

Nottingham City Council

Commissioning and Procurement Executive Committee

Minutes of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 9 July 2024 from 9.30 am - 10.26 am

Membership

Present

Councillor Cheryl Barnard
Councillor Linda Woodings (Chair)
Councillor Corall Jenkins
Councillor Ethan Radford
Councillor Pavlos Kotsonis (non-voting co-opted member)

Absent

Councillor Jay Hayes (Vice Chair)

Colleagues, partners and others in attendance:

Dawn Cafferty	- Head of Procurement
Cath Cameron-Jones	- Commissioning Manager
Charlotte Dodds	- Commissioning Lead
Debbie Helmsley	- Commissioning Officer
Chris Keene	- Head of Highways Services
Meagan Milic	- Highways Compliance Manager
Chris Pembleton	- Business Manager, Revenues
Jane Garrard	- Senior Governance Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 17 July 2024. Decisions cannot be implemented until the working day after this date.

18 Apologies for absence

Councillor Jay Hayes - personal

19 Declarations of interests

None

20 Minutes

The minutes of the meeting held on 11 June 2024 were confirmed as an accurate record and signed by the Chair.

21 Streets for People 2 Programme for Highways and Transport 2024/25 - key decision

Meagan Milic, Highways Compliance Manager, and Chris Keene, Head of Highways Services, introduced the report seeking approval for the allocation of schemes for the second phase of the Streets for People Programme comprising public highway improvements for highways, traffic management and road safety; and the call-off and award from internal and third party frameworks for the delivery of the Programme. They highlighted the following information:

- a) The Programme is entirely grant funded, from the Local Transport Plan Area Capital annual block allocation for 2024/25 and the Local Transport Plan Integrated Block.
- b) Consideration has been given as to whether call-off from a framework is the best method for awarding contracts for this Programme, but the alternative of packaging works would be more challenging to complete within the timeframe available and lacks flexibility. This approach was successfully used for the Streets for People 1 Programme and utilises a mixed approach of direct award, mini-competition and having a basket of goods. It also enables the Council to change or defer schemes if necessary. There could be scope to incorporate the Streets for People Programme, Planned Maintenance Programme and statutory highways maintenance works into one contract but because the Council only receives annual awards of funding from the Department for Transport it is unable to award multi-year contracts, which would be more attractive to suppliers. Commissioners have confirmed that they are comfortable with the proposed approach.
- c) Procurement regulations are changing in autumn 2024, making pre-market engagement mandatory. Future specifications will be outcomes based to allow the market to identify ways of achieving the desired outcome.
- d) In addition to officers' technical recommendations, all councillors had the opportunity to identify roads for inclusion in the Programme.

During subsequent discussion and in response to questions from the Committee, the following points were made:

- e) Communication with residents about highways works taking place is important. If necessary, additional bespoke communication arrangements can be put in place for specific scenarios.
- f) The aim is to work towards a Streets for People 3 Programme and part of that will involve re-engaging residents, by working with ward councillors, on highways maintenance, road safety and traffic requirements.

Resolved to:

- (1) approve the ward allocation and schemes contained within the 2024/25 Streets for People 2 Programme, as outlined in Appendix 1 to the report, at a cost of £5.85m; and**
- (2) approve the call-off and award from internal and external third-party frameworks that have been let in accordance with public procurement**

regulations for the delivery of the 2024/25 Streets for People 2 Programme, as outlined in Appendix 1 of the report.

Reasons for decision

- g) The Programme enables improvements to be made to the highway including to footways, roads, traffic management and road safety, prioritised on the basis of technical assessment, local knowledge and engagement with ward councillors.
- h) The benefits of operating under the framework arrangements are:
 - i. enabling the delivery of external grant funded statutory work activity in line with timescales of award;
 - ii. a value for money delivery model with no fixed financial commitments to use the framework;
 - iii. flexibility with no restriction in developing other delivery models for highways in the future;
 - iv. opportunities for local small to medium enterprise companies to deliver works through framework awards;
 - v. the potential for a local workforce through utilising regional small to medium enterprise contractors;
 - vi. ensuring the Council complies with its duty of best value by going through compliant frameworks and mini competition when stipulated by the framework terms;
 - vii. demonstrating the Council's commitment to all stakeholders in the East Midlands Devolution Plan that it is invested in low carbon economic growth; and
 - viii. utilising framework partners that support the Council's Carbon Neutral Charter and initiate carbon management through their entire supply chain.

Other options considered

- i) Not approving the spend would have meant that no schemes could be delivered and would have adversely impacted upon overall delivery of the Local Transport Plan Capital Programme. Therefore this option was rejected.
- j) Not calling-off from frameworks and having compliant procurement measures in place would have adversely affected the Council's ability to engage with suppliers and contractors to deliver essential highways works within the funding timeframe and there would be no effective means of demonstrating compliance with financial and procurement regulations. Therefore this option was rejected.
- k) Alternative procurement options, including Term Service Contracts and Multi-Agency Frameworks, would require more stability in the funding regime. The Council currently receives annual awards for highways maintenance and further grant awards for transport schemes but there is no medium term funding strategy that would assist consideration of a medium-term delivery solution with a third party. As engagement continues under the East Midlands Combined County Authority agenda and the merging of Department for

Transport funding streams may provide opportunity for this option to be considered in the future but it was rejected currently.

22 Highways Planned Maintenance Programme Delivery 2024-25 - key decision

Meagan Milic, Highways Compliance Manager, and Chris Keene, Head of Highways Services, introduced the report seeking approval for the 2024/25 Local Transport Plan Maintenance Programme and to call-off from approved highways frameworks and external third-party frameworks to deliver the statutory planned highways maintenance programme. They highlighted the following information:

- a) The Council has statutory obligations in relation to highway maintenance and the works are prioritised based on technical assessment by the Highways Team.
- b) Full road replacement can be very expensive and alternative methods of maintaining the highway, including prolonging the life of a road, are explored to enable limited resources to be maximised.
- c) The importance of good communication with residents is recognised in order to manage expectations about what works will take place and when. It is anticipated that the Programme for 2025/26 will come to the Committee earlier in the year, allowing a longer lead-in time for communication to take place.
- d) It is hoped that additional funding could be available from the East Midlands Combined County Authority enabling higher value decisions to be taken in the future.

Resolved to:

- (1) approve the Local Transport Plan Maintenance Programme for 2024/25, at a cost of £5.6m, as set out in Appendix 1 to the report; and**
- (2) approve the call-off and award from internal and external third-party frameworks that have been let in accordance with public procurement regulations for the delivery of the Local Transport Plan Maintenance Programme 2024/25, as set out in Appendix 1 to the report.**

Reasons for decision

- e) The decision enables delivery of essential works to fulfil statutory obligations to maintain the public highways through a programme developed in line with the Highways Act 1980 Section 41, local authority benchmarking data and national guidance to best practice and taking into account priorities based on survey data, safety inspections, citizen feedback and road hierarchy.
- f) The benefits of operating under the framework arrangements are:
 - i. enabling the delivery of external grant funded statutory work activity in line with timescales of award;

- ii. a value for money delivery model with no fixed financial commitments to use the framework;
- iii. flexibility with no restriction in developing other delivery models for highways in the future;
- iv. opportunities for local small to medium enterprise companies to deliver works through framework awards;
- v. the potential for a local workforce through utilising regional small to medium enterprise contractors;
- vi. ensuring the Council complies with its duty of best value by going through compliant frameworks and mini competition when stipulated by the framework terms;
- vii. demonstrating the Council's commitment to all stakeholders in the East Midlands Devolution Plan that it is invested in low carbon economic growth; and
- viii. utilising framework partners that support the Council's Carbon Neutral Charter and initiate carbon management through their entire supply chain.

Other options considered

- g) Not approving the spend would have meant that no schemes could be delivered and would have adversely impacted upon overall delivery of the Local Transport Plan Capital Programme. Therefore this option was rejected.
- h) Not calling-off from frameworks and having compliant procurement measures in place would have adversely affected the Council's ability to engage with suppliers and contractors to deliver essential highways works within the funding timeframe and there would be no effective means of demonstrating compliance with financial and procurement regulations. Therefore this option was rejected.
- i) Alternative procurement options, including Term Service Contracts and Multi-Agency Frameworks, would require more stability in the funding regime. The Council currently receives annual awards for highways maintenance and further grant awards for transport schemes but there is no medium term funding strategy that would assist consideration of a medium-term delivery solution with a third party. As engagement continues under the East Midlands Combined County Authority agenda and the merging of Department for Transport funding streams may provide opportunity for this option to be considered in the future but it is currently rejected.

23 Highways Annual Procurement Approval 2024-26 - key decision

Meagan Milic, Highways Compliance Manager, and Chris Keene, Head of Highways Services, introduced the report seeking approval for the provision of future procurement arrangements to support delivery of statutory highway maintenance works (under Section 41 of the Highways Act 1980), highway improvement and public realm programmes and specialist support services for highways work activity. They highlighted the following information:

- a) This procurement supports the Streets for People 2 Programme and Planned Highways Maintenance Programme agreed earlier in the meeting.
- b) The value of the decision is £92m over four years. This value is indicative based on previous trends and anticipated funding going forward, and there is no commitment to spend.
- c) The intention is to procure 18 frameworks. Some of these will be renewals of existing frameworks and some have been identified as now being required as spend analysis shows that procurement thresholds are close to being reached.
- d) These frameworks will give opportunities for small to medium enterprise companies in the City and support associated local jobs. This is in line with forthcoming changes to procurement regulations which will place greater emphasis on social value and include requirements for market engagement and breaking down packages so that they are accessible to smaller suppliers.
- e) It is known that some smaller companies are put off by perceived amounts of paperwork and the need to engage with the framework online so pre-market engagement is being undertaken to support smaller businesses in engaging with this.

The Committee welcomed the work taking place to provide easier opportunities for small to medium enterprise companies to engage and obtain work and the positive impact this has for local jobs.

Resolved to:

- (1) approve the procurement and set up of corporate framework agreements listed in table 1 of Appendix 1 to the report;**
- (2) approve the call-off from the framework agreements as set out in table 1 of Appendix 1 to the report and award contracts for the delivery of the 2024/25 Statutory Highway Maintenance Works (under Section 41 of the Highway Act 1980), Highway Improvement and Public Realm Programmes and Specialist Support Services for Highways Works; and**
- (3) approve the call-off from external third-party frameworks that have been let in accordance with public procurement regulations, as outlined in table 2 of Appendix 1 to the report.**

Reasons for decision

- f) The decision enables compliant delivery of works and services to fulfil statutory obligations to maintain the highway and supports all transport services in compliant delivery options.
- g) The benefits of operating under the arrangements are:
 - i. continuity in the provision of compliant delivery arrangements for highways activities in response to increased grant allocation for highways and transport projects;

- ii. enabling the delivery of external grant funded statutory work activity in line with timescales of award;
 - iii. a value for money delivery model with no fixed financial commitments to use the framework;
 - iv. flexibility with no restriction in developing other delivery models for highways in the future;
 - v. opportunities for local small to medium enterprise companies to tender for the work through framework awards under smaller lots;
 - vi. the potential for a local workforce through utilising regional small to medium enterprise contractors;
 - vii. ensuring the Council complies with its duty of best value by going through a competitive process to evaluate price and quality, including further competition through mini competition;
 - viii. economies in accessing established third-party frameworks where viable;
 - ix. the ability to develop relationships with a core set of framework providers to the Council and ensuring effective management through such relationships;
 - x. demonstrating the Council's commitment to all stakeholders in the East Midlands Devolution Plan that it is invested in low carbon economic growth; and
 - xi. utilising framework partners that support the Council's Carbon Neutral Charter and initiate carbon management through their entire supply chain.
- h) Call-offs with a value of £750,000 or more require approval by the appropriate Executive Committee or the Leader of the Council.

Other options considered

- i) Not letting contracts or frameworks would mean that the Council does not have compliant procurement measures in place and that would adversely affect its ability to engage with suppliers and contractors to deliver essential highway works and projects through time limited external grant funding. There would also be no effective means to demonstrate compliance with financial and procurement regulations for the increased spend in future years by the broader transport group at Nottingham City Council. Therefore this option was rejected.
- j) Not progressing the new framework arrangements would jeopardise grant funding and the Council would lose out on the opportunity to invest in the City, its transformation and in local neighbourhoods. Therefore this option was rejected.
- k) Directly awarding contracts would require commitment to spend at the point of contract and would not provide the flexibility required for service requirements, including commercial market opportunities, over the period and therefore not provide best value. Therefore this option was rejected.
- l) Term Service Contracts require more stability in the funding regime at the Council. Currently the Council receives annual awards for highway

maintenance and further grant awards for transport schemes but there is no medium term funding strategy that would assist consideration of a medium term delivery solution with a third party. As engagement continues under the East Midlands Combined County Authority agenda and with the merging of Department for Transport funding streams there could be opportunity for this option to be considered in the future but it was currently rejected.

- m) Multi-Agency Frameworks require more stability in strategic decision making between local authorities in the region and more stability in the funding regime as noted in (l). As engagement continues under the East Midlands Combined County Authority agenda and with the merging of Department for Transport funding streams there could be opportunity for this option to be considered in the future but it was currently rejected.

24 Debt Recovery Enforcement Agent services - key decision

Chris Pembleton, Business Manager Revenues, introduced the report seeking approval to undertake a procurement process for the supply of debt enforcement agent services. He highlighted the following information:

- a) The value of the decision reflects the projected value to the suppliers, not the cost to the Council. The services are currently delivered at no cost to the Council.
- b) The debt enforcement agents will support recovery of unpaid Council Tax, National Non-Domestic Rates, Business Improvement District levy, commercial rents and civil enforcement of Penalty Charge Notices. Currently the three existing enforcement agents recover over £5m each year.
- c) The Council takes additional steps over and above statutory requirements, for example additional reminders, before cases are placed with enforcement agents. There is also a pre-compliance stage which requires the enforcement agents to have a 'no-fee' stage during which they try to engage with the citizen to identify any vulnerability they might be facing and return the case to the Council for support/ signposting to support and to put payment arrangements in place without any cost to the citizen. If the agent is unable to get the citizen to engage then the statutory fees apply and will not be set under this contract. At every stage the aim is to get engagement to set up an affordable and sustainable payment arrangement.

During subsequent discussion and in response to questions from the Committee, the following points were made:

- d) The lack of recent complaints to councillors about debt enforcement suggests that the Council has the right balance in recovering debt in the most ethical way it can.
- e) Enforcement agents are aware of local debt advice agencies and will signpost citizens to them.

- f) The enforcement agents used are signed up to the sector code of practice which includes safeguarding issues, and since October 2023 statutory standards and requirements have been monitored by a new independent oversight board. Employees wear body cameras and are trained in their use.
- g) The aim is to have three debt enforcement agents, as currently. This provides the flexibility to cease placing accounts with one agent if they are not performing as required.
- h) The ultimate goal is to reduce the use of debt enforcement agents but sometimes it is necessary.

Resolved to:

- (1) undertake a procurement process to secure a concession contract for the supply of debt enforcement agent services for a 5 year period (2024/25 to 2028/29); and**
- (2) delegate authority to the Corporate Director for Finance and Resources to award and enter a concession contract with the successful concessionaire following completion of the tender process.**

Reasons for decision

- i) The existing concession has expired and the Council still has a requirement for services to collect revenue for the non-payment of debt when all internal processes to collect the debt have been exhausted.

Other options considered

- j) Doing nothing was rejected because the Council would suffer a loss of revenue in the form of debt recovered of approximately £5m per year.
- k) The Council does not have the internal resources or specialist knowledge to deliver the function in-house and therefore this option was rejected.

25 Home and Community Short Breaks - key decision

Cath Cameron-Jones, Commissioning Manager, introduced the report seeking approval to procure an accredited provider list of homebased and community short breaks provision for disabled children and delegate authority to award call-off contracts. She highlighted the following information:

- a) The Council has a statutory duty to provide short breaks to disabled children to assist carers of disabled children.
- b) The current accredited provider list ends in September 2024.
- c) The current accredited provider list only has one provider and their provision isn't suitable for all children because it primarily focuses on learning disabilities

and therefore is not necessarily suitable for children with physical disabilities. Therefore, work has been taking place to boost the market.

- d) There is no commitment to spend. Eligible families will have an allocated budget. It is anticipated that most demand will come from families on the two lower pathways as higher needs tend to be met by the in-house service. There is no intention to cap the price of activities because it can vary so much and would reduce family choice about what best meets their need within their budget. Call-off will be based on family choice first but if there are a number of providers able to provide the same offer there will be a mini competition (this is unlikely given the market).
- e) There are currently approximately 80 children eligible but with no allocated budget. This is partly because existing provision doesn't have capacity or is unable to meet their needs. There will be variation each year in the number of applications so demand is difficult to predict. It is also anticipated that some families currently using direct payments may prefer a managed budget so the managed budget allowance has been amended to reflect this. There is a risk that improvements in provision will increase demand but the Council has a statutory duty to provide short breaks and will continue to look at its approach to allocations.
- f) Residential overnight stays are commissioned via a separate contract.

During subsequent discussion and in response to questions from the Committee, the following points were made:

- g) The market development work that has taken place is really positive and there is potential for other services, such as adult social care, to learn from it.
- h) There is a risk that providers increase their prices. It is known that Nottinghamshire County Council pay considerably more, especially for 1:1 provision, and providers are aware of this.

Resolved to:

- (1) procure an accredited provider list of short breaks provision for a period of up to nine years at a total maximum contract value of £1.8m;**
- (2) delegate authority to the Director of Commissioning and Partnerships to approve and award the outcome of the tender process for the Home and Community Short Breaks; and**
- (3) delegate authority to the Head of Service Contracts, Quality and Personalisation to enter into an appropriate Accreditation Agreement and to award and sign call-off contracts.**

Reasons for decision

- i) The existing Accredited Provider List for short breaks comes to an end on 30 September 2024 and only has one provider on it offering a variety of breaks to

young people with learning disabilities. It is difficult for one provider to offer the full range of provision needed to meet the assessed needs of all children and the limited number of providers available reduces choice and flexibility and may impact on price. Recent market development work has enabled a further 11 organisations to develop short break offers mainly aimed at children with physical disabilities and long-term illnesses. It is anticipated that most of these providers will join a new accredited provider list and there are indications that there is a strong local market interested in offering short breaks which can be developed further. Therefore an accredited provider list is the most practical way of ensuring a procurement compliant method of purchasing services whilst enabling new providers to join the accredited list at any time, thus supporting the development of a buoyant provider market.

Other options considered

- j) Options to commission a block with one or multiple providers was rejected because, while it would provide a fixed price, it would limit the options for diversity of offer, reduce choice and lead to unused but paid for provision. It is hypothesised that with a more robust short break offer the Council will experience significant change across how services are used and therefore an approach that can test out different models without commitment is preferred. The market is currently limited and the Council needs to work closely with providers in partnership to encourage engagement and thus competition. An accredited provider list enables the flexibility to procure small blocks as and when demand can be predicted, notably in school holidays, to encourage increased activity at times when it is most needed. The agreed model will enable providers to offer a range of activities without the Council prescribing what they should offer and this is likely to generate a wider range of options and enable the market to react to the requirements of the young people and their families.

26 Joint re-commissioning of a Healthwatch Nottingham & Nottinghamshire Service - key decision

Charlotte Dodds, Commissioning Lead, introduced the report seeking approval for the joint commissioning between Nottingham City Council and Nottinghamshire County Council of a Healthwatch Nottingham and Nottinghamshire Service. She highlighted the following information:

- a) The new service will start on 1 April 2025 for a maximum of six years.
- b) The total value of the decision reflects the combined spend across City and County areas. The City Council's expenditure will be a maximum of £648,000 over the six years of the contract. The service will be fully funded from the Local Reform and Community Voices Section 31 grant, which enables local authorities to meet their statutory duties relating to the Health and Social Care Act 2012 including ensuring that an effective local Healthwatch organisation is operating in their area.
- c) Prior to 2018 there were separate local Healthwatch organisations for the Nottingham City area and the Nottinghamshire County area. Following a

commissioning review they were merged into a single organisation with contracts aligned, with the intention of commissioning a joint service at the end of the existing contract period. The jointly commissioned service will enable current efficiencies to continue.

- d) A public survey has been carried out in advance of the procurement to better understand levels of awareness, knowledge and experience of Healthwatch and the potential for improvement. Learning from this will inform the service specification.
- e) There are no performance issues with the current contract. It will be an open tender but there is quite a limited market.

Resolved to:

- (1) procure a joint Nottingham and Nottinghamshire Healthwatch service through an open tender process for a maximum 6 year contract, with an initial 3 year period of 1 April 2025 to 31 March 2028, and a possible extension for a second 3 year period of 1 April 2028 to 31 March 2031;**
- (2) approve Nottingham City Council budget expenditure of £108,000 per year (an overall maximum spend of £648,000 for a 6 year contract) and note Nottinghamshire County Council's contribution of £198,000 per year (an overall spend of £1,188,000 for a 6 year contract) giving a combined spend for a 6 year contract of £1,836,000;**
- (3) approve entering into a collaborative agreement with Nottinghamshire County Council from 1 April 2025 for the duration of the Healthwatch Nottingham and Nottinghamshire contract, which ends on 31 March 2028 or 31 March 2031 if extended, in consultation with the Director for Legal and Governance/ Head of Legal where sealing of a deed is necessary to give effect to the delegation;**
- (4) delegate authority to the Interim Director of Adults, Health and Commissioning to approve the outcome of the procurement process and award the contract to the provider deemed most suitable to provide the service; and**
- (5) delegate authority to the Head of Personalisation, Quality and Contracting to agree and sign the contract documentation relating to the service in consultation with the Director for Legal and Governance/ Head of Legal where sealing of a deed is necessary to give effect to the delegation.**

Reasons for decision

- f) Delivery of a Healthwatch function is a statutory duty under the Health and Social Care Act 2012 and failure to provide a service after the expiration of the current contract would mean that the Council would fail to meet its statutory duty and may leave it open to judicial review.

- g) Delivery of a joint service with Nottinghamshire County Council will provide consistency of offer across the Integrated Care System footprint and enable the Council to continue to benefit from the efficiencies which have been achieved through sharing a single service provider with Nottinghamshire County Council.

Other options considered

- h) Allowing the current contract to terminate on the end date of 31 March 2025 without completing a procurement exercise to secure a new service was rejected because the Council has a statutory duty to provide a local Healthwatch service.
- i) Procuring a local Healthwatch service for Nottingham City only was rejected because there would be a risk that the City and County would secure contracts with different organisations providing Healthwatch services. This would mean that the current and future efficiencies of the joint approach would be lost, and this would not achieve best value and would likely see an increase in the cost of the service.