

REPORT OF THE CABINET MEMBER, ADULT SOCIAL CARE AND PUBLIC HEALTH

NOTTINGHAMSHIRE HEALTHY FAMILIES PROGRAMME: 2024 AND BEYOND

Purpose of the Report

1. To seek approval to the principle of developing a co-operation arrangement between the Council and Nottinghamshire Healthcare NHS Foundation Trust (NHFT) for the design of the future Healthy Families Programme and its subsequent delivery. Under this arrangement, and subject to the satisfactory and affordable outcome of negotiation, the Council would enter a new contract with NHFT, to be approved at a future meeting of the Cabinet.
2. To seek approval to extend the current Nottinghamshire Healthy Families Programme (HFP) by a period of six months.
3. To provide information about future engagement with the proposed joint Scrutiny working group.

Information

4. On 9th March 2023, Cabinet received a [report](#) about the procurement of the Nottinghamshire HFP titled 'Nottinghamshire Healthy Families Programme: 2024 and beyond'. The report set out the purpose and scope of the service, information on its performance and services, and relationship with other NHS-commissioned services. Overview Committee considered the decision-making process following a call-in and made recommendations to Cabinet on 20th April 2023. Cabinet acknowledged the concerns raised which specifically cited that the decision "may not have sufficiently described options or given reasons" and agreed that further work would take place on the options available for future delivery and procurement of the service. Cabinet is now asked to carry out that reconsideration.
5. As set out in 9th March [report](#), the Nottinghamshire HFP is a public health nursing service that supports families to provide their children with the best start in life through a range of nursing and health interventions. The service promotes early intervention by identifying and delivering targeted support to families in need. Critical to identifying opportunities to support families is the programme of health and development reviews by public health nurses. As nursing professionals involved with the families, they are able to provide guidance which is relevant and effective in supporting child development, parenting and healthy choices. The current contract for the Nottinghamshire HFP is due to end on 31st March 2024.

6. This report sets out the additional work undertaken regarding service delivery options and the need for a six-month extension of the current contract that is now required to accommodate the time taken for that further work. Lastly the report notes the intended engagement with the proposed Scrutiny joint working group. It provides Cabinet with a strengthened basis for approval of next steps.
7. If the recommended approach is approved, the Council will undertake further work on the design of the future service and enter into negotiations with NHFT with immediate effect. The outcomes of the work on service design and negotiations regarding delivery would then form the basis of a co-operation agreement between the parties in the event that Cabinet chooses to proceed with that course of action.
8. Overview Committee has been requested by Cabinet to establish a joint scrutiny working group comprised of various members of the Adult Social Care and Public Health Select Committee, the Children and Families Select Committee and the Health Scrutiny Committee. Overview Committee will make recommendations to Cabinet before any final decision is made by Cabinet to enter into any agreement. In requesting the joint scrutiny working group to look at this, Cabinet is suggesting the following points are considered:
 - has appropriate engagement with stakeholders, children and families taken place to inform service design?
 - how does the service design support the Best Start strategy objectives?
 - does the service design support the Council's ambition for place-based working and partnership working with relevant services to support children's outcomes?
 - has the service design process applied the Council's Strategic Commissioning Framework?
9. If the recommendations outlined in this paper are approved, it is envisaged that a further recommendation about the design of the new service will be brought to Cabinet in early 2024.

Statutory responsibilities

10. Local Authorities have a statutory responsibility, under the Health and Social Care Act of 2012, to provide public health nursing services to their local population of children, young people, and families, including the Healthy Child Programme and the National Child Measurement Programme, which weighs and measures children in school. More specifically, five universal health visitor reviews, from late pregnancy to age 2.5 years, are mandated for delivery.

Requirements of the Nottinghamshire Healthy Families Programme from 2024 onwards

11. The ambition for the future of the Nottinghamshire HFP is to improve outcomes for children, young people, and families by maintaining the positive performance as well as continually improving and transforming the service in line with evidence and best practice. The Nottinghamshire HFP delivers outcomes which are integral to the development of Family Hubs and the early help system in Nottinghamshire.
12. The design of the new Nottinghamshire HFP will address the need for close integration with the Council's early help offer as it develops further.

13. The design of the future Nottinghamshire HFP, and the monitoring arrangements, regardless of the mode of delivery, will ensure that the service retains the flexibility to transform to meet the needs and opportunities of the wider system, in addition to the statutory delivery.

Summary of options considered

14. The original options appraisal which was carried out earlier this year has now been reviewed and updated. A summary is provided below, and the full revised option appraisal can be seen in Appendix 1.
15. **Option 1: Going out to procure via a competitive tender**
Tender the contract, via the most appropriate route. This option includes 1A: tendering a single, integrated service for 0 to 19's, and 1B: tender the service as separate lots, splitting activity into discrete bundles of service delivery. This approach allows any potential new provider to bid for the contract and ensures there is evidence of the winning bidders' ability to deliver the specified service. A key risk is that uncertainty about the future of the service provider is likely to cause instability in the workforce with anxiety about TUPE processes. Historically there has been significantly increased turnover where services are competitively tendered, which is a key risk in the context of national shortages of qualified health visitors and school nurses, and retention of an appropriately skilled workforce. If the service was procured in different lots there is a risk of greater fragmentation and instability in the service which could result in reduced quality and outcomes.
16. **Option 2: Undertaking a co-operation approach:**
A co-operation approach enables commissioners to award a contract without competition when specific circumstances apply, that is, where there is genuine co-operation between the contracting parties with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common in the public interest. This approach enables the Nottinghamshire HFP to be delivered between the Council and NHFT in close integration with other community health services for children and young people also provided by NHFT. It secures a well performing, high quality service and enables Council and NHFT to focus attention and resource on continual service improvement and further transformation. In addition, it allows for adjustments to the budget, scope or specification of the services to be incorporated into the final contract. More information about this cooperation approach and legal risk can be found in paragraph 20.
17. **Option 3: Provide the 0-19 Healthy Families Programme from within the Council**
This provides an opportunity to fully integrate the Nottinghamshire HFP with other services provided by the Council. It may result in some cost efficiencies in relation to costs not directly attributed to operational service delivery. This option would present significant challenges and risks to the Council including but not limited to:
 - The employment of Nursing and Midwifery Council (NMC) registered clinicians, and associated professional registration and re-validation requirements, who are needed to deliver key statutory elements of the service,
 - CQC registration of all providers of health visiting and school nursing services, which is a legal requirement,
 - Fragmentation of a service that is integrated with the majority of other health services for 0-19's including those with special education needs and disabilities, maternity and neonatal services, paediatrics, and children's mental health services,

- The disrupted delivery of well-established referral pathways to and from other NHS services, resulting in less streamlined care pathways for children and young people,
- Access to a complete electronic patient record,
- Workforce challenges as identified in paragraph 15.

There are additional considerations, including the implications of transferring a workforce on NHS Agenda for Change terms and conditions, ensuring continued access to the NHS pension scheme, and facilitating continued professional/clinical training and supervision.

18. Option 4: Do not provide the 0-19 Healthy Families Programme

This is not a viable option, as the Authority has a statutory responsibility to ensure that the Department of Health and Social Care's Healthy Child Programme is provided to the local resident population and therefore this option is not considered further.

19. Option 5: 'Call off' from a framework contract.

This would involve undertaking a 'call off' from a neighbouring authority or national framework to supply the services required for the 0-19 Healthy Families Programme. This is not a viable option for this service. There are no such frameworks in place for this type of service due to the requirements around service delivery, resource, and integration with health systems as discussed in earlier options and therefore this option is not considered further.

Co-operation as the preferred approach

20. Co-operation (Option 2) is recommended for reasons that relate to quality and strategic aims:

- It ensures the design of the future service retains the flexibility to transform to meet the need to respond to changing evidence base, policy, guidance, or emerging local need.
- It enables the Nottinghamshire HFP to be delivered alongside other community health services for children and young people,
- It enables integration, including the integrated approach to safeguarding children across all care pathways that NHFT deliver for children and young people aged 0 to 19,
- It prevents the potential fragmentation of services,
- It secures a well performing, high quality 0 to 19 service,
- It is likely to minimise workforce attrition,
- It allows for adjustments to the budget, scope, or specification of the services to be incorporated into the final contract.

For these reasons, commissioners recommend the development of a five-year contract with the potential for an extension of up to four years. This ensures stability in the delivery of the Nottinghamshire HFP.

21. Use of the co-operation approach is a recognised legal methodology to deliver services under the Public Contract Regulations 2015, provided it is used in a way which complies with the requirements of those Regulations. There is always some risk of legal challenge to any procurement activity and that would also apply to use of the co-operation route; information was given in the 9th March [report](#) to Cabinet about legal advice on using the co-operation approach. In summary, this says that using the co-operation route would not be a

breach of the Council's legal obligations under the Public Contract Regulations 2015 given that officers have provided evidence that the legal requirements for use of the co-operation approach are met in principle. In order to mitigate any continuing legal risk, work on finalising the contract and on development and delivery of the service model must ensure that there remains genuine co-operation between the Council and NHFT throughout the contract period with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common and in the public interest.

22. Under a co-operation approach, the service specification for the Nottinghamshire HFP will describe elements of delivery that are integrated with other health services for children and families. The performance monitoring arrangements will set out clear requirements in relation to continual service improvement, maximising opportunities to explore further integration across the Council and wider NHS services, and the need to respond to changing policy, guidance, or emerging local need. The contract underpinning the co-operation approach will outline the necessity (for both the Council and NHFT) to appraise and adjust the service specification on a regular basis in order to determine the most effective way in which to deliver discrete elements of the Healthy Child Programme and improve outcomes for children, young people, and families in order to achieve the common objectives which the Council and NHFT have in common, and which they will deliver through the contract. This also ensures that – for the lifetime of the contract - the Council has the flexibility to continually transform and enhance the service offer for the benefit of the local population and in the public interest.

Contractual arrangements

23. Under a co-operation approach, the service would be delivered in accordance with a legally binding contract between the Council and NHFT. The contract documents would contain a clearly outlined specification, robust terms and conditions, arrangements to monitor performance and outcomes, and arrangements for contract management escalation.
24. The contract would be underpinned by the co-operation approach as set out above; that is, to deliver co-operation between the Council and NHFT with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common and in the public interest throughout the contract term. The contract documents and service delivery (including monitoring arrangements) would ensure continuing compliance with these legal obligations.

Extension of the Nottinghamshire HFP contract

25. There remains approximately 9 months of the current Nottinghamshire HFP contract. The completion of work to strengthen the options appraisal and a forthcoming thorough review of service related issues by the joint scrutiny working group to be established by Overview Committee means that the current contract will be extended until 30th September 2024 in order to afford sufficient time for design work, scrutiny, contracting and mobilisation to be effectively completed.
26. Therefore, Cabinet approval is sought for an extension of the current contract by six months to 30th September 2024 to ensure the Council fulfils its statutory responsibilities and sustains the delivery of good outcomes for children, young people and families during the period until the new approach is implemented. As set out in the 9th March [report](#), the performance of

the Nottinghamshire HFP has consistently benchmarked well for the mandated universal health visitor reviews when compared to both the England average and statistical comparators and it is anticipated that this will continue during the extension period.

27. Consideration has been given to the requirement to comply with the Public Contract Regulations 2015. There is evidence that this extension is legally permissible. It is therefore for Cabinet to decide whether the change should in fact be made.

Activities to be undertaken during development of the co-operation arrangements

28. A comprehensive project plan is in place setting out the activities that will be undertaken as part of this co-operation process, including:
 - A programme of engagement / co-production with children, young people and families, policy leads across public health and children's services, and with partner organisations,
 - Joint work with the Council's children and families' services to further explore opportunities to strengthen or integrate early support for families,
 - A review of the evidence base and policy guidance and a refresh of the service specification, key performance indicators, outcome measures and quality monitoring requirements. These documents will clearly reflect any amendments to service design or delivery,
 - Formal consultation, which will take place where required,
 - Work, with input from legal services, to ensure the contract is sufficiently robust, and break clauses are included. Contract clauses will also be included that the service will be subject to ongoing transformation and change in light of best available evidence at the time,
 - Ensuring the recommissioning work give due regards to the Council's Sustainable Procurement Policy.
29. A recommendation about entry into the new contract, including the service design for achieving this integration, and the built-in flexibility to continually transform and enhance the service offer for the benefit of the local population, will form a key decision to be brought to the Cabinet towards the end of the current contract period.

Other Options Considered

30. As described in paragraphs 14-19 a comprehensive options appraisal has been re-visited to consider the approaches to the re-procurement of this contract that are available to the Council's commissioners. This includes consideration of co-operation and competitive approaches (i.e., tender) and County Council service delivery. Co-operation has emerged as the preferred option informed by discussion between the Council's commissioners within Adult Social Care and Public Health, Children and Families Services, contracting leads, procurement colleagues and with the support of legal services.

Reasons for Recommendations

31. For the reasons set out in paragraphs 20 to 22, the report recommends that a co-operation approach is taken to the procurement of the new contract for the delivery of the Nottinghamshire HFP. This approach will maintain the high performance demonstrated by

the incumbent provider, retain the highly skilled and effective workforce, secure the continuation of integrated service delivery models for local families based on the most up-to-date evidence and current population need; and ensure value for money and delivery of high-quality care, resulting in improved outcomes for children, young people, and families.

32. The report recommends that the Council extends the current Nottinghamshire HFP contract with NHFT until 30th September 2024 in order that the required service design, review and negotiations can take place.

Statutory and Policy Implications

33. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability, and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

34. The contract value for 2024-25 is currently predicted to be £14,862,418 per annum. Commissioners recommend the award of a five-year contract with the potential for an extension of up to four years to allow. This would bring the maximum contract length to nine years, and the total potential contract value to £133,761,762. The precise values would be dependent on the negotiation and development of the co-operation agreement and further information will be provided when the matter is reported back to Cabinet for their final approval to enter into the agreement.
35. The 2024-25 financial envelope is based on the funding that is needed to ensure that the Council can fulfil its statutory responsibility to provide public health nursing services, including the Healthy Child Programme and the National Child Measurement Programme. The predicted funding is affordable within the public health ring-fenced grant and will continue to secure a high performing service for Nottinghamshire residents. It should be noted that this funding envelope is an indicative value which may need be adjusted according to the outcome of design work.
36. Public health services are funded via the public health ring-fenced grant, which the Council receives annually from the Department of Health and Social Care to fulfil its statutory duties to improve health and wellbeing. This is reserved for the delivery of specific public health functions. In 2023-24 the value of the grant to the Council is £44.56 million.
37. The financial implications of the proposed approach outlined in this paper can be contained within the public health grant, however it is important to note the assumptions and risks that are built into public health forecasts for the period of the Council's medium-term financial strategy. There is a degree of uncertainty about the ability of other services commissioned by public health to withstand inflationary and demand pressures within existing contract values. To manage these risks a contingency is held in grant reserves. This also ensures that use of the Council's general reserve will not be required.

Public Sector Equality Duty implications

38. At this stage of the formation of the proposals no specific impacts on particular groups are anticipated. However, as the proposals are developed, equality impacts will be assessed for consideration by Cabinet when reaching its decision on the co-operation agreement.

Safeguarding of Children and Adults at Risk Implications

39. The Nottinghamshire HFP plays an important role in safeguarding and promoting the welfare of unborn babies, children, and young people. These responsibilities are clearly defined in the current service specification. A co-operation arrangement will enable the continuation of the current robust governance process that facilitates an integrated approach to safeguarding children across all NHFT's community healthcare pathways for children and young people.

Implications for Residents

40. There will be no adverse impact for residents. Children, young people, and families will continue to receive a high-quality service from the Nottinghamshire HFP.

RECOMMENDATION/S

It is recommended that:

- 1) The design and development of a new contract for delivery of the Nottinghamshire Healthy Families Programme, for a period of up to nine years and based on the indicative costs detailed in the Financial Implications section of this report, be progressed via a co-operation arrangement between the Council and Nottinghamshire Healthcare NHS Foundation Trust (NHFT), subject to the satisfactory and affordable outcome of further negotiation and service design and development activity and following consideration by Cabinet of any recommendations which may be made the Overview Committee.
- 2) Cabinet approves the extension of the current Nottinghamshire HFP contract until 30th September 2024.

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Constitutional Comments (SJF 26.05.23)

41. Cabinet has the authority to consider the report and determine the recommendations within it, since they are matters within the Terms of Reference of the Cabinet (Constitution Section 5, Part 2, CA.2 - page 73).

Financial Comments (DG 26.05.23)

42. The financial envelope for the Healthy Families Programme in 24/25 is £14,862,418, giving a total potential budget of £133,761,762 over the 9 year programme. This will be met from the Public Health Grant which for the current year is £44,567,373.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Report to Cabinet – Nottinghamshire Healthy Families Programme 2024 and beyond dated 9 March 2023 ([published](#)), which had as background papers the following:
 - Healthy Child Programme 0 to 19: health visitor and school nurse commissioning (commissioner guidance), Public Health England, 2016 (updated March 2021), available [here](#).
 - Nottinghamshire’s Best Start Strategy, 2015-25, available [here](#).
 - The Best Start for Life, a vision for the critical 1,001 days, HM Government, 2021, available [here](#).
- Report to Cabinet - Outcome of Call-in decision – Nottinghamshire Healthy families Programme – 2024 and beyond dated 20 April 2024 ([published](#))
- Report to Cabinet - Nottinghamshire Healthy Families Programme 2024 and beyond – consideration of call-in outcome dated 20 April 2023 ([published](#)).

Electoral Division(s) and Member(s) Affected

- All