

## KENT COUNTY COUNCIL – RECORD OF DECISION

### DECISION TO BE TAKEN BY:

Rory Love, Cabinet Member for Education and Skills

### DECISION NUMBER:

25/00020

**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

KCC CLS Sub-contracting Education and Skills Funding Agency provision

### Decision:

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

- i) To CONFIRM approval of the sub-contracting of specialist provision for adults as set out in [Decision - 24/00085](#)
- ii) To confirm delegated authority to the Corporate Director of Children's, Young People and Education, in consultation with the Cabinet Member for Education and Skills, to take the relevant actions as necessary to implement the decision, including future review of performance and Best Value alignment as set out in [Decision - 24/00085](#)
- iii) To APPROVE the commissioning approach to procure a two year contract with an option to extend for 12 months.
- iv) To DELEGATE authority to the Corporate Director of Director of Children, Young People and Education, in consultation with the Cabinet Member for Education and Skills, to exercise relevant contract extensions and enter into relevant contracts or legal agreements; and
- v) To DELEGATE authority to the Corporate Director of Children, Young People and Education, to take other relevant actions, including but not limited to, finalising the terms of, and entering into required contracts or other legal agreements, as required to implement the decision.

### Reason(s) for decision:

The decision is required to support a broad delivery of education for adults to meet needs, gaps in provision and new funding priorities.

Community Learning and Skills is KCC's internally commissioned department to deliver Education and Training to adults and young people over 16. KCC CLS is responsible for delivering the Education & Skills Funding Agency (ESFA) Adult Skills Fund (ASF) and Greater London Authority (GLA) budget, which support the goals and objectives of Framing Kent's Future.

ESFA Funding rules for Adult Education have changed and have redefined 'partners' as sub-contractors. This alteration requires a decision to enable CLS to sub-contract to both maintain and potentially realise business opportunities for growth against the delivery of previous specialist provision, specifically British Sign Language courses.

Under current arrangements, partners would provide courses as part of the existing arrangements in place with CLS. The sub-contracting model proposed in this decision means that relevant providers will now be sub-contracted to deliver the same services on a different contractual basis as a result of changes required by the Government.

The decision supports the delivery of vocational courses across Kent. The focus of adult skills funding is now on progression towards, into, and within work, which also helps meet needs identified in the Local Skills Improvement Plan (LSIP). CLS do not have the internal organisational capacity or capability to deliver such a wide array of specialist provision.

### **How the proposed decision supports Framing Kent's Future**

#### **Priority 1: LEVELLING UP KENT:**

- To support the Kent economy to be resilient and successfully adapt to the challenges and opportunities it faces over the coming years.
- To work with partners to develop a skills system for Kent that delivers skills that are resilient to changing workforce needs and opportunities and supports people to higher level skills.

Including supporting the identified actions of:

1. Develop the highly successful Employment Task Force, so that it has the capacity to identify and tackle barriers to high-quality employment across the county and convene action between partners that will drive economic growth.
2. Respond to and build on the Local Skills Improvement Plan
3. Regularly commission the Workforce Skills Evidence Base to provide information about the Kent economy, businesses and skills requirements and inform the Action Plan that will coordinate interventions to improve skills levels and seize opportunities for new jobs and skills.
4. Maximise the use of national skills funding, including the apprenticeship levy and the lifelong learning entitlement to create real opportunities for people to access training opportunities throughout their lives that lead to employment in vocational and technical fields.

### **How the proposed decision supports Securing Kent's Future**

Sub-contracting elements which CLS do not have the expertise or capability to deliver, will align with our Best Value duty, as outlined in Part 1 of the Local Government Act 1999, where Councils should *"make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to the combination of economy, efficiency and effectiveness"*. Any new sub-contracts commissioned will be assessed in line with Best Value Duty.

### **Commissioning:**

The proposal is to commission a two year contract with an option to extend for 12 months.(insert start date and end date)

Future considerations which align to the sub-contracting of provision for Adults:

The investigation into adding a second 'Lot' of sub-contracting of provision for the delivery of the 16 to 19 year olds Study Programme for Community Learning and Skills, and Post 16 provision for those aged 19 to 24 with an Education, Health and Care Plan through an evidence based commissioning programme will be undertaken to ensure alignment of delivery with the sub-contracting of provision for Adults. The sub-contracting of provision for the delivery of the 16 to 19 year olds Study Programme for Community Learning and Skills, and Post 16 provision for those aged 19 to 24 with an Education, Health and Care Plan will be subject to separate decision making.

### **Financial Implications**

CLS is funded via a range of annually awarded Education & Skills Funding Agency (ESFA) contracts plus fee income when adults enrol on certain courses.

The funding agreements with ESFA allows CLS retain up to a maximum of 20% of the sub-contracted delivery amount as a management fee to support the procurement, selection, audit, and management of the sub-contractors ensuring that they adhere to contractual obligations and expected quality measures. We have reviewed our requirements and believe that retention of 15% would be appropriate.

The wider planned restructure of CLS delivery will ensure CLS is fully funded from both grants and fee income when completed (including any sub-contracted element) and there will be no expectation of contribution from the general fund.

Sub-contracting relates to the following CLS funding streams:

#### **Adults:**

CLS receives a Tailored learning contract of £6,705,376 (24/25 allocation) as part of the funding line Adult Skills Fund which totals £8,791,434. There is no limited to amount LA may provide through subcontracting however, the ESFA have expressed a wish to see a reduction in subcontracted delivery in the sector. In the event of exceeding £100,000 of subcontracted delivery, the sub-contracting standard must be adhered to which is an additional level of rigour which includes an external audit to be undertaken at cost to CLS. The Adult Skills fund projected sub-contracting amount is expected to be £600,000 of which CLS will retain £90k to oversee service delivery.

### **Legal Implication**

Adult Learning: Sub-contracting adult provision - KCC does not deliver the CLS services pursuant to specific statutory powers or duties. KCC is required to deliver the CLS services in exchange for funding from the Education and Skills Funding Agency ("ESFA").

This will be tendered and procured under the Public Contracts regulations 2015. The New procurement act 2025 does not go live until 24 February 2025 and we are permitted to procure this under the existing PCR 2015 regime.

### **Equalities Implications**

An EqIA has been undertaken and is currently under review. The EqIA has not identified any negative impacts, as the proposal would offer new opportunities to protected groups.

### **DPIA**

All subcontractors will be expected to sign up to the Kent and Medway Information Sharing Agreement as part of the contract. Secure methods of returning learner data will be agreed.

### **Cabinet Committee recommendations and other consultation:**

The proposed decision was considered and endorsed at the Children's, Young people and Education Cabinet Committee on 27th February 2025.

**Any alternatives considered:**

**Do nothing – considered and discounted.** CLS do not have suitably qualified staff in post and the subject matter knowledge to be able to deliver a robust curriculum in such a wide range of vocational provision within the short term. Where CLS already have staff in post, the curriculum is already being offered; for example, teaching and learning, using languages for work; digital skills.

**Offer all provision in-house – considered and discounted.** To recruit suitably qualified staff and develop a robust curriculum within the short timescale available for the 24/25 academic year, while undertaking a service redesign, isn't practicable. Feedback from other FE providers in the county shows that recruitment for specialist / vocational tutors, is extremely difficult. Additionally, CLS do not have suitable facilities available for all provision types and significant investment would be required to provide them.

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



21/3/2025