

**Open Report on behalf of Andy Gutherson,  
Executive Director - Place**

Report to:	<b>Councillor Mrs P A Bradwell OBE, Executive Councillor for Adult Care, Health and Children's Services</b>
Date:	<b>29 May – 12 June 2019</b>
Subject:	<b>Commissioning of Adult Skills and Family Learning</b>
Decision Reference:	<b>I017886</b>
Key decision?	<b>Yes</b>

**Summary:**

This paper provides a summary of and seeks approval for the Adult Skills and Family Learning programme commissioning and contract management arrangements from 2019/20 including approval to delegate ongoing decision-making concerning the award of contracts for the 2019/20 Adult Skills and Family Learning requirements and the Open Framework admissions to the Executive Director for Place.

**Recommendation(s):**

That the Executive Councillor:-

- 1) approves the continued commissioning of an Adult Skills and Family Learning Programme and the establishment of an Open Framework for learning providers;
- 2) delegates to the Executive Director for Place authority to take all decisions necessary to admit learning providers to the Open Framework and to award specific contracts for the 2019/20 Adult Skills and Family Learning requirements to learning providers

**Alternatives Considered:**

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| 1. | Do nothing: Without commissioning the majority of the Adult Skills and Family Learning funding the Council would not be able to deliver Learning Programmes to its 6,000 learners |
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**Reasons for Recommendation:**

The Adult Skills and Family Learning Service raises achievements and aspirations by providing high quality learning opportunities in a safe environment that enables learners to progress according to their ability, needs and interests. Through skillful partnership working with other Adult Education providers the provision is designed to add value, and provide inbuilt progression routes to other provision. This unique provision fills the gaps and meets the needs of Lincolnshire communities that aren't able to be met by other funded provision. From learner, Provider and local Employer feedback there continues to be a clear need for LCC to deliver this important programme to increase the skill levels of residents of Lincolnshire, giving them new career opportunities and allowing local businesses to recruit the talented employees they need to develop.

**1. Background**

Through a range of commissioned and directly delivered arrangements, high quality Adult Learning provision is planned to support the delivery of key strategic priorities of Lincolnshire County Council (LCC) as well as alignment to the Greater Lincolnshire Local Enterprise Partnership (GLLEP) priority of increasing skills in Lincolnshire and driving economic growth.

The Education and Skills Funding Agency (ESFA) provide an Adult Education Budget (AEB) grant annually to LCC. The Adult Skills and Family Learning Service will receive a budget of £2,005,911 for the 2019/20 academic year of which £1.4 million is allocated to the outsourcing of courses.

In line with the GLLEP, the service aims to increase the skill levels of people in our communities, giving them new career opportunities and allowing local businesses to recruit the talented employees they need to develop. The AEB enables flexible tailored programmes of learning to be made available, which may or may not require a qualification, to help hard to reach learners engage in learning, build confidence and enhance their well-being. Meeting the government's adult skills priorities the funding's principal purpose is to engage adults and provide the skills and learning they need to equip them for work, an apprenticeship or further learning.

The Learning Programme covers three key themes as below:

- Employability and Skills
- Health and Wellbeing programmes
- Improving outcomes for families through Family Learning provision

**2. Purpose of Adult Learning**

The purpose of Adult Learning is to develop the skills, confidence, motivation and resilience of adults of different ages and backgrounds in order to:

- Allow participants to develop their skills and confidence
- Improve health and well-being
- Encourage progression to further learning (both qualification and non-qualification programmes), volunteering and employment

### **3. Outcomes from LCC's Learning Programme**

There are ten intended outcomes as below:

- To focus public funding on people who are marginalised and least likely to participate, including workless adults, those on low incomes with low skills and those that did not achieve at school.
- To challenge disadvantage through learning.
- To widen participation and transform people's destinies by supporting progression relevant to personal circumstances.
- To engage those from the most deprived neighbourhoods.
- To engage those target groups under-represented in Adult Learning.
- To develop stronger communities, with more self-sufficient, connected and pro-active citizens.
- To support delivery by a range of providers including the voluntary, Adult statutory and specialist sectors.
- To collect fee income from people who can afford to pay.
- To support delivery based in local Adult Learning settings, where possible.
- To allow local businesses to recruit the talented employees they need.

#### **1.4 Governance arrangements**

Governance of the Adult Skills and Family Learning programme is provided by the Service's Learning Board which includes Councillor Brailsford (deputising for Councillor Bradwell), Senior LCC Management, representation from local employers and the Department for Welfare and Pensions (DWP) and other key stake holders. The Learning Board meets quarterly and provides strategic direction and challenge, helping officers to shape provision and priorities, and monitor distribution, delivery and quality of provision.

#### **1.5 Contract Management**

The Adult Skills & Family Learning Service manages and monitors all its delivery subcontractors to ensure that high-quality delivery is taking place that meets the ESFA funding rules. A regular and substantial programme of quality assurance checks on the training provided by the delivery subcontractors is carried out to include whether the learners exist and are eligible, and involve direct observation of initial guidance, assessment, and delivery of learning programmes.

##### **1.5.1 Data analysis**

To meet ESFA targets the service is required to report on learner data, engagement with target groups and outcomes achieved. An example of the data that is reported on is included in Appendix A: Learning Dashboard. To produce this data all providers are required to upload their individual enrolment data to the Service's Management Information system which is then combined with other provider data, analysed and contained in the Service's monthly Learning Statistics workbook. Following production of the monthly statistics, the Learning Service reviews performance against each contract, on a monthly basis, including achievement of Equality and Diversity data, learning outcomes, achievements and planned end of course progression.

##### **1.5.2 Minimum Standards of Provider Monitoring**

Minimum Standards of Provider Monitoring have been agreed to maintain robust Provider Monitoring and ensure compliance with the ESFA funding guidance. These include:

- Monthly Provider contract monitoring meetings to scrutinise performance data, outcomes and budgets and to challenge providers to improve where necessary
- Joint observation on the training taking place to check the quality of provision delivered
- Mid-year contract review resulting in recommendations to Learning Board to adjust contract values where appropriate
- Termly enrolment form audit to check learners exist and are eligible for the funding
- Termly evaluation of learner feedback

### **1.5.3 Payment to Providers**

Providers are paid against completed learners thereby minimising any financial risk to the Council. Should the quality of provision fall below the expected standards payment is withheld until remedial action has been put into place.

## **1.6 Audit and Inspection**

### **1.6.1 Audit**

To meet the ESFA funding requirements, the service is required to obtain an annual report from an external auditor (KPMG) to provide assurance on their arrangements to manage and contract their delivery subcontractors. The last audit was undertaken in August 2018 and resulted in one low risk observation.

### **1.6.2 Inspection**

The service is subject to Inspection by Ofsted. The service was last inspected in April 2016 and was judged to be 'Good'. In line with Ofsted's Inspection timetable, the service is next due to be inspected by April 2021

## **1.7 Procurement**

The Council currently has a framework in place to procure the commissioned delivery of Adult Skills and Family Learning provision. The framework was originally commissioned in 2015, was let for a 4-year period and is now coming to the end of its fourth year.

Different procurement approaches have been considered by the Adult Skills and Family Learning Service for its programme 2019/20 onwards. In general, the current approach is working well and there are no material reasons to change this approach. Prior to the start of each academic year further competitions are run through the framework to commission the delivery of the learning and skills programme ensuring that the funding for that year has been fully allocated, and that there is adequate coverage across the county in all themes. Additional further competitions are held throughout the year where gaps are identified, or if additional funding is received.

The Commissioning and Commercial Board at its meeting on 28 March 2019 supported the continuation of this approach. An Open Framework will be organised into four (4) Lots based upon the approved Learning programme and Key Learning Themes. Tenderers will indicate which Lots they wish to join as part of the Open Framework.

- Lot 1 - Employability and Skills (including IT, First Aid, Food Safety, etc.)
- Lot 2 - Health & Wellbeing programmes

- Lot 3 - Improving outcomes for families
- Lot 4 - ASB formula funded qualifications Adult Skills

It is envisaged that multiple providers will be selected for each lot and there will be no maximum number of providers who can be awarded to a lot. This will ensure the maintenance of countywide coverage and service resilience. This Open Framework operates as a pre-qualified list of suppliers, who will be invited to annual competitions for the delivery of learning programmes funded by the annual grant from the ESFA.

The Open Framework will last for an initial period of four (4) years providing a reasonable period of stability and operational delivery. At the end of the initial four (4) year period there will be the option to extend the Open Framework for an indefinite number of four (4) year periods, or other extension durations which the Council in its reasonable opinion determines as suitable to meet its business and operational needs.

### 1.7.1 Procurement timetable

The procurement process is intended to follow the time-line below:

Stage	Description	Indicative Timeline
1.	Contract Notice Issued	26 - April 2019
2.	Tender for the 2019/20 requirements and inclusion on the Open Framework issued	26 - April 2019
3.	Deadline for clarification questions	13 - May 2019
4.	Deadline for receipt of responses	27 - May 2019 (12 noon)
5.	Evaluation of Tenders	27 - May to 07 June 2019
6.	Decision to award for the 2019/20 requirements, and the Open Framework admissions	10 – June 2019
7.	Standstill Period	11 - 21 June 2019
9.	Call-off contracts drafted	26- June 2019
10	Initial Project Meeting(s) and implementation	w/c 01 July 2019
11	Call-off Contract Start Date	01 Aug 2019

### 1.7.2 Details and operation of the Open Framework

An Open Framework is an umbrella agreement with Provider(s) in order to establish the terms under which individual contracts can be awarded throughout the period of the Open Framework. LCC is establishing an Open Framework for the provision of Adult Skills and Family Learning courses and will be open to use by LCC only.

The Open Framework will be established using a procedure similar to the Open Procedure in that all suitability and tender information will be provided by the Tenderer to the Council in one submission. The Council will then evaluate that submission to determine a

Tenderers suitability to join the Open Framework, as well as evaluating the Tenderers offer in relation to the management of the learning provision and the specific courses offered.

Any Tenderer who does not pass the suitability tests, or fails to provide suitable offers in relation to the management of the learning provision will be excluded from the competition and will not be admitted to the Open Framework, and the course submissions will not be evaluated.

All Tenderers who pass the suitability tests and provide suitable offers in relation to the management of the learning provision will be admitted to the Open Framework and will be eligible to tender for future requirements without having to resubmit this information. For the avoidance of doubt, any Tenderer that passes the suitability tests and provides suitable offers in relation to the management of the learning provision but fails to be awarded any specific courses for 2019/2020 will still be admitted to the Open Framework and will be able to tender for future requirements.

### **1.7.3 The procurement process**

The procurement process consists of three separate stages, run concurrently.

#### **Stage 1 - Assessment of completeness of submission, and Suitability Criteria**

A range of pass / fail assessment criteria will be applied to the completeness of the submission and to the responses given by Tenderers to the Business Information section. The Suitability Criteria will be evaluated on a Pass or Fail basis.

#### **Stage 2 - Proposed Working Methods**

A range of questions have been posed to understand the Tenderers approach with respect to the management of the learning provision. Tenderers will be scored on their responses to the Proposed Working Methods questions. The answers to these questions will be contractually binding and will determine the way the successful Provider(s) will manage and provide the learning provision for all courses delivered by the Provider, including those awarded in the future via this Open Framework.

Those submissions that do not achieve at least the minimum score for each question will not be considered any further and will therefore not be included on the Open Framework at this time.

#### **Stage 3 – Submission of 2019/20 Delivery Plans**

Tenderers are required to submit Delivery Plans for the provision they would like to deliver for the Council.

Submitted Delivery Plans will be evaluated using the award criteria and weightings detailed in the Delivery Plan document. The award criteria is listed below:

- Recruitment of the service's target learners - unemployed, males, and learners with low/no qualifications
- Course geographical location
- Course subject and planned progression once the course has completed
- Price
- Number of guided learning hours

Following the scoring procedure, all course submissions for all Tenderers within each Lot will be sorted in descending order based upon the score out of 100%, and provisional contracts will be awarded to the highest scoring submissions until the budget allocated has been consumed by the associated costs for such courses.

Should multiple courses score the same at the point where the budget allocation is fully consumed, then contracts for all courses with that same score will be awarded.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- \* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- \* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

The Equality Act duty has been taken into consideration in preparing the report and whilst there is some correlation between disadvantage and a protected characteristic, such as disability, this has been mitigated by providing provision specifically for learners with learning difficulties and disabilities, as well as providing a learner support fund to reduce barriers to participation.

The Service embeds the principles of equality, diversity and human rights into its strategic and operational activities. All persons have equal access to the provision available. The requirement to meet the Equality Act duty (2010) is included in the tendering document, in the terms and conditions that the learning provider will sign up to and in the Provider Handbook. Mandatory training to give providers and tutors the knowledge and skills to meet the requirements of the Equality Act is outlined in the terms and conditions and the Provider Handbook. Monitoring is undertaken to ensure mandatory training is completed as required. Learner information on Equality, Diversity and Equality of Opportunity is provided in the Learner Handbook.

#### Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

As well as including specific Health and Wellbeing learning provision the programme is designed to enable flexible tailored programmes of learning to be made available, which may or may not require a qualification, to help hard to reach learners engage in learning, build confidence and enhance their well-being.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

The learning programmes are designed to increase people's skills and help them to obtain employment which can in turn contribute to the prevention of crime and disorder.

### **3. Conclusion**

Through the very effective delivery arrangements in place, the Adult Skills and Family Learning Service continues to positively impact on the learners recruited onto its provision by providing opportunities to develop skills and confidence, improving employability and wellbeing and encouraging progression to further learning and other opportunities, as well as supporting the local economy.

Approval is sought for the ongoing commissioning of learning programmes through the establishment of an Open Framework. Delegation is sought for the ongoing decision-making necessary to implement the learning programme in terms of admitting learning providers to the Open Framework and awarding specific contracts under the Framework to individual providers. This enables a tailored, flexible approach to the commissioning of provision best designed to meet the Council's objectives and the needs of learners and communities.

#### **4. Legal Comments:**

The Council has power to commission the services referred to in the Report. The use of an Open Framework is compliant with the Council's procurement obligations.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor.

#### **5. Resource Comments:**

Costs to deliver the Adult Learning programme are met from external grant and consequently funding is available to support the contracted costs.

#### **6. Consultation**

##### **a) Has Local Member Been Consulted?**

n/a

##### **b) Has Executive Councillor Been Consulted?**

Yes

##### **c) Scrutiny Comments**

This decision will be considered by the Environment and Economy Scrutiny Committee at its meeting on 21 May 2019 and the comments of the Committee will be reported to the Executive Councillor before she reaches her decision.

##### **d) Have Risks and Impact Analysis been carried out?**

Yes

##### **e) Risks and Impact Analysis**

See the body of the Report

## 7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Adult Learning Dashboard

## 8. Background Papers

No Background Papers within the meaning of section 100D of the Local Government Act 1972 were used in the preparation of this Report.

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