

<b>Mr Wagstaff, Director of Education and Skills</b>	<b>Ref No: OKD01 (20/21)</b>
<b>April 2020</b>	<b>Key Decision: Yes</b>
<b>Contract Extension for the Provision of Adult Education Services</b>	<b>Part I</b>
<b>Report by Head of Post-16 and Compliance</b>	<b>Electoral Divisions: All</b>

## **Summary**

The County Council has a contract with the Education and Skills Funding Agency (ESFA) and currently receives funding to provide Adult Education in West Sussex.

The County Council commissions Aspire Sussex Ltd to provide learning opportunities for adults in communities across West Sussex to gain skills and qualifications.

The service was procured in 2017 for an initial term of three years with potential to extend for a further four years. As the initial term of the contract is now coming to an end authorisation is sought to extend the contract for a period of two years from 1<sup>st</sup> September 2020 to 31<sup>st</sup> August 2022.

The original OJEU (Official Journal of the European Union) and contract contained the optional extension period which the Council now wishes to exercise.

## **West Sussex Plan: Policy Impact and Context**

This proposal aligns with the Best Start in Life priority supporting access to education that meets the needs of our community.

## **Financial Impact**

The County Council charge a management fee as a percentage of the overall funding received from the ESFA and pass over circa £3m of the funding received to Aspire for provision of the service. The income to the council received from the management fee equates to circa £242k (based on £3 million pass through payments from the ESFA @ 8% management fee per annum).

The percentage of funding retained by the County Council reflects the need to cover the current costs associated with the management of sub-contracted provision. It also reflects some of the additional costs to the Council of any additional support that the Council deems necessary. This is to ensure the quality of teaching and learning and the additional support and work the Council undertakes such as supporting Aspire's business development and competitive bidding projects.

## **Recommendations**

The Director of Education and Skills is asked to approve: -

- (1) The extension of the existing contract for a period of two years from the 1<sup>st</sup> September 2020 to 31<sup>st</sup> August 2022.
- (2) An increase to the management fee from 8% to 10% to cover the costs associated with the management of sub-contracted provision, as per clause 11.2 in the contract.

## **Proposal**

### **1. Background and Context**

- 1.1. In 2012 the County Council adopted an innovative approach to the provision of Adult Education services by outsourcing delivery of the Education and Skills Funding Agency (ESFA) contracts to a staff mutual, Social Enterprise (Aspire Sussex Ltd), on 1<sup>st</sup> September 2012.
- 1.2. The County Council contracts directly with the ESFA to provide learning opportunities for adults in communities across West Sussex to gain skills and qualifications.
- 1.3. In April 2016 the Leader approved the commencement of a procurement process for the future provision of Adult Learning (decision reference [LDR03 \(16/17\)](#)). Following a compliant OJEU procurement exercise Aspire Sussex Ltd were successful in securing a 3 year contract, to deliver the ESFA contract from 1 September 2017, with options to extend until 31<sup>st</sup> August 2024.
- 1.4. The contract is funded through pass through payments from the ESFA with an annual value of circa £3m. The contract entered its 3rd year on 1<sup>st</sup> September 2019 and approval is now being sought to take up the option of an extension period/s for the 4<sup>th</sup> and 5<sup>th</sup> years.
- 1.5. The structure of the outsource being a Social Enterprise is seen as an exemplar within the public sector and as such there are no current issues that would prevent the County Council from on-going support of this venture.
- 1.6. Aspire Sussex work in partnership to ensure that the County Council meets its objective of ensuring that residents of West Sussex can access the skills and training they need to succeed in playing their part in society and in growing West Sussex's economy.
- 1.7. The aims of the contract are as follows:
  - a) To support pathways for participation in training for those not able to tackle routes directly to employment.
  - b) To raise attainment levels and support progression across the spectrum of individual need and capability.
  - c) To create a local workforce with high levels of employability – one which is skilled and motivated.
  - d) To address barriers to employment for economically inactive people.
  - e) To provide a good match between employer demand and labour supply – the right skill levels and the right sort of skills.
  - f) To support those entering or returning to learning later in life with a comprehensive programme of activities appropriate to their need.
  - g) To provide an inclusive environment that boosts confidence and promotes wellbeing.
  - h) To raise skills and support the needs of individuals and communities.

## **2. Proposal Details**

- 2.1. In order to ensure residents of West Sussex can continue to access the skills and training they need to succeed; approval is sought to extend the contract for a period of 2 years from the 1st September 2020 to 31st August 2022.
- 2.2. Due to the need to cover the current costs associated with the management of sub-contracted provision and any additional support that the Council deems necessary to ensure the quality of teaching and learning it is proposed to increase the management fee from 8 to 10%.
- 2.3. In February 2020 the ESFA notified providers of a Government consultation in regard to '[Reforms to subcontracting education for learners over 16](#)' this included a proposal to limit the volume of provision that a provider may subcontract. Should the outcome of the consultation result in such a change this could impact on the contract extension period. Further detail of this is set out in section 6.

## **Factors taken into account**

### **3. Consultation**

- 3.1. The overarching ambition for West Sussex County Council's Adult Education Service is to maximise adult participation in education and training in order to achieve economic growth, full employment, social inclusion, community cohesion, health and wellbeing.
- 3.2. Through direction from the County Council, Aspire Sussex plans the curriculum to enable any resident of West Sussex to engage in adult learning at the level at which they join.
- 3.3. The County Council works closely with Aspire to set expectations, targets and strategies at the beginning of each year, which are negotiated to an achievable level and agrees a reporting and monitoring plan for the remainder of the academic year. This ensures a comprehensive set of key performance indicators that can be shared throughout the organization and reported against at agreed intervals.
- 3.4. The County Council and Aspire Sussex have formally spoken about the current contract and the ability to extend at the contract review meeting. Aspire's CEO welcomed the extension and the ability to continue to work in partnership with the County Council.
- 3.5. Adult Education consulted with Procurement Services in August 2019 and it was agreed that Procurement's opinion is that 'WSCC is in their right to agree to the extension of the contract having met all the precondition in line with the Public Contract Regulations 2015'.

### **4. Finance and Resources**

- 4.1. In accepting the Skills Funding Agency grant for Adult Education and responsibility for the delivery of this service, the County Council will be ensuring that the residents of the County continue to have the benefit of £2.9m funding to support local Adult Learning priorities.

- 4.2. The contract is fully funded by the ESFA. The County Council currently passes the grant to Aspire minus the 8% management fee. The County Council may receive income from rental agreements with the Service Provider, Service Level Agreements and the management fee.
- 4.3. Review of the management fee level will form part of the extension process to ensure that the management fee is sustainable to the Service Provider, is benchmarked against other organisations and fairly reflects County Council officer resources in the delivery of the contract.
- 4.4. As outlined above the proposal contributes to the County Council priority of commissioning services and maximising the use of local supply chains. The proposal is the best option in terms of increasing the scope of services available, aligning services with Local Authority priorities and balancing risk. The proposal is also aligned to Devolution and increasing local control of Adult Skills budgets.

## **5. Legal Implications**

- 5.1. The contract commenced on 1 September 2017, for an initial period of 3 years, with the option to extend for a further period or periods of up to a maximum 4 years. The original OJEU advertisement, Invitation To Tender and contract contained the optional extension period for which the paper seeks approval. The proposed extension is therefore in compliance with the Public Contracts Regulations 2015 and the Council's Standing Orders on Procurement and Contracts.
- 5.2. The Contract is funded via grant funding from ESFA to the Council. In the event of this funding ceasing, the contract allows for the Council to terminate the contract on such notice as the ESFA provides to the Council.

## **6. Risk Implications and Mitigations**

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
<p>There is a need to ensure that the contract extension for Aspire for the academic years 2020/22 that is currently being organised through standard procurement procedures runs seamlessly into any new provision and that there is not a gap in the service that causes business continuity risk.</p> <p>If the current contract were to terminate at the end of the initial period 31<sup>st</sup> August 2020 (3 Years) the contract states that 3 months' notice is to be given to the current provider (Aspire Sussex) so the risk is that no extension is approved and Aspire do not receive sufficient notice of this extension to</p>	<p>This risk will be mitigated through the due diligence process.</p> <p>This extension is executed by 30<sup>th</sup> April 2020 through the agreed processes.</p>

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
be able to give their employees a 3 month notice period.	
A slowing down or a pause in curriculum improvements, i.e. Adult Education provision levels are not maintained	Mitigated by existing performance management arrangements and oversight. Performance measures and improvement are tracked. Contract terms will allow leverage through Improvement Plans if required.
Reputational	This is an important and high cost contract. It could reasonably be expected that there would be interest from the market in any procurement. To mitigate possible challenge of not going out to tender, i) the option to extend was clearly stated in the original Invitation to Tender; ii) there has been no need to use contractual remedies.
<p>In February 2020 the ESFA notified providers of a Government consultation in regard to 'Reforms to subcontracting education for learners over 16'</p> <p>The third proposal would have the most impact on WSCC:</p> <p>Extract from the ESFA proposal; proposal 3:</p> <p><i>We propose to limit the volume of provision that a provider may subcontract by introducing a percentage cap on subcontracted provision of 25% of ESFA post 16 income in 2021/22 and further reducing that percentage to 17.5% in 2022/23 and to 10% in 2023/24.</i></p>	<p>The County Council responded to this consultation, which closed on 29<sup>th</sup> March 2020, with the results being published in May 2020 (exact date unknown)</p> <p>WSCC are also reviewing the implications of this proposal being put in place.</p> <p>As this is a consultation there are no assurances that proposal 3 will be implemented, removed or enforced and the County Council's response to the ESFA included what WSCC would see as a realistic time scale to implement delivering 75% of this provision.</p>

## 7. Other Options Considered (and reasons for not proposing)

Option	Reason for not proposing
To let the initial contract period end on 31.8.2020	The County Council and Aspire have worked diligently over the past two years to increase the provision to reach the socially isolated and areas of deprivation so that adult learning is available to all regardless of circumstances, failure to extend

	the contract would have a negative effect on this initiative.
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## 8. Equality and Human Rights Assessment

8.1 A separate Equality Impact Assessment has been undertaken and is included as an Appendix.

## 9. Social Value and Sustainability Assessment

9.1. Part of the requirements of the current provider are outlined below and the County Council monitor and support Aspire to achieve these, through robust KPI's and internal and external quality assurance visits.

- To create a local workforce with high levels of employability – one which is skilled and motivated;
- To address barriers to employment for economically inactive people;
- To provide a good match between employer demand and labour supply – the right skill levels and the right sort of skills;
- To support those entering or returning to learning later in life with a comprehensive programme of activities appropriate to their need;
- To raise skills and support the needs of individuals and communities;
- Promote the benefits of Digital Inclusion to learners in West Sussex;
- Contribute meaningfully to reducing education and employment inequalities;
- Promoting social value (i.e. any additional economic, social and/or environmental value to West Sussex)

## 10. Crime and Disorder Reduction Assessment

10.1. The service provided under this contract focus on improving health and wellbeing which in turn reduces the likelihood of anti-social behaviour.

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## Appendices

Appendix - Equality Impact Assessment

## Background papers

None