people with SEND. The SEND service has 272 Education Health and Care Plans (EHCPs), (October 2021) and a further 30 under assessment or requesting an assessment.

2.2 Current Local Arrangements for an Educational Psychology Service

2.2.1 Rutland County Council commissions its EP service through a single contract with Partners in Psychology, (PIP), who are contracted to deliver the service until 31st August 2023. This equates to 0.6fte EP time. The contract length was for a period of three years with the option to extend for a further two years until 31st August 2023. The Council is entering the first extension to 31st August 2022, which will give a life span of 4 years for this current contract. The contract provides two elements of service:

- a) **Core service support** - assessments as part of statutory education, health, and care assessment, plans and legal work.
- b) **Non-core work** - traded services which are offered to schools which are not statutory. This includes training, observations, and early assessments. This model facilitates the delivery of a traded service offer for schools offering the potential to generate income for non-core work. This means one provider delivering the core statutory work and the traded service, offering consistency for families and for schools. This element of the service reaches a break even or slight in profit most years. The EP service and PIP the provider do have a separate contract for specific pieces of work with target groups, such as Children Looked After (CLA), Wellbeing in Schools Project and interventions commissioned by School Forum via the Education Inclusion Partnership.

2.2.2 The service is managed within, and is an integral part of the Early Intervention, SEND and Inclusion service, where referrals are aligned to requests for Education, Health and Care assessments (EHC) for children and young people requiring additional support. The contract is overseen and meetings with the Principal EP and team sits with the Head of Service. The Children's Services Commissioning Group receive contract updates and activity reports at the bi-monthly meetings, chaired by the DCS. The EP contribution to the SEND Recovery Plan is included in updates to Schools Forum.

2.2.3 In 2018, a full-service review, and consultation with the SEND community to inform the tendering process was undertaken. This process identified that procurement for

the delivery of EP services through an external provider represented the best model of delivery for the Local Authority. Since 2015 this model had proven to be effective in meeting RCC's statutory duties and brings several benefits which has ensured an effective and responsive service.

2.2.4 The procurement of Educational Psychology services was done under a single contract, comprising both block and spot purchase spend, which commenced 1st September 2018 and runs to August 2023. The value of the EP contract is £108k per year, (comprising £88k plus £20k flexibility), or £540k over the life of the contract including extensions - a total of 5 years,

2.2.5 The procurement model represented good value for money. Whilst the in-house delivery model may be at a slightly lower cost in the daily rate, there is a significant challenge in recruiting and retaining in-house EPs, as is the case in our neighbouring Local Authority (LA), and other LAs.

2.3 Procurement of a new EP Contract

2.3.1 Work on the re-procurement of the EP contract, began between April and May 2021. The service with the Commissioning team undertook an options appraisal exercise. This explored and tested the models in Leicestershire, in Leicester City and in Lincolnshire, as well as models in Brighton and Hove and a Social Enterprise, (Catalyst CIC) in Greater Manchester.

2.3.2 An appraisal of a number of delivery models was completed, which included:

- a) in-house, outsourcing via tender, locum, or agency EP service
- b) associated EP model
- c) mixed model of inhouse combined with SLA with another LA, for example, employed Principal EP plus SLA with neighbouring authority for locums at other grades such as Senior and Assistant EP
- d) a Social Enterprise (CiC) model
- e) or offering a fully traded service, and traded model where schools buy in services, additional to statutory work.

2.3.3 The service has sought through this exercise to create another delivery model as an alternative option to the current model, however there are a number of key considerations when reviewing the models presented above, for example:

- a) The current model in Local Authorities is that SEND statutory assessments are delivered by clinicians who are members of the British Psychology Society and are registered to practise by the Health and Care Professionals' Council, (HCPC). There is a significant challenge to secure expertise to complete statutory or clinical assessments outside the EP profession.
- b) There is a lack of capacity in an aging EP profession. There are challenges for LAs to recruit to in house posts and to allow any time for development work.
- c) The daily rate for a qualified EP clinician is based on the national EP Professional Standards, on average £650 to £750 per day. The cost of the current

commissioned service is at a similar level to the cost of providing an in-house service through the direct employment of an EP and is in line with other Local Authority areas in the East Midlands.

- d) We are currently negotiating a reduced rate for non-statutory assessments. The systemic work is at a lower rate. We could choose to take this out, which has a cost associated with it of £30,000, however there is a risk that the service will have to pay for ad hoc activity, such as input for appeals or tribunals, or that the capacity in the provider service is no longer there when needed.
- e) The quality and value for money of employing locums or agency EPs is questionable - they are more expensive, (double the cost of in house), there is lack of organisational commitment and client continuity, and the quality of work varies.
- f) Poor market capacity and concerns about Provider financial stability.
- g) The CiC model has a limited evidence base, is time consuming to set up and needs partner sign up.
- h) Post Covid19 demand is not yet known but there is evidence of increase in demand.
- i) During Covid19 EPs have been flexible and creative e.g., distance and zoom based assessments, less travel and use of videos etc. This is an area that the service will be pursuing to create any efficiencies. However, the service does not make any additional payments for travel outside the county or clinical resources, this is the responsibility of the Provider. Whilst a virtual /remote service can be utilised in parts, the EP service has also seen a large backlog of assessments and assessment being out of statutory timescales. RCC have only now returned to its satisfactory performance in meeting its statutory timescales for completing assessments and issuing EHCPs.
- j) There is evidence that the best outcomes achieved for children are from models which combine statutory and non-statutory and preventative work. This is the model Rutland currently has and is proposing to carry forward into the new contract.
- k) The outcome of the national SEND Review is unknown, however there is unlikely to be any relaxation on the legal burdens on Local Authorities.

2.3.4 A soft market testing exercise, with the aim of providing information to and requesting feedback on its proposed model for delivery of Educational Psychology Services, was conducted between July 2021 and September 2021.

2.3.5 The soft market testing exercise allowed interested organisations with appropriate experience to outline their views and ideas about the future provision of Educational Psychology Services. The service has considered the responses received as a result of this exercise, to help inform the procurement route and determine if external organisations have the ability and experience to manage, develop and advance the services detailed in the service specification. The service deliberately did not specify the value of the contract at this stage.

2.4 **Proposed Approach for Retender**

- 2.4.1 Both the options appraisal exercise and the soft market testing response, tells us that there are limited options open to the Local Authority to deliver a different model or a more cost-effective model. The preferred model ensures, continuity for children and families and there is a good level of confidence in Rutland's current model. Recommendations from the 2017 Ofsted Inspection to reduce EP waiting times have been addressed, and parental and partner agencies' confidence in the service was tested by the SEND Peer Review 2019 and was found to be positive.
- 2.4.2 The current model enables contribution to service developments and engagement in key SEND Recovery Plan initiatives. However, it comes at a cost of c£30,000 in the new contract. The option to offset more of the EP costs to the Dedicated Schools Grant (DSG), is being explored, however there is already a significant deficit in the DSG High Need Fund (HNF) budget and would result in moving an RCC pressure to a pressure on the DSG.
- 2.4.3 The Council has reviewed the current EP contract and revised the new service specification and contract value to respond to increased demand and trends in the SEND system, and to respond to the anticipated change as a result of the national review of the SEND Code of Practice 2015, and to meet the intentions of the SEND Recovery Plan. The August 2021 DfE Covid Survey response states that of the 117 Local Authorities responses: *"LAs remain concerned about a lack of EP capacity which is creating issues for timeliness of EHC plans and having impacts on capacity of EPs within schools"*.
- 2.4.4 The new contract will comprise of:
- a) **Core Work: Statutory and Priority Casework** - to include assessments, and EHCPs, Early Years cases and those cases where there is significant change in provision. For example:
- Undertake direct assessment and observation of children and young people, providing educational psychological contribution to all statutory Education, Health and Care Assessment and Plans. and, where significant change dictates, annual reviews of EHCPs (**estimated 90 cases**).
 - Undertake assessment, observation, and advice in relation to children with complex and long term SEND, and in the early years, those children who are most at risk of poor educational and life outcomes. (**18 cases**).
 - Undertake direct assessment and observation of children and young people, providing psychological contribution for those children whose provision will change (**10 cases**).
- And to:**
- Participate in out of county placement pupil reviews,
 - Provide support for legal work and cases, undertaking relevant assessment and acting as a professional expert, including support for First Tier Tribunals and associated court work. These costs have previously been explored with RCC's Legal service; however, it has been determined that EP costs cannot be paid from the legal budget as they are not legal costs.
- b) **Core Work – External and Internal Systemic Development**
This element of the core work has not previously been set out in contract terms but will be under the new contract arrangement and will comprise:
- Principal EP attendance at the fortnightly SEND Panel as a key decision maker,

- Provide a same day response to critical incidents, such as serious incidents in schools,
 - Contribute and significantly influence the whole SEND system change and development of inclusion approaches, including the development of new SEND/SEMH provision and associated practices and working with the CCG and local NHS Foundation Trust, in relation to the new LLR Neurodevelopmental Pathway.
- 2.4.5 There may also be the opportunity to provide traded work to schools under a separate SLA, as per the current arrangements. RCC has paid out £11,790 of EP costs under this SLA arrangement, and has recouped £9,985.50, with an outstanding amount of £1,804.50 for this academic year. In the academic year 2020/2021, RCC recouped £2,026 more than was paid out.
- 2.4.6 Some Educational Psychology services are not within the scope of this contract and will be covered under separate contractual arrangements, as is the current arrangements, such as therapeutic interventions for the Education Inclusion Partnerships, Wellbeing in Schools, and Children Looked After and Care Leavers. Some elements of this work will have a lower daily rate than the statutory assessment tasks.
- 2.4.7 The model has been designed as SEND services are demand-led and therefore the Provider is required to meet demand for core work volumes throughout the year ensuring work associated with statutory timescales is met first and foremost. This will require the Provider to adjust capacity to respond to fluctuations in demand and prioritise those cases according to urgency and governed by statutory timescales. This could result in the time allocated in the contract for the systemic development work being diverted to statutory case work.
- 2.4.8 There has been an unprecedented rise in demand for SEND support and assessments and EHC Plans. Some may be Covid19 related, (impact of parental and schools concerns). The EP assessment is a statutory provision which the LA must undertake, which means that the increase in requests for assessments and plans, and appeals will inevitably have an impact on increased workload in the EP service and consequently result in an increase in the cost of the contract. The increase in demand is being replicated regionally and nationally. The EP service had reached case threshold of 75 cases, in June 2021 and therefore had to activate the additional £20k if any further requests for assessment come in.
- 2.4.9 The new contract has been amended to address this demand. It is estimated that that there will be an annual 118 cases across Statutory, Early Years and HNF cases. This is an increase in case numbers in the current contract from **82** cases to **118** cases resulting in a potential increase in the cost of the core statutory and priority casework to £163,500 per annum.
- 2.4.10 The service would want a contract that will allow for, the option to reduce the contract value should the number of assessment requests and EHCPs decrease. The current contract has a block payment for a guaranteed number of EHCPs with extras paid as a spot purchase on a case-by-case basis. Should the service think the demand might drop then the service could consider splitting the estimated numbers between block and spot purchase again, for example, guarantee payments for a specified number of EHCPs and additional EHCPs are charged on top, so the service is paying against demand. The option to revise the contract based on demand will be

tested during the procurement process.

- 2.4.11 An outcome of soft market testing was the identification of a provider of educational psychology services who would be interested in bidding to deliver the services, pending discussion around how the co-location of services would work and the model of delivery between statutory and non-statutory work. This is in addition to the incumbent provider who has also expressed an interest in delivering the service. It is feasible that additional potential bidders will emerge.
- 2.4.12 The Council would not be able to go to direct award of the contract as the value of the contract is above the Official Journal of the European Union (OJEU) threshold and therefore the Public Contract Regulations require competition for this. There is no existing EP framework from which the Council could call off providers. The tender go live date is scheduled for 7 January 2022.

3 CONSULTATION

- 3.1 It is not intended to undertake a community wide consultation again, as the offer has been tried and tested and levels of satisfaction with the Rutland EP offer are high. However, the SEND service through its co-production with the Rutland Parent Carer Voice and the regular feedback from our Independent Advice and Guidance provider (SENDIASS) alongside our satisfactory surveys undertaken throughout the EHCP process has informed the proposed model.

4 ALTERNATIVE OPTIONS

- 4.1 Both the options appraisal exercise and the soft market testing response, tells us that there are limited options open to the Local Authority to deliver a different model or a more cost-effective model, as set out above in Point 2.3. The high annual rise in EP costs will be influenced in part by the lack of capacity in the national educational psychology clinicians workforce, which is driving up the cost of EP daily rates. The 'anticipated maximum costs' of the contract is based on the current provider's quotation. However, a key purpose for going to procurement is to encourage competition and obtain value for money and a bidder could come in lower than the advertised price.
- 4.2 The option to offset more of the EP costs to the Dedicated Schools Grant (DSG), is being explored.

5 FINANCIAL IMPLICATIONS

- 5.1 The EP service is funded from the RCC SEN Operations budget, which is partially funded by a recharge to the Dedicated Schools Grant, approx. 30% of the SEN Operations Budget.
- 5.2 The increase in demand for SEND education, health, and care assessments and EHCPs has resulted in increased demand on the EP service. The current contract has reached 4 years of its 5-year contract and based on the local and national drivers within the SEND system, it is considered an appropriate time to re-commission at this point in time.
- 5.3 Learning from this contract and the model in place now, has led the service to create a new contract over 4 years which will allow the service to respond to future new development and changes in the SEND system.

- 5.4 The current value of the EP contract is **£108,000** annual cost, and **£540,000** over five years, (based on a 3 plus 1 plus 1).
- 5.5 The anticipated maximum costs of the new contract will be **£193,500** annual cost, and **£774,000** over 4 years, however that this is not a guaranteed amount, and the service will only pay for what is used.
- 5.6 Over the four years of the contract the pressure on the Council's Medium Term Financial Plan, (MTFP), will be £342,000. The increased cost of the contract will create a new budget pressure in the Council's SEN Operations budget, as there is no way to mitigate this pressure within the service, for which RCC will be liable, unless recharged to the Dedicated Schools Grant in the same way as currently. The recharge is unlikely to be on the core element of the contract, i.e., statutory EHCP assessments. A further recharge would increase the deficit on the high needs block. However, this would not affect the MTFP.
- 5.7 There may be opportunities to use alternative funding to meet some of the additional costs, particularly the External and Internal Systemic Development (£30k) element of the contract, depending on the work undertaken e.g., if the EP supports the UCC SEN Capital project as expected, then we may be able to capitalise an element of the fee. However, this is not costed out and must meet the legislative requirements of the funding available. As a result, no assumption has been made in relation to this.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 Local authorities must carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN or have or may have a disability (Section 22 of the Children and Families Act 2014).
- 6.2 The Local Authority and its partners have a number of key statutory obligations to children and young people with disabilities and special educational needs, which includes, identification in the early years, the delivery of early and targeted support and the provision of specialist provision.
- 6.2.1 The Children and Families Act and Care Act 2014 places greater emphasis and importance on giving children with disabilities and their carer's greater choice and control in the support they need.
- 6.3 The Commissioning team and Legal and Governance services have been consulted and agree to this course of action.

7 DATA PROTECTION IMPLICATIONS

- 7.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks or issues to the rights and freedoms of natural persons.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 A full Equality Impact Assessment is not required. The Local Authority has a duty under the Children Act and the SEND Code of Practice to meet the needs of children with additional needs or deemed to be children in need.

9 COMMUNITY SAFETY IMPLICATIONS

- 9.1 The LA has a statutory obligation to safeguard vulnerable children at home and in the community, some children with SEND may be supported as Children in Need under Section 17 of the Children Act 1989

10 HEALTH AND WELLBEING IMPLICATIONS

- 10.1 There are no health and wellbeing implications associated with this contract. It is intended through the interventions described above that children will have their SEND needs identified and responded to appropriately and within the LA's statutory duties. The development work associated with this contract will enable the service to also respond to children's needs early, and therefore reduce the risk of children escalating into specialist mental health services such as CAMHS, which are already under increasing pressure to meet assessment and therapy timescales.

11 ORGANISATIONAL IMPLICATIONS

- 11.1 The Commissioning team and Legal and Governance services have been consulted and agree to this course of action, capacity to undertake the procurement process and contract management has been factored in.

12 RECOMMENDATIONS

- 12.1 Approve the recommissioning of the Educational Psychology contract, the contract to commence September 2022, and to approve to increase the value of the new contract.
- 12.2 To authorise to go to procurement on the new contract and to delegate the award of contract to the Strategic Director for Children's Services and the Portfolio Holder for Education and Children's Services.

13 THERE ARE NO APPENDICES OR ADDITIONAL BACKGROUND PAPERS TO THE REPORT.

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.