

Commissioning and Procurement Executive Committee – 14 March 2023

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|---|--|---------------------------------|--|
| Subject: | Department of Levelling Up, Housing and Communities grant for Domestic Abuse Statutory Duty and procurement of refuge services | | |
| Corporate Director: Director: | Frank Jordan – Communities, Environment and Residents Services Andrew Errington - Community Protection | | |
| Portfolio Holder: | Cllr Neghat Khan - Neighbourhoods, Safety and Inclusion | | |
| Report author and contact details: | Jane Lewis Community Safety Strategy Manager Jane.lewis@nottinghamcity.gov.uk | | |
| Other colleagues who have provided input: | Susan Turner, Senior Commercial Business Partner Benita Meehan, Solicitor Jo Pettifor, Category Manager, Strategy & People | | |
| Key Decision | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Subject to call-in |
| | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Reasons: | <input checked="" type="checkbox"/> Expenditure | <input type="checkbox"/> Income | <input type="checkbox"/> Savings of £750,000 or more |
| taking account of the overall impact of the decision | | | <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital |
| Significant impact on communities living or working in two or more wards in the City | | | <input 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: £2,000,000 (total amount of addition to refuge contracts over 5 years, plus an anticipated to include the increased grant for 2024/25 and potential future uplifts) | | | |
| Wards affected: All | | | |
| Date of consultation with Portfolio Holder: 14 February 2023 | | | |
| Relevant Council Plan Key Outcome: | | | |
| Clean and Connected Communities | | | <input type="checkbox"/> |
| Keeping Nottingham Working | | | <input type="checkbox"/> |
| Carbon Neutral by 2028 | | | <input type="checkbox"/> |
| Safer Nottingham | | | <input checked="" type="checkbox"/> |
| Child-Friendly Nottingham | | | <input checked="" type="checkbox"/> |
| Healthy and Inclusive | | | <input checked="" type="checkbox"/> |
| Keeping Nottingham Moving | | | <input type="checkbox"/> |
| Improve the City Centre | | | <input type="checkbox"/> |
| Better Housing | | | <input checked="" type="checkbox"/> |
| Financial Stability | | | <input checked="" type="checkbox"/> |
| Serving People Well | | | <input checked="" type="checkbox"/> |
| Summary of issues (including benefits to citizens/service users): | | | |
| <p>The Domestic Abuse Act 2021 places a statutory duty on Tier 1 local authorities as of 1 April 2021. The grant will enable Nottingham City Council (NCC) to fulfil the functions of the statutory duty on Tier 1 Local authorities relating to the provision of support to survivors of domestic violence and abuse and their children residing within safe accommodation (the ‘Statutory Duty’).</p> <p>The CPEC October 2022 meeting approved receipt of the Department of Levelling Up, Housing and Communities (DLUHC) funding grant (the ‘Grant Funding’) and this report is now seeking approval of the spend of a proportion of the Grant Funding and delegation to the Corporate Director to sign off the compliant procurement of further refuge services to enable NCC to comply with its Statutory Duty.</p> <p>A DDM has been completed to ensure the procurement of Community Based Services can be approved and services delivered from April 2023 whilst the Framework is being completed.</p> | | | |

A DDM was completed in May 2021 for which included approval for 1xFTE NCC post to deliver the Statutory Duty.

This report and both DDM's ensure that the full ring fenced grant from DLUHC will be spent appropriately.

This report seeks approval to add the Grant Funding to the existing three 9-year refuge contracts, due to end in March 2028 to fund children's workers and support costs.

This report also seeks approval to align the Central Womens Aid refuge contract terms and conditions with the other 3 existing refuges contracts via the Grant Funding. This would ensure that the Central Womens Aid refuge was funded on an equitable basis, with the others with the same break clauses in place. This would also facilitate NCC to be in a better position to re-procure all the refuges at the same time when the contracts end in March 2028.

Total costs per refuge, per service, for one year and over five years:

| | Amber house | Central | Umuada | Zola |
|---------------------------------|----------------|----------------|----------------|----------------|
| Refuge | 0 | 61,800 | 0 | 0 |
| Childrens Workers | 32,866 | 33,990 | 32,866 | 51,356 |
| Support Costs for Move On Accom | 10,382 | 15,574 | 20,765 | 15,574 |
| Total per refuge | 43,248 | 111,364 | 53,631 | 66,930 |
| Annually until 2028 | 216,240 | 556,820 | 268,255 | 335,650 |

| Services | Per Annum | 5 years |
|---------------------------|----------------|------------------|
| Refuge | 61,800 | 309,000 |
| Childrens Workers | 151,078 | 755,390 |
| Support Costs for Move On | 62,295 | 311,475 |
| Totals | 275,173 | 1,375,856 |

The budget includes the 3% cost of living increase previously proposed. This is in line with the cost of living increase awarded by DLUHC and will ensure that the services receive an increase in line with the amount allocated through the ring fenced DLUHC domestic abuse budget. It is anticipated that DLUHC will slightly increase the funding for services year on year.

Exempt information: None

Recommendations:

- 1 To approve the expenditure of grant funding for the delivery of services as identified in appendix 1 under a compliant legal and procurement process.
- 2 To delegate authority to the Corporate Director of Residents Services to award and sign off contracts and variations in compliance with the Councils contract procedural rules to deliver the refuge services to enable NCC ongoing compliance with its Statutory Duty set out in the 2021 Act.

1. Reasons for recommendations

- 1.1 To enable delivery of the Statutory Duty as outlined in the Domestic Abuse Act 2021.
- 1.2 To add the Grant Funding to the existing 9-year refuge contracts, due to end in March 2028. The funding is for children's workers and additional support costs for

survivors in accommodation associated with each refuge under the hub and spoke model. Children and young people form the largest population in a refuge and range from 0 – 16 in age.

- 1.3 The Domestic Abuse Act 2021 and Statutory Duty has defined children as survivors in their own right for the first time and so funding for these posts is core to the service that should be offered by refuge. Childrens Workers are identified in the Service Specifications of each refuge, however the funding for these posts was previously unstable and funded intermittently through the partnership. Funding the posts through the Statutory Duty Grant Funding creates stable and long term funding for services for these child survivors.
- 1.4 The accommodation associated with the refuges was funded through a Home's England bid on behalf of NCH and NCHA. Each refuge has approx. 3 houses providing a hub and spoke model and increasing the bedspaces available for referral from Housing Aid and the Nottingham 24-hour crisis DSVA helpline. The Statutory Duty Grant Funding shall also fund the additional support costs delivered by the refuge for the additional bedspaces.

2. **Background (including outcomes of consultation)**

- 2.1 The Domestic Abuse Act 2021 introduced a statutory requirement to Tier 1 local authorities from 1st April 2021. Grants in the form of 'New Burden' funding were provided by DLUHC (formerly MHCLG) to enable Tier 1 authorities to fulfil the functions relating to the provision of support to survivors of domestic violence and abuse and their children residing within safe accommodation.
- 2.2 Refuge provision is an important part of the Council delivering its statutory duty under the Domestic Abuse Act 2021, Homeless Reduction Act 2017, the Children and Social Work Act 2017 and the Care Act 2014. Refuges provide a temporary safe and secure environment for some of the most vulnerable women and children fleeing domestic and sexual violence.
- 2.3 In 2018 under the CPSC decision structure, approval was granted to award the provision of refuge provision to the current providers (Nottingham Community Housing Association, Women's Aid Integrated Service (now Juno Womens Aid) and Metropolitan Housing Association).
- 2.4 The supporting information to this decision included the issues related to the complexity of commissioning refuges is set out briefly here.
 - The complexity of safely sourcing, finding the capital for and gaining planning permission for new refuges, whilst retaining confidentiality of the address.
 - The difficulty of commissioning refuges in terms of property ownership and finding appropriate landlords.
 - Previous decisions by Nottingham City Council regarding leases.
 - Previous funding programmes relating to commissioning and decommissioning decisions of refuges, hostels and other provision.

- 2.5 The Central refuge was founded in 1974 and has a long lease with NCC to deliver a 6 bed refuge. It was not included in the decision to commission long term contracts alongside the other refuges in 2018 as it was receiving annual DLUHC grant funding from 2016 - 2020.
- 2.6 This annual DLUHC grant came to an end in 2020 when the new Statutory Duty came into effect and DLUHC expected the ongoing funding to come from the Statutory Duty grant.
- 2.7 The Central refuge provides our complex needs refuge for survivors with severe and multiple disadvantage (substance misuse, mental ill-health and domestic abuse). This cohort of survivors is the least likely to be housed by refuges locally, regionally and nationally.
- 2.8 The Statutory Duty sets out the obligation for homeless survivors of domestic abuse to be accommodated in safe accommodation and this is defined in the Statutory Duty as a refuge or Sanctuary Scheme. Nottingham does not presently have sufficient refuge spaces to meet this obligation.
- 2.9 The Central refuge service enables the Homeless and Health Team, the Health Shop a substance misuse service and Mental Health services to provide direct support to survivors in this accommodation, providing a wraparound service, which is not able to be provided by other refuges and hostels.
- 2.10 The intention is to safeguard this cohort of survivors and their children and to work to prevent future substance misuse, mental ill-health or domestic abuse.
- 2.11 The Statutory Domestic Homicide Reviews (DHR) undertaken in Nottingham identified this cohort of victims as the most likely to be killed. The Central refuge service has built their knowledge, skills and experience with this complex cohort of survivors over a number of years.
- 2.12 A key change to the specialist sector under the Domestic Abuse Act 2021 is that services must be quality assured and meet national standards, The Central refuge has met these National Standards which are assessed independently from NCC for a number of years. This new process ensures that services are safe and high quality and will initially reduce the number of services able to bid for services across the UK.
- 2.13 The Needs Assessment and Strategy submitted to DLUHC as part of NCC Statutory Duty, noted that we have 36 bedspaces in refuge, 12 in the satellite properties associated with each refuge and that we require at least another 16 to meet the needs of survivors in the city.

3. Other options considered in making recommendations

- 3.1 DLUHC has indicated that failure to spend will result in reduction of future awards. Continuation of current services will ensure that support for the most vulnerable is provided in a recognised and timely manner.
- 3.2 The Needs Assessment submitted to DLUHC sets out the requirement for additional refuge spaces. Tendering out the Central refuge service at this point may risk the delivery of the successful complex needs refuge for survivors with Severe and Multiple Disadvantage (SMD) at a time when SMD is a priority for the

Health and Wellbeing Board and DSVAs are a priority for the Crime and Drugs Partnership.

- 3.3 A review of the option of delivering children's workers externally to a refuge was undertaken in 2005 and in 2018 respectively and on both occasions it was concluded that for all the services that refuges offer to children including safeguarding, play, support to access education, health, child advocacy to work effectively, it was preferable and considered necessary for children's workers to continue to be integral to the refuge team.

4. **Consideration of Risk**

- 4.1 Demand for DSVAs is increasing, The Domestic Abuse Act 2021 Part 4 Statutory Duty for Local Authorities means NCC is required to commission DVA services in a timely manner. Failure to do this will constitute a breach of the Statutory Duty and a reduction in services to citizens could ensue.

5. **Best Value Considerations**

- 5.1 All the DSVAs are required to submit quarterly performance reports as data and also case studies and governance updates. The DSVAs receive at least an annual review and for those services which are bigger, they receive joint commissioning reviews more regularly, including site visits and file audits. Where there are issues regarding a service, this is raised as soon as it becomes apparent, and work completed with the service to ensure improvements.

Best Value and Value for Money in this sector are related to:

- The increase in the Cost of Living has impacted across the statutory and voluntary sector, with the voluntary sector able to bring additional funding in through charitable giving, and able to negotiate costs. This enables services to be delivered, despite real term cuts to services.
- Recruitment and retention of skilled and experienced staff. Aligned with NCC and NCC pay scales, this ensures good quality safe and effective support to adult and child survivors.
- Good quality support to survivors which reduces the cost to the statutory sector by reducing the burden on social care, health and the police. The cost of not supporting survivors effectively increases the burden on statutory services.
- A reduced risk and increased safety for survivors and children.

There are also national Best Value exercises which look at return on investment within this sector and locally we are keen to align ourselves with those findings.

6. **Finance colleague comments**

- 6.1 This report seeks approval to spend a proportion of a Department of Levelling Up, Housing and Communities (DLUHC) statutory grant fund awards for 2023/24 and 2024/25 on Refuge contracts and incorporate this funding into the existing 9-year Refuge contracts which run until March 2028.
- 6.2 The current confirmed funding from DLUHC runs from 1st Apr 2023 until March 31st 2025 after which point break clauses will need to be built into the Refuge contracts as mentioned by the author. In the event of these DLUHC

funds no longer being available after the current funding period then additional funding will either need to be identified by the Operations to proceed for the remainder of the Refuge contract, or break clauses implemented in good time to prevent any financial implications on the MTFP.

- 6.3 The Budget Monitors must ensure all spend is within the terms and conditions of the grant and that no future financial risk is committed to. All spend must be closely monitored ensuring value for money and be managed within the approved grant allocation amount, ensuring no financial pressures materialise and adhering to all internal processes including governance and procurement.

Susan Turner, Senior Commercial Business Partner – 09/02/2023

7. Legal colleague comments

- 7.1 This report seeks approval to vary the three existing refuge contracts to incorporate the additional Grant Funding as being the most expedient and efficient use of the funding to enable the Council to best respond to its new statutory duties under the Domestic Abuse Act 2021. The concept of Childrens' Workers supporting the service is already identified in the Service Specifications of each refuge contract.
- 7.2 Hence, given that these variations do not render the contract materially different and are considered to be both a minor increase to the value of the existing contracts and falling within the initial scope and term of the initial procurement, they appear to constitute permitted variations within the application of Regulation 72 (1)(e) of the Public Contracts Regulations 2015 (as amended) amounting to non-substantial changes required to enhance and support the operational services to fulfil its Statutory Duty under the Domestic Abuse Act 2021. The proposed variations are also deemed to be permitted within the Council's Contract Procedure Rules (Article 18.99). Legal will provide ongoing support with the drafting of the Variation documents.
- 7.3 With regard to the proposed contract award to Central Women's Aid, legal concurs with the comments by procurement colleagues at paragraph 8.2 of this report and agrees that this will align this service with the other three refuge contracts and ensure continuity of this provision for complex needs and a consistency of support across the services. It also notes that exemption has been approved from the procedural requirements of the Council's Contract Procedure Rules in accordance with Article 18.79. Legal will assist with drafting the appropriate contractual documentation including the incorporation of appropriate break clauses to mitigate against any financial risk should there be any unforeseen shortcomings in future funding streams.
- 7.4 In relation to all aspects of the DLUHC grant funding NCC must continue to comply with any terms and conditions specified by DLUHC for receipt of the funding otherwise it will be at risk of DLUHC invoking clawback of Grant Funding. Legal will ensure that all contracts with the providers identified within the report shall include (or continue to include) all relevant terms which flow down any relevant provisions from DLUHC such as conditions of grant and monitoring and reporting outputs etc.

Benita Meehan, Solicitor – 20th February 2023

8. Other relevant comments

Procurement Colleague comments

- 8.1 This report relates to the receipt and expenditure of grant funding from the Department of Levelling Up, Housing and Communities (DLUHC) for the delivery of statutory duties under the Domestic Abuse Act 2021. It proposes contract awards and variations to existing contracts (as detailed in Appendix 1) for the delivery of refuge services for the period April 2023 to March 2028. The proposed contract awards will enable the Council to fulfil its obligations under the statutory duty and in accordance with the requirements and conditions of the DLUHC grant funding.
- 8.2 The Procurement Team has been consulted on these proposals and has advised on best value and compliance. In relation to the proposed award to Central Women's Aid, this will align this service with other refuge contracts and ensure continuity of this provision for complex needs. Exemption has been approved from the procedural requirements of the Council's Contract Procedure Rules in accordance with Article 18.79.
- 8.3 The proposed variations to existing refuge contracts to deliver children's work and move on support are considered to be permissible extensions in accordance with Article 18.79 of the Council's Contract Procedure Rules. These services are considered to be integral to the provision of core refuge services provision and in keeping with the services delivered under the existing contracts. Ongoing review of these contracts should be undertaken to ensure value for money is maintained.

Jo Pettifor, Category Manager, Strategy & People - 6 February 2023

9. Crime and Disorder Implications (If Applicable)

- 9.1 Section 17 of the Crime and Disorder Act requires local authorities to do all they reasonably can to prevent crime and disorder. DVA is a local priority in the Crime and Disorder Plan published by the Crime and Drugs Partnerships on behalf of NCC.

10. Social value considerations (If Applicable)

- 10.1 Recommendations have been considered in line with the Public Services (Social Value) Act 2012. All services within this report aim to improve the social wellbeing of the client groups they target.

11. Regard to the NHS Constitution (If Applicable)

- 11.1 Local authorities have a statutory duty to have regard to the NHS Constitution when exercising their public health functions under the NHS Act 2006. In making this decision relating to public health functions we have properly considered the NHS Constitution where applicable and have taken into account how it can be applied in order to commission services to improve the health of the local community.

12. Equality Impact Assessment (EIA)

- 12.1 An EIA was updated for delivery of the Statutory Duty when it launched.

13. Data Protection Impact Assessment (DPIA)

13.1 A DPIA is not required because there are no significant changes to existing services that will impact or change the way that data is managed.

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required because there are no significant changes to existing services that will impact on the minimal carbon production from delivery.

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 Domestic Abuse Act 2021.

16.2 NHS Act 2006.

16.3 Public Services (Social Value) Act 2012.

16.4 Nottingham City Council – Domestic and Sexual Violence and Abuse Safe Accommodation Needs Assessment 2021.