



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

Date: Tuesday, 13 February 2024

Time: 9.30 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 - 12
Last meeting held on 09 January 2024 (for confirmation)
- 4 Light Vehicle supply framework for up to 7,500kg vehicles - key decision** 13 - 18
Report of Corporate Director for Communities, Environment and Resident Services
- 5 ANPR enforcement maintenance contract with 3G device upgrades - key decision** 19 - 26
Report of Corporate Director for Growth and City Development
- 6 Fee rates for Adult Social Care services 2024/25 - key decision** 27 - 34
Report of Corporate Director for People
- 7 Exclusion of the public**
To consider excluding the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
- 8 Exempt appendices - Fee rates for Adult Social Care Services 2024/25** 35 - 50

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 time above

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 Loxley House, Station Street, NG2 3NG, on 9 January 2024 from 9.30 am - 9.44 am

Membership

Present

Councillor Cheryl Barnard (Chair)
Councillor Corall Jenkins

Absent

Councillor Jay Hayes
Councillor Linda Woodings
Councillor Audra Wynter

Colleagues, partners and others in attendance:

Dawn Cafferty	-	Commercial Systems and Strategy Manager
Stephen Chartres	-	Performance and Improvement Manager
James Howe	-	Public Transport Operations Team Leader
Mark Leavesley	-	Governance Officer
Joseph Muir	-	Senior Homelessness Project Officer
Steve Oakley	-	Head of Procurement

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 17/01/2024. Decisions cannot be implemented until the working day after this date.

49 Chair

In the absence of Councillor Wynter, Councillor Barnard (Vice-Chair) chaired the meeting.

50 Apologies for absence

Councillor Hays)	leave
Councillor Wynter)	
Councillor Woodings	-	personal

51 Declarations of interests

None.

52 Minutes

The minutes of the last meeting held on 12 December 2024 were agreed as a correct record and were signed by the Chair presiding at the meeting.

53 Tender to secure Book Supply Contract for the Library Service - key decision

Stephen Chartres, Performance and Improvement Manager, presented the report and stated the following:

- a) the report sought approval to continue the Council's membership of the East Midlands and Mid Anglia (EMMA) libraries stock consortium with 8 other library authorities (Cambridgeshire, Derby City, Derbyshire, Leicester City, Leicestershire, Nottinghamshire, Peterborough and Rutland);
- b) working as a consortium allowed member library services to combine their spending power to gain significant discounts on the majority of book stock items purchased, achieving best value and maximising library budgets;
- c) the proposal was for Nottinghamshire County Council to lead and manage the procurement process and provide legal advice, for which each participating authority would pay agreed fees. This would be beneficial to the Council by providing a saving on staff resource and time;
- d) the proposed contract period would be for 4 years, with 2 possible extension periods of 1+1 years, and would commence on 1 April 2024, making a maximum contract period of 6 years;
- e) once suppliers had been agreed and a framework agreement signed, each authority would then enter into separate order and call-off contract agreements.

Resolved to

- (1) approve participation by Nottingham City Council in the procurement, to be led by Nottinghamshire County Council, of a new consortium-based framework agreement (for a period of 4+1+1 years) for the provision of books for loan and reference via the 15 public libraries across Nottingham and on behalf of HMP Nottingham Prison Library;**
- (2) delegate authority to the Head of Culture and Libraries to sign and award the contract to the successful provider following the procurement process, and any associated orders for the Council for the purchase of adult and children's books, entering individual call-off contracts for the term of the agreement.**

Reasons for recommendations

- a) To procure the City's Library Service book supply contract, through a consortium approach, allows member library services to combine their spending power to gain significant discounts on most items purchased, achieving best value for the Council and maximising library budgets.
- b) This is an established consortium, where the City Council has previously benefited from working in a combined way to maximise purchasing power with suppliers.
- c) In approving the request to be a partner organisation in the creation of a supply framework, the leading organisation, in this case Nottinghamshire County Council, has an obligation to act and award in line with Public Contract Regulations, satisfying contract procurement rules of the City Council.

Other options considered

- a) Cease having a book supply contract for the purchase of books for the Library Service – Rejected as this would result in a detrimental impact on the Council’s ability to offer a responsive service to meet the current and potential future needs of our Citizens, risking the longer-term literacy and reading levels across our city. It potentially could also result in the City Council being in breach of its statutory duty (Libraries & Museums Act 1964) of delivering a comprehensive and efficient library service.
- b) Nottingham City Council to secure an individual book supply contact for the purchase of its book stock – Rejected as by ‘going it alone’, the City Council would lose the ‘buying power’ and economies of scale that are achieved from a consortium approach. Any discounts would be lost or be minimal and the choice and range of books available may also be restricted. Overall, this would not achieve best value for the Council or the residents of Nottingham.

54 Tender for the supply and maintenance of bus shelters and free-standing units with and without an advertising concession - key decision

James Howe, Public Transport Operations Team Leader, presented the report and stated the following:

- a) the Council currently has a 25-year contract, let in 1999, for the supply and maintenance of street furniture with and without advertising, which is due to expire on 31 December 2024;
- b) street furniture in the terms of this contract is specifically bus shelters and Council information panels (CIPs), otherwise termed as Free-Standing Units (FSUs);
- a) the Council’s street furniture estate comprises of 213 advertising bus shelters, 619 non-advertising bus shelters and 27 free standing units, which are located in the city centre;
- b) the incumbent is contracted to supply and maintain the full estate and manage the analogue (paper) advertising aspect. The Council is not involved in the commercial aspect of selling advertising space on these advertising panels;
- c) as per the existing contract, the Council receives an advertising fee. This is off set against the cost to the Council of the on-going supply and maintenance of the bus shelters, resulting in the existing contract being cost neutral overall;
- d) Nottingham has a comprehensive, high quality public transport network that is supported by high quality infrastructure, including excellent passenger waiting facilities, such as bus shelters. These waiting facilities help citizens to complete their public transport journey in a safer and more comfortable manner, and consultation has identified this is important to them;
- e) none of the current advertising panels used within the estate are digital. The use of digital advertising panels has become more prevalent across the Out of Home Media industry in recent years, with technology advancing and becoming less costly;

- f) digitising an estate provides more opportunity for income generation as other local authorities have found in recent years when re-tendering for similar contracts. It provides for a more flexible and dynamic approach for advertisers and removes the laborious nature of physically posting new adverts and the associated costs that come with that (such as printing costs);
- g) a procurement process is necessary to tender for a new contract for the supply and maintenance of bus shelters and FSUs with and without an advertising concession;
- h) a new advertising concession will allow for the provision of digital advertising panels where appropriate, which will make this a more attractive opportunity for potential providers. This, in turn, should provide more income generation for the Council and thereby help alleviate budget pressures.

Resolved to

- (1) approve commencement of a tender process for a 15-year contract for the supply and maintenance of bus shelters with and without an advertising concession throughout Nottingham and of free-standing council information units with advertising panels within the city centre;**
- (2) delegate authority to the Corporate Director for Growth and City Development, in consultation with the Corporate Director for Finance and Resources, of the preferred procurement strategy, financial performance model and finalised tender documents, and to sign and award a contract to the preferred supplier.**

Reasons for recommendations

- a) The decision was made not to extend the contract with the incumbent as this would not be commercially beneficial to the Council and would not allow for the existing street furniture to be upgraded to provide digital advertising panels. The tender for the street furniture and the advertising concession will allow for an improved financial outcome for the Council in addition to providing an opportunity to upgrade passenger waiting facilities and have more aesthetically pleasing sleek and slimmer advertising assets in the city centre.
- b) The procurement approach and financial performance model which will feed into the tender specification are being developed. Delegating final project approval for the tender and the appointment of the supplier/s to the Corporate Director for Growth and City Development, in consultation with the Corporate Director for Finance and Resources, will ensure there is suitable project assurance in place and timely approvals to keep the project on track and to programme while maintaining governance. A timely appointment of the supplier/s well ahead of the contract with the incumbent expiring is important as it will allow for any exit agreement to be commenced and managed with the incumbent, if required.
- c) The table below identifies the key project timelines and approvals will be factored into each stage.

Activity	When
Agree preferred financial performance model	By January 2024
Agree preferred procurement strategy	By January 2024
Release tender documents	January - March 2024
Appointment of supplier/s	June 2024
Incumbent contract end date	31 December 2024
New contract/s start date	01 January 2025

Other options considered

- a) Option 1 - to extend the existing JCDecaux contract was rejected as the tender exercise allows for bus shelters to be upgraded and replaced as required and it provides an opportunity to upgrade the contract to provide an increased income stream to the Council through new investment in digital advertising panels on both CIPs and bus shelters were appropriate.
- b) Option 2 - to complete a joint procurement exercise and have a joint contract with Nottinghamshire County Council for the provision of bus shelters and CIPs was rejected. Discussions took place with Nottinghamshire County Council colleagues to try and establish whether there would be an overall net benefit to undertaking a joint procurement exercise.

The County Council have a contract, with a different supplier to the City Council, for the supply of advertising and non-advertising bus shelters that is due to expire on 31 May 2025, which is 5 months after the City Council's contract expires. The County Council contract does not include free-standing advertising units and they have no such contract for that kind of asset with any other supplier.

The initial benefit of a joint procurement would be to achieve a uniform look for the Robin Hood Network branded Greater Nottingham Bus Partnership area and maintain consistent high-quality standards across this key public transport network area. Resources could have been pooled to deliver the procurement more efficiently and to potentially increase the financial outcome for both Councils. However, upon further investigation and discussion amongst Council officers, suppliers and impartial advice from an advertising consultant, this option was rejected for the following key reasons:

- having Robin Hood Network branding and a consistent high-quality standard of waiting facilities is still perfectly achievable should either Council procure independently;
- there would be a guaranteed change of supplier as each Council has a different incumbent supplier, which would result in a definite demobilisation process and the added upheaval that this would bring, which would include constant disruption to different areas of the respective Council areas over a potential period of three years;
- the existing contracts end five months apart, which adds a further complication in terms how that could be dealt with in a mutually acceptable fashion;

- the City Council possesses the potentially more attractive advertising bus shelter sites and has the free-standing units. This could potentially mean the City Council not maximising its own opportunities from a financial viewpoint;
 - there would be an increasing number of stakeholders to engage with and it could be difficult politically to procure jointly. Officer views may also vary by authority and could lead unresolvable disagreements over how the tender process is undertaken;
 - the County Council may choose to consider extending their existing contract arrangements.
- c) Option 3 - to have separate contracts for the supply of shelters and maintenance from the advertising element was rejected as this option would involve buying, rather than leasing bus shelters and CIPs. Some local authorities purchase and own their own non-advertising shelters, but this requires much capital investment upfront. Advertising shelters are usually leased via an advertising concession contract, with the media owner managing the advertising on them;

Separating the supply of non-advertising shelters and advertising shelters would mean certain upheaval and added risk to the Council as there would be a definite need for a new supplier as our incumbent supplier only bids for contracts that include advertising. It would also require significant upfront capital expenditure and additional contracts to manage, in addition to potentially having to deal with a third supplier if the incumbent did also not win the bus shelter with advertising tender. The Council does not possess the necessary internal resources to maintain the non-advertising or advertising shelters. The advertising concessionaires have years of experience, expertise and a high number of regular advertising clients that highly trust and value their services. A local authority would not have the resources, experience or reputation to match their performance and there would be much less potential reward for a very high-risk strategy;

another consideration was whether existing shelters could be purchased. However, the incumbent has stated that their policy is that they can only provide the shelters if they hold the advertising concession contract and can maintain the shelters themselves. As a general stance, they do not permit other contractors or in-house Council teams to maintain their branded shelters to ensure they have sole responsibility for their own reputation.

- d) Option 4 – ‘do nothing’ was rejected as there is a requirement for shelters and CIPs once the current contract expires. Additionally, doing nothing would mean missing out on an opportunity to generate greater income for the Council.

55 Employee and citizen travel and accommodation online booking system - key decision

Joseph Muir, Senior Homelessness Project Officer, presented the report and stated the following:

The spend detailed in the report was approved on 18/12/23 by the s.151 Officer (SCB ref: 1618).

- a) Nottingham City Council has a responsibility for:
- employee welfare and contractual obligations for travelling and accommodation whilst Nottingham City Council employees complete essential tasks detailed within job descriptions;
 - satisfying all statutory duties placed upon the Council to provide emergency accommodation to support and safeguard vulnerable households, assess homeless applications and for the protection of children and young people;
- b) the Council currently uses an online booking system, Click Travel, to book 100% of its travel and accommodation requirements for employees, and over 90% for citizen travel and accommodation;
- c) the Council endeavours to commission a sufficient supply of temporary and supported accommodation to meet its statutory duties to all citizens. However, a continued higher than expected demand for these services means that, in emergency situations or when our temporary and supported accommodation provision is full, the use of the online booking system is required to secure emergency nightly paid accommodation in hotels;
- d) the current Click Travel contract expired on 30 November 2023 and a decision was taken at Nottingham City Council Executive Board on 19 December 2023 to extend the current contract for an interim period of two months to 31 January 2024;
- e) during 2023, a review was completed to assess the future requirements and needs of the Council for corporate travel and short-term accommodation bookings for citizens and to determine whether it is appropriate to call off a new contract for a further longer term fixed period. The review concluded that there is a need for a booking system and that a Direct Call-Off, call off to Click Travel via Lot 1 of the YPO Travel Management Solutions 2 framework was the only feasible option to maintain the possibility of both citizen and corporate bookings
- f) consultation with internal users found the existing system to be effective overall. However, the council seek a further development of the service provided by Click Travel to enable the separation of Corporate and Citizen travel and accommodation bookings and expenditure on usage. With a further breakdown within the citizen booking functionality to distinguish between single person and family households. The reason this is required is to maximise the availability of suppliers within each type of booking arrangement and minimise one negatively impacting on another;
- g) Click Travel is the preferred option to continue to deliver the service to ensure that no disruptions are experienced to:
- employee travel and accommodation;
 - in securing emergency placements to meet statutory duties to citizens;

- h) the Council has determined a need to review and develop an additional process/system to procure other nightly paid and short-term block booking arrangements from accommodation providers who are not registered on Click Travel;
- i) when established, this system could eventually become the primary route of securing emergency accommodation for citizens, particularly those the council is required to accommodate under homelessness duties;
- j) this will be dependent upon market participation and, as the process to develop the supplementary system is yet to be developed, this decision is for the maximum potential spend anticipated through the Click Travel booking system for the contract duration and another report will be submitted to a future meeting outlining the final proposals.

Resolved to approve a new direct call-off contract, via Lot 1 of the YPO Travel Management Solutions 2 framework, to Click Travel, for a period of three years and ten months from 01 February 2024 to 30 November 2027, at an estimated total cost of £12,788,900.78 (as detailed in the exempt appendix).

Reasons for recommendation

- a) The Council has an obligation to ensure travel and accommodation arrangements for officers which is necessary in fulfilment of their roles.
- b) The council has a statutory duty to provide emergency accommodation for vulnerable citizens under an assessment criterion.
- c) The council is required to source the accommodation in a way that is compliant with procurement regulations, and which offers best value, quality assurance and auditable use.

Other options considered

- a. To use the current requirements and specification to go out retender - Rejected because the current provider was assessed as being adequate for the Councils usage and that the provider was already part of the YPO Travel Management Solutions 2, Lot 1 framework allowing for Direct Call-Off.
- b. To renew the contract under the current specification - Rejected because of the need to separate citizen and employee travel and further breakdown bookings for single citizens and family households.
- c. Not to review the contract or procure an alternative system - Rejected because of the council's need to secure accommodation when needed in a way that is compliant and offer efficiency to service delivery.

56 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.

57 Exempt appendix - Employee and citizen travel and accommodation online booking system

The exempt appendix was noted.

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Subject:	Light Vehicle supply framework for up to 7,500kg vehicles		
Corporate Director:	Colin Parr – Communities, Environment and Resident Services		
Portfolio Holder:	Councillor Angela Kandola - Highways, Transport and Planning		
Report author and contact details:	Andrew Smith, Assistant Fleet Manager andrew.smith@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Del Sander - Locum Solicitor Tom Straw - Senior Accountant (Capital Programmes) 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 checked="" type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision		<input checked="" type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of expenditure: <input checked="" type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital If Capital, provide the date considered by Capital Board - Date:			
Total value of the decision: £25,000,000.00 over 4 years (£6,250,000 per annum)			
Section 151 Officer expenditure approval Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a Spend Control Board approval reference number: N/A			
Wards affected: All			
Date of consultation with Portfolio Holder: 30/01/2024			
Relevant Council Plan Key Outcome: Green, Clean and Connected Communities <input type="checkbox"/> Keeping Nottingham Working <input type="checkbox"/> Carbon Neutral by 2028 <input checked="" type="checkbox"/> Safer Nottingham <input type="checkbox"/> Child-Friendly Nottingham <input type="checkbox"/> Living Well in our Communities <input type="checkbox"/> Keeping Nottingham Moving <input checked="" type="checkbox"/> Improve the City Centre <input type="checkbox"/> Better Housing <input type="checkbox"/> Serving People Well <input type="checkbox"/>			
Summary of issues (including benefits to citizens/service users): The Fleet and Depot Operations service area is seeking permission to renew and replace its existing framework for the supply and delivery of both Internal Combustion Engine and ULEV Light Commercial Vehicles up to a maximum Gross Vehicle weight of 7500kg. There is not a commitment to spend during the framework's lifetime, but it will provide a compliant solution for if a vehicle is required to support service delivery. The Framework will be accessible by all other public sector bodies and the service specification of the Framework will allow for supply and maintenance. The framework will allow contracting parties including Nottingham City Council to purchase Light Commercial Vehicles from various suppliers to enable them to fulfil their Replacement needs when necessary.			

The vehicles to be purchased throughout the lifecycle of the Framework will include vehicles that are used to deliver Statutory Services across the registered users of the framework. A rebate is payable to NCC for all purchases made under the terms of the framework, 1%. The rebate covers all costs incurred in the management of the framework and the procurement process.

Exempt information: None

Recommendations:

- 1** To approve the undertaking of a procurement process to establish a framework for the outright purchase of Light Commercial Vehicles that all UK public sector contracting authorities can access.
- 2** To delegate authority to the Corporate Director for Communities, Environment and Resident Services to:
 - (a) enter into the initial Light Commercial Vehicle Framework.
 - (b) sign all call-off orders under the terms of the Framework.

1. Reasons for recommendations

- 1.1 Establishing a Framework Agreement provides the Council, and any other user of the framework, a compliant mechanism to source Light Commercial Vehicles. Under the terms of the framework, the user can establish 'call-off' agreements for their specific requirement.

This framework offers two call-off methods:

- Direct award to the highest ranked provider in each of the three lots; or,
- Mini Competitions inviting all suppliers under the chosen lot to bid.

There are benefits and considerations with either approach, these can be considered at the point of demand.

- 1.2 The Framework will consist of 3 lots. A framework agreement will be awarded to up to four (4) supplier per lot, suppliers can bid for one or more lots:
 - Lot 1 Light Commercials up to a Maximum GVW of 3500kg
 - Lot 2 Light Commercials between 3501kg GVW to 7500kg GVW
 - Lot 3 Pick Up Trucks – 4x2 and 4x4 Types
- 1.3 The structure of the Framework considers not only any future fleet requirements, but those of other Council departments (Greenspace, Housing Services, etc).
- 1.4 Individual or multiple vehicles can be bought under the terms of the Framework.
- 1.5 The rebate payable by users of the Framework will be (on average) 0.5% lower than third party framework and nationally accessible by all public sector contracting bodies.
- 1.6 Under the terms of any Framework, there is not a commitment to spend or to place a minimum number of orders.

2. Background (including outcomes of consultation)

- 2.1 The current framework for the provision of Light Commercial Vehicles is due to expire on 31 March 2024. This is a sole-supply framework and cannot be extended, however this structure no longer meets the need of Fleet and Depot Operations.
- 2.2 When originally created, the existing framework was accessible to members of the Nottinghamshire and Derbyshire Transport Group Consortium with a 1% rebate payable to the Council from the named suppliers. The Consortium consists of 15 other local authorities, all of which utilised the framework generating a rebate of circa £75,000.

3. Other options considered in making recommendations

- 3.1 Extend the existing framework – this option was rejected as it would not comply with the Public Contract Regulations 2015.
- 3.2 Renew the method and create a DPS – this option was rejected as the core members and users of the Framework are members of the Nottinghamshire Transport Group Consortium who many have stated don't have the capacity to carry out numerous Mini Competitions and requested the option to retain the Direct Award process to enable swift purchases to be made where necessary.
- 3.3 Undertake ad-hoc tenders at the point of demand – this option was rejected to avoid any duplication of work and to ensure all vehicle purchases are going through a compliant procurement mechanism with a specification created with the Council in mind.
- 3.4 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 Framework.
- 3.5 Creating our own Framework also provides a way to ensure all vehicle purchases are going through a compliant procurement mechanism with a specification created with the Council in mind.

4. Consideration of Risk

- 4.1 Supplier Failure – there will be a contract and scoring mechanism within the Framework terms that means any supplier that does not meet its obligations can be removed from the Framework. Supplier Performance can be monitored and managed utilising contract management.
- 4.2 Market Volatility – a framework will create schedule of rates/basket of goods, and so it may be deemed that the prices are only accurate at the point of submission. However, there is the option to undertake mini competitions to keep testing the prices of the supply base to ensure best value at the point of demand.

In the instance of undertaking a direct award, a proposal would be submitted by the top ranked provider. There will not be a commitment to purchase any asset without a Purchase Order.

5. Best Value Considerations

- 5.1 Requirements can be competitively tendered at the time of requirement, if necessary, thereby maintaining competitive tension.
- 5.2 Fleet and Depot Operations have introduced a new robust business case process which is required of each individual replacement vehicles. The business case is required evidence approvals, Funding, service need, and alternative service delivery options including but not exclusive to extending the life of the current fleet or increased utilisation of the current fleet.

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

The Capital Programme includes a budget to replace the council's fleet, with the expenditure funded by capital receipts. This budget is approved annually at Full Council as part of the budget process.

This decision does not commit the Council to incur expenditure. Therefore, there are no significant risks arising from this decision as the approval to spend will be confirmed as part of the annual budget process.

Tom Straw – Senior Accountant (Capital Programmes) 30/01/24

7. Legal colleague comments

This decision is to conduct a procurement exercise and award a contract and budget to establish a framework for the outright purchase of Light Commercial Vehicles that all UK public sector contracting authorities can access.

There are no significant legal issues arising from the decision as it is proposed that a compliant procurement process is run through the Council's corporate procurement team.

Legal advice and support will be provided with regard to the contracting arrangements to be put in place. As it is proposed that the framework will be available for use by other local authorities there must be appropriate contract management in place by Nottingham City Council to ensure that the framework is managed and used correctly.

Del Sander (Locum Solicitor) - 12/01/2024

8. Other relevant comments

Procurement colleague comments

The request to create a multi-supplier framework agreement for the provision of Light Commercial Vehicles does not pose any procurement risk to the Council. Establishing a framework will provide service areas with a compliant mechanism to source vehicles in line with lead service area's vehicle specification, mitigating the need for day to day, external mechanical support.

The call-off mechanisms proposed allow for best value to be enforced throughout the framework's lifespan and to give real time information on the supply market.

The request complies with both the contract procedure rules and the Public Contract Regulations. Procurement will assist throughout establishing the framework to ensure the process remains compliant.

Holly Fisher, Lead Procurement Officer, Products – 12/01/2024

9. Crime and Disorder Implications (If Applicable)

9.1 N/A

10. Social value considerations (If Applicable)

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

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

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

13. Data Protection Impact Assessment (DPIA)

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

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required.

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

15.1 None.

16. Published documents referred to in this report

16.1 None.

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Subject:	ANPR enforcement maintenance contract with 3G device upgrades		
Corporate Director:	Sajeeda Rose – Growth and City Development		
Portfolio Holder:	Cllr Angela Kandola – Highways, Transport and Planning		
Report author and contact details:	Mark Lethbridge mark.lethbridge@nottinghamcity.gov.uk 0115 876 5766		
Other colleagues that provided input:	Paul Rogers - Commercial Finance Business Partner Tony Heath - Senior Solicitor, Contracts and Commercial Holly Fisher - Lead Procurement Officer Mark Jenkins - Head of Traffic & Flood Risk Management Sue Thorpe - Service Manager, Technical Services & Systems		
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 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 type="checkbox"/> Revenue <input type="checkbox"/> Capital Neither as ringfenced PCN income budget, where spend must be primarily on maintaining the enforcement system. Any surplus must be spent on traffic / travel initiatives only as per legislation			
Total value of the decision: £894,449.06 (over 3 years - £298,483.02 per annum)			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a			
Spend Control Board approval reference number: 4783			
Wards affected: All			
Date of consultation with Portfolio Holder: 23/11/2023			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input checked="" type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
Yunex provides NCC with fixed ANPR enforcement devices which activate when a vehicle passes through a trigger point and records a video pack for evidential review. All suppliers in this market operate a 'one stop shop' or 'closed system' for enforcement to meet DfT licencing requirements. This means only they or their accredited engineering provider can work on their whole system maintaining the integrity of said system to preserve the DfT certification.			
Attached is the written proposal from Yunex to fix costs for 3 years of maintenance and the essential modification of 19 devices that currently communicate using 3G technology, which the government intends is to phase out in 2024 meaning these units will no longer communicate with the system.			

The Yunex proposal also includes a move to a hosted review/fault management platform to improve efficiency in data management and evidence processing.

Moving to a hosted platform and taking the software off NCC servers where the platform currently resides will aid data management and security, improve operational efficiency because Yunex will no longer have to apply to NCC's IT team for access onto the server to fix an issue affecting the system.

Upgrading to this hosted platform will ensure data integrity, removing the risk of evidence packs or encryption keys being lost when we have NCC server issues. The upgrade will also lessen the workloads on NCC's IT department, and of MTE colleagues reporting faults, etc., freeing them up to concentrate on further efficiency and performance improvements.

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 the Council's anticipated expenditure 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 it may impact on value for money to be achieved in future negotiations.

Recommendation:

- 1 To approve that Nottingham City Council purchase a 3-year 'maintenance agreement', modifications to 19 ANPR devices, and provision of a hosted server, from the current supplier (Yunex) to enable continuation of a Department for Transport compliant enforcement system that is fully certified to issue Penalty Charge Notices to motorists that contravene bus lane and other moving traffic restrictions.
- 2 To note that a formal review of future ANPR purchase / maintenance arrangements will be undertaken by Procurement and Traffic colleagues.

1. Reasons for recommendations

- 1.1 DfT require a formal maintenance arrangement to be in place to enable the enforcement system to be fully certified. Due to the integrity of the enforcement systems, 3rd parties cannot undertake any repair or maintenance activities on these closed systems. Therefore, in line with previous years we are seeking approval to renew the maintenance contract with our current supplier.
- 1.2 To address some essential modifications to 19 ANPR devices and improve reliability and efficiency of the server platform, we are looking to secure a 3-year maintenance arrangement (October 2023 to September 2026) which would provide 'Best Value' and spread these modification costs over an extended period.
- 1.3 The costs related to this proposed 3-year maintenance proposal are fully funded through the annual PCN income and underwritten by the ring-fenced reserve.
- 1.4 The essential modifications to the 19 ANPR devices and the upgrade to a hosted review/fault management platform, ensures enforcement activities can be maintained, data security enhanced, operating efficiencies improved and

PCN income is not adversely affected. (These essential modifications and upgrades can only be carried out by the current supplier due to DfT certification guidance).

2. Background (including outcomes of consultation)

- 2.1 As previously stated, DfT require a formal maintenance arrangement to be in place to enable the Bus Lane and Moving Traffic enforcement system to be fully certified.
- 2.2 Therefore, financial approval and an associated 'exemption' has been required annually to allow us to renew the maintenance contract with the current supplier to ensure our enforcement system is fully certified by the DfT.
- 2.3 The requirement to undertake essential modifications to 19 ANPR devices (due to imminent Government changes to the 3G communications platform) and upgrade to a fully hosted server, has meant that we are looking for an extended maintenance arrangement over a 3-year period, which would help set future budgets and spread certain costs over this extended term.
- 2.4 The renewal of the maintenance agreement with our current supplier was finally approved by Procurement.
- 2.5 The S151 Officer has subsequently authorised the 'exemption' to allow the purchase, and the proposal was approved at the Commercial Oversight Board on 22 December 2023.
- 2.6 CPEC is the final approval stage to allow NCC to raise the appropriate PO to ensure a DfT compliant maintenance process is in place for the next 3 years.

3. Other options considered in making recommendations

- 3.1 Other options of changing operational arrangements and supplier were considered (with the help of Procurement colleagues). However, due to the complex DfT compliance rules (no other company can maintain other suppliers' enforcement equipment or systems) and the scale of the existing set-up with our current supplier, no suitable alternative could be achieved within the current renewal timeframe.

4. Consideration of Risk

- 4.1 The current maintenance contract expired at the end of September 2023, and we are already at risk of losing our DfT certification should our current supplier withdraw their interim maintenance support whilst we seek this contract renewal. Yunex are currently maintaining our estate on 'good faith' based on our long-standing commercial relationship.
- 4.2 Any further delay in approving this expenditure could lead to the loss of their interim maintenance support, and thereby the enforcement system will no longer be DfT compliant, lose its certified status and we will no longer be able to issue PCN's in relation to Bus Lane and other Moving Traffic contraventions.
- 4.3 Further delays also make the risks related to the 3G switch off, more acute. We have already moved into the period of time that the government has

indicated for the cessation of 3G telecommunications, and it will take time for Yunex to undertake the modifications for the 19 ANPR devices that use this technology. Again, we would lose the ability to capture contravention evidence and issue PCN's from these 19 locations.

- 4.4 Both of these identified risks would carry with them a significant impact on income to the authority, meaning any shortfall on operational expenditure would need to be met by the General Fund.

5. **Best Value Considerations**

- 5.1 Formal maintenance arrangements of this ANPR enforcement estate have to be in place to preserve the DfT certification, which allows NCC to continue to issue Moving Traffic Enforcement PCNs.
- 5.2 Failure to have formal maintenance arrangements in place will result in NCC losing the DfT certification, which would mean we cannot legally issue PCNs and in turn lead to a significant loss of PCN income.
- 5.3 2022/23 annual maintenance costs for NCC's moving traffic enforcement ANPR system were £233,379.02.
- 5.4 The new annual fixed cost set over 3 years is £298,483.02. These costs include annual maintenance of the current ANPR estate plus essential modifications to 19 ANPR devices that will be upgraded to the latest communications technology. These costs also include moving the existing review/fault management software, currently installed on NCC's servers, to an AWS hosted system.
- 5.5 The decision to seek a 3-year maintenance contract enables the costs of the essential modifications to the 19 ANPR devices and the upgrade to a fully hosted server to be spread over the 3 annual payments, instead of it all being paid for in Year 1.
- 5.6 In real terms, NCC are getting the essential modifications to 19 ANPR devices plus the hosted system for circa £60k per annum over 3 years instead of an additional £180k on the maintenance budget should a 1-year maintenance contract be agreed.
- 5.7 (Please note we are undertaking essential modifications to these 19 ANPR devices, not purchasing new devices. Therefore, as previously mentioned in this document, only Yunex are permitted to work on their products to maintain the integrity of the system and keep our DfT certification).
- 5.8 Being asked to go to market for this proposal would mean losing this Yunex quotation for these essential modifications and server upgrade. It would also mean that any provider, including Yunex, wishing to tender would have to quote their best price for 19 new ANPR devices plus a hosted system. There would also be other costs related to integration into the 'Back Office' (Taranto) debt management system and the inefficiencies of operating multiple platforms.
- 5.9 The estimated cost of this, based on the requirements of Procurement, could cost anywhere between £800,000 - £1,170,000.
- 5.10 If a full tender process for these 19 ANPR devices is required then a substantial delay to their replacement is likely, with a significant increase in risk of an inability

to enforce at these 19 locations and the associated loss of income for an extended period.

- 5.11 To mitigate these risks, it is essential to renew the maintenance arrangements with our current supplier, ensuring enforcement operations are not disrupted and income adversely affected.
- 5.12 We are fully committed to work with Procurement on a formal program to test the market moving forward to ensure any new ANPR devices purchased represent best value for NCC and meet our fiscal and legal obligations.

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

- 6.1 The decision to continue and update a 3-year ANPR contract with Yunex from September 2023 to September 2026 for the total cost of £894,449 or £298,483 per year, with £154,241 relating to this financial year 2023/24, is supported.
- 6.2 The contract will help mitigate risk by updating technology and safeguarding data on secure external servers, reducing the workload and cost of Nottingham City Council's I.T. department.
- 6.3 The previous one-year contract was approved in November 2022 on DD4784. The cost appears the same and Traffic have negotiated improved terms in line with best value.
- 6.4 DfT require a formal maintenance arrangement to be in place to enable the Bus Lane and Moving Traffic enforcement system to be fully certified; losing Certification would mean losing PCN status and income for Nottingham City Council's Traffic department which then may impose a risk of expenses to the General fund of Nottingham City Council.
- 6.5 The ANPR Contract with Yunex will be fully funded from the Ring fenced Bus lane and moving traffic enforcement reserve (Code N-94558), meaning no effect on the general fund. Therefore, the proposal will not add financial pressure to the MTFP and can be contained within Traffic and is supported. This will be monitored by the service for any variance and reflected in the forecast and budget for the service.

Paul Rogers, Commercial Finance Business Partner - 25/01/2024

7. Legal colleague comments

- 7.1 This report seeks a modification to an existing contract to extend that contract by 3 years and vary the maintenance services to be provided under that contract to include the modification of 19 devices that currently communicate using 3G technology, which the government intends to phase out in 2024, meaning these units will no longer communicate with the system.
- 7.2 This contract started in 2008 – the proposed modification means the contract will have been in place for 18 years once this extended period elapses without the Council having tested the market in any way.

- 7.3 Procurement colleagues have, I understand, explained the significant risk the Council takes in extending this contract – that position is supported by Legal Services – and the terms of the Exemption are noted. At this stage it is very difficult to see any justification for the continuance of this arrangement post 2026 without market engagement in accordance with the prevailing Regulations.
- 7.4 The report refers to “Yunex are currently maintaining our estate on ‘good faith’ based on our long-standing commercial relationship”. It is likely that the existing contract would be deemed to have been varied by conduct, namely Yunex continuing to provide the services set out in the contract and the Council continuing to pay for such services as set out in the contract.
- 7.5 This report seeks to vary the services to be provided under the modified contract. It is essential that the modified contract contains all necessary terms (varied if required in accordance with the relevant provisions in the contract) to give the Council appropriate protection and assurance for the modified services to be provided. It would potentially create a significant risk for the Council to vary the contract as proposed without considering what other variations are required to protect the Council’s position.
- 7.6 In particular, the Council should ensure that appropriate transition provisions are included in the contract should another provider be identified to take over this service from 2026.
- 7.7 The Council should also assure itself that these modifications do not artificially restrict the potential market that the Council will be engaging in the future.
- 7.8 The Council should also assure itself that the variation to the Services do not, or do not risk as being perceived as, restricting the market when the market is engaged in due course. This may be seen as artificially limiting the market to benefit of certain providers; this seems unlikely from the detail of the report but some consideration at this stage would be helpful should any such challenge be intimated or made.

Tony Heath, Senior Solicitor, Contracts and Commercial - 23 January 2024

8. **Other relevant comments**

8.1 Procurement comments

This requirement satisfies the criteria stipulated to undertake a direct award under regulation 32 (2) (b), also accepting the exemption from the procurement regulations.

Undertaking the direct award enables the Council to maintain their camera estate and the DfT Certification – protecting the income and also the use of the ringfenced budget social initiatives.

Due to the value, it is advised that all future contracts for this requirement (and associated services, such as installations and replacements) need to go through a compliant procurement process with a clear exit and mobilisation strategy in place.

Holly Fisher, Lead Procurement Officer - 25 January 2024

9. Crime and Disorder Implications (If Applicable)

9.1 N/A

10. Social value considerations (If Applicable)

10.1 To work with the supplier of the maintenance contract to ensure the fleet of vehicles used to maintain and repair the on-street devices are either fully electric or low emissions vehicles.

10.2 By also purchasing a hosted system, it allows the maintenance supplier to potentially fix a fault via an online interrogation, which lessens the number of visits to Nottingham.

10.3 By ensuring the ANPR units remain working, Nottingham's bus lanes remain clear to ensure timetables are maintained and restricted areas are also maintained, which reduces potential conflict between vehicles and pedestrians plus cleaner air.

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

12.1 An EIA has been completed and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 A DPIA has been completed and due regard will be given to any implications identified in it.

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required because the system is already in situ, therefore the Council are not changing or adding to the system, so it is net neutral.

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

15.1 None.

16. Published documents referred to in this report

16.1 DD4784 (dated 25/11/2022) for the maintenance contract 2022/23.

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Subject:	Fee rates for Adult Social Care Services 2024/25		
Corporate Director:	Catherine Underwood - People		
Portfolio Holder:	Councillor Linda Woodings – Adult Social Care and Health		
Report author and contact details:	Jackie Wyse Interim Head of Service, Contracts, Quality and Personalisation jackie.wyse@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Mark Astbury, Strategic Finance Del Sander, Solicitor Jo Pettifor, Procurement David Stillings, Personalisation Team Manager		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision		<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Type of expenditure: <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital			
Total value of the decision: £11.337m			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a			
Spend Control Board approval reference number: N/a			
Wards affected: All			
Date of consultation with Portfolio Holder: 28.02.24			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input checked="" type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
This report presents proposals for fee rates in 2024/25 across Adult Social Care contracted provision. Nottingham City Council is contractually obliged to consider fee rates on an annual basis where it has a statutory duty to provide a service. Consultation will be undertaken with providers on these proposals and the responses will be fully considered prior to implementation from April 2024.			
Exempt information:			
Appendices to the report are exempt from publication under paragraphs 3 and 5 of Schedule 12A to the Local Government Act 1972.			
Financial advice is exempt under paragraph 3 because it contains commercially sensitive information relating to the Councils pricing structure and financial modelling. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest			

in disclosing the information as declaring financial modelling to suppliers would prevent the Local Authority from managing the market efficiently, which could cost it more.

Legal advice is exempt under paragraph 5 because it contains information that is subject to legal professional privilege. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because the information sets out the legal implications inherent in the course of action proposed here, which the decision maker is arguably entitled to consider without the Council's position being affected by consideration of those implications.

Recommendations:

1. To approve the fee uplift proposal (as outlined in appendix 1, option 2 and section 3 of the report) to enable consultation with the market to take place.
2. To delegate authority to the Director of Commissioning and Partnerships in consultation with the Director for Adult Health and Social Care to agree fee rates in accordance with the proposals detailed in section 3 of the report and in exempt appendix 1, subject to the outcome of consultation with providers and in line with the Council budget.
3. To note that, subject to consultation outcomes (recommendation 1 above) and recommendation 4 below, the agreed rates will be implemented from April 2024.
4. To approve the spend of £11.337m associated with this decision, including approval to spend against high-cost placement provision through the Council's scheme of delegation for Adults Care Packages.
5. To note that, if upon completion of consultation the financial impact of any revised proposals exceeds the budget available, further approval from this Committee will be sought.

1. Reasons for recommendations

- 1.1 Section 5 of the Care Act, 2014 states: A local authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market:

- a) has a variety of providers to choose from who (taken together) provide a variety of services;
- b) has a variety of high-quality services to choose from.

The Care Act statutory guidance states in 4.35 Local authorities must not undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality – for example, by setting fee levels below an amount which is not sustainable for providers in the long-term. However, this should be considered with the duties relating to the delivery of a balanced budget.

- 1.2 In accordance with the Council's legal obligation, consultation on these proposals will be undertaken with adult social care providers during prior to April 2024.

The Director of Commissioning and Partnerships in consultation with the Director for Adult Health and Social Care will take account of consultation responses and issue variations to existing contracts reflective of the proposals in this report should no significant issue arise. Should the outcome of these consultations require consideration of notable change to the sustainability of the market and/or financial consequences of these proposals a further report will be presented through the appropriate governance process.

- 1.3 These proposals and the associated financial modelling are based on current full year financial forecasts in 2023/24.
- 1.4 The recommendations presented take account of the implications of inflationary pressures on the adult social care market and aim to represent a fair allocation of funding and to support the market across all service areas. It is considered that a balanced, reasoned, and informed approach has been taken and that the proposals seek to support a sustainable, efficient, and effective market within the available resources.

2. Background

- 2.1 The Council's fee rates for adult social care services have historically been reviewed annually and decisions based on an established methodology for calculating inflationary increases. An evidence base for pricing was originally developed based on the UK Homecare Association model for Care at Home type services and independent review of residential care pricing. These tools have been adjusted to account for factors including the current market position, cost of living indices and Office of National Statistics data.
- 2.2 Every year, these established tools have been used to undertake analysis of the potential impact of national living wage (NLW) requirements and other pressures such as cost of living, pensions, profit, and voids. Alongside these financial pressures, there are other aspects which are considered:
 - The current provider market including number of providers and quality of the market;
 - Demand for social care provision arising from demographic pressures;
 - Difficulty in attracting workers into the care sector due to competition from other sectors;
 - Competition between Local Authorities and their ability to pay more to the market.

The fee rate modelling process has therefore been key to support social care providers to meet NLW and other cost pressures, and to manage the social care market, whilst balancing against the Council's other budget commitments and pressures.

- 2.3 In December 2021 the Department of Health and Social Care (DHSC) announced the new Market Sustainability and Fair Cost of Care (FCOC)

Fund, available to support local authorities to begin preparing local care markets for reform and moving towards sustainable funding for this market.

Local authorities were expected to use this funding for activities such as conducting a cost of care exercise; improving data on costs; strengthening capacity for market oversight; and increasing fee rates as appropriate to local circumstances.

In 2023-24 Nottingham City Council received an allocation of £5.99m from this fund which has been used to support transformational work, to complete a strength-based review, bolster staffing levels and to provide a sustainable level of funding. The Fair Cost of Care work has been completed; however, the local response rate was extremely low (mirrored nationally) and therefore the outcome was inconclusive.

- 2.4 Due to the significant budget constraints further options have been proposed and are outlined in Appendix One. Information in relation to the market context (including benchmarking) and intelligence relating to the fragility of the market, quality and provider failure that is outlined within exempt appendix 3.

3. Other options considered

- 3.1 Consideration was given to a hybrid model, whereby each option would be broken down into two parts, part one applied the proposed uplift to all provision, part 2 applied the proposed uplift to providers on a contracted rate. (A contracted rate is one that is either a standard rate, a banded rate, or a commissioned rate. It does not include any provision where the rate is variable, and the provider has been able to state their fees at the point of placement).
- 3.2 Although the hybrid options have been considered they are not recommended. The care packages are currently recorded in CONTROCC in such a way that it is impossible to determine which are contracted and which are variable resulting in an inability to financially model this option.

Banded rates were introduced for working age adults residential care approximately 3 years ago, however, this only applied to new placements and not existing placements. It could also create disparity between providers, as not all providers had the opportunity to sign up to the banded or standard rates due to the specialisms they offer.

- 3.3 Alongside the uplift proposals outlined within this report, there are a range of projects (appendix 3) being undertaken to reduce the financial impact of the fee rate increases, including any additional resources required to accelerate these projects.
- 3.4 A range of options have been scoped and outlined within exempt appendix 1, with recommendations based on meeting statutory duties in relation to market stability and whilst balancing this with budget pressures. From the options proposed in appendix 1, Option 2 is recommended, along with the contingency measures in Section 3 of the appendix.

4. Consideration of Risk

- 4.1 The key risks for each option have been outlined within exempt appendix 1.
- 4.2 Legal considerations of risk are contained within the options outlined in Appendix One and below in the legal colleague comments section.
- 4.3 It is proposed to consult with service providers on these proposals before April 2024. Officers from Contracting and Finance will consider consultation responses and report the key themes and any risks arising to the Director of Commissioning and Procurement in consultation with the Director for Adult Health and Social Care. Should the outcome of these consultations require consideration of significant changes to the proposals (with due regard given to the available budget) a further report will be submitted through the appropriate governance process.

5. Best Value Considerations

- 5.1 The service provision covered within this report is in place to support the Local Authority to meet a range of statutory duties.
- 5.2 The majority of commissioned services have been procured through a compliant process to ensure providers meet the required minimum standards, and in the case of services subject to a competitive tender, this included an evaluation of both price and quality to secure best value for money.
- 5.3 A number are contracted through an open accreditation process and in most cases, rates are set by the Council in order to ensure best value. The accreditation process for residential and nursing care and other services includes agreeing to the Council's terms and conditions. There are services currently in place whereby a spot arrangement has been agreed outside of a procurement process, however, through the duties and powers workstreams, mitigation projects and recommendations outlined in Appendix 4, these will begin to be addressed.

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

- 6.1 At this stage the financial implications on this report cannot be finalised.
- 6.2 The funding available to support fee uplifts in 2024/25 is still subject to any agreement by the Chief Executive and Section 151 Officer to increase the existing provision with the MTFP. The financial implications of the recommended option with this report are approximately £3.020m higher than the existing MTFP provision on 2024/25 with an additional risk of £3.000m if the National Living wage agreed is higher than the assumed level of £11.16 per hour set out in the report.

Mark Astbury, Strategic Finance - 20.11.23.

7. Legal colleague comments

- 7.1 Pursuant to para 16.1 below, on the basis that the majority of commissioned adult social care services in question are stated to have been contracted through open and compliant procurement processes, the fee rates and any proposed uplift relating thereto will need to be considered in light of the provisions contained in those Agreements on a case-by-case

basis and also in light of the obligations placed on the Authority to carry out its statutory functions.

- 7.2 The service provisions covered within this report are in place to support the Local Authority to meet a range of statutory duties and so any review of fee rates and proposed uplifts need to take into account what potential impact any decision relating to fees would have on the Local Authority to meet its statutory duties.

Del Sander, Solicitor - 27.12.23

8. Procurement colleague comments

- 8.1 There are no procurement implications arising from this decision.
- 8.2 The majority of commissioned adult social care services in question are contracted through open and compliant procurement processes, and the fee rates proposed have been developed through a robust methodology which considered factors impacting on the provider market, including National Living Wage, and which seeks to ensure fairness and consistency across providers.

Jo Pettifor, Category Manager, People - 14.11.23.

9. Crime and Disorder Implications (If Applicable)

- 9.1 Not applicable.

10. Social value considerations (If Applicable)

- 10.1 Commissioned adult social care services in the city are predominantly delivered by providers with a local operating base, therefore these proposals will support local employment and investment in the local economy.

11. Regard to the NHS Constitution (If Applicable)

- 11.1 Not applicable.

12. Equality Impact Assessment (EIA)

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

13. Data Protection Impact Assessment (DPIA)

- 13.1 A DPIA is not required as this decision does not involve personal data. The Data Protection implications of the contracted services involved is addressed in the existing contractual arrangements.

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required because there are no carbon implications arising from this decision. It does not make any proposals for the delivery of services or activities but relates to the funding levels of existing contracted services.

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

15.1 None.

16. Published documents referred to in this report

16.1 None.

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