

Nottingham City Council

Commissioning and Procurement Executive Committee

Minutes of the meeting held Loxley House, Station Street, NG2 3NG, on 14 November 2023 from 10.00 am - 10.42 am

Membership

Present

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

Absent

Councillor Cheryl Barnard
Councillor Corall Jenkins

Colleagues, partners and others in attendance:

Thomas Ali - Food Development Officer
Nancy Barnard - Head of Governance
Tammy Coles - Public Health Principal
Peter Ireson - Venue Director, Theatre Royal and Royal Concert Hall
Chris Keane - Head of Highway Services
Mark Leavesley - Governance Officer
Meagan Milic - Highways Compliance Manager
Steve Oakley - Head of Procurement
Sarah Wilson - Chief Electoral Services Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is **22/11/2023**. Decisions cannot be implemented until the working day after this date.

32 Apologies for absence

Councillor Barnard) other Council business
Councillor Jenkins)

33 Declarations of interests

None.

34 Minutes

The minutes of the meeting held on 10 October 2023 were agreed as a correct record and were signed by the Chair.

35 Procurement of booklet for the Combined County Authority Mayoral Election - key decision

Nancy Barnard, Head of Governance, presented the report and stated the following:

- a) As part of the devolution deal with government to establish a Combined County Authority to secure £38 million of funding per year, which would benefit the lives

of citizens living in the East Midlands region, an election for a Combined County Authority Mayor will need to be held;

- b) Nottingham City Council is expected to be selected as lead authority with Melbourne Barrett appointed as Combined County Authority Returning Officer (CCARO) to oversee the delivery of a Combined County Authority Mayoral Election, which will take place on 2 May 2024, subject to the passing of legislation;
- c) The CCARO will be required to print and post a mayoral election booklet to every elector in the combined authority area, 1.6m individuals in total. The booklet will include information from the CCARO about the election and an election address from each candidate;
- d) Procurement of the contracts to print and post these booklets would normally be the responsibility of the combined authority. However, as this is yet to be established and due to the tight timescales involved in approving the deal and delivering the election, Nottingham City Council has been asked to progress the procurement as an interim measure on behalf of the proposed East Midlands Combined Authority;
- e) Delaying the procurement process until after the legislation is passed and the East Midlands Combined Authority is formally established would result in this legal requirement not being fulfilled and would jeopardise the delivery of the election;
- f) Procurement needs to take place as soon as possible to ensure suitable providers are awarded contracts, subject to the legislation being approved, so that these legal deadlines can be met and that all electors receive a booklet in plenty of time before the election. In particular, postal voters, who will need to receive their booklets prior to their postal packs arriving, to ensure they have the opportunity to read the booklet before they return their ballot paper by post;
- g) To print the booklets the proposal is to call off against the Electoral Services existing print contract with Print Image Network Ltd, through the Nottinghamshire framework;
- h) In addition, the postage of the booklet will be procured through a separate competitive tender process;
- i) All costs for the printing and postage of the mayoral booklet will be met by the East Midlands Combined Authority and contracts will only be awarded on the basis that the legislation needs to be passed before the contract can commence.

Resolved to approve

- (1) expenditure of up to £900,000 for the production and delivery of 1.6m mayoral booklets on behalf of the proposed East Midlands Combined Authority, subject to approval of legislation and noting that costs will be recovered from the Combined Authority once established;**

- (2) call-off against the current printing contract with Print Image Network Ltd. for the printing of the booklets;**
- (3) commencement of a competitive tender process for postage of the booklets, and delegate authority to the Director of Legal and Governance to award the contract based upon the outcomes of that process.**

Reasons for recommendations

- a) To ensure that the Council as proposed lead authority and the Combined County Authority Returning Officer (CCARO) can meet legal requirements for the delivery and conduct of the election, subject to the passing of relevant legislation.
- b) To comply with Financial Regulations relating to testing the market to demonstrate that best value for money is being obtained.
- c) To ensure business continuity for Electoral Services and the CCARO with existing supplier for the delivery of printed electoral materials.
- d) To provide adequate time and resources to implement any new contract as soon as legislation is approved to ensure that all aspects of the project can be delivered on time.
- e) To reduce the risk to the CCARO not being able to operate adequate, effective, and efficient services as a result of any period of time where no supplier is contracted to deliver these services.
- f) To pro-actively plan and react to new legislation as soon as it is approved to meet all new requirements and deliver a robust and safe elections for all citizens of Nottingham and the wider East Midlands Combined Authority area.

Other options considered

Do nothing and not have an appropriate contract in place. This is not recommended as:

- i. this would put NCC and the CCARO at a high risk, as when the legislation is passed an immediate start date for the contract will be required. If the tender process has not been followed prior to the approval of the legislation, then there would be no contract in place to call off on and therefore no ability to post these items.
- ii. awarding a contract without carrying out a tender exercise to procure the postal provider would be in breach of financial regulations and procurement rules.
- iii. failure to print and post the booklet to every elector would be in breach of the election rules and could result in an election petition against the CCARO for misconduct in running the election.

36 Supply of fresh fruit, vegetables and dairy products to Nottingham City catering establishments - key decision

Thomas Ali, Food Development Officer, presented the report, and stated that Nottingham City Council has over 70 schools, catering outlets and care homes which require fresh fruit, vegetables, and dairy products, and that the current contracts expire on 31 January 2024, therefore it was essential to have a stable supply of these products in place for the future.

Resolved to

- (1) approve undertaking tender processes to procure up to 4-year (2+1+1) contracts for the supply of:**
 - (a) fresh fruit and vegetables, with a maximum cost of £1,900,000;**
 - (b) dairy products, with a maximum cost of £1,160,000;**
- (2) delegate authority to the Corporate Director for People to award the contracts to the successful bidders.**

Reasons for recommendations

- a) The current contracts for the supply of fresh fruit, vegetables and dairy expire on 31 January 2024. New contracts needs to be put in place and therefore a competitive tender process will ensure that both quality of product and value for money for all sites is obtained.
- b) The is a contract for suppliers and is subject to the Public Contracts Regulations 2015 which requires the City Council to undertake a competitive tender process to award the contract.
- c) The rational for the decision is that all the expenditure will be covered by the charges for school meals, which is either through paid meals for the Free Schools Meals budget or income from the Council operated catering outlets.

Other options considered

- a) Do nothing - this would leave the Council at risk of no longer receiving products that are essential to produce school meals. This option has been rejected as Nottingham City Council needs suppliers to provide the food to schools, catering outlets, care homes and heritage sites, ensuring that services to citizens continue.

37 Continuation of Changing Futures Programme for People Experiencing Severe and Multiple Disadvantage - key decision

Councillor Woodings, Portfolio Holder for Adult Social Care and Health, introduced the report and, along with Tammy Coles, Public Health Principal, stated the following:

- a) the report sought approval to accept and use funding awarded to Nottingham City Council (on behalf of a local partnership facilitated by the Nottingham City

Place Based Partnership) following successful applications to the national Changing Futures Programme, for an extension of the existing Changing Futures grant, and to the NHS Nottingham and Nottinghamshire Integrated Care Board Health Inequalities and Innovation Fund, to deliver a programme of work to improve outcomes for people experiencing severe and multiple disadvantage (SMD);

- b) Nottingham has the eighth highest prevalence of SMD in England (JSNA 2019);
- c) SMD is one of four high-level priorities included within the Joint Health and Wellbeing Strategy 2022-25 to improve the health, and reduce health inequalities, of the population in Nottingham;
- d) The approval of the recommendations within the report would allow for the continuation and expansion of an ambitious programme for direct delivery of services and infrastructure to improve how statutory and voluntary sector partners work together to improve the lives of people experiencing SMD and the effective use of system resources during the 2024/25 year

Resolved to approve

- (1) receipt of funding to deliver an agreed programme of activity from 01/04/2024 to 31/03/2025 as follows:**
 - (a) up to a total of £993,265 from the Department for Levelling Up, Housing and Communities' Changing Futures transition fund;**
 - (b) up to a total of £469,375 from The National Lottery Community Fund's Changing Futures transition fund;**
 - (c) up to a total of £981,853 from the NHS Nottingham and Nottinghamshire Integrated Care Board's Health Inequalities and Innovation Fund;**
- (2) spend of £2,444,493 from 01/04/2024 to 31/03/2025 to meet the Changing Futures programme objectives, in line with the indicative spending plan as detailed in appendix 1, with operational oversight delegated to the Changing Futures Programme Delivery Board;**
- (3) awards of contracts as set out in appendix 1 for transacting the spend to deliver the Changing Futures programme during 2024/25.**

Reasons for recommendations

- a) Approval to take receipt of the funding detailed in recommendations 1 – 3 (totalling £2,444,493) is sought to allow for the continued delivery and extension of Nottingham's Changing Futures programme in line with proposals submitted to the Changing Futures national team and the Integrated Care Board.
- b) Appendix 1 details the proposed spend of the three sources of funding from 01/04/2024 to 31/03/2025 as described in recommendation 4. This largely

replicates the existing model and extends some areas of programme activity in line with opportunities to increase the impact of the programme. These are ring fenced grant monies, subject to the Council's financial regulations. Oversight of the full budget remains with the Changing Futures Partnership Board, which needs flexibility to resource the programme.

- c) Appendix 1 also details the compliant routes to market for the proposed contracts to be approved under recommendation 5. This includes:
- i. extending the existing s.75 agreements, so the programme can continue the roles of the Mental Health Practitioner and Programme Director hosted by NHT from 01/04/2024 to 31/03/2025 and the Advanced Analyst at the ICB from 01/07/2024 to 31/03/2025;
 - ii. expansion of the embedded practitioner model into up to four additional public bodies. Changing Futures currently has embedded practitioners in five partner agencies. This model is proving beneficial and is improving the way they work with people experiencing SMD. The development of new partnerships is currently being explored to confirm scope for delivery and to reach those areas most relied upon by people experiencing SMD. Subsequent approval will be sought for spend and approach to contracting once proposals have been confirmed. It is intended that these arrangements will be in place from 01/04/2024 to 31/03/2025;
 - iii. the Main Delivery Service contract, currently delivered by Framework, has been confirmed as exempt from Contract Procedure Rules under 18.94. This will allow the current services to continue from 01/04/2024 to 31/03/2025 with some extensions to provision. The services are to meet the needs of people experiencing SMD, this is a particularly complex cohort, which requires specialist knowledge and experience;
 - iv. the transition to new contracting and funding arrangements in 2024/25 would represent a risk to continuity due to uncertainty in the provider organisation and staff members. This carries a risk of the loss of experienced staff (as occurred during the transition from Opportunity Nottingham). These contracting arrangements will minimise this risk for delivery in 2024/25, with the intention to undertake the more comprehensive recommissioning required for ongoing compliance with procurement regulations prior to the start of the 2025/26 year;
 - v. by extending the existing contracts for advocacy and the Primary Care Embedded Practitioner, the services will continue uninterrupted from 01/04/2024 to 31/03/2025. This applies equally to the grant agreement with NCVS, which would be extended from 19/06/2024 to 31/03/2025.

Other options considered

- a) To not accept the funding awarded. This is not recommended on the basis that to not take receipt of the funding would lose the opportunity to realise expected benefits from direct operational delivery and prospects for longer term improvements.

- b) Various options were considered in developing the model. The model proposed incorporates all elements of the current model and provides for expansion of the Wraparound Multi-Disciplinary Team and the Embedded Practitioner roles.
- c) Reprocurring all services was considered as an option. This is not possible for operational reasons. There would be significant risk to the continuity of services. To minimise the risk around transition, the Programme has recommended options to extend existing agreements where compliant with the Council's financial regulations. This will ensure the continuity of the programme and minimise associated uncertainty amongst services and colleagues over their future involvement in the programme.

38 Community prevention, support and treatment services for young people and young adults - key decision

Councillor Woodings, Portfolio Holder for Adult Social Care and Health, introduced the report and, along with Tammy Coles, Public Health Principal, stated the following:

- a) during a recently completed commissioning review for new substance use services it was identified that the young people and young adults' provision, including preventative interventions, as well as treatment and support, was comparatively underfunded relative to the adult's treatment and recovery service;
- b) due to the findings of the review, an operational decision was taken to spend an additional £245,000 ring-fenced public health grant in 2023/24, and this was subsequently included within the contract value for the 2023/24 financial year (six months impact only);
- c) approval was being sought for the spend of up to £3,055,043 of additional Public Health Grant money within the commissioned Young People Young Adults Service from 1 April 2024 to 31 September 2032 to enable the continuation of the current level of investment and the enhancements to capacity and quality that had enabled;
- d) the additional resource has been identified from within the existing alcohol and drugs budget allocation, and the spend was consistent with Best Value principles, including benchmarking with other core cities.

Resolved to approve spend of up to £3,055,043 of ring-fenced Public Health Grant between 1 April 2024 to 31 March 2032 within the commissioned Community Prevention, Support and Treatment Service for Young People and Young Adults who use Alcohol and Drugs.

Reasons for recommendations

- a) Substance use treatment and recovery services are funded primarily through the ring-fenced Public Health Grant, as required by grant conditions. Nottingham City Council is also in receipt of funding from the Office of the Police and Crime Commissioner as a funding partner and receipt of additional national Grants. This decision relates to ring-fenced Public Health Grant spend only.

- b) All of the funding for substance use services commissioned by Nottingham City Council sits either under ring-fenced grant conditions (Public Health Grant, SSMTRG) or partnership agreements, for which the Director of Public Health is accountable, and the resource must be stewarded in line with these conditions.
- c) Nottingham has a young age-structure, with just under 30% of the population aged 18 to 29, with Full-time university students comprising about 1 in 7 of the population. The updated Substance Misuse (illicit drugs and alcohol) (2022) joint strategic needs assessment for Nottingham reported drug use is highest among 16-19 and 20-24-year-olds but these age groups account for only 8% of people in structured treatment in Nottingham, identifying a potential gap within service provision for this age group. The recently commissioned young people young adults service has a refreshed focus on meeting the needs of young adults aged 18-25 years.

Other options considered

- a) Not to increase the level of investment in the contract. This was rejected as this would not deliver the enhancements to capacity and quality of the service provided and not meet the identified unmet need within the 18-25 population.

39 Provision of a Pantomime at the Theatre Royal - key decision

Peter Ireson, Venue Director, Theatre Royal and Royal Concert Hall, presented the report and stated the following:

- a) the Council engages Crossroads Pantomimes Ltd, an experienced pantomime producer to co-produce the Theatre Royal pantomime. The producer takes on the risks of mounting the production, including the casting, sets, props and costumes, based on an agreed share of the anticipated box office revenues;
- b) the contract with the current producer comes to an end in January 2025 following the final performance and get-out of the 2024/25 pantomime. As such, there is the need to confirm and put in place a contract with a producer before the end of the 2024/25 pantomime to enable the planning and marketing of the 2025/26 pantomime to commence simultaneously and seamlessly;
- c) as well as contributing to the Council Key Outcome highlighted above, the contract also contributes to the Council meeting its statutory duty around Best Value.

Resolved to approve undertaking a full procurement process to secure a pantomime producer for the Theatre Royal Pantomime for 5 years duration (2025/26 to 2029/30) and to delegate authority to the Venue Director of the Theatre Royal and Royal Concert Hall to enter into a contract with the successful bidder.

Reasons for recommendations

- a) The contract with the current pantomime producer comes to end after the completion of the pantomime in January 2025.

- b) Offering a 5-year contract, rather than a shorter period, is more likely to attract suitable producer bids, as producers will feel they have an opportunity to recoup and make a return on any necessary investment.
- c) The approval requested in the report will allow the Council to initiate the tender process to secure a pantomime producer. This will allow TRCH to work with the successful producer to plan, develop and deliver the Theatre Royal pantomime in December 2025, which generates a financial contribution supporting the sustainable operation of the venue.

Other options considered

- a) Presenting shows other than a pantomime at the Theatre Royal over the festive period was considered but rejected as the pantomime is extremely popular, makes a significant net contribution to the Council, and the Royal Concert Hall is able to host alternative, complementary performances during the festive period.
- b) Producing the pantomime in-house without an external producer was considered. This option was rejected as it would expose the Council to significant additional risks in the sourcing and securing of artists, sets, props and scenery without the specialist experience and economies of scale available to major producers who present a number of pantomimes across the UK each year.

40 Highways Annual Procurement Approval 2024/25 - key decision

Chris Keane, Head of Highway Services, and Meagan Milic, Highways Compliance Manager, presented the report and stated the following:

- a) the report sought approval for the provision of future procurement arrangements to support Nottingham City delivery of statutory Highway Maintenance Works, Highway Improvement and Public Realm Programmes and Specialist Support Services for Highways Works;
- b) there are currently established framework arrangements in place to support highways delivery, but considering the level of framework spend to date and forecast planned work activity in future years, it was essential that new and additional frameworks were established commencing in 2024/25;
- c) in preparation for this, and to ensure continuity in procurement compliance for delivery in future years, both new and additional contracts would be required to be put in place, and those would be under framework arrangements without commitment to spend;
- d) in addition, there are requirements for approval to access third party frameworks for essential services for Highways;
- e) approval is sought to put procurement arrangements in place for the following essential activities:

1. works – planned carriageway maintenance;
 2. works – drilling, sawing and cutting;
 3. services – site surveys, including ground radar;
 4. services – winter service weather forecasting;
- f) it was proposed that Frameworks were awarded through conducting processes in accordance with the Council's Contract Procedure Rules and requirements under the Public Contracts Regulations 2015 and, where permitted, to access existing national frameworks (provided they demonstrated Best Value);
- g) frameworks are anticipated to utilise the National Engineering Council (NEC 4) Suite of Construction Contracts or other industry recognised and accepted terms;
- h) a breakdown of the framework requirements is set out in more detail in appendix 1 of the report, including proposed duration of contracts;
- i) in the operation of any awarded framework agreements, it will be necessary to award call-off contracts for individual projects and to ensure oversight of the operation of any framework and subsequent call-off arrangements, it is proposed that responsibility be delegated at an operational level to the Contracts and Compliance Manager for Highways.

Resolved to approve procurement and subsequent award of Contracts / Framework Agreements and to delegate authority to the Contracts and Compliance Manager for Highways to act as 'Framework Manager' on the awarded call-off from the Framework Agreements as detailed in appendix 1 to the report.

Reason for recommendations

- a) Recommendation 1 - Procuring Highway Frameworks will allow Highway Services to continue to compliantly deliver works and services to fulfil statutory obligations to maintain the highway and support all Transport Services in compliant delivery options.
- b) The identified benefits of putting these arrangements in place are:
- continuity in the provision of compliant delivery arrangements for highways activities in response to sustained grant allocation for highways and transport projects;
 - enabling the delivery of external grant funded schemes in line with the timescales of the award;
 - a value-for-money delivery model with no fixed financial commitment to use the framework;
 - opportunities for local Small to Medium Enterprise (SME) companies to tender for the work; through framework awards under smaller lots;

- the potential for a local workforce either through direct employment or through regional SME sub-contractors;
 - ensuring the Council complies with its duty of Best Value by going through a competitive process to evaluate price and quality; this to include further competition through mini-competition;
 - economies in accessing established third-party frameworks where viable;
 - the ability to develop relationships with a core set of framework providers to the Council and ensure effective management through such relationships;
- c) appendix 1 outlines the frameworks required to be approved under this decision, including estimated spend over a 4-year period. All frameworks have no commitment to spend, and values stated are estimated based on current operational forecasts and the MTFP;
- d) Recommendation 2 – To have a named officer to have oversight of the frameworks and approve any call-off arrangements will ensure that there is appropriate and ongoing governance of the spend under, and operation of, the frameworks. In addition, to ensure that the necessary authorities and budgets are in place on a project-by-project basis before a call-off can be awarded;
- e) this delivery model has a number of additional benefits including:
- strong links to our corporate value and objectives through:
 - I. comprehensive compliant financial and procurement arrangements;
 - II. provision of real opportunities for local businesses and local employment;
 - a highly flexible and responsive structure to accommodate short term changes to delivery programmes;
 - local knowledge available in the planning and assessment of proposed works.

Other options considered

- a) Not to let Contracts or Frameworks - Not having compliant procurement measures in place will adversely affect our ability to engage with suppliers and contractors to deliver essential highway works and projects, in particular through time limited external grant funding.
- b) Further, no effective means to demonstrate compliance with financial and procurement regulations for the significant spend in future years by the broader Transport Group at NCC.
- c) To not progress new framework arrangements will jeopardise grant funding and Nottingham would lose out on the opportunity to invest the City, its transformation and in local neighbourhoods. It would also fail to demonstrate commitment to the Government's Levelling Up agenda putting at risk the ability to secure future capital funding.

- d) To directly award Contracts - this would require commitment to spend at point of contract, would not provide the flexibility required for service requirements, including commercial market opportunities, over the period and therefore not provide best value.

41 Exclusion of the public

The Committee agreed to exclude the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

42 Exempt appendix - Provision of a pantomime at the Theatre Royal

The exempt appendix was noted.