

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

3581

Author:

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Department:

Strategy and Resources

Contact:

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Subject:

Direct Payments Support Contract

Total Value:

570,737 (Type: Revenue)

Decision Being Taken:

To:

a) in accordance with Financial Regulation 3.29, dispense with Contract Procedure Rule 5.1.2 to award a contract, subject to meeting minimum supplier standards, to the providers of direct payment support services currently used in the City for up to one year until 31 May 2020; and

b) delegate authority to the Head of Contracting and Procurement to sign the contract

Reasons for the Decision(s)

Adults who are assessed as requiring social care and children who receive social care support in relation to their Special Educational Need and/or Disability (SEND) are entitled to receive this support in the form of a direct payment. This direct payment is used to buy goods or services, which meet the identified needs of the citizen. Most people receiving direct payments require some additional help in managing this process from a Direct Payment Support Service (DPSS). This takes the form of Employment Support Services, Managed Accounts and Payroll. Nottingham City Council currently has no direct contract in place for the delivery of these services. Citizens are sign-posted to the services available and purchase this support from their direct payments. This means that the Council (NCC) is unable to offer any contractual oversight and quality assurance over the services that the citizen chooses to use.

A previous framework for the procurement of these services was in place until the end of January 2017. It served as a mechanism to select providers for inclusion on an 'Approved List' through which service users could select a provider for their DPSS. The purchasing was undertaken directly by citizens and not by NCC. There were concerns that this did not provide the same support for citizens as the usual arrangements whereby NCC commissions services under the contract. When the framework ended it was not replaced, as there was an intention to reduce the need for such services though the move to a direct payment card that could be used by the citizen to purchase services and to bring other provision in-house. However, there is still significant use of external services and whilst this is likely to reduce, there will continue to be a requirement to provide the citizen with alternative arrangements in line with their rights under the Care Act 2014 for choice and control and there is concern that the current arrangements do not provide the level of protection and support that is required for citizens in managing these arrangements.

There is an opportunity to align our commissioning arrangements and to develop one joint contract for the commissioning of services by the City Council, Nottinghamshire County Council and Nottingham and Nottinghamshire Clinical Commissioning Group. In order to allow sufficient time to undertake this joint piece of work and tender for a joint contract, an interim arrangement for commissioning by the Council will be required.

It is therefore proposed to pilot an approach whereby a formalised arrangement is put in place with the current providers for the invoices to be paid for by the City Council, rather than by the citizen. This will ensure that these providers will be subject to quality assurance processes..

Other Options Considered:

Do nothing: The lack of any formal contract arrangements means that there is no quality assurance of the service that citizens are currently receiving. Therefore this option was rejected.

Tender immediately: In order to undertake a proper review of what is required and to maximise the opportunity of working with the County Council and the CCG, it will not be possible to have new contractual arrangements in place for at least 9 months to a year which will continue to mean that citizens are not having the correct assurances in place around the services that they are receiving. Therefore this option was rejected.

Background Papers:

None

Published Works: **None**

Affected Wards: **Citywide**

Colleague / Councillor Interests: **None**

Any Information Exempt from publication: **Yes**

Dispensation from Financial Regulations: **Yes**

Exempt Information:

Description of what is exempt: **The financial information in respect of the amount currently paid to each of the current providers**

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because the exempt information includes detailed financial income in relation to the organisations currently funded. Making this information public could negatively affect the value for money outcomes of any future Council procurement process.

Documents exempt from publication:

Exempt Information - DP Support.docx

Consultations:

Those not consulted are not directly affected by the decision. There will be no significant change for citizens in receipt of this service

Crime and Disorder Implications:

None

Equality: EIA not required. Reasons: The current proposals will not materially change the provision that is being received by current citizens. The review of Direct Payment Support Services proposed will require an EIA to be undertaken

Social Value Considerations: N/a

Decision Type: Portfolio Holder

Subject to Call In: Yes

Call In Expiry date: 25/07/2019

Advice Sought: Legal, Finance, Procurement

Legal Advice:

The report details proposals to commission an interim arrangement for establishing contracts with third party support providers who deliver direct payment support to citizens in receive of direct payment.

It is paramount to ensure compliance with the obligations under the Care Act and associated Regulations to ensure citizen choice and independence in the award of direct payments. The Council is aware however of expressed difficulties by citizens in managing direct payments themselves and managing relationships with third party support providers who they engage with directly to offer managed accounts, employment support and payroll. Without a contractual relationship for these services between the Council and the provider, the Council's ability to support this is limited, as in turn is its ability quality assure and contract manage.

The interim proposal whilst a jointly commissioned contract is established between the City and the County, is to award short term contracts with a number of known third party support providers in the City to deliver the services to citizens. The value of the contracts are below the EU Procurement threshold for light touch services, which these are considered to fall within and so for the reasons given in the report, dispensation from Contract Procedure Rule 5.1.2 in accordance with Financial Regulation 3.29 is supported.

The specification of services is being prepared and the nature of the required contractual arrangements is yet to be determined. Legal services will work with the report author and procurement and finance colleagues to establish the most appropriate contractual documentation to reflect the requirements and protections needed with respect to the use of direct payments.

Future service requirements will need to be considered and further approvals sought with respect to joint commissioning arrangements. Advice provided by Dionne Claire Screamon (Solicitor) on 22/05/2019.

Finance Advice:

This decision seeks approval to award contracts to providers of Direct Payments Support Services currently used by citizens in the City for a period of one year until 31/05/2020. The proposed award will enable the Council to set the required standards, enable quality assurance and manage pricing arrangements during the interim period.

During the contract period, a commissioning exercise will be undertaken for these services for the long term, ensuring that value for money and the right services are accessible for our citizens and for the organisation. It is also proposed that a joint contract is developed with Nottingham County Council and Greater Nottingham Clinical Commissioning Group, resulting in additional efficiencies through joint commissioned activity.

The total estimated cost of this decision is £0.571m based on actual usage levels during 2018/19. This decision will be funded from existing Direct Payments budgets, incorporated within the Medium Term Financial Plan (MTFP).

This decisions seeks dispensation from Contract Procedure Rule 5.1.2 in accordance with Financial Regulation 3.29 and for reasons outlined by the report author, this is deemend appropriate in this instance.

Advice provided by Hayley Mason (Strategic Finance Business Partner) on 17/05/2019.

Procurement Advice:

The proposed award of contracts to providers of Direct Payments Support Services currently used by citizens in the City will enable the Council to commission these services on behalf these citizens on an interim basis while a commissioning process is undertaken for these services in the longer term. The proposed contracts will provide a framework for service standards to be set and for quality and pricing to be managed during this interim period. Therefore dispensation from Contract Procedure Rule 5.1.2 in accordance with financial regulations (3.29) (operational reasons) is supported from a procurement perspective. The award of contracts will be subject to completion of a due diligence process to ensure the providers meet minimum standards for the award of a contract.

It is proposed to undertake the commissioning of longer term arrangements jointly with Nottinghamshire County Council and Greater Nottinghamshire Clinical Commissioning Group and the commissioning activity should be completed in time to ensure compliant procured contracts are in place at end of the interim contract period.

Advice provided by Jo Pettifor (Procurement Team Manager) on 16/05/2019.

Signatures

Adele Williams (Portfolio Holder for Adult Care & Local Transport)
SIGNED and Dated: 18/07/2019
Alison Michalska (Corporate Director for Children and Adults)
SIGNED and Dated: 09/07/2019
Laura Pattman (Strategic Director of Finance) - Dispensation from Financial Regulations
SIGNED and Dated: 08/07/2019
Chief Finance Officer's Comments: