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DATE: 17 May 2021

To: Members of the
EXECUTIVE

Councillor Colin Smith (Chairman)
Councillor Kate Lymer (Vice-Chairman)
Councillors Graham Arthur, William Huntington-Thresher, Peter Morgan,
Angela Page and Diane Smith

A meeting of the Executive will be held at Bromley Civic Centre on **WEDNESDAY 26
MAY 2021 AT 7.00 PM**

MARK BOWEN
Director of Corporate Services

*Copies of the documents referred to below can be obtained from
<http://cde.bromley.gov.uk/>*

A G E N D A

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 QUESTIONS

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting - by 5pm on Wednesday 12th May 2021.

Questions specifically relating to reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by **5pm on Thursday 20th May 2021.**

**4 TO CONFIRM THE MINUTES OF THE MEETINGS HELD ON 31 MARCH 2021 AND
28 APRIL 2021**

(Pages 3 - 14)

5 EXECUTIVE APPOINTMENTS

(Pages 15 - 18)

- 6 **CHIEF EXECUTIVE'S UPDATE REPORT**
(Pages 19 - 30)
- 7 **SUBSTANCE MISUSE SERVICES - LOT 1: ADULT SERVICES CONTRACT VARIATION; LOT 2: YOUNG PEOPLE SERVICES - CONTRACT VARIATION**
(To follow)
- 8 **BIGGIN HILL AIRPORT LIMITED (PART 1)**
(Pages 31 - 40)
- 9 **PROCUREMENT OF MOVING TRAFFIC CONTRAVENTIONS CAMERAS (PART 1)**
(Pages 41 - 46)
- 10 **CONSIDERATION OF ANY OTHER ISSUES REFERRED FROM THE EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE**
- 11 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

Items of Business

Schedule 12A Description

- | | |
|--|---|
| <ul style="list-style-type: none"> 12 EXEMPT MINUTES OF THE MEETINGS HELD ON 31 MARCH 2021 AND 28 APRIL 2021
(Pages 47 - 50) 13 PROCUREMENT OF MOVING TRAFFIC CONTRAVENTIONS CAMERAS (PART 2)
(Pages 51 - 56) 14 BIGGIN HILL AIRPORT LIMITED (PART 2)
(Pages 57 - 100) | <ul style="list-style-type: none"> Information relating to the financial or business affairs of any particular person (including the authority holding that information) Information relating to the financial or business affairs of any particular person (including the authority holding that information) Information relating to the financial or business affairs of any particular person (including the authority holding that information) |
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EXECUTIVE

Minutes of the meeting held on 31 March 2021 starting at 6.30 pm

Present:

Councillor Colin Smith (Chairman)
Councillors Graham Arthur, Peter Fortune,
William Huntington-Thresher, Kate Lymer, Peter Morgan
and Diane Smith

Also Present:

Councillor Robert Evans, Councillor Christopher Marlow
and Councillor Angela Wilkins

202 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Simon Fawthrop, Chairman of the Executive, Resources and Contracts PDS Committee.

203 DECLARATIONS OF INTEREST

There were no declarations of interest.

204 QUESTIONS

No questions had been received.

205 TO CONFIRM THE MINUTES OF THE MEETINGS HELD ON 10 FEBRUARY AND 2 MARCH 2021

It was confirmed that Councillor Peter Fortune had been added to the list of members present at the meeting on 10th February 2021.

RESOLVED that the minutes of the meetings held on 10th February and 2nd March 2021 be confirmed.

206 BUDGET MONITORING 2020/21 Report FSD21021

The report was split into two key elements. Firstly it provided the third budget monitoring position for 2020/21 based on expenditure and activity levels up to the end of December 2020, excluding the financial impact of Covid-19. The report also highlighted any significant variations which would impact on future years as well as any early warnings that could impact on the final year end position. Secondly, the report identified latest indications of the financial impact of the Covid-19 situation which needed to be treated with some

caution at this stage because of the ongoing uncertainty arising from moving out of lockdown to transition and ultimately the 'new normal'.

The Council Tax report 2021/22 to Executive on 10th February 2021 had identified a budget gap rising to £14.1m per annum by 2024/25. The report proposed utilisation of any underspends/additional income identified towards providing sustainable income for the future and/or providing transitional financial support in addressing the future years' budget gap, as well as meeting service cost pressures.

The Portfolio Holder for Resources, Commissioning and Contract Management, Cllr Graham Arthur, confirmed that £3.7m would be carried forward for long Covid issues, and more than £9m would be carried forward from contingencies which would be focussed on housing priorities.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee on 24th 2021 and the Committee supported the recommendations.

RESOLVED that

(A) Financial Monitoring (excluding Covid-19 impact)

- (1) The latest financial position be noted.**
- (2) The projected net underspend on services of £1,510k forecast based on information as at December 2020 be noted.**
- (3) The comments from Chief Officers detailed in Appendix 2 to the report be noted.**
- (4) The full year cost pressures of £9.4m as detailed in section 3.5 of the report be noted.**
- (5) Council be recommended to agree that a sum of £3.767m be set aside as a contribution to the provision for COVID related service pressures in future years (earmarked reserve) as detailed in paragraph 3.2.1 of the report.**
- (6) The release of £50k from the 2020/21 Central Contingency relating to staff merit awards as detailed in paragraph. 3.3.2 of the report be agreed.**
- (7) The release of £210k from the 2020/21 Central Contingency relating to Adult Social Care as detailed in paragraph 3.3.3 of the report be agreed.**
- (8) The release of £424k grant from the 2020/21 Central Contingency relating to Homeless Prevention Initiatives as detailed in paragraph 3.3.4 of the report be agreed.**

(9) The return to the Central Contingency of £775k as detailed in paragraph 3.3.5 of the report be noted.

(10) It is agreed that a provision of £350k be set aside to deal with a legal matter, to be met from the 2020/21 Central Contingency Sum as detailed in paragraph 3.3.6 of the report and the part 2 report.

(11) It is agreed that a sum of £150k be set aside to meet the cost of the changes to the Council's website, funded from the 2020/21 Central Contingency Sum, as detailed in paragraph 3.3.10 of the report.

(12) Council be recommended that a sum of £9.895m be set aside in the Housing Investment Fund earmarked reserve from monies not utilised in the current year within the 2020/21 Central Contingency Sum, as detailed in paragraph 3.3.12.

(B) Estimated Financial Impact of Covid-19

(13) The latest estimated financial impact of Covid-19 situation, detailed in Section 4 of the report, and the on-going financial uncertainty position relating to net costs, be noted.

(14) The estimated financial impact of the Covid-19 situation, which needs to be treated with some caution at this stage because of the on-going uncertainty arising from the impact of moving out of 'lockdown' to transition and ultimately the 'new normal,' be noted.

207 BROMLEY BOROUGH COMMUNITY INFRASTRUCTURE LEVY (CIL) - APPROVAL OF CIL CHARGING SCHEDULE
Report HPR2021/011

This report sought approval of the Bromley Community Infrastructure Levy Charging Schedule. Subject to approval by full Council, the levy would be charged on planning applications approved from 15 June 2021 (the date of effect). Once approved, the Community Infrastructure Levy would provide financial contributions from certain types of development to help fund new or improved strategic infrastructure required to support the growth identified in the Bromley Local Plan.

The report had been scrutinised by the Development Control Committee on 25th March 2021 and the Renewal, Recreation and Housing PDS Committee on 30th March 2021 and both Committees had supported the recommendations.

RESOLVED that Council be recommended that the Bromley Community Infrastructure Levy Charging Schedule at Appendix 1 (with any necessary changes to indexation rates as noted in paragraph 3.13 of this report) is approved to come into effect eight weeks from the date of approval (15 June 2021).

**208 ADOPTION OF THE KENT DOWNS AREA OF OUTSTANDING
NATURAL BEAUTY MANAGEMENT PLAN**
Report HPR2021/014

The Kent Downs Area of Outstanding Natural Beauty (AONB) was a landscape of national and international importance; a small portion of the 326 square miles (878 sq. km) of the AONB was within the Borough, in Darwin and Chelsfield & Pratts Bottom Wards. It was the only AONB area within Greater London.

The Countryside and Rights of Way (CROW) Act 2000 required local authorities to produce, adopt and keep under review Management Plans for AONBs. The current Management Plan had been adopted in 2014. The Kent Downs AONB Unit, working with other authorities in the Kent Downs AONB, had prepared an updated Management Plan, which strongly reflected the existing adopted plan. The updated plan would be the third revision of the Management Plan.

The report had been scrutinised by the Development Control Committee on 25th March 2021 and the Renewal, Recreation and Housing PDS Committee on 30th March 2021, and both Committees had supported the recommendations.

The Leader recorded his thanks to officers, in particular Ben Johnson and Paul Mellor, for their work on the AONB Management Plan and the Bromley Biodiversity Plan.

RESOLVED that

(1) That the updated version of the Kent Downs AONB Management Plan at Appendix 1 to the report be adopted (noting that there may be minor amendments such as design and formatting changes prior to publication).

(2) That reasonable changes made by other local authorities during the adoption process, subsequent to any decision to adopt the updated management plan by Bromley being made, can be accepted by the Director of Housing, Planning and Regeneration in consultation with the Portfolio Holder for Renewal, Recreation and Housing.

209 BROMLEY BIODIVERSITY ACTION PLAN 2021-2026

The report recommended that the new Bromley Biodiversity Plan (BBP) attached as Appendix 1 to the report, be adopted. The BBP aimed to prevent the decline of species and habitats and promote their conservation through active management of land and promotion of biodiversity gains through the planning system. The BBP provided guidance to developers, planners and land managers on how biodiversity should be protected and enhanced in the borough in support of the delivery of a number of elements of different Council plans and strategies including the Local Plan.

The report had been scrutinised by the Environment and Community Services PDS Committee on 11th March 2021 and the Committee had supported the recommendations.

RESOLVED that, noting that there may be design and minor formatting changes before publication, the updated Bromley biodiversity plan at Appendix 1 to the report be adopted.

210 PROPERTY ACQUISITION SCHEME PROPOSAL: BEEHIVE PHASE 2

The Executive received a report on the option to lease an additional 31 former Hyde social housing properties from Beehive for use as accommodation to help reduce the current pressures in relation to homelessness and temporary accommodation.

Members discussed the options for management of these properties after the end of the contract with Orchard and Shipman in 2024. This was covered in paragraph 3.12 of the report, but the Leader asked for a note to be circulated setting out the options in more detail.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee on 30th March 2021 and the Committee supported the recommendations.

RESOLVED that

(1) An agreement be entered into for lease for the acquisition of the leasehold properties identified in the report and to delegate authority to the Director of Housing, Planning and Regeneration to agree final terms with Beehive for the acquisition of the leases in consultation with the Director of Corporate Services and the Director of Finance and to enter into the leases on the dates specified in the agreement.

(2) The allocation of £50k budget for the survey work be approved, funded from the Housing Investment Fund earmarked reserve.

(3) Authority be delegated to the Director of Housing, Planning and Regeneration in consultation with the Director of Corporate Services and the Director of Finance to agree final terms for the disposal of the properties identified in the report by way of the grant of underleases to Orchard & Shipman for terms expiring on the 31st March 2024 and at the rental levels identified herein, with management arrangements for the properties to be included within the existing contract held with Orchard & Shipman.

211 BASIC NEED PROGRAMME UPDATE
Report CEF21013

The report provided an update on the capital schemes included within the Council's Basic Need Programme.

The report had been scrutinised by the Children, Education and Families PDS Committee on 10th March 2021 and the Committee supported the recommendations.

RESOLVED that

(1) The updated Basic Need Programme as set out in Appendix 3 to the report be agreed, subject to full Council approval.

(2) The allocation of an additional £4,128k of S106 allocations to projects within the Basic Need Capital Programme as outline in Appendix 2 to the report be agreed.

(3) Agreement be given that the schemes at Marian Vian Primary School and Red Hill Primary School be brought forward to the Projects in Delivery (Funded) Programme and that an allocation be included to fund requirements for secondary bulge classes or temporary accommodation, should it be needed for the Council to meet its statutory duty.

(4) Agrees that, where required, funding be delegated to schools for local delivery subject to there being sufficient mechanisms in place to control expenditure and ensure delivery of outcomes.

(5) It is noted that schools will be submitting planning applications in association with these works.

212 AWARD OF CONTRACT TO BLOOM PROCUREMENT LTD FOR THE PROVISION OF SPECIALIST RESOURCES

The Council was currently making use of Bloom Procurement Services Ltd, via the NEPRO Framework, to provide specialist resources to support the implementation of a new Social Care Information Management System. The report proposed making further use of that arrangement to conclude the implementation of the new Social Care Information Management System.

Funding to enable this award of contract had been approved by the Executive on 12th September 2018 via a business case to replace Bromley's Social Care Information Management System.

The report had been scrutinised by the Children, Education and Families PDS Committee on 10th March 2021 and the Committee supported the recommendations.

The Leader thanked Naheed Chaudhry and her staff for their excellent work in supporting the Covid testing centres at the Civic Centre and Kentwood.

RESOLVED that

(1) The continued use of Bloom Procurement Services Ltd via a direct award on the NEPRO Framework for a further £450k of specialist resources to continue the implementation of a new Social Care Management Information System be approved.

(2) Authority be delegated to the Director of Children's Services for the approval of the award from the framework of individual contracts following further competition as/if required.

(3) Authority be delegated to the Director of Children's Services for the approval of the award from the framework of individual contracts without further competition, subject to the agreement of the Assistant Director, Governance & Contracts, Director Corporate Services and Director of Finance.

213 GATEWAY 0 PROCUREMENT OPTIONS FOR THE PRIMARY AND SECONDARY INTERVENTION SERVICE (BROMLEY WELL)

Report ACH21-018

The Primary and Secondary Intervention Service contract expired on 30th September, 2022 with no further extension options remaining. This service is delivered by Bromley Third Sector Enterprise and provides integrated prevention and early intervention services across health and social care for the residents of Bromley.

The service was jointly commissioned by London Borough of Bromley and Bromley Clinical Commissioning Group (BCCG) with the Council as the lead commissioner. The Council and BCCG jointly attended contract meetings and had joint representation on the Bromley Programme Board, which oversees operational delivery of the contract.

The report advised Members of the work being undertaken by commissioners in preparation for the end of the contract and to detail procurement options.

The report had been scrutinised by the Adult Care and Health PDS Committee on 17th March 2021 and the Committee supported the recommendations.

RESOLVED that

(1) The report and the preliminary commissioning options be noted.

(2) The initial scoped procurement options detailed in the report be noted.

(3) The recommended length of contract for the new service post September 2022, which is 5 plus 2 years, be noted.

(4) The recommended option to conduct a Soft Market Test prior to submitting a Gateway 1 report to the Members in June 2021 be noted.

**214 CONSIDERATION FOR AGREEMENT TO EXTEND THE
CONTRACT FOR THE PROVISION OF SEXUAL HEALTH
SERVICES**

Report ACH21-025

Local Sexual Health & Contraception Services were delivered through a number of contracts. COVID19 had impacted on service delivery and procurement timelines and processes and the on-going uncertainties and recovery would further impede the procurement and market engagement. The providers of Sexual Health & Contraception Services were the Council's health partners. Their capacity to participate and engage in a procurement process was likely to be restricted by their involvement in and responses to the on-going COVID19 pandemic. In order to provide consistency in service delivery and to allow the market to recover, it was necessary to delay the planned sexual health procurement and therefore extend the current contracts.

In June 2020, the Portfolio Holder for Adult Care & Health had authorised an extension beyond term of the contract from 1 October 2021 until 31st March 2022. The report requested authorisation to vary the contract with Bromley Healthcare CIC for the provision of Sexual Health Early Intervention Services to extend it beyond term for a further 12 months from 1st April 2022 to 31st March 2023 for the reasons set out in 1.4 of the report. This would align the expiry date of the local contraception and sexual health contracts with the Kings College Hospital NHS Foundation Trust (King's) contract which provided the Genitourinary Medicine (GUM) element of the local service at the Beckenham Beacon.

The report had been scrutinised by the Adult Care and Health PDS Committee on 17th March 2021 and the Committee supported the recommendations.

RESOLVED that

(1) The procurement options detailed in the report be noted.

(2) The variation of the Bromley Healthcare CIC Sexual Health Early Intervention Service to further extend the contract for a period of 12 months from 1st April 2022 – 31st March 2023 at an estimated annual value of £934k (revised whole life value of £5,116k) be approved.

**215 LEARNING DISABILITY COMPLEX NEEDS DAY SERVICE
(PART 1)**
Report ACH21-016

The Council had a contract in place with the Southside Partnership (also known as Certitude) to provide learning disability supported living and community-based day and respite services. Executive approval had been obtained in November 2019 to extend the contract for a period of up to 2 years from 1 October 2020 to 30 September 2022. The Council was unable to reach mutual terms to extend the contract as originally intended and subsequent negotiation had resulted in a 6-month extension of the contract to 31 March 2021.

At the Adult Care and Health PDS Committee meeting on 24 November 2020 members had scrutinised a report that set out the procurement proposals in relation to these services; the report was subsequently agreed by the Leader. Future learning disability day provision was being divided so that people with lower needs would receive their services from community based locations that are spot purchased or funded via direct payments, while people with complex needs will receive a building based service. This report was focussed upon the building based complex needs day service which has been subject to a full tender process.

The tender process for complex needs day services closed on 4 February 2021 but did not attract any compliant bids. The report provided Members with details of the negotiated process that was now being followed and the interim arrangements that were required. The report sought Member agreement to a contract variation and extension of the current block contract with Southside Partnership to enable service provision whilst the negotiation and contract award processes were progressed and the new contract was mobilised.

Further details were set out in a part 2 report.

It was confirmed that officers were working with several providers on a negotiated basis, and the Leader thanked Colin Lusted and his colleagues for their hard work on this contract.

The report had been scrutinised by the Adult Care and Health PDS Committee on 17th March 2021 and the Committee supported the recommendations.

RESOLVED that the variation and extension of the existing block contract with Southside Partnership to provide building based complex needs day services be approved, the extension to commence on 1 April 2021 for a period of up to 5 months to 31 August 2021 at a cost detailed within the Part 2 report; this will increase the total expenditure on the Southside Partnership block contract since 1 October 2015 to the amount detailed in the Part 2 report.

216 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

217 EXEMPT MINUTES OF THE MEETINGS HELD ON 10 FEBRUARY AND 2 MARCH 2021

The exempt minutes of the meetings held on 10th February and 2nd March 2021 were confirmed.

218 BUDGET MONITORING 2020/21 - LEGAL MATTER

The Executive noted some additional exempt budget monitoring information.

219 LEARNING DISABILITY COMPLEX NEEDS DAY SERVICE (PART 2)

The Executive approved the variation of an existing contract.

220 CONTRACT RENEWAL - CAPITA S-CLOUD AND PAY 360 SOFTWARE LICENSING, DEVELOPMENT, MAINTENANCE AND SUPPORT AGREEMENT (PART 2)

The Executive approved proposals to renew the current agreements and purchase modules to support additional functionality.

As this was the last scheduled meeting of the Executive in the Council year, the Leader thanked Members and officers for their work over what had been a particularly challenging year.

The Meeting ended at 7.14 pm

Chairman

EXECUTIVE

Minutes of the special meeting held on 28 April 2021 starting at 9.30 am

Present:

Councillor Colin Smith (Chairman)
Councillors Graham Arthur, William Huntington-Thresher,
Kate Lymer, Peter Morgan and Diane Smith

Also Present:

Councillor Ian Dunn, Councillor Simon Fawthrop,
Councillor Christopher Marlow and Councillor Michael
Rutherford

221 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Peter Fortune.

222 DECLARATIONS OF INTEREST

There were no declarations of interest.

223 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the item of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summary
refers to matters involving exempt information**

224 DISPOSAL OF Y BLOCKS

The Executive considered an urgent report on the disposal of the Y Blocks and decided to proceed with the sale.

The Meeting ended at 9.35 am

Chairman

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Report No.
CSD21061

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: EXECUTIVE

Date: Wednesday 26 May 2021

Decision Type: Non-Urgent Executive Non-Key

Title: EXECUTIVE APPOINTMENTS

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All

1. Reason for report

- 1.1 This report allows the Executive to note appointments made by the Leader of the Council to help with the administration of executive business during 2021/22. The appointments are set out in Appendix A, and any further appointments will be circulated or reported at the meeting.

2. **RECOMMENDATIONS**

- (1) That the appointment of Councillors to serve on the Executive and responsibility for Portfolios, as allocated by the Leader of the Council, be noted.**
- (2) That the appointment of Councillors as Executive Assistants by the Leader of the Council be noted.**
- (3) The appointment by the Leader of the Council of Executive Members to serve on the Health and Wellbeing Board and the Fostering Panel for 2021/22 be noted.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: Estimated Cost: Allowances relating to these posts amount to, excluding costs for Fostering Panel, where allowances are based on attendance, mount to about £200k.
 2. Ongoing costs: Recurring Cost:
 3. Budget head/performance centre: Democratic Representation
 4. Total current budget for this head: £1,095k
 5. Source of funding: 2021/22 Revenue Budget
-

Personnel

1. Number of staff (current and additional): 0
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

3.1 The Constitution of the London Borough of Bromley specifies that the Executive should consist of the Leader plus at least two but no more than nine other Members. At the Annual Meeting of the Council held after the last local elections on 16th May 2018, the Leader of the Council was appointed for a four-year term of office. In accordance with the constitutional arrangements, the Leader appoints a Deputy Leader and up to five other Members to serve on the Executive for the 2021/22 Municipal Year. It is for the Leader to determine the portfolios, which portfolios are held by Members and their period of office. The Council's portfolios are currently:

- (i) Adult Care and Health
- (ii) Children, Education and Families
- (iii) Environment and Community Services
- (iv) Public Protection and Enforcement
- (v) Renewal, Recreation and Housing
- (vi) Resources, Commissioning and Contract Management

The appointments by the Leader of the Council of Councillors to serve on the Executive are set out in Appendix A.

3.2 The Constitution also makes provision for non-Executive Councillors to be appointed by the Leader to assist Executive Portfolio Holders carry out their duties. Their role is to assist and advise the Portfolio Holder but they do not have any decision-making powers. However, under the Constitution, they can represent/deputise for the Portfolio Holder in most other circumstances. Executive Assistants may not serve on the PDS Committee which mirrors the Executive Portfolio they support. The Councillors appointed to serve as Executive Assistants are set out in Appendix A.

3.3 The Leader also appoints Members to the Health and Wellbeing Board and the Fostering Panel – these are also set out in Appendix A.

Non-Applicable Sections:	Vulnerable Adults and Children/Financial/Personnel/ Legal/Procurement
Background Documents: (Access via Contact Officer)	Council Constitution Executive Appointments Report – May 2019

Members of the Executive

Leader	Cllr Colin Smith
Deputy Leader and Children, Education & Families	Cllr Kate Lymer
Adult Care & Health	Cllr Diane Smith
Environment & Community Services	Cllr William Huntington-Thresher
Public Protection and Enforcement	Cllr Angela Page
Renewal, Recreation & Housing	Cllr Peter Morgan
Resources, Commissioning and Contract Management	Cllr Graham Arthur

Executive Assistants

Executive Assistant to the Leader	Cllr Aisha Cuthbert
Adult Care & Health	Mike Botting
Children, Education & Families	Cllr Kieran Terry
Environment & Community Services	Cllr Will Rowlands
Public Protection and Enforcement	TBA
Renewal, Recreation & Housing	Cllr Hannah Gray
Resources, Commissioning and Contract Management	TBA

Health and Wellbeing Board

Councillors	David Jefferys (Chairman)
	Robert Evans (Vice-Chairman)
	Gareth Allatt
	Yvonne Bear
	Mary Cooke
	Judi Ellis
	Kira Gabbert
	Diane Smith
	Gary Stevens
	(vacancy – Labour)
	(vacancy – Independent)

Fostering Panel

Councillors	Judi Ellis
	Hannah Gray
	Stephen Wells

Report No.
Please obtain
a report
number

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: EXECUTIVE

Date: 26 May

Decision Type: Non-Urgent Executive Non-Key

Title: CHIEF EXECUTIVE'S UPDATE REPORT

Contact Officer: Ade Adetosoye OBE, Chief Executive
Tel: 020 8313 4197 E-mail: ade.adetosoye@bromley.gov.uk

Chief Officer: Ade Adetosoye OBE, Chief Executive

Ward: All Wards

1. Reason for report

This report provides the Executive with key updates on behalf of the senior leadership team across a number of areas:

- Our response to the Covid-19 pandemic
- COVID-19 Staff Wellbeing Survey
- Return to office working approach
- Arrangements for committee meetings
- Economic Development strategy for 2021 - 2031

2. **RECOMMENDATION(S)**

The Executive is recommended to note the report.

3. COMMENTARY

3.1 This report provides the Executive with key updates on behalf of the senior leadership team:

- Our local area Covid-19 response
- COVID-19 Staff Wellbeing Survey
- Return to work approach
- Arrangements for committee meetings
- Economic development and restarting the economy

3.2 Covid-19 response

3.3 As a local authority, we continue to work closely with our residents, local businesses, partner organisations and the voluntary and community sector, to ensure an ongoing effective and robust response to the Covid-19 crisis as we move steadily along the Government's four-step roadmap out of lockdown.

3.4 As part of this, we are evaluating the response across all Covid-19 programmes and identifying where the following workstreams can be delivered by business-as-usual services, reducing our financial exposure to Covid-19 associated costs. However, the arrangements will be subject to regular review to ensure that we can scale up our response programmes depending on ongoing case rates in the borough.

3.5 In Bromley, the Council's governance arrangements for the COVID-19 strategic response programme have been as follows:

- The Leader of the Council is the strategic sponsor and lead for the Council's response
- The Chief Executive maintains operational leadership on a daily basis
- Executive Portfolio Holder for Care and Health maintains leadership at the political level with the Deputy Leader and the Executive acting as critical friends.
- Regular briefings to elected members and MPs

3.6 The weekly COVID-19 strategic group is chaired by the Chief Executive and is attended by all Directors, as well as a number of key senior officers. The purpose of this group is to set the strategic response to the crisis, to ensure continued service provision in all key areas across the Council and to oversee the delivery of the communications plan for members, staff and residents.

3.7 The Council has implemented a robust internal and external communications and engagement strategy to ensure that key internal and external stakeholders are engaged and informed on our local response to COVID-19.

3.8 Internal communications activities have included:

- Online COVID-19 portal established on the intranet containing all staff updates for easy reference
- Regular all staff emails sent from the Chief Executive during the week to keep staff informed
- Comprehensive and regular updates highlighting advice on remote working, rollout of training, mental health and wellbeing advice and support for staff, how managers can support their teams and staff and communication on infection control from Public Health
- Long-term focus of internal communications is ensuring that staff feel informed and engaged on the development of the Council's response and have easy access to information

- COVID-19 updates included in the monthly Transforming Bromley Newsletter.
- Daily internal email briefings to Members, which have supported Members to inform residents
- Staff survey on COVID-19

3.9 External communications activities have included:

- COVID-19 portal established on the website
- Regular service updates on service pages linked to the COVID-19 page for easy reference
- Volunteer sign up button and form established on website
- Assistance sign up button and form established on website
- Business support button and form established on website
- News releases as required to cover volunteering, service, service updates and other developments.
- Business e-bulletin
- Social media – Twitter and Facebook to reflect key messages
- E-newsletter – Update – sent to 70,000 plus residents with the ability to subscribe and supplemented by a paper newsletter to ensure all residents have received key updates
- Email and SMS messages to vulnerable Shielding residents to make sure they are getting the help they need
- Weekly briefings to the borough’s local MPs
- Volunteer newsletter

3.10 Covid-19 cases - local context

3.11 As at 11 May, our Public Health intelligence data confirmed that the rate of new COVID-19 cases in the borough is lower the London average. Our 7-day case infection rate per 100,000 people is 13.8, compared to the London average of 18.6.

3.12 As at 11 May, we had recorded a cumulative total of 24,446 positive COVID-19 cases to date in the borough. As this figure is based on confirmed cases only as we are not testing everyone, it is important to treat these figures with caution.

3.13 As at 8 May, an estimated 765 people have lost their lives from COVID-19 related deaths registered in Bromley.

3.14 Vaccination programme in Bromley and management of Bromley Civic Centre mass vaccination site

3.15 The rollout of the vaccination programme in Bromley is led by the NHS and the oversight and strategic leadership for its delivery sits with the South East London (SEL) CCG.

3.11 At a South East London level, home to nearly 2 million people, over one million vaccine doses have now been delivered. As a local authority, Bromley is performing well with a high uptake across all eligible age cohorts. As at 10 May, all age cohorts aged 65+ and clinically extremely vulnerable residents have seen a first dose uptake above 90%. Among eligible residents aged 50 - 65, we have seen a first dose uptake above 80% and we have so far seen an uptake above 60% for eligible residents aged 40 - 49.

3.16 In Bromley, we are providing vaccination services across the following sites:

Local Vaccination Services (Designated Sites)

- Oak Parks

- Beckenham Beacon
- London Lane
- St Edward's Church, Mottingham
- West Wickham & Shirley Baptist Church
- Orpington Health and Wellbeing Centre
- Satellites in GP practices and community settings

Pharmacies

- Cray Hill
- Eldred Drive

Mass Vaccination Site

- Civic Centre

Hospital Hub

- PRUH

3.17 We are also working hard to address COVID-19 vaccination uptake through our Vaccine Hesitancy Taskforce in the following groups;;

- **Ethnicity** - uptake is lower in Black Caribbean and Black African groups
- **Deprivation** - uptake is lower in areas of deprivation in the borough (Penge & Anerley, The Crays, Mottingham)
- **People with serious mental illness**
- **Care home staff**

3.18 Activities to support uptake among these groups include:

- Two pharmacy vaccination sites in the Crays
- Regular satellite clinic at Al-Emaan Centre Mosque in Keston
- Roving team operating a weekly clinic in targeted locations across the borough, trailed with localised communications
- Pop Up at Penge Library 12 May
- VaxiTaxi Event in Penge on 25 May

3.19 We established a vaccination centre at the Bromley Civic Centre site in March 2021 which is overseen by Kings NHS Trust. As at 30 April, over 30,000 first dose vaccinations have been delivered from the Civic Centre site, which will continue to run until the end of September.

3.20 Local authority testing and community collection testing programme

3.21 A lateral flow testing (LFT) rapid testing programme was established by the Council in January 2021 to reduce the spread of COVID-19 across the borough through testing of asymptomatic staff working in the community who may be COVID-19 positive but show no symptoms. The programme was designed to protect our frontline services and limit transmission where any staff are working face-to-face with the public.

3.22 During the first phase of our LFT programme from January to April 2021, 23,975 tests were booked at our two rapid testing centre sites (Bromley Civic Centre and Kenwood Adult Education Centre). 55% of these tests were carried out at the Civic Centre site.

3.23 The test outcome analysis for the sites was as follows:

- 177 positive results were recorded across the two centres, representing a cumulative positive rate of 0.7% of all tests.

- Approximately half of all positive tests were recorded in the first three weeks of the testing programme.
- 129 of the 177 positives recorded related to Bromley residents (73%)
- Seven in every ten bookings were for women within the Bromley resident population, and men continue to be proportionally under-represented in testing. Men are more likely to test positive (52% of the positives), which is an overrepresentation of males in comparison to the test administered at the two sites by 17%.
- The 40-49 year old age group has returned the greatest number of positives.
- For those that tested positive and supplied their employment details, the majority work in the childcare, education and training sector (31%).

3.24 For the second phase of our LFT programme which began on 6 April, we moved our Civic Centre site to a new location to accommodate arrangements for the GLA elections and have continued a service at our Kentwood Centre Site. Our Civic Centre site is open 5 days a week with bookable appointments from 8.30am - 3.30pm. Our Kentwood Adult Education Centre site also offers appointments 5 days a week from 12.30pm - 7.30pm. As at 11 May, we have offered over 2,800 tests with a 0.1% positivity rate.

3.25 We are also providing a community click and collect service for home testing at both sites, as well as providing two additional services at our Mottingham and Cotmandene Learning Shops from 6 April. A Pharmacy Collect service for home testing kits has commenced within Bromley with 58 pharmacies signed up, and we will continue to closely monitor the impact of this on our local authority testing and community collection centres.

3.26 Operation Shielding, Volunteering and Assistance Programme

3.27 The Shielding, Volunteering and Assistance programme has been quiet since the pausing of the national shielding measures at the end of March and the lifting of lockdown restrictions. The assistance line will be diverted to Customer Services after Friday 28 May. Support will still be available for anyone that needs it, for example via signposting to telephone or online shopping services or referral to the voluntary sector for direct food support for those in financial crisis. Medicine delivery services are operating from all pharmacies for anyone that needs to isolate as a COVID-19 patient or close contact.

3.28 A Volunteering Task Force has been established to ensure a smooth transition of the support offered by the programme over to the voluntary sector. The 4600+ volunteers that came forward to help will be invited to a thank you event in early June. They will be invited to continue volunteering in the borough for one of the 300+ voluntary and community sector organisations who have many opportunities to offer.

3.29 A focus for the Task Force will be ensuring the Council addresses the feelings of loneliness and social isolation that have worsened for some residents during the pandemic, by developing a range of events and support options around befriending, along with a loneliness strategy and a repeat of the successful loneliness summit held in 2019. Seconded council staff that were assigned to this COVID-19 response programme are returning to business as usual activities from June but are all committed to returning to the programme should it need to re-mobilise in the event of future shielding restrictions being implemented.

3.30 All activities delivered under this programme (equipment and direct food support to clinically extremely vulnerable residents) were fully funded through COVID-19 grants, given that all programme staff were seconded (the majority were part time on the programme with no backfill costs).

3.31 Contact Tracing Programme

3.32 Our local Contact Tracing programme continues but with far lower case volumes than were seen at the peak of the second wave. In January, over 100 cases were being received locally per day (cases that the national Test and Trace team had been unable to contact), but the team were able to undertake all required calls. All staff working on the programme are seconded part time, with business-as-usual continuing with no backfill costs. In this financial year, there has been no additional expenditure associated with the Contact Tracing programme and the Self-Isolation Support Grant received has been used to cover the revenue staffing costs of officers working on the programme. The success rate of the programme in terms of contact with patients continues to be 88% overall – this has consistently been one of the highest performing boroughs.

3.33 Additional requirements have been placed on all London Contact Tracing teams during May, including enhanced contact tracing as part of 'Operation Eagle'. The focus is on reaching priority cases in areas where variants of concern have been found. This requires additional questions to be asked of some cases and for the weekend service to be stepped up once more. In addition, a door knocking process has been introduced for cases that cannot be reached by phone.

3.34 All of these additional measures are at no additional cost to the Council, as previously mobilised contact tracing staff have all been trained on the new processes and are remobilised on calls as volumes require. During June, plans will be made for the programme leadership team to return to business as usual roles and for this programme to move into business as usual service delivery in public health as we move from the pandemic to endemic stage in the UK.

3.35 Surge testing programme

3.36 Alongside enhanced contact tracing, one of the key methods to contain outbreaks of more contagious Covid-19 variants in local communities is surge testing, a programme of increased testing upon identification of cases linked to these variants. A number of London local authorities have already undertaken surge testing for Covid-19 variants. These surge testing programmes are undertaken in partnership with NHS Test and Trace, the Department of Health and Social Care (DHSC), and Public Health England (PHE).

3.37 In Bromley, we have a robust surge testing strategy and operational plan that informs the Council's rapid response for identified cases of Covid-19 variants within the borough.

3.38 Working closely with PHE, a Surge Testing Programme Board has been established to:

- Oversee the operational plan
- Identify key personnel required to deliver the plan
- Ensure that key resources are available to support the plan delivery
- Ensure that all PHE clinical guidance is followed
- Report data to the senior leadership team, the Executive, PHE and DHSC.

3.39 The operational plan will support the implementation of localised surge testing and is tailored to support any part of Bromley. A supporting communication plan will include how best to engage with the community to ensure all those in the identified postcode(s) participate.

3.40 During surge testing, members of the public should get a test for coronavirus if they:

- live in targeted locations within one of the postcode areas notified by the Department for Health and Social Care

- are aged 16 years or over.

- 3.41 This is requested even if the resident has no COVID-19 symptoms; has received either a single or both doses of a COVID-19 vaccination; and has tested positive for COVID-19 previously. However, anyone who has tested positive within the last 90 days of the surge testing programme does not need to be tested.
- 3.42 All households including care homes and other institutions within the identified postcode area will be provided with access to a PCR test through either home testing kits or mobile testing sites. After the test has been taken and the results analysed, all positive test results will be sent to a laboratory for genomic sequencing, which means analysing the virus sample from the diagnosed patient and comparing it to other cases in the community.
- 3.43 Normal isolation rules will apply to the individual and members of their same household. Public Health England will also carry out enhanced tracing of close contacts for those with positive test results.
- 3.44 Public protection and enforcement**
- 3.45 On 4 January 2021, the Prime Minister announced a national lockdown for England, effectively closing all non-essential retail, pubs and restaurants, outdoor recreations and all close contact services (hairdressers and barbers etc). Restrictions did allow for the provision of click and collect and takeaway food.
- 3.46 Public Protection officers, made up of Trading Standards, Environmental health, Licensing and Health & Safety officers, have been tasked with the enforcement of all COVID regulations since the start of the pandemic. During the national lockdown, officers maintained a visible presence in the borough to monitor and enforce compliance with the restrictions. This required surveillance visits of all retail areas to ensure non-essential businesses remained closed, and those open for takeaway and click & collect, as well as individual interactions with businesses where needed.
- 3.47 From 4 January to 4 April, our officers completed 16,317 surveillance visits, visited or revisited 584 businesses, and issued 20 written notices.
- 3.48 On 12 April, outdoor hospitality reopened, including pubs, cafes and restaurants. Our public protection service has endeavoured to ensure that the Government's guidance is applied proportionately and consistently in our borough to support businesses to reopen safely and have applied flexible interpretations of this rule wherever possible.
- 3.49 Further easing also allowed the re-opening of non-essential retail, personal care premises such as hairdressers, beauty and nail salons and indoor leisure facilities such as gyms and spas, the majority of outdoor settings and attractions, including outdoor hospitality, zoos, theme parks, drive-in cinemas and drive-in performances events.
- 3.50 From 12 April to 15 May, our officers undertook over a thousand Covid-secure/business closure compliance visits or checks. We also undertook 166 follow-up contacts, via email, telephone or distribution of advice materials. Our compliance rate in Bromley was 87.6% and we issued 19 written notices or warnings. The main non-compliance issues related to a lack of understanding of the requirements of track & trace, the lack of PPE and the use of inappropriate outdoor shelters by hospitality venues. In most cases verbal advice enabled the business to improve, but in some circumstances a written warning was issued, and where this did not result in the desired improvement it was followed by a statutory prohibition notice. One fixed penalty was issued.

3.51 On 17 May, further easing of Covid-19 restrictions permitted most businesses in all but the highest risk sectors to reopen. In all sectors, Covid-secure guidance will remain in place and businesses may not cater for groups larger than the legal limits.

3.52 In particular, the return of indoor hospitality will still be subject to restrictions, such as track & trace and social distancing, table service and the rule of six. Re-opening safely presents a management challenge to operators and regulators alike and we will continue to work in partnership with police, local authority colleagues and our businesses to ensure the public are safe.

3.53 COVID-19 payments to businesses and residents

3.54 Since the start of the pandemic, over £142 million of grant funding from Government has been distributed through the Council to support 12,000 residents and over 16,000 payments have been made to businesses who have been hardest hit by the pandemic with work continuing during the current government restrictions.

3.55 As at 12 May 2021, we have made over 12,600 payments through the mandatory grant scheme totalling £77.2m. Additionally, we have distributed £55m in retail relief to other eligible businesses, £1.8m of Council Tax relief through the Hardship Fund to economically vulnerable residents, and £8.2m in discretionary business grant payments to over 4,000 applicants.

3.56 We have also delivered over 550 test and trace support payments of £500 to eligible people on low incomes who are unable to work from home if required to self-isolate.

3.57 Impact of COVID-19 on the Bromley population

3.58 Our Public Health team is in the process of drafting a chapter to supplement our Joint Strategic Needs Assessment (JSNA) to assess and summarise the impact of the COVID-19 pandemic on the Bromley population across all ages, as well as any health inequalities that have emerged or been further exacerbated by the pandemic. This JSNA chapter will be taken to the Health and Wellbeing Board later this year.

3.59 Further to this, we are drafting a report which will highlight the key overall achievements of our local area response to the Covid-19 pandemic, as well as the key recovery actions that will be delivered to address the medium and long-term impact of Covid-19 on the Bromley population. This report will also come to Members for approval later on this year.

3.60 COVID-19 Staff Wellbeing Survey

3.61 Further to the initial COVID-19 Staff Wellbeing Survey in May 2020, an additional survey was carried out in February 2021 to explore and capture staff views on the following topics:

- The experiences of new starters who have joined the organisation during the COVID-19 pandemic
- The views and experiences of staff regarding long-term remote/office working
- The effectiveness of our IT transformation programme rollout
- The impact of our COVID-19 support work to promote good staff wellbeing.

3.62 Over 1,041 members of staff who completed the survey, representing 56% of the Council's workforce and an increase on the response rate to the previous survey (975 colleagues or 55% of the workforce).

3.63 The key findings are as follows:

- 97% of respondents feel they are doing meaningful work for the Council and 93% would speak positively to others when talking about the Council.
- The Council's leadership team was also widely praised, particularly for the recent focus in communications on staff wellbeing and our commitment to equality and inclusion in the workplace.
- The vast majority of staff are working remotely, with 70% working remotely all the time and only 5% performing their work functions in the office or in the community.
- Staff generally felt they were adapting well to working from home, with 93% feeling they had built confidence with remote working.
- Following COVID-19, most staff suggested they would like to split their time between remote and office working (78%) in line with business needs.
- The Council's wellbeing support offer was positively received by respondents throughout the survey. However, 56% of respondents stated that they struggled at times to take care of either their physical or mental health. Many colleagues also indicated that they were feeling disconnected from their teams, with 30% of staff stated that they have often felt lonely or isolated during the pandemic. These are some of the key areas that will be addressed in the staff survey action plan to ensure we are doing everything possible to take care of our staff.
- 86% of respondents indicated that they had received IT equipment in the rollout, with 88%, believing it has improved their ability to work from home, which is reassuring considering the scale of the shift to remote working in the last year.

3.64 A series of HR engagement sessions with staff on the findings of the survey and actions for improvement to further support staff in the medium to long term will be delivered in May and June.

3.65 Return to office working approach

3.66 In line with the Government's four-step plan to ease COVID-19 lockdown restrictions, the current expectation is that colleagues will be able to return to work in the office from 21 June.

3.67 The senior leadership team, in partnership with elected Members, would like to provide clarity and reassurance to all officers through the key principles that will inform our return to work approach:

- As outlined in the Transforming Bromley roadmap, we are committed to agile and smarter working. Arrangements for staff working from home are set out in the Council's flexible and agile working policies.
- In line with Government requirements, we encourage staff working from the office to partake in twice-weekly LFT tests either in their own homes or at the test site at the Civic Centre.
- The leadership team expects staff to adopt a hybrid working approach in line with the core business needs of their service – this was echoed in the recent staff survey where 78% of staff said they would like to adopt a hybrid way of working after the pandemic.
- Line managers are responsible for deciding the working patterns of their staff based on the needs of our residents. Staff are encouraged and empowered to work flexibly and agilely without compromising service delivery, but line managers must strive to find the right balance.
- We expect all managers to have open and honest discussions with their teams and direct reports to find appropriate hybrid working solutions that align with core business

needs, while also empowering staff to exert some degree of choice and flexibility over their working arrangements.

- Given our duty of care to staff, line managers are expected to “keep in touch” with their direct reports both when in the office and when working away from the office including home/agile working.
- We will adhere to best practice in Covid-19 infection control principles for office-based working in line with central Government guidance as at 21 June. In this, we will be guided by our public health colleagues and those with clinical infection control expertise to advise on how this can be done safely and with appropriate risk assessments in place for staff.
- We will ensure that the cleanliness of all offices, appliances and workstations is maintained to meet public health guidance.

3.68 In terms of practical arrangements, we will deliver the following activities to support staff in their return to the office:

- We will run ‘Return to Work Safely’ seminars through our HR Workforce Development team with support from our public health colleagues, including clinical staff from the NHS to address anxiety and fear about returning to the work place, so that colleagues can ask any key questions or raise personal concerns in the run up to 21 June.
- We will issue a detailed ‘Return to Work Handbook’, setting out the need to maintain social distancing, have appropriate office ventilation and arrangements for booking desks in Covid-19 secure areas.
- We will introduce a desk booking system to ensure social distancing and ventilation. Desks can be booked in advance through this system. We have agreed a maximum desk/office occupancy ratio of 50/50.
- In line with Government guidance regarding the return to office working after June 21, it is expected that wearing a face mask/face covering will no longer be mandatory. However, staff may wish to continue to wear a face mask/face covering in line with Covid-19 infection control principles. This matter will be addressed in our ‘Return to Work Safely’ seminars.
- We will provide relevant hand sanitising gels to our staff, but also encourage all staff to wash their hands regularly and follow public health advice.
- We expect all staff to follow the social distancing measures that are in place at their workstations.

3.69 Return to physical committee meetings

3.70 As the COVID-19 regulation that permitted local authorities in England to hold virtual council meetings has now lapsed, all formal meetings of the Council from 7 May must now be held as physical meetings.

3.71 A report seeking a steer for the arrangements for the physical return to committee meetings will be taken by Democratic Services for decision at a special General Purposes and Licensing meeting on 26 May.

3.72 Economic development

3.73 We are in the process of drafting our Economic Strategy for 2021-2031, which will support the recovery of the local economy in Bromley over the next decade. The draft strategy sets out the 7 proposed key priorities and aspirations:

1. **Education and Skills:** our residents have access to the right opportunities for skills and education that will ensure healthy employment in the future

2. **Employment Spaces:** our residents have access to the right employment spaces in the right locations with strong networks which encourages enterprise and facilitates sustained growth
3. **Thriving and Investing:** our borough is exciting, attractive and a welcoming place where businesses thrive, people aspire to live and visit, and new enterprises seek to invest
4. **High Streets for the Future:** our high streets can adapt to the change need of consumer, continue to have strong offer, that includes places to live, work and entertain
5. **Connectivity and Mobility:** our community is well connected through diverse physical and digital infrastructure networks which underpins mobility across the whole borough
6. **Tourism and Culture:** our cultural and tourism industries continue to grow and diversify, and our unique historical features are promoted
7. **Green Economy:** we want to be promoting a green economy to help deliver sustainability and growth

3.74 The strategy is vital to the longer term planning and recovery of the local economy, ensuring that businesses continue to recognise Bromley as a centre of excellence for business location. The Council have engaged with key stakeholders on the draft strategy and it is due to be presented at PDS and Executive for adoption in June.

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Agenda Item 8

Report No. London Borough of Bromley
CSD21048

PART 1

Decision Maker: EXECUTIVE

Date: 26 May 2021

Decision Type: Non-Urgent Executive Key

Title: Biggin Hill Airport Limited (BHAL) Request To Vary The User Clause Of The Airport Lease Between The Council And BHAL.

Contact Officer: Michael Watkins, Assistant Director Strategic Property

Chief Officer: Director of Housing, Planning, Property and Regeneration

Ward: All Wards

1. Reason for report: BHAL have formally requested their intention to seek to modify the definition of “Permitted User” in clause 1.8 of the Lease. They have requested that the Council approves the modification, but should the Council not decide to approve it then pursuant to their rights under section 84 of the Law of Property Act 1925 (“LPA 1925”) they will apply to the Upper Tribunal (Lands Chamber) to determine such a change.
-

2. **RECOMMENDATION(S)**

Members are invited to provide their views as to the options contained within the Report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
-

Corporate Policy

1. Policy Status: Existing Policy
2. BBB Priority: Excellent Council

Financial

1. Cost of proposal:
 2. Ongoing costs:
 3. Budget head/performance centre:
 4. Total current budget for this head:
 5. Source of funding:
-

Personnel

1. Number of staff (current and additional): Not applicable
 2. If from existing staff resources, number of staff hours: Not applicable
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: Not applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? As this is a Borough Asset individual Wards have not been consulted, however this report was circulated to all Councillors prior to publication.
2. Summary of Ward Councillors comments: N/A

Background

- 3.1 Biggin Hill Airport Ltd (BHAL) hold a Lease granted by the Council for a term of 125 years commencing in 1994 for Biggin Hill Airport. The Council owns the freehold of the Airport.
- 3.2 BHAL have formally requested their intention to seek to modify the definition of “Permitted User” in clause 1.8 of the Lease. They have requested that the Council approves the modification, but should the Council not decide to approve it then pursuant to their rights under section 84 of the Law of Property Act 1925 (“LPA 1925”) they will apply to the Upper Tribunal (Lands Chamber) to determine such a change.
- 3.3 The letter from the Airport’s solicitors detailing the request is attached at Appendix 1 of the Part 2 Report of the same title together with a subsequent letter dated 14 April 2021 at Appendix 2 of the aforementioned Part 2 Report. The letter details BHAL’s legal justification for their proposal to which the Council has obtained Counsel’s opinion on. The letter received on 14 April 2021 states that should the Council not agree to their proposal by 2 June 2021 then they will prepare their application to the Upper Tribunal (Lands Chamber) to determine such a change.
- 3.4 If such an application were made the Council, as Landlord, would have the opportunity to make representations to the Tribunal to contest BHAL’s application.
- 3.5 Clause 5.9:1 of the Lease includes a covenant by BHAL not use the Airport otherwise than for the Permitted User. The definition of Permitted User in clause 1.8 of the Lease is as follows:
- 3.7 *“Airport providing facilities for business aviation flight training and private flying and other airport and aviation related uses (including one air fair or one air display in each year of the Term or such greater number as may have been previously approved in writing by the Landlord (such approval not to be unreasonably withheld))”*
- 3.8 Under clause 5.21 of the Lease, BHAL also covenanted to observe and perform the “Operating Criteria” in Schedule 3 to the Lease or such variations or amendments thereto as may from time to time be agreed by the Council (such agreement not to be unreasonably withheld).
- 3.9 BHAL have stated that they are not seeking to any variation to the Operating Criteria. These criteria limit the types of aircraft that may use the Airport and the total number of flight movements to 125,000 annually (in reality, the number of movements is much lower). They also permit a scheduled BHAL to operate a scheduled passenger service to France.
- 3.10 Members will be aware, the Operating Criteria were substantially strengthened and expanded in 2016 when BHAL agreed to comply with a Noise Action Plan (“NAP”) to facilitate extended operating hours at the Airport (with an automatic review mechanism in the event that the total number of movements exceeded 50,000 in the first five years). A separate report will be prepared regarding BHAL’s proposals to review the NAP and to review its performance over the last five years.
- 3.11 BHAL has requested that Council agree to modify the definition of Permitted User in the Lease as follows:
- 3.12 *“Airport providing facilities for business aviation flight training non-scheduled commercial flights and private flying including by accepting individual farepaying passengers and other airport and aviation related uses (including one air fair or one air display in each year of the Term or such greater number as may have been previously approved in writing by the Landlord (such approval not to be unreasonably withheld))”*
- 3.13 BHAL have stated that the proposed modification is intended to allow for non-scheduled flights for the carriage of individually ticketed or individually way-billed traffic, in addition to the different types of business and general aviation flights currently operating from the Airport.

BHAL Rationale

- 3.14 The following paragraphs (3.15 to 3.31) are in essence the rationale behind BHAL's request as stated by the Airport.
- 3.15 BHAL argue that, the Lease terms were agreed some 27 years ago. Since then the aviation industry has continuously changed and developed in the intervening time but the Lease has remained static. This is now creating a substantial drag on BHAL's business at the Airport, to the detriment not only of BHAL as leaseholder but also to the Council as freeholder benefiting from turnover based rents and profit-sharing provisions under the Lease.
- 3.16 The restricted scope of the Permitted User definition was considered by the Court of Appeal in 2002 in the case of Biggin Hill Airport Ltd v London Borough of Bromley. Giving judgment in that case, Lady Justice Arden confirmed that "business aviation" in this context was limited to the operation of aircraft owned or chartered by a company or other business, and undertaken for business purposes, provided individual fare-paying passengers were not accepted. It also included air taxis and helicopters.
- 3.17 The Court did not decide upon the meaning of "private flying". However, BHAL state that the Council maintains that this has a narrow meaning concerned only with flying which is for the pilot's own recreational purposes and such flights must not involve the carriage of paying passengers.
- 3.18 The restrictions in the Lease around the types of flight permitted at the Airport have prevented BHAL from being able to accommodate any kind of non-scheduled flights from the Airport that nevertheless involve an element of fare paying. This has led to the exclusion of new and emerging non-scheduled passenger flying concepts like ridesharing and private members' clubs such as those operated by Air Uber, Club Air and Surf Air.
- 3.19 The non-scheduled sector of aviation is a growing one undergoing much development and innovation. It is generally accepted that it will become an important connectivity benefit in the aviation industry going forward. The sector is important for a general aviation airport such as the Airport, which has relatively limited capacity in terms of airport infrastructure and highway/train access as compared with major public airports.
- 3.20 Currently, the Airport accommodates both fixed wing and rotary flights that comply with the definition of Permitted User broadly as follows:
- (a) Business aviation: The Airport has commercial flights available for both hire or charter, provided by a wide range of small to medium-sized companies based all over the world, together with corporate or privately owned aircraft registered in many countries from around the world.
- (b) Private flights: Private flying currently takes place when whole aircraft are owned or chartered by companies, individuals or groups of individuals. Flights can range from small four seater aircraft to e.g. the much more substantial 75 seat aircraft owed by Formula 1. Private charters can include wedding parties, product launches, football teams and so on.
- (c) Flying Training: The Airport has much reduced flying training because the growing fast jet traffic does not mix well with slower learner aircraft. However, some flying training schools operate and flying training takes place in all sizes of aircraft in order for pilots to maintain their licenses.
- 3.21 These uses have also in the past included an element of fare paying passenger flights in the form of a scheduled passenger service to France expressly permitted by paragraph (c)(ii) of the Operating Criteria).

- 3.22 In BHAL's view, the natural next step in the development of business at the Airport is to accommodate non-scheduled flights with individual fare paying passengers. The Airport is very well located in South East London with a very substantial and wealthy catchment area within one hour of travel. It is, therefore, ideally suited for such high value, low volume aviation business.
- 3.23 For the consumer, the range and flexibility of the non-scheduled aviation sector is, in BHAL's view, invaluable. For some users it is a one-off demand, while others are more frequent users. The permutations are potentially limitless and the use of this wide range of aircraft helps to drive the national and economy by improving flexibility and connectivity.
- 3.24 BHAL state that local residents who may have concerns about potential noise disturbance, frequency of flights and possible congestion on local roads and services should be reassured by the fact that all business at the Airport remains strictly controlled by the Operating Criteria and NAP. The number of flight movements will not be significantly impacted as a result of non-scheduled flights (and may even reduce as a result of private passengers sharing flights). Residents are not, BHAL would submit, in the least concerned whether any passenger on an aircraft has paid for their own seat.
- 3.25 BHAL does not wish to operate high volume scheduled passenger flights from the Airport. BHAL have stated that the Airport is not remotely suited to such business – it does not have large car parks, any retail or a significant food and beverage offering. It would not be feasible to operate scheduled public flights from the Airport with high volumes of passengers, even if it's client base were interested in such business - which it is not.
- 3.26 BHAL have also highlighted the decision of judge, Nicholas Strauss QC, in the first instance decision of Biggin Hill Airport Ltd v London Borough of Bromley in 2000:
- “...road and rail connections to [the Airport] are not particularly good. It has some 465 acres of operational land, which is relatively small, and its main runway at 1,800 metres is shorter than all the others [in London] except for London City and Southend. The runway and taxiways of are of light construction with a low aircraft bearing strength, sufficient only for small aircraft... There is no question... of Biggin Hill attracting mass holiday traffic. This is both because of the size and light construction of the runway, and because of operating restrictions in the lease... It is much more suitable for “niche” scheduled services for passengers prepared to pay relatively high fares”.
- 3.27 They further state that by contrast, the Airport can be (and has been) used for almost every other type of aviation. Unlike a high volume airport which broadly offers just one type of air transport service, i.e. scheduled public transport flights, and often a limited choice of operators, the Airport accommodates a wide range of owners, operators and businesses.
- 3.28 BHAL considers that the proposed modification set out above, would be beneficial to the Council, as well as the local economy for the following reasons:
- 3.29 First, and most immediately, the Council would directly benefit from any increased revenue at the Airport through the turnover rent payable under the Lease. This is calculated as the amount by which 3% of gross turnover exceeds the base rent payable under the Lease from time to time. Such gross turnover expressly includes “All amounts receivable... whether directly or indirectly of or in connection with the... landing or take-off of aircraft passengers” and “All fees charges and/or surcharges of or in connection with passengers utilising (in whatever way) the Premises including all passengers and passenger service charges”.
- 3.30 Secondly, the rent payable by BHAL under the Lease is the higher of the above turnover rent and a profit share rent calculated at the amount by which 12.5% of net profits before tax exceed

the base rent. For the purposes of calculating such net profits before tax, BHAL's turnover includes the express amounts, fees, charges and surcharges mentioned above.

- 3.31 More generally, opening up the Airport to non-scheduled flights with individual fare-paying passengers would provide an important opportunity to improve the financial viability of the Airport. This is necessary in order to justify significant further investment into the Airport by BHAL, including, for example, significant improvement works to the runway at the Airport, and attract more companies and aircraft to be based at the Airport. The greater flexibility that would be afforded by the proposed modification would, in BHAL's opinion, also increase the opportunities for external investment at the Airport, which would be likely to result in additional opportunities for employment in the local area.

Section 84 of the LPA 1925

- 3.32 Should Members decide not to approve the modification to the user clause as put forward by BHAL, then BHAL is entitled to apply to the Upper Tribunal (Lands Chamber), pursuant to its rights under section 84 of the LPA 1925.

- 3.33 In particular, section 84(12) of the LPA 1925 provides that where a lease is for a term of more than 40 years and the first 25 years of the term have expired, the leaseholder may make an application to the Upper Tribunal (Lands Chamber) wholly or partially to modify or discharge a restrictive covenant in the lease.

- 3.34 As the Lease is for a term of 125 years and more than 26 years of the term have expired, BHAL is now entitled to make an application under section 84 of the LPA 1925.

- 3.35 BHAL would look to make an application under section 84 of the LPA 1925 to the Upper Tribunal for a modification that would maximise its flexibility and help to avoid further applications having to be made in the future. The modified definition of Permitted User that BHAL would seek is as follows:

- 3.36 *"Airport providing facilities for business aviation scheduled and non-scheduled commercial flights flight training and private flying including by accepting individual fare-paying passengers and other airport and aviation related uses (including one air fair or one air display in each year of the Term or such greater number as may have been previously approved in writing by the Landlord (such approval not to be unreasonably withheld))"*.

- 3.37 As Members will observe this proposed modification goes further than that requested by BHAL in that it would permit scheduled as well as non-scheduled flights with individual fare-paying passengers.

- 3.38 Should BHAL be required to make an application to the Upper Tribunal to modify the definition of Permitted User in the Lease then it will do so on the following statutory grounds:

(a) The continued existence of the definition of Permitted User in the Lease in its current form would impede a reasonable user of the Airport (section 84(1)(aa) of the LPA 1925). In order to establish this ground, BHAL must also show that the restriction impeding that user does not secure any practical benefits of substantial value or advantage to the persons entitled to the benefit of the restriction (or it is contrary to the public interest); and

(b) The proposed modification of the definition of Permitted User in the Lease would not injure the Council as the persons entitled to the benefit of the restriction (section 84(1)(c) of the LPA 1925).

Counsels Opinion

- 3.39 The Council has instructed Counsel for a view on the merits of the proposition submitted by BHAL.
- 3.40 Counsel's opinion is attached at Appendix 2 of the Part 2 Report of the same title as the request and potential legal response to it is considered commercially confidential at this stage.
- 3.41 However, Counsel of the opinion that there are good grounds for taking the view that there is a strong case to preclude BHAL from obtaining any modification to the Permitted User Clause upon an application to the Upper Tribunal.
- 3.42 Members will appreciate that BHAL will have taken a view that they also have a strong argument in pursuing this matter.

Local Opinion

- 3.43 Whilst BHAL have put forward their rationale for a change in the user clause, Members will no doubt be aware that the operation of the airport is of great concern to many residents in the Borough, especially in those wards where air traffic is routed.
- 3.44 Since July 2020, the Airport Monitoring Officer has corresponded directly with around 30 Bromley residents about matters concerning Biggin Hill Airport. Most complainants take their enquiries directly to the Airport without contacting Bromley Council. Of the 30 residents who have been in contact, three have voiced their concerns as representatives of larger residents' groups covering either specific areas of the borough or residents specifically concerned with issues surrounding the airport.
- 3.45 Flightpath Watch is a local community group who monitor the commitments by BHAL and have raised on numerous occasions their concerns as to the airport's performance against such commitments. They are of the opinion that the Council's earlier decision to increase operating hours at the airport has made residents' lives more stressful and made their properties less desirable.
- 3.46 For Members benefit a brief overview of the concerns raised by residents is provided below so as to give a balanced view of the current situation.
- 3.47 Local residents who have complained to the Council argue that the 50% reduction in the agreed noise footprints by the Airport as part of the NAP was misunderstood - everybody took that to mean a 50% reduction in noise generically and that the noise-abatement routes contemplated in the Lease and represented in maps that have been in the public domain since the Lease was signed and on the Airport's website when it was built;
- 3.48 They further cite that the duty of the Airport to issue warnings, impose sanctions and even ban offenders, as contemplated in both the Lease and the NAP is questionable and that the enforcement by the Airport of the undertaking by pilots of light aircraft and most importantly helicopters to adhere to the Code of Conduct contained in Appendix 3 of the MIL is not taking place frequently enough to have the desired effect.

Options

- 3.49 Members are invited as to provide their views as to the following options:
- 1) To agree to the proposal from BHAL to amend the user clause.
 - 2) To not agree to the proposal from BHAL to amend the user clause and should BHAL then decide to apply to the Upper Tribunal (Lands Chamber) to determine such a change then to contest such an application.

4.0 IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 There is not considered to be an impact on Vulnerable Adults and Children as a consequence of this decision.

4 POLICY IMPLICATIONS

5.1 It is essential that the Council manages its assets so as to meet the Council’s aims and objectives.

LEGAL IMPLICATIONS

6.1 The legal implications are detailed above are expanded further in the Part 2 Report of the same title.

Non-Applicable Sections:	HR, Procurement and Finance
Background Documents: (Access via Contact Officer)	

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Report No.
ES20078

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: EXECUTIVE

For Pre-Decision Scrutiny by the Environment & Community Services
PDS Committee (11th March 2021)

Date: 26th May 2021

Decision Type: Non-Urgent Executive Key

Title: PROCUREMENT OF MOVING TRAFFIC CONTRAVENTIONS
CAMERAS

Contact Officer: Chloe Wenbourne, Head of Shared Parking Services
E-mail: Chloe.Wenbourne@bromley.gov.uk

Chief Officer: Director of Environment and Public Protection

Ward: (All Wards);

1. Reason for report

This report is a follow on from report number ES20035, Moving Traffic Contraventions (MTCs) from September 2020 to seek approval of the best procurement route to purchase the cameras and software required to enforce MTCs. This Part 1 report is accompanied by a Part 2 report.

2. **RECOMMENDATION(S)**

The Portfolio Holder for Environment and Community Services recommend that the Executive:

1. Agrees that the 13 new MTC cameras are procured via a variation to the existing Parking Enforcement and Associated Services (including CCTV) contract held with APCOA (see Part 2 report for detail).
2. To extend the existing Bus Lane and School Keep Clear CCTV maintenance contract for a further two years to align with the proposed variation to allow a full procurement exercise to be undertaken to ensure best value for money is achieved for all CCTV requirements for Bus Lane, School Keep Clear and MTC enforcement within 5 years.

Impact on Vulnerable Adults and Children

1. Summary of Impact: A contravention issued to a driver who holds a disabled badge would not be exempted from a Penalty Charge Notice (PCN) issued to their vehicle.
-

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Quality Environment Safe Bromley Vibrant, Thriving Town Centres
-

Financial

1. Cost of proposal: See Part 2 report
 2. Ongoing costs: See Part 2 report
 3. Budget head/performance centre: New budget head for Moving Traffic Contraventions
 4. Total budget for this head: Cr £1.173m (2021/22)
 5. Source of funding: Increased revenue income budget for PCNs 2021/22
-

Personnel

1. Number of staff (current and additional): 1 FTE
 2. If from existing staff resources, number of staff hours: 36 hours
-

Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All drivers within town centres as delays will be reduced and streets made safer.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 In September 2020, officers presented a report to this committee to seek approval to adopt the powers from the Metropolitan Police Service to enforce Moving Traffic Contraventions (MTCs) in the London Borough Bromley, this executive decision was approved by the Leader on the 24th September 2020.
- 3.2 It was agreed that 13 cameras would be installed at 12 sites as listed below, unless unexpected constraints are discovered at any site, with cameras being rotated when compliance is achieved at a location. In regard to box junction contraventions, a PCN will be issued to any vehicle that stops with two wheels in the box junction for a minimum of 3 seconds.
- 3.3 Once compliance at a location is achieved, officers will arrange for the camera to be moved to another site within the Borough where enforcement is required.
- 3.4 In the original report the table below detailed the 12 locations where the surveys were carried out and recommended where the first cameras should be installed, however High Street, Bromley South has two box junctions in close proximity to each other which may not have been clear. On the back of this, officers have arranged quotes for all 12 locations, covering 13 restrictions and therefore 13 cameras are required.

Location	Area	Restriction
Croydon Rd 1	Elmers End	Boxed Area
Westmoreland Rd	Bromley	Boxed Area
Bromley Rd	Bromley/Shortlands	Boxed Area
High St Bromley South x 2	Bromley	Boxed Area 2 sites
Cray Avenue/Station	Orpington	Boxed Area
Beckenham Rd /High St/Kent Hse	Penge	Boxed Area
Beckenham Rd/Churchfields Rd	Beckenham	Boxed Area
Crofton Rd	Locksbottom	Boxed Area
Croydon Rd 2	Elmers End	Boxed Area
Cray Ave/Cray Valley Rd	Orpington	Boxed Area
Church Rd	Bromley	Left Turn Only
Crystal Palace Parade 1	Crystal Palace	Boxed Area

- 3.5 Since the executive approval, officers have submitted the application to adopt the powers to enforce MTCs at any location within the Borough and not just those named above. This application has been approved by London Councils and as part of this application process the Metropolitan Police have been informed.
- 3.6 As part of the process to be able to enforce MTCs, a Public Notice needs to be advertised in the local papers to advertise that the Council intends to adopt these powers, this needs to be advertised for a minimum of 3 months prior to the adoption of the necessary enforcement powers, the Public Notice was advertised in the Newshopper and Gazette with the three month period ending at the beginning of April 2021.
- 3.7 Officers are working with the Council's Communications team to further advertise the new enforcement around the Borough, this will be advertised via press releases, social media and Council's web pages.
- 3.8 As detailed in the previous committee report, there will be a minimum of 14 days of warning notices, (zero charge PCNs), issued to any vehicle that contravenes these restrictions once enforcement commences.

4. Procurement of Cameras

- 4.1 One of the conditions of this approval was for officers to investigate the optimum procurement route for best value for money for the Council, given the possible need to replace the Council's existing bus lane and school keep clear enforcement cameras within the next 18 months.
- 4.2 Officers undertook market research on cost estimates for the cost of the 13 extra cameras to enforce MTCs.
- 4.3 Officers have established that the most cost effective and timely route to procure the cameras would be via a modification to the existing Parking Enforcement and Associated Services (including CCTV) contract as a compliant route allowable within the Public Contracts Regulation 2015. Alternative procurement routes would require a full tender (and associated costs and time).
- 4.4 Subject to Approval for the proposed modification, officers are proposing a go live date of August 2021, however there may be the possibility that it could be implemented earlier.
- 4.5 The compliance surveys were completed before the Covid-19 pandemic started, it has not been possible to repeat the surveys to adjust the compliance levels for pandemic performance rates. It should therefore be noted that as a result of current lockdown restrictions in place the levels of traffic have not returned to pre-pandemic levels and should this remain the case post go live this will impact on the number of PCNs issued as the rate of non-compliance is related to the rate of traffic using the public highway. For comparison purposes our neighbouring borough, the London Borough of Bexley has seen a decrease in MTCs by approximately 50%.
- 4.6 In September 2020 when officers first approached this committee about issuing MTCs officers had started to see traffic levels improve and therefore projected that 62,899 PCNs would be issued in year one. It should be noted that even when restrictions are lifted, in the event that motorist behaviour changes and dependent on traffic flow these projections may not be achievable. Officers will closely monitor the issue rate and will return to the committee if the projected income is not achievable.

5. IMPACT ON VULNERABLE ADULTS AND CHILDREN

Disabled blue badge holders are not exempt from moving traffic contraventions and display of a blue badge will not prevent a PCN being sent to them through the post.

6. POLICY IMPLICATIONS

N/A

7. FINANCIAL IMPLICATIONS

- 7.1 See Part 2 report.

8. PERSONNEL IMPLICATIONS

N/A

9. LEGAL IMPLICATIONS

- 9.1 The Council has the legal power under the London Local Authorities and Transport for London Act 2003 to apply for the decriminalisation of the enforcement of Moving Traffic Contraventions

in the Borough. This report provides an update on the application process. The Council therefore has the legal power to purchase and maintain the cameras including the processing of the contraventions through a contract(s) for supplies and services.

- 9.2 The supply of the cameras and their on-going maintenance and processing is a mixed public contract(s) of supplies and services under the Public Contracts Regulation 2015 (the Regulations). As the value of the contract(s) is above the supplies and services threshold (£189,330) the Regulations would require the Council to carry out a full procurement exercise in accordance with the Regulations. Actual values to supply and maintain the cameras and processing of the contraventions are stated elsewhere in this report.
- 9.3 Officers have undertaken a market intelligence exercise and, in the process, have secure reliable quotes which have in turn informed the best solution for the Council as explained elsewhere in this report.
- 9.4 The report is seeking authority to award a contract for the supplies and services and to process the contraventions to the Parking Enforcement and Associated Services (including CCTV) contract under their existing contract with the Council by using a contract variation. This provision is under caveat that the new supplier infrastructure and equipment fully adheres to the requirements of the Authority.
- 9.5 As an exception to the requirement to carry out a full procurement exercise as mentioned above, Regulation 72 permits modification of contracts during their term in certain cases. Regulation 72 (1) (c) 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) an increase in price does not exceed 50% of the original contract .
- 9.6 There is also the additional cost to process the contravention which is approximately £258k per annum. The report confirms that this task should be undertaken and accommodated within the existing contract also by way if a variation. Regulation 72 (1) (b) provides a further exemption from carrying out a procurement in circumstances where additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement and where a change of contractor i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment ,services or installations procured under the initial procurement and ii) would cause significant inconvenience or substantial duplication of costs of the contracting authority provided that any increase of the value does not exceed 50% of the original contract.
- 9.7 Officers consider that in order to consolidate future decisions with regard to Cameras in the Borough it would be sensible to extend the Bus Lane/School Keep Clear CCTV maintenance contract for a further 2 years. The maintenance contract is essentially now dealing with the maintenance of the installed cameras. Officers have advised that the maintenance contract has provided the Council with the right to extend for a further 2 years (1+1). Regulation 72 (1)(a) would permit such a modification as it is clearly provided for within the maintenance contract in unequivocal terms and its use has not been designed to circumvent the Regulations.
- 9.8 Officers have confirmed that the cases set out above under Regulation 72 (1) (a) (b) and (c) are met. Regulation 72 (3) places an obligation on the Council to send a notice to confirm use of Regulation 72 (1) (b) and (c) cases.
- 9.9 The value of the proposed variations to the Parking Enforcement and Associated Services contract is above £1M. The Councils Contract Procedure Rules (CPR's) gives authority to the

Executive in agreement with the Chief Officer ,delegated budget holder, Director of Finance, Director of Corporate Services , the Assistant Director of Contracts and Governance and the Portfolio holder ,to authorise an exemption of CPR's to go out to tender and to make the award of contract by way of a contractual variation under CPR 's 13.1 and 23.7.4.

- 9.10 Given the circumstances described in this report actions by officers to formulate a procurement strategy can also be endorsed by the recommendations in this report being agreed. It is also expedient for the Executive to deal with the approval to extend the Videalert maintenance contract within this report
- 9.11 The report explains as above that the award will be subject to satisfactory mobilisation and implementation stages and that the new supplier's infrastructure and equipment fully adheres to the requirements of the Authority.
- 9.12 Variations must be evidenced by way of a written agreement and any Change Control Process followed under the relevant Contracts.

10. PROCUREMENT IMPLICATIONS

- 10.1 This report seeks to purchase 13 new MTC cameras via a variation to the Parking Enforcement and Associated Services (including CCTV) contract. See Part 2 report for details.
- 10.2 This was originally procured as an above-threshold contract following a competitive tendering process. The variation stated above can be completed in compliance with Regulation 72 of the Public Contract Regulations.
- 10.3 The Council's requirements for authorising a variation are covered in CPR 23.7 and 13.1. For a contract of this value, the Approval of the Executive following Agreement by the Portfolio Holder, Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 10.4 A Notice of modification of a contract during its term will need to be published in OJEU.
- 10.5 Following Approval, the variation must be applied via a suitable Change Control Notice, or similar, agreed with the Provider.
- 10.6 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

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