



Record of Delegated Decision

Decision made by	Councillor Matt Binley – Member for Highways, Travel and Assets
Decision Title	Bus service contracts X10 and W8 January – April 2023
Date of decision (same as date form signed)	12 th January 2024
Key Decision	No – This decision is made subsequent to a key decision made by the Executive to approve the Bus Service Improvement Plan and its associated levels of service provision.
Decision	<p>a) To award a short-term contract through de minimis arrangements to Midland Red (South) Ltd (Stagecoach Midlands) for service X10 between Moulton and Kettering from 2nd January 2024 to 13th April 2024.</p> <p>b) To maintain the contract with Midland Red (South) Ltd (Stagecoach Midlands) for the provision of the W8 bus route from 4th January 2024 to 13th April 2024, and to amend the price of the contract during the extended term.</p>
Reason/s for Decision	<p>The majority of bus services are provided commercially, but the Council can supplement these services with additional subsidised services.</p> <p>Service X10 has been a commercial service operated by Stagecoach Midlands, running hourly between Northampton and Kettering. Service W8 has been an hourly subsidised service between Wellingborough and Bozeat, operated by Stagecoach Midlands under contract to the Council.</p> <p>Following a review of their operations, Stagecoach notified the Council that they intended to reduce the frequency of service X10 to 2-hourly over the Moulton – Kettering section from 2nd January 2024, and to terminate the contract for W8 from 4th January 2024, as it was not sustainable at the existing price.</p> <p>In addition to its own supported bus service budget of £275,000, the Council has been allocated £110,728 of Local Authority Bus</p>

	<p>Subsidy (Revenue) Grant for 2023/24, with £105,654 of similar funding carried forward from 2022/23.</p> <p>In addition, the Council has been allocated £569,412 of Bus Subsidy Improvement Plan plus (BSIP+) revenue grant funding for 2023/24.</p> <p>Executive approved receipt of the BSIP+ funding on 14th September 2023 (item 497). The report proposed the following initial criteria for spending the funding:</p> <ul style="list-style-type: none"> • To continue to fund existing bus services where they represent value for money or maintain essential connectivity for local communities; • To increase service frequency or restore services withdrawn since the start of the Covid-19 pandemic where there is a reasonable prospect of the service becoming commercially viable within the period of BSIP+ funding; and • To forward fund improvements where S106 developer funding is due before the end of the BSIP+ funding period to increase the time for the service to achieve commercial viability. <p>The Executive delegated authority to the Executive Member for Highways, Travel & Assets in consultation with the Executive Director of Place & Economy to take any actions needed to award the local bus service contracts and any further decisions/actions relating to expenditure of the BSIP+ funding.</p> <p>The proposed contracts are in line with the first of the criteria in that they continue existing local bus services which are considered to represent value for money and maintain essential connectivity for local communities. The contracts will also maintain services at the levels recommended in the Bus Service Improvement Plan for Inter urban services tier two (X10) and rural tier 3 (W8).</p> <p>A short-term contract is proposed until 13th April 2024 to allow longer-term options to be considered ahead of further planned service changes and contract awards from 14th April 2024 using BSIP+ and Section 106 funding.</p>
<p>Alternative options considered and rejected</p>	<ul style="list-style-type: none"> • Tendering for long-term replacements for the two services from 2nd January 2024 – this was

	<p>rejected as the Council does not currently have a local bus framework contract in place which would allow tenders to be sought in the available timescales.</p> <ul style="list-style-type: none"> • Not letting a contract for the services – this was rejected because the Council has sufficient funding (including grant funding) to continue operating the services and it would not be sensible to allow services to be withdrawn which are considered to represent value for money.
<p>Legal implications</p>	<p>Under s.63 (1) (a) of the Transport Act 1985 the Council has a duty to secure the provision of such public passenger transport services as the Council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose.</p> <p>s.89 of the Act requires that the Council invite tenders for any subsidised services. However, the Service Subsidy Agreements (Tendering) Regulations 2002 (as amended), set out arrangements for de-minimis contracts which are not subject to tendering. As the Council’s forecast expenditure on local bus services in the current financial year is less than £600,000, then any service subsidy agreement which will remain in force for less than 12 months and under which the aggregate amount of service subsidies does not exceed £29,999, does not need to be tendered; providing that the operator providing the service shall not receive from the Council under service subsidy agreements entered into otherwise than by accepting tenders invited pursuant to s.89 of the Act an aggregate amount of service subsidies exceeding £150,000.</p> <p>s.91 (2) of the Act requires that where urgent action is required to maintain an existing service, a service subsidy agreement may be entered into without tenders being sought, but tenders will be sought as soon as possible.</p> <p>Either the exemption under s.91 (2) of the Act or under the 2002 Regulations would enable the Council to award these contracts without tendering. Existing de-minimis contracts with Stagecoach total £36,905 and the proposed contracts (which are each less than £29,999) would bring this total to £81,639.</p>

	<p>This change is permitted by virtue of s.72(b) Public Contracts Regulations 2015 to prevent substantial duplication of costs, as bus services are due to be reprocurd by April 2024.</p>
Financial implications	<p>The existing contract for service W8 runs at a cost of £153.46 per day (Monday – Friday only). This is funded from the Council's supported service budget of £275,000 per annum and the Local Authority Bus Subsidy (Revenue) Grant.</p> <p>The new contract for service W8 will cost £306.92 per day (an increase of £153.46), totalling an additional £11,202.58 over the period of the proposed contract.</p> <p>The proposed contract for service X10 will cost £230.00 per day (Monday – Saturday), giving a total of £20,240 over the period.</p> <p>The additional costs of £32,442.58 can be funded from the £569,412 BSIP+ funding for 2023/24. None of that funding has currently been expended.</p>
Other implications	<p>Education transport have bought tickets on this service to allow children eligible for statutory travel (X10) and non-statutory children on service (W8).</p>
Background papers considered.	<p>Report to Executive – 14th September 2023 – Bus Service Improvement Plan Plus (BSIP+) Funding (Minute 497 refers)</p> <p>North Northamptonshire Bus Service Improvement Plan BSIP 2021 North (1).pdf</p> <p>Transport Act 1985 (legislation.gov.uk)</p> <p>The Service Subsidy Agreements (Tendering) (England) Regulations 2002 (legislation.gov.uk)</p> <p>The Service Subsidy Agreements (Tendering) (England) (Amendment) Regulations 2004 (legislation.gov.uk)</p> <p>The Public Contracts Regulations 2015 (legislation.gov.uk)</p>
Declarations/conflict of interest?	None
Consultation	<p>This decision has been made in consultation with the (Interim) Executive Director of Place & Economy, Graeme Kane. We have also consulted with communities on the route in previous consultations and home to school transport.</p>
Exempt Decision?	No

Officer/ Executive member

Cllr Matt Binley – Executive Member for Highways, Travel and Assets.

Chris Wragg – Head of Strategic Transport

Danny Douglas – Principal Public Transport Officer.

Annex 1

Key Decisions

- 1.1. The definition of a Key Decision is set out in The Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000 and is defined as;
- 1.2. An executive decision, which is likely
 - i. to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant; or
 - ii. to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions
- 1.3. The council has decided that significant expenditure or savings are those amounting to above £500,000.
- 1.4. All Key Decisions must be published on the website 28 days in advance of them being made unless they are urgent in which case there are processes to follow which include seeking the notification/approval of the Chair of the relevant Scrutiny Committee. The Forward Plan enables the public and all members to understand the key decisions that are going to be taken and make representations in advance.
- 1.5. Key Decisions must be published within 2 clear working days of being made and will be published on the website.
- 1.6. Scrutiny Committees have the ability to call in Key Decisions and any other decisions which have been included on the Forward Plan and have 5 clear working days to call in the decision following their publication on the website (in accordance with the Scrutiny Procedure Rules).

Annex 2

Descriptions of Exempt Information

Exempt information means information falling within the following categories (subject to any qualification):

- 1) Information relating to any individual.
- 2) Information which is likely to reveal the identity of an individual.
- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- 5) Information in respect of which a claim of legal professional privilege could be maintained in legal proceedings.
- 6) Information which reveals that the authority proposes:
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
- 7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications

Information falling within the above descriptions is not exempt information if it is required to be registered under:

- (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Co-operative and Community Benefit Societies Act 2014;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 2011

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which falls within any of the descriptions above; and is not prevented from being exempt by the previous two qualifications is exempt information if and so long, as in all the

circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.