

DATED 4TH NOVEMBER 2019

THIS VERSION UPDATES AND REPLACES THE VERSION

DATED 19TH JULY 2017

MEMORANDUM OF UNDERSTANDING

**RE: AGENCY RATES AND USE OF AGENCY WORKERS
WITHIN SOCIAL WORK WITHIN THE NORTH EAST**

between

STOCKTON-ON-TEES BOROUGH COUNCIL

NORTHUMBERLAND COUNTY COUNCIL

NEWCASTLE CITY COUNCIL

GATESHEAD METROPOLITAN BOROUGH COUNCIL

NORTH TYNESIDE METROPOLITAN BOROUGH COUNCIL

SOUTH TYNESIDE COUNCIL

SUNDERLAND CITY COUNCIL

DURHAM COUNTY COUNCIL

DARLINGTON BOROUGH COUNCIL

HARTLEPOOL BOROUGH COUNCIL

MIDDLESBROUGH COUNCIL

REDCAR AND CLEVELAND BOROUGH COUNCIL

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THIS MEMORANDUM OF UNDERSTANDING is dated [4th November 2019]

AUTHORITIES

THE PERSONS whose names and addresses or registered offices are set out in Schedule 1. (together the **Authorities** each **Authority**).

1. BACKGROUND

1.1 The Authorities have agreed to work together in a project entitled “North East Agency Workers Project” to coordinate agency rates and use of agency staff within social work within the North East Region to ensure the sustainability of services Annex A (**Project**).

1.2 The Authorities wish to record the basis on which they will collaborate with each other on the Project. This Memorandum of Understanding (**MoU**) sets out:

- (a) the key objectives of the Project;
- (b) the principles of collaboration;
- (c) the governance structures the Authorities will put in place; and
- (d) the respective roles and responsibilities the Authorities will have during the Project.

2. KEY OBJECTIVES FOR THE PROJECT

2.1 The Authorities shall undertake the Project to achieve the key objectives set out in **Annex A** to this MoU (**Key Objectives**).

3. PRINCIPLES OF COLLABORATION

The Authorities agree to adopt the following principles when carrying out the Project (**Principles**):

- (a) collaborate and co-operate. Establish and adhere to the governance set out in this MoU to ensure that actions are taken as required;
- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adopt a positive outlook. Behave in a positive, proactive manner;

- (f) adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation.
- (g) act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support;
- (h) manage stakeholders effectively;
- (i) deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU. and
- (j) act in good faith to support achievement of the Key Objectives and compliance with these Principles.

4. PROJECT GOVERNANCE

4.1 Overview

The governance structure defined below provides a structure for the development and delivery the Project.

4.2 Guiding principles

The following guiding principles are agreed. The Project's governance will:

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- (c) align decision-making authority with the criticality of the decisions required;
- (d) be aligned with Project scope [and each Project stage] (and may therefore require changes over time);
- (e) leverage existing organisational, group and user interfaces;
- (f) provide coherent, timely and efficient decision-making; and
- (g) correspond with the key features of the Project governance arrangements set out in this MoU.

4.3 Directors' Meeting

- (a) The **Directors' Meetings** provide overall strategic oversight and direction to the Project. This group may comprise for, each of the Authorities the relevant Director of Adult Social Services and or Director of Children's Services (or such other post having similar responsibilities for the commissioning of agency staff within social work. The reporting link into this meeting comes from the regional NE ADASS / ADCS Workforce Chair.

4.4 Regional Workforce Leads and Task and Finish Groups

- (a) The Regional Workforce Leads Group will provide strategic management at Project and workstream level. This group is Chaired by the NE ADASS / ADCS Workforce Chair. It will provide assurance to the Directors' Meeting that the Key Objectives are being met and that the Project is performing within the boundaries set by the Directors' Meeting.
- (b) The Regional Workforce Leads Group consists of representatives from each of the Authorities. The Regional Workforce Leads Group shall have responsibility for the creation and execution of the project plans and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Task and Finish Group.
- (c) The Regional Workforce Leads Group has a Task and Finish Sub Group which progresses tasks linked to the delivery of the overall project. The Task and Finish group consists of local authority representatives (and partners) from across the region. There is a clear reporting line back to the Regional Workforce Leads Group.

4.5 Reporting

Project reporting shall be undertaken at four levels:

- (a) **Regional Workforce Leads Group:** Minutes and actions will be recorded for each regional meeting. Any additional reporting requirement shall be at the discretion of the Regional Workforce Leads Group.
- (b) **Directors' Meeting:** Reporting on an "as required" basis, based on the minutes and feedback from the Regional Workforce Leads Group: The Directors' Meeting shall consider overall progress; issues being addressed; issues requiring help (that is, escalations to the Directors' Meeting) and progress planned next period and/or aligned with the frequency of the Directors' Meeting.
- (c) **Organisational:** The Regional Workforce Leads Group and relevant member of the Director's Meeting shall be responsible for drafting reports into their respective local authority as required. The Communication Strategy contains details of the organisational reporting requirements.
- (d) **Chief Executives:** Reporting on an "as required" basis, reflecting upon progress, issues, challenges and strategic planning.

5. ESCALATION

ESCALATION - MANAGEMENT OF THE PROJECT

- 5.1 If any party has any issues, concerns or complaints about the Project, or any matter in this MoU, that party shall notify the other Authorities and the Authorities shall then seek to resolve the issue by a process of consultation via the Regional Workforce Leads Chair and Group, which shall decide on the appropriate course of action to take. If the

matter cannot be resolved by the Regional Workforce Leads Chair Group, the matter may be escalated to the Directors' Meeting for resolution.

- 5.2 If any party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Project, the matter shall be promptly referred to the Regional Workforce Leads Chair (or nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the Regional Workforce Leads Group (or its nominated representatives).

ESCALATION – IMPLEMENTING THE CAPPED RATES AND QUALITY SPECIFICATION

- 5.3 Following the implementation of the capped rates a process is in place to provide support to prevent local authorities from breaching the rates, or to support them to come back within the scope of the rates should they have breached them. The support process involves the Chair of the Regional Workforce Leads Group and the regional ADASS / ADCS Chair where appropriate. Despite support, should a local authority remain outside of the capped rates the final stage of this process is escalation to the regional Chief Executives group. The full escalation process is set out in **Annex B**.

6. INTELLECTUAL PROPERTY

- 6.1 The Authorities intend that notwithstanding any secondment any intellectual property rights created in the course of the Project shall vest in the party whose employee created them (or in the case of any intellectual property rights created jointly by employees of both Authorities in the party that is lead party noted in clause **Error! Reference source not found.** above for the part of the project that the intellectual property right relates to).
- 6.2 Where any intellectual property right vests in any party in accordance with the intention set out in clause 6.1 above, that party shall grant an irrevocable licence to the other party to use that intellectual property for the purposes of the Project.

7. TERM AND TERMINATION

- 7.1 This MoU shall commence on the date of signature by all Authorities and shall expire on 31st March 2021. The MoU and the capped rates will be reviewed at regular intervals the agreement term.
- 7.2 Any party may withdraw from this MoU by giving at least three months' notice in writing to the other Authorities at any time.

8. VARIATION

This MoU, including the Annexes, may only be varied by agreement of the Directors’ Meeting, following initial conversation at the Regional Workforce Leads.

9. CHARGES AND LIABILITIES

9.1 Except as otherwise provided, the Authorities shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.

9.2 All Authorities shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and any party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

10. STATUS

10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the Authorities from this MoU. The Authorities enter into the MoU intending to honour all their obligations.

10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the Authorities, constitute any party as the agent of the other party, nor authorise either of the Authorities to make or enter into any commitments for or on behalf of the other party.

11. GOVERNING LAW AND JURISDICTION

This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 5, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Signed for and on behalf of [AUTHORITY ONE]

Signature:

Name:

Position:

Date:

Signed for and on behalf of [AUTHORITY

TWO]

Signature:

.....

Name:

.....

Position:

.....

Date:

.....

The Key Objectives

The Authorities agree:

1. That agency workers secured on or after the 4th Sept 2017 through the pan-regional framework agreement organised by NEPO with Geometric Results International (GRI) for the supply of agency workers (contract expires in November 2022) or via off contract agreements shall be paid within the capped rates agreement
2. they shall each take steps to bring those agencies that are not within the GRI framework onto the GRI framework by [4th November 2019]
3. to a five tier daily capped day rate from (4th November 2019) for all new deployments (in accordance with **Annex C**)
4. that Day rates will be in five tiers as set out in Annex C
5. that they shall consider (if reasonably practical) allowing agency workers, access to flexi-time policies to accommodate peaks and troughs in work.
6. that the use of day rates does not automatically require that all agency staff are payed at the top of relevant day rate cap.
7. that existing agency social workers are moved onto the new rates at the end of their current contracts / assignments. Local authorities retain the right to extend contracts / assignments on previously agreed rates to maintain workforce stability through system wide transition to the new capped rates.
8. that where appropriate high-quality agency workers should be encouraged to apply for permanent posts.
9. that they will not pay any additional fees/ costs to the agencies to allow them to mitigate the impact of IR35 to agency workers.
10. that a worker who has not completed their Assessed and Supported Year in Employment (ASYE) should not be employed on an agency basis, as this will inhibit their development
11. that they will continue to work with NEPO on behalf of the region to actively manage the GRI contract from a social work perspective
12. that they will work together to develop a list of the pre-employment information

that every local authority wants before it makes an appointment. This should be standardised across the region

13. that for core mandatory training (as identified by each local authority) – the local authority will pay the day rate to the agency and cover the cost of the training
14. that for additional non mandatory training, the local authority will not cover the day rate to the agency but will cover the cost of training
15. that for specialist training – they will not cover the day rate to the agency and will not cover the cost of training (although where possible agency workers will be able to access the training at their own expense).
16. that they will endeavour to hold all out-going workers to their contractual notice period to allow time for the hand-over of cases to other workers
17. that they will not accept any agency staff who have not completed their notice period with a previous local authority. This will provide time to handover to new workers and provide stability to families.
18. that where reasonably practicable at least a week's notice to be given to GRI to secure a new worker, this allows for references to be checked and for DBS / Disclosure Scotland checks to be made.
19. that managers will seek written references from the previous line manager before an appointment is made using the regional end of assignment template.

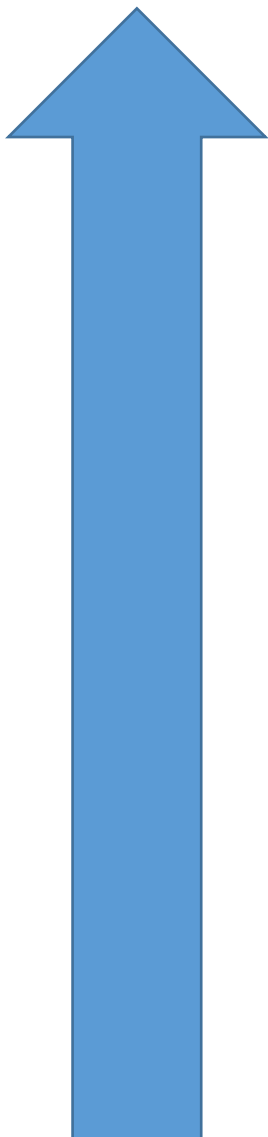
Annex B. Escalation Process

Social Work Agency Rate Monitoring and Reporting

As a North East region, we have committed to implementing updated capped social work agency rates from 4th November 2019 onwards. This commitment is shared across Chief Executives and Directors. This agreement will help to prevent social work churn across the system as well as reducing costs.

As part of this there was agreement to introduce a process for monitoring the implementation of the new rates and reporting this to Directors. Maintaining the rates requires an agreement by each individual Director to use the management information provided to ensure that their service is adhering to the rates and not stepping outside of the agreement.

We would expect that the information provided is used by Directors to intervene should their service be paying rates in excess of the agreed regional cap. However, if this is not the case, we will look to follow the procedure below to support that local authority or to escalate concerns.

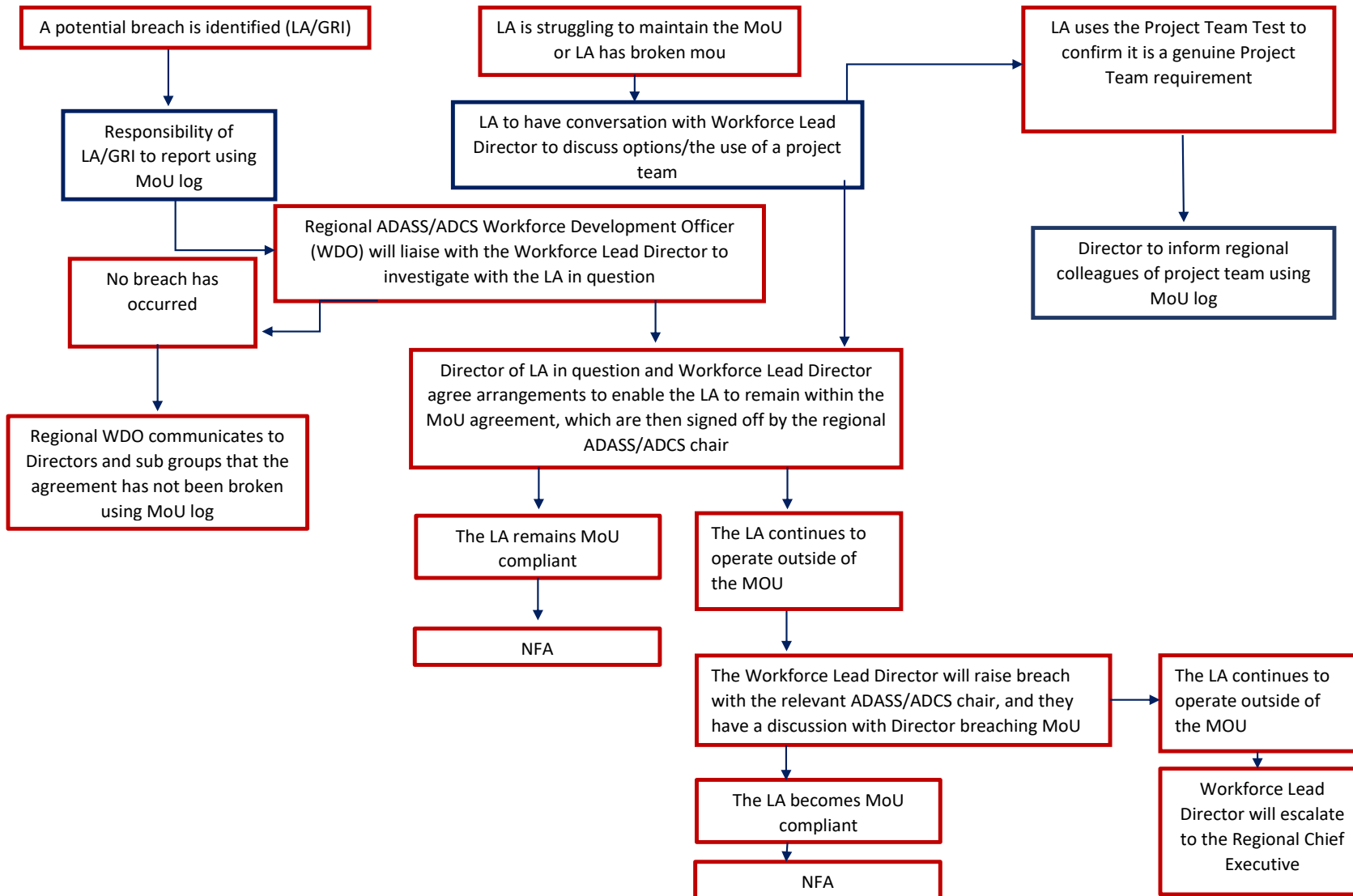


Stage 4 – Should there be no significant progress by the annual report the management information will be escalated to the Chief Executives forum for consideration.

Stage 3 - Should the following quarter management report show that significant progress has not been achieved the DASS / DCS will be invited to join a 3 way discussion between the Director in breach, the Workforce Group Chair and the regional ADCS or ADASS Chair

Stage 2 - Should the following quarter management report show that significant progress has not been achieved the DASS / DCS will be invited to join a meeting / call with the regional ADASS / ADCS Workforce Chair to see if additional support could be provided from within the region.

Stage 1 – GRI and NEPO to produce quarterly management reports for each local authority, to be shared with Directors. This will identify any areas of concern in regards to capped rates being breached. Directors are asked to address areas of concern.



Annex C. Rates paid to the social worker

Regional Pay Rates Social Care	November 2019 rates
Children's Social Care – Social Worker (Newly Qualified)	£140.66
Children's Social Care – Social Worker (Qualified)	£157.41
Children's Social Care – Senior Practitioner (Qualified)	£181.02
Children's Social Care – Social Worker Manager (Qualified)	£208.42
Children's Social Care – IRO	£196.09
Adult's Social Care – Social Worker (Newly Qualified)	£136.00
Adult's Social Care – Social Worker (Qualified)	£154.99
Adult's Social Care – Senior Practitioner (Qualified)	£176.97
Adult's Social Care – Social Worker Manager (Qualified)	£202.11
Approved Mental Health Practitioner (AMHP)	TBC
Best Interest Assessors (BIA)	TBC

ANNEX D. The Authorities

Name	Address
Stockton-on-Tees Borough Council	Municipal Buildings Church Road Stockton-On-Tees TS18 1LD
Northumberland County Council	County Hall Morpeth NE61 2EF
Newcastle City Council	Newcastle Civic Centre Barras Bridge Newcastle upon Tyne NE1 8QH
Gateshead Metropolitan Borough Council	Gateshead Civic Centre Regent Terrace Gateshead NE8 1HH
North Tyneside Metropolitan Borough Council	The Quadrant The Silverlink Newcastle upon Tyne NE27 0BY
South Tyneside Council	Town Hall and Civic Offices Westoe Road South Shields NE33 2RL
Sunderland City Council	Civic Centre, Burdon Rd, Sunderland SR2 7DN
Durham County Council	County Hall, Durham DH1 5UZ

Darlington Borough Council

Town Hall
Feethams
Darlington
County Durham
DL1 5QT

Hartlepool Borough Council

Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Middlesbrough Council

Civic Centre,
Dunning Street
Middlesbrough
TS1 9FY

Redcar and Cleveland Borough Council

Redcar & Cleveland House
Kirkleatham Street
Redcar
Yorkshire
TS10 1RT

Annex E

Regional MoU Agreement on Agency Social Workers

Agreed approach to the use of project teams

November 2018

Background

Following the introduction of the regional MoU to cap agency social worker rates, a number of local authorities/ALEO (Arm's Length External Organisation) are reporting difficulty recruiting to temporary vacancies and are using, or considering using, project teams to alleviate significant pressures on the workforce.

The use of project teams was not covered by the regional MoU when it was developed and NE ADASS and ADCS have subsequently agreed an approach to the use of project teams to ensure that:

- project teams can be used within the spirit of the regional MoU where there is a genuine business need; and
- there is transparency around the use of project teams and clarity and consistency in our messages to companies offering intervention teams

Step 1: The project team 'test'

A project team is not simply a group of agency social workers and project teams are not used in a 'business as usual' situation, but to alleviate exceptional pressure on a service to enable it to remain legally compliant.

Any local authority/ALEO considering the use of a project team should use the following project team test.

Do the following statements apply to your situation?

- You wish to purchase a service or expertise to carry out a specified task or tasks or to deliver a specified outcome or outputs.
- The tasks/outcomes/outputs will be delivered by a team within a specified timeframe for a fixed fee.
- The team's activities will be limited to a specified period of time. This will be determined by the requirements of the project however the length of project must be clear and defined.
- The local authority will not specify the make-up of the team, only the outcomes to be delivered.

- The Local Authority will not view or shortlist CVs or hold interviews with individuals that are being proposed to be part of the project team.
- The project and its quality assurance will be dealt with through the contract commissioning arrangements and processes. Members of the project team will not be line-managed by local authority staff or participate in local authority employee processes such as staff training (they may be provided with LA IT equipment for security compliance).

Where all the above statements apply, this should be considered a genuine requirement for a project team and should be treated as a temporary arrangement, used in exceptional circumstances, which falls within the MoU agreement. The capped rates for agency workers will not apply because the LA will be procuring a service at a fixed fee, rather than employing individual workers.

Step 2: MoU escalation

Where the test is satisfied and there is a genuine need for a project team, the DCS/DASS should follow the MoU escalation route set out in the MoU agreement so that ADCS/ADASS colleagues are made aware of the intention to procure a project team. If there is a risk to the organisation the analysis of this should be identified and made clear. The escalation route is appended.

The aim of this is to ensure openness and transparency within the region and reduce the risk of misinformation causing workforce disruption.

Step 3: Procurement solutions

LAs/ALEOs seeking to procure a project team should do so using their own in-house procurement solutions or those provided by NEPO.

Regardless of the procurement solution followed, any LA/ALEO procuring a project team shall include the following requirement in the specification:

“The project team provider must not recruit individuals to the project team if a) they are in an existing (agency or permanent) contract/assignment in one of the twelve North East local authorities or their ALEOs and b) they cannot complete their existing contract/assignment before joining the project team.”