

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

**Reference Number:**

5079

**Author:**

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**Department:**

People

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**Subject:**

Independent Advocacy and Support Service (IASS) funding agreement.

**Total Value:**

£350,156 (Type: Revenue)

**Decision Being Taken:**

To note that Spend Control Approval has been given (2123) to retrospectively approve spend of £350,156 over a three-year period (23/24 - £111,073, 24/25 - £116,626, 25/26 -£122,457) to meet statutory duties around advocacy and advice for children and young people with SEND and their families.To give delegated authority to the Head of Personalisation, Contracts and Quality to sign the contract when the final draft is received from Nottinghamshire County Council inclusive of any subsequent variations or extensions.

**Reasons for the Decision(s)**

A three-year joint contract between Nottinghamshire County Council (Notts CC) and Nottingham City Council (NCC) and Nottinghamshire Integrated Care Board was awarded with Futures to provide an IASS service commencing April 2023.

Total spend of the contract for NCC is £350,156k, (funded through Special Educational Needs and/or Disabilities (SEND), Engagement and Whole Life Disability). An Operational Executive Decision form was signed by Catherine Underwood, Corporate Director for Peoples Services in March 2023 to approve the 1 year spend from the SEND budget of £90,000. Following constitutional advice given the total cost of the contract (plus inflation) this should have been approved by a portfolio holder decision.

This decision form is therefore being retrospectively submitted to ensure appropriate governance for the entirety of the contract and ensure a full Purchasing Agreement can be set up to enable full payment for financial year 23/24 of the contract.

The IASS service was procured to meet the statutory duty stated in The Children and Families Act 2014 section 32.

Since its commencement in 2018, IASS services across the country have experienced an unprecedented number of families seeking support for EHC plan applications, tribunals, and mediations. The service has operated above its expected key performance levels (averaging 244% in 22/23) since it began and was under increasing pressure with waiting lists due to demand.

The existing contract was due for renewal in April 2023. Notts CC recommissioned this service on behalf of NCC, re-contracting with the incumbent provider without competitive tender in accordance with section 12 of Public Contracts Regulations 2015 (The contract was awarded to Nottingham and Nottinghamshire Youth Support Limited which is a subsidiary of Futures, a company owned by NCC and Notts CC, established to meet the requirement of the exemption). The contract is still being drafted by Notts CC, but the provider has continued to deliver services, in line with the previous contract and agreed changes for 23/24 onwards.

Due to the pressures on the service, it was agreed that the overall contract price would increase, and health would become a commissioning partner (previously the contract had been funded solely by the two local authorities). Further capacity was enabled through a reduction in contract scope (the service would no longer produce and distribute a magazine to families with disabled children). Inflationary increases were also built into the contract which increased Nottingham City's contribution by 5% in each of the 3 years.

**Other Options Considered:**

Option 1 - Not to commission the service - this would be in breach of our statutory duties. Option 2 - To recommission the service on the open market. Nottinghamshire County Council led on the recommissioning of this service for Nottingham and Nottinghamshire. There was no testing of the external market at this time as the previous tender had suggested limited alternative options. The service was delivering more than twice the expected capacity and the letting of the contract through TECKAL arrangements negated the need for a more time consuming and resource intensive procurement exercise. This will however be revisited when the contract is due to be recommissioned.

**Background Papers:**

**Published Works:** Operational Officer Decision - DD5031 (SEND Information, Advice and Support Service - signed March 2023)

**Affected Wards:** Citywide

**Colleague / Councillor Interests:**

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

**Crime and Disorder Implications:** There are no crime and disorder implications directly related to the awarding of this contract.

**Equality:** EIA not required. Reasons: The contract was awarded in April 2023, no EIA was undertaken. However, contract monitoring is required in the new contract to ensure uptake is reflective of the SEND population - specific clause relates to ensuring engagement and service promotion with the black and minority ethnic community.

**Social Value Considerations:** Below EU threshold

**Decision Type:** Portfolio Holder

**Subject to Call In:** Yes

**Call In Expiry date:** 01/02/2024

**Advice Sought:** Legal, Finance, Procurement

**Legal Advice:**

**This report seeks a decision that retrospectively authorises spend for the year 23/24 and authorises spend for the years 24/25 and 25/26 in the sums specified as the Council's contribution to fund an Independent Advocacy and Support Service.**

**The report also seeks to delegate the signing of the relevant contract to the Head Personalisation, Contracts and Quality; it is assumed that this will be subject to a review by Legal Services.**

**The funding of such a service will assist the Council to meet its statutory duty set out in section 32 Children and Families Act 2014 to provide advice and information about matters relating to the special education needs of the individuals concerned to those individuals and their parents. It is assumed that the use of the identified funding for this purpose is allowable?**

**It is assumed that the previous contract was due to end, rather than be renewed, in April 2023; if there was a legally compliant route to renew it is assumed that would have been utilised? If the previous provider has continued to provide services in accordance with a previous agreement with some amendments, then there is a contract in law but a document that contains all the agreed terms should be produced and executed.**

**Whilst it is Nottinghamshire County Council that has led on the process that has resulted in an proposed use of regulation 12 of the Public Contract Regulations 2015, the Council must still assure itself that the use of regulation 12 is appropriate. That means ensuring that all three elements of regulation 12(1) are met; it is understood that the Head of Procurement believes that the provider was set up purely to receive funding from, and undertakes work solely for, Nottinghamshire County Council and the Council.**

**Anthony Heath, Senior Solicitor, 25th October 2023 Advice provided by Anthony Heath (Senior Solicitor) on 25/10/2023.**

**Finance Advice:**

**Financial Advice**

**Independent Advocacy and Support Service (IASS) funding agreement**

**The decision seeks to authorise spend regarding the Council's contribution to Nottinghamshire County Council over financial years 2023/24 to 2025/26 to meet statutory duties around advocacy and advice for children and YP.**

**The current estimated cost of this provision is held within Education-Inclusive Learning Service, Social care & Engagement. The impact on revenue would be as the table below:**

**Assuming base budget is sufficient for the current contract, the additional price uplift would need to be funded from elsewhere within existing budgets or, through the 24/25+ MTFP process.**

**Financial advice provided by Abi Yusuff (Interim Commercial Business Partner) on 30/11/2023.**

**Advice provided by Terry Shaw (Interim Strategic Finance Business Partner) on 03/01/2024.**

**Procurement Advice:**

**This decision seeks approval for expenditure on the IASS Service delivered by Nottingham Futures during the period 2022/24 to 2025/26. The service is commissioned jointly with Nottinghamshire County Council and Nottinghamshire Integrated Care Board. As this is a continuation of an existing arrangement, Nottingham Futures has structures in place to deliver the service required, is meeting the performance requirements and is assessed to be providing value for money. As a wholly owned subsidiary of the Council covered by the 'Teckal' procurement exemption, Nottingham Futures may be contracted directly in accordance with the Council's Contract Procedure Rules, Article 18.31.**

**The value of this decision is understood to be the true anticipated cost of the services over the proposed contract period, based on current market information and reasonable calculations for inflation or other foreseeable impacts on cost. Advice provided by Jo Pettifor (Procurement Team Manager) on 25/10/2023.**

**Signatures**

<b>Cheryl Barnard (PH - Children, Young People &amp; Education)</b>
<b>SIGNED and Dated: 25/01/2024</b>
<b>Catherine Underwood (Corporate Director for People)</b>
<b>SIGNED and Dated: 23/01/2024</b>