



EXECUTIVE

16 FEBRUARY 2010

SUPPLEMENTARY PAPERS

TO: ALL MEMBERS OF THE EXECUTIVE

The following item has been added to the agenda for the above meeting with the agreement of the Leader.

This item requires an urgent decision. The reason for urgency is:

Legislation requires that when bus services are being operated under emergency powers (which the North Bracknell Bus contract currently is) these must cease no more than three months after tenders for the service have been opened. If a decision is delayed until the March Executive, this will mean that for all practical purposes the new bus operator will be unable to provide the service within the three month period (set up, issues of TUPE and the like) and therefore there is a very high risk that the services will be temporary suspended.

Alison Sanders
Director of Corporate Services

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11. NORTH BRACKNELL BUS CONTRACTS

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**TO: THE EXECUTIVE
16 FEBRUARY 2010**

**NORTH BRACKNELL BUS CONTRACTS
Director of Environment, Culture and Communities**

1 PURPOSE OF DECISION

- 1.1 To award a contract to provide local bus services on a number of routes, principally to the north of Bracknell. The specific routes involved are to Binfield via Priestwood, Wokingham via Binfield, Maidenhead and Wexham Park Hospital, Bullbrook, Warfield, Winkfield, Ascot via Garth, Warfield and Winkfield Row, and also to The Parks.
- 1.2 A full tender exercise in accordance with the requirements of the 1985 Transport Act has been carried out.
- 1.3 All these services replace existing services which operate with financial support from the Council. At present, they are (with the exception of the service to The Parks) operating as 'emergency contracts' under the 1985 Transport Act, following termination by the incumbent operator of existing contracts. The existing contract for the service to The Parks was terminated by mutual agreement with the operator, as the opportunity for greater operating efficiency and a minor reduction in service, to match the use being made of the service, was offered by tendering it at the same time as other services.
- 1.4 Where 'emergency contracts' are operating, section 91 (4) of the 1985 Transport Act requires that they be terminated within three months of receipt of tenders of the services which may replace them. The successful bidder has indicated that it will be wholly impractical to begin operating the services within this three months window if the formal award of the contract is not confirmed quickly and officers accept that view. In view of the need to ensure continuity of service, and for bus operators to ensure that vehicles and staff are in place for the start of the new contract, an urgent decision is sought to minimise the risk of service disruption.
- 1.5 At the tender exercise, the services were offered on the basis of nine separate contracts, with the option for combined bids, in order to maximise the options available to operators and therefore potentially improve competition. Alternative timetables based on reduced services were also included in the tender exercise, to allow for the possibility that the existing budget would be insufficient to maintain the existing level of services.
- 1.6 Analysis of the tenders has shown that one company's combined bid to operate all the contracts at the current timetable (except for the reduction in the service to The Parks) was the lowest bid. All six companies that bid were capable of providing the services.

2 RECOMMENDATION

- 2.1 **That a contract for operation of buses as follows, as specified in the invitation to tender, be awarded to the company submitting the lowest tender:**

BFC 46 : Bracknell – Binfield

BFC 47 : Bracknell – Bullbrook
BFC 48 : Bracknell – Ascot
BFC 49 : Bracknell – Wokingham
BFC 50 : Bracknell – Winkfield
BFC 51 : Bracknell – Wexham Park Hospital
BFC 52 : Bracknell – Bullbrook / Binfield / Warfield (early evening)
BFC 53 : Bracknell – The Parks
BFC 54 : Bracknell – Warfield

- 2.2 That the combined bid for operation of the above services as a single contract from the contractor identified in the confidential annexe (available to members of The Executive only) be accepted.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 While other bidders offered the lowest compliant individual price for each contract, the recommended contractor's price for operation of all the contracts at a combined price offers a significant saving compared to the individual lowest bids for the contracts, and a saving over any other operator's similar combined bid.
- 3.2 The tender submitted meets the requirements of the specification in the most cost effective manner.
- 3.3 These services contribute towards a number of the Council's medium term objectives, i.e.
- 1 "To build a vibrant Bracknell town centre that residents and businesses are proud of by ... improving access to the new town centre by providing ... more buses "
 - 3 "To promote sustainable housing and infrastructure development by Implementing the Local Transport Plan "
 - 7 "Seek to ensure that every resident feels included and able to access the services they need"
 - 9 "To promote independence and choice for vulnerable adults and older people"
- 3.4 The Departmental Service Plan includes a commitment to implement the Local Transport Plan, and recognises the performance indicator NI177 (local bus journeys made in the Borough.) Approximately 318,000 passenger journeys per year (17 % of the bus journeys made in the Borough) are made using these services.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Acceptance of a higher priced tender offers no significant benefits to passengers.
- 4.2 Failure to let a contract will result in the loss of local bus service provision to many parts of the Borough, including rural areas, and to urban areas with a high concentration of senior citizens. Failure to let a contract will also risk the loss of external funding in the form of Rural Bus Subsidy Grant and contributions from neighbouring authorities, and will breach the planning agreement in respect of The Parks.

- 4.3 For each service, the option for operators to suggest alternative timetables was offered, and for many routes, quotes were also sought for an 'Option B' which involved a reduction to the existing timetable, in case the current level of service could not be continued within the existing budget. In the event, the recommended contractor's bid is for 'Option A' for all services, and (with the exception of The Parks) no change to existing routes or timetables is proposed. Since this can be met within the existing budget, and no lower bids for an 'Option B' network were received, there is no direct need to consider service reductions. However, accepting service reductions and reducing costs further is an alternative that Members might consider.

5 SUPPORTING INFORMATION

- 5.1 Most of the bus services involved in this tender exercise are long established, with the exception of the service to The Parks, which commenced in 2007 following development of the former RAF Staff College Site, and the service to Wokingham via Binfield, which was reintroduced in 2009 (as a result of representations from local residents) when it became impractical to continue the regular service to Maidenhead via Binfield.
- 5.2 All these services are currently subject to financial support from the Council, and have been for some time. Some services have previously been subject to formal tendering, others have been negotiated under the 'de minimis' provisions which allow small value contracts to be negotiated without tender.
- 5.3 With the exception of the service to The Parks, notice of termination was given by the incumbent operator to take effect in October 2009, in accordance with the contract conditions. In order to maintain continuity of service, emergency contracts were entered into under the relevant clause of the 1985 Transport Act, and a tender exercise has been undertaken. In the case of the service to The Parks, termination of the existing contract was agreed by mutual consent with the incumbent operator, following discussions with the developers, in order to re-tender the service at a 30 minute, rather than 20 minute frequency, reflecting the low use currently made of the service. Re-tendering at the same time as other services would offer the possibility of improved operating efficiency.
- 5.4 The Council receives financial contributions to the services as follows –
- Wexham Park Hospital via Maidenhead – funding contributions from Buckinghamshire County, Slough Borough and Royal Borough of Windsor & Maidenhead Councils
 - Wokingham via Binfield – funding contribution from Wokingham Borough Council
 - Wexham Park Hospital via Maidenhead, and Ascot via Winkfield Row – part funded by Central Government 'Rural Bus Subsidy Grant'
 - The Parks – fully funded by 'developer contribution'

These arrangements will continue under the new contracts, although the exact contributions from neighbouring councils are yet to be finalised. In view of the overall reduction in price, this is not expected to present any difficulty. All six companies are considered capable of providing the required services.

- 5.5 The bus services secured by these contracts are summarised as follows:

BFC 46 : Bracknell – Binfield: Bracknell – Priestwood – Binfield Road – Forest Road (Binfield) – Terrace Road South – Wokingham Road – Priestwood – Bracknell. (currently operates as service 53 / 153)

BFC 47 : Bracknell – Bullbrook: Bracknell – Deepfield Road – Bullbrook Drive – Lily Hill Road – Deepfield Road – Bracknell. (currently operates as service 154)

BFC 48 : Bracknell – Ascot: Bracknell – Binfield Road – Kennel Lane – Braybrooke Lane – Warfield Road – Holly Spring Lane – Harvest Ride – Warfield (Tesco) – Winkfield Row (Mushroom Castle) – Forest Road – Brookside – North Ascot – Heatherwood Hospital – Ascot High Street (and return.) (Currently operates as service 162)

BFC 49 : Bracknell – Wokingham: Bracknell – Wokingham Road – Temple Park – Binfield – Terrace Road North – London Road – Wokingham (school time journeys extended to Emmbrook School) (Currently operates as service 152)

BFC 50 : Bracknell – Winkfield: Bracknell – Warfield Road – Quelm Park – Warfield (Tesco) – Winkfield Church – High Pines and return (Currently operates as service 152)

BFC 51 : Bracknell – Wexham Park Hospital: Bracknell – Westmorland Drive - Warfield (Tesco) – Newell Green – Moss End – Jeallots Hill – Maidenhead – Burnham – Wexham Park Hospital and return (Currently operates as service 53)

BFC 52: Bracknell – Bullbrook / Binfield / Warfield : early evening (between 6.30 and 8.30 pm) journeys on routes to Binfield, Bullbrook and Warfield

BFC 53 : Bracknell – The Parks : Bracknell – The Parks – Broad Lane – Bracknell (currently operates as service 156)

BFC 54 : Bracknell – Warfield: Bracknell – Westmorland Drive - Warfield (Tesco) – and return (Currently operates as service 153)

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The payments to the Contractor consist of a sum (which the Contractor has tendered) which in effect makes the provision of the proposed services by the Contractor financially viable. The contractor sets fares at a commercial level, which is consistent with fares for comparable services which are not subject to a council 'subsidy'. The Contractor retains the fares revenue which, together with the amount payable by the Council represents the Contractor's income for the service from which he must make his profit. The contractor accepts the risk that the total income from the provision of the service will be sufficient for him to make a reasonable profit.

The contract proposed has been advertised in accordance with the Transport Acts and associated Regulations.

In terms of Public Procurement requirements the service is exempt from the regime, being a "service concession" as defined by regulations. However it will be necessary for the Council to comply with Regulation 46 of the Regulations (which applies solely to "service concessions") by including within the terms and conditions of the contract

a requirement that the Contractor shall not discriminate in seeking offers in relation to or awarding a contract for the purchase or hire of goods on the grounds of nationality.

Borough Treasurer

- 6.2 The price proposed by the successful contractor indicates a saving over the existing budget which is highlighted in the confidential annexe. There is some risk associated with the award of this contract and these are detailed under “Strategic Risk Management”.

Equalities Impact Assessment

- 6.3 Award of the new contract maintains bus services to areas of the Borough currently served by buses, including rural areas and urban areas with a significant concentration of senior citizens.

The recommended contractor proposes to use wheelchair accessible low floor buses on these services, which benefit older residents, residents with disabilities, and parents with children in push-chairs. This matches or exceeds the standard offered by the incumbent operator and elsewhere in the Borough where all regular local bus services are now operated with low floor buses, in advance of the 2015 deadline under the Disability Discrimination Act becoming applicable to single deck buses.

Strategic Risk Management Issues

- 6.4 The Council’s contract conditions for this type of contract include the right of either party to give three months’ notice of termination for any reason, and contracts have in the past been terminated by other operators for the reason that they have not been considered financially viable.

Bearing in mind the comparatively low price offered by the recommended contractor, there is a risk that revenue will not match the contractor’s expectations, and that early termination might be invoked before the end of the contract period.

This risk does however exist with any award of contract, and, while the Council is not legally obliged to accept the lowest or any bid, refusal to award the contract because of this perceived risk might result in a legal challenge. The recommended contractor is an established operator of local bus services, and (without making any comment that could be interpreted as conferring ‘preferred bidder’ status) the detail of the bid has been confirmed with the contractor.

Other Officers

- 6.5 None involved.

7 CONSULTATION

Principal Groups Consulted

- 7.1 None directly consulted.

Method of Consultation

- 7.2 As 7.1

Representations Received

- 7.3 While no specific 'consultation exercises' were carried out in respect of these services, a number of on-bus surveys were carried out to inform the tender specification exercise. Existing users expressed concern about the prospect of any reductions to services, and a desire to maintain or improve bus services in the Borough.
- 7.4 The proposal to reduce the frequency of the bus service to The Parks, which is fully funded by developers under 'developer contributions' has been discussed at a regular meeting with the developers' representatives, and has been agreed. The number of passengers currently using the service is very low, and this arrangement (and the consequential reduction in cost) will allow the funding of the service to continue for a longer period.

Background Papers

Local bus service specifications BFC 46 to 54

Annex – Additional Financial Information (contains exempt information)

Contact for further information

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