

Commissioning and Procurement Executive Committee – 12 December 2023

Subject:	Public e-scooter hire operator retender – CPU6549		
Corporate Director:	Sajeeda Rose - Growth and City Development		
Portfolio Holder:	Councillor Angela Kandola - Highways, Transport and Planning		
Report author and contact details:	Iain Turner, Senior Transport Planner, iain.turner@nottinghamcity.gov.uk 0115 9761526		
Other colleagues who have provided input:	Paul Rogers, Commercial Finance Business Partner Anthony Heath, Senior Solicitor Holly Fisher, Lead Procurement Officer (Products)		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision		<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Type of expenditure: <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital			
Total value of the decision: £5,000,000 (approx)			
Wards affected: All			
Date of consultation with Portfolio Holder: 26 October 2023			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input checked="" type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input checked="" type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
<p>The existing contract for the city's e-scooter scheme is due to expire on the 31 May 2024. Therefore, there is a requirement to retender for an e-scooter operator to continue the scheme post-May 2024.</p> <p>The trial has recently been extended until 31 May 2026 by the Department for Transport (DfT) as work on legalisation of all e-scooters continues. A longer-term contract with a duration of three to five years will be sought to cover the extended trial period and a transition period whilst legislation is being passed.</p>			
Exempt information: None			
Recommendations:			
<p>1 To undertake a procurement for a concessionaire to operate Nottingham's public hire e-scooter scheme for a duration of three to five years.</p>			

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| 2 To delegate authority to the Corporate Director of Growth and City Development to award the contract to the successful provider following the tender. |
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1. Reasons for recommendations

- 1.1 Retendering for an operator will secure commitment to continue the ongoing public e-scooter hire trial in Nottingham. It is proposed that the new contract will cover any extension period set out by the DfT as well as the follow-on period where legislation and long-term arrangements are put in place.
- 1.2 Continuation of the e-scooter hire scheme assists in meeting a number of strategic objectives. These include supporting access to work, education and other services. Providing an affordable personal transport option for short journeys. A clean and green transport mode, that supports the Carbon Neutral 2028 plan.
- 1.3 The council will be seeking a revenue share from the operator to offset costs associated with managing and overseeing the contract including planning of supporting infrastructure and ongoing maintenance with any surplus to support Council revenue savings. Any supporting infrastructure, such as parking corals, will continue to be funded by local transport grant funding.

2. Background (including outcomes of consultation)

- 2.1 Nottingham's e-scooter hire scheme commenced in October 2020 following a joint procurement in partnership with Derby City Council. Initially planned for a 12-month duration involving 30 local authorities, the trial period has been extended each year by the DfT.
- 2.2 The DfT have indicated the legalisation of all e-scooters will be forthcoming however, delays have been experienced with securing a Bill slot to take the proposed legalisation through Parliament. This has resulted in the DfT extending trials for a further two years to 31 May 2026.
- 2.3 Nottingham's e-scooter scheme is one of the most well used in the country with an average of 3,000 rides per day and is particularly popular with young people, students and other low-income groups without access to a car. The fleet has been expanded from an initial roll out of 250 scooters to 1,300 scooters (operating license limit) at the current time. Issues with pavement riding and poor parking are being addressed through the implementation of innovative technology, education/communications, and infrastructure.
- 2.4 The scheme operates on a fully commercial basis with the current operator taking on responsibility for all costs associated with the ongoing operation of the scheme including vehicle supply, maintenance and repair. This includes providing the App through which users access and pay for the service, customer support and insurance in line with DfT requirements. The City Council is responsible for the approval of vehicle parking locations and any associated infrastructure provision.

3. Other options considered in making recommendations

- 3.1 Two other options were considered, to (1) do nothing, (2) seek a short-term contract to cover trial period only.

- 3.2 Do nothing. Procurement have advised that it is not possible to extend the contract duration (that is due to expire on 31 May 2024) with the current e-scooter operator. This is due to the scheme hitting the £4.5m revenue threshold over the three and a half years the trial will have been active.
- 3.3 Seek a short-term contract to cover any extended trial period. A short-term contract was considered but feedback from other authorities and operators is that best value could not be achieved from this option. A contract only covering the duration of the trial (expiring in 31 May 2026) would not attract investment from an operator or provide the council with levers to ensure high performance.

4. Consideration of Risk

- 4.1 A risk register has been produced. Known operational risks highlighted include users riding on the pavement and poor parking of e-scooters. Mitigations such as use of technology, increased, infrastructure, operator patrollers as well as education and enforcement requirements will be detailed in the specification.
- 4.2 Key issues relating to the tender process are allowing sufficient time to develop the specification and contract, and completion of the tender process prior to the current contract ending and handover of the service in the event that the existing operator does not bid for/win the next contract.
- 4.3 To mitigate these risks, a programme has been developed, clearly setting out key milestones to ensure the service can commence as the existing contract ends. Risks relating to a lack clarity on the council's requirements will continue to be mitigated as the specification is developed ahead of tender publication in the New Year. Key milestones following Committee approval are:
- Invitation to Tender published: 8 January 2024
 - Closing date for submissions: 12 February 2024
 - Notification of successful bidder: 11 March 2024
 - Transition/mobilisation commences: 26 March 2024
 - New contract commences: 1 June 2024

5. Best Value Considerations

- 5.1 The e-scooter scheme operates on a commercial basis. The risk for ensuring it remains commercially sustainable rests with the operator. Seeking a new, up to 5 year contract, will allow sufficient time to attract new investment from an operator and provide the council with levers to ensure further improved operational performance as well as generating some income from revenue share. Council input is limited to managing and overseeing the contract and activity related to the approval of parking bays and provision of parking infrastructure. The costs for these will be covered by the income generated and local transport grant funding.

6. Finance colleague comments (including implications and value for money/VAT)

- 6.1 The decision to undertake a procurement exercise for an e-scooter operator to provide Nottingham city e-scooter rental, with the period starting 1st June 2024 for three to five years. This is supported as is in line with Nottingham City Council's environmental goals by providing clean green sustainable mode of transport within the city and aids the department of Transport as research on the legalisation of E-scooters progresses.

- 6.2 Previous to this there have been several delegated decisions. Firstly, a DDM for e-scooter purchase DDM 4173. For provision of E scooter parking DDM 3939 from the Emergency Active Travel fund. Funding from the Active travel fund DDM 4173 for evaluation, training, publicity and other associated costs. Lastly, DDM 4025 was approved in October 2020 to commence the trial as part of the local green restart following the Covid-19 pandemic.
- 6.3 Nottingham City Council will continue close monitoring of the tender, with relevant procurement guidelines and timelines above adhered to. The risk register will also be checked regularly.
- 6.4 The E-scooter Scheme is a commercial activity a commercial activity with any cost to the council being fully recovered including officer time and general running costs. Any excess, arising from the scheme (amount to be confirmed as part of the Tender) being used to support revenue savings. This will be reflected in the forecast and Budget for the service and reviewed regularly.

Paul Rogers, Commercial Finance Business Partner (G&CD) - 14/11/2023

7. Legal colleague comments

- 7.1 This report seeks approval to tender for an e-scooter operator to continue the scheme beyond the end of the present contract (31 May 2024) and in line with trial period imposed by the Department for Transport or other legal requirements.
- 7.2 The report highlights that the DfT have extended the trial period for e-scooters until 31 May 2026. Any contractual arrangement used for the purposes of the tender and the subsequent legally binding arrangements will need to be explicitly subject to any decisions that the DfT make as regards trial period and any other legal requirements that may be imposed.
- 7.3 Note should also be made of the resource pressure the Contracts and Commercial team within Legal Services is presently under and the possibility that funding may need to be found to cover the cost of using external solicitors to draft the necessary contract due to the proposed timetable; the solicitor supporting this matter has requested a draft contract some months back and again in recent meetings but nothing has been forthcoming. The shorter the time period given to draft the contract, the higher the likelihood that external solicitors will need to be engaged to meet that timetable if a budget can be identified by the client department.
- 7.4 As a retender where there is an incumbent supplier, care needs to be exercised that the tender process used does not limit the market without reasonable justification or intentionally favour the existing supplier.
- 7.5 The proposal includes the Council continuing to own and maintain resources for use by the proposed supplier, in particular parking corrals. As a cost of operation, this potentially means that the Council is taking on some of the risk of operation, thus potentially taking this scheme outside the definition of a concession as set out in the Concession Contract Regulations 2016. This has been raised and it is understood from the author of the report that this is a known risk. This approach, however, mitigates other risks that the Council may potentially face, in particular in the parking of e-scooters and e-bikes and

the potential problems the Council may face if they had no influence over this. Further, the possibility of a commercial arrangement being entered into between the Council and the supplier for the use of such areas has been raised as a possibility that would remove this risk.

- 7.6 As regards the possible transition between the incumbent supplier and a new supplier, it would be prudent to identify to the incumbent supplier now the contractual obligations they are under as regards a successful transition or end of contract scenario.

Anthony Heath, Senior Solicitor - 21 November 2023.

8. Other relevant comments

8.1 Procurement

The request to undertake a procurement exercise for the provision of the E-scooter Scheme complies with the Council's contract procedure rules and the Concession Contract Regulations.

The value of the turnover is below the threshold of the Concession Contract Regulations; however, the principles will be applied throughout.

This contract requirement will be supported by procurement to ensure the final contract offers best value and remains compliant.

Holly Fisher, Lead Procurement Officer (Products) - 21 November 2023

9. Crime and Disorder Implications (If Applicable)

- 9.1 All e-scooters are fitted with GPS tracking devices and are insured by the operator of the scheme. Potential issues for personal safety and the opportunity for crime will be considered as part of the selection process.
- 9.2 Delivery of an accessible and affordable public hire scheme has the potential to limit the illegal usage of private e-scooters that the council has limited control over.

10. Social value considerations (If Applicable)

- 10.1 The public e-scooter hire scheme provides a clean, green, and affordable mode of transport for thousands of the city's residents and commuters seeking an integrated and sustainable travel option.
- 10.2 The procurement process will allow for Social Value proposals from bidders.

11. Regard to the NHS Constitution (If Applicable)

- 11.1 N/A

12. Equality Impact Assessment (EIA)

- 12.1 An EIA is not required because this re-tender does not introduce a significant change to policies, function or services a new EIA is not required at this time. The document will be reviewed and updated before the specification completed.

13. Data Protection Impact Assessment (DPIA)

- 13.1 A DPIA is not required because the City Council will not have access to any personal information on e-scooter hire users. Any data received for contract monitoring purposes will be provided in an aggregated and anonymised format that will not identify individuals or their personal information.

14. Carbon Impact Assessment (CIA)

- 14.1 Attached as appendix A, and due regard will be given to any implications identified in it.

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

- 15.1 None.

16. Published documents referred to in this report

- 16.1 Delegated decisions related to e-scooter trial:

- Appointment of provider for e-scooter trial in Nottingham - 27/10/2020;
- OEDD – Extension of the rental e-scooter trial - 19/10/2021;
- E-scooter trial continuation - 07/12/2022.