



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

### **Streetscene and Engineering Cabinet Board**

#### **Report of David W Griffiths Head of Engineering and transport**

#### **Matter for Decision**

**Wards Affected:** All

#### **Extension of Contracts for the Subsidised Local Bus Network**

#### **Purpose of the Report**

To seek Members approval to extend the current contracts for the subsidised local bus network until the 31<sup>st</sup> December 2022.

#### **Executive Summary**

The Council has a number of bus services which are not commercially viable. These services are subsidised via a Welsh Government (WG) grant. The services were scheduled to be retendered by the 31<sup>st</sup> August 2021. With the pandemic and the changes to the support that the bus operators were receiving, a report on the changes to the Bus Emergency Support (BES2) scheme was taken to Cabinet on the 22<sup>nd</sup> January 2021.

The report asked for permission to sign up to the BES2 agreement and to extend the contracts for the subsidised local bus network for a period of one year until the 31<sup>st</sup> August 2022.

Permission is sought to extend the contracts for the subsidised local bus network for four months until the 31<sup>st</sup> December 2022.

## **Background**

The Council subsidises a number of bus routes in the county which are not commercially viable. These are funded via a Welsh Government Grant called the Bus Service Support Grant (BSSG) and without this subsidy some communities would not receive a bus service.

Previously the subsidised local bus network was retendered every five years. However, the Passenger Transport section has introduced a new Dynamic Purchasing System (DPS) to replace the former framework method of procuring services.

A report was taken to Streetscene and Engineering Cabinet Scrutiny board on the 28<sup>th</sup> February 2020 to have permission to change the procurement process for the Passenger Transport section. The report provided Members with the benefits of a DPS over the former framework method of procuring services.

The introduction and setting up of the DPS has taken longer than anticipated which is now leaving the section short on time to execute the tender process.

To register or de register a bus service takes 56 days. The current contracts are scheduled to finish on the 31<sup>st</sup> August 2022, this means that the section would need to award the contracts by the first week in July.

However, prior to this taking place routes to be tendered have to be publicised on e-tender Wales and the submissions evaluated. This only allows a short period of time to assess the tender submissions and no time to re-advertise the routes if no one submits a price.

A further complication is that it is anticipated the prices submitted will exceed the grant available and it will be for the new Council to advise the section on how to proceed. It may be necessary to re-visit the number of routes the Council can support.

The extension to the contracts will offer the extra time required if anything needs to be amended or revised with the current service provision and will ensure continuity of service in the meantime.

## **Financial Impacts**

Extending the contracts until the 31<sup>st</sup> December 2022 will have no financial impact as the Bus Service Support Grant is in place until April 2023.

## **Integrated Impact Assessment**

A first stage Impact Assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. The first stage assessment, attached at Appendix A, has indicated that a more in-depth assessment is not required.

## **Valleys Communities Impacts**

No implications.

## **Workforce Impacts**

No implications.

## **Legal Impacts**

The intention is that extending the terms of the local bus contracts will amount to variations to existing contractual arrangements. The legal risk is that the extensions could constitute new contracts and thus amount to a direct award of the contracts. Where the need for a variation to a contract arises from circumstances which a diligent contracting authority could not have foreseen, these will be permitted under regulation 72(1)(c) of the Public Contract Regulations 2015 provided that the change does not alter the overall nature of the contract, and does not exceed 50% of the value of the original contract or framework agreement.

For above threshold contracts (currently £213,477) a modification notice must be published when relying on this ground. There is no timeframe stipulated for publication.

The delays to the introduction of the DPS due to the COVID emergency and the subsequent fuel price increases, necessitating the extensions, were arguably unforeseen. It is understood that the 50% original contract value threshold will not be exceeded in relation to each contract being extended. The Council's Contract Procedure Rules (CPRs) also permit a variation to an existing contract in unforeseen circumstances under rule 23.4.3 provided

that the variation does not affect the overall nature of the original contract and does not exceed 50% of its value. Extension to the local bus services contracts would therefore be permitted under regulation 72(1)(c) of the Public Contract Regulations 2015 and rule 23.4.3 of the CPRs. In any case the intention is to utilise the compliant DPS to properly procure the services after the 4 month extension period, therefore the risk of a challenge is considered low.

### **Risk Management Impacts**

The risk with extending the current contract arrangements is considered to be low.

### **Consultation**

There is no requirement for consultation on this item.

### **Recommendations**

Having due regard to the first stage integrated impact assessment Members are requested to approve the proposal to extend the current contract arrangements for the subsidised local bus services until the 31<sup>st</sup> December 2022.

That delegated power be granted to the Head of Engineering and Transport in consultation with the Cabinet Member for Streetscene and Engineering to extend the current contract arrangements for a four month period until the 31<sup>st</sup> December 2022.

### **Reasons for Proposed Decision**

To allow the Passenger Transport section to notify operators of the extension to the current contracts and to allow time to carry out due diligence prior to awarding the new contracts. This action will also allow the time needed to re-advertise any routes that tenders prices are not submitted.

### **Reason for Urgency**

To ensure contractors do not de register any of the subsidised bus services prior to the new contracts being formalised.

## **Implementation of Decision**

The decision is proposed for immediate implementation.

## **Appendices**


Appendix A IIA

## **List of Background Papers**

None.

## **Officer Contact**

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Integrated Transport Unit

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## Appendix A

### Impact Assessment - First Stage

#### 1. Details of the initiative

|                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------|
| <b>Initiative description and summary:</b> Extending the Current contracts for the Subsidised Local Bus network |
| <b>Service Area:</b> Integrated Transport Unit                                                                  |
| <b>Directorate:</b> Environment and Regeneration                                                                |

#### 2. Does the initiative affect:

|                                      | Yes      | No       |
|--------------------------------------|----------|----------|
| Service users                        |          | <b>X</b> |
| Staff                                |          | <b>X</b> |
| Wider community                      |          | <b>X</b> |
| Internal administrative process only | <b>X</b> |          |

#### 3. Does the initiative impact on people because of their:

|                            | Yes | No | None/<br>Negligible | Don't<br>Know | Impact<br>H/M/L | Reasons for your decision (including evidence)/How might<br>it impact? |
|----------------------------|-----|----|---------------------|---------------|-----------------|------------------------------------------------------------------------|
| Age                        |     |    |                     |               |                 |                                                                        |
| Disability                 |     |    |                     |               |                 |                                                                        |
| Gender Reassignment        |     |    |                     |               |                 |                                                                        |
| Marriage/Civil Partnership |     |    |                     |               |                 |                                                                        |
| Pregnancy/Maternity        |     |    |                     |               |                 |                                                                        |
| Race                       |     |    |                     |               |                 |                                                                        |

|                    |  |  |  |  |  |  |
|--------------------|--|--|--|--|--|--|
| Religion/Belief    |  |  |  |  |  |  |
| Sex                |  |  |  |  |  |  |
| Sexual orientation |  |  |  |  |  |  |

**4. Does the initiative impact on:**

|                                                                   | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence used) / How<br>might it impact? |
|-------------------------------------------------------------------|-----|----|---------------------|---------------|-----------------|-------------------------------------------------------------------------------|
| People's opportunities to<br>use the Welsh language               |     |    |                     |               |                 |                                                                               |
| Treating the Welsh<br>language no less<br>favourably than English |     |    |                     |               |                 |                                                                               |

**5. Does the initiative impact on biodiversity:**

|                                                                                                                                                           | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence) /<br>How might it impact? |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|---------------------|---------------|-----------------|--------------------------------------------------------------------------|
| To maintain and enhance<br>biodiversity                                                                                                                   |     |    |                     |               |                 |                                                                          |
| To promote the resilience<br>of ecosystems, i.e.<br>supporting protection of<br>the wider environment,<br>such as air quality, flood<br>alleviation, etc. |     |    |                     |               |                 |                                                                          |

**6. Does the initiative embrace the sustainable development principle (5 ways of working):**

|                                                                                                                  | Yes | No | Details                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------|-----|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Long term</b> - how the initiative supports the long term well-being of people                                | X   |    | Extending the current contracts will directly contribute to Wellbeing Objective 1 by ensuring continuity of the subsidised local bus network. Which some services transport pupils to education. |
| <b>Integration</b> - how the initiative impacts upon our wellbeing objectives                                    | X   |    | Extending the contracts support local businesses and secure employment for contractor's staff. Wellbeing Objective 4                                                                             |
| <b>Involvement</b> - how people have been involved in developing the initiative                                  | X   |    | Officers have spoken to operators on the subsidised local bus network to ensure they are content with the option of extending the contracts.                                                     |
| <b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions | X   |    | Officers have spoken to operators on the subsidised local bus network to ensure they are content with the option of extending the contracts.                                                     |
| <b>Prevention</b> - how the initiative will prevent problems occurring or getting worse                          | X   |    | The extension to the contracts will offer time to review and evaluate the new tender prices and to consult with Members on the most appropriate use of the grant funding.                        |



**7. Declaration - based on above assessment (tick as appropriate):**

|                                                                                                                                    |                                     |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| A full impact assessment (second stage) <b>is not</b> required                                                                     | <input checked="" type="checkbox"/> |
| Reasons for this conclusion                                                                                                        |                                     |
| This is an Internal admin process which in the short term will have a positive impact on our contractors and the traveling public. |                                     |

|                                                            |                          |
|------------------------------------------------------------|--------------------------|
| A full impact assessment (second stage) <b>is</b> required | <input type="checkbox"/> |
| Reasons for this conclusion                                |                          |
|                                                            |                          |

|               | Name          | Position                     | Signature | Date            |
|---------------|---------------|------------------------------|-----------|-----------------|
| Completed by  | P. Jackson    | Integrated transport Manager |           | <b>07.05.22</b> |
| Signed off by | D.W Griffiths | Head of Service/Director     |           | <b>07.05.22</b> |