



Nottingham City Council **Commissioning and Procurement Executive Committee**

Date: Tuesday, 10 October 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 876 4302

- 1 Apologies for absence**
- 2 Declarations of interests**
- 3 Minutes** 3 - 10
Last meeting held on 12 September 2023 (for confirmation)
- 4 Integrated and online Sexual Health Service contracts extension - key decision** 11 - 20
Joint report of Corporate Director for People and Director of Public Health
- 5 Merchandise Concession Contract at the Royal Concert Hall - key decision** 21 - 26
Report of Corporate Director for Communities, Environment and Resident Services
- 6 Re-tender of Old Market Square winter and summer events offer 2024-28 - key decision** 27 - 32
Report of Corporate Director for Communities, Environment and Resident Services
- 7 Exclusion of the public**
To consider excluding the public from the meeting during consideration of the remaining items in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

8	Exempt appendix - Merchandise Concession Contract at the Royal Concert Hall	33 - 34
9	Exempt appendix - Old Market Square summer and winter events offer 2024-28	35 - 36

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

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 12 September 2023 from 10.04 am - 10.54 am

Membership

Present

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

Absent

Councillor Cheryl Barnard (Vice Chair)

Colleagues, partners and others in attendance:

Antony Greener	- Head of District Heating and Waste Strategy
Andy Smith	- Assistant Fleet Manager
Claire Labdon-West	- Commissioning Manager
Steve Oakley	- Head of Procurement
Catherine Ziane-Pryor	- Governance Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 25 September 2023. Decisions cannot be implemented until the working day after this date.

15 Apologies for absence

Councillor Cheryl Barnard, on other council business.

16 Declarations of interests

None.

17 Minutes

The minutes of the meeting held on 11 July 2023 were confirmed as a true record and signed by the Chair.

18 Planned Respite Service for Working Age Adults with a Learning Disability and Autism - key decision

Claire Labdon-West, Commissioning Manager, presented the report, which 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. Councillor Linda Woodings, Portfolio Holder for Adult Social Care and Health, spoke in support of the recommendations.

The following points were highlighted and responses provided to members' questions:

- a) As specified in the Care Act 2014, the Council has a statutory duty to provide a respite service. Planned respite is vital in ensuring the well-being and resilience of carers, and avoiding crisis and placement breakdown, which can have significant cost implications;
- b) Following the withdrawal of the long-term respite base in 2016, colleagues worked hard to secure planned respite accommodation but have only been able to secure emergency accommodation. This process proved labour-intensive and expensive;
- c) In 2022, the block purchase of four respite accommodation units was secured for one year, enabling 30 eligible carer households on the edge of crisis to access planned respite;
- d) Six months into the one-year contract, provision and overall user feedback was assessed and confirmed as appropriate and successful, with the exception of eight families with specific access needs, for whom the accommodation was not suitable;
- e) The units have achieved a 90% occupation rate, so to ensure the best possible value for money and efficiency, it is proposed that any future unoccupied periods are offered to the County Council to help support their eligible citizens with planned respite, the cost of which will be recharged;
- f) The provider is responsible for liaising with carers to book the respite, and even providing transport to and from the site. In addition, the provider has taken responsibility for all repairs and even supported crisis management. Respite users have given very positive feedback and are keen for this level of service to be retained;
- g) Broader best value will be tested to ensure the service can achieve the best price, and other models of respite provision will be examined, including those which are wholly accessible to all families;
- h) Committing to a block booking of accommodation was a risk, but cost effective and has proved beneficial for all parties, and so it is recommended that the arrangement is replicated for a further two years with continuing monthly monitoring.

Members welcomed the success of the provision, including the best value and efficiency approach, including offering vacant capacity to the County Council.

Resolved

- 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 this service.

Reasons for recommendations

- Nottingham City Council has a statutory duty to provide planned respite for carers who have eligible needs, as required under the Care Act 2014. The intention is to ensure that there is capacity to meet the demand for respite;
- Planned respite 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;
- 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.
- 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.

Other options considered

- 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.
- 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.
- 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.

19 Procurement of Waste Services - key decision

Antony Greener, Head of District Heating and Waste Strategy, presented the report which seeks approval to undertake compliance procurement exercises for both the green waste composting contract, and the management and operational services of the Council's

Household Waste and Recycling Centre, in advance of the current contracts expiring in 2024. Councillor Corall Jenkins, Portfolio Holder for Energy, Environment and Waste Services and Parks, spoke in support of the recommendation.

Highlighted points and responses to members' questions included:

- a) The Council has a statutory duty as a Waste Disposal Authority under Section 51 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;
- b) Composting green waste is collected between April and October/November, at an average of 12,000 tonnes per year, possibly more dependent on whether and growing conditions;
- c) The Council has a statutory duty under Section 51(1)(b) of the EPA to provide places at which residents are able to deposit their household waste and recycling. This site is at Redfield Road in Lenton;
- d) Consideration has been given to bringing this service back in-house, but it would require significant capital investment, and so it is recommended that the service is put out to tender;
- e) Currently the site works extremely efficiently, with 92% of all waste delivered to the site being recycled. This is one of the best performing sites in the country.

Members of the committee welcomed the recycling achievement of the Redfield Road Recycling site, praised the helpful and efficient on-site staff, and welcomed the best value approach in the procurement of these services.

Resolved

- 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 and 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.**

Reasons for recommendations

- 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;
- 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.

Other options considered in making recommendations

- 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;
- The option to directly award contracts is rejected on the basis that it would not comply with Public Contract Regulations 2015;
- 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.

20 Dynamic Purchasing System for the provision of ULEV and Hybrid type vehicles - key decision

Andrew Smith, Assistant Fleet Manager, presented the report which seeks permission to establish and manage a Dynamic Purchasing System (DPS) for the provision of Ultra Low Emission Vehicle (ULEV) and Hybrid type vehicles.

The following points were highlighted and responses provided to member's questions:

- a) The market and technology for ULEV and Hybrid type vehicles is developing rapidly across all types of vehicles, and so a different, more flexible approach to procurement is sought from the current framework structure;
- b) Establishing a DPS does not require NCC to commit to any spend, but the agreed structure has a longer lifespan than the current framework procurement system and the added flexibility may also allow enable access to the developing technology, including that which enables current diesel vehicles to be reconditioned to electric;
- c) For a small cost-covering commission charge, the proposed DPS will be accessible to all other public sector contracting bodies to run their own mini-tender competition, including with external and newly emerging providers;
- d) The service specification of the DPS will allow for supply and maintenance of vehicles;
- e) 99% of the types of vehicles needed, can now be purchased as ULEV or hybrid;
- f) Members should be assured that all providers wishing to tender will still be subject to the same due diligence, standards and financial checks;
- g) Nottingham City Council is currently at the forefront of expanding the electric and ULEV fleet with advice and guidance sought by other Authorities for their own projects.

Resolved

- 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.**

Reasons for recommendations

- 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;
 - There is no limit on the number of providers accepted onto each vehicle lot. Suppliers can apply for any and all vehicle type lots:
 - Individual or multiple vehicles can be bought under the terms of the DPS;
 - The structure of the DPS considers not only any future fleet requirements, but those of other Council departments (Greenspace, WhyNott Transport, Zebra projects), with 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.

Other options considered in making recommendations

- Renew the 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;
- 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;

- 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.

21 Hot Water Agreement - key decision

Antony Greener, Head of District Heating and Waste Strategy, presented the report which seeks approval to extend the current contract for the supply of hot water recovered from the Eastcroft Incinerator, to provide supplementary heat energy to the district heating network. Councillor Corall Jenkins, Portfolio Holder for Energy, Environment and Waste Services and Parks, spoke in support of the recommendation.

The following points were highlighted and responses provided to members' questions:

- a) The incinerator was established in 1972 with all service elements managed by the City Council. Over time some elements were contracted out, this being one of those;
- b) The recommendation is to extend the current contract for the supply of hot water recovered from the Eastcroft Incinerator, to provide supplementary heat energy to the district heating network, so that it aligns with the expiry of the District Heating Scheme Agreement in 2030.

Members of the Committee endorsed the forward thinking of the 1970's Council in establishing the waste incinerator as an ecologically advanced waste disposal system as an alternative to landfill, but also with energy and environmentally efficient services to support the City.

Councillor Corall Jenkins, Portfolio Holder for Energy, Environment and Waste Services and Parks reminded the Committee that a tour of the Eastcroft Incinerator site was to be held for members on 14 September 2023.

Resolved

- 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.**

Reasons for recommendations

- 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.

Other options considered in making recommendations

- The option to do nothing was rejected on the basis that it would not comply with Contract Procedure Rules;
- 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.

Subject:	Integrated and online Sexual Health Service contracts extension		
Corporate Director: Director:	Catherine Underwood - People Lucy Hubber - Public Health		
Portfolio Holder:	Councillor Linda Woodings – Adults and Health		
Report author and contact details:	Cara Squires, Public Health Lead Commissioning Officer Cara.Squires@nottinghamcity.gov.uk on behalf of Tracey Lamming		
Other colleagues who have provided input:	Tracey Lamming, Public Health Principal Nancy Cordy, Head of Strategy and Service Improvement Lisa Lopez, Public Health Commissioning Lead Tracey Moore, Commercial Business Partner Richard Bines, Solicitor, Contracts and Commercial Team 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 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: up to £2,015,798			
Wards affected: All			
Date of consultation with Portfolio Holder: 4 September 2023			
Relevant Council Plan Key Outcome: <div style="display: flex; justify-content: space-between;"> <div> Green, Clean and Connected Communities Keeping Nottingham Working Carbon Neutral by 2028 Safer Nottingham Child-Friendly Nottingham Living Well in our Communities Keeping Nottingham Moving Improve the City Centre Better Housing Serving People Well </div> <div style="text-align: center;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> </div>			
Summary of issues (including benefits to citizens/service users): <p>The Health and Social Care Act (2012) requires local authorities to commission comprehensive sexual health services for its residents. The existing Integrated Sexual Health Service (ISHS) was commissioned across Nottingham City and Nottinghamshire County. The current contracts are due to end 31st March 2024.</p> <p>In accordance with the intention set out in the report to CPEC (March 2023) (see section 15.1), a Collaboration Agreement has now been entered between Nottinghamshire County and Nottingham City Councils. Both local authorities are undertaking a joint competitive procurement procedure of the new Integrated Sexual Health Service against the budget available.</p> <p>As agreed within the previous CPEC report, a competitive procedure with negotiation has been adopted as the commissioning option. However, due to the delays in advertising the ISHS tender, there is now a risk that the amount of time available to complete the</p>			

commissioning process and transition to new arrangements will be insufficient for the new contracts to commence on 1st April 2024. This report recommends extending the existing contracts by up to six months to allow sufficient time for the new services to mobilise safely and effectively.

The existing contracts to be extended, and cost implications, are detailed in the below table:

Table 1:

Service	Provider	Per Annum Contract Value	Pro-rata cost of 6-month extension*	Additional Costs**	TOTAL
Integrated Sexual Health Service	Nottingham University Hospitals Trust	£3,440,548	£1,720,274	£13,930.00	£1,734,204
Online sexual health services	SH:24	£563,189	£281,594	-	£281,594
TOTAL					£2,015,798

*Inclusive of PrEP allocation

**Additional costs are to compensate the financial burden of a 6-month extension on the provider, as it will require them to make financial commitments on IT systems that will incur a cost to them. This amount will only cover any additional costs that they incur and will not alter the economic balance of the contract.

It should be noted that the online sexual health services contract specifies that payment is based on activity levels, therefore £281,594 is a maximum up to value, but actual expenditure may be less. The total value of the decision will be funded from the ring-fenced public health grant allocation for 2024/25.

Impact on new Nottingham and Nottinghamshire Integrated Sexual Health Services (NNISHS) contract.

Previously, the spend approval for the new NNISHS was approved by CPEC on 14 March 2023 (see section 15.1) for a seven-year contract. There will now be an alignment of timelines with the extension of the contracts which will mean that the new service start date will be moved by 6 months from 1 April 2024 to 1 October 2024.

Exempt information: None

Recommendations:

- 1 To approve spend of up to £2,015,798 to extend existing sexual health contracts (as detailed in Table 1 above) for a maximum of 6 months (1 April 2024–30 September 2024).
- 2 To delegate authority to the Director of Public Health to enter appropriate deeds of variations to extend the existing sexual health contracts (as detailed in Table 1 above) for a maximum of 6 months to 30 September 2024.

1. Reasons for recommendations

- 1.1 Under the Health and Social Care Act 2012 there is a statutory duty for local authorities to commission comprehensive sexual health services for its residents. This includes provision of information, advice, and support on a range of issues, such as sexually transmitted infections (STIs), contraception, relationships and unplanned pregnancy.
- 1.2 Contractual arrangements are needed to continue the service uninterrupted. To bring in a new service would result in a higher risk to residents due to a disruption of services. It would cause significant inconvenience for residents.
- 1.3 Economically, a contract extension would cost significantly less than securing a new interim service. Similarly, it is economically favourable to continue with the existing service under the current contract terms and conditions.
- 1.4 A contract extension will ensure there is sufficient time available for both negotiations with bidder/s and for the mobilisation of a new and complex integrated service model for sexual health services.
- 1.5 It is possible that the market has responded well to our vision for sexual health services in Nottingham and Nottinghamshire and it is essential that there is adequate time to complete a comprehensive procurement process to get the best possible service for local citizens.
- 1.6 Currently, both the in-person and online sexual health services are utilised well therefore to extend these is the solution that offers the least risk in terms of current service provision, in terms of the future contract and for mobilisation.
- 1.7 The current contracts are jointly funded by Nottingham City Council and Nottinghamshire County Council and an extension is also dependant on Nottinghamshire County Council obtaining approval in line with their governance processes. However, this decision relates to the approval sought and expenditure to be incurred by Nottingham City Council, in relation to the proposed extension of the contracts.
- 1.8 With the information above taken into account, there are grounds to modify the existing contracts without a new procurement procedure at this stage as the additional services (of the type supplied by the current contracts) are necessary, were not included in the initial procurement and where a change of contractor:
 - cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or
 - would cause significant inconvenience or substantial duplication of costs for the contracting authority,

Also, the increased price does not exceed 50% of the value of the original contracts, thereby satisfying regulation 72(1)(b) of the PCR 2015.

Variation of the online service contract would be secured compliantly through call-offs from the e-SRH Framework, and the Department of Health and Social Care have confirmed with our current online provider that any call-off contracts that are varied and end beyond the life of the e-SRH Framework will be honoured.

2. Background (including outcomes of consultation)

- 2.1 Background that informed the decisions behind sexual health procurement and service specification is detailed in the report that went to CPEC dated 14 March 2023 (see section 15.1).
- 2.2 The current service provider for Nottingham City is jointly contracted to deliver an ISHSs in Nottingham City and the south of the county. The sexual health system is complex, involving different organisations that commission various aspects of sexual health services. Since April 2013, local authorities have been responsible for commissioning a comprehensive (contraception and STI testing), open access sexual health service with costs met from the ring-fenced public health grant.
- 2.3 Previously, Integrated Sexual Health Services have been procured and commissioned jointly with Nottinghamshire County Council. This has been agreed as continuing to be the appropriate approach (as per previous CPEC paper on 14th March 2023) whilst ensuring that services provided meet the needs of the populations we serve.
- 2.4 Previous contract variations include a new contract value in 2018, Agenda for Change award and PrEP provision in 2021, extension to contract in 2022 until 2024 and PrEP in 2023 in accordance with Article 18.99 of the Contract Procedure Rules. The latter variation being approved by the parties to the joint contract on the basis of Regulation 72 (1) (e) and (8) PCR 2015 as a non-substantial modification to the contract.
- 2.5 The City Council directly commissions an online service which offers gonorrhoea and chlamydia testing, non-complex chlamydia treatment, condom and lubricant bolt-on delivery & HIV free testing via call offs from existing national frameworks.
- 2.6 The Department of Health and Social Care confirmed with the online provider that any call-off contracts that are varied and end beyond the life of the e-SRH Framework will be honoured. The online service offer includes:
 - Gonorrhoea and chlamydia testing;
 - Non-complex chlamydia treatment;
 - Condom and lubricant bolt-on delivery;
 - HIV free testing.

3. Other options considered in making recommendations

- 3.1 Setting up an interim service for the 6-month period. The time it takes to safely mobilise a service, it would be a break in the continuity of care for residents across Nottingham City and Nottinghamshire County and the logistics in the transfer of patient records for a short period. Therefore, this option is not recommended.
- 3.2 Do nothing. This would result in having no service for up to 6-months period. This is not considered to be a viable option due to the mandated responsibility both local authorities must provide an open access sexual health service to our residents.
- 3.3 The impact on citizens of no service which would result in residents either having no access to services or having to go elsewhere for sexual health service and us being charged by other local authorities for out of area activity. Therefore, this option is not recommended.

4. Consideration of Risk

- 4.1 The council's main risk is being unable to continue our statutory duty to commission comprehensive sexual health services for its residents, this extension will ensure the provision is maintained throughout the tender process.
- 4.2 The council recognises that we are moving forward on a shared timeline with Nottingham County Council, and therefore there are active working groups in place with regular communication to mitigate this risk.
- 4.3 Both councils are aware of the risks around TUPE and staffing which the extension would help mitigate. The councils want to give the providers as much notice as possible to secure staffing and any TUPE measures.

5. Best Value Considerations

- 5.1 Recommissioning in partnership with Nottinghamshire County Council after a Joint Health Needs Assessment was conducted, and both citizen and stakeholder engagement activities were completed.
- 5.2 Economically, it is appropriate to continue with the current service for an extension of 6 months. The current budget for our ISHS is lower than the new budget for the NNISHS, therefore extending on the same terms and conditions will cost less overall.
- 5.3 Efficiency-wise, the current service is performing and therefore to disrupt this for an interim or a new service that is not fully mobilised could have an impact on the quality of service that residents can access.
- 5.4 Considering the options available, the economic, environmental, and social value, the effectiveness of a contract extension provides the least health risk to residents across Nottingham and Nottinghamshire.

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

- 6.1 For reasons outlined by the report author, this decision seeks approval to allocate budget and approve spend of £2,034,118 from the Public Health grant to extend sexual health contracts for 6 months (1st April 2024 to 30th September 2024).

Service	Provider	Per Annum Contract Value	Pro-rata cost of 6-month extension*	Additional Costs**	TOTAL
Integrated Sexual Health Service	Nottingham University Hospitals Trust	£3,440,548	£1,720,274	£13,930.00	£1,734,204
Online sexual health services (see note 2)	SH:24	£563,189	£281,594	-	£281,594
TOTAL					£2,015,798
Note 2 the online sexual health contract is based on activities levels, this amount is the maximum value which can be spent on the contract.					

*Inclusive of PrEP allocation

**Additional costs are to compensate the financial burden this 6-month extension on the provider, as it will require them to make financial commitments on IT systems that will incur a cost to them. This amount will only cover any additional costs that they incur and will not alter the economic balance of the contract

- 6.2 The total cost of this decision to extend current contracts for 6 months is £2,015,798 and will be fully funded from the Public Health grant. This decision has no financial impact on the Medium-Term Financial Plan.
- 6.3 Once the decision is approved, a budget virement will be posted to realign the budgets, supporting budget managers to robustly monitor the budget.
- 6.4 The actual costs associated with this decision will require regular monitoring to form an audit trail against this grant funding and support robust forecasting. Any decisions taken will need to be captured against this decision value to ensure it is not exceeded. This information will also be used for internal/external reporting processes as required.

Tracey Moore, Commercial Business Partner - 5 September 2023

7. **Legal colleague comments**

- 7.1 Legislative Background to ISHS.
- 7.2 Part 2 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 (“the Regulations”) imposes duties on local authorities to exercise prescribed public health functions of the Secretary of the State and to take prescribed steps in exercise of public health functions of their own, including the duty as to the improvement of public health (section 2B of the National Health Service Act 2006 (“the 2006 Act”)).
- 7.3 Regulation 6 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 require local authorities to arrange for the provision of open access sexual health services for everyone present in their area; covering free sexually transmitted infections (STI) testing and treatment, and notification of sexual partners of infected persons; and free contraception, and reasonable access to all methods of contraception.
- 7.4 Part 3, regulation 9 operates to prevent the local authority being able to make and recover charges in respect of anything which the local authority is required to do in exercise of its public health functions under Part 2 of these Regulations. The services provided are therefore funded from the provision of the ring-fenced Public Health Grant from the Department of Health and conferred by section 31 of the Local Government Act 2003. The purpose of the grant is to provide local authorities in England with the funding required to discharge the public health functions detailed in grant conditions issued under a grant determination. These include:
 - 7.4.1 (a) functions under section 2B, 111 or 249 of, or Schedule 1 to, the 2006 Act;
 - 7.4.2 (b) functions by virtue of section 6C of the 2006 Act;
 - 7.4.3 (c) the Secretary of State’s public health functions exercised by local authorities in pursuance of arrangements under section 7A of the 2006 Act;

7.4.4 (d) the functions of a local authority under section 325 of the Criminal Justice Act 2003 (co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders);

7.4.5 (e) such other functions relating to public health as may be prescribed.

7.5 Regulation 7 of the Regulations creates a duty on local authorities to provide or make arrangements to secure the provision of a public health advice services to any clinical commissioning groups (now Integrated Care Boards) in their area, the purpose of which is to assist ICB in relation to their powers and duties to commission health services for the persons for whom they have responsibility.

7.6 Clinical Commissioning Groups have now been formally abolished by the Integrated Care Boards (Establishment) Order 2022 ("the 2022 Order"), which was made under provisions in the Health and Care Act 2022 ("the 2022 Act"). The National Health Service (Areas of Integrated Care Boards: Appointed Day) Regulations 2022 provides that ICBs come into effect from 1 July 2022.

7.7 Failure to provide the services identified in the report would place the Council in breach of the above statutory duties.

7.8 The contacts for the services in question comprises a public service contract for provision of services to the community within schedule 3 of the Public Contract Regulations 2015 ("PCR 2015") and is above threshold such that the 'light –touch' procurement regime will apply to the procurement of the commissioned ISHS's.

7.9 Variation of Exiting Contracts

7.9.1 Despite being 'light touch' contracts, regulation 72 would apply to schedule 3 contracts in order to comply with the principles of transparency and equal treatment. Any amendments to above threshold contracts falling under schedule 3 of the PCR 2015 will therefore need to satisfy one or more of the six permitted "safe harbours" outlined in regulation 72(1) of the PCR 2015.

7.9.2 Regulation 72 (1) (b) permits modification of a contract where services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:

- (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, [and]
- (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority,

provided that any increase in price does not exceed 50% of the value of the original contract.

7.10 Given the factual information provided above, reliance can be placed upon regulation 72(1)(b) as providing a safe harbour for modification of the proposed contracts.

- 7.11 In relation to the extension of the Online Sexual Health Services contract, it is understood that this would be achieved through a compliant call-off from a national framework (the e-Sexual and Reproductive Healthcare Framework) and therefore is considered compliant with the Public Contract Regulations 2015 and the Council's own Contract Procedure Rules.
- 7.12 It is recommended that the extension periods are kept to the minimum possible duration necessary to allow for the transition to new contracts through the new procurement process.

Richard Bines, Solicitor, Contracts and Commercial Team – 23/08/2023

8. Other relevant comments

Procurement colleague comments

- 8.1 This decision proposes the extension of existing contracts for sexual health services to allow sufficient time to complete the procurement process for new contracts and a managed transition to the new arrangements. These services are commissioned jointly with Nottinghamshire County Council who are managing the procurement process through a competitive procedure with negotiation. The proposed extensions will enable the negotiation stage of the tender to be managed robustly and ensure continuity of provision during the transition period.
- 8.2 It is considered that the proposed extension of the contract for the Integrated Sexual Health Service is a permissible modification in accordance Regulation 72 (1)(b) of the Public Contracts Regulations 2015 and Article 18.110 of the Council's Contract Procedure Rules. In relation to the extension of the Online Sexual Health Services contracts, it is understood that these services will be secured through a compliant call off from an appropriate national framework and this is supported from a procurement perspective.
- 8.3 It is recommended that the extension periods are kept to the minimum possible duration by completing the contract award and transition to new contracts in a timely way.

Jo Pettifor, Category Manager, People - 13 September 2023

9. Crime and Disorder Implications (If Applicable)

- 9.1 Not applicable

10. Social value considerations (If Applicable)

- 10.1 The current local service provides clinical care to Nottingham residents, and this would be affected if the service were not to extend without another service in place.
- 10.2 TUPE needs to be taken into consideration as our current service employs local people, and if there were no service to TUPE over to, those employees would be made redundant.
- 10.3 TUPE needs time to be safe and effective for those employed, therefore extending the mobilisation time for the new service means this can be done effectively.

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

12.1 Due regard will be given to any implications identified in an EIA.

13. Data Protection Impact Assessment (DPIA)

13.1 Due regard will be given to any implications identified in a DPIA.

14. Carbon Impact Assessment (CIA)

14.1 Due regard will be given to any implications identified in a CIA.

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

15.1 ISHS contract history;

15.2 CPEC paper March 2023;

15.3 JSNA 2019.

16. Published documents referred to in this report

16.1 Current Integrated Sexual Health Services:

16.2 New Nottingham & Nottinghamshire Integrated Sexual Health Services.

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Subject:	Merchandise Concession Contract at the Royal Concert Hall		
Corporate Director: Director:	Colin Parr – Communities, Environment and Resident Services Hugh White – Sports and Culture		
Portfolio Holder:	Councillor Pavlos Kotsonis – Leisure and Culture and Planning		
Report author and contact details:	Peter Ireson – Theatre Royal & Royal Concert Hall Venue Director Peter.ireson@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Maria Balchin, Senior Commercial Business Partner Richard Bines, Solicitor, Contract and Commercial Team Louise Dobson, Lead Procurement Officer		
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 type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Significant impact on communities living or working in two or more wards in the City	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £1.1m			
Wards affected: All			
Date of consultation with Portfolio Holder: 21/07/23			
Relevant Council Plan Key Outcome: <div style="display: flex; justify-content: space-between;"> <div> Green, Clean and Connected Communities Keeping Nottingham Working Carbon Neutral by 2028 Safer Nottingham Child-Friendly Nottingham Living Well in our Communities Keeping Nottingham Moving Improve the City Centre Better Housing Serving People Well </div> <div style="text-align: center;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> </div>			
Summary of issues (including benefits to citizens/service users): <p>The Council currently engages National Merchandise, part of Nottingham Ice Centre Ltd under a concession contract to provide merchandise sales services at the Royal Concert Hall.</p> <p>The concession agreement provides income for the Council whilst ensuring that National Merchandise take on the operating risks.</p> <p>Since the Covid closedown, the contract with National Merchandise has lapsed and continued on an implied basis on the existing terms. There is now the requirement to undertake a full procurement process to secure the best value, commercially viable service that the market can offer and provide certainty for the Council going forward through a new contractual agreement.</p> <p>As well as contributing to the Council Plan Key Outcome highlighted above, the concession contract also contributes to the Council meeting its statutory duty around Best Value.</p>			

Exempt information:

An appendix to the report is exempt from publication under paragraph number 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to 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.

It is not in the public interest to disclose this information because financial information is based on initial estimates, there is also a breakdown of financial elements of project included and sharing this information would not be recommended as it may prejudice the tender process and the income the Council could generate.

Recommendations:

- 1 To approve undertaking a procurement process to secure a concession contract for the supply of merchandise sales services at the Royal Concert Hall for a period of 5 years.
- 2 To delegate authority to the Corporate Director of Communities, Environment and Resident Services to award and enter into a concession contract with the successful concessionaire following completion of the tender process.

1. Reasons for recommendations

- 1.1 The original contract with the merchandise contractor at the Royal Concert Hall has expired and there is the need to tender for and award a new concession contract.
- 1.2 Offering a 5-year contract, rather than a shorter period, is more likely to attract suitable concessionaire bids, as bidders will feel they have the opportunity to recoup and make a return on any necessary investment.
- 1.3 The approval requested in this report will allow the Council to initiate the tender process to secure a merchandise sales concession contractor, ensuring a continuity of merchandising sales provision and income for the Council without the operating risk. This will allow TRCH to offer the full merchandise service expected by its customers and visiting companies generating a financial contribution supporting the sustainable operation of the venue.

2. Background (including outcomes of consultation)

- 2.1 TRCH is one of the busiest and most success large scale performing arts venues in the UK. Presenting a year-round programme, the venue sells in excess of 600,000 tickets a year. Many of the one-night shows and events visiting the Royal Concert provide a range of merchandise to sell to audience members.
- 2.2 The Council has historically chosen to externalise merchandising sales provision through a concession contract. This has been to optimise the financial return to the Council whilst also transferring the risks inherent in managing the merchandise operation in a commercial environment.

3. Other options considered in making recommendations

- 3.1 To continue with the informal contractual arrangement that has arisen from the conduct of the parties following the expiry of the existing formal concession contract. This was discounted as there is the need to put a compliant contract in place as well as to test the market to provide assurance that the Council is receiving the optimum financial return and the highest quality provision for TRCH's customers.

- 3.2 Consideration was given to managing the merchandise sales service in house, but discounted, as this would mean in-sourcing the inherent risks (supply and demand) of a merchandise operation and exposing the Council to the vagaries of the market. Using an external merchandise contractor, with a large number of trained staff providing the same service at a range of venues and who can benefit from economies of scale and dedicated business expertise, means that the Council is able to receive a higher level of income at no risk.
- 3.3 Consideration was also given to including the opportunity to supply merchandise sales service at the Theatre Royal and therefore include that in the concession contract tender process. This was discounted as the theatre's weekly programme sees limited merchandising opportunities and the Theatre Royal staff who already sell the in-house programmes can also sell merchandise at no additional cost or risk. Companies visiting the Theatre also tend not to outsource any merchandise and hence sales reconciliations can be managed within a single show settlement with the producer.

4. Consideration of Risk

- 4.1 There is the risk that the merchandising sales contractor procured is unable to meet the Council's requirements at TRCH. This risk is mitigated by the Council using experienced staff at TRCH working with procurement colleagues to ensure that the tender specification and assessment criteria secure a contractor of the highest quality. It is also mitigated by offering a 5-year contract which is more likely to attract suitable concessionaire bids, as bidders will feel they have the opportunity to recoup and make a return on any necessary investment.
- 4.2 There is the risk that delays in the procurement process or contractual arrangements may delay the handover and mobilisation of the merchandise operation to a successful tender concessionaire. This is mitigated, to an extent, by the opportunity to continue the rolling contract with the existing contractor.

5. Best Value Considerations

- 5.1 The proposal in this report represents best value for the Council, as through procuring an external concessionaire the Council will secure the optimal financial return at no risk.
- 5.2 The concession contract has the potential to create social value through generating and sustaining jobs at the venue and in the local supply chain. This will be factored into the procurement process and criteria.
- 5.3 The procurement process will ensure that the successful contractor signs up to the Council's Business Charter Principle 'to be environmentally responsible'.

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

- 6.1 Contained in an exempt appendix.

7. Legal colleague comments

- 7.1 This report seeks a decision to approve a full procurement process to secure a concession contract for the supply of merchandise sales services at the Royal Concert Hall for 5 years' duration.

- 7.2 The opportunity will be regarded as a true concession where it involves the transfer to the concessionaire of an operating risk in exploiting the services encompassing demand or supply risk or both over the term proposed. The risk transferred to the concessionaire is likely to mean real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible. The concessionaire is deemed to assume operating risk where, under normal operating conditions, it is not guaranteed to recoup the investments made or the costs incurred in providing the services which are the subject-matter of the concession contract.
- 7.3 Calculation of the value of a concession opportunity is based on the total turnover of the concessionaire generated over the duration of the contract (net of value added tax but inclusive of VAT from 1 January 2022) as estimated by the Council, in consideration for services which are the object of the concession contract and the supplies incidental to such services. The estimated value must be calculated using an objective method specified in the concession documents.
- 7.4 The value of the decision is below the financial threshold at which the Concession Contract Regulations 2016 must be applied, nevertheless the general principles applicable to procurement should be followed and the Council can at its discretion opt to follow the Concession Contract Regulations 2016 in any event. The Council must ensure it treats economic operators equally and without discrimination and must act in a transparent and proportionate manner throughout its procurement process.
- 7.5 In addition to the above the Council's own constitution Contract Procedure Rules must be followed.
- 7.6 Legal Services are content to support the process as appropriate and in particular with the drafting of the concession contract, which will need to contain adequate provisos in relation to termination, modification, possible sub-contracting and liability in particular.
- 7.7 In so far as the existing contractual relationship is concerned the Council must ensure that it acts/ gives notice in accordance with the relevant termination provisions specified in the existing contract.

Richard Bines, Solicitor, Contract and Commercial Team – 19/07/23

8. Procurement colleague comments

- 8.1 This decision seeks to undertake a compliant tendering exercise and enter into a contract which will generate % income from sale of merchandise sold at events. Procurement Team will work with TRCH to ensure a compliant procurement process is undertaken and seek best value and % is achieved.
- 8.2 No procurement concerns.

Louise Dobson, Lead Procurement Officer – 28/09/23

9. Other relevant comments

- 9.1 None.

10. Crime and Disorder Implications (If Applicable)

- 10.1 N/A

11. Social value considerations (If Applicable)

- 11.1 The concession contract has the potential to create social value through generating and sustaining jobs at the venue and within the local supply chain. This will be factored into the procurement process and criteria.

12. Regard to the NHS Constitution (If Applicable)

- 12.1 N/A

13. Equality Impact Assessment (EIA)

- 13.1 An EIA is not required as there is no implication identified from the proposals in this report, however the procurement process will ensure that the chosen contractor provides a merchandise sales service which is accessible to all.

14. Data Protection Impact Assessment (DPIA)

- 14.1 A DPIA is not required as there are no implications identified from the proposals in this report, however the procurement process will ensure that any data protection implication is identified and addressed including a DPIA and any data sharing agreements.

15. Carbon Impact Assessment (CIA)

- 15.1 A CIA is not required as there is no implication identified from the proposals in this report, however the procurement process will ensure that the successful contractor signs up to the Council's Business Charter Principle 'to be environmentally responsible'.

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

- 16.1 None.

17. Published documents referred to in this report

- 17.1 None.

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Subject:	Re-tender of the summer and winter events offer in the Old Market Square 2024-2028		
Corporate Director:	Colin Parr - Communities, Environment and Resident Services		
Portfolio Holder:	Councillor Pavlos Kotsonis - Leisure and Culture		
Report author and contact details:	Stephen Chartres, Performance and Improvement Manager Stephen.chartres@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Patrick Loy, Head of Events and Tourism Maria Balchin, Senior Commercial Business Partner Anthony Heath, Senior Solicitor, Contracts and Commercial Holly Fisher, Lead Procurement Officer, Products		
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 type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision		<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of expenditure: <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital			
Total value of the decision: £4.5m (based on total estimated turnover for the two events)			
Wards affected: All			
Date of consultation with Portfolio Holder: 28 September 2023			
Relevant Council Plan Key Outcome: <div style="display: flex; justify-content: space-between;"> <div> Green, Clean and Connected Communities Keeping Nottingham Working Carbon Neutral by 2028 Safer Nottingham Child-Friendly Nottingham Living Well in our Communities Keeping Nottingham Moving Improve the City Centre Better Housing Serving People Well </div> <div style="text-align: center;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> </div> </div>			
Summary of issues (including benefits to citizens/service users): <p>The current contract for the provision of Nottingham's winter (Winter Wonderland) and summer (Nottingham Beach) event offers in the Old Market Square will end after Christmas 2023. This report therefore seeks authority to re-tender the contract for the next five years.</p> <p>These events play an important role in enhancing the City's shopping experience, events calendar, status and reputation whilst distinguishing the city Centre as a unique place to visit and spend time.</p> <p>The Old Market Square is an exceptional commercial location and by tendering this unique opportunity will ensure that Nottingham continues to attract the best winter and summer offer and experience for the city whilst maximising its best value for Nottingham's residents.</p>			
Exempt information: An appendix to the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to finance an business affairs and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.			

It is not in the public interest to disclose this information because the exempt information contains commercial and financial information which if made available to the public may jeopardise the procurement and tendering process and or enable potential suppliers access to commercially sensitive information relating to the procurement.

Recommendations:

1. To authorise the Head of Events and Tourism to undertake a tender process to secure a provider to deliver winter event offers and summer event offers to take place in the Old Market Square during the period 2024-28. These are to be undertaken via separate tender exercises.
2. That delegated authority be given to the Head of Events and Tourism to:
 - (a) appoint a preferred supplier for each offer following the tender process;
 - (b) enter into a contract for each offer for a maximum period of 5 years.

2. Reasons for recommendations

- 2.1 The current contract for the provision of Nottingham's winter (Winter Wonderland) and summer (Nottingham Beach) event offers in the Old Market Square will end after Christmas 2023. The re-tendering of this concession contract is required to comply with financial and procurement regulations.
- 2.2 The event offers for Winter and Summer in Old Market Square are now fundamentally different both in content and in commercial value to the Council to enable us to do these as separate tender slots. This will allow the opportunity to fully test the market in terms of creativity and innovation for the potential offers and encourage a wide range of a supplier to submit tenders. There will be opportunity however for any individual supplier to submit for both opportunities.

3. Background

- 3.1 The contract to stage both the Nottingham Beach and Winter Wonderland events was let on a 5-year contract term in 2016 to Mellors Group Events. A two-year contract extension was renegotiated in 2020 to take account of the disruption caused by the Covid 19 Pandemic.

4. Other options considered in making recommendations

- 4.1 In recommending approval to undertake a formal tender process to secure a provider for the event the following other options have been considered and rejected:
- 4.2 **Continue with the current provider delivering these events** - This would be in breach of current procurement regulations in relation to this concession as the current contract expires at the end of 2023. This also doesn't give the opportunity to test whether the current arrangements provides best value to the Council and residents.
- 4.3 **Cease having a concession for a Winter and Summer events offer in Old Market Square from 2024** - This would result in a loss of income to the Council as revenue is currently received from these two events. These are both popular attractions as part of Nottingham's annual events and entertainment programme and creates

positive recognition, economic and social benefit for the city. This would be lost or put at risk if these were discontinued.

- 4.4 **Deliver the event in-house** – this would result in potential costs and risks to the Council. The event would still require supplier contracts, the securing of infrastructure and a significant investment and resource requirement which there is no budget or capacity within the current team to undertake. This option is therefore not considered to represent best value. The approach to secure an external provider reflects the Council's risk appetite and approach in staging large events to reduce the financial risks and move towards a cost neutral, commercial income events model.

5. **Consideration of Risk**

- 5.1 There a number of risks associated with now following a formal concession process route for providing these events

Risk : Low contract amounts offered in the tender process, resulting in the income target previously received, not being achieved from these events

Mitigation: A full and open tender process will be undertaken to maximise best value for the Council

Risk: Limited interest from suppliers to tender for the concession contract.

Mitigation: The approach being proposed of splitting the Summer and Winter tender opportunities is designed to encourage the widest interest from potential suppliers

Risk: Delay in the procurement process and awarding of contract

Mitigation: A project team has been set up to complete the process. A forward plan has been developed which highlights key dependencies and dates for completion to minimise delay in the process.

6. **Best Value Considerations**

- 6.1 Operating a concession and testing the market through an open tender process to deliver a Summer and Winter offer for the City is considered best value. The overall approach minimises risk to the Council, provides the potential for maximising income and encourages the opportunity for creativity and innovation for the events offer

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

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

Maria Balchin, Senior Commercial Business Partner (CERS) – 27/09/23

8. **Legal colleague comments**

- 8.1 This report seeks authority to undertake a compliant procurement exercise before awarding contracts for the Winter and Summer events held in Old Market Square. On that basis, the report offers no significant legal issues.
- 8.2 It is hoped that the Council can use, and build on, work externally commissioned for another concession arrangement in order to create suitable contracts for the Winter and Summer events. The work by the client department to allow for this work to be undertaken by Legal Services needs to start as soon as possible; the later the client works starts, the higher the risk that circumstances will require the use of external law

firms at a cost to the client/Council. The client has been advised of the work that needs to be undertaken and it is recommended that the work is complete by mid-October 2023 at the latest in order to give Legal Services the best opportunity to create the required documentation in house.

- 8.3 It is noted that the two events are being tendered for separately. The justification for this is that the two events are fundamentally different in both value and content and will allow the Council to fully test the market for these two events and it is a reasonable position for the Council to pursue separate bids, rather than joint bids, due to the change in the market over recent years and in pursuit of Best Value.

Anthony Heath, Senior Solicitor, Contracts and Commercial – 22/09/23

9. Procurement Colleague comments

- 9.1 The request to award a concession agreement for the provision of the Winter and Summer events held in Old Market Square for a period of five years does not pose any procurement risk to the council.
- 9.2 The request complies with both the Council's contract procedure rules and Concession Contract Regulations.

Holly Fisher, Lead Procurement Officer, Products - 13/09/23.

10. Crime and Disorder Implications (If Applicable)

- 10.1 Community Protection will be consulted on the tender brief. Included in the specification is a requirement for ensuring safety and security of the site and the public.

11. Social value considerations (If Applicable)

- 11.1 Built into the contract specification and an expectation within the tender response will be for the supplier to demonstrate how the offer will deliver social value for the residents of Nottingham. Specifically, this will included delivering and event programme which:
- Is high profile and populist;
 - encourage the residents of Nottingham to visit and enjoy their City Centre by offering a variety of fun activities for them to engage in;
 - provides positive activities for children and young people during the weekends and school holidays;
 - Becomes a destination event driving visitors to Nottingham during the summer and Christmas period, contributing to the visitor economy and in particular increasing local employment and trade in our shops, leisure businesses, cultural attractions and hotels.

12. Public Health Considerations

- 12.1 Public Health welcome the opportunity to work with the Events Team to explore how public health needs can be met in relation to public outdoor events commissioned by

Nottingham City Council, aiming to enhance planning for a health promoting environment.

- 12.2 With specific reference to the OMS Summer and Winter Events offer procurement, we would welcome the opportunity for contribution to Public Health outcomes to be considered as part of the tender brief and evaluation process.

Nancy Cordy, Head of Strategy & Service Improvement, Public Health - 26/09/23

13 Equality Impact Assessment (EIA)

- 13.1 An EIA is not required at this stage to approve the tender process. However, Equalities considerations will be built into tender specification and evaluated as part of the tender selection process.

14 Data Protection Impact Assessment (DPIA)

- 14.1 A DPIA is not required because there are no data protection implications for in undertaking the tendering process and for delivery of the Winter and Summer events offer in the Old Market Square.

15 Carbon Impact Assessment (CIA)

- 15.1 There are no Carbon Impact Assessment implications for undertaking the tender process. However, Carbon Impact and environmental considerations will be built into tender specification and evaluated as part of the tender selection process.

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