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Nottingham
City Council

Nottingham City Council Commissioning and Procurement Sub-Committee

Date: Tuesday, 9 February 2021

Time: 10.00 am

Place: Remote - To be held remotely via Zoom -
<https://www.youtube.com/user/NottCityCouncil>

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

Director for Legal and Governance

Governance Officer: Phil Wye **Direct Dial:** 0115 8764637

Agenda	Pages
1 Apologies for Absence	
2 Declarations of Interests	
3 Minutes To confirm the minutes of the last meeting held on 12 January 2021	3 - 6
4 Fee Rates for Adult Social Care Services 2021/22 Report of the Portfolio Holder for Adult Care and Local Transport	7 - 10
5 Exclusion of the public To consider excluding the public from the meeting during consideration of the remaining item(s) 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.	
6 Fee Rates for Adult Social Care 2021/22 - Exempt Appendices	11 - 24

All items listed 'under exclusion of the public' will be heard in private. They have been included on the agenda as no representations against hearing the items in private were received

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

Nottingham City Council

Commissioning and Procurement Sub-Committee

Minutes of the meeting held remotely via Zoom on 12 January 2021 from 10.00 am - 10.17 am

Membership

Present	Absent
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Councillor Sam Webster (Chair)
Councillor Cheryl Barnard (Vice Chair)
Councillor Eunice Campbell-Clark
Councillor Sally Longford
Councillor Adele Williams (item 31)

Colleagues, partners and others in attendance:

Steven Brookes	- Infrastructure Planning Manager
Pete Mitchell	- Head of Regulation
Steve Oakley	- Acting Director of Commissioning and Procurement
Simon Salmon	- Head of IT
Ceri Walters	- Head of Commercial Finance
Phil Wye	- Governance Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 20 January 2021. Decisions cannot be implemented until the working day after this date.

25 Apologies for Absence

None.

26 Declarations of Interests

None.

27 Minutes

The minutes of the meeting held on 10 November 2020 were confirmed as a correct record.

28 IT Equipment Programme

Simon Salmon, Head of IT, requested that this item be deferred to a future meeting in order to review requirements and budget considerations.

29 Statutory Regulatory Services Digital Platform Investment - Key

Decision

This report was approved in writing by the Chief Executive prior to the meeting as required by the Council's Constitution for all capital expenditure.

Pete Mitchell, Head of Regulation, introduced the report on tendering for a replacement for Civica's Authority Public Protection (APP 'Flare') system which has been in operation within Nottingham City Council (NCC) since 2006. Civica UK Ltd, Flare's supplier announced the system will become unsupported from September 2022 and NCC's supply contract ends at the same time. NCC cannot adequately or efficiently respond to its statutory requirements without having a digital solution in place and so it is recommended that a replacement is tendered.

The replacement system will be more efficient and suitable for mobile working, as well as being more compatible with other Council IT systems.

Resolved to

- (1) delegate authority to the Strategic Director of Community Protection to enter into a 5year (+2year option) contract through an approved Crown Commercial Services framework with the supplier offering best value;**
- (2) approve the expenditure detailed in the exempt appendix to the report.**

Reasons for recommendations:

- To ensure that the Council can adequately continue to deliver its statutory functions in relation to Community Protection from September 2022.
- To comply with Financial Regulations relating to testing the market to demonstrate best value for money is being obtained.
- To ensure business continuity for Community Protection and Nottingham City Council with a new supplier contract in place before the existing contact and solution expires.
- To provide adequate time and resources to replace the existing solution in a seamless and cost effectively way. Note: The replacement solution will require an estimated 18 months to install, set up, configure, and migrate to the new system.
- To maintain colleague engagement, focus and buy-in to the project. The project started in October 2019 by defining problems, opportunities and requirements. A considerable engagement exercise has considered all market options and has clear recommendations.
- To reduce the organisational and community risk of not being able to operate adequate, effective and efficient services as a result of any period of time having to use an unsupported solution.

- To pro-actively plan and build services for a post crisis organisation considering changes to regulations and legislation as a result of external treats, Covid-19 and Brexit, and internal treats, budget pressures and changing city environment.

Other options considered in making recommendations:

- Do Nothing. Allow APP Flare to fall out of support, but continue usage. This is not recommended:
 - This would put NCC at a very high risk; if the system failed, or Central Government changed the legislative framework, NCC would be on its own to resolve this.
 - NCC would still have to pay Civica for the intellectual property right to use the unsupported software.
 - The system would become increasingly insecure as it would not be kept up to date with any technical security changes or updates in the computer server or network environment. Citizen, Business and NCC data would therefore be at an increasing risk, especially of data protection breaches, which can result in significant financial penalties under the UK Data Protection Act 2018.
- Develop then implement an in-house solution:
 - This was rejected as IT Services do not have the requisite resources or time to develop, then maintain such a system.
 - The cost and effort to develop such a solution would out-strip the cost of a product built for market, which is already available and in use within the sector.

30 Exclusion of the Public

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

31 Statutory Regulatory Services Digital Platform Investment - Key Decision - Exempt Appendix

Resolved to note the information contained in the exempt appendix.

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Subject:	Fee Rates for Adult Social Care Services 2021/22		
Corporate Director(s)/ Director(s):	Hugh White, Corporate Director Strategy and Resources Steve Oakley, Acting Director of Commissioning and Procurement		
Portfolio Holder(s):	Councillor Adele Williams – Portfolio Holder for Adult Care and Local Transport		
Report author and contact details:	Jo Pettifor – Category Manager - Strategy and People Tel: 0115 8765026 Email: jo.pettifor@nottinghamcity.gov.uk		
Other colleagues who have provided input:			
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 £1,000,000 or more taking account of the overall impact of the decision		<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total value of the decision: £3.757m			
Wards affected: All	Date of consultation with Portfolio Holder(s): Cllr Williams, Portfolio Holder for Adult Care and Local Transport – 13 th & 27 th January 2021; Cllr Webster, Portfolio Holder for Finance, Growth and the City Centre – 20 th & 27 th January 2021		
Relevant Council Plan Key Theme:			
Nottingham People	<input checked="" type="checkbox"/>		
Living in Nottingham	<input type="checkbox"/>		
Growing Nottingham	<input type="checkbox"/>		
Respect for Nottingham	<input type="checkbox"/>		
Serving Nottingham Better	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users): This report presents proposals for fee rates in 2021/22 across adult social care contracted provision. Nottingham City Council is contractually bound to consider fee rates on an annual basis where it has a statutory duty to provide a service. The Council will consult with providers on these proposals and consider responses prior to implementation from April 2021.			
Exempt information: Appendices 1, 2 and 3 to this report are exempt from publication under paragraph 3 and paragraph 5 of Schedule 12A to the Local Government Act 1972 because having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Financial advice is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains commercially sensitive information relating to the Council's pricing structure and financial modelling. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information as declaring financial modelling to suppliers would prevent the Authority from managing the market efficiently, which could cost it more. Legal advice is exempt from publication under paragraph 5 of Schedule 12A to the Local Government Act 1972 because it contains information that is subject to legal professional privilege. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, because the information sets out the legal implications inherent in the course of action proposed here, which the decision maker is arguably entitled to consider without the Council's position being affected by consideration of those implications.			
Recommendation(s):			

1	To approve proposals for fee rates for Adult Social Care Services in 2021/22 as outlined in the pricing details at exempt Appendix 1, which will be consulted upon with service providers
2	To delegate authority to the Head of Contracting and Procurement to agree fee rates in accordance with the proposals detailed in the exempt Appendix 1 pricing detail. This is subject to the outcome of consultation with providers and in line with the Council budget. Subject to consultation and Recommendation 4, the agreed rates will be implemented from April 2021.
3	To approve the total spend associated with this decision of £3.757m . Note: Approval to spend against the high cost placement provision will be through the Council's scheme of delegation for Adults Care Packages.
4	To note that if upon completion of the consultation the financial impact of any revised proposals exceed the budget available, further approval will be required.

1 Reasons for recommendations

- 1.1 Nottingham City Council (the Council) is contractually bound to consider fee rates in respect of services that it has a duty to provide. This is balanced against budget commitments and pressures for the Council.
- 1.2 In accordance with the Council's legal obligation, it is proposed to consult with adult social care providers with regard to these proposals during February – March 2021. The Head of Contracting and Procurement will take account of consultation responses and issue variations to existing contracts reflective of the proposals in this report should no significant issue arise. Should the outcome of these consultations require consideration of significant change to the shape and financial consequence of these proposals (with due regard given to the available budget) a further report will be presented through the appropriate governance process.
- 1.3 These proposals and the associated financial modelling are based on information currently available about service utilisation and demand changes as a result of Covid 19. Recommendations in future years will be based on the relevant circumstances at the time and the financial considerations arising.

2 Background (including outcomes of consultation)

- 2.1 Following its budget announcement in July 2015, the government introduced the National Living Wage (NLW), which replaced the National Minimum Wage as the statutory minimum wage payable to workers in the United Kingdom. The Council has a legal duty to consider fee rates for social care contracted services and in doing so, it must consider the implications of the NLW for adult social care providers.
- 2.2 Every year officers undertake analysis of the potential impact of fee rates on adult social care providers meeting National Living Wage requirements as well as other pressures such as cost of living, pensions, profit and voids. This analysis also considers budget savings required across adult provision as a consequence of reductions in the funding the Council receives and other financial pressures. Analysis takes place on a sector by sector basis across the social care budget against a backdrop of increased demand for social care provision arising from demographic pressures, policy change and increased difficulty in attracting

workers into the care sector due to increased competition from other sectors. The Council's inflationary fee rate modelling is therefore key to support social care providers to meet NLW and other inflationary pressures, and to manage the social care market. This is balanced against budget commitments and pressures for the Council.

3 Other options considered in making recommendations

- 3.1 Do nothing – the Council is contractually bound to review contract fee rates on an annual basis. Doing nothing would present a risk of legal challenge and for this reason, this option was rejected.
- 3.2 Offer different fee rate proposals. This option is not recommended as the proposals have resulted from significant work and modelling between finance and contracting, taking into account knowledge of the market and feedback from providers, and the overall budget pressures for Adult Social Care. The final proposals have taken account of the potential impact on service delivery and risk of market failure. Offering different fee rate proposals would place further pressure on the Adult Social Care budget and this is not a feasible option.
- 3.3 To undertake analysis of individual provider costs and offer fee rates based on factors such as wage rates paid, pension contributions, profit and void levels etc. This option would not be feasible at this time as it would be administratively burdensome due to variations in rates of pay and other costs across the sector.

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

- 4.1 Finance comments are contained within exempt Appendix 2.

Hayley Mason, Strategic Finance Business Partner (Adult Social Care and Public Health), 26th January 2021

5 Legal and Procurement colleague comments (including risk management issues, and including legal, Crime and Disorder Act and procurement implications)

- 5.1 Legal comments are contained within exempt Appendix 3.

Dionne Screamton, Solicitor, Contracts Commercial and Employment: 14th January 2021

6 Social value considerations

- 6.1 None applicable

7 Regard to the NHS Constitution

- 7.1 Not applicable

8 Equality Impact Assessment (EIA)

- 8.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

An EIA will be undertaken following consultation with providers on the proposals and prior to final approval. The consultation will include specific questions about the potential impact of the proposed fees and mitigating actions that could be taken. Consultation responses will be reviewed and risks identified will be analysed to assess the impact of the proposal on services as a whole, citizens within those services, and providers. (Please explain why an EIA is not necessary)

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

9.1 None

10 Published documents referred to in this report

10.1 None

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

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