

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

4421

Author:

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Department:

People

Contact:

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Subject:

Expansion of Mental Health Support Teams Provision

Key Decision (decision valued at more than £1million):

Yes

Total Value:

£1,850,000 (Type: Revenue)

Decision Being Taken:

- 1) To accept additional funding from Health Education England (HEE) and NHS England to expand the Mental Health Support Teams (MHST) provision in the city from two teams to five teams over the next 18 months.
  - 2) To make all MHST staff permanent, as funding is recurrent until at least 2024 and it is highly likely that the Service will continue to expand as part of the Government's plan to have MHSTs in 100% of schools.
  - 3) To move Education Mental Health Practitioners (EMHPs) from NHS pay scales to Council pay scales.
- The budget for the staffing roles is being approved by the Leader of the Council as an executive decision and the establishment of the posts is being approved by the Corporate Director as a non-executive decision under Delegation 16.

**Reasons for the Decision(s)**

The MHST teams in the city have become well-established within their training year and part operational year. The Service has attracted funding to expand the teams and this will work well with other service area plans to support educational communities in embedding a whole school approach to mental health and develop a trauma-informed approach that is inclusive and sensitive to the challenges experienced by some children and young people. The teams will enable Children and Adolescent Mental Health Services (CAMHS) to work with more complex cases in a timely manner and an increased provision of MHSTs will embed early support and preventative measures across the city, reducing inequalities and expanding support. The Covid-19 pandemic has had a significant impact on children and young people and being able to have a wider reach and increase Whole School Approaches by workshops on Mental Health for children and young people, care-givers and educational staff will help the city to be one in which children and young people's mental health is a priority, with access to support early before it deteriorates. Future waves will look to offer support to children who are vulnerable, have additional needs or are attending alternative provision.

The current contracts expire in 2021/22 and extending beyond two years will give employees the same rights as permanent staff. Staff retention will be aided by permanent contracts. The Nottinghamshire NHS Trust is recruiting permanently to these posts and this adds to challenges to the Council in recruitment to fixed-term posts. Cost projections for the team will include risk of redundancy. This is now possible with local recruitment and is something all current employees want, and consultation has taken place with Trade Unions. Staff positions within the MHST teams will meet local need as well as adhering to the minimum of 4 EMHPs per MHST team, the team will also consist of a service manager and lead, MHST managers, MHST / Cognitive Behavioural Therapist supervisors, MHST (CAMHS) Practitioners level 2 and 3, Family Support Workers, Cognitive Behavioural Therapist Recruit to Train and Qualified posts, Trainee and Qualified Children and Wellbeing Practitioner posts, Data Analyst and Business Support Officer roles.

**Briefing notes documents:**

Nottinghamshire CCG wave 6 funding.docx

**Other Options Considered:**

1) To not accept the funding offered to extend the service; 2) to not to create permanent positions, which would risk staff retention as current contracts are until between December 2021 and March 2022, and workers may look for alternative roles; and 3) to not make any changes to the EMHP pay conditions.

The option to do nothing or make no changes was rejected because the additional funding allows us as a city to offer more evidence-based mental health treatment options for children and young people. This is line with the Government's commitments to the child and adolescent mental health agenda to ring-fence money to offer more treatment options for children mental health within schools. This funding is national funding that it was agreed that the Council would bid for when it became available. The MHST are already becoming valued and well utilised by the 46 schools they currently support.

**Background Papers:**

None

<b>Published Works:</b>	<b>Mental Health Support Teams for Children and Young People in Education - A Manual</b>
<b>Affected Wards:</b>	<b>Citywide</b>
<b>Colleague / Councillor Interests:</b>	<b>None</b>
<b>Consultations:</b>	<p><b>Date: 19/08/2021</b></p> <p><b>Unions: Unison, GMB, Unite</b></p> <p><b>Presented rationale to place EMHPs on Council grading, rather than NHS, to all Trade Union representatives.</b></p> <p><b>Those not consulted are not directly affected by the decision.</b></p>
<b>Crime and Disorder Implications:</b>	<b>There will be no negative implications on crime and disorder. This project is expected to have a positive impact as mental health conditions and undiagnosed neurodevelopmental conditions can lead to the negative impact on crime and disorder within communities. An increase in opportunities for children and young people and families to have access to additional services in their communities (their local school) to address their mental health needs as early as possible should have a positive impact on crime and disorder.</b>
<b>Equality:</b>	<b>Please login to the system to view the EIA document: EIA for MHST expansion.docx</b>
<b>Relates to staffing:</b>	<b>Yes</b>
<b>Decision Type:</b>	<b>Leader's Key Decision</b>
<b>Subject to Call In:</b>	<b>Yes</b>
<b>Call In Expiry date:</b>	<b>05/11/2021</b>
<b>Advice Sought:</b>	<b>Legal, Finance, Human Resources, Equality and Diversity</b>

**Legal Advice:**

If this proposal is accepted then it will involve the creation of new posts within the Council. If the proposal is implemented then such appointments should be based on merit. In addition, with regards to any potential equal pay issues, the pay relating to the proposed new posts should be assessed in accordance with Council's pay policy.

In so far as this proposal relates to the creation of new posts or to changing the terms and conditions of employees (i.e. from fixed-term to permanent contracts of employment), this is a non-executive decision under public law which means it cannot be taken by the Portfolio Holder. This is because of section 9D of the Local Government Act 2000. This section refers to "Functions which are the responsibility of an executive". Sub-section (3) states that the Secretary of State may by regulations make provisions that certain functions will not be the responsibility of the executive of the authority under executive arrangements. The Secretary of State has made such regulations: the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). Schedule 1, regulation 2(1) to those regulations list "Functions not to be the responsibility of an authority's executive" and Part I (Miscellaneous functions) refers to paragraph 37 which states "Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)". Therefore, as the proposal here would, if implemented, involve the creation of new posts or to changing of terms and conditions of employees, this is a non-executive decision. Therefore, provided the power to create new posts or to change the terms and conditions of employees has been delegated to the Corporate Director for People, this decision can be made by that individual.

With regards to the proposal to move Education Mental Health Practitioners from NHS pay scales to Council pay scales, it is advised that full consultation with affected employees and trade unions take place with a view to seeking their agreement before such a change is implemented. It appears to be the case that this is taking place.

As the advice from HR has indicated, if funding for the Mental Health Support Teams were to cease and, as a result, the employment of staff was to be terminated, the Council would have to consider whether those employees are entitled to a redundancy payment.

Advice provided by Aman Patel (Solicitor) on 24/09/2021.

**Finance Advice:**

The Finance advice is contained within the attached document.

Advice provided by Ruby Barton (Commercial Finance Business Partner) on 05/10/2021.

Advice documents: Expansion of Mental Health Support Teams Provision DDM.docx

**HR Advice:**

**.7 existing EMHP colleagues (6 qualified and 1 trainee) were recruited and appointed on NCC contracts, however as a legacy of the original scheme remain on NHS job role descriptions, evaluation and pay banding. NHS pay band relates to 37.5 hours/week, so the NHS salary amount is paid pro rata for 37 hours. There is therefore an anomaly in pay and set-up for this team, which presents challenges for management and exposes different pay structures compared to other similar roles within the service.**

**.Management advises that they have confirmed with the appropriate body that there is no ongoing requirement for the roles to be on NHS pay structure and that they can be under LG pay.**

**.Should acceptance of additional NEE funding be approved through this decision process, management also propose through this decision to appoint to the new funded roles on NCC pay and to transfer existing colleagues onto NCC pay.**

**.Any new staff appointed to roles created with additional funding will be entitled to a redundancy payment if they have at least 2 years continuous service with NCC or another organisation covered by the RP(M)O at the time of redundancy should their contract be terminated. Management advise that finance have been consulted over budget and forecasting additional redundancy costs.**

**.All recruitment should follow relevant procedure and process, including current vacancy management, recruitment and new starter processes, and pay policy.**

**.For transfer of existing staff, management will need to consult with the staff in writing to vary their Terms and Conditions, setting out the differences between the pay structures, and should obtain each individuals' agreement in writing before making any change. HR will provide necessary support.**

**.Job evaluation will be required to confirm the appropriate NCC grade for the EMHP roles, prior to recruitment and consultation to transfer. Indicative / anticipated NCC grade is E for trainee and F for qualified EMHP, based on close comparison with JEQ for qualified Children's Wellbeing Practitioner which have recently (November 2020) been evaluated at these grades.**

**.Management advise that finance have been consulted with over the difference in salary cost between current NHS grades and indicative NCC grades.**

**.Management also propose to offer permanent contracts, rather appointing new staff on FTC and offering further extensions of FTC for existing staff, as funding is for all roles is confirmed until the end of March 2024.**

**.Management should ensure staff are aware that the roles remain subject to funding, and that the offer of a permanent contract does not signify permanent funding is in-place.**

**.After 2 years on FTC employees may request a permanent contract; the employer may consider temporary funding of the post to be a reason to not agree this. However employment rights including right to redundancy pay are equitable for temporary and permanent staff. The key difference that management should be aware of is that, while FTC will expire on the date stated in the contract without need for consultation or notice period, a full redundancy consultation and contractual notice period will be required to end employment contracts for staff employed on a permanent basis if the roles cannot be continued when funding ceases. Management will therefore need to commence redundancy consultation, including 45 days collective consultation with Trade Unions, in good time in order to issue staff with contractual notice and cease contracts in-line with cessation of funding. It is essential that management engage HR 6 months prior to the end of funding to ensure redundancy processes and timelines are adhered to and avoid additional salary costs.**

**.Management have consulted with Trade Unions about these proposals, who welcome the clear information and have no objections if the transfer is acceptable to members. Advice provided by Joanne Zylinski (Service redesign consultant) on 13/09/2021.**

**Equality and Diversity  
Advice:**

**This proposal could particularly benefit people from different ethnic groups, men, women, pregnancy / maternity, people from different faiths / beliefs and those with none, LGB, younger and older. There are no impacts to any of the protected characteristics.**

**Advice provided by Rosey Donovan (Equality and Employability Consultant) on 04/10/2021.**

**Signatures:**

**David Mellen (Leader/ PH Strategic Regeneration Communications)**

**SIGNED and Dated: 22/10/2021**

**Catherine Underwood (Corporate Director for People)**

**SIGNED and Dated: 21/10/2021**