

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) | |