

Commissioning and Procurement Executive Committee – 11 July 2023

Subject:	Domestic Violence and Abuse OPCC funded services legacy approval		
Corporate Director:	Ita O'Donovan - Community, Environment and Residents Services		
Director:	Colin Wilderspin – Interim		
Portfolio Holder:	Cllr Sajid Mohammed – Neighbourhoods, Safety and Inclusion		
Report author and contact details:	Jane Lewis Jane.lewis@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Susan Turner, Senior Commercial Business Partner Benita Meehan, Contracts and Commercial Solicitor Jo Pettifor, Category Manager, People, Finance and Resources		
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 million		
Wards affected:	All		
Date of consultation with Portfolio Holder:	20 June 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 checked="" type="checkbox"/>		
Child-Friendly Nottingham	<input checked="" type="checkbox"/>		
Living Well in our Communities	<input checked="" type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input checked="" type="checkbox"/>		
Better Housing	<input checked="" type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
<p>A number of legacy approval issues have come to light relating to a number of domestic & sexual violence and abuse (DSVA) commissioned services.</p> <p>These services are included in the Nottingham City Council (the Council) and Office of the Police and Crime Commissioner (OPCC) Partnership Agreement (the Partnership Agreement). Under this agreement the Council receives funding and commissions domestic violence and abuse services on behalf of the Community Safety Partnership.</p> <p>This paper seeks to ensure, after advice from Constitutional Services, Legal and Procurement Services, that the expenditure on these services has the appropriate approval.</p> <p>There are two elements to the approval required: retrospective approval for expenditure on delivered services, and approval for future spend on a number of services. Communities have approval for a Commissioning Framework from CPEC and this will be the mechanism for procurement going forward, however in the meantime the expenditure outlined in the appendix requires approval.</p>			

Exempt information: None

Recommendations:

- 1 To approve retrospectively the expenditure incurred on the delivery of the domestic violence and abuse (DVA) services under the Partnership Agreement as outlined in appendix 1 in line with the Partnership Agreement until the Commissioning Framework is in place.
2. To approve expenditure on the continued delivery of DVA services detailed in appendix 1 in line with the Partnership Agreement until a new Commissioning framework is in place
- 3 To delegate authority to the Corporate Director of Communities, Environment and Residents Services to sign off contracts and variations with the councils contract procedural rules to deliver the services in line with our Partnership Agreement with the Office of the Police and Crime Commissioner (OPCC).

1. Reasons for recommendations

- 1.1 To meet the requirements of the Partnership Agreement signed between NCC and OPCC to deliver DVA services.
- 1.2 DSVA reporting has increased in Nottingham to the statutory sector and the voluntary and community sector in a slow trajectory since 17/18 with the police receiving 7,800 reports of DVA, in 21/22 reports are running at 8,457 with a dip during covid down to 4069 reports.
- 1.3 The Juno Womens Aid 24 hour free phone DSVA city/ county helpline has experienced a different trajectory, with an increase from 2012 of 1,300 calls to the city per year, rising in 2019 to 1,800 calls to the city per year (where we did not increase funding to this contract) to a jump during covid of 3,000 calls to the city and this increase has remained high at 4,000 calls to the city.
- 1.4 During the same time frame Multi Agency Risk Assessment Conference referrals of the highest risk survivors has risen from 500 per year to over a 1,000, with a 10% increase in the last year.
- 1.5 It is clear that there has been a year on year increase in reporting of DVA in Nottingham, with an increase in referrals to Womens Aid in particular, with a huge jump during covid and no return to pre covid levels. We have not increased funding into these services during this time and in the last couple of years there has been an increase in the costs of providing services.
- 1.6 Approval is required for services which have been delivered in the last few years, as it is not clear whether it was granted at the time as colleagues have left the authority.
- 1.7 Approvals are required going forward as the services are still being delivered in line with their contracts.

2. Background (including outcomes of consultation)

- 2.1 The responsibility for commissioning and contract management came over to Communities from Commissioning in 2021/22 it became apparent that some approvals were missing for services which are being delivered currently.

- 2.2 These services are all included in the Partnership Agreement with the OPCC and primarily funded through the OPCC.
- 2.3 In October 2022, CPEC agreed the procurement of a Framework for the future commissioning of DVSA services. Work is in progress to establish this framework and it will enable future services to be compliantly procured on behalf of the commissioning partnership between NCC, OPCC, Health and other commissioners.
- 2.4 Advice from Constitutional Services, Legal and Procurement was sought in April 2023 and the proposal for a legacy approval was agreed.

3. **Other options considered in making recommendations**

- 3.1 To break our Partnership Agreement with OPCC and return the funding. As the OPCC are a key funder of both domestic and sexual violence and abuse services which Nottingham citizens benefit from it was concluded that this would not be an appropriate approach.
- 3.2 To ask OPCC to commission the services on our behalf, despite our Partnership Agreement. This would put a huge burden on the OPCC when they are currently commissioning a wide range of services on our behalf, including a Perpetrator Programme, Stalking Service, Sexual Violence and Abuse services, Therapeutic Services for children, services for Deaf survivors of domestic abuse and services for Black and Minoritised communities of domestic abuse survivors.

4. **Consideration of Risk**

- 4.1 Demand for domestic and sexual violence and abuse services are increasing, with a 76% increase on demand for the domestic and sexual violence helpline, pressures on survivors in Nottingham are increasing, including access to housing, access to children's services, access to financial support and support to these survivors is delivered through the services which require legacy approval.

The Domestic Abuse Act 2021 also places a Statutory Duty on Nottingham City Council to deliver services to survivors of domestic abuse and to children as victim in their own right for the first time.

5. **Best Value Considerations**

- 5.1 Service re-design?

The DSVA voluntary sector is more cost effective to commission, is structured to focus on its specialism, is more experienced and has all the quality standards required to deliver this service. National government and the Domestic Abuse Commissioners Office recognise and promote specialist DSVA services through a range of policies, guidance and funding streams.

Nottingham & its partners has capacity built the DSVA voluntary sector since the 1970's alongside its long term commitment (50 years) to the Nottingham Womens Centre and we currently have excellent organisations delivering high quality services to our citizens.

- 5.2 Joint procurement?

In 2013 the City Council Safe from Harm review of the commissioning of domestic and sexual violence and abuse services across the partnership concluded that it was fragmented and not meeting best value requirements. Structures were put into place to ensure DSVAs services were commissioned coherently across the commissioning partnership in the city.

The Community Safety Partnership (Crime and Drugs Partnership) was agreed as the lead commissioner of DVA in the city, with a Partnership Agreement between NCC, the Office of the Police and Crime Commissioner (OPCC) and the Clinical Commissioning Group (now the Integrated Care Board) to set out the joint approach.

The Partnership Agreement has been refreshed annually since 2013, with the main change the funding appendix to accommodate the ebbs and flows of national funding into the sector.

The DSVAs Joint Commissioning Group (JCG) was launched in 2013 comprising of city Public Health, Community Safety Team, OPCC and Health colleagues. The learning from the Safe from Harm review was utilised for sexual violence and abuse commissioning, with an agreement in 2020 that the OPCC would be the lead commissioner for SVA across the County, a partnership agreement put in place with the OPCC, City, County and Integrated Care Board (ICB) and the DSVAs JCG used to coordinate commissioning.

The governance of the JCG changed for the first time in 2023 as Nottinghamshire County Council formally joined and the JCG became the structure to meet the Domestic Abuse Act 2021 Statutory Duty for Local Authorities commissioning structures, reporting to both the county DVA Local Partnership Board (LPB) as well as the city LPB (the Community Safety Partnership).

The JCG enables all the commissioning partners across Nottingham and Nottinghamshire to align the procurement of services and to share commissioning intentions, learning from needs assessments and evaluation of services to ensure commissioning best value across the partnership and to achieve joined up services for survivors, children and perpetrators.

5.3 Shared services/ partnerships with local authorities;

Nottingham has a greater commitment to excellent services than some regional authorities. We do however align our services with Nottinghamshire County Council and also jointly grant aid the Free Phone 24 hour DSVAs helpline, which in 2000 was the first of its kind in the UK.

5.4 Trading and income enhancement;

Nottingham has a policy of income enhancement for our Prevention service, it is delivered by a specialist DSVAs prevention service – Equation and our local strategy is to enable it to sell services and resources outside of Nottinghamshire, which benefits our citizens.

5.5 Enable others;

Nottingham Domestic Abuse Safer Accommodation Strategy developed as a result of the Domestic Abuse Act 2021 focusses on how our Housing Directorate can

meet the new Statutory Duty, alongside other housing providers in the city. The Strategy also encourages our refuge provision to fund raise for added value in service delivery.

5.6 Service standards commensurate with affordability;

As DSVAs reporting and demand on local services is increasing these are not an approach which would benefit local citizens.

5.7 In addition:

All the DSVAs services are required to submit quarterly performance reports as data and also case studies and governance updates. The Services receive at least an annual review and for those services which are bigger, they received 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 NJC and NCC pay scales, to ensure 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 national Best Value exercises which look at return on investment within this sector and locally we are keen to align ourselves with those findings. Professor Sylvia Walby has undertaken work on this 'Counting the Cost'. Safe Lives have also undertaken work, funded by national government on the savings made by commissioning the specialist domestic abuse voluntary sector to deliver services.

Annual awards are not best value for NCC officer time, or for the organisation delivering the service, as time spent on annual award process increases uncertainty, impacts on retention of skilled and experienced staff and time that could be spent on service delivering and fundraising. The use of the commissioning framework going forward will support both the specialist sector and NCC in terms of stability and sustainability of services.

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

- 6.1 This report is requesting approval to spend the OPCC funding as per the schedule in Appendix for the financial year 2023-24 in line with the Partnership Agreement until a new Commissioning framework is put into place ensuring best value is adhered to for all parties.

- 6.2 It also requests retrospective approval of spend for prior year's OPCC funding on specified contracts as per the attached appendix and for reasons clarified in this report. This funding is ringfenced and therefore the funding must be spent in line with the agreement or repaid as detailed within the grant conditions.
- 6.3 The Service must ensure to complete all required returns in a timely manner as required by the conditions of funding to prevent any delay in payment, and/or possible claw back of said funding.
- 6.4 The Service will need to carefully monitor and manage the payments and funding in year. Mitigating actions will need to be actioned appropriately to ensure no financial pressure occurs and all spend is within the existing MTFP and allowable funding.

Susan Turner, Senior Commercial Business Partner – 14/06/2023

7. **Legal colleague comments**

- 7.1 In relation to the approval sought for retrospective expenditure, it is not possible to confirm that all arrangements that were the subject of that spend were subject to formal variations of the existing agreements before the relevant services began. However, there would be a course of dealing that the Council could point to, to evidence the variation in scope by mutual agreement via the orders for services.
- 7.2 Furthermore, the Council is not aware of any breaches at this time by any of the providers and given that the Council has termination provisions in place with providers under the general agreement(s), the lack of evidence of a formal variation extending the scope of the services in the past is considered to be a low risk which will be further mitigated by appropriate variations being put in place for the proposed expenditure on commissioned services going forwards.
- 7.3 The extensions of the existing arrangements will permit a tender process to be prepared and undertaken (approval for which has already been given) to facilitate a new framework being put in place from April 2024. The extensions are considered permissible amendments to existing contracts in accordance with Article 18.99 of the Council's Contract Procedure Rules and are considered to be either amendments that are necessary additional works, services and supplies by the original Contractor or the extensions are considered to be non-substantial variations within the provisions of Regulation 72(1)(b) and/or Regulation 72 (1)(e) as detailed in Appendix 1.
- 7.4 In relation to the proposed expenditure moving forward, Legal Services will continue to work with the client to ensure that proposed terms and conditions relating to further extensions are adequate, appropriate and in place and will assist as necessary with the future procurement requirements.

Benita Meehan, Contracts and Commercial Solicitor - 22 June 2023

8. **Procurement colleague comments**

- 8.1 This report addresses approval for spend with providers of a number of domestic and sexual violence and abuse services, as outlined at Appendix 1.

There are two elements to this: retrospective approval for spend that has already been incurred and approval for some spend going forwards.

In relation to the proposed expenditure on commissioned services going forwards, procurement and legal services have been consulted and have advised on compliance. The awards of funding outlined in Appendix 1 are considered permissible amendments to existing contracts in accordance with Article 18.99 of the Council's Contract Procedure Rules. This is based on the grounds set out in Regulation 72 of the UK Public Contracts Regulations being applicable, as specified in Appendix 1.

In relation to the approval sought for retrospective expenditure, it is not possible to confirm that all arrangements were subject to procurement advice or a procurement process. However, from the information available, the procurement team is not aware of any breach to the UK Public Contracts Regulations in the use of this funding. It is understood that a large part of this spend was through addition to an existing compliantly procured contract. In other cases, the value of funding is below the thresholds for the application of the UK Public Contracts Regulations.

The procurement team is engaged with the client to establish a framework of providers for the compliant award of all contracts from April 2024. Approval for this process has previously been secured. The commissioning and procurement process should now proceed in a timely way to ensure the commissioning of all these services from April 2024 is through a compliant contract award procedure.

Jo Pettifor, Category Manager, People, Finance and Resources - 5 June 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 is not required because EIA's were completed at the time of the services being developed.

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 None.