



**NOTTINGHAM CITY COUNCIL**  
**COMMISSIONING AND PROCUREMENT SUB-COMMITTEE**

**Date:** Wednesday, 16 December 2015

**Time:** 2.00 pm

**Place:** LB 31 - Loxley House, Station Street, Nottingham, NG2 3NG

**Councillors are requested to attend the above meeting to transact the following business**

**Corporate Director for Resilience**

**Governance Officer:** Zena West **Direct Dial:** 01158764305

**AGENDA**

**Pages**

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| <b>1</b> | <b>APOLOGIES</b>  |                  |
| <b>2</b> | <b>DECLARATIONS OF INTEREST</b>   |                  |
| <b>3</b> | <b>MINUTES</b><br>Meetings held 16 September and 14 October (for confirmation)  | 3 - 12           |
| <b>4</b> | <b>VOLUNTARY AND COMMUNITY SECTOR UPDATE</b>  | Verbal<br>Report |
| <b>5</b> | <b>NATIONAL LIVING WAGE CONSULTATION PROPOSALS - KEY DECISION</b><br>Report of Assistant Chief Executive  | 13 - 18          |
| <b>6</b> | <b>WORK PROGRAMME</b><br>Discussion item  | 19 - 22          |
| <b>7</b> | <b>EXCLUSION OF THE PUBLIC</b><br>To consider excluding the public from the meeting during consideration of the remaining item in accordance with section 100a(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. |                  |

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| <b>8</b> | <b>NATIONAL LIVING WAGE CONSULTATION PROPOSALS - EXEMPT APPENDIX</b>   | 23 - 24 |
| <b>9</b> | <b>HOMELESS FAMILIES - KEY DECISION</b><br>Report of the Director of Commissioning, Policy and Insight and the Assistant Chief Executive | 25 - 32 |

ALL ITEMS LISTED 'UNDER EXCLUSION OF THE PUBLIC' WILL BE HEARD IN PRIVATE. THEY HAVE BEEN INCLUDED ON THE AGENDA AS NO REPRESENTATIONS AGAINST HEARING THE ITEMS IN PRIVATE WERE RECEIVED

IF YOU NEED ANY ADVICE ON DECLARING AN INTEREST IN ANY ITEM ON THE AGENDA, PLEASE CONTACT THE GOVERNANCE OFFICER SHOWN ABOVE, IF POSSIBLE BEFORE THE DAY OF THE MEETING

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**NOTTINGHAM CITY COUNCIL**

**COMMISSIONING AND PROCUREMENT SUB-COMMITTEE**

**MINUTES of the meeting held at LB 31 - Loxley House, Station Street, Nottingham, NG2 3NG on 16 September 2015 from 14.00 - 14.15**

**Membership**

Present

Councillor Alex Norris (Chair)  
Councillor David Mellen (Vice Chair)  
Councillor Alex Norris (Chair)  
Councillor Nicola Heaton

Absent

Councillor Jon Collins  
Councillor Nick McDonald  
Councillor Dave Trimble  
Councillor Jane Urquhart

**Colleagues, partners and others in attendance:**

Kim Pocock	- Governance Manager
Katy Ball	- Director, Procurement and Children's Commissioning
Elsbeth Clowes	- Assistant Operations Manager Catering
Antony Dixon	- Strategic Commissioning Manager
Clare Gilbert	- Lead Commissioning Manager
Lee Kimberley	- Head of Trading Operations

**Call-in**

Unless stated otherwise, all decisions are subject to call-in and cannot be implemented until 28 September 2015.

**24 APOLOGIES FOR ABSENCE**

Councillor Jon Collins (other Council business)  
Councillor Nick McDonald (other Council business)  
Councillor Dave Trimble (other Council business)  
Councillor Jane Urquhart (work commitments)  
Helen Kearsley-Cree, Nottingham Council for Voluntary Service

**25 DECLARATIONS OF INTERESTS**

None.

**26 MINUTES**

The minutes of the meeting held on 15 July 2015 were confirmed as a true record and they were signed by the Chair.

**27 VOLUNTARY SECTOR UPDATE**

Helen Kearsley-Cree of Nottingham Community and Voluntary Service (NCVS) provided a written update for the Sub-Committee on the following:

- (a) The contribution of the Children and Young People's Provider Network (CYPPN) and Vulnerable Adults Provider Network (VAPN) to City Council services and commissioning. This includes involvement in:
- the child development review;
  - the health and wellbeing strategy and the vulnerable adult plans;
  - the next phase of Looking After Each Other which will focus on children;
  - the Homelessness Strategy Implementation Group;
  - the Safeguarding Boards for children and adults;
  - the emerging Compact work.

Network members (CYPPN – 155 members and VAPN – 163 members) are made aware of all services out to tender and offered support to bid for services.

- (b) The Economic Value of the Voluntary and Community Sector in Nottingham  
The report 'Mighty oaks from little acorns grow' was published in July 2015. Highlights of the report include:
- The value of volunteering activity delivered in 29 organisations in Nottingham is £1,697,532;
  - 50 organisations surveyed support 2,108 volunteers;
  - For every £2 invested in volunteering activity the organisation gets over £3 worth of activity back from the volunteer;
  - For every £1 invested by the local authority Nottingham's voluntary and community sector brings in another £5;
  - 17% of funding received by surveyed voluntary sector organisations comes from the local authority;
  - 89% of money spent on service delivery by surveyed organisations is spent locally;
  - 13 organisations spend over 90% of their money locally;
  - £821,820 is paid per year to the 51 employees who answered the personal spend survey;
  - 44% of employee wages is kept in the city of Nottingham;
  - 449 client groups are served by 50 organisations surveyed;
  - 440 services are provided by those surveyed, which is an average of 8.8 per organisation.

- (c) Area Based Grant and Communities of Identity Grant Consultations  
The voluntary sector is engaging in these sessions which complete shortly. There is interest in what changes there will be to the model. Helen also noted that, the current Voluntary and Community Sector landscape for communities of identity has seen a recent development with the launch of Equality Challenge - a partnership of 9 organisations across Nottingham and Derby. The partnership's mission is 'to progress the social and economic standing of people from areas of disadvantage and ethnic minority communities, joining and contributing to their efforts through enterprise, job creation, skills development and social support programmes in D2N2'.

**RESOLVED to note the update.**

**28 WHOLE LIFE DISABILITY STRATEGIC COMMISSIONING REVIEW  
PROGRESS UPDATE**

Clare Gilbert, Lead Commissioning Manager, presented the report of the Strategic Director for Early Intervention and the Director of Procurement and Children's Commissioning on the proposals that are being developed in relation to the Adult Learning Disability Strategic Commissioning Review (LDSCR) and the key work streams in relation to the Children's Special Educational Needs and Disability (SEND) Review, which together form the Whole Life Disability Review. Clare highlighted the following points, which include responses to councillors' questions:

- (a) The LDSCR review started a year before the SEND review and the findings from the LDSCR are being used to shape and inform the key lines of enquiry of the SEND review;
- (b) The work has been influenced by the Winterbourne expose by the BBC, which has led to increasing scrutiny on inappropriate accommodation of people with learning disabilities;
- (c) There will be a focus on rapid rehabilitation of people with learning disabilities;
- (d) The work of the SEND element of the review will support the Council to meet the requirements of the new SEND Inspection Accountability Framework – inspections may take place at any point from 1 January 2016;
- (e) Financial savings and new monies are being identified as the proposals develop and the flow of funding will be directed towards community provision;
- (f) Review work is being carried out jointly with Health colleagues and there will be joint commissioning arrangements with the Clinical Commissioning Group (CCG);
- (g) The review has been well planned and organised and will meet all deadlines to ensure that everything is in place before the new inspection regime referred to in (d) above begins;
- (h) Reports on the SEND review will be available in November.

**RESOLVED to**

- (1) agree the activity outlined in relation to the options being developed in the Adult Learning Disability Strategic Commissioning Review;**
- (2) agree the scope of the Children's Special Educational Needs and Disability Review;**
- (3) request that Clare Gilbert provides more detailed timescales for the Reviews to Councillor David Mellen.**

## **29 EAST MIDLANDS REGIONAL CHILDREN'S FRAMEWORK**

Katy Ball, Director of Procurement and Children's Commissioning, presented her report. The East Midlands Regional Provider Framework for Looked After Children placed in Independent Foster Care and Residential Care has been under review in 2015 with a view to all 9 local authorities committed to the current agreement committing themselves to the new agreement from February 2016. Katy highlighted the following points, which include responses to councillors' questions:

- (a) The current framework is due to expire and following a review the committee needs to decide whether the Council should commit to being a partner under the new proposed arrangements;
- (b) The cost will be £37,000 per annum plus £10,000 in 2015 for market development work. This cost is based on all 9 local authorities continuing to sign up to the agreement;
- (c) It is proposed that the Council signs up subject to a number of caveats, including that a minimum of 6 authorities sign up to the agreement and that the evaluation of the providers' process is robust;
- (d) The focus of the partnership is restricted to the East Midlands rather than more widely as this enables the Council to place children as closely to the city as possible;
- (e) The benefits of working as a regional partnership provide the Council with flexible buying power and the ability to make savings while providing quality placements.

### **RESOLVED to**

- (1) support the Nottingham City Council's commitment to the new East Midlands Regional Children's Framework Agreement, with the following caveats in place:**
  - (a) a minimum of 6 local authorities also confirm their commitment;**
  - (b) the process is developed to encourage providers to tender on best price and quality to ensure that the proposed removal of tiers doesn't result in a preferred provider list with no distinction between the quality and cost of provision;**
  - (c) the tendering and evaluation process is robust enough to ensure that those providers who are placed on the framework have passed rigorous scrutiny on their quality and cost;**
- (2) agree funding of £37,000 per annum plus an additional £10,000 for 2015/16 for development costs as Nottingham City Council's share of the East Midlands Regional Provider Framework cost.**

### **Reasons for recommendations**

- (1) The current East Midlands Regional Provider Framework for Looked After Children placed in Independent Foster Care and Residential Care has provided a structure for the commissioning of external placements for Looked After Children in Nottingham City since April 2011. This has supported the Placements Service in sourcing appropriate placements, taking into account quality, price, location and children's individual needs. The Framework has driven reduced costs for Nottingham and enabled a platform to share information about the quality of providers.
- (2) The framework agreement has been developed throughout the review process to enable all local authorities within the region to be engaged, which increases the scope of the framework and the influence on the external market, but has also led to some fundamental changes in the specification. The local authority is keen to remain engaged but requires additional assurance in relation to the evaluation of tenders and the commitment of other local authorities.

### **Other options considered**

- (1) None. Without the East Midlands Regional Provider Framework, Nottingham City Council would need to invest resources in developing a local framework for residential and fostering providers to ensure robust management of the quality and cost of provision being commissioned. This would minimise Nottingham City Council's influence, particularly in relation to the cost of placements and there would be a reduction in the infrastructure of support provided by working as a consortia with other local authorities.

## **30 SUPPLY OF FRUIT, VEGETABLE AND MEAT CONTRACTS FOR SCHOOL, COMMERCIAL AND CARE HOME CATERING**

Lee Kimberley, Head of Trading Operations, presented the report on behalf of the Strategic Director for Commercial and Neighbourhood Services, on the procurement process of both Fruit and Vegetables and Meat. He highlighted the following points, which include responses to councillors' questions:

- (a) Procurement of Fruit and Vegetables and Meat covers a range of operations, including schools and commercial catering (such as in Loxley House and Harvey Hadden Sports Village) and care homes;
- (b) Current contracts are due to expire and a new supply needs to be procured from January 2016. This will require an extension to existing contracts to the end of December 2015;
- (c) Procurement will be staggered to enable the procurement team to devote the necessary capacity to ensure a robust process;

- (d) Procurement will be organised into lots to enable local suppliers and small businesses to consider and potentially submit tenders, subject to their relative size and capabilities.

**RESOLVED to**

**(1) approve expenditure of up to £2.97 million for**

**(a) extending the current contract arrangements from 1 October 2015 to 31 December 2015 at a total cost of approximately £165,500: approximately £52,500 for Fruit and Vegetables and approximately £113,000 for Meat;**

**(b) the supply of Fruit/Vegetable (approximately £0.65m) and Meat (approximately £1.4m) contracts for school, commercial and care home catering for 3 years from 1 January 2016, with an option to extend for a further 1 year at a cost of £0.75 million;**

**(2) delegate authority to the Strategic Director of Commercial and Neighbourhood Services (Corporate Director of Commercial and Operations from 14 September 2015) to select and award the contracts, including an option to extend for one year as appropriate, to the most economically advantageous tender.**

**Reasons for recommendations**

- (1) The supply of Fruit, Vegetables and Meat is fundamental to the delivery of catering services to schools, care homes and commercial establishments. The current contracts expire on 1 October 2015 and these need to be extended until 31 December 2015 whilst the main framework contracts are procured. These procurements should be completed by 2 January 2016. If these contracts are not extended with the current suppliers for this short period of time, there is a significant danger that there will be an interruption in the supply of essential sustenance to the educational establishments and the care homes.
- (2) The estimated value of the extension is based upon current annual spend on Fruit, Vegetables and Meat.
- (3) The supply of Fruit, Vegetables and Meat is fundamental to the delivery of catering services to schools, care homes and commercial establishments.

**Other options considered**

- (1) Do nothing. In relation to the main agreements, the values of the main agreements are over the Public Contract Regulations thresholds and must be procured by a statutory tender process. Therefore doing nothing is not a realistic option.

**31 WORK PROGRAMME**

Antony Dixon, Strategic Commissioning Manager, submitted a work programme for the Sub-Committee, covering the period October 2015 to March 2016.



**RESOLVED to note the work programme.**

**32 EXCLUSION OF THE PUBLIC**

**RESOLVED to exclude the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, as defined in paragraph 3 of Part 1, Schedule 12A of the Act.**

**33 EAST MIDLANDS REGIONAL CHILDREN'S FRAMEWORK - EXEMPT APPENDIX**

**RESOLVED to note the information in the exempt appendix to the report on the East Midlands Regional Children's Framework without substantive discussion.**

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## **NOTTINGHAM CITY COUNCIL**

### **COMMISSIONING AND PROCUREMENT SUB-COMMITTEE**

**Note of the meeting held at on 14 October 2015 from 14.00 - 14.00**

#### **Membership**

##### Present

Councillor Dave Trimble

##### Absent

Councillor Alex Norris (Chair)

Councillor Nick McDonald (Vice Chair)

Councillor Jon Collins

Councillor Nicola Heaton

Councillor David Mellen

Councillor Jane Urquhart

#### **Colleagues, partners and others in attendance:**

Zena West - Governance Officer

**As the meeting was inquorate, the business was deferred to the next meeting of the Commissioning and Procurement Sub Committee.**

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**COMMISSIONING AND PROCUREMENT SUB-COMMITTEE – 16/12/15**

<b>Subject:</b>	National Living Wage 2016/17 Inflationary Uplift Consultation Proposals		
<b>Corporate Director(s)/ Director(s):</b>	Candida Brudenell, Assistant Chief Executive		
<b>Portfolio Holder(s):</b>	Alex Norris		
<b>Report author and contact details:</b>	Antony Dixon <a href="mailto:Antony.dixon@nottinghamcity.gov.uk">Antony.dixon@nottinghamcity.gov.uk</a> 0115 8763491		
<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Subject to call-in</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Reasons:</b> <input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input checked="" type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Total value of the decision:</b> £3.595m per year			
<b>Wards affected:</b>	<b>Date of consultation with Portfolio Holder(s):</b> 20 November 2015		
<b>Relevant Council Plan Key Theme:</b>			
Strategic Regeneration and Development	<input type="checkbox"/>		
Schools	<input type="checkbox"/>		
Planning and Housing	<input type="checkbox"/>		
Community Services	<input type="checkbox"/>		
Energy, Sustainability and Customer	<input type="checkbox"/>		
Jobs, Growth and Transport	<input type="checkbox"/>		
Adults, Health and Community Sector	<input checked="" type="checkbox"/>		
Children, Early Intervention and Early Years	<input type="checkbox"/>		
Leisure and Culture	<input type="checkbox"/>		
Resources and Neighbourhood Regeneration	<input type="checkbox"/>		
<b>Summary of issues (including benefits to citizens/service users):</b>			
This report presents proposals for inflationary uplift in 2016/17 across adult contracted provision taking account of the introduction of National Living Wage in April 2016. The Council is legally bound to consider inflation on an annual basis where it has a statutory duty to provide a service. It is proposed that the Council will consult with providers on these proposals during January 2016.			
<b>Exempt information:</b>			
<b>State 'None' or complete the following.</b>			
Elements of the report will be exempt from publication under paragraphs 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial or business affairs of particular persons (including the authority holding that information) and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information as it contains information relating to the negotiation of service budgets.			
<b>Recommendation(s):</b>			
<b>1</b> Committee approves proposals which will be consulted on with service providers for inflationary uplift in 2016/17 as detailed in paragraph 2.7			
<b>2</b> Committee delegates authority to the Assistant Chief Executive to increase contract values in accordance with the proposals detailed in paragraph 2.7 of this report, subject to the outcome of consultation and agreement of the Council budget			
<b>3</b> Committee approves spend associated with this decision in 2016/17			

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The Council is legally bound to consider inflationary uplift in respect of services that it has a duty to provide. Market intelligence indicates that a significant section of the adult social care workforce is paid at an hourly rate below the National Living Wage to be implemented from April 2016.
- 1.2 In accordance with legal obligations the Council will consult with adult social care providers with regard to these proposals. The Assistant Chief Executive will take account of consultation responses and issue variations to existing contracts should no significant issues arise

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 It is Council policy to pay Living Wage in respect of all services that it directly commissions. This policy predates the government commitment to introduce a National Living Wage in the July 2015 budget
- 2.2 Officers from the City Council have been undertaking financial modelling of the potential impact of adult social care service providers meeting National Living Wage (NLW) requirements and other inflationary pressures including cost of living and pensions auto enrolment. This modelling has also considered budget savings required across adults provision as a consequence of on-going reductions in the funding the Council receives from government. Officers from Finance, Commissioning, Procurement, Legal and Market Development have been involved in formulating these proposals.
- 2.3 Modelling has been undertaken on a sector by sector basis across the social care budget. This has taken place against a backdrop of increased demand for social care provision as a result of demographic pressures and policy change and increased difficulty in attracting workers into caring professions due to increased competition from retail and service sectors.
- 2.4 For the purpose of modelling it has been assumed that the whole social care workforce is paid at current National Minimum Wage (NMW) of £6.70ph. As such the proposed uplift may be more generous to providers that currently pay above this level, particularly if the assumed £0.50 increment is not passed onto the workforce. This is, however, a pragmatic position given the bureaucratic burden of attempting to identify the precise wage structure of every single adult social care service provider and current capacity issues impacting on some areas of social care service delivery.
- 2.5 It is not proposed to offer uplift in 2016/17 to account for National Living Wage to other areas of contracted provision. These contracts are all based on tendered values and intelligence indicates that, in the main, the workforce delivering these contracts is already paid in excess of National Living Wage. Uplift may be required in future years; however, where contracts will be re-tendered this process is likely to take account of future incremental rises.
- 2.6 The options proposed also assume that National Living Wage uplift will be offered to the whole workforce and not just the over 25's. It is important to note that the financial impact of these proposals is based on assumptions of the volume of care to be delivered in 2016/17 based on current projections

## 2.7 Proposals for inflationary uplift are as follows:

### 2.7.1 Residential & Nursing Care

It is proposed to offer all residential and nursing care providers in the City an uplift to meet NLW requirements – this has been calculated as an uplift of £18.56 pw based on existing Fair Price for Care (FPC) assumptions. For those providers that are currently paid at standard rate the total uplift to be offered will be £40.42 taking account of NLW, FPC, 1% non-wage inflation and Voids/profit. For those providers paid at non-standard rates the total uplift proposed is £20.09 taking account of NLW and non-wage inflation only. The total projected cost of these proposals is £1.554m

For County placements an uplift of £20.09 has been assumed for Bands 1 and 2 placements and non-banded placements. This uplift has also been assumed for all out of county placements. The total projected cost of these proposals is £0.312m (nb actual uplift will be determined by the respective LA).

Uplift for respite and short-term residential placements has been calculated on the basis of the assumptions used to calculate City and non-City placements. The total projected cost of these proposals is £0.200m

### 2.7.2 Care at Home

It is not proposed to offer inflationary uplift to spot contracts. These are negotiated with providers on an individual basis. Plans are in motion to accredit spot contract providers which will help in rationalising current pricing.

It is proposed to offer all Care @ Home Framework providers a £0.69 per hour inflationary uplift for the hours of care that they deliver (incorporating a 10% increase in delivered hours based on August 15 data). This will account for NLW uplift and Auto-enrolment but not other non-age inflationary pressures. It is proposed to offer old Homecare Framework providers (who are still paid at pre-Care at Home agreed hourly rates) the same level of uplift but capped at a maximum rate of £14.10ph. The rationale for this is that this is the maximum rate that will be paid to current Care @Home framework providers and, therefore, that quality care should be deliverable at this rate.

The total projected cost of this proposal is £459,542

### 2.7.3 Care Support and Enablement (CSE)

It is proposed to uplift all supported living and outreach contracts by £0.69 per hour based on the same assumptions as for Care at Home. It is proposed that, in both cases, the uplift is capped at the current average rate + £0.69p: £14.17 for outreach, £14.69 for supported living. The rationale for imposing the cap is that if the majority of care can be delivered at this rate then it should be possible for all providers.

The total projected cost of this proposal is £216,919.

### 2.7.4 Day care/Opportunities

Day care is paid at both hourly and sessional rates. An average hourly rate of £13.12 has been identified. Where an hourly rate is paid it is proposed to cap the uplift at £13.81 based on the same assumptions as for Care at Home. Where a sessional rate is paid it is proposed to offer an across the board uplift of 2.74%.

This is based on the differential in total cost of paying a capped £0.69p uplift to hourly rate provision.

It is proposed to uplift day opportunity rates by £0.69 per hour based on the same assumptions as for Care at Home. It is proposed that this rate is capped at the £14.17 hourly rate that it is proposed to offer CSE outreach providers on the basis that similar support tasks are likely to be conducted.

The total projected cost of this proposal is £44,543.

#### **2.7.5 Extra care**

New contracts for Extracare Charitable Trust are currently under negotiation and it is not anticipated that an uplift to account for 16/17 NLW will be required (actual rates paid may, however, increase). For other extra care providers it is proposed to cap the uplift at the maximum £14.10 rate for Care at Home providers on the basis that the care provided is the same.

The total projected cost of this proposal is £1,424.

#### **2.7.6 Adult Placement Scheme**

It is proposed to offer an uplift of £20.29 for residential rates (as with residential care) and 2.74% for sessional rates (as with day care) to families offering adult placements. This uplift is being offered as adult placements are a comparatively low cost form of meeting care needs and it would not be advantageous to disincentivise such provision

The total projected cost of this proposal is £39,265

#### **2.7.7 Direct Payments**

It is proposed that £0.62 uplift be granted to the paid rate for direct payment (DP) based on the same assumptions as Care @ Home minus pensions auto-enrolment (paid on an ad-hoc basis). Whilst current DP rates assume a paid rate to PA's of £7.27ph it is proposed to offer uplift as DP rates are highly competitive when compared to Care @ Home rates and it would not be advantageous to disincentivise such provision at a time of strained capacity within homecare.

The total projected cost of this proposal is £552,827 with a further £27,978 required to fund standard inflationary uplift for other DP spend.

2.8 It is proposed to consult with service providers on these proposals during January 2016. Officers from Commissioning & Finance will consider consultation responses and report the key themes to the Assistant Chief Executive. Should the outcome of these consultations cause consideration of significant change to the shape and financial consequence of these proposals (with due regard given to available budget) a further report will be brought to Committee in March 2016

2.9 In respect of future years NLW increments it is the Council's intention to work towards open book arrangements with service providers in order to inform future inflationary pressures uplift.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 Not to offer inflationary uplift to social care providers to meet national living wage requirements. This option has been rejected as there is considerable evidence that



a significant section of the workforce is currently paid a level below NLW and, in some areas of provision, capacity issues are starting to emerge due in part to a difficulty in recruiting and retaining staff.

- 3.2 To undertake analysis of individual provider costs and offer uplift based on actual wage rates paid. This option has been rejected as it will be administratively burdensome and problematic. Rates and methods of payment are not standard across the sector and there is not always a direct correlation between low rates of pay and low hourly rate of service delivery.
- 3.3 Not to impose a cap on inflationary uplift for some forms of provision. Whilst the Council needs to ensure that service providers are sufficiently remunerated to enable them to meet NLW requirements it also needs to take account of financial pressures as a result of on-going cuts in government funding

#### **4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

- 4.1 Finance comments are contained within the exempt appendices for this report

#### **5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

- 5.1 There is a risk that, should inflationary uplift not enable social care providers to meet NLW and other inflationary pressures, providers will exit the market and exacerbate capacity issues that are starting to become apparent in some sectors of social care provision.
- 5.2 The impact of the National Living Wage has been highlighted by a significant number of Social Care Providers as a serious risk to the delivery of existing services. Providers have stated that failure to consider and address this impact is likely to lead to the loss of their services. Social Care services are complex and cannot be easily and swiftly re-procured. In addition the loss of a Provider is likely to have a detrimental impact on their service users. Reaching agreement with Providers over contract fees is therefore essential to mitigating this risk.
- 5.3 The proposed introduction of the National Living Wage (NLW) in April 2016 will result in increased financial obligations upon Providers to pay their staff over the age of 25 £7.20 per hour as opposed to the current £6.50 National Minimum Wage.
- 5.4 The service delivery in the care market is under pressure with increased difficulty in recruiting workers, resulting in decreased capacity and increased demand across the sector.
- 5.5 Providers submitted service costs with their tender submissions for these contracts. At the time of tendering, these costs would not have accounted for the additional costs resulting from the implementation of the NLW.
- 5.6 Whilst it will be legal requirement of Providers as employers, to pay the NLW to its staff when it comes into force, the Council is not under a legal obligation to increase payment to Providers to directly cover these increased costs. The Council is however under a contractual obligation to review prices with Providers

annually and has considered it appropriate at this time to take account of the implementation of the NLW to the extent financially possible in line with budgetary constraints whilst doing this.

- 5.7 There is a real risk that Providers will struggle on their existing rates to cover the additional costs that will be placed upon them by the NLW, which has the ability to threaten delivery of services to the Council under these contracts, if financial provisions are not made.
- 5.8 Given the rates and methods of payments vary considerably across the sector, it has not been possible at this stage to calculate an uplift on actual rates paid per provider under individual contracts. However, the Council has undertaken substantial financial modelling to determine the most appropriate and fair way to offer an uplift to care Providers, to help enable them to cover increased costs that will result from the additional obligations upon them, including at this time the NLW.
- 5.9 The Council will consult with care Providers on the proposals raised in this report in January 2016. An assessment of the consultation will be undertaken with a view to consideration being made as to the outcome of the process. If the proposals result in a significant change to those in this report, further approval must be sought.
- 5.10 Legal services will assist if required during and following the consultation process in terms of reflecting the uplift costs to providers under their existing contracts.

## **6 SOCIAL VALUE CONSIDERATIONS**

- 6.1 Not applicable

## **7 REGARD TO THE NHS CONSTITUTION**

- 7.1 Not applicable

## **8 EQUALITY IMPACT ASSESSMENT (EIA)**

- 8.1 An EIA is not required because this report is solely concerned with adjustment to existing contractual values

## **9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

- 9.1 None

## **10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- 10.1 None

## **11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

- 11.1 Kate Lowman – Procurement Category Manager Social Care
- 11.2 Darren Revill – Finance Analyst
- 11.3 Dionne Sreaton – Solicitor

Issue	Date of decision?	Documents to be considered	Who will be consulted and how?	From whom can further information be obtained and representations made?
<b>JAN MEETING</b>				
Advocacy Provision Commissioning Intentions	13 <sup>th</sup> Jan	Report	Portfolio Holder	Clare Gilbert Lead Commissioning Manager Nottingham City Council 0115 8764811 <a href="mailto:clare.gilbert@nottinghamcity.gov.uk">clare.gilbert@nottinghamcity.gov.uk</a>
Semi Independent Accommodation Commissioning Proposals	13 <sup>th</sup> Jan	Report	Portfolio Holder	Michael Rowley Lead Commissioning Manager Nottingham City Council 0115 8763154 <a href="mailto:michael.rowley@nottinghamcity.gov.uk">michael.rowley@nottinghamcity.gov.uk</a>
Homecare Dynamic Purchasing System	13 <sup>th</sup> Jan	Report	Portfolio Holder	Antony Dixon Strategic Commissioning Manager Nottingham City Council 0115 8763491 <a href="mailto:antony.dixon@nottinghamcity.gov.uk">antony.dixon@nottinghamcity.gov.uk</a>
Public Health Contracts	13th Jan	Report	Portfolio Holder	Steve Oakley Head of Contracting & Procurement Nottingham City Council 0115 8762836 <a href="mailto:steve.oakley@nottinghamcity.gov.uk">steve.oakley@nottinghamcity.gov.uk</a>

Issue	Date of decision?	Documents to be considered	Who will be consulted and how?	From whom can further information be obtained and representations made?
<b>FEB MEETING</b>				
Commissioning Children's Short Breaks Services	17 <sup>th</sup> Feb	Report	Portfolio Holder	Clare Gilbert Lead Commissioning Manager Nottingham City Council 0115 8764811 <a href="mailto:clare.gilbert@nottinghamcity.gov.uk">clare.gilbert@nottinghamcity.gov.uk</a>
Extra Care Commissioning Intentions	13 <sup>th</sup> Jan	Report	Portfolio Holder	Antony Dixon Strategic Commissioning Manager Nottingham City Council 0115 8763491 <a href="mailto:antony.dixon@nottinghamcity.gov.uk">antony.dixon@nottinghamcity.gov.uk</a>

Issue	Date of decision?	Documents to be considered	Who will be consulted and how?	From whom can further information be obtained and representations made?
<b>MARCH MEETING</b>				
Early Intervention Directorate Commissioning Intentions	16 <sup>th</sup> March	Report	Portfolio Holder	Colin Monckton Director Commissioning Policy & Insight Nottingham City Council 0115 8764832 <a href="mailto:Colin.monckton@nottinghamcity.gov.uk">Colin.monckton@nottinghamcity.gov.uk</a>
Children & Young Peoples Review Draft Specification	16th March	Report	Portfolio Holder	Katy Ball Director of Procurement & Children's Commissioning Nottingham City Council 0115 8764814 <a href="mailto:Katy.ball@nottinghamcity.gov.uk">Katy.ball@nottinghamcity.gov.uk</a>
Whole Life Disability Adults Commissioning Recommendations	13th Jan	Report	Portfolio Holder	Clare Gilbert Lead Commissioning Manager Nottingham City Council 0115 8764811 <a href="mailto:clare.gilbert@nottinghamcity.gov.uk">clare.gilbert@nottinghamcity.gov.uk</a>

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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