

Report on the extension and subsequent termination of the Early Intervention and Prevention Contract with the Salvation Army

Summary

1. On 13 November 2023, the Health, Housing & Adult Social Care Scrutiny Committee (HHASCSC) received an Update Report on Homelessness / Resettlement Services 2023 including winter provision, commissioning issues and strategy update.
2. The Committee resolved that “the chair and vice chair write to the chair of Audit and Governance Committee to request that they consider, additional to their committees work plan, a review of how the Salvation Army contract elapsed”. This report reviews the scope, establishment, operation and end of the contract for Early Intervention and Prevention in response to that request. It clarifies and builds upon a report with the same purpose received by this Committee on 28 February 2024.
3. It was acknowledged in that report to this Committee that the end of the contract was regrettably not managed well. Issues identified were as a result of unforeseen circumstances and technical disruption. Transition discussions should have taken place much earlier. It was foreseen in the contract as drafted that the contract would have a fixed lifetime, but too little attention was paid within the contract wording and in contract management meetings to ending it well.

Background

4. In April 2017 the Homelessness Reduction Act was passed which set out new and extended duties on English local authorities with the aim of preventing homelessness. This was accompanied by a commitment from Government to fund the new duties under the New Burdens Doctrine with additional funding of £72.7 million made available nationally.

5. The new duties required housing authorities to intervene at earlier stages to prevent homelessness and to take reasonable steps to prevent and relieve homelessness for all eligible applicants, not just those with “priority need”.
6. It was acknowledged that councils needed time to prepare for the new duties including recruiting and training new staff, implementing new procedures and IT systems and reviewing existing service delivery.
7. In light of fast evolving approaches to prevention, officers recommended tendering Single Homeless Early Intervention and Prevention. On 17 July 2017 an Executive Member decision to this effect was made.
8. On 10 April 2018 an Officer decision was made to award the contract to the Salvation Army (the “SA”) following an open procedure tender exercise.
9. A contract between City of York Council (“CYC”) and the Salvation Army Trustee Company was signed (the “SA Contract”). The Contract had a commencement date of 1 August 2018 and an end date of 31 March 2023.

The extension and subsequent end of the contract

10. The SA contract had an expiry date of 31 March 2023. This expiry date appeared on the front cover of the contract. Clause 3.1 stipulated “Subject to the termination provisions contained in Clause 17, the Agreement shall commence on the Commencement Date and end on 31 March 2023”.
11. Clause 17 provided for termination by the Council before the expiry date in the event of breach, or by either party upon giving 3 months written notice. Clause 12 provided for variation by agreement of both parties in writing upon the service of a variation notice.
12. In November 2022 there was consultation between Housing and Legal Services on the available contractual remedies to resolve an internal matter relating to staffing in the SA. Draft legal letters were produced but not sent and no formal legal remedy was pursued.
13. The variation provisions in clause 12 were used to agree a 6 month extension to the contract from 1 April 2023 to 30 September 2023. This was to facilitate a wider review of housing related support and resettlement services. Legal advice was sought and given in respect

of the extension. A waiver was approved on 10 February 2023 under the Council's Procedure Rules in respect of the extension.

14. The Deed of Variation was sealed by the Council on 30 March 2023 and completed in counterparts. The decision to extend was properly made under authority delegated to officers, namely the "*power to take decisions in relation to the discharge of the Council's and the Executive's functions within their area of responsibility and which have not been reserved to Council, the Executive and Executive Member or a Committee*" pursuant to paragraph 32 of the Officer Delegation Scheme contained within Appendix 1 of the Council's Constitution. This approach was noted in a Member Decision Session on 9 February 2023.
15. Internal CYC communications between late August and mid September 2023 considered the possibility of a further short extension to the contract from 30 September 2023.
16. In a letter to the Leader of the Council dated 15 September 2023, a regional manager for the SA sought clarification of CYC's intentions for the future of the early intervention and prevention service and proposed a further 6 month extension to the contract.
17. A response was sent on behalf of CYC by the Director of Housing, Economy and Regeneration dated 25 September 2023 confirming the expiry date of the contract of 30 September 2023 but offering a 1 month extension to allow seamless transition to alternative service provision subject to the SA's agreement to such further variation. The letter made it clear that if the 1 month extension was not accepted, the effective end date of the contract would be 30 September 2023.
18. Preparations were made within CYC for a further waiver and deed of variation pending a response from the SA.
19. The SA's Assistant Territorial Commander (North) sought to engage politicians in negotiations albeit that the previous contractual discussions had been between officers. They responded to the Director's letter of 25 September 2023 in a direct email to the Leader of CYC at 15:51 on Friday 29 September 2023. This email explained that the letter of 25 September had been received by the SA on 28 September 2023 and that offered too little time to agree a suitable deed of variation. The Leader reverted at 16:58 asking the sender to liaise with officers. The Commander replied further to the Leader on Monday 2 October 2023 copying officers in. Officers responded with an offer to meet to discuss the future relationship

with the SA. That meeting took place on 5 October 2023. At this stage however the contract had legally ended.

The rationale for not recommissioning the EIP Service and the principles of Decision Making

20. CYC's Principles of Decision Making are set out in Article 7 of the Constitution. These are consistent with public law principles and standards in public life as first set out by the Nolan committee.

21. Article 7 provides:

“All decisions made by or on behalf of the Council will be made in accordance with the following principles:

a) respect for human rights and equality of opportunity;

b) presumption of openness, transparency and public accountability;

c) clarity of aims and desired outcomes;

d) decisions will be proportionate to the intended objective (i.e. the action must be proportionate to the desired outcome);

e) having regard to the relevant facts, legislation and relevant considerations and disregarding irrelevant considerations;

f) due consultation and taking professional advice from Officers;

g) explaining options considered and giving reasons;

h) lawfulness and financial propriety;

i) taking due account of Council policy and procedures;

j) consideration of relevant implications;

k) reasons being given for the decision, as appropriate.”

22. In deciding to allow the SA contract to lapse it is evident that Officers with responsibility for Housing functions had appropriate regard to these principles. Upon the advent of new legislation in 2017, strategic direction from members was sought by presenting the Homelessness Review. This recommended the initial tendering of the Early Intervention and Prevention Programme which became the subject of the SA contract.

23. A further report was presented to the relevant Executive Member in February 2023 setting out the changes in the resettlement pathway during the term of the SA contract. The contract was lawfully due to end in March 2023 but extended for 6 months, again lawfully, through the use of a waiver in order to further explore the resettlement pathway. The decision taken in September 2023 reflected the lawful lapse of the extended fixed term contract and transition to delivery of early intervention and prevention through the Navigator model which had been successfully established. This was

in line with the flexible person centred approach advocated in the member approved statutory Homelessness Strategy.

24. The changes were lawfully and appropriately made by a Chief Officer decision with information provided to the relevant Executive Member and duly noted. As part of this decision-making the Chief Finance Officer had also advised against a waiver for any further period given the range of procurement risks involved.
25. The review of the resettlement pathway identified that the service delivered under this contract had been superseded by the new Navigator model. The Service offered up the full contract value (£96k per annum) as a saving for 2024/25 and this was agreed by Executive and full Council as part of the 2024/25 budget.

Lessons Learned

26. It was acknowledged in the original version of the February 2024 report to this Committee that the end of the contract was not managed well. Part of that was as a result of unforeseen circumstances and technical disruption. Transition discussions, however should have taken place much earlier. It was foreseen in the contract as drafted that the contract would have a fixed lifetime, but too little attention was paid within the contract wording and in contract management meetings to ending it well.
27. Regular strategic relationship management meetings with the Salvation Army Assistant Territorial Director of Services for Homelessness in the north were established only after the expiry of the contract. To secure a productive future relationship with the SA as a non-contracted charity it would have been better to begin these within the period of the contract.
28. In May 2024 a further report sought and received Executive approval to expand the current in-house service to incorporate the services in the scope of the Adult Community Wellbeing Support contract, with smaller commissioned work packages where needed and to agree the principles of a new Resettlement pathway and develop a Homelessness and Rough Sleeping strategy to be reported to a future meeting of the Executive.
29. Given the timings of contracts ending, the overall strategic picture around early intervention and prevention of homelessness may not have been as clear to partners and citizens as it could be due to the developing strategy. A consultation is planned and residents and partners in the voluntary and community sector who will be invited

to help shape future homelessness prevention through participation in that consultation.

30. To conclude the council recognises there are several issues that played out during the months prior to the contract ending that could have been managed differently. The council commits to learning these lessons. As part of the council's ongoing corporate improvement journey, it will review how contracts are managed, drawing on best practice to identify the steps it can take to improve the experience of organisations who enter contractual arrangements with the council, particularly the VCSE and SMEs, throughout the lifetime of the contract. In particular the Council will focus on ensuring that:
 - a. Contracts contain robust contract management provisions;
 - b. Contract management provisions are proactively communicated and used;
 - c. Advance planning for service remodelling and retendering includes early consultation and clear communication.

Implications

31. **Financial** – None directly arising from this report.

Human Resources (HR) – None directly arising from this report.

Equalities – None directly arising from this report.

Legal – None directly arising from this report.

Crime and Disorder, Information Technology and Property – None directly arising from this report.

Recommendations

32. For Audit and Governance Committee to receive and scrutinise this report in relation to assurance around the process followed to the point of cessation of the Salvation Army Contract.

Reasons for the Recommendation

33. To ensure transparent scrutiny of process and assurance regarding processes followed.

Options

34. There are no options in this report as it is for information only.

Author and Chief Officer responsible for the report: Pauline Stuchfield
Director of Housing & Communities
pauline.stuchfield@york.gov.uk

Frances Harrison
Head of Legal Services & Deputy
Monitoring
frances.harrison@york.gov.uk

**Report
Approved**



Date: 23/7/24

Wards Affected: *List wards or tick box to indicate all*

All



For further information please contact the author of the report

Background Papers:

- Homeless Review Report 2016/17
<https://democracy.york.gov.uk/documents/s115885/Report.pdf>
- Decision details Early Intervention and Prevention Contract
Awarded to Salvation Army
<https://democracy.york.gov.uk/ieDecisionDetails.aspx?ID=5183>
- Homelessness Code of Guidance for Local Authorities
https://assets.publishing.service.gov.uk/media/65ddabd1cf7eb10015f57f6f/Current_Homelessness_Code_of_Guidance_28_Feb_2024.pdf
- Report “Update on Resettlement Pathway” 9 February 2023
<https://democracy.york.gov.uk/documents/s165361/Report.pdf>
- York Homelessness Strategy
<https://www.york.gov.uk/downloads/file/2528/york-homelessness-strategy-2018-to-2023>

- Financial Strategy 2024/25 (ref:PLA17) 25 January 2024 (Executive) and 22 February 2024 (Council)
<https://democracy.york.gov.uk/documents/s172793/Annex%20%20Savings%202024-25%20FINAL%20v2.pdf>
- Future Resettlement Pathway – Building Independence 9 May 2024
<https://democracy.york.gov.uk/documents/s176193/Resettlement%20pathway%20report.pdf>

Abbreviations used in the report:

CYC - City of York Council

HHASCSC - Health, Housing & Adult Social Care Scrutiny Committee

SA - Salvation Army

SMEs - Small and medium-sized enterprises

VCSE - Voluntary, Community or Social Enterprise