

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:	4634
Author:	Lee Kimberley
Department:	Resident Services
Contact:	Lee Kimberley (Job Title: Head of Nottingham Catering, Email: lee.kimberley@nottinghamcity.gov.uk, Phone: 01158765432)
Subject:	Approval to deliver the Education Catering contract for a Nottinghamshire School
Total Value:	£272,921.00 (Type: Revenue)
Decision Being Taken:	<p>1. To approve Nottingham City Council, Nottingham Catering, entering into a contract with a Nottinghamshire County Council School (as detailed in an exempt appendix) to deliver the catering service for a period of 3+1 years from 1st September 2022 (Portfolio Holder Decision).2. To approve the budget provision as detailed in the exempt appendix to meet the needs of the contract and for the TUPE of staff from the current provider (Nottinghamshire County Council) and to purchase provisions to deliver the service (Portfolio Holder Decision).3. To approve the TUPE of staff from the current provider (Nottinghamshire County Council) under scheme of delegation reference 16 (Non-Executive Officer decision).4. To approve the budget provision as detailed in the exempt appendix to establish staff resource and positions for the production of meals from Loxley House kitchen to meet the needs of this contract.</p>
Reasons for the Decision(s)	<p>The primary school is a maintained school of Nottinghamshire County Council, and requested that Nottingham Catering provide a quote for the delivery of its catering service to replace its current supplier. Nottingham Catering submitted a quotation and were successful in winning the contract. The new contract will commence on 1st September 2022 for a period of 3+1 years. There is an optional extension of 1 year available to the school at the end of the initial 3 year period. Trade unions and affected employees will be consulted in line with HR advice in regards to the TUPE transfer of staff at the appropriate time.This decision will also create additional staffing resource for school food production to commence from Loxley House kitchen from September 2022, to supply this school and another school in close proximity and already in contract with Nottingham Catering. Both schools do not have production kitchens and require a transported to service to provide cooked school meals. Shifting the existing production and adding resource will enable full production to commence within Loxley House and improve service resilience and build capacity for future contract growth within Nottingham.</p>
Other Options Considered:	<p>Not entering into the contract was considered as an option but has been rejected as the proposal in the decision is within the scope of the growth aspirations and Business Plan for the service.</p>

**Background Papers:**

None

**Published Works:**

None

**Affected Wards:**

Citywide

**Colleague / Councillor Interests:**

None

**Any Information Exempt from publication:**

Yes

**Exempt Information:**

**Description of what is exempt:**

Financial details and name of the School.

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

**3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).**

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because the Council is competing in a highly competitive sector for catering contracts. Publishing its financial modelling and the proposed budget for this contract would expose its commercial information to the competition and therefore place the Council at a disadvantage and risk in regards to both new contracts and existing contract renewals.

**4 - Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.**

**The public interest in maintaining the exemption outweighs the public interest in disclosing the information to enable the correct TUPE process to be undertaken, including notification and consultation with the affected staff. Publishing this information would potentially compromise this legal process. Some information to remain exempt to protect the rights of the employees.**

**Documents exempt from publication:**

**West Bridgford Junior - Finance comments v3.docx, School Finance Budget v1.0.pdf**

**Consultations:**

**Those not consulted are not directly affected by the decision.**

**Crime and Disorder Implications:**

**None arising from the decision to be taken.**

**Equality:**

**EIA not required. Reasons: No equality issues will result from this decision, in particular this contract is outside of the City boundaries.**

**Relates to staffing:**

**Yes**

**Decision Type:**

**Portfolio Holder**

**Subject to Call In:**

**Yes**

**Call In Expiry date:**

**31/05/2022**

**Advice Sought:**

**Legal, Finance, Human Resources**

**Legal Advice:**

**Nottingham City Council's proposal for the provision of catering services to this Nottinghamshire school has been successful. The contract will be for an initial period of 3 years with the option for the school to extend the contract for 1 year.**

**Advice provided by Sarah O'Bradaigh (senior solicitor) on 12/04/2022.**

**Finance Advice:**

This advice is exempt from publication and is contained within an exempt appendix.

Advice provided by Philip Gretton (Finance Analyst) on 30/04/2022.

**HR Advice:**

As the proposal relates to as service being brought in-house, this will create a 'Service Provision Change' under the Transfer of Undertakings (Protection of Employment Regulations 2006 (TUPE).

TUPE places an obligation on Nottingham City Council as the transferee to undertake genuine consultation with affected employees and trade unions on any proposed changes to the terms of employees' contracts of employment. These changes must be for an economic, technical or organisational (ETO) reason and this must be consulted on with affected parties. Nottingham City Council cannot harmonise terms and conditions unless it is for an ETO reason. Therefore it is important for Nottingham City Council to obtain information on incoming employees' terms and conditions in order to identify where potentials measures may need to to be proposed. All individuals employed by Nottinghamshire County Council should transfer with their existing terms and conditions of employment. This includes their existing salary and any additional costs relating to their salary should also be considered in the budget. Their continuity of service is also preserved.

If the transfer was likely to lead to a restructure or potential redundancies, this should be fed into the consultation process and costs and relevant legal requirements in relation to this should be considered.

An appropriate induction must also be planned to ensure individuals feel welcomed into the organisation and the transition is successful and continuity is provided for service users. There will also need to be a transition period and support and development for the new post holder once they are in post.

Advice provided by Sheila Birch (HR Consultant) on 07/04/2022.

**Signatures**

Cheryl Barnard (Portfolio Holder- Children, Young People, Schools)

SIGNED and Dated: 24/05/2022

Frank Jordan (Corporate Director, Resident Services)

SIGNED and Dated: 17/05/2022