



CABINET – 17 SEPTEMBER 2021

**EXCEPTION TO CONTRACT PROCEDURE RULES - URGENT ACTION
TAKEN BY THE CHIEF EXECUTIVE IN RELATION TO THE
APPOINTMENT OF A SUPPLIER TO PROVIDE THE PUBLICATION
OF LEGAL TRAFFIC ORDERS**

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet of urgent action taken by the Chief Executive to agree an exception to the Council's Contract Procedure Rules which enables the Council to continue to place advertising relating to Road Traffic Orders with Reach Publishing Plc.
2. The exception to the Council Contract Procedure Rules is temporary and intended to expire when the Council completes a procurement exercise to meet its future advertising needs.

Recommendation

3. It is recommended that the Cabinet notes the urgent action taken by the Chief Executive to agree an exception to the Contract Procedure Rules to enable the appointment of Reach Publishing Plc, to continue with the publication of Road Traffic Orders in local press for a six-month period ending on the 31 March 2022.

Reasons for Recommendation

4. The Council's Constitution (Contract Procedure Rule 6 (b)) provides that exceptions to the Contract Procedure Rules may be made by the Cabinet where it is satisfied that an exception is justified on its merits and that in urgent cases the Chief Executive (after consultation with the Leader or Deputy Leader save where this is not practicable) may direct that an exception be made subject to it being reported to the Cabinet.
5. The direct appointment was required in order for the Authority to continue to meet its statutory duty to publicise Road Traffic Orders in local newspapers, until such time when a procurement exercise can be undertaken.

Timetable for Decisions (including Scrutiny)

6. The Chief Executive agreed the exception on 11 August 2021.

Policy Framework and Previous Decisions

7. The exception to the Contract Procedure Rules follows the Council's Constitution (Contract Procedure Rule 6 (b)).

Resource Implications

8. By procuring the County Council's total Road Traffic Order publishing requirements rather than placing ad hoc orders, the Council is expected to achieve better value, thus complying with its Best Value obligations.
9. The estimated annual value of publishing all the legal orders that the County Council is required by law to publish in the local press is £1m. Therefore, an exception of £500,000 has been requested in order to manage the normal demand for orders and to allow for any periods of high demand before the end March 2022 to be addressed. Actual spend will depend on the number of orders processed during this time.
10. A procurement exercise in order to award a new contract (in accordance with the procurement rules), will be undertaken as soon as possible, in order for new contract arrangement to be in place before the 31 March 2022.
11. The Director of Corporate Resources and Director of Law and Governance have been consulted on the content of the report.

Circulation under the Local Issues Alert Procedure

None.

Officers to Contact

Ann Carruthers - Director
Environment and Transport
Tel: (0116) 305 7000
Email: Ann.Carruthers@leics.gov.uk

Janna Walker - Acting Assistant Director, Development and Growth
Environment and Transport
Tel: (0116) 305 0785
Email: Janna.Walker@leics.gov.uk

PART B

Background

12. The Council has an ongoing need to make road traffic orders (*both on a permanent and temporary basis*). The Council has, for example, a statutory duty to maintain its own road network. Likewise, the Council receives a significant number of requests for road traffic orders from organisations such as utilities companies, developers and parish Councils as well as from private persons.
13. The making of road traffic orders is governed by primary¹ and secondary legislation². Materially however, where the Council wishes to create a road traffic order, it must place advertisements in the local press.
14. The amount of the Council's advertising spend is such that the Council must take account of the law on public procurement as well as its own internal Contract Procedure Rules.
15. The Contract Procedure Rules form part of the Council's own Constitution. The Contract Procedure Rules confirm, *inter alia*, that the Council must comply with the law in relation to public procurement including the Public Contracts Rules 2015 (the "PCR 2015").
16. With certain exceptions, public bodies which procure goods and services above a certain threshold amount are expected to undertake a formal procurement exercise. Where a local authority purchases goods and services, that threshold is currently set at £189,330.
17. The cumulative amount being spent by the Council on advertising on an annual basis of approximately £1m, which exceeds the current threshold amount of £189,330 and therefore the Council is legally required to undertake a public procurement. However, the actual value of the future contract will be determined as part of the procurement process, and the need to achieve economies of scale.
18. The procurement involves publishing the Council's advertising requirements, allowing bidders to submit tenders, evaluating tenders and awarding contracts. That procurement exercise will however take several months to complete. However, given the requirement to publish advertisements in the local press there are limited supplier options.
19. In the meantime, the Council has a continuing need to make road traffic orders and that need entails ongoing advertising expenditure. It is for this reason that the Council required this temporary exception. The temporary arrangements allow for a continuation of a reactive approach whereby the County Council places an advertisement as and when required in the appropriate local press. The procurement exercise will offer the opportunity to create a contract with

¹ The Road Traffic Regulation Act 1994.

² The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996.

these suppliers based on historic demand and ensure value for money based on the scale of the potential contract when these advertisements are considered cumulatively.

20. Officers considered stopping current advertisements for legal traffic orders until a procurement exercise had been completed as an alternative option to seeking the exception. However, given the County Council has legal duties as a highways authority that rely in part on being able to make legal orders this option was not considered appropriate.
21. The temporary arrangements will be in place until the conclusion of the procurement exercise, which will be completed by the 31 March 2021.

Equality and Human Rights Implications

There are no positive or adverse equality or human rights implications arising from this report.

Background Papers

None.