

<b>Subject:</b>	<b>Covid 19 Bus Network Recovery Plan</b>		
<b>Date of Meeting:</b>	<b>1 July 2020</b>		
<b>Report of:</b>	<b>Executive Director for Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Owen McElroy</b>	<b>Tel:</b> <b>01273 293693</b>
	<b>Email:</b>	<a href="mailto:owen.mcelroy@brighton-hove.gov.uk">owen.mcelroy@brighton-hove.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 Bus services financially supported by the council are due to expire in September 2021, although there is provision in current contracts to extend them for up to four years. However, the situation is complicated by the Covid-19 pandemic which has resulted in lower passenger numbers and additional financial support being provided to operators. This report sets out recommendations to allow services to be retained in the short-term as well as for the longer-term re-procurement of services.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee agrees to a short-term (up to two years) extension to the existing supported bus service contracts for services 37/37B, 21, Breeze to the Downs and school services.
- 2.2 That the Committee agrees to re-procure temporary short-term (up to two years) contracts for routes 16, 47, 52 and 57.
- 2.3 That the committee agrees to extend contracts for routes 16, 47, 52 & 57 for no longer than the end of April 2022 should retendering not be possible before September 2021 or should the tender process for these services be unsuccessful.
- 2.4 That the Committee agrees to continue to provide additional financial support to operators where necessary in light of the impact of the Covid-19 pandemic for the duration of the contracts.
- 2.5 That the Committee agrees to the postponement of the procurement process for long-term contracts for all supported bus service routes from 2021 to 2023 or sooner if there is a service need and/or market conditions allow.

**3. CONTEXT/ BACKGROUND INFORMATION**

3.1 Supported buses serve routes which the commercial network does not and are provided by the council because of their social need. All supported bus service

contracts were awarded in September 2017 following a competitive tender process. They are due to expire in 2021, although contain an option to extend for up to four years.

- 3.2 During the pandemic, bus use fell considerably. Care is required when comparing usage for different time periods as restrictions and the number of services run on each route has varied throughout the past year. However, for context, Table 1 summarises the drop in usage for the latest comparable period.

**Table 1: Change in Patronage**

Route	Description	Period for Comparison	Approximate Reduction	Comment
37	Meadowview – Bristol Estate	May-June 2019 / 2021	42%	Later comparison not possible because of service changes in September 2019; however, passenger numbers have increased since Feb 2021 in line with the easing of lockdown restrictions.
37B	Meadowview – Bristol Estate via Queens Park		37%	
16	Portslade, Knoll Estate and Hangleton	Oct-Feb 2019-20 / 2020-21	55%	
47	Hangleton - Saltdean		62%	
52	Patcham - Woodingdean		53%	
57	Saltdean – Seven Dials (Sundays)		71%	
77	Breeze – Devil's Dyke	May 2019 / 2021	49%	
78	Breeze – Stanmer Park		33%	
79	Breeze – Ditchling Beacon		51%	

- 3.3 Substantial reductions have also been seen across the commercial bus network.
- 3.4 As a result, the government introduced Covid Bus Service Support Grant (CBSSG) funding in Spring 2020. The council is receiving this from the government to provide grants to supported bus service operators whilst operators of commercial services are receiving CBSSG directly from the government. It is a requirement of CBSSG that operators do not make profits whilst in receipt of this funding.
- 3.5 It is unclear if or when patronage will return to pre-pandemic levels. This means that there is a risk that supported bus services will need greater financial support in the long-term. There is also a risk that some commercial services will no longer be viable. In this case, the council may be required to make future decisions on the bus services its supports.
- 3.6 However, the government published its National Bus Strategy on 15 March 2021 and this provides some reassurance on the immediate future for bus services in the city. Previously, the expectation was that CBSSG would reduce from summer 2021 before

ending, but the strategy now states that “CBSSG will remain in place for as long as it is needed” (p.38). This is subject to the council and operators making a number of commitments, including forming an Enhanced Partnership and producing a Local Bus Service Improvement Plan. Nevertheless, the amount of future support the council will need to provide, either through its own funds or government grants, is currently unclear. The response to the National Bus Strategy is the subject of a separate report to the Environment, Transport & Sustainability (ETS) Committee on 22 June 2021.

- 3.7 This uncertainty brought by the pandemic does not provide desirable market conditions for retendering contracts. It is therefore recommended that the majority of contracts are extended by an initial period of up two years by activating the extension clauses.
- 3.8 The cost to the council would increase compared to the current contracts. This is because, prior to the pandemic, the contracts were on a fixed price basis, meaning operators kept all fare income. However, following the fall in passenger numbers, the council has been providing additional funding to operators for the loss of passenger revenue. This is currently provided via CBSSG funding but it is possible that at some point the grant may be reduced or withdrawn. The financial implications are outlined in full in Section 7.
- 3.9 Services operated by The Big Lemon had experienced issues with viability prior to the pandemic and the operator is not able to continue providing services at the original tender price. Despite contract changes agreed to by the council (permitted under the procurement regulations), the operator has been sustaining losses on these routes. The pandemic has exacerbated the problem and The Big Lemon is not able to sustain ongoing pre-Covid losses without additional support from the council. It is therefore being recommended that contracts associated with these services are retendered, rather than extended, to ensure that the council is receiving best value for money.
- 3.10 The contracts would be tendered based on the current routes and frequencies. Specifications, such as requirements for vehicle type (minimum Euro V), will be kept the same as the previous tender in 2017. This is consistent with those contracts that this report recommends are extended. In addition, it is not deemed reasonable to place additional requirements on operators to invest for short-term contracts of one or two years. For longer-term re-procurement from 2022/3, officers would recommend that additional requirements are placed on bidders.
- 3.11 A temporary contract of two years would be awarded to the operator providing the lowest price. This would be subject to meeting the minimum quality requirements and prices being considered high enough to be viable.
- 3.12 A report was taken to Procurement Advisory Board (PAB) on 19 April with subsequent amendments discussed at PAB on 14 June. PAB’s advice to Policy & Resources (P&R) Committee was that the officer recommendations should be accepted.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The council has no capacity to provide bus services in-house. Currently, there are restrictions on local authorities setting up bus companies, although they can choose to purchase operators. The government has indicated in the National Bus Strategy that it will review the ability for local authorities to set up bus companies but, in any event,

the provision of the services in-house would need substantial investment and resources from the council. This is therefore not recommended as an option and, in any case, is not available in the short-term.

- 4.2 The government has said that it will support authorities who wish to pursue franchising. For authorities without elected mayors, this requires legislation and is likely to take a number of years. Different franchising models are available which range from the approach used by Transport for London, where the transport authority centrally specifies routes and tenders for each one, to area-based arrangements where the successful operator would have more control in the design of services. The National Bus Strategy has said that to pursue franchising, authorities would need to demonstrate they have the available skills and resources, including specific funding, and that it would deliver an improvement to bus passengers.
- 4.3 At the time of writing, a report on the response to the National Bus Strategy was due to be taken to ETS Committee on 22 June. This included a recommendation to commission a feasibility study into bus franchising. However, were it to be considered further, franchising would be a longer-term option and the need to address the continuation of supported services in the short-term remains.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 No changes to services are proposed in this report; therefore, engagement and consultation has not been undertaken.

## **6. CONCLUSION**

- 6.1 The report sets out the impact of the Covid-19 pandemic on supported bus services in the city. It provides recommendations for the short-term future of these services to allow them to continue to September 2023. The intention is that this will provide time for market conditions to settle and future requirements for the supported bus network to become clear. This will then allow longer-term decisions on the design and procurement of these services to be made.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 Please refer to Part 2 report (Exempt category 3)

*Finance Officer Consulted: Paul Tucknott*

*Date: 09/06/2020*

### Legal Implications:

- 7.2 As regards recommendation 2.1, the extensions are permitted by the contract terms. If, in addition to the extension, any further variations are required, Regulation 72(1) of the Public Contracts Regulations 2015 (PCR) allows contracts to be modified without a new procurement procedure where:
- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen,
  - (ii) the modification does not alter the overall nature of the contract; and

- (iii) any increase in price does not exceed 50% of the value of the original contract.

7.3 Recommendation 2.2 is for the award of certain short-term contracts following a competitive procurement process. The council's Contract Standing Orders will apply. If the value of the proposed contract is above the current procurement regulations threshold (£189,330), the procurement process will also need to comply with the procurement regulations.

7.4 Recommendation 2.5 is for a full procurement in the longer-term. The council will need to comply with the procurement regulations and, again, the council's Contract Standing Orders will also apply.

7.5 The subsidy control regime also needs to be considered in relation to all new subsidies. In this case, there is a good argument that this funding does not constitute a subsidy because it does not have an effect on trade or investment between the UK and its international partners.

*Lawyer Consulted:*

*David Fairfield*

*Date: 9.06.21*

Equalities Implications:

7.6 The recommendations to retain the existing services until at least September 2022 mean that residents should not be affected by the withdrawal of services.

7.7 Were 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.

Sustainability Implications:

7.8 The continuation of the supported bus services is important in the context of the council's wider sustainable transport commitments.

7.9 Reducing bus services to communities would conflict with the council's Local Transport Plan objectives to promote sustainable and accessible travel.

7.10 In addition, reducing bus services to communities conflicts with recommendations 2 and 8 of the Climate Assembly, around the need for public transport accessibility, convenience and affordability.

7.11 It is possible that another operator could bid for routes currently operated by the Big Lemon using Euro V vehicles. This would be compliant with the contract specification; however, a number of the Big Lemon's vehicles currently exceed this requirement.

Brexit Implications:

7.12 None

### Risk and Opportunity Management Implications:

- 7.13 The financial risks are outlined above. These risks are mitigated by the government committing to provide the support necessary during the recovery from Covid-19. However, until the level of funding is confirmed, there is a financial risk in extending the contracts to September 2022. This in particular applies to 2022-23.
- 7.14 There is a further risk that passenger numbers will be lower than used to calculate the above forecasts.
- 7.15 Finally, there is a risk that operators will request further funding or otherwise withdraw from contracts. However, as the extension to services would be on the basis that the council is providing a revenue guarantee, this uncertainty is removed for operators. All other costs should be fixed and allow operators to provide inclusive quotes for running services.

### Public Health Implications:

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

### Corporate / Citywide Implications:

- 7.17 The maintenance of bus services is important in respect of the council's priorities for sustainable transport and climate change.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

None

### **Background Documents**

None



