Executive Summary

West Sussex Adult Education was a County Council service that became Aspire Sussex Limited (Aspire) in 2012. Aspire is a social enterprise Company Limited by Guarantee with charitable status.

Aspire is in its fourth year of a rolling five year contract to deliver Adult Education on behalf of the County Council. The funding for Adult Education comes mostly from the Skills Funding Agency (SFA). West Sussex County Council holds the contract with the SFA and sub contracts delivery of the service to Aspire. The intention of the Local Authority and Aspire at the time of the outsourcing was that the contract would ultimately move (novate) from West Sussex County Council to a direct contract between the SFA and Aspire.

European Union procurement rules that came into effect in 2015 dictate that the County Council cannot extend the contract with Aspire beyond 2017 or novate the whole value of the contract.

The proposal is that the County Council conducts a procurement process for the future provision of Adult Learning from September 2017. This option will allow the County Council to investigate how strong the provider market is and what appetite there is for the Adult Education contract.

The March 2016 Children and Young People’s Services Select Committee endorsed the proposed decision to continue with the Skills Funding Agency funding agreement for Adult Education and conduct a procurement for a sub-contractor to deliver the services on behalf of the County Council.

Recommendations

That the Leader of the Council:

(1) approves the commencement of a procurement process for the future provision of Adult Learning from September 2017.

(2) agrees that the contract will run from September 2017. The value of the contract will be dependent on SFA grant funding.
1. **Background and Context**

1.1 Adult Education was a County Council run service until 2012 when the service became a separate social enterprise company. The original intent in outsourcing Adult Education from the Local Authority was to provide an opportunity for Adult Education to be able to benefit from wider funding opportunities and greater flexibility in responding to market trends. The County Council had embarked on a Commissioning strategy and the Aspire contract was the first time this type of model had been used to deliver Adult Education by the local authority.

1.2 The fourth year of the Adult Learning contract with Aspire comes to an end in August 2016. The Local Authority is in the process of confirming the continuation of this contract to August 2017.

1.3 It is not possible to extend the contract with Aspire automatically beyond this date. New EU procurement rules came into place in 2015 that dictate any contract with an annual value of more than £625k needs to be subject to an open tendering process. The value of the SFA contract is in the region of £3m.

1.4 The procurement process will take approximately 18 months. In order to have a provider in place by September 2017, the Cabinet Member Decision needs to be made in April 2016.

2. **Consultation**

2.1 The County Council will be conducting a consultation with West Sussex residents, including existing Adult learners as part of stakeholder engagement within the procurement process. This will allow existing learners and West Sussex residents the opportunity to share their views directly with the County Council on the future shape of the service.

2.2 Stakeholder engagement will focus on the achievement of outcomes for existing learners, the satisfaction levels with current curriculum and venue location and quality. Residents will have the opportunity to comment through Have Your Say. The County Council will also refer to the most recent satisfaction surveys conducted by Aspire and those conducted on behalf of the SFA.

2.3 The socio-economic impact of this proposal will be discussed with Infrastructure and Economic Development, Procurement and Contract Services and the Sustainability Team as well as the Care, Wellbeing and Education Executive Directorate and will inform the shape of the contract.
3. **Proposal**

3.1 The proposal is for the County Council to conduct a procurement process that will deliver a sustainable model for Adult Community Learning across the County. The service will have a comprehensive and varied curriculum with a diverse geographical reach. Potential providers will need to demonstrate that they are aligned with the County Council’s desired outcomes for Adult Education and the Future West Sussex priorities to Give Children the Best Start in Life, Champion the West Sussex Economy and Promote Independence in Later Life.

3.2 Specifically the County Council will be aiming to raise skills and support the needs of individuals, priority economic sectors and local communities. Adult Education will be delivered in a safe and inclusive environment that boosts confidence and promotes wellbeing. Learning may be for recreational purposes as well as academic progression. In addition, the successful provider/s will help address barriers to employment for economically inactive individuals and support those entering or returning to learning.

3.3 A procurement strategy will be developed to support Adult Learning priorities and desired outcomes. The aim of a procurement strategy is to achieve the optimum balance of risk, control and cost certainty for a particular service.

3.4 The procurement strategy will address a number of questions including the following:

- What are the contracting and procurement options available for the service?

- How will the contracting/procurement options secure the economic, social and environmental factors?

- Is there a developed market for the proposed procurement approach?

- Does the contracting authority have or have access to appropriate resources to manage the preferred procurement and subsequent contract management?

3.5 In order to make an informed choice regarding the procurement strategy to be used for the service, consideration will be given to how the County Council can best achieve its desired outcomes taking into account its resource capacity and capability. Other considerations driving the choice of procurement option are the importance the County Council places on cost certainty, working in collaboration with service provider(s) and the principles of shared risks.

3.5 Procurement options will be evaluated against the desired service outcomes, budget and risks to determine which is the most suitable: single provider, framework of providers geographically split, framework of
providers split by their service offering, Partnerships (with Further Education Colleges or other Local Authorities) or some combination of the above.

4. **Other Options considered**

4.1 The options to deliver Adult Learning services in West Sussex are set out in the table below; the preferred option is highlighted. Within the preferred option there will be a number of ways to define exactly how the service will be delivered and by what type of provider/s.

<table>
<thead>
<tr>
<th>Options</th>
<th>Pros</th>
<th>Cons</th>
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<tbody>
<tr>
<td>1 The County Council brings Adult Education provision back in house</td>
<td>County Council has direct control of provision. No procurement process required.</td>
<td>Not aligned to commissioning direction of travel. Liabilities revert back to the County Council. The County Council is not able to access funding streams available to a body with charitable status.</td>
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<tr>
<td>2 The County Council continues with the SFA contract and conducts procurement for full contract value</td>
<td>Tests the provider appetite for Adult Education community provision. Gives the County Council a level of influence in both shaping the procurement process and the outcomes for learners. Supports Future West Sussex Stronger Community priorities and Devolution bid for more local control.</td>
<td>County Council remains in the middle of the relationship between the funding agency and the provider(s).</td>
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<tr>
<td>3 The County Council terminates funding agreement with SFA</td>
<td>Tendering process managed by SFA if decision is made to procure. Aspire has opportunity of bidding and if successful would end up with a direct relationship with SFA which was the point of novation.</td>
<td>The County Council would have no control over decision to procure. Residents may be left without a community based service. Reputational risk to the County Council if services cease. Reputational risk from withdrawing from the SFA contract just at the time that County Council liabilities cease. Increases uncertainty for Aspire staff and may lead to experienced staff leaving</td>
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5. **Resource Implications and Value for Money**

5.1 In accepting the Skills Funding Agency grant for Adult Education and responsibility for procurement for the delivery of this service, the County Council will be ensuring that the residents of the County continue to have the benefit of £3m funding to support local Adult Learning priorities.

5.2 The contract is fully funded by the SFA. The County Council currently passes the grant to Aspire minus the 3% management fee. The County Council may receive income from rental agreements with the Service Provider, Service Level Agreements and the management fee. Review of the management fee level will form part of the re procurement 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.

5.3 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.

6. **Impact of the proposal**

6.1 An Equality Impact Report has been undertaken and is attached as an Appendix. In addition to soft market testing that will be undertaken as part of the tendering process, the County Council will consult with existing Adult Education learners and West Sussex residents regarding their aspirations for Adult Learning. Authorities are under a duty to consult representatives of a wide range of local persons; this is not optional. Authorities must consult representatives of council tax payers, those who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and small businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services. In the interests of economy and efficiency, it is not necessary for authorities to undertake lifestyle or diversity questionnaires of suppliers or residents.
6.2 **Crime and Disorder Act Implications** – not applicable.

6.3 **Human Rights Act Implications** – not applicable.

6.4 **Social Value** – The contracting partner/s will be asked to identify, develop and nurture the supply chain organisations based in and around West Sussex. This will form part of the procurement process.

7. **Risk Management Implications**

7.1 There is a need to ensure that the contract extension for Aspire for the academic year 2016/17 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. This risk will be mitigated through the due diligence process.

7.2 The transfer of staff (TUPE) from Aspire to any new provider/s (should Aspire not be successful in the new tendering process) would follow SFA funding. This will be mitigated through the due diligence process of understanding existing contracts and by understanding which staff will be transferring.

7.3 There is a risk associated with the potential loss of income from the County Council owned property, Marle Place in Burgess Hill, where Aspire hold a commercial lease agreement outside the terms of the contract. The lease expires in September 2022 although there is a break clause provision (for Aspire only) to determine the lease in September 2017. Whilst this affords Aspire some protection should they no longer operate the service beyond that date, the County Council would be constrained from offering this accommodation to other potential service providers should a full procurement exercise be undertaken. Were Aspire to be unsuccessful in securing a new contract, the break provision would undoubtedly be triggered and Aspire would need to address any dilapidation issues. The County Council would also lose the current £60k per annum income due under the lease and would be left with a vacant property with associated costs and security issues.

**Avril Wilson**  
Executive Director Care, Wellbeing and Education

**Jay Mercer**  
Interim Director  
Education and Skills

**Contact:**  
Danny Pell, General Adviser 14 – 19, 07831738619.

**Background Papers: None**
Equality Impact Report

<table>
<thead>
<tr>
<th>Title of proposal</th>
<th>Provision of Adult Learning</th>
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<tbody>
<tr>
<td>Date of implementation</td>
<td>August/ September 2017</td>
</tr>
<tr>
<td>EIR completed by:</td>
<td>Name: Jay Mercer</td>
</tr>
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<td></td>
<td>Tel:</td>
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1. Decide whether this report is needed and, if so, describe how you have assessed the impact of the proposal.

There will be no material negative impact of this proposal. However, the socio-economic outcomes and sustainability will form key elements of the new delivery partner’s operating model.

2. Describe any negative impact for customers or residents.

It is not anticipated there will be any negative effects as a result of this proposal.

3. Describe any positive effects which may offset any negative impact.

The tendering process and soft market testing will allow the County Council to investigate ways of enhancing existing provision.

4. Describe whether and how the proposal helps to eliminate discrimination, harassment and victimisation.

The proposal will ensure the chosen service provider has the same or better processes to eliminate discrimination, harassment and victimisation as the County Council. This will initially be explored during ‘soft market testing’ and built into the contract.

5. Describe whether and how the proposal helps to advance equality of opportunity between people who share a protected characteristic and those who do not.

Our commitment to equality of opportunity will be set out in the new contract and we will work with the chosen provider/s to ensure there is a ‘golden thread’ from the contract to on the ground to ensure the commitment is being delivered.

6. Describe whether and how the proposal helps to foster good relations between persons who share a protected characteristic and those who do not.

We will expect and make clear to the partner provider that the County Council’s commitment to ensuring there are good relations between all individuals continues or is enhanced.

7. What changes were made to the proposal as a result? If none, explain why.

It is not proposed to make any changes at this stage. We are committed to consulting with all stakeholders to ensure the contracted out service delivers a positive and enhanced Adult Learning service going forward.
8. Explain how the impact will be monitored to make sure it continues to meet the equality duty owed to customers and say who will be responsible for this.

The true effect of a decision will only be known once it has been implemented. However there will be contractual obligations that will be measured vigorously along with service standards and performance measures.

To be signed by a Director or Head of Service to confirm that they have read and approved the content.

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<thead>
<tr>
<th>Name</th>
<th>Jay Mercer</th>
<th>Date</th>
<th>22 March 2016</th>
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<tbody>
<tr>
<td>Your position</td>
<td>Interim Director Education and Skills</td>
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