

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Rory Love,

Cabinet Member for Education and Skills

DECISION NO:

24/00076

For publication [Do not include information which is exempt from publication under schedule 12a of the Local Government Act 1972]

Key decision: YES

Key decision criteria. The decision will:

- a) result in savings or expenditure which is significant having regard to the budget for the service or function (currently defined by the Council as in excess of £1,000,000); or
- b) be significant in terms of its effects on a significant proportion of the community living or working within two or more electoral divisions – which will include those decisions that involve:
 - the adoption or significant amendment of major strategies or frameworks;
 - significant service developments, significant service reductions, or significant changes in the way that services are delivered, whether County-wide or in a particular locality.

Subject Matter / Title of Decision: Commissioning options for future Holiday Activity and Food (HAF) Programme 2025/26 and beyond.

Decision:

As Cabinet Member for Education and Skills, I agree to:

1. Approve the proposed HAF delivery model and commissioning approach from 2025.
2. Commence formal procurement activity to tender for a service, award a contract(s) (three years, with a 12 month break clause) and develop robust contract management for oversight of the contract(s) performance.
3. Confirm that in accordance with [Decision 23/00009](#) that Corporate Director Children, Young People and Education accept Future allocations of the Holiday Activity and Food Grant for use in accordance with the grant determination letter which will be issued by the Department for Education and the relevant terms and conditions, provided these remain substantially the same as the current; and to delegate authority to the Director of Education and SEN to manage and deploy the accepted Holiday Activity and Food Grant in accordance with the grant conditions and arrangements detailed in the report, including entering into contracts through a compliant procurement route and have a team in place to roll out the HAF Programme from 2025-2026 and beyond.
4. Delegate authority to the Director of Education and SEN, in consultation with the Cabinet Member for Education and Skills, to take other necessary actions, including but not limited to entering into contracts, Service Level Agreements (SLAs) or other legal agreements, as required to implement the decision.

Reason(s) for decision:

- Decision required because total value of contracts will exceed the threshold for a Key Decision and impact across multiple districts of the Local Authority.

Background:

The Holiday Activities and Food (HAF) Programme in Kent focusses on children's physical health and wellbeing by providing healthy food and exciting activities for children and young people during the school holidays. Families of children aged four to 16 years, who are in receipt of benefits-related free school meals, can access free opportunities during the Easter, summer, and Christmas holidays. This programme is funded by the Department for Education (DfE), accompanied by grant conditions.

Since 2021 The Education People (TEP) have been commissioned through an "additional works request" to manage the HAF programme. CYPE have been exploring opportunities regarding a move towards a more long-term provision for HAF and how this may look from June 2025 and beyond, should the funding continue.

Soft Market Engagement has been conducted to seek the best possible solution for procuring a new HAF

service. In addition, extensive engagement with young people and schools has been undertaken, to gather their views, ideas and suggestions regarding HAF delivery and activities.

What is being proposed?

As part of soft Market Engagement, a variety of options were explored with a focus on maximising delivery for those young people with SEND, aged 11+ and those with low school attendance. The options considered were:

1. Do Nothing
2. Set up a new grant scheme
3. Develop a light touch Dynamic Purchasing System (DPS) or other compliant route under the new Procurement Act 2023 with soft lots
4. Develop a Framework contract arrangement
5. A mix of the above

The proposed decision is **Option 3** - to develop a light touch DPS or other compliant route under the new Procurement Act 2023 with soft lots. This will allow targeting of areas that have not had take-up while the soft lots will support smaller grassroots organisations to apply for more localised provision. Previous experience has proven this to be successful. Both the procured and internal activity will focus on providing school holiday activities and food for children and young people eligible for the HAF scheme. Additionally, it is proposed to create a HAF Programme Team within KCC, carrying out the non-procurement activity.

In the proposed administration and management model, the Responsible Officer will remain as Assistant Director Education. It requires the creation of a HAF Programme Team to undertake some of the activity the current TEP-based team undertake, primarily forecasting the demand and determining needs for provision across the county, identifying gaps in provision and target groups, quality assurance of providers' delivery, commissioning and overseeing the booking and eligibility system, communications with parents and providers and reporting to the DfE in line with the grant conditions. They will also lead on any training required. This is likely to have TUPE implications.

In order to implement a compliant procurement, input will be required from both commissioning and commercial colleagues. By the very nature of a DPS or compliant route, this will need to be ongoing support to ensure that organisations are onboarded and managed throughout the life of the Programme. Work will be awarded based on criteria defined in the contract.

It is expected that the contract term will be for an initial three years, with a break clause after 12 months that outlines the contract is subject to further HAF funding.

Financial Implications:

HAF funding is received from the Department for Education. The funding amount is yet to be confirmed for 2025-2026, and assuming the level moving forward remains as 2024-2025, this would be £5,604,960 per annum. The grant and associated spend is reported against the "other schools services" key service budget line.

Assuming the same grant terms will apply; up to 10% can be spent on management and administration, and up to 2% on capital items with the remainder spent on delivery (88% to 90%). Any unspent funds must be returned to the Department for Education.

The costs of administration and management will need to be funded within the 10% allowance. The costs of all delivery, including via the Family Hubs, would be within the 90% allowance. There is no expectation this programme will be a cost to the General Fund and associated management and delivery costs are expected to be fully funded from the grant in accordance with the conditions.

Local authorities are encouraged to use up to 15% of the delivery funding to provide free or subsidised holiday club places for children who are not in receipt of benefits-related FSM and who the local authority believe could benefit from HAF. This will enable targeted support to include any vulnerable children and young people.

If the decision is to move forward with the proposal and the creation of an internal CYPE HAF Programme Team, TUPE may apply. Further HR and finance advice will be taken on this if the proposal proceeds.

The estimated cost of procurement is £99,370 based on the use of existing staff. This cost forms part of the management and delivery costs, which are expected to be fully funded from the grant in accordance with the conditions.

This proposal complies with Spending the Council's Money requirements.

In accordance with the Cabinet decision to support the recommendations in the paper [Securing Kent's Future](#) on 5 October 2023, the approach set out makes sure that, in line with Objective 2 (Delivering savings from identified opportunity areas to set a sustainable 2024-2025 budget and MTFP) any future procurement does not over specify need, ensuring best value for the Local Authority. Spend will be limited to the total value of the grant funding received.

Legal Implications:

All expenditure will be audited by the DfE to ensure compliance with the DfE grant conditions.

The move away from the current grants process will enable greater clarity over provision and data. This is primarily due to the legal standing of grants and how they can be administered versus those of a contract.

There is no contractual obligation on KCC to continue to commission TEP to deliver HAF beyond 2024. However, assuming HAF continues, it will not be possible to move to the proposed delivery model in time for delivering HAF provision for Easter 2025, as the planning for this starts immediately after Christmas. KCC will need to commission TEP to continue to manage HAF for this delivery point and move to the proposed model for summer 2025.

There may be TUPE implications of creating an internal HAF Programme Team. Further HR and finance advice will be taken on this if the proposal proceeds.

Equalities Implications:

An Equality Impact Assessment (EqIA) screening has been completed, there are no individual groups that are significantly more impacted by this change and individuals with protected characteristics will continue to be supported through the HAF Programme.

Recommendations and other consultation:

Children, Young People and Education Cabinet Committee considered and endorsed this decision at its meeting on 24 September 2024.

Any alternatives considered and rejected:

Option 1: Do nothing and continue the current arrangement of TEP managing the HAF applications and spend through a grant process.

Reason for rejection: There is a desire in CYPE to move towards a more long-term provision for HAF.

Option 2: Set up a grant scheme which would be managed by KCC or TEP and promoted through KCC's grant page.

Reason for rejection: Funding the service through grants would reduce KCC's oversight, scrutiny and challenge and there is the potential for Grants to be non-compliant with Public Contracts Regulations 2015.

Option 4: Commission one or multiple provider(s) to cover the county through a framework contract arrangement.

Reason for rejection: There would not be an opportunity for new providers to join the Framework, potentially limiting diversity of provision.

Option 5: A mix of the above.

Reason for rejection: There is a desire to reduce the complexity and maintain consistency when procuring and managing a HAF service.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None



9/10/2024