

Nottingham City Council

Commissioning and Procurement Executive Committee

Minutes of the meeting held at Loxley House, Station Street, NG2 3NG, on 13 February 2024 from 9.33 am - 10.17 am

Membership

Present

Councillor Audra Wynter (Chair)
Councillor Cheryl Barnard (Vice Chair)
Councillor Jay Hayes
Councillor Linda Woodings

Absent

Councillor Corall Jenkins

Colleagues, partners and others in attendance:

Kenneth France	-	Head of Fleet and Depot Operations
Mark Jenkins	-	Head of Traffic and Flood Risk Management
Mark Leavesley	-	Governance Officer
Steve Oakley	-	Head of Procurement
Andrew Smith	-	Assistant Fleet Manager
Jackie Wyse	-	Interim Head of Service, Contracts, Quality and Personalisation

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 22/02/2024. Decisions cannot be implemented until the working day after this date.

58 Apologies for absence

None.

59 Declarations of interests

None.

60 Minutes

The Committee agreed the minutes of the meeting held on 09 January 2024 as a correct record and they were signed by the Chair.

61 Light Vehicle supply framework for up to 7,500kg vehicles - key decision

Andrew Smith, Assistant Fleet Manager, presented the report, and stated the following:

- a) the Fleet and Depot Operations Service is seeking permission to renew and replace its existing framework for the supply and delivery of both internal combustion engine and ULEV light commercial vehicles up to a maximum gross vehicle weight of 7,500kg;

- a) the report is not seeking a commitment to spend during the framework's lifetime, just approval to provide a compliant solution for if a vehicle is required to support service delivery;
- b) the framework will be accessible by all other public sector bodies and the service specification of the framework will allow for supply and maintenance;
- c) the framework will also allow contracting parties, including Nottingham City Council, to purchase light commercial vehicles from various suppliers to enable them to fulfil replacement needs when necessary;
- d) the vehicles to be purchased throughout the lifetime of the framework will include those that are used to deliver statutory services across the registered users of the framework;
- e) a rebate of 1% is payable to Nottingham City Council for all purchases made under the terms of the framework to cover all costs incurred in the management of the framework and the procurement process.

Resolved to

- (1) to approve the undertaking of a procurement process to establish a framework for the outright purchase of Light Commercial Vehicles that all UK public sector contracting authorities can access;**
- (2) delegate authority to the Corporate Director for Communities, Environment and Resident Services to:**
 - (a) enter into the initial light commercial vehicle framework;**
 - (b) sign all call-off orders under the terms of the framework.**

Reasons for recommendations

- a) establishing a Framework Agreement provides the Council, and any other user of the framework, a compliant mechanism to source Light Commercial Vehicles. Under the terms of the framework, the user can establish 'call-off' agreements for their specific requirement;
- b) the framework offers two call-off methods:
 - direct award to the highest ranked provider in each of the three lots;
 - mini competitions inviting all suppliers under the chosen lot to bid;
- c) there are benefits and considerations with either approach, these can be considered at the point of demand;
- d) the framework will consist of 3 lots. A framework agreement will be awarded to up to four suppliers per lot, suppliers can bid for one or more lots:
 - Lot 1 - light commercials up to a maximum GVW of 3,500kg;

- Lot 2 - light commercials between 3,501kg GVW to 7,500kg GVW;
 - Lot 3 – pick-up trucks: 4x2 and 4x4 types;
- e) the structure of the framework considers not only any future fleet requirements, but those of other Council departments (Greenspace, Housing Services, etc);
 - f) individual or multiple vehicles can be bought under the terms of the framework;
 - g) the rebate payable by users of the framework will be (on average) 0.5% lower than third party framework and nationally accessible by all public sector contracting bodies;
 - h) under the terms of any framework, there is no commitment to spend or to place a minimum number of orders.

Other options considered

- a) Extend the existing framework – this option was rejected as it would not comply with the Public Contract Regulations 2015.
- b) Renew the method and create a DPS – this option was rejected as the core members and users of the Framework are members of the Nottinghamshire Transport Group Consortium who many have stated don't have the capacity to carry out numerous Mini Competitions and requested the option to retain the Direct Award process to enable swift purchases to be made where necessary.
- c) Undertake ad-hoc tenders at the point of demand – this option was rejected to avoid any duplication of work and to ensure all vehicle purchases are going through a compliant procurement mechanism with a specification created with the Council in mind.
- d) Access external third-party frameworks at the point of demand – this option was rejected to avoid any duplication of work and to be paying any rebate fees to third parties as opposed to benefitting from rebates paid to the Council by 3rd party users of the Framework.
- e) Creating our own Framework also provides a way to ensure all vehicle purchases are going through a compliant procurement mechanism with a specification created with the Council in mind.

62 ANPR enforcement maintenance contract with 3G device upgrades - key decision

Mark Jenkins, Head of Traffic and Flood Risk Management, presented the report, and stated the following:

- a) Yunex provides the Council with fixed ANPR enforcement devices which activate when a vehicle passes through a trigger point and records a video pack for evidential review;

- b) all suppliers in this market operate a 'one stop shop' or 'closed system' for enforcement to meet Department for Transport (DfT) licencing requirements. This means only they or their accredited engineering provider can work on their whole system, maintaining the integrity of the system to preserve the DfT certification;
- c) the Yunex proposal is to fix costs for 3 years of maintenance and the essential modification of 19 devices that currently communicate using 3G technology, which the government intends to phase out in 2024, meaning these units will no longer communicate with the system;
- d) the proposal also includes a move to a hosted review/fault management platform to improve efficiency in data management and evidence processing;
- e) moving to a hosted platform, and taking the software off council servers, where the platform currently resides, will aid data management and security, and improve operational efficiency as Yunex will no longer have to apply to the Council's IT team for access to the server to fix an issue affecting the system;
- f) upgrading to a hosted platform will also ensure data integrity, removing the risk of evidence packs or encryption keys being lost when we have server issues;
- g) the upgrade will also lessen the workload on NCC's IT department, and of MTE colleagues reporting faults etc, freeing them up to concentrate on further efficiency and performance improvements.

Resolved to

- (1) approve the purchase of a 3-year 'maintenance agreement', including modifications to 19 ANPR devices and provision of a hosted server, from the current supplier (Yunex) to enable continuation of a Department for Transport compliant enforcement system that is fully certified to issue Penalty Charge Notices to motorists that contravene bus lane and other moving traffic restrictions;**
- (2) note that a formal review of future ANPR purchase / maintenance arrangements will be undertaken by Procurement and Traffic colleagues, with a further report being submitted to this Committee by no later than the April 2025 meeting.**

Reasons for recommendations

- a) DfT require a formal maintenance arrangement to be in place to enable the enforcement system to be fully certified. Due to the integrity of the enforcement systems, 3rd parties cannot undertake any repair or maintenance activities on these closed systems. Therefore, in line with previous years we are seeking approval to renew the maintenance contract with our current supplier.
- b) To address some essential modifications to 19 ANPR devices and improve reliability and efficiency of the server platform, we are looking to secure a 3-year maintenance arrangement (October 2023 to September 2026) which would

provide 'Best Value' and spread these modification costs over an extended period.

- c) The costs related to this proposed 3-year maintenance proposal are fully funded through the annual PCN income and underwritten by the ring-fenced reserve.
- d) The essential modifications to the 19 ANPR devices and the upgrade to a hosted review/fault management platform, ensures enforcement activities can be maintained, data security enhanced, operating efficiencies improved and PCN income is not adversely affected. (These essential modifications and upgrades can only be carried out by the current supplier due to DfT certification guidance).

Other options considered

- a) the option of changing operational arrangements and supplier were considered. However, due to the complex DfT compliance rules (no other company can maintain other suppliers' enforcement equipment or systems) and the scale of the existing set-up with our current supplier, no suitable alternative could be achieved within the current renewal timeframe, so this option was rejected.

63 Fee rates for Adult Social Care services 2024/25 - key decision

Councillor Woodings, Portfolio Holder for Adult Social Care and Health, introduced the report.

Jackie Wyse, Interim Head of Service, Contracts, Quality and Personalisation, presented the report, and stated the following:

- a) as Nottingham City Council is contractually obliged to consider fee rates on an annual basis where it has a statutory duty to provide a service, the report presents proposals for fee rates in 2024/25 across Adult Social Care contracted provision;
- b) consultation will be undertaken with providers on the proposals and the responses will be fully considered prior to implementation from April 2024;
- c) the Council's fee rates for adult social care services have historically been reviewed annually and decisions based on an established methodology for calculating inflationary increases. An evidence base for pricing was originally developed based on the UK Homecare Association model for Care at Home type services and independent review of residential care pricing. These tools have been adjusted to account for factors including the current market position, cost of living indices and Office of National Statistics data;
- d) every year, these established tools have been used to undertake analysis of the potential impact of national living wage requirements and other pressures such as cost of living, pensions, profit, and voids. Alongside these financial pressures, there are other aspects which are considered:

- the current provider market including number of providers and quality of the market;
 - demand for social care provision arising from demographic pressures;
 - difficulty in attracting workers into the care sector due to competition from other sectors;
 - competition between Local Authorities and their ability to pay more to the market
 - the fee rate modelling process has therefore been key to support social care providers to meet NLW and other cost pressures, and to manage the social care market, whilst balancing against the Council's other budget commitments and pressures;
- e) in December 2021, the Department of Health and Social Care announced the new Market Sustainability and Fair Cost of Care Fund, available to support local authorities to begin preparing local care markets for reform and moving towards sustainable funding for this market;
- f) local authorities were expected to use this funding for activities such as conducting a cost of care exercise; improving data on costs; strengthening capacity for market oversight; and increasing fee rates as appropriate to local circumstances;
- g) in 2023-24, Nottingham City Council received an allocation of £5.99m from this fund, which has been used to support transformational work, to complete a strength-based review, bolster staffing levels and to provide a sustainable level of funding. The Fair Cost of Care work has been completed; however, the local response rate was extremely low (mirrored nationally) and therefore the outcome was inconclusive;
- h) due to the significant budget constraints, further options have been proposed and are outlined in exempt appendix 1. Information in relation to the market context (including benchmarking) and intelligence relating to the fragility of the market, quality and provider failure that is outlined within exempt appendix 3.

Resolved to

- (1) approve the fee uplift proposal (as outlined in exempt appendix 1, option 2) to enable consultation with the market to take place;**
- (2) delegate authority to the Director of Commissioning and Partnerships in consultation with the Director for Adult Health and Social Care to agree fee rates in accordance with the proposals detailed in section 3 of the report and in exempt appendix 1, subject to the outcome of consultation with providers and in line with the Council budget;**
- (3) note that, subject to consultation outcomes, the agreed rates will be implemented from April 2024;**

- (4) approve the spend of £11.337m associated with this decision, including approval to spend against high-cost placement provision through the Council's scheme of delegation for Adults Care Packages;**
- (5) note that, if upon completion of consultation the financial impact of any revised proposals exceeds the budget available, further approval from this Committee will be sought.**

Reasons for recommendations

- a) Section 5 of the Care Act, 2014 states: A local authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market has a variety of:
 - a) providers to choose from who (taken together) provide a variety of services;
 - b) high-quality services to choose from;
- b) The Care Act statutory guidance states in 4.35 Local authorities must not undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality – for example, by setting fee levels below an amount which is not sustainable for providers in the long-term. However, this should be considered with the duties relating to the delivery of a balanced budget;
- c) in accordance with the Council's legal obligation, consultation on these proposals will be undertaken with adult social care providers during prior to April 2024;
- d) the Director of Commissioning and Partnerships in consultation with the Director for Adult Health and Social Care will take account of consultation responses and issue variations to existing contracts reflective of the proposals in this report should no significant issue arise. Should the outcome of these consultations require consideration of notable change to the sustainability of the market and/or financial consequences of these proposals a further report will be presented through the appropriate governance process;
- e) the proposals and the associated financial modelling are based on current full year financial forecasts in 2023/24;
- f) the recommendations presented take account of the implications of inflationary pressures on the adult social care market and aim to represent a fair allocation of funding and to support the market across all service areas. It is considered that a balanced, reasoned, and informed approach has been taken and that the proposals seek to support a sustainable, efficient, and effective market within the available resources.

Other options considered

- a) Consideration was given to a hybrid model, whereby each option would be broken down into two parts, part one applied the proposed uplift to all provision, part 2 applied the proposed uplift to providers on a contracted rate. (A contracted rate is one that is either a standard rate, a banded rate, or a commissioned rate. It does not include any provision where the rate is variable, and the provider has been able to state their fees at the point of placement).
- b) Although the hybrid options have been considered they are not recommended. The care packages are currently recorded in CONTROCC in such a way that it is impossible to determine which are contracted and which are variable resulting in an inability to financially model this option.
- c) Banded rates were introduced for working age adults residential care approximately 3 years ago, however, this only applied to new placements and not existing placements. It could also create disparity between providers, as not all providers had the opportunity to sign up to the banded or standard rates due to the specialisms they offer.
- d) Alongside the uplift proposals outlined within this report, there are a range of projects (appendix 3) being undertaken to reduce the financial impact of the fee rate increases, including any additional resources required to accelerate these projects.
- e) A range of options have been scoped and outlined within exempt appendix 1, with recommendations based on meeting statutory duties in relation to market stability and whilst balancing this with budget pressures. From the options proposed in appendix 1, option 2 is recommended, along with the contingency measures in section 3 of the appendix.

64 Exclusion of the public

The Committee agreed to exclude the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

65 Exempt appendices - Fee rates for Adult Social Care Services 2024/25

The Committee noted the exempt appendices.