

CABINET MEETING – 9 JUNE 2022

EXECUTIVE SUMMARY SHEET – PART 1

Title of Report:

Variation of current contracts for Family, Adult and Community Learning provision for 2022/2023

Author(s):

Director of Children's Services

Purpose of Report:

To seek approval to vary current contracts for the delivery of community-based Family, Adult and Community programmes commissioned by the Learning and Skills Service, covering the funding year beginning on 1st August 2022 and ending 31st July 2023.

Description of Decision:

Cabinet is requested to:

- Agree a variation to current commissioned community programmes. The variation would be a 1-year extension to cover academic year 1st August 2022 to July 2023.

Is the decision consistent with the Budget/Policy Framework? Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

In line with the Adult Education Budget grant from the Education and Skills Funding Agency, a procurement process was carried out in August 2021 to ensure provision is in place to address the education, skills and training needs throughout Sunderland's communities.

The procurement specification describes the broad outcomes that must be achieved in support of key strategic documents setting out the Council's vision for Sunderland, including the City Plan and the Health & Wellbeing Strategy, as well as the priorities of the 5 Regeneration Area Committees.

This approach engenders partnerships with local community organisations, frequently within the VCS, who have a good track record of supporting hard to reach people by delivering appropriate provision within their scope and using their existing tutor base. It builds on the individual strengths of our delivery partners to achieve social and economic improvements for Sunderland and its citizens. This local partnership approach delivers added social value within the City by helping to build and sustain the capacity of the VCS.

The commissioning and delivery process also aligns with the requirements of Ofsted and the Education Inspection Framework, as well as the ESFA and the Further Education Commissioner in terms of ensuring the quality of education, teaching, learning and assessment so that learners are supported to achieve the best outcomes of which they are capable.

Following the procurement exercise in August 2021, contracts were awarded to cover the period from 1st September 2021 to 31st July 2022.

After due consideration it has been determined that the best way forward to ensure the continuance of the high level of educational and pastoral support to our most vulnerable and needy citizens and communities offered by the Service would be to extend existing contracts to cover the next academic year. This would be subject to some due diligence financial checks, review of current performance and conditional on providers producing appropriate delivery plans, in line with the requirements of the Learning and Skills Service Strategic Commissioning Plan.

FUNDING DETAILS

The total contract value for the current academic year (1st August 2021 to 31st July 2022) is £1.3m and the ESFA has stated that the same amount will be awarded in 2022-23.

The purpose of the funding is to improve the local skills base, to meet employers' needs, to deliver a wide range of courses within the local community, to target and reach people who may otherwise not engage in learning, to encourage progression and make a positive impact on the social and economic position of Sunderland.

The Council's delivery model of commissioning and managing external providers to deliver the training has enabled quality standards to be maintained whilst achieving financial efficiencies, by procuring services which represent best value for money. Delivery is subject to Ofsted Inspection and at the last inspection in April 2019, the Service was awarded Grade 2 – Good for all aspects of the provision and our current providers played a major role in achieving this improvement. Their engagement with learners and the support they provide beyond the requirements of the provision is exceptional; this is clearly evidenced in their response to the constraints of social distancing which has involved developing new innovative delivery models to ensure that learners are not disadvantaged in any way in the achievement of their learning and personal goals. An extension of this contract would provide stability and continuity of quality assured provision and progression routeways for learners as part of the COVID19 recovery plan as classroom provision resumes in full.

Alternative options to be considered and recommended to be rejected:

1. The Council could choose to carry out a full procurement exercise for 2022/23. This is not recommended as current resources and pressures of Training Providers to complete a rigorous procurement exercises are excessively stretched and may limit the number of applicants in a procurement exercise, this in turn, has the potential to impact negatively on current delivery as well as future delivery.

2. The Council could choose to recruit and employ tutors to deliver training courses. While this would have some advantages relating to the contract management process, it could prove difficult to offer the wide range of courses which are required. In addition, should this course of action be adopted as a future model, it would need a full year to be planned and implemented effectively.

3. The Council could withdraw from any future involvement in Adult and Community Learning delivery. This is not recommended as it would result in the loss of a significant amount of funding coming into Sunderland designed to improve the social and economic position of the City through the delivery of education and skills training programmes

Impacts analysed;

Equality Privacy Sustainability Crime and Disorder

Is the Decision consistent with the Council's co-operative values? Yes

Is this a "Key Decision" as defined in the Constitution? Yes

Is it included in the 28 day Notice of Decisions? Yes

**VARIATION OF CURRENT CONTRACTS FAMILY, ADULT AND COMMUNITY
LEARNING PROVISION FOR 2022-23**

REPORT OF THE DIRECTOR OF CHILDREN'S SERVICES

1. Purpose of the Report

- 1.1 To seek approval to vary current contracts for the delivery of community-based Family, Adult and Community programmes commissioned by the Learning and Skills Service, covering the funding year beginning on 1st August 2022 and ending 31st July 2023 to support the city's strategic priorities.

2. Description of Decision (Recommendations)

- 2.1 Cabinet is requested to:

- Agree a variation to current commissioned community programmes. The variation would be a 1-year extension to cover academic year 1st August 2022 to July 2023.

3. Introduction/Background

- 3.1 The Council has a contract with the ESFA which provides funding to deliver training and skills development for residents. The contract is generally awarded annually and runs from 1 August to 31 July, in line with the academic calendar year. In the current year, the value of the ESFA contract is £1,316,266.
- 3.2 The purpose of the ESFA funding is to improve the local skills base, to meet employers' needs, to deliver a wide range of courses within the local community, to target and reach people who may otherwise not engage in learning, to encourage progression and make a positive impact on the social and economic position of Sunderland.
- 3.3 The Council's delivery model involves the commissioning and management of external providers to deliver the training, rather than directly employing tutors. This has enabled quality standards to be maintained whilst achieving financial efficiencies, by procuring services which represent best value for money. Delivery is subject to Ofsted Inspection and at the last inspection in April 2019, the Service was awarded Grade 2 – Good for all aspects of the provision.
- 3.4 The contract funding is split between Adult Skills (accredited learning) and Community Learning (non-accredited).
- 3.5 Traditionally, annual grants have been awarded to FACL providers following a robust, open and competitive tendering process. Organisations are invited to bid for grant funding, putting forward proposals designed to meet the requirements of FACL's detailed Strategic Commissioning Plan. Submissions are evaluated against set quality criteria and allocations made according to the best fit with our strategic direction, as the invitation to tender process is invariably over-subscribed.

- 3.6 It should be noted that funding allocations are not paid up-front to providers; instead, a contract to deliver training courses is awarded, which enables them to draw down funding upon successful course completion. FACL reports all engagement and training activity to the ESFA on a monthly basis, which results in monthly payments to the Council in recognition of successful learner engagement and outcomes. FACL then pays providers, in accordance with their individual performance, whilst retaining a percentage to cover overheads. If a subcontractor does not deliver part (or all) of their contract, they do not receive part (or all) of their funding.
- 3.7 Performance of FACL providers is measured using key performance indicators (KPIs) such as number of people engaged in learning, % retention and % of learners achieving their learning and personal aims. We also monitor the quality of teaching, learning and assessment by observing individual learning sessions and obtaining feedback from learners. In addition, we set and monitor KPIs around contract compliance such as efficiency of paperwork submission and effectiveness of learner documentation.

4. Current Position

- 4.1 For the academic year 2022-23, the amount of ESFA funding allocation will be same as in the current year. This report seeks approval for the variation of current commissioned provision.
- 4.2 Training and learning organisations who will potentially receive extension to grants to deliver accredited and/or non-accredited provision to Sunderland residents are as follows:

Apextra Learning
Brightsparks Training CIC
Cultural Creatives
Foundation of Light
Keep Active Ltd
Learning and Skills Assessment Centre, Sunderland City Council
Media Savvy CIC
Michael Erskine
Northern Rights Social Enterprise
Penshaw View Training
Sportscape
Training in Childcare Ltd
Three 13
Uplift Associates
Winnovation Ltd

Contracts will be subject to some due diligence financial checks, review of current performance and conditional on providers producing appropriate delivery plans in line with the requirements of the Strategic Commissioning Plan.

- 4.3 The offer of extension will be issued to providers following Cabinet consideration and approval in June 2022, so that delivery can commence by 1 August 2022.
- 4.4 Contracts will be extended for a period of one year, after this time a full procurement exercise will be undertaken for the academic year 2023/24.
- 4.5 At the point where a new procurement exercise is undertaken the Service Manager will ensure local community groups are informed about the funding opportunity and the grant application process. In addition to this a briefing note will be produced which will be circulated to all VCS members which will explain the timescales involved, as well as the application process, and who to contact for further support and information.

5. Reasons for the Decision

- 5.1 The model described above is being proposed for the following reasons:
- The subcontracting model demonstrates best use of resources and secures value for money, creating maximum impact from the funding available however current resources and pressures of training providers to complete a rigorous procurement exercise are excessively stretched and may limit the number of applicants in a procurement exercise, this in turn, has the potential to impact negatively on current delivery as well as future delivery.
 - ESFA funded AEB aims to engage adults and provide the skills and learning they need to progress into, or within, work; or equip them for an apprenticeship or other learning. It enables more flexible tailored programmes of learning to be made available, which may or may not require a qualification, to help eligible learners engage in learning, build confidence, and/or enhance their wellbeing. As the economy recovers from the damaging effects of the COVID Pandemic it is important to provide some stability across the FE skills landscape and afford participants on programme to build confidence to attend programmes of learning again. Current providers have supported AEB provision and have demonstrated their ability to target and reach people who may otherwise not engage in learning, to encourage progression and make a positive impact on the social and economic position of Sunderland.
 - A year extension with a full procurement exercise in 2022/23 would align the provision to recommendations in The Skills and Post 16 Education Bill which forms the legislative underpinning for reforms set out in the Department for Education (DFE) whitepaper Skills for Jobs: Lifelong Learning for Opportunity & Growth (January 2021), the Bill seeks to address the recommendations of the Review of Post-18 Education and Funding (Auger Review) which states the Government should commit to providing an AEB funding allocation that enables FE providers to plan on the basis of income over a 3 year period. The Bill is expected to receive Royal Assent by the end of April 2022 with a 3-year funding regime starting in academic year 2023.
 - The Council's Constitution requires that the procurement of services over the value of £500,000 are subject to Cabinet approval. Whilst individual grant awards to separate providers will not necessitate this step, the overall sum brings this process within scope.

6. Alternative Options

6.1 There are a number of alternative options that have been identified and discounted, as follows:

- The Council could choose to carry out a full procurement exercise for 2022/23. This is not recommended as current resources and pressures of Training Providers to complete a rigorous procurement exercises are excessively stretched and may limit the number of applicants in a procurement exercise, this in turn, has the potential to impact negatively on current delivery as well as future delivery.
- The Council could choose to recruit and employ tutors to deliver training courses. While this would have some advantages relating to the contract management process, it could prove difficult to offer the wide range of courses which are required. In addition, should this course of action be adopted as a future model, it would need a full year to be planned and implemented effectively
- The Council could withdraw from involvement in Adult and Community Learning delivery. This would result in the potential loss to Sunderland of over £1.3m of funding and reduced influence in how any funding received into the City was used to contribute to delivery of the Council's strategic vision for the City.

7. Impact Analysis

• Equality Impact Analysis

An Equality Impact Analysis has been carried out in order to assess the impact on communities of interest and to comply with the public sector equality duty. It has shown that people who share protected characteristics (age, disability, pregnancy and maternity, race, religion or belief, sex, sexual orientation and marriage or civil partnership) have equality of opportunity to access FACL training provision.

The Service collects and analyses learner data to identify protected characteristics amongst learners, in order to measure the extent to which such individuals are accessing training provision. Monthly EDIM (Equality and Diversity Impact Measures) reports are produced for the full service and also for individual providers, which measure age, gender, disability and ethnicity. These findings are discussed with providers, to improve participation rates over time and address any barriers that may be identified.

The Strategic Commissioning Plan makes clear that people who share protected characteristics should be actively encouraged to participate and provision should be designed to ensure they are fully supported and in no way disadvantaged from achieving learning goals. An example of positive impact achieved is that the percentage of BME residents engaging in FACL provision is generally higher than the percentage of the city's BME population and is increasing year on year.

- **Privacy Impact Assessment (PIA)**

A significant amount of personal data pertaining to learners is collected and uploaded to the ESFA's systems. This includes names, addresses, age, NI numbers, ethnicity and disabilities and some non-personal data, such as names and addresses of training organisations, details of courses, funding and opportunities that might be available to learners. In order to safeguard privacy and confidentiality, the Learning and Skills Service shall comply with Data Protection legislation and ensure learner and provider data is only processed in accordance with Data Protection legislation and approved Data Sharing Agreements and in accordance with the General Data Protection Regulation.

In addition to this, we require that Subcontracted training providers ensure that General Data Protection Requirements are adhered to with regards to the handling of any FACL documentation containing the personal details of learners, for example Enrolment Forms and evidence of benefit.

Protective Measures are in place to protect against a Data Loss Event including:

- ensuring that only designated staff process personal data
- taking all reasonable steps to ensure the reliability and integrity of any of the Service's staff who have access to the personal data
- ensuring that staff are aware of and comply with the Service's duties in relation to privacy and confidentiality
- ensuring staff are informed of the confidential nature of the data and do not publish, disclose or divulge any of the data to any third Party unless instructed to do so by management
- ensuring staff have undergone adequate training in the use, care, protection and handling of personal data
- ensuring that destruction of data is carried out securely and according to policies and schedules agreed in accordance with the ESFA

- **Sustainability**

The procurement of Family, Adult and Community Learning provision supports the aims of the Council's City Plan, Health and Wellbeing Strategy and Education and Skills Strategy by addressing Council priorities around providing education and skills development for some of Sunderland's most disadvantaged citizens, enabling them to move closer to the labour market and to increase self-confidence and wellbeing.

No significant environmental impacts will occur as a result of this decision.

- **Reduction of Crime and Disorder – Community Cohesion / Social Inclusion**

The training courses procured by FACL have a positive impact on crime and disorder, community cohesion and social inclusion. Services are designed to target, engage with and support people who are often classed as "hard to reach" or "hard to help", in that they often have chaotic lifestyles and face multiple barriers to learning. This can be as a result of patterns of behaviour that include a history of offending or other anti-social behaviour. The PREVENT duty is a formal requirement of delivery and a key area of focus in inspection.

The procurement process helps to identify service providers who have a track record of successfully working with and supporting this type of learner. Results from previous years show high retention rates, which demonstrate success in sustaining the engagement of learners, meaning they are less likely to return to their old patterns of behaviour and more likely to make positive progress in terms of improving their skills and move into either employment or further learning.

8. Other Relevant Considerations/Consultations

- **Co-operative Values**

This proposal supports co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity. Through the procurement process, grants are awarded which support residents, primarily those most in need, to gain new skills and often new self-confidence, which supports them to help themselves to make progress in their lives. The personal development and training courses which are delivered help people make progress towards employment, which means they become less dependent on employment benefits and more personally responsible for their own lives.

The procurement process is open, fair and transparent, which complies with the values of democracy and equality. The Strategic Commissioning Plan ensures that those people who may be disadvantaged by personal circumstances, making it less likely that they engage in training, are targeted for engagement.

The Strategic Commissioning Plan clearly describes that provision must be delivered within community venues across the city, to reach out to people who are potentially isolated, thus facilitating greater community cohesion and reducing social isolation, helping to create greater solidarity within neighbourhoods.

- **Financial implications**

All commissioned delivery is fully funded by ESFA grant income. In addition, between 15% and 25% of the ESFA grant allocation is retained to fund the operating costs of the Council's Learning and Skills Service, with the final percentage determined by the actual costs incurred. There is an ESFA contractual requirement that the Council must publicise this information in a "Fees and Charges Policy" and this is made available on the Council's website.

- **Risk Analysis**

Financial risk is minimal as all costs and overheads are covered within the grant allocation and risks of clawback are mitigated through contract monitoring including ensuring that payments to the providers are only made on the delivery of outcomes. FACL has delivered this service successfully for many years and has the experience and knowledge to ensure compliance with all contractual requirements.

There is a reputational risk through non-performance in Ofsted inspection, however the Service has developed and embedded a rigorous performance management strategy, as well as robust quality monitoring processes to ensure that subcontracted training providers provide high quality training and learning, and all learners achieve to the best of their ability.

- **Employee Implications**

None

- **Legal Implications**

The Service complies with all legal requirements stated within the contract with the ESFA as well as legal requirements around open and transparent procurement.

- **Policy Implications**

None

- **Health and Safety Considerations**

This project has no impact in relation to the Council's Health and Safety Policy for its employees. However, the safeguarding of learners is a primary consideration which the Service addresses via robust strategies and policies for Safeguarding, Prevent and Health & Safety. These aspects of the provision are monitored closely and are Key Performance Indicators when measuring provider performance.

- **Property Implications**

None

- **Implications for Other Services**

The Director of Children Services and Portfolio Holder have been consulted and asked for approval for this proposal. Information is shared widely within the Council to ensure that opportunities for partnership working are addressed.

- **Procurement**

The corporate procurement process will be followed and an officer from procurement has been nominated to support the Service to ensure the procurement process is open, fair and transparent and that best value is achieved.

