



Nottingham City Council

Commissioning and Procurement Executive Committee

Date: Tuesday, 12 September 2023

Time: 10.00 am

Place: Ground Floor Committee Room - 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 8764302

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8 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

9 Hot water agreement - exempt appendix

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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

Citizens attending meetings are asked to arrive at least 15 minutes before the start of the meeting to be issued with visitor badges

Citizens are advised that this meeting may be recorded 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 Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 11 July 2023 from 10.00 am - 11.05 am

Membership

Present

Councillor Cheryl Barnard (Vice Chair)
Councillor Linda Woodings
Councillor Jay Hayes
Councillor Corall Jenkins
Councillor Audra Wynter (Chair)

Absent

Colleagues, partners and others in attendance:

Mark Garlick	- Public Transport Policy
Roz Howie	- Commissioning and Partnerships
Jane Lewis	- Community Safety Strategy and Commissioning Manager
Steve Oakley	- Head of Procurement
Jane Garrard	- Senior Governance Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 20 July 2023. Decisions cannot be implemented until the working day after this date.

8 Apologies for absence

None.

9 Declarations of interests

None.

10 Minutes

The Committee agreed the minutes of the last meeting held on 30 May 2023 as a correct record and they were signed by the Chair.

11 Procurement Strategy 2018-23 Year End Report

This item does not contain any decisions that are eligible for call-in.

Steve Oakley, Head of Procurement, presented the report detailing the outcomes and achievements delivered under the Procurement Strategy 2018 - 2023 during its fifth

year (2022-23, as detailed in appendix 1) and over the five years of 2018-23 (as detailed in appendix 2). He highlighted the following information:

- a) over the five years of the Strategy 2018 - 2023, a total of £804m has been invested in the local economy – an average of 56.52% of total contract value awarded to City suppliers against a target of 60%. In total, 79% was awarded to East Midlands suppliers with 433 new entry level jobs and apprenticeships created. This is a good achievement;
- b) in 2022 - 2023 £104.4m was invested in the local economy, which was 39.19% of total contract value awarded to City suppliers. This was lower than the target for local spend due to the nature of the contracts awarded during the year, for example the new agency contract worth £30m;
- c) in 2022 – 2023 the number of new jobs created was slightly lower than anticipated due to the types of contract that were awarded which didn't enable many new entry level jobs;
- d) a new Strategy is in development to start in January 2024.

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

- e) compared with other similar local authorities, the Council is at the front of recording local spend. Most local authorities who have articulated it are aiming for 50-60% local spend but tend to be less focused on it as an issue than Nottingham City Council;
- f) work is taking place at a regional level to look at social value and work is also happening with other contracting authorities such as Nottinghamshire Police and the NHS. One of the challenges is that organisations have different measures so there is a need to identify key priorities that can be worked on together;
- g) local spend is more likely to enable local accountability for provision;
- h) using suppliers geographically closer to Nottingham supports CN28 objectives;
- i) it isn't possible to stipulate that suppliers have to be local but the benefits of being local can be included in scoring. However, it has to be recognised that sometimes it is cheaper and more cost-effective to use non-local suppliers;
- j) it is anticipated that the first draft of the new Strategy will be ready by autumn 2023. It won't be dissimilar to the current Strategy but there will be some new areas of focus. There could be scope to do more from an environmental perspective and assessing wider contract outcomes, not just procurement outcomes.

Resolved to note:

- (1) the outcomes delivered under the Nottingham City Council Procurement Strategy 2018 - 2023 in its fifth year (2023), as detailed in appendix 1;**
- (2) the outcomes delivered during the five years of the Procurement Strategy 2018 - 2023, as detailed at appendix 2;**
- (3) that the Nottingham City Council Procurement Plan has been refreshed during 2022-23 as part of the procurement transformation programme; and**
- (4) that the new format of Procurement Pipeline report is reported routinely under the new operating model for procurement in the Commercial, Procurement and Contract Management Division.**

Reasons for recommendations

The Procurement Strategy 2018 - 2023 provides a framework for the procurement of all goods, works and services to support the delivery of the Council's strategic priorities within a challenging financial context. It sets out how procurement will use the Council's spending power to pursue our key objectives of citizens at the heart; securing economic, social and environmental benefits; and commercial efficiency. Delivering the Council's strategic priorities requires the efficient, strategic use of its purchasing power, and the Strategy promotes a commercial approach to support the Council in addressing significant financial challenges now and in the longer term.

The Strategy drives the delivery of social value for the City by addressing economic, social and environmental considerations at all stages of the procurement cycle, through the framework of the Public Services (Social Value) Act 2012. It sets out key actions to be taken to maximise the economic, social and environmental benefits secured through all the Council's purchasing activity.

Delivery under the Strategy in 2022-23 continued under the core principles of:

- Commercial efficiency;
- Citizens at the heart;
- Partnerships and collaboration;
- Governance, fairness and transparency;
- Ethical standards;
- Innovation and improvement.

Other options considered

None. Progress against the Strategy is reported to the Committee on a yearly basis.

12 New framework for Translation and Interpretation Services, including British Sign Language - key decision

Councillor Cheryl Barnard, Portfolio Holder for Children, Young People and Schools, and Roz Howie, Commissioning and Partnerships, introduced the report seeking approval to tender for a multiple provider framework to deliver translation and interpretation services and approval of the associated budget. They highlighted the following information:

- a) Nottingham City Council uses a number of suppliers to deliver translation and interpretation services to enable citizens with a language barrier or disability to access Council services;
- b) the current contracts are coming to an end in November and the Council is looking to establish a 4-year framework for multiple providers to deliver the translation and interpretation services, therefore supporting Best Value by consolidating providers with specialisms in specific areas;
- c) the intention is for the new framework to cover the full range of interpretation needs including non-standard British Sign Language and enable different dialects to be covered;
- d) when the current framework was put in place (pre-Covid pandemic), electronic methods were more expensive but this has now changed and is often better able to meet need. The need is for electronic, telephone and face-to-face services;
- e) having a range of suppliers in one framework should enable translation and interpretation support to be obtained quickly when needed to support citizens;
- f) one of the key performance indicators for the contract will be non-attendance by an interpreter as this has a cost for the commissioning authority and is poor service for the citizen;
- g) the framework would also allow other commissioning authorities (Nottinghamshire County Council, Nottingham and Nottinghamshire Integrated Care Board and Nottingham University Hospitals NHS Trust) to undertake their own call-offs, which again would support an integrated approach to access to translation services and achieve better value for money across the Integrated Care System.

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

- h) the ongoing Ockenden Review of maternity services provided by Nottingham University Hospitals NHS Trust has highlighted issues with translation services in the maternity units so it is good that the Trust will be able to use this framework to get rapid access to translation and interpretation services;
- i) suppliers will be encouraged to use local interpreters and this will be necessary for face-to-face translation in order to meet timeliness requirements;
- j) the proposed budget is based on the best estimate of demand, based on current spend. It is an amalgamation of budgets across different services, for which a number of different budget holders are responsible;
- k) within the framework, use of cheaper suppliers can be prioritised to reduce spend.

Resolved

- (1) to approve a tender process be undertaken for a multiple provider framework to deliver translation and interpretation services for a period of 4 years at a maximum total cost of £1,974,000;**
- (2) to delegate authority to the**
 - (a) Director of Commissioning and Partnerships to approve and award the outcome of the tender process for the framework; and**
 - (b) Head of Personalisation, Contracting and Quality to enter into and sign an appropriate Framework Agreement and to award and sign call-off contracts for Nottingham City Council.**

Reasons for recommendations

- A Translation and Interpretation service is required to enable citizens access Council services where there is a Language barrier or other communication need, such as British Sign Language. This service is required to ensure that the Council are able to perform their duties appropriately and meet statutory responsibilities in terms of equality of access.
- The existing arrangements are due to expire on 30 November 2023 and Nottingham City Council requires a new framework to ensure compliance with Nottingham City Councils Contract Procedure Rules and Best Value. For the new contract(s) award, the Procurement Team will be conducting an open tender process to establish a new framework which will be bespoke to Nottingham City Council, and which will allow other Commissioning Authorities (such as Nottinghamshire County Council and the Integrated Care Board) to have access and call off from it.
- The establishment of the framework does not imply any commitment of spend on the part of Nottingham City Council and spend will be based on activity and usage. Establishing a multiple supplier framework will ensure there is a choice of providers for colleagues and to ensure that there is sufficient supply to meet demand.
- The call-off process will encourage competitive pricing as suppliers will be called off based on specialism required, and best price.

Other options considered

- Not to procure a translation and interpretation service. This is not possible as the services are required to ensure citizens are able to access Council services.
- To extend the contract(s) to continue the service with the current provider(s). This is not an option, as all extension options in the current contracts have been utilised. The current arrangements were intended to be a short-term measure only whilst a more fit – for purpose arrangement was secured Currently there is

duplication in the services that are commissioned and this is therefore not in line with Best Value.

- To call off from existing established frameworks. This option was not considered to be suitable. This is because Nottingham City Council would like to have multiple providers to deliver these services. Creating a 'framework within a framework' is not compliant.

13 Domestic & Sexual Violence and Abuse Office of the Police and Crime Commissioner Legacy approvals - key decision

Jane Lewis, Community Safety Strategy and Commissioning Manager, presented the report regarding approval of domestic violence and abuse commissioned services. She highlighted the following information:

- a) legacy approval issues had come to light relating to a number of domestic and sexual violence and abuse commissioned services and the report sought to ensure that expenditure on these services had the appropriate approval;
- b) these services are included in the Nottingham City Council and Office of the Police and Crime Commissioner Partnership Agreement, under which the Council receives funding and commissions domestic violence and abuse services on behalf of the Community Safety Partnership;
- c) there were two elements to the approval required: retrospective approval for expenditure on delivered services; and approval for future spend on a number of services until the new commissioning framework is in place.

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

- d) the fragmented nature of funding for domestic and sexual violence and abuse services can be very confusing;
- e) while the Council hasn't increased funding into domestic violence services since 2012 it still compares well to other core cities. This is not something that the Council would want to diminish.

Resolved to

- (1) approve retrospectively the expenditure incurred on the delivery of the domestic violence and abuse services, at a cost of £1,131,520, as detailed in appendix 1, and in line with the Partnership Agreement, until the new Commissioning Framework is in place;**
- (2) approve expenditure on the continued delivery of domestic violence and abuse services, at a cost of £863,563, as detailed in appendix 1, in line with the Partnership Agreement until a new Commissioning framework is in place;**

(3) delegate authority to the Corporate Director of Communities, Environment and Resident Services to sign off contracts and variations to deliver the services, in line with the Council's Contract Procedure Rules and the Council's Partnership Agreement with the Office of the Police and Crime Commissioner.

Reasons for recommendations

To meet the requirements of the Partnership Agreement signed between the Council and the Office of the Police and Crime Commissioner to deliver domestic and sexual violence and abuse (DSVA) services. DSVA reporting has increased in Nottingham to the statutory sector and the voluntary and community sector in a slow trajectory since 2017/18 with the Police receiving 7,800 reports of domestic violence and abuse, in 2021/22 reports are running at 8,457 with a dip during covid down to 4,069 reports. The Juno Women's Aid 24-hour free phone DSVA city/ county helpline has experienced a different trajectory, with an increase from 2012 of 1,300 calls to the city per year, rising in 2019 to 1,800 calls to the City per year to an increase during the Covid pandemic of 3,000 calls to the city and this increase has remained high at 4,000 calls to the City. During the same timeframe Multi Agency Risk Assessment Conference referrals of the highest risk survivors rose from 500 per year to over a 1000, with a 10% increase in the last year. It is clear that there has been a year on year increase in reporting of domestic violence and abuse in Nottingham, with an increase in referrals to Women's Aid in particular, with a huge increase during the Covid pandemic and no return to pre-Covid levels. The Council has not increased funding into these services during this time and in the last couple of years there has been an increase in the costs of providing services.

Approval is required for services which have been delivered in the last few years, as it has not been possible to confirm whether it was granted at the time and approvals are required going forward as the services are still being delivered in line with their contracts.

Other options considered

To break the Council's Partnership Agreement with Office of the Police and Crime Commissioner (OPCC) and return the funding. As the OPCC is a key funder of both domestic and sexual violence and abuse services which Nottingham citizens benefit from it was concluded that this would not be an appropriate approach and therefore rejected.

To ask the OPCC to commission the services on the Council's behalf, despite the Partnership Agreement. This would put a huge burden on the OPCC when it is currently commissioning a wide range of services on the Council's behalf, including a Perpetrator Programme, Stalking Service, Sexual Violence and Abuse services, Therapeutic Services for children, services for deaf survivors of domestic abuse and services for Black and Minoritised communities of domestic abuse survivors. Therefore this option was rejected.

14 Approval to re-tender the Locallink bus services - key decision

Mark Garlick, Public Transport Policy, presented the report seeking approval to undertake procurement for the Linkbus bus service contract. He highlighted the following information:

- a) these services serve a high number of elderly and disabled residents and also provide access to jobs and education in areas of the City that are not served by the commercial bus network;
- b) an external review of the existing locallink services (by Integrated Transport Planning (ITP) Ltd), which included a consultation with users and employers along the routes, considered alternative timetables and operating models for the services, and provided cost estimates. The proposals (below) are in line with the review recommendations and ensure that best value will be achieved.
- c) The current fleet is a first generation electric bus fleet and due to the need to recharge the buses in the middle of the day during operational service and difficulty in sourcing replacement parts, the services currently have very poor reliability. Between 21 November 2022 and 31 March 2023, electric vehicles were only available for 60% of the required time. Due to the charging issues, eight vehicles are required to provide a service which would only require four with more conventional vehicles. It has also become increasingly difficult to source major component part replacements for the vehicles due to parts becoming obsolete as the technology has evolved and also due to global supply chain issues. As the vehicles near the end of their lives, major component parts, including the batteries, now require replacement at significant cost in order to maintain the reliability of the vehicles. The majority of the buses are expected to require replacement batteries and other parts at a cost of at least circa £100,000, which is not affordable given current financial constraints;
- d) to ensure reliable services are provided, the re-tender would seek quotes for Euro VI diesel buses, or modern electric buses or minibuses, which would be supplied and maintained by the contractor. Prices for each option would be requested to assess affordability. Under the existing contract, electric buses are supplied by the Council for use by the contractor. Changing the mode of operation and responsibility for maintaining the bus fleet requires a re-tender to be undertaken, as this would constitute a material change to the existing (CPU3236) contract, awarded in September 2021 and due to end in September 2024;
- e) following feedback from the consultation, the opportunity will be taken to make some timetable changes, but without increasing the resources required to operate the services.

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

- f) the reliability of these services is really important to its users, particularly those with mobility issues;

- g) ideally the bus fleet should be as 'green' as possible to support achievement of CN28 ambitions.

Resolved

- (1) to undertake a procurement process for the Linkbus service contract for a period of 2+1+1 years at a total maximum cost of £3,600,000.**
- (2) to delegate authority to the Corporate Director of Growth and City Development to award and sign contracts to the successful bidder following the outcome of the tendering process, subject to the costs being within the approved budget.**

(Note: The precise specification of the services to be put out to tender may be changed from the recommendations in the report, based on the considered findings that are received in the public consultation. This would be done following consultation with Councillor Kandola as Portfolio Holder, and on the basis of no change to the level of resource and cost involved.)

Reasons for recommendations

- To provide efficient and reliable services to employment and education sites, and to areas that would not have public transport services provided on a commercial basis.
- Within the tender process, opportunities for efficiency savings in providing these services will be sought. The tender process will ensure that the best value provision of services will be achieved.

Other options considered

- To continue to operate the current contract with the existing mode of operation. However, the first generation electric buses are now close to life-expired and require regular expensive repairs. The increased time to undertake the repairs also mean time out of service, leading to a less reliable service. Therefore this option was rejected.
- To withdraw the services due to rising costs. This option was rejected as it would lead to disruption for passengers and the removal of access to public transport for some residential and employment areas of the City, where commercial services would be more than 400m from residents.
- To operate services with alternative timetables or operating models. Following a review by Integrated Transport Planning Ltd (ITP), the preferred timetable offers the best compromise between cost and providing a six-day per week service to those passengers who experienced the most significant changes to provision in October 2022. For alternative operating models, Demand Responsive Transport (DRT) in particular was considered in the ITP review, but there was resistance to DRT among Locallink users in the consultation, and coupled with the broadly equivalent vehicle requirement to provide an on-demand service, DRT is not

recommended as the future operating model for this network. Therefore this option was rejected.

- To purchase new vehicles. New electric vehicles cost approximately £400,000, and the Department for Transport's ZEBRA (Zero Emission Bus Regional Areas) scheme which funded the purchase of the first-generation electric buses operating the services is not available to replace them with new electric vehicles. This option is therefore unaffordable and was rejected. Having vehicles provided by operators is also likely to be more attractive to bidders, increasing competition for the contract.

Subject:	Planned respite service for working age adults with a learning disability and autism		
Corporate Director:	Catherine Underwood – Corporate Director for People		
Director:	Katy Ball – Director for Commissioning and Partnerships		
Portfolio Holder:	Councillor Woodings – Adult Social Care and Health		
Report author and contact details:	Claire Labdon-West Claire.labdon-west@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Charlotte Dodds, Commissioning Lead Officer Jo Pettifor, Category Manager, People		
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 checked="" type="checkbox"/> Yes
			<input type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue	<input type="checkbox"/> Capital	
If Capital, provide the date considered by Capital Board			
Date:			
Total value of the decision:	£980,620.16 over two years		
Wards affected:	all		
Date of consultation with Portfolio Holder:	1 st September 2023		
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 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 type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):			
<p>This report seeks permission to run a competitive call-off from the Nottingham City Council Residential and Nursing accreditation for a planned respite service for working age adults with a learning disability and autism. This service will offer planned respite for citizens who have an assessed need for this under the Care Act.</p> <p>This arrangement will ensure that citizens are able to have planned access to respite and enable Nottingham City Council to meet its statutory duties, whilst also ensuring that Best Value is achieved.</p>			
Exempt information:	None.		
Recommendations:			
1	To approve the spend of up to £980,620.16 on a planned respite service for citizens with an assessed need under the Care Act 2014 over a contract period of two years.		

2 To delegate authority to the:

- (a) Director of Commissioning and Partnerships to approve the outcome of a competitive call-off under the accreditation contract for residential and nursing care.
- (b) Head of Personalisation, Quality and Contracting to sign the contract relating to the service.

1. Reasons for recommendations

- 1.1 Nottingham City Council has a legal duty to meet the need of citizens who have an assessed need for regular planned respite and under the Care Act 2014.
- 1.2 Approval is sought to conduct a competitive call off process from the existing residential and nursing contract to secure a minimum of 4 units of accommodation with support which will be available exclusively to Nottingham City Council for the purpose of delivering planned respite. The intention is to ensure that there is capacity to meet the demand for respite and ensure that Nottingham City Council is able to meet its statutory duty towards citizens who have eligible needs. To ensure this capacity it is recommended that a block purchasing arrangement should, if necessary, be utilised which will be determined from the responses to the competitive call off. Under a block purchasing arrangement the provider will not be able to utilise the units for any other purpose.
- 1.3 In addition to enabling Nottingham City Council to meet its statutory duty to provide planned respite where there is an assessed need, this provision will support carer resilience enabling citizens to remain at home and reducing the need for long term accommodation based support such as residential care or supported living. Placement breakdown often creates an emergency situation and can result in high cost placements which can be out of area depending on availability.
- 1.4 This arrangement will build on the success of the current service which has been in operation for the last 12 months. This arrangement has ended a significant period where planned respite has not been available to citizens and led to a number of households being at or near to crisis point.
- 1.5 A recent review of this provision has concluded that this service has been successful in delivering Best Value for citizens and has support from citizens and their families as well as colleagues within Adult Social Care who have been able to access this service.
- 1.6 The competitive call off process will build on the success of the current service to ensure that Nottingham City Council is maximising Best Value in terms of both the offer to citizens and the cost of the service. Providers will be asked to respond to the service requirements and scoring will be based on responses which focus on a combination of both quality and the cost of the offer.
- 1.7 It is recommended that the contract be awarded on a two year basis and that the service be monitored on a regular basis (minimum of monthly) to ensure that the service is performing effectively and appropriately utilised so that voids do not create a risk in terms of economic efficiency.

2. Background (including outcomes of consultation)

2.1 There has been a shortage of overnight respite provision for working age adults in Nottingham City since 2016 when the commissioned service provider made the decision to close. This led to a significant number of citizens who had an assessed need for planned respite not being able to access appropriate services. The main mechanism for securing respite was to purchase placements from the residential accreditation on an ad hoc basis and would be dependent on the availability at that time. Due to the lack of capacity for short term placements in this market, which was compounded by Covid, Nottingham City Council was not always able to meet its statutory duty effectively.

This situation led to the use of high cost short term residential placements which often had to exceed the required duration in order to make this desirable for providers. This also created an environment where a number of households who were assessed as requiring respite provision were unable to access it due to a lack of capacity, risking households going into crisis resulting in a placement breakdown and the need for long term care.

2.2 Colleagues from the Whole Life Disability (WLD) team were responsible for securing these ad hoc placements, which often meant spending significant periods of time contacting various providers to check availability. This made it challenging for respite to be planned in advance and was often provided in crisis situations.

2.3 There is an internal overnight respite service, Barkla Close which operates 3 units of accommodation, which reduced to 2 for a period due to Covid 19. This service is not specifically designed for citizens with a learning disability and there is currently a waiting time of several months to access this service. The current service has been able to support with reducing the waiting list for Barkla Close.

2.4 As of December 2022, there were around 30 families in need of respite who were at or were near crisis point with a significant risk of placement breakdown within the family home. There were an additional number of households who were waiting for respite but who had not yet reached crisis point.

2.5 This situation meant that ultimately Nottingham City Council was not fulfilling its statutory duty to a large number of households. At this time there were a number of complaints from families and carers of citizens who were unable to access respite provision.

2.6 There have been several attempts to fill this gap over the last 5 plus years, including commissioning another building based service and block purchasing a number of beds from the external market. None of the activity was sufficient to be able to meet the demand. In February 2022 all residential providers who were part of the Residential and Nursing Care accreditation and delivered services to citizens with a learning disability and / or autism were contacted to see if there was an appetite for them to deliver 6-8 units of accommodation which would be block purchased by Adult Social Care (ASC) for the use of planned respite. There was little initial response to this and the only provider who was able to pursue this option, did not have access to appropriate accommodation.

2.7 Following the EOI an opportunity arose to purchase 4 units of respite provision from a current residential provider. This was initially approved for a period of 12 weeks and permission was subsequently requested to extend this to a year which ends in 2023.

2.8 A review of this provision was completed in May 2023 which was the 6-month point of the service delivery. Citizens and their families and carers who had been able to access this service were contacted as part of this review.

The main findings of the review were as follows;

- The service has been effective in its core aim of enabling Nottingham City Council to meet its statutory duties. It has also achieved its aim of supporting carer resilience and all citizens who have accessed this service have remained at home with none requiring long term accommodation-based support.
- All citizens who had an assessed need for planned respite had been referred and all but 8 households have been able to access the provision. The service was unsuitable for a small number of citizens due to the shared nature of some elements of the building and the location of the service near to a busy road. Work to develop options for these citizens is discussed below.
- The target for utilisation is 90% which will ensure that voids are managed and not creating an economic risk to Nottingham City Council. This has steadily increased and now stands at 89% for August 2023.
- Feedback from citizens and their families was positive with families being able to have a break from their caring responsibilities without worrying about the welfare of the cared for person. Citizens have found this service to be a positive experience and enjoy the time they are there.
- The cost of this service provision is in line with regional comparator Local Authority areas. Many areas are struggling with respite provision for the same reasons that Nottingham City Council had been, and many are reliant on our previous model of purchasing residential placements on an ad hoc arrangement.
- The cost of this service is also inline with the internal Service at Barkla close, though is likely to be more economical when the capital costs of the building are accounted for.
- The provider controls the booking system for the service and liaises with families directly which takes this time-consuming task away from operational colleagues. This is a much more efficient use of Social Workers time as they are able to focus on other critical tasks.
- Colleagues have provided positive feedback on the service and have given examples of the impact that this has made on the lives of citizens, for example in one case the citizen was accessing 6 nights of respite per year and is now able to utilise their full entitlement of 50.
- The service delivers a number of functions within the cost of the service including;
 - Managing the booking system for around 300 admissions per year.
 - admission preparation which can be up to 10 hours for each of the 300 admissions.
 - Transition plans are developed where required which are costed in addition to the weekly fee in ordinary residential settings.
 - Repairs to damage caused by citizens which has been significant on occasion.
 - Transport to and from the service is included and to day services where it is deemed appropriate by ASC for this to continue.
 - Crisis management. The service has supported a small number of citizens in crisis situation where the alternative would have been a residential placement.

As part of the review it was also determined that in order to ensure that service efficiency was maximised, moving forward the provider would allocate a set number of weekends, mid-week and whole week breaks to households to ensure that utilisation was maximised.

- 2.9 As previously mentioned, there are a small number of citizens who are not able to access this provision. There is currently work underway with Nottinghamshire County Council and the Integrated Care Board to scope options for an enhanced service which is able to support citizens who require a self-contained environment and higher levels of staff intervention. This element will also be included in the planned competitive call off to determine whether or not this is deliverable by the market within the proposed model and budget.

3. Other options considered in making recommendations

- 3.1 Do nothing and continue to utilise placements called off on an individual basis from the residential accreditation. This was rejected as it has been established that this approach is not able to meet the needs of citizens and guarantee the capacity required for Nottingham City Council to meet its statutory duties.
- 3.2 Carry out a full tender process to incorporate providers outside of the residential and nursing accreditation contract. In order to deliver the service within the required timescale, the provider would need to be established with suitable accommodation and have the relevant CQC registrations. Respite provision is within the contract and this is the mechanism for bringing the service into the market within the required timescale.
- 3.3 Expand the internal provision of respite as an extension to Barkla Close. This option was being pursued prior to 2020 and a potential property was identified. The property was not a viable option and there is not an option to develop a property which would deliver immediate capacity. This option will be explored during the 2-year contract period of the service proposed in this report.

4. Consideration of Risk

- 4.1 There is a risk of the service being under utilised which means that the service will not be deliver value for money for NCC due to likely need for the block purchasing arrangement.

We will continue to monitor the service closely to ensure that the utilisation builds to 90% and remains there. Commissioning and the WLD have worked closely with the current provider to build referrals and ensure that all citizens who have an assessed need have been referred to the service. Refusals by the provider are closely monitored and scrutinised to ensure that they are reasonable.

Should utilisation fall we would consider the option of allowing other authorities such as Nottinghamshire County Council or the ICB to access the provision.

As with all Nottingham City contracts, the performance of the service will be monitored, and action taken to address performance concerns when required.

5. Best Value Considerations

- 5.1 Best Value has been considered at all stages. The current provision has been reviewed to determine Best Value and the competitive call off will build on this by ensuring that the following is tested:
- That Nottingham City Council has secured the best possible price for the provision of planned respite.
 - That Nottingham City Council has secured the maximum number of units within the established financial envelope.
 - Whether there is an option to work with a provider who does not require a block purchase arrangement but is still able to guarantee to capacity to Nottingham City Council.
 - Whether the needs of citizens with the requirement for completely self-contained accommodation are able to be met within the service.
 - That we have secured the best possible offer for citizens in terms of enablement, the promotion of independence and the objective of supporting citizens to remain with their families and reduce the need for emergency placements within long term care settings.
- 5.2 The provider will also be expected to continue to manage the booking system and the allocation of respite periods.
- 5.3 A number of Best Value reviews will take place including the internal respite provision at Barkla Close. As part of this review we will consider whether this internal offer should be expanded to include this planned respite service in the long term, or whether Best Value is achieved by purchasing this service from the market. There is currently not an option to deliver this internally within the required timescales.
- 5.4 Best Value will be monitored robustly throughout the life of this contract and action taken to address any concerns.
- 5.5 The service is currently close to being at capacity. Should this occur a decision will be made as to whether the capacity delivered is sufficient and what the appropriate action is to address this.
6. **Finance colleague comments (including implications and value for money/VAT)**
- 6.1 For reasons outlined by the report author, this decision seeks approval of expenditure of £980k over two years for a planned respite service for working age adults with a learning disability and autism. This service will offer planned respite for citizens who have an assessed need for this under the Care Act.
- 6.2 It is expected that this contract will start in December 2023 and will run in the following financial years: 2023/24 four months, 2024/25 twelve months and 2025/26 eight months.
- 6.3 This cost will be met from existing respite care budgets, incorporated within the Medium-term Financial Plan (MTFP).
- 6.4 This cost is not fully captured within current forecasts for external care provision within the in-year forecast position. This is because gross commitment data is adjusted based on the difference between actuals and commitments in prior

periods and there has historically been a low level of expenditure for this service due to a lack of provision. It is likely that the forecast will increase by the value of the contract for the relevant period. **If this decision is approved, the change in forecast principles for respite commissioned vs actual % will cause a further adverse movement in the Adults forecast outturn variance in 2023/24 as well as have knock on implications in 2024/25+ budgets.**

- 6.5 Actuals costs will need to be monitored to ensure they are correctly captured in the financial ledger and forecasts. The contract will also need to be closely managed to minimise voids and underutilisation of the service.
- 6.6 Any changes to that outlined in this decision will require further approval via the appropriate process.

Joanna Jenkins
Interim Senior Commercial Business Partner (Adult Social Care)
22/08/23

7. Legal colleague comments

- 7.1 In 2019 the Commissioning & Procurement Sub-Committee authorised the setting up an accreditation process for residential and nursing care services (see Commissioning & Procurement Sub-Committee report of 09/07/23), which fall within the light touch regime of the Public Contracts Regulations 2015. The proposal to undertake a competition from existing providers on the accreditation list to award a contract for 2 years for planned respite services as set out in the main body of this report, will be in accordance with the procedure for “call-offs” of such services and will enable the Council to meet its statutory duty under the Care Act 2014.

S O’Bradaigh, Senior Solicitor 22-08-23

8. Other relevant comments

8.1 Procurement colleague comments

This decision proposes the commissioning and procurement of a planned respite service for citizens with an assessed need under the Care Act 2014. The proposal arises from a successful pilot of this model of commissioning a block of respite beds and the service will enable the Council to meet its statutory duty and address the shortage of these beds. Best value will be secured by undertaking a competition between providers accredited to deliver residential and nursing services under the current accreditation contract. The Procurement Team will support to ensure a compliant process.

The value of this decision is understood to reflect the true anticipated cost of the service over the proposed contract period. This is understood to be based on current market information and making reasonable calculations to reflect inflation or other foreseeable impacts on cost. Any savings from this exercise will (if applicable) be allocated in respect of the Council's corporate savings target for procurement. Such savings will be calculated by deducting the actual contract value awarded from the approved budget.

Jo Pettifor, Category Manager, People - 7 August 2023

9. Crime and Disorder Implications (If Applicable)

9.1 N/A

10. Social value considerations (If Applicable)

10.1 The wellbeing of vulnerable adults with a learning disability and Autism. These services will also be procured with the requirement for providers to deliver additional social value. For example, recruiting local people, developing skills within the local communities and raising awareness of learning disabilities and autism with other professionals.

11. Regard to the NHS Constitution (If Applicable)

11.1 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 decisions relating to public health, functions we consider the NHS Constitution where appropriate and take into account how it can be applied in order to commission services to improve health and wellbeing.

12. Equality Impact Assessment (EIA)

12.1 Attached as appendix 1 and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 This service is being delivered under the current Residential and Nursing Care accreditation. The Data Protection elements of this contract will be reviewed in line with this call off and amendments to the DPIA made if required.

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No

Yes

X

Attached as Appendix 2, and due regard will be given to any implications identified in it.

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

15.1 **NA**

16. Published documents referred to in this report

16.1 **NA**

Equality Impact Assessment (EIA) Tool

Document Control

Control Details:	
Title of EIA/ Decision (DDM):	Planned Respite Service for Working Age Adults with a Learning Disability and Autism
Budget booklet code (if applicable):	
If this is a budget EIA please ensure the title and budget booklet code is the same as the title used within the budget booklet	
Name of author (Assigned to Pentana):	Claire Labdon-West
Department:	Commissioning and Partnerships
Director:	Katy Ball
Division:	People
Contact details:	Claire.labdon-west@nottinghamcity.gov.uk
Strategic Budget EIA:	No
Exempt from publication:	No
Date decision due to be taken:	12 th September 2023

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Document Amendment Record

Version	Author	Date
1	Claire Labdon-West	18 th August 2023
2		

Contributors/Reviewers (Anyone who has contributed to this document to be named)

Name	Title role	Date
Rosey Donovan	Equality and Employability Consultant	25/08/2023

Glossary of Terms

Term	Description
Respite	In the context of this decision respite is an overnight provision for a short period of time (weekend, midweek or whole week) to give the citizen, carer and family members a break.
Liquid Logic	Adult Social Care computerised system for storing citizen information securely.
EIA	Equality Impact Assessment
Expression of Interest (EOI)	Mini competition where providers of residential care can apply to deliver a particular service, in this case planned respite. Providers responses to a series of questions are marked on set criteria and the provider who best meets the criteria is selected.
Whole Life Disability Team	Adult Social Care Team supporting citizens with social care needs.

Section 1 – Equality Impact (NCC staff/ Service users/ Citizen/ Community impact)

1. a. Brief description of proposal/ policy/ service to be assessed

There has previously been a shortage of respite provision in Nottingham City and this was especially acute for citizens with a learning disability and autism who may display behaviours which challenge. This had been the case for a significant period of time since the closure of an accommodation-based respite service in 2015.

The consequence of this was that a number of citizens were not able to access regular planned respite for a significant period of time. According to the Whole life Disability (WLD) Team who work with this citizen group and have responsibility for sourcing respite placements, this had led to approximately 30 households reaching or nearing crisis

point. This was based on feedback from citizens and their families and the teams knowledge of the citizen group. The WLD team were of the view that there were an additional number of citizens who had respite contained within their support plans but were unable to access this provision and did not near the point of breakdown. This ultimately meant that households were maintaining their living arrangements but had not been able to access the respite provision that they have an assessed need for. This can put a large amount of pressure on the household as a whole and ultimately put these citizens at risk of carer breakdown which could lead to citizens requiring long term accommodation-based care.

This was an unsustainable position for Nottingham City Council as citizens were unable to access a service for which they had an assessed need under the Care Act. The number of citizen complaints in relation to this also increased.

Following an Expression of Interest (EOI) in early 2022 , an option was put forward by a provider of residential care, to utilise one of their services which could provide 4 units of respite provision. The accommodation would be available solely for the use of respite and would provide a solution for immediate lack of capacity for planned respite.

This service was initially commissioned as a three-month trial / pilot period and has subsequently been extended for a full year which ends in Dec 2023. The intention is to continue to deliver planned respite using this model of provision, but to complete a further EOI to ensure that Nottingham City Council is achieving best value for its citizens.

A review of the current respite service has been completed and there has been a positive response from citizens and their families / carers who have accessed this service and from the WLD Team who have been able to refer citizens in.

Members of the Commissioning Team made direct contact with citizens and their carers who had accessed the current respite service to obtain their views on the service. Feedback has been extremely positive and the vast majority have had a positive experience. Each citizen has their own support plan which, where appropriate, is enablement focused and they have an individually tailored programme of activities to take part in while there are at the service. Individual needs are met as part of the support plan.

The main point of concern reported by family members was that the service would end and they would not have another service and would be again unable to access respite support.

Colleagues also gave positive feedback of the service and that this had led to positive outcomes for citizens, as well as a more efficient use of their time. A citizen's experience was highlighted who had only been able to utilise 5 days respite per year under the previous arrangement and is now able to benefit from their full entitlement of 51.

All citizens who were deemed to have been in crisis have been referred to the service and all but a small number with very complex support needs have been able to access the service. The needs of this specific cohort of citizens will be included within the upcoming EOI to determine whether there is an alternative provider who can meet their requirements.

1. b. Information used to analyse the equalities implications

Information contained within Liquid Logic regarding citizens who have an assessed need for respite provision has been used to identify the unmet need for a respite provision. There isn't an accurate reporting mechanism within Liquid Logic so this will be monitored with the provider and will inform any future decision making.

The citizens utilising the service provision will be monitored by the Commissioning Team through regular meetings with the provider. If as a result of this, any equality impacts arise, this EIA will be updated reflect these along with any mitigations. The citizens who have accepted the service will be monitored as well as

those who have refused the provision. Analysis of refusal reasons from both the citizen and provider side will be ongoing and adjustments to service delivery will be made where appropriate and possible.

As part of the monitoring of this provision we will consult with the citizens and their families who have been offered this respite provision. The outcome of this will inform the further decision-making process.

1. c. Who will be affected and how?

Impact type (NCC staff/ Service users/ Citizens/ Community)	Equality group/ individual	Positive	Negative	None	Reasons for your assessment (Including evidence)	Details of mitigation/ actions taken to advance equality	Details of any arrangements for future monitoring of equality impact (Including any action plans)
	People from different ethnic groups			X			

	Men			X		
	Women			X		
	Trans			X		
Page 26	Disabled people/ carers	X			The service will support citizens with a learning disability and Autism	Monthly monitoring meetings will continue to ensure that citizens who require this service are able to access this. If as a result of this, any equality impacts arise, this EIA will be updated reflect these along with any mitigations
	Pregnancy and maternity			X		
	Marriage/Civil Partnership			X		

	People of different faiths/ beliefs and those with none			X			
	Lesbian/ Gay/ Bisexual people			X			
	Older			X			
	Younger			X			
Page 27	<p>Other (e.g. looked after children, cohesion/ good relations, vulnerable children/ adults), socio-economic background.</p> <p><i>Please underline the group(s) /issue more adversely affected or which benefits.</i></p>						

1. d. Summary of any other potential impact (including cumulative impact/ human rights implications):

The impact of this service is expected to be positive for citizens with a learning disability and their carers and families. Access to the service will be monitored through regular meetings with the provider to ensure that access and take up is equitable across all citizen groups. Where there are any concerns identified

these will be addressed as part of the ongoing monitoring of the service. If appropriate, this EIA will be updated reflect these along with any mitigations

Section 2 – Equality outcome

Please include summary of the actions identified to reduce disproportionate negative impact, advance equality of opportunity and foster good relations. Please pull out all the mitigations you have identified and summarise them in this action plan

Equality Outcome	Adjustments to proposal and/or mitigating SMART actions	Lead Officer	Date for Review/ Completion	Update/ complete
Prevent and eliminate unlawful discrimination, harassment, victimisation, and any other conduct prohibited by the Equality Act 2010.	No mitigation required at this point. Potential concerns will be identified through monitoring measures already identified.	Claire Labdon-West / Dawn Barrett	1 st April 2024	
Advance equality of opportunity between those who share a protected characteristic and those who don't	No mitigation required at this point. Potential concerns will be identified through monitoring measures already identified.	Claire Labdon-West / Dawn Barrett	1 st April 2024	
Foster good relations between those who share a protected characteristic and those who don't	No mitigation required at this point. Potential concerns will be identified through monitoring measures already identified.	Claire Labdon-West / Dawn Barrett	1 st April 2024	

(Please add other equality outcomes as required – e.g. mitigate adverse impact identified for people with a disability)				

Please note: All actions will need to be uploaded onto Pentana

Section 3 – Approval and publishing

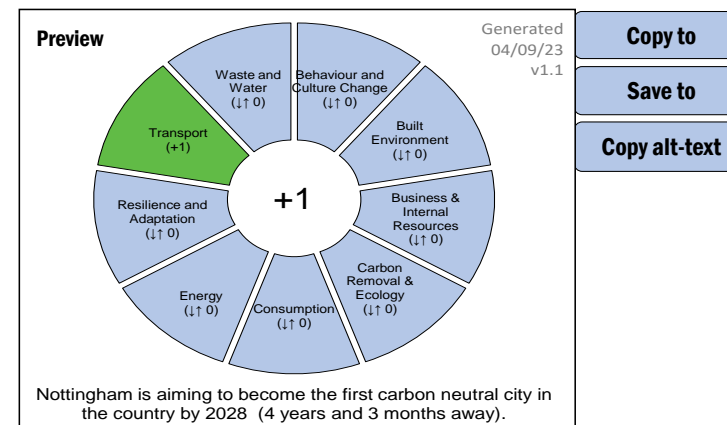
<p>The assessment must be approved by the manager responsible for the service /proposal.</p> <p>Approving Manager details (name, role, contact details):</p> <p>Karla Banfield, Head of Commissioning scandmd@nottinghamcity.gov.uk</p>	<p>Date sent for advice:</p> <p>30th August 2023</p>
	<p>Approving Manager Signature:</p> <p>Karla Banfield</p>

For further information and guidance, please visit the [Equality Impact Assessment Intranet Pages](#)
Alternatively, you can contact the Equality and Employability Team by telephone on 0115 876 2747

Send document or link for advice and/ or publishing to: edi@nottinghamcity.gov.uk

Carbon Impact Assessment Dashboard Tool (v1.1)

Report Name	Planned Respite Service for Citizens with a Learning Disability and Autism
Report date	12th September 2023
Report author	Claire Labdon-West
Project Notes	To continue to deliver a planned respite service for citizens with a learning disability and autism through a competitive call off from the Residential and Nursing Accreditation
Export filename	<i>Planned Respite Service for Citizens with a Learning Disability and Autism CIAD</i> .png 12th September 2023



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Category	Impact	Notes / justification for score / existing work (see guidance sheet or attached notes for more information)
Behaviour and Culture Change	Communication & engagement	Providers are required to deliver services in line with the Nottingham Business Charter to 'Be Environmentally Responsible'. Providers are required to ensure that they are considering the impact of their service delivery and consider how environmental sustainability can be maximised
Behaviour and Culture Change	Wider influence	see above
Behaviour and Culture Change	Working with communities	see above
Behaviour and Culture Change	Working with partners	see above
Built Environment	Building construction	The units used for respite provision will be part of an existing scheme so no new development or construction is required
Built Environment	Building use	see above
Built Environment	Switching away from fossil fuels	No Impact
Business & internal resources	Developing green businesses	This service will be delivered under an existing contract and be placed within existing services.
Business & internal resources	Marketable skills & training	see above
Business & internal resources	Sustainability in business	see above
Business & internal resources	Material / infrastructure requirement	see above
Carbon Removal & Ecology	Carbon storage	This service will be delivered under an existing contract and be placed within existing services.
Carbon Removal & Ecology	Biodiversity & Ecology	see above
Carbon Removal & Ecology	Bee friendly city	see above
Carbon Removal & Ecology	Carbon offsets	see above
Consumption	Food & Drink	The service is currently being delivered by a provider within the City so no increase in consumption through this activity.
Consumption	Products	see above
Consumption	Services	see above
Consumption	Local and low-carbon production	see above
Energy	Local renewable generation capacity	No change

Energy	Reducing energy demand	No change, this service ensures that NCC is able to meet statutory duties under the Care Act 2014
Energy	Improved energy storage	No change
Resilience and Adaptation	Green / blue infrastructure	No impact. The service will be delivered within existing provision.
Resilience and Adaptation	Natural flood management	see above
Resilience and Adaptation	Drought vulnerability	see above
Resilience and Adaptation	Flooding vulnerability	see above
Resilience and Adaptation	Heatwave vulnerability	see above
Transport	Staff travel requirement	Providers are required to deliver services in line with the Nottingham Business Charter to 'Be Environmentally Responsible'. Providers are required to ensure that they are considering the impact of their service delivery and consider how environmental sustainability can be maximised
Transport	Decarbonising vehicles	see above
Transport	Improving infrastructure	see above
Transport	Supporting people to use active travel	see above
Transport	Reduced need to travel	see above
Waste and Water	Single-use plastic	Providers are required to deliver services in line with the Nottingham Business Charter to 'Be Environmentally Responsible'. Providers are required to ensure that they are considering the impact of their service delivery and consider how environmental sustainability can be maximised
Waste and Water	End of life disposal / recycling	see above
Waste and Water	Waste volume	No change as this is an existing provision

Agenda Item 5

**Commissioning and Procurement Executive Committee / Companies
Governance Executive Committee – 12/09/2023**

Subject:	Procurement of Waste Services		
Corporate Director(s)/ Director(s):	Colin Parr, Corporate Director for Communities, Environment & Resident Services		
Portfolio Holder(s):	Councillor Corall Jenkins, Portfolio Holder for Energy, Environment and Waste Services and Parks		
Report author and contact details:	Carl Pendleton - Waste Disposal Manager E: carl.pendleton@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 £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		
If Capital, provide the date considered by Capital Board	Date:		
Total value of the decision:	£10m over ten years at present value, this is subject to new tender rates and inflation over the period.		
Wards affected:	All		
Date of consultation with Portfolio Holder(s):			
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 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):			
<u>Green Waste Composting:</u>			
The Council has a statutory duty as a Waste Disposal Authority under Section 51(1)(a) of the Environmental Protection Act 1990 (EPA) to arrange for the disposal of controlled waste collected in its area by the Waste Collection Authority which is also the Council. The current contract for green waste composting expires in March 2024, after running for the last five years. The separate collection and composting of green waste contributes c.12% per annum to the Council's overall recycling performance.			
As a result, a procurement exercise needs to take place to continue to provide this essential service in a compliant manner.			
<u>Household Waste & Recycling Centre (HWRC):</u>			
The Council has a statutory duty under Section 51(1)(b) of the EPA to provide places at which			

persons resident in its area may deposit their household waste. The EPA requires that each place provided is open at all reasonable times including at least one period on a Saturday or Sunday. The Council has discretion to determine the number of these facilities, the location of such facilities and the opening hours. The Council currently provides one HWRC for its residents located on Redfield Road in Lenton.

The current contract for managing this HWRC expires in March 2024. As a result, a procurement exercise needs to take place to continue to provide this essential service in a compliant manner.

Exempt information: State 'None' or complete the following

None

Recommendation(s):

- 1 To approve the undertaking of a compliant procurement exercise for the provision of a green waste composting contract for the Council;**
- 2 To approve the undertaking of a compliant procurement exercise for the provision of management and operational services of the Council's Household Waste and Recycling Centre under contract to the Council;**
- 3 To delegate authority to the Corporate Director for Communities, Environment & Resident Services, in consultation with the Director of Legal and Governance and the Corporate Director of Finance and Resources, to award contracts to the successful bidders**

1. Reasons for recommendations

- 1.1 To allow the council to discharge its statutory duty as a Waste Disposal; Authority through tendering exercises defined by the Public Contract Regulations 2015 for the procurement of these waste disposal services.
- 1.2 To procure provision for appropriate treatment of waste, via a competitive tendering exercise, enabling value for money and to seek continuously improving environmental performance through increased recycling, recovery and diversion of waste from landfill.

2. Background (including outcomes of consultation)

- 2.1 The Council has a statutory duty under Section 51 of the Environment Protection Act (EPA) 1990 to provide places at which persons resident in its area may deposit their household waste. The EPA requires that each place provided is open at all reasonable times including at least one period on a Saturday or Sunday. The Council has discretion to determine the number of these facilities, the location of such facilities and the opening hours. The Council currently provides one HWRC for its residents located at Redfield Road in Lenton.

Whilst the Council owns the HWRC, historically the management and operation of this service has been outsourced, adhering to financial and EU procurement rules. Assessment of the merits of bringing this service provision in-house concluded that conditions were not favourable as contracts for the

eventual reprocessing or disposal of the waste managed through the HWRC form the largest proportion of the cost for providing this service and these contracts would still be necessary. Currently, the Council does not have any scalable advantage in the sale of recyclables or direct disposal of waste collected through the HWRC as it does not directly operate waste reprocessing or disposal facilities. The current volatility of the secondary recycling commodity markets means that the Council would likely be significantly disadvantaged on such a small-scale operation. Therefore, the option to seek competitive tenders is being sought.

- 2.2 The Council has a statutory duty as a Waste Disposal Authority (Unitary Authority) under the Environment Protection Act (EPA) 1990 to arrange for the disposal of waste collected on its behalf as a Waste Collection Authority. Green waste composting adds significantly to the City's recycling rate (c.12% per annum) which contributes towards the Council's Carbon Neutral 2028 (CN28) agenda. By continuing to secure green waste processing capacity within appropriate geographic proximity to the City, the Waste Disposal service aims to reduce the Council's carbon transport impact. The nature of large industrial composting requires large amounts of space, distance from near neighbours and ideally close to where the end product (compost) is utilised, usually on farm. These conditions preclude the possibility of providing this service in-house. Therefore, the option to seek competitive tenders is being sought.

3. Other options considered in making recommendations

- 3.1 The option to do nothing is rejected on the basis that delivery of the services described would not be compliant with the Council's Contract procedure Rules.
- 3.2 The option to directly award contracts is rejected on the basis that it would not comply with Public Contract Regulations 2015.
- 3.3 The current contracts expire in March 2024. As a result, the solution which offers Best Value to the Council is to seek new contracts through competitive tendering. In-sourcing has been discounted and there are no viable delivery solutions which meet the Council's requirements.

4. Consideration of Risk

- 4.1 Lack of competition during a tendering exercise is a recognised risk in pursuing new contracts. The two incumbent contractors have indicated that they would be keen to submit bids, although at this stage this is not guaranteed. There are alternate providers for these services, although based on service intelligence, this is limited. The Council will actively engage with known suppliers to encourage bids and competition for these services.

5. Best Value Considerations

- 5.1 Bringing these services in-house would be impractical in the short to medium term and offers no material advantage. For the HWRC contract, the largest proportion of cost is the off-site treatment of waste collected through the HWRC, including separation into component materials and onward delivery of separated wastes to end-markets for recycling or further waste treatment. To secure Best Value it is sensible to ensure that the entity tasked with management and operation of the

HWRC itself, also has access to such waste processing facilities and end-markets and can obtain the best prices through economies of scale by combining waste managed through the HWRC with other wastes within its portfolio to place on the market. The Council has no ability or capacity to screen or store bulked materials, nor does it have suitable arrangements for accessing recycling markets directly or hauling waste directly to reprocessors. For this reason, tendering a contract for HWRC operation to incorporate onward treatment of waste collected through the site, is the better option to deliver Best Value.

- 5.2 For green waste composting, in-house provision would require the Council to obtain a suitable site and obtain the necessary planning and permitting consents necessary to compost green waste at scale, in addition to finding end-markets for the compost product produced. The Council would find it challenging in the current financial climate to raise the necessary resources to deliver this as a viable option.
- 5.3 There is currently no opportunity to jointly procure these services with other local authorities due to the times of their current contract expiry dates being incompatible. Flexibility in this regard is a consideration in determining the length of contract award with the proposal to award for an initial two years with options to extend annually up to a maximum of ten years for each contract. If circumstances change and better value can be delivered through joint enterprise with other local authorities, the contract structures would therefore allow for such flexibility.
- 5.4 Completing an open tender procurement, taking into account service requirements and flexibility demonstrates best value in these cases at this current time.

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

- 6.1 In undertaking a compliant procurement process for these contract renewals, consideration and adherence to Financial Regulations will be required and the renewal must ensure value for money is achieved by the Council.
- 6.2 The contracts have sufficient budget to cover their current costs within the service. Contract costs are increased annually by RPI. An allowance for this inflationary increase is contained within the MTFS budget pressure funding for the service ensuring inflation is covered.
- 6.3 As part of the procurement process, the value of the contracts and the available budgets must be a key consideration. Should the revised contracts exceed the budgets this will result in a budget pressure which will need to be managed by the service. If it is not possible to contain costs within the current available budget or by the service, the Corporate Director of Communities, Environment and Residents Services will need to be consulted on options and if a pressure arises the Section 151 Officer will need to be consulted before the contracts can be agreed.

Sejal Mistry
Senior Commercial Business Partner
19th July 2023

7. **Legal colleague comments**

Nottingham City Council has a statutory duty under the Environmental Protection Act 1990 to arrange for the disposal of residential waste. Given the total estimated value of the contract, a full procurement exercise will need to

be undertaken in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.

S O'Bradaigh, Senior Solicitor 01-08-2023

8. **Other relevant comments**

8.1 **Procurement colleague comments**

Procurement colleagues will assist with the tendering exercise on order to secure a best value compliant contract, the contract will have break clauses inserted into the agreement to further ensure best value for the duration of the contract.

Comments provided by Paul Ritchie, Procurement Category Manager 17/07/2023.

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

- 9.1 Both these functions enable residents to dispose of waste compliantly with due regard to its environmental impact and thus avoid and reduce enviro-crime through provision of , appropriate waste management services.

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

- 10.1 The Nottingham City Council Procurement Strategy 2018-2023 drives social value for the City by outlining how we will address economic, social and environmental considerations at all stages of the procurement cycle, through the framework of the Public Services (Social Value) Act 2012. It sets out under its key economic, social and environmental themes how procurement will deliver the objectives of supporting the local economy, delivering social and community benefits, and environmental sustainability through all purchasing activity. Social value will be evaluated based on the qualitative responses received from bidders to the two tender opportunities.

- 10.2 In this context, both these services (provision of HWRC and treatment of separately collected green waste) provide opportunity to meet several of the social and environmental benefits identified in the Procurement Strategy including:

- Ensuring procured services are accessible and appropriate to meet the diverse needs of all citizens and communities;
- Ensuring that the successful contractor commits to, and adopts the ethical employment practices set out in the NCC Business Charter and commits to employment and training opportunities for the most disadvantaged communities; focusing on offering entry level jobs;
- Maximising social and community benefits wherever possible through relevant requirements in specifications, for example through the development of community reuse schemes in partnership with successful the HWRC operator (this also facilitates actions defined within the Council's Municipal Resources and Waste Strategy);
- Taking a 'whole lifecycle' approach to costs – including considering the external costs of environmental impacts, where these can be quantified and monitoring the supply chains accessed by contractors to further minimise the carbon impact of providing these services;

10.3 These services are highly valued by residents, many see them as essential services to enable them to dispose of their household waste which they are unable to present for kerbside collection, and to dispose of their green waste by recycling it into compost. The contracts will require the successful operator to meet key contractual Performance Indicators defined by social value considerations. This will ensure that the contracts are designed to maximise the social value objectives set out by the Council.

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

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

No

An EIA is not required because:

This represents no change in service, design or delivery

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because:

The activities do not require the collection or processing of any data bound by data protection laws

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because:

As part of the recently adopted Municipal Resources and Waste Strategy, a carbon impact assessment of the whole waste management service was presented to demonstrate retention of these services was essential to reducing its carbon impact

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

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 None

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Subject:	Dynamic Purchasing System for provision of ULEV and Hybrid type vehicles		
Corporate Director:	Colin Parr – Communities, Environment and Resident Services		
Portfolio Holder:	Councillor Angela Kandola - Highways, Transport and Planning		
Report author and contact details:	Holly Fisher holly.fisher@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Andrew Smith, Assistant Fleet Manager Anthony Heath, Senior Solicitor, Contracts and Commercial Paul Ritchie, Procurement Category Manager, Products Tom Straw, Senior Accountant (Capital Programme)		
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 checked="" 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 checked="" type="checkbox"/> Capital (see finance comments)		
Total value of the decision: £10,000,000 over 10 years (£1,000,000 per annum)			
Wards affected: All			
Date of consultation with Portfolio Holder:			
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 type="checkbox"/>	
Keeping Nottingham Moving		<input checked="" 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 service area is seeking permission to establish and manage a Dynamic Purchasing System (DPS) for the provision of Ultra Low Emission Vehicle (ULEV) and Hybrid type vehicles. This DPS will be accessible by all other public sector contracting bodies and the service specification of the DPS will allow for supply and maintenance.			
Exempt information: None			
Recommendations:			
1 To approve undertaking a procurement process to establish an Ultra Low Emission Vehicle Dynamic Purchasing System for all UK public sector contracting authorities with respect to Ultra-Low Emission Vehicle cars, light vans and passenger carrying vehicle purchases.			

2 To delegate authority to the Corporate Director for Communities, Environment and Resident Services to:

- (a) enter into the initial Ultra-Low Emission Vehicle Dynamic Purchasing System to the Director of Resident Services;
- (b) sign all call-off orders under the terms of the Dynamic Purchasing System.

1. **Reasons for recommendations**

1.1 A DPS is a two-stage process that is used as a mechanism through which the Council will then procure vehicles. The benefits of establishing a DPS, rather than a framework are:

- a DPS is open during its lifecycle, which means new providers can apply to the DPS at any point in time. There is no limit to the number of providers that can be admitted onto the DPS;
- there is not a fixed pricing schedule meaning that there is constant competitive tension. Not having a fixed pricing schedule shares the risk of market volatility between the supply chain and Council;
- constant competition for the supply of vehicles with an overarching specification avoiding the risk of over-specification and limiting future offers.

1.2 The DPS will consist of eight lots. There is no limit on the number of providers accepted onto each lot. Suppliers can apply for any and all lots:

- Lot 1 - Cars, MPV's, 4x4's, SUV's, including WAV options etc;
- Lot 2 - Light Commercial Vehicles up to a maximum of 7499kg GVW;
- Lot 3 - Minibuses (including Wheelchair accessible vehicles);
- Lot 4 - Sweepers up to a maximum of 18T GVW all configurations;
- Lot 5 - Large Goods Vehicles up to a Maximum of 32T;
- Lot 6 - Buses & Coaches (Midi-buses);
- Lot 7 - Scooters and Motorcycles;
- Lot 8 - Repower of existing Internal Combustion Engine vehicle chassis.

1.3 The structure of the DPS considers not only any future fleet requirements, but those of other Council departments (Greenspace, WhyNott Transport, Zebra projects, etc).

1.4 Individual or multiple vehicles can be bought under the terms of the DPS.

1.5 The rebate payable by users of the DPS is (on average) 0.5% lower than third party framework and DPS providers and nationally accessible by all public sector contracting bodies.

1.6 Under the terms of any DPS, there is not a commitment to spend or to place a minimum number of orders.

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

2.1 At present, the service area has a framework in place for the provision of ULEV and Hybrid type vehicles. This framework was for an initial two-year period, with the option to extend for two further twelve-month periods. This framework is accessible to

all other public sector organisations with a 1% rebate payable to the Council from the named suppliers.

2.2 The framework has been accessed by 10 other public sector organisations, with a combined spend of circa £2,500,000. These purchases have also been factored into the structure of the DPS.

2.3 The structure of the framework is fixed, meaning that regardless of conditions in the market or supply base, new suppliers cannot join. At times, the framework has prevented new entrants to the market from being able to access opportunities with the Council. As an example only, manufacturers including Mercedes Vans, Kia Cars, Vauxhall, Fiat, Peugeot, Citroen cars and vans and Renault Trucks have recently been unable to access opportunities with the Council. A DPS is open during its lifecycle, which means new providers can apply to the DPS at any point in time as long as they satisfy the published criteria.

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

3.1 Renew framework in its current structure – this option was rejected to enable the supply base to grow and to offer the client team assurances of their needs being met via a compliant procurement mechanism. A framework is also limited in its potential maximum length, four years. A DPS can be longer and the criteria used should maximise the chance of ‘future-proofing’ the arrangements for the proposed term.

3.2 Undertake ad-hoc tenders at the point of demand – this option was rejected to avoid any duplication of work and to ensure all vehicle purchases are going through a compliant procurement mechanism with a specification created with the Council in mind.

3.3 Access external third-party frameworks at the point of demand – this option was rejected to avoid any duplication of work and to be paying any rebate fees to third parties as opposed to benefitting from rebates paid to the Council by 3rd party users of the DPS. Creating our own DPS also provides a way to ensure all vehicle purchases are going through a compliant procurement mechanism with a specification created with the Council in mind.

4. **Consideration of Risk**

4.1 Supplier Failure – there will be a contract and scoring mechanism within the DPS terms that means any supplier that does not meet its obligations can be removed from the DPS. Supplier Performance can be monitored and managed utilising the existing procurement system.

4.2 Market Volatility – a DPS does not provide a schedule of rates/basket of goods, as prices are provided at the point of requirement and so reflected the market rate at the time. This does not provide the Council with assurances on potential cost, but there will not be a commitment to purchase any asset without a Purchase Order.

5. **Best Value Considerations**

5.1 All requirements will be competitively tendered at the time of requirement, thereby maintaining competitive tension.

5.2 Fleet have introduced a new robust business case process which is required of each individual replacement vehicles. The business case is required evidence approvals,

Funding, service need, and alternative service delivery options including but not exclusive to extending the life of the current fleet or increased utilisation of the current fleet.

- 5.3 CN28 and the reduction in fleet emission is mitigated through the replacement of current vehicles with new ULEV or EV alternatives where reasonably practicable which this DPS system is designed for.

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

- 6.1 The approved Capital Programme for 2023/24 has a fleet replacement budget of £3.654m. As part of balancing the capital budget future year spend (i.e. 2024/25 to 2026/27) has been classed as temporarily decommissioned due to shortfall in secured capital receipts when the budget as set.
- 6.2 As part of the capital budget consultation it is anticipated the 2024/25 budget will be recommitted. It is the project manager's responsibility to ensure that the purchasing of the ULEV / Hybrid vehicles is within the approved budgets set as part of the capital budget process.
- 6.3 This decision doesn't require endorsement by the Capital Board as it relates to an already approved project.

Tom Straw, Senior Accountant (Capital Programme) - 25 August 2023

7. **Legal colleague comments**

- 7.1 This report seeks permission to establish a Dynamic Purchasing System (DPS) for the provision of Ultra Low Emission Vehicle (ULEV) and Hybrid type vehicles for the Council but also available to other public bodies.
- 7.2 Generally, this proposal raises no significant legal concerns and Legal Services will support the procurement process, contract creation and contract management.
- 7.3 The Council will need to ensure compliance with the Public Contract Regulations 2015, in particular Regulation 34, and the Council's Constitution in both the market engagement and the subsequent contracting arrangements.
- 7.4 From a practical perspective, the Council will need to ensure that it manages the DPS actively, dealing with under-performance expeditiously especially where 3rd party public bodies are accessing the DPS.

Anthony Heath, Senior Solicitor, Contracts and Commercial - 17 August 2023.

8. **Other relevant comments**

Procurement colleague comments

Procurement colleagues will assist with the tendering process and will ensure a fully compliant, value for money DPS is set up.

Paul Ritchie, Procurement Category Manager, Products – 27 July 2023

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

- 9.1 N/A

10. Social value considerations (If Applicable)

10.1 Due to the anticipated overall value, all suppliers applying to the DPS will be expected to agree to the Business Charter and meet the specified employment and opportunity targets.

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

12.1 An EIA is not required because the DPS is for the provision of vehicles only and considers existing contract spend.

13. Data Protection Impact Assessment (DPIA)

13.1 A DPIA is not required because the DPS is for the provision of vehicles only.

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required.

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 None.

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Subject:	Hot Water Agreement		
Corporate Director:	Colin Parr - Communities, Environment & Resident Services		
Portfolio Holder:	Councillor Corall Jenkins - Energy, Environment, Waste Services and Parks		
Report author and contact details:	Antony Greener, Head of District Heating and Waste Strategy antony.greener@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Sejal Mistry, Senior Commercial Business Partner Anthony Heath, Contracts and Commercial Steve Oakley, Head of Procurement		
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: £800,000			
Wards affected: St Anns, Mapperley, Castle, Meadows, Dales			
Date of consultation with Portfolio Holder:			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input checked="" 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 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):			
<p>The Council has a separate contract with Wastenotts (Reclamation) Ltd for the supply of supplementary hot water, recovered from the cooling of flue gases at the Eastcroft Incinerator to the Nottingham District Heating Scheme. The report seeks approval to extend the contract term to 30th June 2030 to become co-terminus with the District Heating Scheme Agreement 1972.</p>			
Exempt information:			
<p>An appendix to this report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>It is not in the public interest to disclose the information because it may offer a competitive advantage to other companies tendering for future Council contracts.</p>			

Recommendations:

- 1 To approve an extension to the Hot Water Agreement between the Council and Wastenotts Reclamation Ltd for the supply of Hot Water to the Nottingham District Heating Scheme.
- 2 To delegate authority to the Director of Legal and Governance to seal a Deed of Variation to the contract to extend the contract term as detailed in the report.

1. Reasons for recommendations

- 1.1 The extension to the contract term will secure the supply of hot water recovered from the Eastcroft Incinerator to provide supplementary heat energy to the district heating network to align with the expiry of the District Heating Scheme Agreement.

2. Background (including outcomes of consultation)

- 2.1 The Council has a contract with Wastenotts (Reclamation) Limited to supply waste disposal and steam supply services from the Eastcroft Incinerator. During the 1990s modifications to the Eastcroft Incinerator enabled additional recovery of energy from the cooling of flu gases in the form of hot water and a contract was entered into between Wastenotts and the Council's subsidiary company, Enviroenergy Ltd for access to this additional heat source.
- 2.2 The necessary infrastructure to recover waste heat, and a separate pipe were installed at the Eastcroft Incinerator, feeding to the London Road Heat Station and c. 30,000MWh of energy, in the form of hot water, is delivered annually to the heat station. The hot water supplements the requirements of the district heating scheme, whose principal energy source is the steam delivered under the District Heating Scheme Agreement 1972.
- 2.3 In 2013, the original contract expired and was replaced by a contract between the Council and Wastenotts directly. This contract requires renewal through an extension to its term, to ensure the supply of hot water is maintained on a contractually sound basis.
- 2.4 The parties have agreed to extend the Hot Water contract on existing terms and conditions, such that it becomes co-terminus with the District Heating Scheme Agreement 1972, as amended by the Steam Agreement 1994 variation, as amended by a side letter in 2013, and therefore expires on 30th June 2030.
- 2.5 Entering into the contract extension, by means of a Deed of Variation to the contract will create a suite of contracts between the Council and Wastenotts regarding the delivery of energy to serve the Council's district heating scheme which are all co-termini.

3. Other options considered in making recommendations

- 3.1 The option to do nothing was rejected on the basis that it would not comply with Contract Procedure Rules.
- 3.2 The option to not extend the contract term for Hot Water supply is rejected because the energy supply is essential to the successful operation of the Nottingham District Heating Scheme, and significant heat recovery infrastructure would need to be decommissioned at the Eastcroft Incinerator plant.

4. Consideration of Risk

- 4.1 There are no additional contractual risks to consider because the extension is proposed on the basis of retaining the existing terms and conditions. Both parties acknowledge that if agreement is reached to vary the terms of the existing contracts between the parties which cut across any existing contractual provisions, then these new arrangements will supersede any existing contracts in place.

5. Best Value Considerations

- 5.1 The Council recognises that the receipt of hot water recovered from the cooling of flu gases at the Eastcroft Incinerator to be best value. Other cooling options would require this heat to be dissipated to atmosphere by cooling fans requiring additional electrical energy to service this system. With no useful energy recovered, the efficiency of the Combined Heat and Power plant would reduce, and the heat lost would need to be replaced from other, more expensive, sources.

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

There is an existing approved revenue budget in the Council's MTFP to cover the extension to the Hot Water Agreement between the Council and Wastenotts Reclamation Ltd for the supply of Hot Water to the Nottingham District of £0.793m.

Sejal Mistry, Senior Commercial Business Partner - 27 June 2023

7. Legal colleague comments

- 7.1 This report seeks authority to extend a contract. The contract has already come to the end of its term, on 5th March 2023, but the parties have continued to meet their obligations under that contract.
- 7.2 Procurement colleagues will deal with the procurement issues and recommended approach in their comments.
- 7.3 The proposed Deed of Variation seeks to extend the term of the contract until the expiry of the present agreement (1st July 2030) or, if earlier, the date on which supply ceases pursuant to a new energy supply agreement being entered into; all other terms of the contract remain as agreed in 2013. Subject to Procurement colleagues comments, and the Council retaining flexibility for early termination should circumstances warrant, this proposal raises no significant legal risks.

Anthony Heath, Contracts and Commercial – 4 August 2023

8. Other relevant comments

- 8.1 Under regulation 88 of the Utilities Contract Regulations 2015 an extension to a contract is allowed where a change of contractor for economic or technical reasons would cause significant inconvenience or substantial duplication of costs. As the supply of hot water can only be supplied to the network via the incinerator at Eastcroft Depot, without building a new incinerator, the extension to the contract is believed to be covered by regulation 88 (1) (b) of the Utilities Contract Regulations 2015. Therefore, this decision raises no significant procurement concerns.

Steve Oakley, Head of Procurement – 4 August 2023

9. Crime and Disorder Implications (If Applicable)

9.1 N/A

10. Social value considerations (If Applicable)

10.1 The Nottingham District Heating Scheme provides heating to 5,056 domestic customers who benefit directly from the recovery of the hot water delivered under the Hot Water Agreement.

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

12.1 An EIA is not required because the contractual arrangement described has no direct impact on Council policy affecting any group of individuals holding protected characteristics.

13. Data Protection Impact Assessment (DPIA)

13.1 A DPIA is not required because the decision does not propose changes to existing obligations of the Council with respect to data protection.

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required because a recent CIA of the Nottingham District Scheme demonstrated that in 2022 the Scheme offset 15,315 tonnes of CO₂e. The supply of hot water contributes to this performance, and the recommendation is to retain current provision.

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 None.

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