

**Agenda Item 8**

**Forward Plan reference number:** FP/409/04/19)

<b>Report title:</b> Extension of local bus contracted services due to expire in March and July 2020	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Andrew Cook, Director, Highways and Transport	
<b>Date:</b> 23 July 2019	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

**Confidential Appendix**

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

**1. Purpose of Report**

- 1.1 This report relates mainly to supported local bus Monday to Saturday contracts which are due to expire in July 2020.
- 1.2 The contracts allow for a year's extension. We seek authority to extend most of the contracts for a year, if the contractor agrees to this, and to re-procure contracts where the contractor declines.
- 1.3 Cabinet is also asked to approve consultation on a proposal to withdraw two contracts in July 2020:
  - service 39 Witham Town Centre to Allectus Way and
  - 313/313a Great Dunmow to Saffron Walden,as these are both over £10.00 per passenger journey which significantly exceeds Essex County Council's (ECC) benchmark cost per passenger journey of £5.00.
- 1.4 Finally, Cabinet is asked to extend three contracts from March 2020 to July 2021 to align the termination date with the other contracts which are the subject of this report.

**2. Recommendations**

- 2.1 To agree to extend 76 Monday to Saturday local bus contracts across Essex as set out in appendix A by 12 months from July 2020 until July 2021 if the

operator agrees to the extension. Cabinet is asked to note that the annual cost of these is £6.9m.

- 2.2 To agree to extend three Monday to Saturday local bus contracts as set out in appendix B with a current cost of £198k per annum from March 2020 to July 2021.
- 2.3 To agree that where the contractor will not agree to extend a contract then ECC will undertake a procurement exercise using the Dynamic Purchasing System to replace only those contracts, on the basis that the existing services are maintained. Any new award shall be for a period of 12 months expiring in July 2021 and will be provided within the available total local bus budget.
- 2.4. To authorise the Director, Highways and Transport, to award the contracts procured to replace contracts which cannot be extended.
- 2.5 To agree to consult on the withdrawal of services 39, 313 and 313a listed in appendix C in July 2020 as the cost of these services significantly exceed ECC's benchmark figure of £5.00 per passenger journey.

### **3. Summary of issue**

#### **Background**

- 3.1 In Essex around 85 per cent of the bus network, by passenger miles travelled, is provided commercially. On these services, commercial operators set their own bus routes, set their own fares, and run their services as their commercial interests require.
- 3.2 The remaining 15 per cent of the local bus network is supported as set out in 'Getting Around in Essex' – a bus and passenger transport strategy (the Strategy) which was published in September 2015. In December 2018 ECC launched a 12-week consultation on reshaping the local bus network for Sunday and evening services and on specifically identified service routes. That consultation has closed and the outcomes and proposals for the future evening and Sunday bus services is subject to a separate Cabinet decision.
- 3.3 In the meantime, there are a number of contracts that relate to daytime Monday to Saturday services which are due to expire in July 2020. These are set out in Appendix A. These routes support in total around 2.4 million passenger journeys a year at an annual cost of £6.9m. ECC would like to develop options for those services and time is needed to properly consult on the service proposals and consider the responses. Accordingly, ECC plans to extend those 76 contracts held with the current providers to enable time for this review to take place. Following the review, a full consultation will take place.
- 3.4 In addition there are some services for which contracts expire in March 2020. These have an anomalous termination date, in some cases because they

were originally tendered as part of a pilot integration scheme, where ECC were testing tendering contracts with home to school contracted services. The proposal is to extend these contracts to July 2021 so they will align with the remaining Monday to Saturday daytime contracted services. This will allow for a public consultation to take place in order to shape the future integrated design of the network.

- 3.5 Local bus contracts are let through a Dynamic Purchasing System (DPS) on terms which allow ECC to extend the contract term by up to 12 months in total if the contractor agrees.
- 3.6 Some current providers may choose not to extend their contracts with ECC and prefer that the contract is allowed to naturally expire at the end of the contractual period. In these instances, ECC will need to carry out a short procurement exercise using the Dynamic Purchasing System (DPS) to ensure that there is no loss of service on these routes over the next 12 months.
- 3.7 The evaluation criteria for any new contracts will be based on price, subject to the supplier meeting a minimum threshold. The standard existing framework terms and conditions will be used, which include key performance indicators for contract management purposes to ensure ECC can seek continuous improvements during the contract period.
- 3.8 Any new replacement contracts will be awarded to expire initially in July 2021. This will provide ECC time to undertake its review and consultation exercise. It is proposed that these new contracts are awarded by the Director, Highways and Transportation.
- 3.9 During the next 12 months, ECC propose to hold a 12-week consultation on the Daytime Monday to Saturday services. This consultation will seek to explore the options for re-shaping the local bus network and consider how ECC could devolve more of that activity to communities and their representatives. The consultation will also seek to identify the journeys that people feel are the most important to them.
- 3.10 ECC will also look at how to procure services as flexibly as possible. This includes seeking ways of operating services in different ways where appropriate. This might include demand responsive services or the use of accessible minibuses rather than full size traditional buses.
- 3.11 The consultation will enable ECC to assess the individual impact of these proposals. Upon the conclusion of the consultation, ECC will carry out a full review of all responses and use those responses to inform its decision making around the future daytime Monday to Saturday contracted services across Essex. A further report will be brought back to Cabinet for consideration on any proposals for the service.
- 3.12 Finally, it is proposed to consult on withdrawing services 39, 313 and 313a as described in appendix C as the passenger numbers and cost of the service mean that they currently significantly exceed ECC's value for money

benchmark figure of £5.00 per passenger journey. For these services the cost is over £10.00. A decision on withdrawal will be made by the Cabinet Member after formal consideration later this year.

#### **4. Options**

4.1 Option 1 – Neither extend nor retender services – all current Monday to Saturday services under contract to ECC would end in 2020. (Not recommended).

##### 4.1.1 Benefits:

- Until March/July 2020 local communities served would retain access to all current services, maintaining existing links to key services. By not extending expiring contracts in July 2020 taxpayers would save £6,950,587.42 per annum.

##### 4.1.2 Issues:

- With existing contracts due to finish in March and July 2020 this will leave communities with no ECC supported Monday to Saturday services following these dates.
- ECC have not consulted on the withdrawal of Monday to Saturday services, therefore the option does not meet the objectives of the current ECC Passenger Transport Strategy and there is a risk of legal challenge.

4.2 Option 2 – Re-procure all existing services as they currently operate. (Not recommended).

##### 4.2.1 Benefits:

- Communities would retain access to all current services, maintaining existing links to key services.

##### 4.2.2 Issues

- This would mean there would be no review of current services including those that are failing and those that might be suitable for commercialisation.
- There would be no consultation on provision of a more tailored service to suit passenger needs.
- There would be no consultation on service provision to consider cost and future budget restrictions.
- This will mean taxpayers will continue to fund Monday to Saturday journeys in a way which may not be optimal and in some cases where the service costs more than £5 per passenger journey.
- There would be no opportunity to reflect alternative delivery options in service delivery.

4.3 Option 3 - Extend contracts expiring in March 2020 for 16 months to July 2021 and extend contracts expiring in July 2020 for 12 months to July 2021 to allow a full review and consult over future service delivery to provide a cost effective and efficient service delivering value for money for the taxpayer. **(Recommended approach).**

#### 4.3.1 Benefits

- Local communities served would retain access to journeys Monday to Saturday until July 2021.
- Allow time for ECC to carry out a full review and consultation process to identify the most suitable and effective service provision in terms of value for money and meeting demand.
- Potential for ECC and operators to provide local solutions in an innovative way.

#### 4.3.2 Issues

- Some operators may decline to extend the contracts so ECC will need to procure those contracts. This may increase current contract costs, as they were last procured in 2016 and therefore may not reflect current market value.
- In addition, timetable requirements set in 2016 may not meet current passenger travel patterns.

4.4 Option 3 is the preferred approach as this mitigates the key risk that decisions on future service provision are made in isolation and without due consideration of the wider strategy.

### 5.1 Financial implications

- 5.1. Please refer to separate confidential appendix E. The appendix contains commercially confidential information relating to the estimated cost of the contracts which could be used to unduly influence tender submission prices if published.
- 5.2 The proposed procurement approach of extending existing contracts to July 2021 is likely to deliver the best value in overall cost. As well as securing continued service delivery relatively quickly, the Authority has an opportunity to remain with existing contractors on existing terms and conditions, whilst consulting on the future service design.
- 5.3 Entering into longer term arrangements now would mean that the opportunity to focus on the long term strategy of the service would be foregone. Alternatively, running a short term procurement often leads to increased contract costs as the market has the opportunity to increase prices as the period from which to gain a benefit from has shrunk.

### 6 Legal implications

- 6.1 ECC is under a statutory duty in accordance with the Transport Act 1985 to secure the provision of such passenger services as ECC considers it appropriate to secure to meet any public transport requirements within its area which would not in its view be met otherwise.

- 6.2 Where the providers choose not to extend the current contracts, ECC will undertake a procurement exercise in accordance with the provisions set out within the Public Contract's Regulations 2015 and ECC's procurement policy and procedures.

## **7. Equality and Diversity implications**

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **8 List of appendices**

- 8.1 Appendix A - List of contracts expiring in July 2020
- 8.2 Appendix B - List of contracts expiring in March 2020
- 8.3 Appendix C - List of services to consult on withdrawal
- 8.4 Appendix D - Equality Impact Assessment
- 8.5 Appendix E – Confidential Financial information (Agenda item 16)

## **9 List of Background papers**

- 9.1 Getting Around in Essex: a bus and passenger transport strategy