

Brighton & Hove City Council

Transport & Sustainability Committee

Agenda Item 82

Subject: Retender of Supported Bus Service Contracts

Date of meeting: 26th March 2024

Report of: Executive Director, Environment, Economy & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 To seek approval and permission to delegate authority to procure and award service contracts to the Executive Director Economy Environment & Culture for the:
- supported school bus services, and
 - supported bus services.

2. Recommendations

- 2.1 That Committee grants delegated authority to the Executive Director Economy Environment & Culture to extend the existing contract for supported school bus services up to and including 4 September 2025 and agree any necessary amendments to such contract.
- 2.2 That Committee grants delegated authority to the Executive Director Economy Environment & Culture:
- 1) to procure and award the supported bus service contracts referred to in paragraph 3.4 of this report for a term of four years with the option to extend for a further four years.
 - 2) to extend such contracts for period(s) of up to a total maximum of four years should the Director consider it appropriate at the relevant time.

3. Context and background information

- 3.1 The Council supports a network of eight school routes and eight socially necessary routes run by a variety of local bus operators. The last tendering exercise was carried out in 2017, with contracts being extended during the Covid 19 pandemic and then extended and varied again in 2023 to meet the commitments of the Department of Transport (DFT) funded Bus Service Improvement Plan.

- 3.2 As set out in the Council's Corporate Plan 2023 – 2027 the relevant priorities are:
- A Responsive Council with well-run services, “protect the most vulnerable from the effect of reduced council funding, rising demand and the increasing complexity of needs.”
 - Living and ageing well, “work with local partners to develop plans to help people to be physically active and maintain a healthy weight “
- 3.3 Some of the supported services were enhanced with additional weekend and Sunday services in 2023 as part of the Council's three-year Bus Service Improvement Plan (BSIP).
- 3.4 With the exception of the school routes, which are contracted until 4th September 2024, the current supported services contracts cover the period up to and including 31st March 2025, when the Bus Service Improvement Plan (BSIP) funding is due to end. For all new contracts beyond this period, it is proposed to offer a term of 4 years + 4 years, with a notice period clause.
- 3.5 A cut in council funding for supported services of £58,000 was approved at Budget Council in February 2024 and has been implemented in the budget for 24/25. That amount funds two of the Breeze up to the Downs routes 77 (Devils Dyke) and 79 (Ditchling Beacon).
- 3.6 It is proposed to ask operators to put forward their service options based on pre-BSIP timetables and to confirm that they would have capacity to provide enhancements at the current BSIP levels, if/when further BSIP funding is confirmed and available. This will be outlined in their contract. It is proposed to retender the services in the following lots.
- Lot 1: Route 21
 - Lot 2: Route 37/37B
 - Lot 4: Routes 16, 47 and 52.
- 3.7 For the school bus services, it is proposed to extend the existing contracts with Brighton & Hove Buses up to the 4th September 2025, and then retender from this date for a term of 4 years (+ 4 years), with a notice period clause. Prior to the tender process the school routes will be reviewed to ensure they meet the requirements of schools and users, subject to resources and priorities.
- 3.8 The original Contract (of 2017) with Brighton & Hove Buses was extended through a 'Deed of variation' up to and including 3rd September 2024.
- 3.9 Historically Brighton & Hove Buses were the only operator to submit a tender for the school routes, as these services are provided as an adjunct to their existing commercial routes and no other provider has been able to

make a competitive bid since they would have to provide a dedicated double decker bus that only runs for the morning and afternoon school times.

- 3.10 The new contract must be in place from 4th September 2024, so that the school bus services are in operation from this date.
- 3.11 School bus services are not BSIP funded but increases are affordable at least until September 2024 within the current budget. There is no option for school bus services to be funded by the BSIP.
- 3.12 The potential costs of the retendering exercise is set out in the financial implications paragraph (7).

4. Analysis and consideration of alternative options

- 4.1 One option would be to further extend these contracts beyond 31st March 2025, but this is not reasonably feasible as we do not know what the funding situation will be after 31st March 2025, and given the Council's financial situation, an assessment of priorities needs to be carried out as soon as possible.

5. Community engagement and consultation

- 5.1 Community engagement and consultation will take place prior to the tender process, and the results of that engagement will be considered in drawing up the specification for the services and again following the outcome of the tender process once the prices can be compared against the funding envelope.

6. Conclusion

- 6.1 The new contract for the school bus services needs to be in place for the beginning of the next academic year; 4th September 2024.
- 6.2 All the remaining supported bus service contracts need to run from 1st April 2025
- 6.3 The timescale for undertaking a procurement of supported services is very tight, as it usually takes 12 months including mobilisation. The school services need to be operational from the beginning of the Autumn term, to ensure the same level of service provision meets the transport needs of school children.
- 6.4 The sustainability of long-term funding due to above inflationary costs, can be addressed through a service review, related to the outcome of the tender process.
- 6.5 An extension of school contracts for one year is proposed together with a retender of all services to commence 1st April 2025.

7. Financial implications

- 7.1 The annual budget for supported bus services for 2024/25 is £1.128m covering existing Supported School Bus services and base service component of Supported Bus Services.
- 7.2 For existing non-schools Supported Bus Services, each contract has a base service component and an enhanced BSIP component. .
- 7.3 To maintain the current level of base services without any BSIP enhancements at 23/24 pricing would cost £1.9m. This would lead to a budget shortfall of at least c.£1.133m.
- 7.4 With BSIP enhancements, the cost is c£3.496m at 23/24 pricing. There is sufficient BSIP funds to cover expenditure until March 2025 but after this time further funding would be dependent on BSIP or other supported bus funding being made available.
- 7.5 Costs of the supported services (pre-BSIP) amount to more than the annual budgeted amount of £1.128m due to:
- Cost increases during the Covid 19 pandemic but at that time Covid 19 Bus Recovery Grant was paid directly by the government to cover the increased costs. This grant is now no longer present and annual core budgets are not sufficient.
 - A spike in driver, vehicle and fuel costs post pandemic.
 - Supported services budgets are partly topped up by the government's £172,990 Bus Service operators grant, but this amount has been frozen since it was introduced in 2011.
- 7.6 Extending the School services contract will allow the service to continue for a further year while the service goes through the process of re-tendering the lot. This cost fits within existing budgets and is not dependent on the continuation of BSIP for its funding. The remaining lots are to be awarded on a two-tier system, the base service, and the base service with BSIP enhancement. In the event that BSIP funding ends and no further supported bus funding is awarded in 2025/26, the council will be able to default to the base service, though additional service pressure funding would be required depending on the outcomes of tender exercise. If BSIP or other Supported Bus funding continues at current BSIP levels it would be anticipated the funding elements will cover the enhancements, but service pressure funding may still be required to maintain the base service or potentially review and prioritise services if funding is limited.

Name of finance officer consulted: David Wilder Date consulted 14.03.24.

8. Legal implications

- 8.1 The original 2017 contract for school's services was for an initial term of 4 years from 4th September 2017 with the option of extensions totalling a

further 4 years. The original contract was first extended up to and including 3rd September 2022 and then further extended until 3rd September 2024. There is therefore the option of extending the original contract again up to 4th September 2025.

- 8.2 If a new contract is required, a full procurement process would be required because the total value of the contract would be above the current threshold for the purposes of the procurement regulations. An exemption might possibly be available in the very limited circumstances set out in regulation 32(2)(b)(ii), namely where competition is absent for technical reasons, but that exemption might be difficult to argue here and would not be without risk of challenge.
- 8.3 In relation to the procurement and award of new contracts for supported bus services above the relevant financial services for thresholds for services, the Council will be required to comply with the Public Contract Regulations 2015 or, depending on the date of coming into force, the Procurement Act 2023.

Name of lawyer consulted: David Fairfield Date consulted 27.02.24.

9. Equalities implications

- 9.1 The Council has an Accessible City Strategy 2023 to 2028. An accessible city is one where people with access requirements, who live, work, and visit the city, have, independent, inclusive, and barrier-free access to council services, the city's public spaces and areas, facilities, transport, retail, leisure infrastructure, learning opportunities, support networks, health, safety, and care provisions.
- 9.2 Should contracts not to be extended and services withdrawn, an Equalities Impact Assessment would be required. However, owing to the nature of the services and distance to alternative commercial routes, it is likely that older, less mobile, and vulnerable residents would be more negatively affected by the withdrawal or reduction in frequency of council supported services.

10. Sustainability implications

- 10.1 Promotion of public transport promotes active and sustainable travel.
- 10.2 Through the council supporting local bus services this helps local employment as bus operators employ local drivers.

11. Other Implications [delete any or all that are not applicable]

Social Value and procurement implications

- 11.1 Supported services provide access to employment, education, community, and leisure activities which would otherwise not be accessible to deprived communities.

11.2 Procurement rules require that social value attributes 10% of scoring to social value criteria.

Public health implications:

11.3 The sustainability implications outlined above also apply to air quality and therefore public health.

Supporting Documentation

1. **Appendix A Further information about supported services.**