

This report seeks approval to enter into a funding agreement with the Education and Skills Funding Agency (ESFA) for up to £541,660 to deliver the Tailored Learning Programme for the 2024/25 academic year. The Council must comply with the terms of the ESFA funding agreement and its own constitution. A full tender process was conducted in July 2023, in line with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015. This process allows for the extension of contracts (as outlined in Table 1 of the attached overview) for an additional one year + one year, subject to funding, under Regulation 72(1)(a) of the Public Contracts Regulations 2015. This regulation permits contract modifications if they were clearly outlined in the initial procurement documents.

The legal basis for these services is Section 14 of the Education Act 2002 and Section 100(1B) of the Apprenticeships, Skills, Children and Learning Act 2009. The council must ensure that the funds are used strictly for these purposes. It is important to review all funding conditions carefully, including how funds must be spent, required outcomes, and reporting obligations. Any misuse or failure to meet these conditions could result in clawback of the funds.

A Subsidy Control Assessment must be conducted to ensure compliance with the UK Subsidy Control Act 2022. This assessment should be completed before the grant is awarded to avoid legal or financial risks. The assessment will determine if the grant qualifies as a subsidy and whether any exemptions, such as Minimal Financial Assistance, apply.

The grant agreement includes clawback provisions, so robust monitoring systems must be in place to meet targets and conditions, thus avoiding repayment risk. Additionally, the council must adhere to all reporting and audit requirements.

If services are to be subcontracted, ensure compliance with the Public Contracts Regulations 2015. Contracts funded by the grant may require competitive tendering unless valid exemptions apply.

Finally, ensure compliance with UK GDPR when handling any personal data and follow safeguarding policies if vulnerable groups are involved in the programme.

Advice provided by Amana Parveen (Solicitor) on 11 September 2024.