



Nottingham City Council Commissioning and Procurement Executive Committee

Date: Tuesday, 11 June 2024

Time: 9.30 am

Place: Loxley House, Station Street, Nottingham, NG2 3NG

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

Director for Legal and Governance

Governance Officer: Mark Leavesley

Direct Dial: 0115 876 4302

- 1 Apologies for absence**
- 2 Declarations of interests**
- 3 Minutes** 3 - 10
Last meeting held on 21 May 2024 (for confirmation)
- 4 ICT product replacement programme - key decision** 11 - 18
Report of Corporate Director of Finance and Resources
- 5 Stock Condition Surveys - key decision** 19 - 26
Report of Corporate Director for Growth and City Development
- 6 Concession for annual music festival at Wollaton Park - key decision** 27 - 32
Report of Corporate Director for Communities, Environment and Resident Services
- 7 Exclusion of the public**
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
- 8 Exempt appendix - annual music festival at Wollaton Park** 33 - 34

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.

Citizens are advised that this meeting may be recorded, including by members of the public. Any recording or reporting on this meeting should take place in accordance with the Council's policy on recording and reporting on public meetings, which is available at www.nottinghamcity.gov.uk. Individuals intending to record the meeting are asked to notify the Governance Officer shown above in advance.

Nottingham City Council

Commissioning and Procurement Executive Committee

Minutes of the meeting held at Loxley House, Station Street, NG2 3NG, on 21 May 2024 from 9.30 am - 9.50 am

Membership

Present

Councillor Linda Woodings (Chair)
Councillor Cheryl Barnard
Councillor Jay Hayes
Councillor Pavlos Kotsonis (non-voting)
Councillor Ethan Radford

Absent

Councillor Corall Jenkins

Colleagues, partners and others in attendance:

Dawn Cafferty - Head of Procurement
Tammy Coles - Public Health Principal
Mark Leavesley - Governance Officer
Tony McArdle - Commissioner

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 30/05/2024. Decisions cannot be implemented until the working day after this date.

1 Appointment of Vice-Chair

Resolved to appoint Councillor Jay Hayes as Vice-Chair for the municipal year 2024-25.

2 Apologies for absence

Councillor Jenkins - personal

3 Declarations of interests

None.

4 Minutes

The Committee agreed the minutes of the last meeting held on 12 March 2024 as a correct record and they were signed by the Chair.

5 Rough sleeping drug and alcohol treatment grant 2024/25 - key decision

Councillor Kotsonis, Executive Member for Adult Social Care and Health, introduced the report.

Tammy Coles, Public Health Principal, presented the report and stated the following:

- a) in May 2021, the Council was invited to apply for funding through the (RSDTAG) for services to be delivered in 2021/22 and 2022/23. The purpose of the funding was identified as to;
 - support people experiencing, or at risk of experiencing rough sleeping to access and engage in drug and alcohol treatment;
 - ensure that the engagement that people have had with drug and alcohol treatment services whilst rough sleeping or in emergency accommodation is maintained as they move into longer terms accommodation;
 - build resilience and capacity in local drug and alcohol treatment systems to continue to meet the needs of this population in future years;
- b) the Council's application was approved by Public Health England in October 2021, and the receipt and spend of the allocation (total value of £1,016,044 to 31 March 2023) was approved by Commissioning and Procurement Executive Committee in December 2021;
- c) following this, a contract variation to Nottingham Recovery Network for the provision of Substance Use Treatment and Recovery services was issued. The programme has commenced and is live and operational;
- d) in April 2022, it was confirmed that RSDATG would be extended until the end of March 2025 (subject to treasury approval) and the Council were invited to undertake a review of the current RSDATG staffing model and associated project costs and submit a revised proposal for a period of 21 months (1 July 2022 to 31 March 2024);
- e) in July 2022, the Council received notification of its funding allocation for RSDATG for 2022/23 and 2023/24 as follows:
 - 2022/23 allocation £980,356;
 - 2023/24 allocation £948,674;
- f) the 2022/23 allocation included funding previously awarded and covered by spend approval for up to £1,016,044 (CPEC, 14 Dec 2021) and spend approval for the 2023/24 allocation was obtained via this Committee on 13 September 2022;
- g) in June 2023, the Office for Health Improvement and Disparities (OHID) informed us of an indicative allocation of £1,035,966 for 2024/25, subject to ministerial sign off, and on 27 March 2024, OHID confirmed Nottingham City's RSDATG budget for 2024/25 as £1,035,965.

Resolved to approve

- (1) receipt of funding up to a total of an additional £1,035,965 from the Office for Health Improvement and Disparities for the delivery of a range of**

additional drug and alcohol treatment activity for people sleeping rough (and those at risk) to 31 March 2025;

(2) spend of;

- (a) £32,854.50 to increase substance use commissioning staffing resource in line with grant conditions:**
- (b) £1,003,110.50 from 1 April 2024 to 31 March 2025 for the provision of Substance Use Treatment services via a contract variation to the Nottingham Recovery Network contract for the provision of Substance Use Treatment services (in accordance with Article 18.110 of the Contract Procedure Rules).**

Reasons for recommendations

- a) the report sought approval to receive a revised allocation of the ringfenced Rough Sleeper Drug and Alcohol Grant (RSDTAG) for Nottingham City for 2024/25. The grant was first awarded in Autumn 2021, with funding allocated until March 2023. The Office of Health Improvement and Disparities (OHID) have subsequently confirmed a revised (and increased) allocation for 2022/23 and 2023/24. The allocation for 2024/25 was confirmed by OHID in March 2024;
- b) OHID have approved a proposal for the use of this funding, which includes a contribution towards the public health and commissioning workforce. Recommendation 2 refers to the use of this towards a post within the public health team at Nottingham City Council;
- c) the existing adult substance use treatment and recovery services, who provide this grant funded activity, have contracts through to 30 September 2028, and a contract variation is proposed to continue the Grant-funded activity (recommendation 3) within this contract;
- d) approval to vary the main contract for the existing drug and alcohol treatment system in Nottingham has been sought to ensure that existing delivery of this activity continues. The delivery of this activity will also build on the infrastructure provided through the existing core treatment and recovery service, avoiding costs incurred through duplication of this activity to secure value for money. The existing service is contract managed and has been assessed as performing well.

Other options considered

- a) Not to take receipt of the funding awarded by OHID through the Rough Sleeping Drug and Alcohol Grant. This option is not recommended on the basis that to not take receipt of the funding will lose the opportunity to assist more people to recover from drug and alcohol use and to move towards settled accommodation. This option would also end the activity of the current team within Nottingham Recovery Network.

6 Fee levels for Children in Care Placements 2024/25 - key decision

Councillor Barnard, Executive Member for Children, Young People and Education, presented the report and stated the following:

- a) the Council has a statutory duty to ensure sufficient accommodation for its looked-after children and young people, which meets their needs in its authority area (section 22G of the Children Act 1989 'the sufficiency duty'), balanced against budget commitments and pressures for the Council;
- b) to support this duty, the Council commissions children's care placements (including residential care homes and foster care) from external agencies through several mechanisms. This includes collaborative framework agreements such as the D2N2 Children in Care Framework (D2N2 CiC Framework) and the East Midlands Regional Framework, block contracting and spot purchasing arrangements;
- c) price reviews for these externally commissioned placements are undertaken annually in line with contract terms and conditions. Due to the current unprecedented economic climate, the annual inflationary increase is expected to exceed that ordinarily applied and is subject to council discretion;
- d) decisions for price increases are based on a range of factors, such as the current market position, cost of living indices and Office of National Statistics data. Specifically, consideration has been given to the National Living Wage and other pressures, such as cost of living, pensions, profit margins and voids. This proposal also considers the MTFP (Medium Term Financial Plan) position and other financial pressures;
- e) under the D2N2 CiC Framework, weekly prices will increase annually, at the discretion of D2N2 by 1.5% or CPI, whichever is the lower. Should CPI rise above 3%, the Contracting Authorities will review the annual increase. The current CPI is 4.2% as of 17 January 2024;
- f) in the Autumn Statement, issued on 22 November, it was confirmed that National Living Wage would increase by 9.77% to £11.44 and that this new rate would also apply to 20 to 23-year-olds (over 11% increase). Energy prices also rose in January 2024 following an increase to the energy price cap;
- g) this proposal is put forwards against a backdrop of increased demands on children's social care, policy change, difficulty in attracting workers into the care sector, due to competition from other sectors, and lack of capacity within the children's placement market;
- h) nationally, the children's placement market is functioning inefficiently. A market study (undertaken by the Competition and Markets Authority in 2021/22) reported significant problems in how the placements market functions and made several policy reform recommendations to the Government. Concerns included a lack of placements (of the right kind in the right place) high-profit levels, pricing, and debt within the market's most significant private providers;
- i) an increase in fee-rates for placement takes effect from April 2024 on the D2N2 CiC framework. Where frameworks are pan-local authority, the Council will

engage with those local authorities as required. The D2N2 CiC framework is joint with Derby City, Derbyshire County and Nottinghamshire County Council;

- j) the framework is the primary mechanism for commissioning new placements for children in residential and foster care, with 92% of new fostering placements and 56% of new residential placements made through this Framework over the budget year 2022-23.

Dawn Cafferty, Head of Procurement, confirmed that the commissioned services are contracted through compliant procurement processes, and the placement rates proposed consider factors impacting the provider market and sought to ensure fairness and consistency across all providers and reflect the affordability constraints of the local authority. The uplifts have been developed using recognised inflation and living wage requirements, and these uplifts are allowed within the contracts.

Resolved to

(1) approve the:

- (a) proposal for the fee levels for Children's Care Placements, as outlined in the exempt appendix;**
- (b) total spend of up to £3.549 million, which represented a 4.0% increase in accordance with the D2N2 and East Midlands Regional Partners, aligned with the contract terms, which also included authorisation for spend on high-cost placement provision through the Council's scheme of delegation for Children's Care Packages;**

- (2) delegate authority to the Director of Commissioning and Partnerships, in consultation with the Director for Children's Integrated Services, to agree fee levels in accordance with the proposals detailed in the exempt appendix, subject to the outcome of further engagement with providers and in line with the Council's budget (subject to engagement and resolution 3 below), and implement from April 2024;**

- (3) note that upon completion of the consultation, a further approval from this Committee would be sought if the financial impact of any revised proposals exceeded the approved fee uplift budget of £3.549m in 2024/25.**

Reasons for recommendations

- a) Nottingham City Council considers the fee levels for children's care placements on an annual basis and, in doing so, will take account of several factors within the context of the broader financial position of the Council;
- b) the Council has a statutory duty to ensure sufficient accommodation for its looked-after children and young people, which meets their needs in its authority area (section 22G of the Children Act 1989, 'the sufficiency duty'), balanced against budget commitments and pressures for the Council;

- c) where the Council is party to pan-local authority frameworks, there must be engagement with the local authorities' party to these framework agreements. Where the outcome of these discussions requires consideration of a meaningful change to the financial consequence of these proposals (with due regard given to the available budget), a further report will be presented through the appropriate governance process;
- d) these proposals and the associated financial modelling are based on available information about service utilisation and demand;
- e) the recommendations presented take account of the implications of inflationary pressures on the children's placements market and aim to represent a fair allocation of funding to support the market across all service areas. The proposals seek to support a sustainable, efficient, and effective market within the available resources.

Other options considered

- a) do nothing – In order to meet the sufficiency duty and avoid higher costs and distant off-framework placements, it is important to act due to the current economic pressures and insufficient capacity in the market. Failing to do so runs the risk of providers not being able to offer placements for children in Nottingham;
- b) offer different fee rate proposals. It is not recommended to offer different fee rates for Children's Social Care as the proposals are already based on market knowledge, feedback from providers, and budget pressures. D2N2 has employed a joint post to understand market forces and risks to placement sufficiency. Final proposals have considered the potential impact on service delivery and the risk of market failure;
- c) benchmarking carried out in September 2023 on rates paid to external providers in the first quarter of this financial year show that Nottingham City pays approximately 7% less than the average of other regional providers for residential, with only Rutland having lower average rates;
- d) for supported accommodation, a snapshot for July and August showed our average rates were 32% lower than regional comparators (with only Leicestershire having lower rates). Any inflationary increase under the 5% agreed by D2N2 and regional partners would seek to highlight these differentials and would make it more likely providers would challenge us and/or prioritise other authorities for placements;
- e) leaving the sub-regional framework/establishing a Nottingham City-only procurement mechanism. This option was rejected because a sub-regional framework allows a significantly greater ability to manage the market, minimise operating costs, benefit from volume and allow joint learning, identification, and dissemination of best practice;
- f) additionally, there needs to be more time to establish a Nottingham City-only framework, which we do not believe would deliver the best value as we do not have the volumes of work to attract sufficient suppliers to a potential Nottingham City-only framework.

7 Dates of future meetings

The Committee agreed to meet at Loxley House, Station Street, NG2 3NG, at 9.30am on the following Tuesdays during the 2024-25 municipal year:

<u>2024</u>	<u>2025</u>
11 June	14 January
09 July	11 February
10 September	11 March
15 October	15 April
12 November	
10 December	

8 Exclusion of the public

The Committee agreed 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 outweighs the public interest in disclosing the information.

9 Exempt appendix - Fee levels for children in care placements 2024/25

The Committee noted the exempt appendix to item 6 (minute 6 above).

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Subject:	ICT product replacement programme		
Corporate Director:	Ross Brown – Finance and Resources		
Executive Member:	Cllr Linda Woodings – Finance and Resources		
Report author and contact details:	Rav Ghattaora, IT Technical Services Manager rav.ghattaora@nottinghamcity.gov.uk 0115 857 7770		
Other colleagues who have provided input:	Alfred Ansong - Finance Beth Brown - Legal Louise Dobson - Procurement Paul J. Burrows – IT Strategy Manager Simon Salmon – Head of IT		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 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
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £3m			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a			
Spend Control Board approval reference number: 7044			
Commissioner Consideration			
Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Any comments the Commissioners wish to provide are listed in section 6 below.			
Wards affected: All			
Date of consultation with Executive Member: TBC			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input checked="" type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
The report requests authority to:			
1. undertake a competitive purchasing exercise to find the best value supplier of ICT equipment and mobile devices;			
2. purchase, deploy and support ICT equipment and mobile devices with required labour resources to enable services' delivery to Citizens, Councillors and Partners.			
The service provided will support delivery of the Council's services, e.g. social care, waste			

management and, without these actions, the Council will not have authority to acquire new and replacement ICT equipment and mobile devices and employ colleagues to deliver it.

Exempt information: None.

Recommendations:

- 1** To delegate authority to the Head of Service (IT) to undertake a procurement process and enter into contracts with the successful bidder, up to the value of £1m per annum over the 3 years to March 2027 (totalling £3m), to purchase PCs, Laptops, mobile phones and other peripheral equipment required to deliver the ICT product replacement programme and employ delivery resources.
- 2** To authorise recovery and repayment to the IT Investment Fund and the IT Revenue Budget of varying amounts from departmental budgets to cover requests for new equipment made outside of the IT Equipment Programme.

1. Reasons for recommendations

- 1.1 There is a high level of dependence on ICT throughout the City Council for delivery of services to Citizens and to support joint working with partners. The ICT Product Replacement Programme supports this by ensuring that all ICT equipment is fit for purpose. Delegation of authority to purchase ICT equipment and mobile devices in bulk using a compliant procurement process will ensure the ongoing, cost-effective procurement of devices to support the Council's front-line services.
- 1.2 The single authorisation sought in this report will enable multiple procurements to be carried out over the approved period. This is to account for changes in technology that will occur over the period covered. The authorisation sought is for a projected volume of procurements based on historical trends. Should demand be less, fewer devices will be procured and authorised budgets will be retained within the IT Investment Fund and IT Revenue Budget.
- 1.3 For each procurement undertaken under this authorisation the requirements will be fully explored and consideration against a single device approach will be taken, prior to an order being placed, to ensure that the Council maintains an alignment between demand for equipment and the allocated budget.

2. Background (including outcomes of consultation)

- 2.1 Since 2014 the Council has invested in a ICT product replacement programme which aimed for a 5/6-year replacement lifecycle of equipment. The main driver for this programme is to ensure that colleagues have the right, fit for purpose, equipment enabling them to be able to carry out their roles effectively providing services to Citizens in a timely manner.
- 2.2 Alongside standard computer hardware, frontline services often have either additional or alternative requirements for portable equipment such as tablets and mobiles. These types of devices are suited to particular areas of the business and often provide additional health and safety support for lone workers. These devices require replacing once they reach the end of their supported life due to security compliance changes as well as hardware aging.

2.3 The replacement costs are evenly structured over a number of years and managed in an approach which reduces large budgetary pressures in any one year by replacing an even number of devices distributed at various intervals over the life of the programme. This allows for better planning of resources and workloads and reduces the number of service areas across the Council being disturbed at the same time with device swap outs and allocations etc.

2.4 The financial profiling of this programme is forecasted to be:

- £150k for serving the requirements of new equipment;
- £550k for ongoing replacements of end-of-life devices;
- £297k to resource the delivery of the programme;

totalling approx. £1m annually or £3m over the 3 years of this planned approval period. Charges are made to projects for equipment acquired and the IT Investment Fund and IT Revenue Budget credited accordingly.

3. **Other options considered in making recommendations**

3.1 Do nothing. If nothing is done, then the current contract for ICT equipment will expire. From this point purchases of new equipment will have to be made within the Council's Financial Regulations but on an ad hoc basis. This means that more procurements will be made, with a consequent increase in transactional activity adding to the cost of delivery. It is also the case that because purchase volumes will be lower there will be less opportunity to access economies of scale due to some framework conditions as well as other factors. The approach has therefore been discounted.

3.2 Move to a leasing model. Currently the Council adopts an approach to providing ICT equipment that is based upon outright ownership and management. Some organisations have adopted a different approach, to lease equipment and also buy support services as a part of this package. The benefits of this approach include smoothing the costs of equipment replacement and releasing the organisation from one of the day-to-day elements of IT service delivery.

3.3 Initial investigation has suggested that this is not a desirable approach for the Council because of added cost associated with the model and the limits on future flexibility associated with it. There are opportunities to recoup funds from selling owned equipment which is not possible where leasing is used. The approach has therefore been discounted.

4. **Consideration of Risk**

4.1 There are a number of associated risks by not continuing with this programme:

4.1.1 Equipment efficiency and reliability – equipment will demonstrate gradually reduced efficiency and reliability over the 5/6-year lifecycle resulting in colleagues more likely to experience downtime (time without a working device). This can be through:

- inadequately performing equipment not able to deliver on new functional requirements offered by new or updated software through

software-lifecycles which places new demand on older outdated components or

- complete equipment failure due to wear and tear due to prolonged use.

4.1.2 Increased demand on limited resource – aged assets consume a higher proportion of IT Service resource to maintain by placing increased demand on tasks such as fault diagnosis, arranging repairs, preparing and providing temporary loan devices for use during repairs.

4.1.3 Increased costs – not only are aged devices more likely to develop hardware failures, but any device also over 3 years old is subjected to full repair costs with neither the parts or labour being covered by the manufacturer.

4.1.4 Cyberattacks – as quoted by the National Cyber Security Centre, “older products may lack the latest security measures, increasing the impact of vulnerabilities, making exploitation more likely to succeed, and detection of any exploitation more difficult. When products become obsolete, you'll need to trade off the risks from continuing to use them against the cost of replacing or upgrading them”. Deploying the latest tools will have performance overheads which will be more noticeable on older equipment than modern updated equipment.

5. **Best Value Considerations**

5.1 Best value is demonstrated as follows:

DIY - do it yourself through redesign - The ICT equipment and mobile devices requirements on the whole do not lend themselves to any alternative approach other than purchasing either directly from the manufacturers or resellers.

BIY- buy it yourself e.g. procurement - As part of this programme of works IT Service will work alongside colleagues in Procurement to support the buying of all the equipment required.

BIWO - buy it with others - joint procurement -In order to seek best value, IT Service will procure the equipment via a complaint framework which allows NCC and partner organisations to capitalise on the combined buying power and, where possible, adopting a collaborative approach enables lower pricing and cost-savings.

DIWO - do it with others e.g. shared services / partnerships with local authorities - This has been considered. There are restrictions and limiting factors such as localised policies and frameworks, working practices, legal lines of responsibilities etc which makes this more challenging and does not present a best value approach.

DIFO – do it for others - trading and income enhancement -This has been considered and will continue to be considered at every opportunity. The legal and practical constraints make this more challenging to deliver and does not present best value at this moment.

EO - enable others - This is not applicable.

REDUCE - service standards commensurate with affordability - As part of this programme IT Service will always seek to ensure the devices are fit for purpose and present the best value taking into consideration the device costs vs functional and operational needs and ensure One Device One Person approach is taken where practical and possible.

STOP - It would not be possible to stop the programme as there is an operational/functional need for NCC colleagues use ICT equipment to continue to deliver their day-to-day activities in the delivery of services to citizens.

6. Commissioner comments

6.1 Commissioners are content for this to go forward. (23/05/24)

7. Finance colleague comments (including implications and value for money/VAT)

7.1 This decision seeks approval to delegate authority to the IT Head of Service to enter into contracts up to the value of £0.997m per annum to purchase IT equipment using a compliant procurement process. Total value of this decision over the 3-year period is £2.991m.

7.2 The breakdown of costs and funding source associated with this decision are detailed in the table below:

Item	Value £m per annum	Funding source
Hardware replacement programme	0.550	ITEF
New IT equipment	0.150	Projects/Departmental*
Delivery & support costs	0.222	ITEF
Delivery & support costs	0.075	Projects/Departmental*
TOTAL PER ANNUM	0.997	

*revenue budgets in departments and/or grant funded projects

7.3 Whilst the items to be purchased are of capital nature this decision will not impact the capital programme or require additional prudential borrowing as the equipment will be funded from the existing revenue sources outlined in above.

7.4 The profiling of the above costs have been considered in the ITEF forward plan where applicable which aligns to the current MTFP. However, there should be proper oversight for revenue and capital projects jointly funded from the reserve to ensure there is no financial pressure or risk of overspend.

7.5 Whilst this decision seeks approval spend up to £0.997m per annum, the actual value and contracts paid will be based on actual activity levels. The IT service should make every attempt to ensure value for money principles are followed to reduce financial risk, considering the constrained financial environment NCC is operating in.

Alfred Ansong, Strategic Finance Business Partner - 11/04/2024

8. Legal colleague comments

- 8.1 This report sets out the Council's ongoing requirement to ensure that its IT equipment is up to date and fit for purpose to meet the needs of the business.
- 8.2 Procurement needs to be carried out in accordance with the Council's Financial Regulations and Contract Procedure Rules alongside the relevant statutory procurement regulations that are in force at the time. Procurement and Legal Services Colleagues will provide support as required.

Beth Brown, Head of Legal - 9 April 2024

9. **Other relevant comments - Procurement**

- 9.1 This report seeks the approval to procure the ongoing hardware and associated products and services to meet the needs of the Council to ensure it can carry out its duties.
- 9.2 Procurement Team will support purchases required to ensure ICT Services Team are achieving best value – it is envisaged that this will be done via a number of procurement routes to market and using different frameworks appropriate for the requirements, over the period that this report is concerned. Therefore, a number of suppliers and contracts will be set up as part of this approval and on-going spend.
- 9.3 Procurement will make sure any procurements undertaken are done so compliantly and in keeping with the Council's Contract Procedure Rules.

Louise Dobson, Lead Procurement Officer (11 April 2024).

10. **Crime and Disorder Implications (If Applicable)**

10.1 N/A

11. **Social value considerations (If Applicable)**

11.1 N/A

12. **Regard to the NHS Constitution (If Applicable)**

- 12.1 Local authorities have a statutory duty to have regard to the NHS Constitution when exercising their public health functions under the NHS Act 2006. In making this decision relating to public health functions, we have properly considered the NHS Constitution where applicable and have taken into account how it can be applied in order to commission services to improve the health of the local community.
- 12.2 The NHS Constitution states in section 2, 'NHS Values' that: 'Working together for patients. - Patients come first in everything we do. We fully involve patients, staff, families, carers, communities, and professionals inside and outside the NHS. We put the needs of patients and communities before organisational boundaries. We speak up when things go wrong.'
- 12.3 Having access to a ready and reliable supply of IT equipment enables the Council to work more effectively with NHS colleagues. The proposals in this report will enable the Council to refresh IT equipment used by colleagues in support of the NHS, e.g. Adult Social Care, and so to assist in delivery of services to Citizens.

13. Equality Impact Assessment (EIA)

13.1 An EIA is not required because this report does not contain proposals for new or changed policies, services or functions.

14. Data Protection Impact Assessment (DPIA)

14.1 A DPIA is not required because this report does not contain proposals for new or changed policies, services or functions.

15. Carbon Impact Assessment (CIA)

15.1 A CIA is not required because all providers used by IT/Procurement teams are via a compliant framework where carbon impact considerations are highlighted as part of the vendors own targets which we seek to maximise wherever possible.

15.2 There are several activities the project undertakes to ensure we reduce our carbon footprint where possible, such as:

- regular stock item orders are placed in fewer large quantities as opposed to several smaller orders, to reduce transportation related carbon emissions where practical;
- equipment that has reached the end of its useful life at the council are rebuilt and reused by either selling to council employees to use in a personal capacity or to a disposal company that can go on to either selling or recycle the individual components to reduce carbon footprint of future manufacturing processes.

16. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

16.1 None

17. Published documents referred to in this report

17.1 None

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Commissioning and Procurement Executive Committee – 11 June 2024

Subject:	Stock Condition Surveys		
Corporate Director:	Sajeeda Rose - Growth and City Development		
Executive Member:	Cllr Jay Hayes – Housing and Planning		
Report author and contact details:	Steve Edlin, Assistant Director of Asset Management. steven.edlin@nottinghamcity.org.uk		
Other colleagues who have provided input:	David Worthington – Finance Geetha Blood - Finance Beth Brown – Legal Jeremey Delderfield – Procurement Alison Brown – Director of Property Services Geoff Wharton - Consultant Strategic Director of Housing		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 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
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £3,600,000			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a			
Spend Control Board approval reference number: 1176			
Commissioner Consideration			
Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Any comments the Commissioners wish to provide are listed in section 6 below.			
Wards affected: All			
Date of consultation with Executive Member: 03/06/2024			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input checked="" type="checkbox"/>		
Serving People Well	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
The Council are required by regulation to ensure that all its social housing meets the governments Decent Homes standard and prove how it knows that its housing stock meets this requirement. The decent homes standard sets out a minimum standard for social housing and is underpinned by four criteria linked to a statutory minimum standard based on the 29 Hazards detailed in the Housing Health and Safety Rating System (HHSRS), reasonable state of repair, having modern facilities and meeting identified levels for thermal comfort.			
We maintain decency through the delivery of repair, maintenance and investment works to			

homes, blocks, and estates. We do this through a mixed service delivery model of directly employed staff and trade colleagues and external contractors who provide additional capacity and technical expertise.

This paper is to seek approval to appoint a single partner to undertake a new Stock Condition survey of all of the NCC managed stock.

We do not have sufficient internal capacity to deliver the scale and scope of surveys required at this time to ensure we maintain decency across our housing assets.

The HRA Capital/Revenue Investment programme, which this work will be carried out under was reported to executive board on 13 February 2024 as part of the Capital Programme and subsequently signed off on 5 March 2024.

The 2006 Decent Homes standard is currently under review as part of one of the most significant regulatory reviews of social housing in the last decade. Using the consultation that has taken place to date there are likely to be additional measures we will have to take on as a landlord to ensure we are compliant with the decency standard, meaning a new survey of our properties is required to ensure we take them into account.

The Social Housing Regulation Act 2023 (“The Act”) introduced a requirement for landlords to evidence how we ensure compliance with the decency standard through the Consumer standards specifically the Safety and Quality standard. Many of the provisions in the Act are responses to the tragedies of the 2017 Grenfell Tower fire and death of two-year old Awaab Ishak, who died in 2020 from exposure to serious mould.

The Act allows the Regulator of Social Housing to take action against social landlords before people are at risk and hold landlords to account with a reintroduced regime of service inspections. The act gives the Secretary of State power to require social landlords to investigate and rectify serious health hazards. This could include intervention within the property service.

Exempt information: None

Recommendations:

- 1 To approve a direct award to Savills under the ‘Places for People Group Limited’ framework (contract Notice reference: 2022/S 000-029646, published 20 October 2022), and to enter into a contract to enable delivery of a full Stock Condition Survey programme up to 31 July 2025, with an option to extend for 2-years if required.
- 2 To delegate authority to the Assistant Director of Asset Management to set up the required Contract Purchase Agreements to cover the works to be delivered, and to approve the raising of purchase orders under the signed contract for the duration of the contracts.

1 Reasons for recommendations

- 1.1 Nottingham City Council Housing Services team are required to ensure that all of its Social Housing homes meet the governments Decent Homes Standard which means that they will meet the minimum statutory standard for housing including no category one failures under the HHSRS, properties are in a reasonable state of repair, we have reasonably modern facilities and services, and homes provide a reasonable degree of thermal comfort.
- 1.2 The Act includes a requirement to meet our obligations under the newly introduced Building Safety Act 2022 and Fire Safety Act 2021 and the

forthcoming Awaabs Law to ensure that Social Housing is free from Damp and Mould, disrepair, HHSRS hazards and are structurally sound and safe. We are required to demonstrate our compliance using the consumer standards, specifically for property the safety and quality standard.

1.3 The types of works we deliver to maintain decency includes:

- replacements works and refurbishments works to key building elements and components including roofs, structural works, doors, windows and heating systems;
- replacement of key facilities including Kitchens, bathrooms;
- control measures to manage Hazards including Damp and Mould, Falls, electrical hazards and fire;
- preventing disrepair by dealing with property deficiencies within a reasonable timescale;
- work to improve thermal efficiency including external wall insulation or alternative heating systems;
- Decent Neighbourhoods work, including boundary issues, garages and HRA pathways;
- support for development of mixed communities including HRA shop conversions and works to properties bought on the open market.

1.4 To ensure that we can meet these requirements there is need to undertake a new Stock Condition Survey across our stock due to the current data being based on old surveys, which will ensure that we are fully compliant with the regulations and if not are aware where we need to invest to undertake work to bring failing properties up to standard.

2. **Background (including outcomes of consultation)**

2.1 A last full SCS programme ended in 2017 and although the data has been kept up to date via inhouse resource, there is a requirement to undertake a new full SCS to all circa 25,000 homes that NCCHS manages to ensure that the data we hold is up to date and robust.

2.2 Complete the Framework Engagement process to enable Nottingham City Council Housing Services to meet its regulatory, statutory and landlord obligations by contracting additional surveying capacity through the Places for People framework 2022/S 000-029646

2.3 The proposal to undertake new stock condition surveys was taken to Commercial Oversight Board on 27 February 24, where it was approved.

3. **Other options considered in making recommendations**

3.1 Carry out the work with internal resources, which would not be achievable to scale, scope, volume and timescales at this time. However, it is the intention to bring this service inhouse at a later stage.

4. Consideration of Risk

- 4.1 A full risk register will be completed and will be incorporated into ongoing governance reporting as required to ensure control measures remain appropriate and help to inform decisions.

5. Best Value Considerations

- 5.1 We will use this contract to demonstrate continuous learning against the identified seven best value themes some examples are given below.

- 5.1.1 As part of contract mobilisation, we will establish the governance regime from operational to a strategic overview to manage performance against agreed success measures and robust financial management;

- 5.1.2 We will work collaboratively to identify areas of learning and positive practice that can be shared across other contracts we have within property service;

- 5.1.3 We will involve the partner in the wider service transformation activities to ensure there is clear direction on our approach and service delivery expectations;

- 5.1.4 Using a framework arrangement provides some assurance on technical competency and value for money as the partner has been externally benchmarked against a cost and quality criteria;

- 5.1.5 We have a dedicated team who will be responsible for the effective management of the contract and overseeing the quality of the service received by customers;

- 5.1.6 We will proactively work with the partner to support where possible a local supply chain to offer employment and opportunities to local companies;

- 5.1.7 The partner will develop a social value plan for the term of the contract.

6. Commissioner comments

- 6.1 The Commissioners note the content of the report and have no additional comments to add. (23/05/2024)

7. Finance colleague comments (including implications and value for money/VAT)

- 7.1 This report seeks recommendation to award a contract to Savills as the approved contractor for the delivery of new stock condition survey for the whole of the housing stock. This is essential so that the Council can demonstrate that it fulfils its statutory and regulatory requirements in relation to fire risk assessments, energy performance certificates, asset strategy, and energy efficiency.

- 7.2 In recommending Savills, a robust procurement process has taken place to ensure that proper due diligence in awarding the contract. Due to the

complexities of such a large assignment, the processes have been thorough to ensure value for money.

- 7.3 In addition, the new stock condition survey information will be used to update the 30-year HRA business plan. This will identify the demand for future capital and revenue expenditure as well as the resources required to finance the expenditure. The updated business plan will be used to update the Medium-Term Financial Plan (MTFP) and annual budgets.
- 7.4 Expenditure on providing a new stock condition survey is classified as revenue expenditure and incorporated £3.6m specific revenue growth in the 2024/25 HRA Revenue Budget Report approved by full Council on the 5 March 2024. In addition, the MTFP includes a £1.2m provision in 2026/27 and 2027/28 to ensure that the stock condition survey is updated.
- 7.5 The costs of the stock condition survey will be met from the HRA revenue budget 2024/25 as approved by Council in February 2024.

David Worthington, Interim HRA Accountant – 9 May 2024

Geetha Blood, Strategic Finance Business Partner – 23 May 2024

8 **Legal colleague comments**

- 8.1 The Social Housing Regulation Act 2023 places enhanced obligations on Local Authority Landlords to ensure that social housing is of a decent standard for tenants.
- 8.2 To ensure that we are meeting our obligations there is a requirement for additional capacity, this is being achieved via a mixed delivery model with the private sector.
- 8.3 The arrangements between the parties will be regularised via industry standard JCT contracts and Legal Services will provide support as required.

Beth Brown, Head of Legal - 20 March 2024

9 **Other relevant comments**

Procurement

- 9.1 We are proposing to use the Places for People 2022/S 000-029646 (Procurement Hub Framework), which conforms to the Public Contracts Regulations 2015.
- 9.2 Procurement Hub notified the successful and unsuccessful organisations of the award decision on 12 December 2022. The 10-day standstill period ended on 23 December 2022 with no challenges raised, which was concluded with an FTS contract award notice — reference 2023/S 000-002799.
- 9.3 The Call-off contract can therefore be awarded at any time throughout the duration of the framework agreement, to the first placed provider, which is Savills.
- 9.4 The version we have chosen incorporates all of the activities required in Lot 6.

The scope is in accordance with CPV code 70000000 - Real estate services. Providers can apply for up to 6 lots for strategic asset management services:

1. Stock condition surveys;
2. Fire risk assessments;
3. Energy performance certificates;
4. Asset strategy;
5. Energy efficiency;
6. Multi-discipline.

9.5 As this is a direct award from a framework, it is recommended that the service takes the opportunity to further test value for money following the first year of the contract, prior to taking up the extension options, if necessary.

Jeremy Delderfield, Procurement & Sourcing Manager – 8 May 2024

10 **Crime and Disorder Implications (If Applicable)**

10.1 N/A

11 **Social value considerations (If Applicable)**

11.1 Nottingham City Council promotes and supports sustainable growth, social and environmental wellbeing. The Signatories to the Contract will become part of a network of organisations that can do business together, whilst supporting the Contract principles to promote economic prosperity and social environmental wellbeing.

11.2 The Contract also provides a way to create more employment and training opportunities for Nottingham City residents. With Nottingham Jobs we will help employers to find the right people for their business. This free service helps employers to employ the right people with the right skills.

11.3 The Contract identifies the actions and activities that Nottingham City Council, and our contracted suppliers and partner organisations will deliver to bring about economic growth and prosperity and help transform Nottingham from a good to a great City.

12 **Regard to the NHS Constitution (If Applicable)**

12.1 N/A

13 **Equality Impact Assessment (EIA)**

13.1 An EIA is not required at this stage because this decision does not represent proposals for a new or changing policy, service or function. However individual EIA's will be completed as required.

14 **Data Protection Impact Assessment (DPIA)**

14.1 A DPIA will be undertaken with the supplier once approval has been granted.

15 **Carbon Impact Assessment (CIA)**

15.1 A CIA will be undertaken with the supplier once approval has been granted.

16 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

16.1 None.

17 Published documents referred to in this report

17.1 Executive Board report: Capital Programme – 13 February 2024

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Subject:	Concession for annual music festival at Wollaton Park		
Corporate Director:	Colin Parr - Communities, Environment & Resident Services		
Executive Member:	Cllr Sam Lux – Leisure, Culture and Carbon Reduction		
Report author and contact details:	Stephen Chartres. stephen.chartres@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Maria Balchin – Finance Anthony Heath – Legal Holly Fisher - Procurement Patrick Loy - Head of Nottingham Events and Tourism		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure	<input checked="" type="checkbox"/> Income	<input type="checkbox"/> Savings of £750,000 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
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £11,788,000 (based on estimated turnover over 5 years)			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a			
Spend Control Board approval reference number:			
Commissioner Consideration			
Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Any comments the Commissioners wish to provide are listed in section 6 below.			
Ward affected: Wollaton West			
Date of consultation with Executive Member: TBC			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input checked="" type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input checked="" type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
Delegated approval was given in May 2023 for a full tendering process to be undertaken for a 5-year concession contract to deliver a 2-day Summer Music Festival at Wollaton Park (2024-2028). This tender process was completed over the period May to October 2023 and DHP was identified as the preferred supplier. Due to delays in the final negotiation and contract development, DHP made the decision to not proceed with the event in 2024.			
This report therefore seeks approval for finalisation of the event contract with DHP and for the contract to be revised to cover the period 2025-2029. This supersedes the approval made in May 2023 for the event contract to take place over the period 2024-2028.			

Exempt information:

An appendix to the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to finance and business affairs 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 because it contains commercial and financial information which, if made available to the public, may jeopardise the current contract negotiation and future tendering of the concession.

Recommendations:

- 1** To delegate authority to the Corporate Director for Communities, Environment and Residents Services to conclude negotiations and finalise the contract with the preferred supplier (DHP) for the delivery of an annual 2-day music event at Wollaton Park for the period 2025-29.
- 2** To delegate authority to the Head of Events and Tourism, subject to approval by the Director of Legal and Governance, to enter into the contract.

1. Reasons for recommendations

- 1.1 To secure the event contract with the preferred supplier, ensuring best value, income to the Council and continuing a popular music festival which has been part of the Council's event calendar since 2007

2. Background

- 2.1 Nottingham City Council and local promoter DHP Family have staged the annual Splendour music festival jointly since 2007. Splendour has been targeted predominantly at Nottingham residents, with a family focussed, diverse line-up suitable for an all-ages audience.
- 2.2 Revised terms between the Council and DHP were agreed within a Heads of Terms agreement that covered the period from 2018-22. This approach reflected the wider changes in the Council's risk appetite and approach to staging events to reduce financial risks and begin the move towards a cost neutral, commercial income events model. This approach also sought to align our commercial terms for Splendour with other events of a similar nature staged within the city.
- 2.3 Some of the changes at this time were also reflected in the wider UK festival industry. Instead of very large annual mega-festivals such as V Festival or T in the Park, most cities were now hosting some form of local / regional music festival; hence there was little or no rationale for the Council to continue to financially support a festival, that was being entirely delivered by the commercial sector in other cities.
- 2.4 Subsequently this event was identified as a concession and under the Council's procurement policy and best value duty required a formal tendering process to be undertaken which commenced in 2023.

3. Other options considered in making recommendations

- 3.1 In recommending approval to finalise the contract with the preferred provider for the event, the following other options have been considered and rejected:

- 3.1.1 **Re-tender the contract.** The tender process already undertaken has secured a preferred supplier which can offer Best Value to the Council for delivery of this event. The open tender process identified that there are limited suppliers in the marketplace that are able to deliver to the specification and financial outcomes required and the revised dates do not materially change the basis on which suppliers originally tendered. To re-tender at this stage would involve significant cost and delay, put at risk the current contract development with the preferred supplier and is unlikely to achieve an improved position for the Council.
- 3.1.2 **Cease having a concession for a Summer Music Festival.** This would result in a loss of income to the Council as revenue is currently received from this event. This is a popular attraction as part of Nottingham's annual events and entertainment programme and has created positive recognition, economic and social benefit for the city. This would be lost or put at risk if these were discontinued. The cancellation of the event in 2024 has already seen a detrimental reputational impact on the City alongside a loss of income to the Council.
- 3.1.3 **Deliver the event in-house.** This would result in potential costs and risks to the Council. The event would still require external specialist expertise to secure artists, whilst the securing of infrastructure would require a significant investment and resource requirement which there is no budget or capacity within the current team to undertake. This option is therefore not considered to represent best value. The approach to secure an external provider reflects the Council's risk appetite to reduce the financial risks and move towards a cost neutral, commercial income commissioned events model.

4 Consideration of Risk

- 4.1 There are number of risks associated with securing this concession contract for the event:
- 4.2 Risk: Low contract amounts offered in the tender process, resulting in the income target previously received, not achieved from this event
Mitigation: A full and open tender process has been undertaken to maximise best value for the Council
- 4.3 Risk: Limited interest from suppliers to tender for the concession contract.
Mitigation: The open tender approach undertaken provided the opportunity for interest from potential suppliers
- 4.4 Risk: Delay in the procurement process and awarding of contract
Mitigation: Whilst some delay has been experienced to get to this point, we are now in a position of a having a finalised contact where both parties are now in largely in agreement

5. Best Value Considerations

- 5.1 Operating a concession and testing the market through an open tender process to deliver a Summer Music Festival is considered best value. The overall approach has minimised risk to the Council, provided the potential for

maximising income whilst ensuring delivery of the broader expectations for the event for residents, for the City's profile and wider visitor economy

6. **Commissioner comments**

6.1 The Commissioners have no further comments on this decision. (28/05/24)

7. **Finance colleague comments (including implications and value for money/VAT)**

7.1 This advice is exempt from publication and is contained within an exempt appendix

Maria Balchin, Senior Commercial Business Partner - 29/04/2024

8. **Legal colleague comments**

8.1 This report seeks approval for Corporate Director for Communities, Environment and Resident Services to conclude negotiations and finalise the contract with the preferred Supplier, DHP, for the delivery of an annual 2-day music event at Wollaton Park for the period 2025-29 and approval to delegated authority to the Head of Events and Tourism, subject to approval by Director of Legal and Governance, to enter into a contract for a period of 5 years.

8.2 In attempting to conclude negotiations with the preferred supplier and finalising the contractual arrangements for the period 2025–29 inclusive, the Council must be clear that any agreement, and contractual arrangements, must be in the best interests of the Council and allow the Council to meet its best value duty and evidence this fact. The Council has used an external law firm, Browne Jacobsen LLP, supported by in-house lawyers, to assist throughout this matter

8.3 The preferred supplier, DHP, has been involved with the festival for many years. It is understood that DHP's initial involvement were the artist booking agent and undertook the artist advance on behalf of the Council, with the Council making substantial financial and non-financial contributions to set up and establish the Splendour festival. The Head of Events and Tourism estimated, last year, that the Council had contributed around £2million to the festival in financial and non-financial contributions prior to the 2018-22 Heads of Terms agreement.

8.4 It is understood that the involvement of DHP in the festival gradually increased once the festival was established. Unfortunately, no formal documentation setting out the agreed arrangements with DHP can be found that covers the period 2007-18 before the 2018-22 Heads of Terms document referenced in the report was created.

8.5 The previous financial and non-financial contributions of the Council may be part of the reason why the Heads of Terms document included the agreement that the intellectual property rights for 'Splendour in Nottingham' were "co-owned" by the Council and DHP. The treatment of the intellectual property rights was one of a number of areas where the Council and DHP could not reach agreement in negotiations at the end of 2023 which subsequently led to the announcement by DHP that the 2024 event was cancelled. The position of

DHP was that they owned the intellectual property rights relating to Splendour, citing their trademark registered in 2009 as evidence of this; this was made known to the Council by Browne Jacobsen solicitors in July 2023 and was the first time the Council were made aware that a trademark for 'Splendour in Nottingham' had been registered.

- 8.6 Legal advice was initially provided by in-house lawyers in August 2022 that the arrangements for the festival fell within the scope of the Concession Contract Regulations 2016. The market engagement referred to in the report commenced after the 2023 festival. That market engagement envisaged either a promoter developing a completely new festival or using an existing festival brand, with a view to commencing the new arrangements in 2024; this was reported by promoters and the Head of Events and Tourism to be an extremely challenging timeline for promoters, and it is unclear whether a longer lead-in period would increase the number of promoters who might be interested in undertaking the festival.
- 8.7 Subject to the above comments, in potentially offering a concession contract for a 2-day festival for the period of 2025–29 inclusive, following a tender process that specified a period of 2024–28 inclusive, the risks of a legal challenge appear to be low and the risk of a legal challenge being successful also appear to be low.
- 8.8 It is understood that the proposed details of the contractual arrangements are now “largely in agreement”. Browne Jacobsen have been instructed on 2 May 2024 to produce a draft contract incorporating the amendments agreed by DHP. This covers two main issues, namely the IPR and an increase in the maximum numbers per day.

Anthony Heath, Team Leader, Contracts and Commercial - 02 May 2024

9. Procurement Advice

- 9.1 The request to supersede DD 4946 to facilitate the conclusion of contract negotiations for the provision of an annual music festival for 2025-29 does not pose any procurement risk to the Council. The information provided in the initial DD, other than the concession agreement start and end date, remains.

Holly Fisher (Lead Procurement Officer) - 06/03/2024

10. Crime and Disorder Implications

- 10.1 Safety Advisory Group for Events have been consulted on the brief. Included in the specification is a requirement for ensuring safety and security of the site and public during the event

11. Social value considerations

- 11.1 Built into the contract specification is for the supplier to demonstrate how the festival can deliver social value for residents of Nottingham. Specifically, this will include ensuring the festival:

a) is high profile and populist, including programming of local artists;

- b) becomes a destination event, encouraging visitors to Nottingham, contributing to the visitor economy, increasing local employment and using local suppliers.

12 Equality Impact Assessment (EIA)

- 12.1 An EIA is not required for finalising the contract. However, as part of the tender process equalities considerations were built into the tender specification and evaluated as part of the selection process

13. Data Protection Impact Assessment (DPIA)

- 13.1 A DPIA is not required because there are no data protection implications for finalising the contract and for delivery of the Summer Music Festival as a concession contract.

14. Carbon Impact Assessment (CIA)

- 14.1 A CIA is not required because there are no Carbon Impact Assessment implications for finalising the Contract. However, carbon Impact and environmental considerations were built into the tender specification and evaluated as part of the selection process for the preferred supplier

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

- 15.1 None.

16. Published documents referred to in this report

- 16.1 DD4946 'Concession Process for Annual Music Festival at Wollaton Park' - published 17 May 2023.

Document is Restricted

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