

31 July 2024

REPORT OF THE INTERIM DIRECTOR OF PUBLIC HEALTH

NOTTINGHAMSHIRE HEALTHY FAMILIES PROGRAMME CONTRACT EXTENSION: TERMS AND SERVICE DELIVERY ARRANGEMENTS

Purpose of the Report

1. To seek approval to the final terms of the 12-month contract extension for provision of the Healthy Families Programme by Nottinghamshire Healthcare NHS Foundation Trust (NHFT) from 1st October 2024 to 30th September 2025, including the changes to the contractual and service delivery arrangements during the extension period. This decision is to be made in consultation with the Group Manager for legal services.

Information

2. The Nottinghamshire Healthy Families Programme (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 led by Nursing and Midwifery Council (NMC) registered 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.
3. The Council's contract with Nottinghamshire Healthcare NHS Foundation Trust (NHFT) for delivery of the Nottinghamshire HFP has already been extended until 31st October 2024.
4. On 8th May 2024, the Cabinet Member for Communities and Public Health took a key decision to:
 - (i) Further extend the Council's contract with NHFT for delivery of the Nottinghamshire Healthy Families Programme (HFP) until 30th September 2025; and
 - (ii) Delegate to the Corporate Director with responsibility for public health, in consultation with the Group Manager for legal services (or their nominee), authority to finalise the terms of the extension including the appropriate changes to contractual and service delivery arrangements during the extension period.
5. This report outlines the proposed changes to the contractual and service delivery arrangements during the extension period so that there are additional protections in place to help the Council manage the potential risks arising from NHFT's circumstances during the

extension period and, to the extent possible within the terms of the extended current contract, continued service development in line with the joint scrutiny recommendations.

6. The issues which have arisen, and which necessitated these changes are set out in the report to the Cabinet Member for Communities and Public Health dated 8th May 2024.
7. Nottinghamshire Healthcare NHS Foundation Trust have agreed to all the proposed changes, pending formal approval via their governance process which will progress when the contract variation is issued by NCC.

Delegation to Corporate Director

8. The report to the Cabinet Member said that it was intended that there should be greater quality assurance during the contract extension period, including robust performance management and quality assurance mechanisms; continued delivery of financial scrutiny through the continuation of an open book accounting arrangement with NHFT; and appropriate changes to the contractual arrangements to facilitate the management of contractual issues resulting from the outcome of the 'rapid review' Section 48 inspection and/or ongoing concerns in relation to NHFT and enable exit from the contract should that be necessary. These are the matters which the Cabinet Member delegated to the Corporate Director for final decision and delivery, and which are dealt with in this report. The changes, if approved, will be delivered by changing the current contract. Specialist legal advice has been sought in relation to some of these matters.

Changes to contractual arrangements:

9. One element of strengthening the management of contractual issues resulting from the outcome of the 'rapid review' Section 48 and/or ongoing concerns in relation to NHFT has been to include within the contract requirements for NHFT to notify NCC about Care Quality Commission and NHS England's actions using their powers. The requirements set out a clear understanding of what and when NHFT will formally tell the Council about those issues and formalise the requirement for clear, concise, and timely communication between NCC and NHFT regarding regulatory intervention.
10. A further element of strengthening the management of regulatory-related contractual issues has been to introduce a clear link between regulatory concerns, and contract management. If NCC has 'a concern about the regulatory compliance of' NHFT, contract amendments now mean that there is a requirement to meet to discuss and to consider whether remedial action is needed. This will assist with ensuring that any concerns regarding the regulatory compliance of NHFT are linked to the existing robust contract management processes and mechanisms.
11. The final element of strengthening the management of regulatory-related contractual issues is additions to the potential contract termination 'triggers' within the current contract. The additions say that NCC can terminate the contract because of regulatory issues including removal of the NHS provider licence, commencement of Special Administration, and prosecution of an offence. They also give NCC a power to terminate where the CQC are considering cancelling or suspending NHFT's registration or imposing or varying conditions of registration. That is, the contract is being strengthened to ensure that NCC can trigger the termination of the contract linked to a range of escalating regulatory notifications and actions, ensuring that key risks to NCC are mitigated, should that be considered appropriate.

Changes to service delivery arrangements, including key performance and outcomes indicators:

12. Service delivery arrangements have been reviewed. To enhance the contractual and performance management regime during the 12-month extension, there will be additional scrutiny of quality and performance via the addition of two further meetings, each occurring on a 3-weekly basis:
- (a) Strategic Partnership Meeting:
 - (i) To work collaboratively to oversee the delivery of the terms and conditions of the extended contract between NCC and NHFT for the delivery of the Nottinghamshire HFP.
 - (ii) To ensure that the contract extension and associated service provision is delivered effectively, improving outcomes for children, young people and their families.
 - (i) To oversee the transformation of some key elements of the Healthy Families Programme service delivery model, in line with the scrutiny recommendations and consultation, insofar as that is possible within the extension period.
 - (b) Transformation and Operational Collaborative Partnership Meeting:
 - (i) To identify further opportunities to strengthen and streamline the Nottinghamshire HFP service offer in line with the Council Early Help and NHFT ambitions, and those of other system partners.
 - (ii) To progress the transformation of some key elements of the Nottinghamshire HFP across the remaining life course of the contract, insofar as that is possible within the extension period.
13. In relation to performance and outcomes: In the contract as it stands, performance against locally set key performance indicators is monitored closely each quarter and discussed with the provider. Exception reporting is in place to ensure that we have joint understanding of any areas where targets have not been reached and what mitigation has been put in place to minimise impact and improve performance. There is a clear escalation path for any issues or concerns raised during service review meetings, reporting into the quarterly Contract Quality Review Meeting. Nottinghamshire performance is benchmarked against our statistical neighbours so that we can compare local performance against similar local authorities.
14. The proposed arrangements for the extension period introduce an approach to be taken where further enhanced scrutiny is required. This includes additional (more frequent) service review meetings, contract and quality review meetings, strategic partnership meetings, and transformational and operational collaborative partnership meetings, in line with an agreed schedule. This approach includes the potential for regular Nottinghamshire HFP insight visits from elected Members and commissioners should the circumstances require this.
15. The report to the Cabinet Member highlighted that amended and comprehensive key performance indicators, including those that monitor the delivery and impact of the mandated health visitor reviews, and the proportion of face-to-face visits would underpin the contract. The additional key performance indicators proposed in the contract variation include regular reporting of the proportion of mandated reviews that are delivered face-to-face, reporting of the additional review visits that will be implemented, and enhanced qualitative indicators,

including evidence of service user experience. These indicators build on the recommendations from Overview Committee and will help NCC to understand and monitor the quality of the service. These performance reporting arrangements also allow for more frequent reporting of key indicators to deliver greater scrutiny.

Financial assurance

16. The report to the Cabinet Member said that there would be financial scrutiny through the continuation of an open book accounting arrangement with NHFT. The open book accounting arrangements will remain.

Changes to quality assurance, including quality assurance visits.

17. Amended and additional quality indicators have been proposed to provide greater assurance relating to the quality and safety of the service delivered across the extension period. These include more frequent reporting of a range of safeguarding measures, including data relating to safeguarding meeting attendance, a refresh of the incident reporting mechanism, and the introduction of an additional risk report.

18. To enhance the current quality mechanisms, it is proposed that during the 12-month extension there will be changes to quality assurance visits. Throughout the lifetime of the current contract, the Council has carried out quality assurance visits to the service in order to assess the quality of service provision for specific elements of the Nottinghamshire HFP. To date, visits have followed a mutually agreed schedule, based on emerging service delivery themes. It is proposed that during the 12-month extension, quality assurance visits will still be based on emerging service delivery themes, but will also include a focus on relevant CQC findings, and take into account relevant recommendations from the joint scrutiny group within NCC.

Other changes relating to service development

19. The report to Cabinet Member set out the intention, to the extent possible within the terms of the extended current contract, to allow continued service development in line with the joint scrutiny recommendations and public consultation that has previously taken place.

20. During the contract extension, some service development elements will be included which are summarised below. The extent to which the existing service specification can be changed is limited by the time available, and by the legal requirement that the service is not substantially changed.

21. The elements that will be taken forwards are:

- An adaption of the antenatal offer to better meet the needs of parents.
- An additional review for first-time parents at 3 months.
- An additional information contact at 6 months of age, delivered in partnership with Family Hubs.
- An enhanced early intervention level of service for families with identified vulnerabilities
- Universal delivery of the Brazelton new-born observation tool.

22. Alongside this there is a commitment to continual service improvement in response to emerging need and service user feedback.

Consultation with the Group Manager for legal services

23. As set out above, the delegation from the Cabinet Member requires that the delegated decision is made in consultation with the Group Manager for legal services. The Group Manager has been regularly briefed on key developments with the emerging contract changes now resulting in the proposals set out in this report. The services of external specialist legal advisors have been used on the health regulatory issues involved. Those advisors and the internal team have drafted the detailed wording of the contract changes which will form the basis of the variations to the contract between the parties for implementation during the contract extension period.

Other Options Considered

24. Proposing fewer amendments in relation to quality and performance measures and contract terms was considered. This was discounted as the measures proposed are deemed necessary and proportionate to manage the potential level of risk.

25. Proposing greater amendments in relation to quality and performance measures and contract terms was also considered. This was discounted due to concerns about proportionality and balance: the need to develop mutually agreeable terms for both parties that ensure that key risks to the Council are mitigated.

Reason/s for Recommendation/s

26. Approval for the proposed changes to contractual and service delivery arrangements for the 12-month extension from 1st October 2024 to 30th September 2025 to ensure that additional protections are in place to help the Council manage the potential risks arising from NHFT's circumstances during the extension period. Agreement will enable the contract variation to be put in place before 1st October 2024.

Statutory and Policy Implications

27. 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

28. The contract value approved by the Cabinet Member in May 2024 for the extension period 1st October 2024 to 30th September 2025 is £15,473,968 per annum. There are no additional financial implications for the proposed changes to contractual and service delivery arrangements during the extension period.

29. This 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 service for Nottinghamshire residents.

30. 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 2024-25 the value of the grant to the Council is £45.47 million.
31. The financial implications of the proposed contract extension can be contained within the public health grant. Any inflationary or demand pressures within this extension are expected to be managed within the contract and Public Health reserves as needed.

Consultation

32. Information on the consultation carried out in relation to the Nottinghamshire HFP service offer was included in the 8th May 2024 report to the Cabinet Member for Communities/Public Health. In reaching a decision on the technical contract changes, the Corporate (now Executive) Director has consulted as required with the Group Manager for Legal Services.

Data Protection and Information Governance

33. The Council does not process personal data in relation to the delivery of the Nottinghamshire HFP. NHFT share fully anonymised information with the Council for performance monitoring, evaluation, and data analysis purposes as per the terms of the contract. The proposal set out in this report will have no effect on these arrangements.

Public Sector Equality Duty implications

34. The protected characteristics particularly impacted by the Nottinghamshire HFP are pregnancy and maternity, gender, and disability (mental and learning disabilities). A short-term extension to the current contract will enable the Nottinghamshire HFP to continue to include dedicated support for families during pregnancy, support for the non-birthing parent, regardless of gender, as well as additional support for families experiencing parental mental ill-health and/or learning disability throughout the contract extension. This will therefore have a positive impact on these protected characteristics.
35. The equality implications of the proposals set out in the May 2024 Cabinet Member report were considered and no adverse implications identified. An Equality Impact Assessment was [completed](#) to support the key decision regarding the contract extension that was made in May 2024. No additional implications are expected arising from these contractual changes.

Implications for Residents

36. Children, young people, and families will continue to receive the statutory service from the Nottinghamshire HFP, with additional contractual mechanisms ensuring there are additional protections in place to manage the potential risks arising from NHFT's circumstances during the extension period.

RECOMMENDATION/S

It is recommended that the Corporate (now Executive) Director with responsibility for public health (being the Interim Executive Director for Place), having consulted with the Group Manager for legal services:

- (i) approves the final terms of the 12-month contract extension for provision of the Nottinghamshire Healthy Families Programme by Nottinghamshire Healthcare NHS Foundation Trust (NHFT) from 1st October 2024 to 30th September 2025, including the changes to the contractual and service delivery arrangements during the extension period.

VIVIENNE ROBBINS INTERIM DIRECTOR OF PUBLIC HEALTH

For any enquiries about this report please contact:

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Constitutional Comments (SF 10/7/2024)

37. This report and the recommended decision is within the remit of the Interim Executive Director for Place under the authority delegated to him by the Cabinet Member.

Financial Comments (PAA29 15/07/2024)

38. The financial implications are set out in paragraphs 28 to 31 of the report.

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](#)).
- Report to Cabinet – Nottinghamshire Healthy Families Programme – 2024 and beyond dated 22 June 2023 ([published](#))

- Report to Overview Committee – Outcomes of the Joint Scrutiny Review of the Re commissioned Healthy Families Programme dated 25 January 2024 ([published](#))
- Report to Cabinet – Nottinghamshire Healthy Families Programme dated 28th March 2024([published](#))
- Report to Cabinet Member for Communities and Public Health– Nottinghamshire Healthy Families Programme dated 8th May 2024([published](#))

Electoral Division(s) and Member(s) Affected

- All