

## Children's Trust Joint Committee 8<sup>th</sup> July 2024

<b>Report Title</b>	<b>Deed of Variation to the Support Services Agreement to include Legal and Transport Services.</b>
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<b>Executive Member</b>	<p>Cllr Fiona Baker – Cabinet Member for Children, Families &amp; Education, WNC</p> <p>Cllr Scott Edwards, Executive Member for Children, Families, Education &amp; Skills, NNC</p>

<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Is the decision eligible for call-in by Scrutiny?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Are there public sector equality duty implications?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Does the report contain confidential or exempt information (whether in appendices or not)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972</b>	

### List of Appendices

None

#### **1. Purpose of Report**

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- 1.1. To set out the arrangements for the transfer of transport services to the Support Services Agreement.
- 1.2. To set out short-term interim arrangements to deliver legal services.
- 1.3. To set out the arrangements for the transfer of legal services to the Support Services Agreement.

- 1.4. To seek delegated authority for the Councils to enter into a Deed of Variation to the Support Services Agreement with Northamptonshire Children's Trust (NCT).

## **2. Executive Summary**

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- 2.1 To enable NCT to deliver good quality services to children, young people and their families they purchase a range of services from North and West Northamptonshire Councils. These are known as the Support Services and arrangements for delivering these are set out in the Support Services Agreement.

### **Transport Services Transfer**

- 2.2 NCT and the Councils have completed a joint review of transport provision resulting in the drafting of a new SLA and a recommendation to move transport services into the Support Services Agreement.
- 2.3 Each Council will deliver transport services to NCT for the children, young people and families in their area via mirroring SLA's. The SLA contains procedures for reciprocal arrangements between each Council to provide transport for each other where it delivers best value to do so.
- 2.4 Following a re-costing exercise, staff pay inflation and uplifts originally omitted from the costs provided by WNC and NNC have been included taking the total cost of delivering the SLA to £372k, resulting in a short fall £109k.

### **Legal Services Transfer**

- 2.5 On the 17<sup>th</sup> November 2023 NCT served notice on their contract with Pathfinder Legal Services (PLS) who subsequently advised that from the 1<sup>st</sup> July 2024 they would no longer take on any new cases.
- 2.6 The Councils and NCT have been working jointly to agree suitable arrangements for each Council to provide childcare legal services to NCT for their own children and families.
- 2.7 From 1<sup>st</sup> July 2024 both Councils will start to be instructed by NCT on new childcare legal cases. Any cases which cannot be serviced in this interim period, as the in-house legal teams fully mobilize, will be commissioned from Warwickshire Council Legal Services.
- 2.8 The Councils and NCT have been working with PLS to commence a TUPE consultation with affected PLS staff. The formal consultation begins on 1<sup>st</sup> July 2024 and subject to the outcome of the consultation any affected staff may transfer to the relevant Council on 1<sup>st</sup> August 2024.
- 2.9 The 2024/25 Contract Sum contains provision of £5.141m for legal services which includes a saving of £0.400m.
- 2.10 For 2024/25 it has been agreed to take a pro-rata approach from the date the full transfer commences, adjusting the Contract Sum to transfer the remaining legal services budget minus the agreed budget for non-childcare legal services back to the Councils. This will

then be divided between the Councils as per the contract split of WNC 55.84% and NNC 44.16%. Budgets will then be transferred to each Councils legal services department for the remainder of the year.

- 2.10.1 For 2025/26 NCT's Contract Sum will remove childcare legal costs via a technical adjustment to ensure it is comparable to previous years. Budgets will then be transferred to each Council as per the contract split of WNC 55.84% and NNC 44.16% and onto Council legal services departments.
- 2.11 The Councils will enter a Deed of Variation to the Support Services Agreement with NCT to include the new Legal Services and Transport SLAs into the agreement.
- 2.12 The Deed of Variation will also make changes to the Support Services Agreement to classify Legal Services, Transport Services, Asset Management and any future service provided by both Councils in their own areas as Services as Lead Authority Services.
- 2.13 The change to the Support Services Agreement to establish and nominate Lead Authority Support Services is necessary to remove joint and several liability where both Councils are each providing services in their respective areas.
- 2.14 It should be noted that changes to the Support Services Agreement to establish Lead Authority Support Services and remove joint and several liability do not affect NCT's ability to claim a Relief Event in the Service Delivery Contract.

### **3. Recommendations**

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#### **3.1 It is recommended that the Committee:**

- a) Note the arrangements for including transport in the Support Services Agreement as set out in this report and give approval for an In Year Change Request to increase the Support Services budget in Contract Sum by £0.109m to a total of £0.372m.
- b) To note the short-term interim arrangements to deliver legal services.
- c) To note the arrangements to transfer legal services to the Support Services Agreement.
- d) To set out the details of the Councils entering a Deed of Variation to the Support Services Agreement with Northamptonshire Children's Trust (NCT).
- e) Delegate authority to the Executive Member for Children, Families, Education & Skills, NNC in consultation with the Director of Law and Governance / Monitoring Officer and the Executive Director of Adults, Health Partnerships and Housing (DASS) & Director of Children's Services (DCS) (interim) to enter into a Deed of Variation to the Support Services Agreement with West Northamptonshire Council and Northamptonshire Children's Trust.
- f) Delegate authority to the Cabinet Member for Children, Families & Education, WNC in consultation with the Director Legal and Democratic and Monitoring Officer and the Executive Director of People Services, (DASS) / Interim DCS to enter into a Deed of

Variation to the Support Services Agreement with North Northamptonshire Council and Northamptonshire Children's Trust.

### **3.2 Reason for Recommendations**

- To meet the requirements set out in the contractual agreements between NNC, WNC and NCT.
- To ensure good quality transport and legal advice for NCT to support the delivery of its obligations in the Service Delivery Contract.
- To provide support services to NCT which contribute to delivering good positive outcomes for children, young people and their families.

### **3.3 Alternative Options Considered**

To take no action – This is not recommended as this will not allow the respective Councils to fulfil their responsibilities in the Service Delivery Contract and Support Services Agreement. The proposed recommendations are made to ensure that NCT is able to access good quality legal advice and transport services to meet statutory duties on behalf of the Councils. To ensure the delivery deliver best value to the Councils.

## **4. Report Background**

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- 4.1 North Northamptonshire Council (NNC) and West Northamptonshire Council (WNC) are committed to supporting Northamptonshire Children's Trust (NCT) to deliver Children's Social Care and Targeted Early Help services across Northamptonshire.
- 4.2 To enable NCT to deliver good services to children, young people and their families they purchase a range of services from North and West Northamptonshire Councils. These are known as the Support Services.
- 4.3 The Support Services Agreement records the overarching terms and conditions upon which the Councils will provide the Support Services to Northamptonshire Children's Trust, and details the service parameters, responsibilities, and charges in respect of the provision of Support Services.

## **5. Issues and Choices**

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- 5.1 The Councils have established the Children's Trust Joint Committee to discharge the functions of the Councils that relate to ownership of NCT, the provision of support services to the Trust and consider relevant matters arising in relation to the delivery of children's early help and social care services and their financial position.

### **5.2 Transport Services Transfer**

- 5.2.1 NCT receive funding to provide transport services as part of the Contract Sum and they buy these services back from the Councils, but this is via an informal arrangement outside of the Support Services Agreement.

- 5.2.2 There is currently an unsigned historic transport SLA between NCT and the Councils for any Children in Care (CIC) requiring home to school transport, family contact and other appointments as needed.
- 5.2.3 The unsigned SLA has been the arrangement that has allowed NCT to purchase transport services from the Councils.
- 5.2.4 A decision was made by the Councils to split the transport service into two separate teams (i.e. WNC and NNC) following vesting day.
- 5.2.5 The Trust informed the Councils in 2023 that the service levels had fallen significantly following the split of the transport teams into WNC and NNC which was impacting the ability to plan and procure transport in a timely way.
- 5.2.6 The Trust flagged this as a risk in terms of it being able to meet its commitments in the Service Delivery Contract.
- 5.2.7 NCT and the Councils agreed to complete a joint review of transport provision resulting in the drafting of a new SLA and a recommendation to move transport services into the Support Services Agreement.
- 5.2.8 Each Council will deliver transport services to NCT for the children, young people and families via mirroring SLA's. The SLA contains procedures for reciprocal arrangements between each Council to provide transport for each other where it delivers best value to do so.
- 5.2.9 The Service Level Agreements will be included as part of the Support Services Agreement via a Deed of Variation, the arrangements for which are set out in section 5.4 of this report.
- 5.2.10 The 24/25 Contract Sum included £263k for the provision Transport Services provided to NCT. The costings were calculated using information provided by WNC and NNC plus the addition of a 10% overheads charge.
- 5.2.11 Following a re-costing exercise, staff pay inflation and uplifts originally omitted from the costs provided by WNC and NNC have been included taking the total cost of delivering the SLA to £372k, resulting in a short fall £109k.
- 5.2.12 The actual cost of transport journeys is billed to NCT directly by the Councils and the new SLA formalises this.
- 5.2.13 The Service Level Agreements will be included as part of the Support Services Agreement via a Deed of Variation the arrangements for which are set out in section 5.4 of this report.

### 5.3 Legal Services Transfer

- 5.3.1 On 17<sup>th</sup> November 2023 NCT served notice on their contract with Pathfinder Legal Services (PLS) who subsequently advised that from the 1<sup>st</sup> July 2024 they would no longer take on any new cases.
- 5.3.2 The Councils and NCT have been working jointly to agree suitable arrangements for each Council to provide childcare legal services to NCT for its own children and families.
- 5.3.3 NCT will continue to use Warwickshire Council Legal Services to provide additional childcare legal advice during the transition from PLS to the Councils.
- 5.3.4 Non-childcare legal advice will be provided to NCT by either Council, via a separate instruction and a quote for works for individual matters. NCT will also continue to have freedom to choose to instruct other organisations such as Burges Salmon for non-childcare legal advice.
- 5.3.5 The Councils and NCT have worked together to develop legal pathways, instruction forms and other processes and documentation details of which are set out in a Service Level Agreement for Legal Services that will be mirrored for both WNC and NNC provision.
- 5.3.6 The Service Level Agreements will be included as part of the Support Services Agreement via a Deed of Variation, the arrangements for which are set out in section 5.4 of this report.
- 5.3.7 From 1<sup>st</sup> July 2024 both Councils will start to be instructed on new childcare legal cases from NCT and any cases that cannot be picked up as both Councils services fully mobilize will be commissioned from Warwickshire Council Legal Services.
- 5.3.8 The Councils and NCT have been working with PLS to commence a TUPE consultation with affected PLS staff. The formal consultation begins on 1<sup>st</sup> July 2024 and subject to the outcome of the consultation any affected staff may transfer to the relevant Council on 1<sup>st</sup> August 2024.
- 5.3.9 Alongside TUPE consultation and resulting transfers both Councils are putting in place arrangements to recruit appropriate legal staff on a permanent or locum basis.
- 5.3.10 In early August, following completion of the TUPE consultation and the implementation of its outcome, the Councils will receive all transferring cases from PLS for children that they have responsibility for.
- 5.3.11 The Councils and NCT have agreed to commission a peer review from a well performing Council to test out the new arrangements for the delivery of legal services by the Councils. This will be delivered in three phases. Following satisfactory completion of the first and second phases of the peer the Councils and NCT will enter into a Deed of Variation to vary the Support Services Agreement to deliver the new services.
- 5.3.12 The Councils and NCT will enter into an Interim Agreement covering the period from 1<sup>st</sup> July until is Deed of Variation is signed by all parties or a mutually agreed end date.

- 5.3.13 The 2024/25 Contract Sum contains provision of £5.141m for legal services which includes a saving of £0.417m.
- 5.3.14 The Councils and NCT will agree the splitting of the budget for childcare and non-childcare legal services for 2024/25 with NCT retaining the non-childcare legal budget.
- 5.3.15 For 2024/25 it has been agreed to take a pro-rata approach from the date the full transfer of legal services commences, adjusting the Contract Sum to transfer the remaining legal services budget minus the agreed budget for non-childcare legal services back to the Councils. This will then be divided between the Councils as per the contract split of WNC 55.84% and NNC 44.16%. Budgets will then be transferred to each Councils legal services department for the remainder of the year.
- 5.3.16 Instructions to either Councils legal services during the interim period will be billed directly to NCT for payment as per the terms of the interim agreement.
- 5.3.17 For 2025/26 NCT's Contract Sum will remove childcare legal costs via a technical adjustment to ensure it is comparable to previous years. Budgets will then be transferred to each Council as per the contract split of WNC 55.84% and NNC 44.16% and onto Council legal services departments.

## 5.4 Deed of Variation

- 5.4.1 The Councils will enter a Deed of Variation to the Support Services Agreement with NCT to include the new Legal Services and Transport SLAs into the agreement.
- 5.4.2 The Deed of Variation will also make changes to the Support Services Agreement to classify Legal Services, Transport Services, Asset Management and any future service provided by both Councils in their own areas as Lead Authority Services.
- 5.4.3 The change to the Support Services Agreement to establish and nominate Lead Authority Support Services is necessary to remove joint and several liability where both Councils are each providing services in their respective areas.
- 5.4.4 It should be noted that changes to the Support Services Agreement to establish Lead Authority Support Services and remove joint and several liability do not affect NCT's ability to claim a Relief Event in the Service Delivery Contract.

## 6. Next Steps

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- 6.1 Complete TUPE consultations and resulting transfer at the beginning of August 2024.
- 6.2 Finalise and agree the calculations for an adjustment to the 2024/25 Contract Sum to remove childcare legal costs for 2024/25 pro rata'd to the commencement of the full transfer of services to the Councils via the Deed of Variation.
- 6.3 Complete the first and second stage peer review and seek agreement for all parties that outcome of the is satisfactory.

- 6.4 Enter into the Deed of Variation to the Support Services Agreement as set out in this report.
- 6.5 Complete the full transfer of legal services.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

- 7.1.1 When NCT was being developed, detailed work was completed to calculate how costs would be split between NNC and WNC. This was based on the relative populations and demand for children's social care services in each council area. It was agreed that WNC would contribute 55.84% and NNC would contribute 44.16% exclusive of any specific grants that are given directly to the Councils to passport to the NCT.
- 7.1.2 Further financial considerations are reflected throughout the body of the report.

### **7.2 Legal and Governance**

- 7.2.1 The relationship between NCT and the Councils is governed by a series of contractual and legal agreements.
- 7.2.2 The recommendations set out in this report will allow the Councils to fulfil their responsibilities as set out in the Service Delivery Contract, the Articles of Association and Support Services Agreement in terms of oversight.

### **7.3 Relevant Policies and Plans**

- 7.3.1 NNC has identified 'Brighter, Better Futures' as a key priority in its Corporate Plan recognising that children, young people and their families may need help at different stages in their lives. They will aim to provide help as early as possible and provide the right support, at the right time in the right way to ensure that children are safeguarded and get the best start in life.
- 7.3.2 WNC has identified 'Improved life chances: Best Start in Life' as a key priority of its Corporate Plan, including a focus on early help services to ensure children have the best start in life and parents have the right support at the right time from the right service, to enable families to thrive.
- 7.3.3 Both NNC and WNC's identified priorities will be achieved by supporting the NCT to provide higher standards of support.
- 7.3.4 The Provisional Contract Sum and block 3 transformation funding, drawn down by business cases approved by Transformation & Efficiencies Board will provide the resources NCT requires to effectively support children, young people and families through the delivery of their approved business plan.



## **7.4 Risk**

- 7.4.1 There is a risk that the quality of legal services provided by the Councils does not meet a sufficient standard. Mitigation in these circumstances will come from the ability of NCT to instruct Warwickshire Council Legal Services for a short period until the necessary improvements can be made. Both Councils are confident that the required standard will be met.
- 7.4.2 There is a risk that NCT will see increased legal costs for 2024/25 through a combination of the non-delivery of the £0.400m savings built into the Contract Sum, the impact of PLS non share holder rates from 1<sup>st</sup> April 2024, the cost of instructing Warwickshire to pick up any cases during transition, the cost of NCT instructing Burges Salmon to provide legal advice on the legal services transfer and the cost of commissioning an external peer review.

## **7.5 Consultation**

- 7.5.1 This report has not been subject to any consultation.

## **7.6 Consideration by Executive Advisory Panel (NNC)**

- 7.6.1 This report has not been considered by NNC's Executive Advisory Panel.

## **7.7 Consideration by Executive Leadership Team (WNC)**

- 7.7.1 This report has not been considered by WNC Executive Leadership Team

## **7.8 Consideration by Overview and Scrutiny**

- 7.8.1 This report has not been considered by the overview and scrutiny committees of either NNC or WNC.

## **7.9 Equality Implications**

- 7.9.1 There are no specific equality implications arising from this report.

## **7.10 Climate Impact**

- 7.10.1 There is no specific climate impact arising from this report, however as NNC and WNC committed to considering impact on the environment which is managed via the individual strategic lead partnership organisation via organisational policy and commitments.
- 7.10.2 NNC, WNC and NCT are aware there are emissions associated with publishing web content and will seek to minimise the impact where possible.

## **7.11 Community Impact**

7.11.1 There is no specific community impact arising from this report.

## **7.12 Crime and Disorder Impact**

7.12.1 There is no specific crime and disorder impact arising from this report.

## **8 Background Papers**

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8.1 None