

Westmorland and Furness Shadow Authority Cabinet

Date: 24 February 2023
Title: Section 24 Agreement - Extension of Apprenticeships Framework

Report from: Cabinet Member for Finance
Report Author: Lisa Studholme, Commissioning Manager
Wards: All Wards
Key Decision: Extension of Apprenticeships Framework

1.0 Purpose/Summary of report

- 1.1. To consider granting consent to the County Council to extend its Apprenticeships Framework ("The Framework") for a period of one year until 31 March 2024.
- 1.2. In compliance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007, the extension of the Framework requires the consent of both Westmorland and Furness Shadow Authority and Cumberland Shadow Authority.

2.0 Recommendation

(1) It is recommended that that the Shadow Cabinet grants consent to Cumbria County Council to extend the Apprenticeships Framework for a period of one year from 01 April 2023 until 31 March 2024, with an indicative annual value of £4m.

3.0 Background and Proposals

- 3.1 All large employers with an annual pay bill of over £3 million are required by the Government to pay an 'apprenticeship levy' of 0.5% of their total annual pay bill. The Apprenticeships Framework enables the Council to spend this levy on apprenticeships and training and keeps these funds in Cumbria and to invest in its workforce and supports the wider aims of the Council Plan.
- 3.2 The Apprenticeship Framework commenced on 01 April 2018 for 4 years until 31 March 2022. There are 2 optional 12-month extensions available, one of which has already been utilised, to 31st March 2023. The last end date using both extensions is 31 March 2024. The Apprenticeship Framework is an 'open' Framework meaning that new

providers can join during the term of the Framework. There are currently 61 Providers on the Framework (Appendix A of Appendix 2). Each identified apprenticeship training requirement is commissioned via a mini competition and has a Call Off Agreement in place.

- 3.3 Consent is now sought from the Shadow Authority to use the **final one-year extension**, extending current arrangements to 31 March 2024. A contract modification form has been completed for each contract and duly authorised by Cumbria County Council and is included at Appendix 2.
- 3.4 The total contract value for the full 6-year term (if both optional 12 month extensions are utilised) is £20m. The actual, plus committed spend to date is currently circa £8.3m
- 3.5 This extension of the Framework is being sought to ensure that there are arrangements in place for both new unitary authorities and Cumbria Fire & Rescue from 01 April 2023. Extension would allow the operational teams sufficient time to 'settle' into new organisations and for decisions to be taken around the strategic approach around these services. The contract states that the Council must give providers 3 months' notice of contract extension, a notice of intention to extend has been sent to all Framework Providers.
- 3.6 Following a meeting with SROs it was proposed that Westmorland & Furness Council will host the contractual arrangements. Sign off of this approach is expected in the coming weeks. This will help to ensure that the Framework and service delivery remains workable until such a time that the services are reviewed.
- 3.7 District Councils currently spot purchase Apprenticeship Training via several contracts. These arrangements are not part of the proposal's details in this paper. Both New local authorities will need to review the Framework as soon as possible and consider their future apprenticeship training needs as this is the last extension that can be applied to this Framework.

Funding

- 3.8 The Apprenticeships Framework is funded by the Apprenticeship Levy with the total framework value, including any extension options, as described in the contracts OJEU notice 2017, is £20 million. The spend levels (both confirmed and indicative) are detailed in the table below. For the extension period the use of the Framework is expected to increase as it will include the levy value for the 6 district councils as well as Cumbria County Council (including Voluntary Controlled and Community Schools and Cumbria Fire and Rescue). The projected value by 31/03/23 is Cumbria County Council expected to be £8.3m,

leaving £11.7m of the original published contract value of £20m. This equates to £5.2m contract spend to date (since commencement) and £3.1m commitments.

- 3.9 Current levy amounts for the district councils are shown below, these are being used as a benchmark to understand the potential spend via the Framework post LGR, the inclusion of these amounts is within the remaining contract values noted above:

	Allerdale	Barrow	Carlisle	Copeland	Eden	South Lakeland
2022/23 Estimated Apprenticeship Levy (Including 10% top up)	£22,000	£19,512	£50,647	£29,691	£10,111	£47,000
TOTAL	£178,961					

- 3.10 As the arrangements are fully funded by the Apprenticeship Levy, there are no financial consequences for the Council or new organisations connected to the use of the Framework, other than what has already been committed. There is no requirement to use the Framework if it is extended. If the new organisations do not commission apprenticeship training by the Framework (or any other mechanism) there is a risk that the apprenticeship levy amount (0.5% of their total annual pay bill) will not be spent and this funding may expire e.g. returned to central government.
- 3.11 Officers are currently working with the Department of Education to establish the way in which digital accounts will be administrated moving forward.

Performance

- 3.12 The Framework is fit for purpose and will be suitable to meet the short-term needs of the two new local authorities and Cumbria Fire and Rescue Service. It recognised that it would be beneficial for the new local authorities to review the Framework as soon as possible and consider their future apprenticeship training needs, as there is some scope for improvement including update to ensure alignment with latest guidance.
- 3.13 There are currently circa 391 apprentices accessing training via the Framework.

- 3.14 The continued operation of the Framework provides a mechanism for the new local authorities to continue to maximise the apprenticeship levy so that no funds expire or require pay back to central government.
- 3.15 The Framework currently performs well supporting the Councils' workforce planning:
- 3.16 A progression rate into employment post apprenticeship of 92%
- 3.17 Enables the Council to foster a "grow your own" approach e.g., Solicitors, Civil Engineers, Social Workers, Project Managers (particularly beneficial in hard to fill roles)
- 3.18 The provision of work-based learning for leadership and management up to Senior Leaders.
- 3.19 Additionally, the Framework has supported Cumbria County Council to be nationally recognised around its work with Apprentices including:
- National Apprenticeship Service Awards 2019 (NW Regional) - Winner Macro Employer and Recruitment Excellence
 - Chartered Institute of Public Relations North-West Pride Awards 2019 – Winner Gold Integrated Campaign
 - Lancashire and South Cumbria Health & Care Partnership – 2022 Apprenticeship Awards – Finalist Employer of the Year.
- 3.20 The Framework also contributes to wider Council priorities via the delivery of apprenticeship training to young people around:
- Corporate Parent
 - Special Educational Needs and Disabilities/Inclusion
 - Numbers of Young People Not in Education, Employment or Training (NEET).

4.0 Consultation

- 4.1 Consultation on the extension of the Apprenticeships Framework matter was not required.

5.0 Alternative Options

- 5.1 Option 2 – Do not extend the Apprenticeship Framework. This option is not recommended as it means that it is likely that the new local authorities will not have arrangements in place to commission new apprenticeship training – though the call off arrangements in place would remain active.

- 5.2 Delivery of such services would not be possible via an “in house” approach at this stage as the Council and the new authorities do not have the resource and expertise to deliver the broad training that is required.
- 5.3 The option to consent to the extension of the Apprenticeship Framework for a period of one year from 01 April 2023 until 31 March 2024, with an indicative annual value of £4m, is recommended for the following reasons:
- 5.4 The approach ensures that there are known services in place from vesting day which have been commissioned in a legally compliant manner.
- 5.5 The recommendation to extend current arrangements is to ensure that the new organisations have sufficient time and resource to plan and execute the delivery of apprenticeship training. For each new organisation to achieve their new strategic goals it is highly likely that activity may need to include regulated procurement exercises and internal governance processes which are subjected to set timescales, the extension gives the time to achieve this.
- 5.6 The setup of the Framework means that new providers can join so that any additional training needs which may arise as a result of the inclusion of district councils can be commissioned following established processes.

6.0 Implications

Financial, Resources and Procurement

- 6.1 The terms of the contract allows the agreement to be extended for two 12 month periods, this report recommends the second extension for the period 1st April 2023 to 31st March 2024. The estimated value of the contract will be funded by the Apprenticeship Levy, so there will be no financial consequences for the Council of new Unitary Authorities

Human Resources

- 6.2 Human Resources will support the recruitment and appointment process for Apprenticeships in accordance with the Councils policies and procedures

Legal

- 6.3 In compliance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007, the extension of the Apprenticeships Framework (the Framework) requires the consent of both Cumberland and Westmorland and Furness Shadow Authorities. Once consent is obtained the County Council's Assistant Director – Strategic Commissioning has the power to implement the extension under paragraph 11.3(b) of Part 3A of the County Council's Constitution.
- 6.4 In accordance with County Council's governance procedures, the request to modify the Framework was approved by its Senior Manager – Corporate and Contract Management on 18 January 2023 and is attached as Appendix 2 to this report.
- 6.5 As noted at paragraph 3.6 above it is proposed that the Framework transfers to Westmorland & Furness Council who will 'host' it. As a hosting arrangement has been agreed between the new councils the transfer of the Framework will occur automatically by operation of law on 01 April 2023 using the provisions in section 16 of the Local Government and Public Involvement in Health Act 2007. The new councils will enter into a section 16 agreement which sets out the contracts (including framework agreements) that are being transferred to each new council from the sovereign councils.
- 6.6 The specific arrangements for hosting the Framework will be detailed in an agreement between the two new councils.
- 6.7 Whilst the new councils can use framework agreements that transfer, they are under no obligation to do so.

Health and Sustainability Impact Assessment

- 6.8 Have you completed a Health and Sustainability Impact Assessment? No.
- 6.9 An Impact Assessment has not been completed because there would be no impact on Health and Sustainability if the Shadow Authority consents to the extension. An Impact Assessment would be needed if consent is not gained.

Equality and Diversity

Have you completed an Equality Impact Analysis? Yes (attached at Appendix 1)

Risk Management	Consequence	Controls required
A number of Providers do not accept the extension of current arrangements.	If Providers do not agree to the extension, then they are, in effect, removed from the Framework. The Framework continues with those providers who wish to remain.	As the Framework is 'open', providers can re-join as well as new providers joining. This risk is unlikely at this stage as there is no obligation for providers to bid on mini competitions, so it is expected that most providers will re-join so that they can as a minimum view the future opportunities
Westmorland and Furness Council does not wish to continue with the Framework from 01 April 2023 after extensions have been undertaken.	The Framework is not used by the new Authorities.	There is no requirement for the Framework to be used (other than already commenced training for existing apprentices).
If consent is not given, there will be no arrangements in place to support Westmorland and Furness Council to deliver new Apprenticeship training	If there are no arrangements in place, Westmorland and Furness Council will need to commission apprenticeship training packages individually, meaning increased time and resource from a staffing perspective. Individual commissioning of training also brings the risk of breaking procurement law should the aggregated amounts exceed the Public Contract Regulations 2015 thresholds	This risk could be mitigated by a clear proposal around alternative service provision, though at this stage in the LGR process this level or detail is not available

Risk Management	Consequence	Controls required
Increased amounts of Levy Funding being paid back to Central Government	There are no identified financial benefits of not extending the Framework. Without arrangements in place there is an increased risk of the Westmorland and Furness Council not being able to commission apprenticeship training and therefore not able to spend its Levy, subsequently this will need to be paid back to central government. The return of Levy funding means that money that could have been spent in Cumbria is lost which also brings political and media interest and would likely bring the two new local authorities into disrepute.	This risk could be mitigated by a clear proposal around alternative service provision, though at this stage in the LGR process this level or detail is not available

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Equality Impact Assessment
2	Authorised Contract Modification Form

Background Documents Available

None.

Appendix 1 - Equality Impact Assessment – Screening

Decision

Extensions of apprenticeships framework – Cumberland and Westmorland & Furness Executive Decision.

Background and summary of Equality Advice

The decision is to extend the current Apprenticeship Framework for 12 months from 1 April 2023.

A screening Equality Impact Assessment has been completed to assess the potential risks to people who share a protected characteristic if the recommendation were not to be agreed.

In the event of the recommendation not being agreed a full Equality Impact Assessment would be required as there would be significant risk in paying due regard to the Public Sector Equality Duty.

Proposals to change the decision/policy/service/function

State proposed change: to extend the current arrangements for an other year.

Consultation

List consultation and consultees (completed and pending): not required for the screening EIA of this decision, but would be required for a Full Equality Impact Assessment.

Equality screening

Equality characteristic	Impact Y/N	Describe Impact (if Yes)	Measures to address impact (if Yes)	Full EqIA needed Y/N
General	Y	If the contracts were not extended there would be a disproportionate impact on all protected characteristics	To agree the recommendation in the Cabinet Report	N
Age	Y	The majority of people affected by the decision are aged 16-25		
Disability	Y	An increasing number of		

Equality characteristic	Impact Y/N	Describe Impact (if Yes)	Measures to address impact (if Yes)	Full EqIA needed Y/N
		apprentices have a disability, including a number who are neurodiverse.		
Gender reassignment	Y	A number of transgender apprenticeships have been supported successfully through the current framework		
Marriage or civil partnership	N			
Pregnancy or maternity	Y	Any change in provider or lack of provision would impact specifically on any apprentice who is pregnancy/ or has recently given birth		
Race	Y	An increasing number of apprenticeships from people from ethnic minority groups have been supported successfully through the current framework		
Religion or belief	N	None known to the service		
Sex	Y	The apprenticeships have given males and females opportunities to work in areas where there is traditionally gender segregation and is helping longer term to create a more equal workforce.		
Sexual orientation	Y	A number of LGB people have been supported		

Equality characteristic	Impact Y/N	Describe Impact (if Yes)	Measures to address impact (if Yes)	Full EqIA needed Y/N
		successfully through the programme.		
Rurality	Y	Removing the programme would limit access to Local Authority work for people in rural areas.		
Socio-economic status	Y	Apprenticeships is one of the strongest ways of helping young people in poverty to progress into skilled employment, especially where someone has not been through a traditional academic route.		
Armed-forces personnel/veterans	Y	Apprenticeships offers an opportunity to enter local authority employment for veterans.		

Appendix 2: Authorised Contract Modification Form

REQUEST TO MODIFY A CONTRACT DURING ITS TERM

CUMBRIA COUNTY COUNCIL CONTRACT PROCEDURE RULES

Use this form from 15 January 2020 to seek approval to modify a contract during its term.

Modification is the term used in the Public Contracts Regulations 2015 and the CPRs for variations and extensions to contracts.

Please note that a contract that has terminated cannot be extended.

The Executive Director – Corporate, Customer and Community Services is responsible for approving requests to modify contracts following consultation with the Chief Legal Officer.

The Executive Director – Corporate, Customer and Community Services is not authorised to approve requests for modifications which would cause the Council to breach the Public Contracts Regulations 2015.

SUMMARY

MODIFICATION PROVIDED FOR IN CONTRACT	Yes
VALUE	There is no guaranteed spend on the Framework. £4,000,000 (indicative)
DATE DECISION REQUIRED	December 2022

DIRECTORATE INFORMATION

DIRECTORATE	People Directorate, Strategic Commissioning, (Children & Young People)
NAME OF OFFICER REQUESTING MODIFICATION	Lisa Studholme
POST TITLE	Commissioning Manager

CONTRACT DETAILS

PARTIES	62 framework providers (list attached at appendix A) and Cumbria County Council
DATE OF CONTRACT	All 62 framework contracts are dated 08 June 2018
TERM	Initial term: 1 April 2018 to 31st March 2022 (initial 4-year framework with up to two further options to extend the Term by up to two further periods of 12 months)

TOTAL CONTRACT VALUE (including value of any options to extend the contract)	£20,000,000 (value includes both optional extensions) Spend to date: £5,200,000
SUBJECT MATTER	Extension of Apprenticeships Framework contract for a period of 12 months to 31 st March 2024.

CLAUSE IN CONTRACT PERMITTING MODIFICATION

Insert details of the clause in the contract (if any) which permits modification

Clause 2.2 – The Council may extend this agreement beyond the Initial Term by up to two further periods of up to 12 months (Extension Period). If the Council wishes to extend this Agreement, it shall give the Provider at least 3 months written notice of such intention before the expiry of the Initial Term or Extension Period.

The first extension for a period of 12 months to 31st March 2023 has been utilised.

IMPACT OF MODIFICATION

Use this section to explain the impact of the modification, including: The monetary value of the modification and its impact on the contract; and The effect on the scope of the contract (include precise information on the effect of the modification on the existing specification, contract terms and subject matter of the contract).

The modification allows for the continued provision of the framework for a further period of up to 12 months.

The Apprenticeships Framework is funded by the Apprenticeship Levy with the total framework value, including any extension options, as described in the contracts OJEU notice 2017, is £20 million. The spend levels (both confirmed and indicative) are detailed in the table below. For the extension period the use of the Framework is expected to increase as it will include the levy value for the 6 district councils as well as Cumbria County Council (including Voluntary Controlled and Community Schools and Cumbria Fire and Rescue). The projected value by 31/03/23 is expected to be £8.3m, leaving £11.7m of the original published contract value of £20m. This equates to £5.2m contract spend to date (since commencement) and £3.1m commitments.

Levy amounts for both the district councils are shown below, these are being used as a benchmark to understand the potential spend via the Framework post LGR:

	Allerdale	Barrow	Carlisle	Copeland	Eden	South Lakeland
2022/23 Estimated Apprenticeship Levy (Including 10% top up)	£22,000	£19,512	£50,647	£29,691	£10,111	£47,000

This contract is a framework arrangement with no committed spend, meaning the new LAs can choose whether they utilise this Framework for the delivery of apprenticeship training.

The requirements of the existing terms and conditions and specification included in the framework shall remain the same.

It is expected that the County Council will enter into the extensions and on Vesting Day the contracts will transfer automatically by an operation of law to the new Councils. As this is a countywide service there is no clear way for this to be automatically novated to only one authority as it sits across both. Therefore, it is also expected that one of the new authorities will "host" the Framework to ensure that it is appropriately managed e.g. avoiding both new LAs going out for the same type of training and in effect being in competition for the same provider/services. This hosting has not yet been confirmed/decided.

BACKGROUND AND REASONS FOR REQUESTING A MODIFICATION

Explain the reasons why the modification is sought

All large employers with an annual pay bill of over £3 million is required by the Government to pay an 'apprenticeship levy' of 0.5% of their total annual pay bill. Whilst the Apprenticeships Framework does not support statutory service delivery in enables the Council to spend this levy on apprenticeships and training and keeps these funds in Cumbria and to invest in its workforce and supports the wider aims of the Council Plan.

The wide variety of roles and specialisms undertaken by all Local Authorities are complex and changeable, therefore a Framework Approach supports Local Authorities to deliver training for a variety of apprenticeships from a range of providers.

The contract extension from 1st April 2023 to 31st March 2024 is being sought for the following reasons:

- To ensure that there are arrangements in place for both new Council's to be able to access funding for apprenticeships training from day 1.
- There is currently not sufficient clarity to set out about what Workforce and Organisation should look like from 1st April 2023. The extension of this contract gives extra time for these to be worked up and finalised so that both new Councils can fully consider the options available to them around

FINANCE IMPLICATIONS

Comments from Finance		
The terms of the contract allow the agreement to be extended for two 12 month periods, this modification is in relation to the second extension for the period 1st April 2023 to 31st March 2024. The estimated value of the contract will be fully funded by the Apprenticeship Levy, so there will be no financial consequences for the Council or new Unitary Authorities.		
Finance Officer: Jamie Wright Date: 20/12/22		
Likelihood	Likelihood	Likelihood
1	5	5

REQUESTING OFFICER SIGNATURE AND DATE OF REQUEST

SIGNED	DATE
Lisa Studholme	04/01/2023

COMMENTS OF THE SENIOR MANAGER – COMMISSIONING, PROCUREMENT AND CONTRACT MANAGEMENT

As per the T&C's clause for the second years extension, I'd agree with this request at this stage.		
OVERALL RISK ASSESSMENT		
Likelihood	Impact	Risk Score
1	2	2
Name date Bev Kent 18/1/23		

DECISION OF THE EXECUTIVE DIRECTOR - CORPORATE, CUSTOMER AND COMMUNITY SERVICES

MODIFICATION APPROVED	Conway Stewart
MODIFICATION NOT APPROVED	
COMMENT	As per legal and Proc comments above.
DATE OF DECISION	18/1/23

PROCEDURE

The Executive Director – Corporate, Customer and Community Services will only consider requests for modification of contracts made on the Request for Exemption form.

Corporate Procurement and Contract Management can provide assistance in completing the form and this is advised to ensure that sufficient relevant information is included in the request.

The manager requesting the modification must:

1. complete all sections of the form;
2. circulate the form for comment to Legal Services and Finance;
3. e-mail the completed form to the Executive Director – Corporate, Customer and Community Services.

The Executive Director – Corporate, Customer and Community Services will log the request and consult with the Senior Manager – Commissioning, Procurement and Contract Management and the Chief Legal Officer (Monitoring Officer) before determining the request.

The Executive Director – Corporate, Customer and Community Services will return the signed decision to the requesting officer.

The Executive Director – Corporate, Customer and Community Services will retain a record of the request and the decision.

		Impact				
		1	2	3	4	5
		Insignificant	Minor	Moderate	Major	Most severe
Likelihood	V Likely	5	10	15	20	25
	Likely	4	8	12	16	20
	Possible	3	6	9	12	15
	Unlikely	2	4	6	8	10
	V Unlikely	1	2	3	4	5

APPENDIX A – LIST OF PROVIDERS ON FRAMEWORK (modification form appendix)

1	Acacia Training Limited	32	Trn (Train) Ltd
2	Activ First Limited	33	Train 2 Train Limited
3	Baltic Training Services Limited	34	University Of Central Lancashire
4	Bauer Radio Limited	35	University Of Cumbria
5	B-Skill Limited	36	Busy Bees Holdings Limited
6	Blackpool And The Fylde College	37	Derwentside College - Business Development
7	Burnley College	38	Intec Business Colleges Limited
8	Cilex Law School	39	Learning And Development Bureau Ltd
9	C.M.S. Vocational Training Limited	40	Middlesex University Higher Education Corporation
10	Kendal College	41	Northumbria University
11	Expanse Group Ltd	42	System People Limited
12	Gateshead College	43	University College Of Estate Management
13	GEN II Engineering & Technology Training Limited	44	University Centre Quayside Limited
14	GP Strategies Training Limited	45	Optimum Skills Limited
15	Realise Learning And Employment Limited	46	SERCO Limited
16	Lancaster University	47	Construction And Plant Assessments Ltd
17	Learning Curve Group Limited	48	Eliesha Training Limited
18	Lifetime Training Group Limited	49	Estio Training Limited
19	NACRO	50	JTL
20	North Lancs. Training Group Limited(The)	51	The IT Skills Management Company Limited
21	Paragon Education & Skills Limited	52	Babington Business College Limited
22	Premier People Solutions Limited	53	CSM Consulting Limited
23	Profound Services Limited	54	Runshaw College
24	QA Limited	55	The Education And Skills Partnership Ltd
25	Remit Group Limited	56	The Skills Network
26	RWP Training Limited	57	CIPs Corporate Services Limited
27	Sheffield Hallam University	58	IODA Limited
28	Skills Training Uk Limited	59	CIPFA
29	The Care Learning Centre (Isle Of Wight) Limited	60	Credit Services Association
30	The Skills Co	61	Impact Futures Training Limited
31	The Open University	62	Raise The Bar Ltd

At the time of writing the cabinet report there are only 61 providers on the Framework. RWP Training Limited is removed.