

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:	2435
Author:	Norman England
Department:	Communities
Contact:	Norman England (Job Title: Passenger Transport Manager, Email: norman.england@nottinghamcity.gov.uk, Phone: 8761771)
Subject:	Permission for Procurement Tender for Nottingham City Council (NCC) Transport services
Key Decision (decision valued at more than £1million):	Yes
Total Value:	£2.690m per annum Maximum £10.76m over 4 year contract (Type: Revenue)
Decision Being Taken:	<p>1) Approval to undertake an EU compliant competitive procurement process to secure best value prices and set up a framework of Providers for the provision of transport for ad-hoc taxis and regular Special Educational Needs (SEN) and Adult transport under a number of lots.</p> <p>2). Approval to delegate authority to the Director of Neighbourhood Services to award the framework to the most advantageous tenders and delegate the award of individual call-off contracts to the Commercial Operations Manager for Transport.</p>
Reasons for the Decision(s)	The current transport contract for NCC has now expired and a new framework needs to be established to ensure compliance with the Council's Constitutional requirements. A competitive tendering process will enable the Council to establish an arrangement for the provision of the Service and allow it to keep control of costs associated with its delivery. The Council intends to set up a framework that both of the Nottingham Universities can use and the Council will help the Universities by providing a booking service for them to better manage their demand.
Briefing notes documents:	Briefing note for Transport Tender.docx

<b>Other Options Considered:</b>	To not seek permission to tender for the service. This option has been discounted as to do nothing would put the Council in breach of financial regulations and expose the Council to a market place that could increase costs without agreement.
<b>Background Papers:</b>	None.
<b>Published Works:</b>	None.
<b>Affected Wards:</b>	Citywide
<b>Colleague / Councillor Interests:</b>	None.
<b>Consultations:</b>	<p><b>Date: 12/01/2016</b></p> <p><b>Other City Council Bodies:Sangeeta Sahni Nottm Uni Dean Scaife Nottm Trent University</b></p> <p><b>Discuss optoins of joint working on Transport Tender and using NCC's taxi desk for bookings. Arrangement made and draft tender specifications made.</b></p>
	<p><b>Date: 12/01/2016</b></p> <p><b>Other:John Watson Procurment Manager Mabs Karim Procurment Officer</b></p> <p><b>Discuss whether two Universities could join tender process and tender specifications.</b></p>
	Those not consulted are not directly affected by the decision.
<b>Crime and Disorder Implications:</b>	No crime and disorder implications
<b>Equality:</b>	EIA not required. Reasons: No EIA required as tender replaces current contracts that have expired. Transport available to all.
<b>Social Value Considerations:</b>	By securing best value cost for transport provision to NCC and its citizens, helps toward meeting its budget obligations and allow for services to continue.
<b>Decision Type:</b>	Leader's Key Decision

**Subject to Call In:**

**Yes**

**Call In Expiry date:**

**29/04/2016**

**Advice Sought:**

**Legal, Finance, Procurement**

**Legal Advice - Contracts and Commercial**

The proposal in this report raises no significant legal issues and are supported.

The continuation of these services will ensure the Council can provide a number of transport services to staff and citizens in a clear and managed way whilst the department is continuing to consider the spend associated with these services.

A fully compliant open OJEU process will be undertaken for the procurement of the new services to identify the successful suppliers who will be submitted onto the Framework for delivery of the services advertised by ways of lots. It is understood that there is a requirement for both of the Nottingham Universities to be able to also use the Framework and this should be reflected in the tender documents and the framework contract itself. The individual call-off contracts from the Framework should be awarded by the Commercial Operations Manager for Transport, each of which will need to be recorded in line with the Council's Constitution.

Advice will be provided by the Corporate Procurement and Legal Services Teams with respect of the tender process and necessary contractual arrangements as they are prepared for the procurement process.

**Legal Advice - Employment/TUPE**

1. Before proceeding with the tender process, it is advised that steps are taken to clarify the following in order to then consider the related employment and TUPE implications:

- a. Which elements of the current in-house service will remain in-house and which elements (if any) will form part of the tender process;
- b. Which elements of currently outsourced services will be brought in-house;
- c. Which elements of currently outsourced services will form part of the tender process.

2. Once the matters at 1 above have been established, as appropriate relevant steps can be taken to gather workforce information to inform the process of identification of TUPE implications.

3. In so far as the tender process will be on the basis of a framework arrangement (i.e. in effect the establishment of a list of approved providers for the Council), it is unlikely that there will be any TUPE implications at the point of award of the framework. In such a circumstance, any TUPE implications are likely to take effect at the point of call-off under the framework arrangement (whereby it will need to be considered in each situation whether a service provision change will take place for the purposes of TUPE with a related organised grouping of employees in relation to that particular service that will transfer to a new provider).

4. In the event that elements of the current in-house service is to be outsourced, as part of any consideration of TUPE implications, account will need to be taken of the requirement to provide pension protection to transferring employees under the Best Value Authorities Staff Transfers (Pensions) Direction 2007 ('2007 Direction'). Pension protection requirements under the 2007 Direction would arise in the event that staff were deemed to transfer from the Council to an external provider by operation of TUPE.

Advice provided by Dionne Claire Screatton (Solicitor) and John Bernard - Carlin (Team Leader, Employment) on 13/04/2016.

**Finance Advice:**

In 2015/16 the Council will spend circa £2.700m on the transportation of vulnerable citizens to schools and day centres. In order to comply with the Council's financial regulations robust contractual arrangements are required, in order to ensure that the Council secures value for money in regard to these services an OJEU compliant tendering process should be run.

The extent of any savings or cost pressures arising from this procurement process will not be known until the process is completed, however as a result of this procurement activity the Council will be able to maximise the benefit to citizens achievable through the utilisation of these budgets. Advice provided by Gary Robbins (Finance Analyst) on 23/03/2016.

**Procurement Advice:**

A fully compliant Open OJEU tendering process will be run by procurement to enable a contract to be put in place. This will include any external client requirements that are needed.

Advice provided by John Watson (Category Manager) on 18/03/2016.

**Signatures:**

Jon Collins (Leader of the Council)
SIGNED and Dated: 20/04/2016
Andrew Vaughan (Corporate Director Commercial and Operations)
SIGNED and Dated: 19/04/2016