

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

3490

Author:

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Department:

Children and Adults

Contact:

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Subject:

Fairhavens Support Service

Total Value:

£150,436 (maximum spend based on current residents) (Type: Revenue)

Decision Being Taken:

- 1) To dispense with Contract Procedure Rule 5.1.2 in accordance with Financial Regulation (3.29) (Operational Issues) to extend the current contract for a maximum of 1 year to enable them to continue to deliver the support services currently in place at Fairhavens.
- 2) To delegate to Head of Contracts and Procurement to agree and sign the necessary documentation to implement the proposed extension.

Reasons for the Decision(s)

Fairhavens is an accommodation based service providing for citizens with low level support needs primarily under the Care Act 2014 that has been delivered since 2003. Citizens resident here have their own tenancy directly with the Landlord who is also the care provider and the property is a registered House in Multiple Occupation. Onsite support is commissioned by Adult Social Care (ASC) through a contract, which ends on 31st March 2019.

There are 17 places available at Fairhavens and currently there are 11 Nottingham City Citizens living at the Service. Levels of need vary across the Service but all residents have some level of vulnerability and meet the threshold to be supported by ASC at the time at which they were placed. Although levels of need are relatively low, citizens are vulnerable and any moves will need to be planned to minimise any impact. There are also citizens with physical disabilities which will need to be considered.

Should Fairhavens not be issued with a further contract at an equivalent value from the end of March 2019, they have stated that they will serve immediate notice to all residents who will then will need to be provided with alternative accommodation. Emergency moves are likely to result in placements in less suitable options, for example placement in Bed and Breakfast or temporary moves to residential care. These placements are also likely to be far more expensive than the current provision at Fairhavens. Citizens are also tenants of the property and so could not be forced to move on short notice. If citizens refuse to move and the care Service ends, there is a potential that they could be left at risk.

Dispensation from financial regulations was previously granted to contract with Fairhavens on the basis that a review of the service would take place during the life of the current contract in order to determine where this Service fits within the ASC pathway. Based on the outcome of the review, the Service was to either be retendered or the citizens supported to move to alternative accommodation.

In March 2018 a new Care, Support and Enablement contract was put in place and it was expected that this Service would meet the requirements of the new service specification. Work has taken place to try to determine whether the service could be delivered under the existing Care Support and Enablement Accreditation. This has identified that the Service model does not align with the new contract and the financial modelling which has taken place has concluded that the Service is not financially viable using CSE as a funding source without a sizable top up from Nottingham City Council. This is not an option, as this is not compliant with NCC Financial Regulations or Procurement Regulations

Without a continued contractual arrangement being sought it is highly likely that citizens will be served with notice immediately. Dispensation from financial regulations to extend the contract on an interim basis is being sought on the basis that it is an accommodation based service requiring an onsite presence and the landlord has the exclusive right to prevent a 3rd party from delivering this at the accommodation.

It would be a requirement that during the new contract period the following will happen;

- a. Reviews will be carried out on all citizens and more appropriate accommodation will be sought where appropriate.
- b. A review of NCC commissioned mental health provision including a range of HRS services is currently taking place and will consider what HRS provision is required going forward, including low level need, such as is provided by Fairhaven. The new HRS services will go out for tender and Fairhavens, along with other providers, will then have the opportunity to bid for the new HRS services. It is however unlikely that the review will determine that a service in the model of Fairhavens will be recommissioned

Other Options Considered:	<p>Fairhavens to deliver the service under the existing Care, Support and Enablement Accreditation This option has been explored in detail and concluded that Fairhavens does not align with the CSE model and is not financially viable as a CSE service. Fairhavens is a 'for profit' landlord and is therefore unable to draw on enhanced rates of Housing Benefit (HB). Without status as Exempt Accommodation, Fairhavens is unable to meet certain communal costs through HB and has to pass these costs on to NCC. Based on their model, Fairhavens would not be able to become a Registered Provider with Homes England. Discussions have taken place to consider the lease of the premises to a registered providers without success.</p> <p>Commission a CSE provider from the CSE accreditation to provide support to residents at Fairhavens. The landlord and the care provider are the same organisation and will not allow a 3rd party organisation onsite to deliver the support service. Residents already have some outreach support from the CSE accreditation and the support that Fairhavens provide is in line with core support. This needs to be delivered through an onsite presence not on an outreach basis. The landlord is legally able to refuse a 3rd party to access the accommodation to deliver an onsite care service.</p> <p>Move current residents to alternative accommodation now and allow the service to close. It is highly unlikely that moves could be identified before the end of the contract. Many of the residents have been residing at Fairhavens for some time and due to their vulnerabilities, any move would need to be dealt with in a planned way. Emergency moves are likely to result in less suitable and more costly placements than the current provision at Fairhavens. The only way to mitigate the risks is by allowing a longer period of time to work with residents to facilitate the moves, which is reflected in the main decision.</p> <ul style="list-style-type: none"> - Do nothing. This is not an option as the current service is coming to an end on 31st March
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Background Papers:	None.
Published Works:	None.
Affected Wards:	Citywide
Colleague / Councillor Interests:	None.
Dispensation from Financial Regulations:	Yes
Consultations:	The decision requested is to continue the existing service. Citizens currently resident at Fairhavens will receive an individual review from Adult Social Care which will consider their needs for future accommodation provision including their personal preferences.
Crime and Disorder Implications:	None.

Equality:	Please login to the system to view the EIA document: Fairhavens EIA 2019 v3 180319.docx
Social Value Considerations:	Not applicable.
Decision Type:	Portfolio Holder
Subject to Call In:	<p>No</p> <p>The call-in procedure does not apply to the proposed decision because the delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The Chair of the Overview and Scrutiny Committee (or Vice-Chair) in his/her absence has been consulted and agreed both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency.</p>
	<p>Person Consulted: Councillor Brian Parbutt</p> <p>Consultation Date: 25/03/2019</p> <p>CONSULTATION TBC The contract extension must be in place by 31 March 2019 when the current contract expires, therefore there is not adequate time for this decision to be subjected to call-in.</p>
Advice Sought:	Legal, Finance, Procurement, Equality and Diversity

Legal Advice:

The proposed extension follows a review of the current model of these services, which is no longer deemed appropriate or efficient with the service requirement and funding provisions.

It is intended that the requirements of all current residents will be reviewed with a view to more suitable, long term alternative arrangements being put in place. Due to the nature of the services alongside the tenancy arrangements under which resident reside at the accommodation, it is not possible to terminate the service immediately.

It would also not be possible for economic and technical reasons to swiftly procure a new provider to deliver the services without significant inconvenience and substantial duplication of costs, nor would it, due to the exclusive ownership of the accommodation by the current provider, be possible for a third party provider to deliver the services from the accommodation.

An interim extension to the current service will enable individual reviews to be undertaken to ensure appropriate alternatives are established without the need for disruptive and costly emergency placements, so as to ensure service continuity.

For the reasons given in the report, the proposal to dispense with Contract Procedure Rule 5.1.2 in accordance with Financial Regulation 3.29 (Operational Issues) is supported as a permitted modification under Public Contract Regulations of a 'Light Touch Regime' contract, on the understanding that the reviews will be imminent and the duration of the extension will be for the minimum possible term to facilitate new arrangements to be implemented.

Legal services will assist the service area as necessary to implement the extension.

Advice provided by Dionne Claire Scretton (Solicitor) on 19/03/2019.

Finance Advice:

This decision seeks approval to extend the current contract with Fairhavens for a period of 1 year commencing 1st April 2019.

This contract extension will allow for an individual review of each citizen to be undertaken to ensure that a suitable long term alternative arrangement can be established ensuring service continuity for vulnerable citizens.

The total cost of this decision is £150,436. This is the maximum cost based on the current level of citizens accessing the service. This decision will be funded from existing Housing Related Support budgets, as incorporated within the Medium Term Financial Plan (MTFP).

The contract extension provides value for money for the organisation in the short term as without the extension, citizens currently residing in Fairhavens would be required to move into B&B accommodation or residential care at a higher cost to the organisation.

This decision seeks dispensation from Contract Procedure Rule 5.1.2 in accordance with Financial Regulation 3.29 (Operational Issues) and for reasons outlined by the report author, this is deemed appropriate in these circumstances.

Advice provided by Hayley Mason (Strategic Finance Business Partner) on 22/03/2019.

**Equality and Diversity
Advice:**

Reviews that are robust and inclusive must take in the needs of citizens and this process will be absolutely vital to any future decision making if the Council is to meet the Public Sector Equality Duty to ensure equality of opportunity for residents.

Advice provided by Adisa Djan (Equalities and Diversity Consultant) on 18/03/2019.

Procurement Advice:

Review of the current Fairhavens service has established that the model of provision does not align with the current contracting and funding arrangements for Care, Support and Enablement services and therefore it will not be financially viable to commission the services through this contract. It is proposed to review the citizens currently placed with a view to securing suitable alternative services to meet their needs. An extension of the current contract will enable continuity of provision during this process and avoid the risk of needing emergency placements which may be unsuitable and costly. For these reasons, dispensation from Contract Procedure Rule 5.1.2 in accordance with Financial Regulation (3.29) to extend the contract for up to 1 year is supported from a procurement perspective. The reviews should be completed urgently and compliant alternative arrangements put in place within this timescale to ensure no further extension is required.

Advice provided by Jo Pettifor (Procurement Team Manager) on 15/03/2019.

Signatures

Sam Webster (PH for Adult Social Care and Health)

SIGNED and Dated: 04/04/2019

Alison Michalska (Corporate Director for Children and Adults)

SIGNED and Dated: 03/04/2019

Laura Pattman (Strategic Director of Finance) - Dispensation from Financial Regulations

SIGNED and Dated: 26/03/2019

Chief Finance Officer's Comments: