

**Open Report on behalf of Heather Sandy, Executive Director of Children's Services**

Report to:	<b>Executive</b>
Date:	<b>04 May 2022</b>
Subject:	<b>Commissioning Arrangements for the Holiday Activities and Food (HAF) Programme</b>
Decision Reference:	<b>I025705</b>
Key decision?	<b>Yes</b>

**Summary:**

Since 2018, the Government has funded the Holiday Activities and Food (HAF) Programme to support children in receipt of benefits-related free school meals through holiday periods. The pilot programme was rolled out to all upper unitary authorities in 2021 and the Government has confirmed through the Spending Review that the HAF programme will be funded for at least a further three years.

In 2022/23 financial year, the Council's grant allocation is £2,638,890 for the HAF Programme.

In view of the programme expansion, a longer-term model and commissioning process needs establishing. This will support the growth of the HAF programme in Lincolnshire and offer as much high-quality support as possible to eligible children and young people.

This report makes recommendations for the longer-term model and commissioning arrangements for the HAF Programme in Lincolnshire from Summer 2022 onwards.

**Recommendation(s):**

It is recommended that the Executive:

- 1) Approves the recommended delivery model for HAF from Summer 2022 onwards.
- 2) Approves the establishment of an Open Select List (OSL) to commission third party providers to support the delivery of the HAF programme in Lincolnshire from Summer 2022 for up to at least three years.
- 3) Approves the direct award of grants to third party providers who apply and meet the criteria via the OSL.
- 4) Approves the direct award of grants to schools and academies, early years settings and District Councils that operate leisure facilities that apply and meet

the criteria from Summer 2022 and during the years where HAF grant funding is made available from the Government.

- 5) Delegates authority to the Executive Director of Children's Services, in consultation with the Executive Councillor for Children's Services, Community Safety and Procurement, to take all decisions necessary, where required, in relation to the conducting the OSL and the awarding and entering into grants.

#### **Alternatives Considered:**

- **Commission third party providers via an Expression of Interest (EOI) Process:** This is not the recommended option. This approach has been used to commission third party providers during the HAF pilot and for Easter 2022. The EOI process has been advertised via the Council's website with interested third parties being able to submit an EOI via email. This process is administratively burdensome for the Council, especially as it has been run for each HAF period separately. Any future EOI process will need to be amended to comply further with the Council's accessibility and web standards and a new form would need to be developed electronically that would allow third party providers to complete and submit online. An EOI covering a longer period could be run but the process would need to be developed as more providers are expected to apply. The current EOI process is not streamlined enough and does not allow flexibility for the HAF programme over a longer period.
- **Establish a Framework Agreement to commission third party providers:** This is not a recommended option. Frameworks are allowed under the Public Contract Regulations (2015); although the Regulations do not apply for grants. There are no existing frameworks for HAF provision that would cover Lincolnshire. The Council could establish a framework with pre-qualified suppliers that can then bid to deliver HAF via grant. With a framework suppliers can join within a limited application window; pricing must be fixed at point of bidding and the number of suppliers determined in advance. This process is overly complicated for a grant award process and ultimately not flexible enough for HAF delivery and may also deter some small, independent providers, thus potentially limiting the market. There could be a risk that the Council will have less providers interested in delivering HAF and create gaps in provision which would mean an inequitable offer across the Country for eligible children and young people.
- **Establish a Dynamic Purchasing System to commission third party providers:** This is not a recommended option. Dynamic Purchasing Systems (DPS) are allowed for under the Public Contract Regulations (2015); although the Regulations do not apply for grants. A DPS is similar to a framework, but new suppliers can join at any time if they meet criteria and then they would bid to deliver HAF via a grant. Prices would be determined at grant award stage. A DPS can become administratively heavy especially for awarding grants, as providers may request to enter the system at any time and would require high ongoing admin time to manage the system. Failure to respond within timescales would leave the Council open to challenge. Timescales around setting up a DPS can be quite lengthy and once a DPS is set up terms and conditions and the selection criteria cannot be changed. This could create a risk to the Council as the Government releases HAF guidance on an annual basis and so

there will likely be changes the Council would be required to factor in. This approach may deter some small, independent providers and therefore may limit the market. There could be a risk that the Council will have less providers interested in delivering HAF and create gaps in provision which would mean an inequitable offer across the County for eligible children and young people.

#### **Reasons for Recommendations:**

It is recommended that the Council continues to directly award grants to schools and academies, early years settings and District Councils that operate leisure facilities. These organisations are trusted partners working within local communities that are known to children, young people and families and can offer safe settings for HAF provision. These partners will be able to submit an EOI to provide HAF for all or part of the three-year period. Partners will still be required to demonstrate that they meet criteria. A longer-term approach to these grants will provide greater stability enabling partners to plan services more consistently. Legal Services are supportive of this approach.

The Council will still need other third parties e.g., VCS and private providers, to deliver HAF to ensure sufficient capacity. Services to be provided in respect of HAF fall within the Light Touch Regime of the Public Contract Regulations (2015) but as it is proposed the funds shall be allocated as grant funding, the Public Contract Regulations (2015) do not apply. A competitive process will still be put in place to ensure a fair and transparent approach. The current EOI process for third party providers has been administratively burdensome and given HAF is now a longer-term programme other commissioning options were considered.

An OSL is recommended as the preferred option, it is similar to a DPS but is not open continuously to providers. The OSL provides the flexibility to be opened on at least an annual basis, but can also be opened at any point, for example, where there is a gap in provision or before each school holiday period. Providers can join the list if they meet pre-determined criteria, and then mini competitions can be run as needed. Providers could bid for a longer-term grant covering the whole period as well as the Council running mini competitions periodically to target gaps in services.

This approach will provide greater stability for interested providers and give them the opportunity to undertake longer-term planning and ensure sufficient staffing capacity to deliver HAF provision. This approach is flexible for the Council too allowing the award of longer-term grants as well as bringing new providers on board as needed throughout and grant conditions can be amended in line with Government Guidance.

Utilising an OSL will ensure grant funding for the delivery of HAF for third party providers can be distributed quickly through a fair process that is open and transparent.

Children's Services Strategic Commissioning Team already utilise OSLs (under the Public Contract Regulations (2015)) and are confident that the setting up of this OSL (which will be set up outside of the Public Contracts Regulations 2015 for the reasons as aforesaid) for the HAF Programme offers an effective and efficient legally sound methodology for commissioning third party providers to deliver HAF provision.

## **1. Background**

Research has shown that the school holidays can be a pressure point for some families. For some children this can lead to a holiday experience gap with children from low-income households being less likely to access organised out of school activities, more likely to experience "unhealthy holidays" in terms of nutrition and physical health and more likely to experience social isolation.

The Government's HAF programme is a response to this issue. Since 2018 the Government has funded the HAF programme to support children in receipt of benefits related free school meals through holiday periods. Following successful pilots between 2018 and 2020, the Government's pilot programme was rolled out to all upper tier local authorities in 2021. Guidance can be found [here](#).

The Council received a grant for c. £2.5 million in 2021 as part of a HAF pilot programme. At the time 22,500 Lincolnshire children aged 5 to 16 years would have been eligible to access free of charge holiday club places. During the 2021 pilot holiday clubs ran for at least four hours a day, four days a week, six weeks a year (four weeks in the summer and one week each at Easter and Christmas). The clubs were required to provide:

- Healthy meals
- Enriching activities
- Nutritional education
- Signposting and referrals
- Policies and procedures

The pilot in Lincolnshire was delivered in partnership with schools, early years and out of school settings, District Council leisure providers and other third part holiday club providers. This gave the best opportunity to offer the most places to eligible children across the County.

In accordance with legal advice, grants were awarded via an open and transparent EOI process which ensured that all interested parties had the opportunity to bid for grant funding to deliver the pilot.

Across the three HAF programmes delivered in 2021 (Easter, summer and Christmas) c. 5,500 pupils were engaged. The feedback from participants was very positive with benefits including being with their friends, enjoying the activities and the food offer available. Approximately £1 million of the HAF grant funding was utilised.

The pilot year has faced some challenges. Education settings were under extreme pressure throughout the pandemic and so the volume that came forward to deliver HAF

wasn't as high as hoped. Various Covid restrictions impacted on the type of delivery offered, although most activities were face-to-face. Going forward more providers are needed to offer more places, particularly for the secondary cohort and pupils with SEND. More targeting in some parts of the county is needed.

### HAF 2022

The Government, through its Spending Review, has confirmed grant funding for the HAF programme will continue for at least three further years. The HAF 2022 guidance was released on 20<sup>th</sup> December 2021; the programme remains very similar to the pilot but with greater clarity when working with eligible children with SEND and at secondary-age.

The current HAF guidance is available [here](#) and the current grant determination letter issued by the Department for Education is available [here](#).

As per the grant determination letter, in the 2022/23 financial year the Council will receive grant funding of £2,638,890, which has increased compared to 2021 due to rising numbers of eligible children and young people. A delivery plan has been submitted to the Department for Education, as approved by the Executive Director of Children's Services.

### Easter 2022 delivery

The late announcement of the HAF expansion meant that it was not possible before Easter 2022 for a decision to be taken about the longer-term model and commissioning process for the future HAF offer. Legal Services agreed that the Easter programme, in line with the Council's Scheme of Authorisation, was within the decision-making authority of the Executive Director of Children's Services in consultation and agreement with the Executive Councillor of Children's Services.

The EOI process for HAF Easter 2022 delivery has been completed and there has been an increase in providers and places offered, meaning that even more opportunities will be available to eligible children and young people (estimated that approximately 11,000 free of charge sessions will be available to eligible children and young people). It is anticipated that £400,000 of funding from the HAF 2022/2023 grant funding will be utilised but this will not be confirmed until the Easter provision has been delivered.

### Future administration and coordination

Local authorities must ensure appropriate coordination and administration of the HAF programme and the grant terms allow up to 10% of the funding to be attributed to administration and coordination costs. Temporary staffing arrangements have been in place to manage and coordinate the pilot programme, but as the programme continues to grow these temporary arrangements are not sustainable as they lack resilience and do not offer enough dedicated capacity to expand the programme further. It has been agreed with the Executive Director of Children's Services and Executive Councillor of Children's Services that the Head of Early Years in Children's Services will manage the HAF programme going forward as part of their role and 4 FTE officers will be recruited on an

internal secondment/fixed term basis to specifically coordinate and arrange the HAF programme (their substantive posts will be backfilled). Funding for the level of support that will also be required from Children's Services Commissioning, Finance and Legal Services has also been agreed. This will ensure the HAF programme has dedicated capacity to expand and grow without permanently committing the Council to increased staffing costs.

The lack of live data (places available and numbers booked) was also an administrative challenge during the 2021 pilot. Some local authority areas invested in an electronic booking system which is something that will be explored for Lincolnshire in 2022. This will make it easier for families to book onto HAF provision. Initial scoping suggests that this will be in the region of £15,000 to £20,000 for purchase and implementation.

These costs will not exceed the 10% grant allowance of £263,889 in 2022/23.

#### HAF model 2022 onwards

It is important to grow the HAF programme to offer as much as high-quality support as possible for eligible children in Lincolnshire. It is proposed that the HAF model for the next three years will:

- Continue to be provided from a mixture of venues to encourage maximum participation including on and off school sites, early years settings, out of school clubs, community venues etc.
- Focus on face-to-face delivery, wherever possible, with opportunities for outdoor activities (weather permitting).
- Provide a broad range of enrichment activities for all ages that meet a variety of needs and interests.
- Provide hot, healthy food and snacks, engage children in cooking and offer healthy eating advice and guidance for parents/carers to try at home.
- Provide signposting to other support services as needed.
- Allow clubs to provide chargeable places to non-eligible children as appropriate and with discretion.
- Allow some discretion to offer places to children that could really benefit from the programme but may not meet eligibility criteria e.g., children supported by Children's Services (max. 15% of funding).
- Actively target provision e.g., hard to reach communities, areas with limited provision currently, activities for secondary age and for children with SEND.

The recommendation includes the proposal that the Council continues to directly award grants to schools and academies, early years settings and District Councils that operate leisure facilities. These partners will be able to submit an EOI to provide HAF for all or part of the three-year period. They will be required to demonstrate that they are able to meet the HAF criteria, as is currently the case. Legal Services are supportive of this approach.

The Council also needs other third parties, e.g. voluntary community sector and private providers, to deliver HAF in Lincolnshire to ensure sufficient capacity across the County.

Services to be provided in respect of HAF fall within the Light Touch Regime of the Public Contract Regulations (2015) but as it is proposed the funds shall be allocated as grant funding, the Public Contract Regulations (2015) do not apply.

### Financial Implications

The HAF programme is grant funded by the Department for Education and so there is limited financial risk to the Council. However, the risk is to ensure equitable access to quality provision within the funding envelope.

The Council will not spend over the grant allocation. Grant use will be monitored and if grant funding requests exceed the funding available the volume of grants to providers would be adjusted in line with published criteria.

Upon the recommendations being considered, the programme will increase in scale to ensure greater utilisation of the grant allocation, and to enable the county to maximise on the places available to eligible children.

The 2022/23 financial year budget allocation has been confirmed as £2,638,890 and aligns with the financial year. This increase is due to the number of eligible children in the county. Funding will be confirmed by the Government on an annual basis through a grant funding determination letter.

The Council will continue to indicate to providers the maximum costs that will be considered to ensure funding is in line with market rates but represents value for money.

Administration costs should not exceed £263,889 per year or 10% of the grant. The agreed administration will be within this amount and will include funding for the procurement of an electronic booking system.

## **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 HAF Programme is a Government funded programme that is targeted at children and young people from Reception Year to Year 11 who are eligible for benefits-related free school meals. This includes eligible children and young people with special educational needs and disabilities.

There is no adverse impact identified for eligible children and young people and their families. The provision of HAF activities during the Easter, summer and Christmas school holidays is perceived to be a positive impact for eligible children.

Consideration has been given to children who are not eligible for benefits-related free school meals and holiday clubs offering HAF places will be allowed to offer chargeable places to non-eligible children where space allows and with discretion.

#### 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.



The HAF programme in Lincolnshire will support eligible children and their families with access to positive activities, healthy and nutritional meals, related advice and support to access other services as needed. This will support children to be both physically and mentally healthy which will improve their attainment and life chances. This supports the JSNA and JHWS across a range of areas.

### 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 HAF Programme in Lincolnshire will support eligible children to be safe and have reduced social isolation. Improving access to organised out-of-school activities that keep eligible children active during the school holidays will encourage and support them to engage in positive activities and potentially protect against poor behaviour during the school holidays, including anti-social behaviour.

### **3. Conclusion**

Upper tier local authorities are expected to offer the HAF Programme to eligible children in their area with expected standards for the delivery of the HAF provision set by the Department for Education. The proposed model for the HAF Programme from Summer 2022 onwards builds on the 2021 pilot programme in Lincolnshire and provides dedicated capacity to stimulate the market, encourage more providers to bid and funding the programme sufficiently, within the HAF funding envelope. The OSL will provide a flexible, fair and transparent commissioning approach to award grants to third parties, whilst still ensuring the Government's HAF guidance is met. This commissioning approach will enable the Council to increase the scale of the HAF offer to ensure greater utilisation of the grant allocation, maximise the places available to eligible children and target support to meet the specific needs.

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

The Council has the power to create the processes and allocate the grant funding as set out in this Report.

The legal aspects have been addressed in the body of the Report.

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

## **5. Resource Comments:**

The recommendations in the report for the delivery of the Holiday Activity Fund (HAF) from Summer 2022 is planned to be through an Open Select List for providers to join and bid for work, which will provide greater stability and support longer-term planning for those interested providers. The approach will also support the Council in its objective in achieving an extensive programme of holiday activities covering the County in supporting children in receipt of benefits related free school meals. The Council will also continue working with schools, early years and district partners to support the HAF delivery.

The Council has received a grant allocation of £2,638,890 for 2022/23 for HAF to support those eligible children. The funding will be administered through a grant process to support its delivery. Monitoring of spending against planned levels in each term will support the maximisation of the grant. Administration support costs are only allowable up to 10% of the grant value.

## **6. Consultation**

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

N/A

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

Yes

### **c) Scrutiny Comments**

The decision will be considered by the Children and Young People's Scrutiny Committee on the 22 April 2022 and the comments of the Committee will be reported to Executive.

### **d) Risks and Impact Analysis**

Upper tier local authorities are required to deliver a HAF Programme in their local area in line with guidance.

The main risk is that the HAF programme doesn't grow sufficiently to support the volume of children eligible for support. This would result in eligible children not receiving the benefits that the programme offers and ultimately could impact on their overall health and wellbeing, especially during the school holidays. This risk is mitigated by the Council investing in dedicated capacity to stimulate the market, encourage more providers to bid and funding the programme sufficiently. The Council is also seeking to make it easier to access HAF for families so they know where places are available, can easily book online and don't have to travel far.

If the model and commissioning approach are too difficult for providers to engage with there is a risk that providers will choose not to run the programme. The proposed model is flexible and so will enable the Government's guidance to be met whilst also allowing a targeting of support to meet the specific needs of Lincolnshire children. The proposed commissioning approach is flexible, easy to use and not too administratively heavy.

## **7. Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Sara Gregory, who can be contacted on 01522 553635 or [saraj.gregory@lincolnshire.gov.uk](mailto:saraj.gregory@lincolnshire.gov.uk).

This page is intentionally left blank