

Review the Commissioning of the Passenger Transport & Taxi & Private Hire Contracts

Scrutiny Inquiry Report

Introduction and Scope



Introduction

We considered a request for scrutiny from Councillor Kabeer Hussain in November 2007 on behalf of four licensed private hire operators.

We were advised that the four licensed private hire operators were concerned about the commissioning and operation of the passenger transport and taxi and private hire contracts.

It was suggested to us that two of those operators had previously applied to be included on the Framework Contract and had been unsuccessful without any explanation. It was alleged that other firms could not win contracts and there were concerns that a single large contract had been awarded to a single licensed private hire operator without explanation.

We were advised by the Chief Procurement Officer that he had no record of the firms in question ever submitting any application to be included on the Framework Contract or of receiving any complaints or correspondence from the four firms in question.

Whilst acknowledging the fact that the firms in question had not raised their concerns with any Council officers prior to Councillor Hussain's request for scrutiny at our Board meeting in November 2007, we recognised the importance of ensuring that the tendering process was seen to be fair, transparent and understood by all

passenger transport and licensed private hire operators.

Indeed the Chief Procurement Officer welcomed such a review and the opportunity to resolve the issues raised by the licensed private hire operators.

In addition we were informed that a new Framework Contract would commence in September 2008 with an option of three years and the possibility of extending the contract for a further year.

In the light of the advice received and the concerns expressed by some licensed private hire operators we considered it appropriate and timely that we undertake an inquiry to review the commissioning of these contracts.

We wanted to ensure that our final report and any recommendations that we wished to make could be applied in time for the letting of the new Framework Contract in September 2008. In order to produce a final report and recommendations that met the departments' deadlines for the letting of the Framework Contract we established a Working Group to draw up terms of reference, receive an initial report and hear from witnesses.

The inquiry commenced in December 2007 with evidence submitted by, and meetings held with, the Procurement Unit and Passenger Transport, six licensed private hire operators and representatives from the Leeds Taxi Owners Association, and the Council's

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Equality Team and the Council's Licensing Manager.

We identified that this inquiry accords with priorities in the Council's Vision for Leeds - namely to tackle social, economic and environmental discrimination and inequality under the theme Harmonious Communities.

We are very grateful to everyone who gave their time to participate in this inquiry and for demonstrating a real commitment in taking forward lessons learned that add value to the commissioning of the passenger transport and taxi and private hire contracts.

Scope

We agreed that the focus of our inquiry was to review the processes involved in these contracts to ensure that they were fair, transparent and fit for purpose, both at the pre qualification stage and once a firm had been included on the "long list" enabling it to tender for these types of Council contracts.

We agreed that it was essential for us to meet with the four licensed private hire operators who had raised concerns about how these contracts operate and with other licensed private hire operators who support the current arrangements.

We also wanted to assure ourselves that the contract process supported the Council's Vision of "Narrowing the

Gap" and consider whether there were more effective ways of awarding these Council contracts in the light of evidence presented to us.

As our inquiry progressed we recognised the need to produce our final report and recommendations as quickly as possible in order that any recommendations made could be implemented prior to the letting of the Framework Contract in September 2008.

It was for this reason that the timetable for publication of our final report and recommendations was brought forward to February 2008.

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At our Working Group meetings on the 18th December 2007 and 15th January 2008 we considered and referred to a joint report of the Procurement Unit and Passenger Transport, outlining the processes undertaken in procuring and managing the contract for the supply of passenger services. Our Scrutiny Board at its meetings in December 2007 and January 2008 also received and considered all the papers presented to our Working Group, the notes of these meetings and the draft recommendations.

The joint report explained that the Procurement Unit is responsible for the procurement process and for ensuring probity and compliance with statutory provisions, European procurement rules and the Council's constitution. It set out the steps to be taken to reach the award of the contract.

We were advised that Passenger Services is responsible for the use and management of the contract and the report set out how this was carried out.

We considered the letters of complaint from two of the companies addressed to Councillor Kabeer Hussain, which had subsequently been submitted to the Scrutiny Unit. The letters were from RoadRunners, licensed private hire operator, dated the 15th November and Speed Line, licensed private hire operator dated the 26th November 2007.

It was noted that the Scrutiny Unit had asked Councillor Hussain to provide letters from the other two companies but these had not been forthcoming.

We commented on and discussed the contents of the letters received from the two licensed private hire companies together with the joint report of the Procurement Unit and Passenger Transport.

We learned that the contract, the Supply of Passenger Services, was for the provision of transportation for passengers with special needs from home to school, college or other establishments and was let on behalf of Passenger Transport.

The contract was for a period of three years, with the option to extend for a further 12 months, and was valued in the region of £6,000,000 per year.

We were advised that the Framework Contract, which is not an approved list, is let and awarded in accordance with European Union (EU) Procurement Rules and the Council's Contracts' Procedure Rules. Only firms which have responded to the advertisement and gone through the tender process can be accepted onto the contract. No more firms can be accepted onto the contract unless another tendering exercise is undertaken.

There are two arrangements set up under the contract. These are the Framework Arrangement and the Short Term Arrangement.

The Framework Arrangement allows Passenger Transport to carry out tendering exercises as and when required throughout the period of the contract. Only firms accepted onto the main contract who have indicated their

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desire to participate in the framework arrangement are eligible to receive these tenders.

Work under the Short Term Arrangement is allocated by the Council's route rationalisation software, Trapeze, using prices submitted by firms accepted onto the main contract at the time of tender.

We considered in some detail the differentiation between the initial tender processes to produce an initial short list of contractors qualifying to be included on the Framework Contract. This initial process to get on the Framework Contract requires all tenderers to have a current operators' licence and meet the minimum insurance requirements specified in the tender document. Forms had to be completed providing this information. Failure on either of these requirements would mean that the tender would be rejected. The information provided by tenderers was validated using the database at Taxi and Private Hire Licensing. Tenderers were also asked to complete a method statement addressing five criteria:-

- Maintenance of Vehicles
- Vehicle Replacement Policy
- Staff Training
- Customer Care Policy
- Procedures

The process for inclusion on the Framework Contract is therefore not based on price, but on meeting the required criteria. It is only those firms who meet all the requirements,

respond to the advertisement and go through the tendering process that are accepted onto the Framework Contract. Only firms accepted onto the Framework Contract that have indicated the desire to participate in the framework arrangements are eligible to bid for contracts competing with other operators on price alone. No other firms can be added to this contract unless another tendering exercise is undertaken. Work is then allocated to firms accepted onto the Framework Contract under the Short term Arrangement described above.

We noted that in April 2004 when the last Framework Contract was let, an open meeting was held at the Civic Hall to which all current and potential contractors were invited. The purpose of the meeting was to explain the longer-term objectives in improving the quality of the service and to welcome suggestions from those providing the service as to how further improvements could be made and incorporated into the new contract due to commence in 2005.

We also noted that at the meeting in April 2004 copies of the Information Booklet for Taxi and Private Hire Contractors produced by Passenger Transport were distributed. The booklet "Guidance on Tendering" contained information about Passenger Transport, a summary of some of the key points of the contract, what was expected of contractors and a final section on frequently asked questions.

We took the view from the correspondence before us and the discussions we had with licensed private hire operators that this process

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was not understood by everyone.

It was also apparent that not all operators had seen the "Guidance on Tendering" document and the departments were unable to state categorically that operators had been provided with a copy of this document.

Recommendation 1:
That the Assistant Chief Executive (Corporate Governance) arrange for the document "Guidance on Tendering" to be checked for plain English and

- (i) provided to contractors at the point of them applying to be included and registered on the Supplier and Contract Management System (SCMS).**
- (ii) issued by the Taxi and Private Hire Licensing Section to applicants at the time of applying for an operator's licence.**

Recommendation 2:
That the Assistant Chief Executive (Corporate Governance) examine and report back to this Scrutiny Board as to whether any further measures could be undertaken to improve the clarity of process to ensure licensed private hire and hackney carriage operators understand what is required of them in order to be included on the Framework Contract.

We were advised by Roadrunners and Speedline, both licensed private hire operators that they had allegedly applied and submitted tender documents to the Procurement Unit in 2004 and 2005 and had received no response or feedback as to why they had been unsuccessful.

The Chief Procurement Officer responded that they had not received any tender documents from these firms in 2004 and 2005. We were advised that if the companies concerned had delivered these documents by hand (as was the practice at that time) the Unit would have issued a receipt. The firms were unable to produce these receipts to enable further investigations to be carried out.

In our discussions with the licensed private hire operators, Ace Cars and Ontime reported that they had similar concerns going back at least five years and alleged they had even been unsuccessful when putting tenders in below cost. They had never received any feedback.

We were advised that until 2004 (approx.) the operation and responsibility for these contracts had been that of the Social Services department. It was then transferred to City Services department and since that time a whole range of improvements and efficiencies had been made in the commissioning and operation of these contracts. We were further advised that the current commissioning arrangements are transparent and comply with EEC regulations and the Council's Contract Procedure Rules. Officers were keen to support and encourage new firms on to

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the Framework Contract and invited Ace Cars and Ontime to disregard what had happened in the past and apply to go on to the Framework Contract in 2008.

With regard to providing feedback, the Chief Procurement Officers stated that he was not aware of any requests for feedback made to the Procurement Unit from any of the firms that raised concerns with Cllr Hussain. Officers stated that they were always happy to speak to any firm who requested feedback. However, detailed feedback could only be offered on an 'on request' basis due to the sheer volume of tendering undertaken by Leeds City Council, the number of organisations who submit bids, and the finite resources available.

We felt that feedback was an essential aspect of engaging and supporting operators in the process and that we could do more to ensure that operators were made aware that feedback was available on request.

Recommendation 3:

That the Assistant Chief Executive (Corporate Governance) ensure that licensed private hire and hackney carriage operators are advised how to request feedback on their submission for entry onto the Framework Contract and subsequent tender submissions, and that feedback is clear and easily understood. This should include a name and contact in each department.

We noted that a number of private hire companies were concerned at the contracting arrangements for Elmete Wood School. They explained that the school had placed all of its routes with a single taxi firm and this had the effect of limiting the competition to the larger firms. Elmete Wood required a firm with a minimum fleet of 120 cars in order to service its requirements. Operators wanted this contract dividing up to give smaller licensed private hire firms the opportunity to tender for this work.

We were advised that the arrangements for this particular school were unique and were based on the specific service needs of the pupils attending the school. The behavioural problems of some of the pupils attending Elmete Wood often required taxis to be available for unscheduled journeys without notice. Because of the demanding and unpredictable nature of the service, the school had specifically requested that its routes be allocated to a single firm. This was so the school could develop a close working relationship with the appointed operator and a single point of contact/responsibility created for service delivery issues.

We heard that the unique requirements of Elmete Wood only represented a small part of the overall Council contract, and that many other opportunities existed that allowed smaller operators to bid for individual routes at other establishments across the city.

We acknowledge that part of the concerns expressed by operators in this regard was because the Council had reduced its business with the passenger

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transport operators by as much as 40% over the last 18 months due to Education Leeds and the Social Services department working together to produce efficiencies and economies of scale.

However, we recognised the need for the sake of transparency to ensure that all operators understand why this particular contract had been awarded to a single operator because of specific client requirements and that this may happen from time to time.

Recommendation 4:

That the Assistant Chief Executive (Corporate Governance) write to the appropriate licensed private hire and hackney carriage operators to explain the reasons why the Elmete Wood School transport contract had been awarded to a single contractor and that a general section on single contracts be incorporated into the "Guidance on Tendering" booklet.

Some licensed private hire operators expressed concern that three year contracts were too long and were often extended to four years. They would prefer shorter contracts of two years.

We were advised that a three year contract was thought to be the most appropriate period as it provided operators with the security to obtain the necessary capital investment and at the same time allow them to offer a more competitive price, as they had longer to make a return on that investment. This view was supported

by many of the licensed private hire and hackney carriage operators who attended the meeting.

Officers also advised us that the Framework Contract was let, awarded and operated in accordance with European Union Procurement rules and the Council's Contract Procedure rules and as a consequence was a very expensive process for the local authority and took six to nine months to complete. As a result, the authority would not want to shorten this contract period.

We noted that contracts were often extended because clients could not always easily predict the service levels that might be required. For example as a result of a Council restructure, changing demands or Government legislation and as a consequence, a contract extension was often requested.

We spent sometime discussing the re-tendering and extension arrangements for other routes included in the contract.

Each summer details of children requiring transport are provided by Children's Services to Passenger Transport. The service configures routes and where there was a significant change the route was tendered to all contractors on the framework. Where there was a minor or no change to the existing provision, and the service provided by the contractor had met service standards as well as the price remaining competitive, then the contract for that route was extended for a further academic year.

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We were concerned to hear that some licensed private hire operators and individuals are concerned that hackney carriage companies are winning contracts when they are considered to be more expensive and suggesting that a cartel must be operating. We were assured that hackney carriage operators are winning these contracts purely on the basis of submitting the lowest tender and there is no cartel in operation.

Whilst Members understood the rationale behind extending and re-tendering contract routes in such a way, they were concerned that the arrangements needed to be explained to licensed private hire and hackney carriage operators in a clear and concise way to avoid misunderstanding and to ensure that the process was open and transparent.

Clearly some licensed private hire operators are not aware of the reasons for the length of contract period or the reasons why contracts are extended or changed and this is resulting in a lot of conjecture and rumour amongst operators.

It was suggested to us that contracts ought to have a lead in period and we thought this to be worth exploring further.

Recommendation 5: That the Assistant Chief Executive (Corporate Governance)

- consider whether contracts could have a lead in period.
- include in the “Guidance on Tendering” booklet a clear description as to the reasons for the contract period, how and when contracts can be extended and the process by which routes and contracts are determined.

We thought that a further suggestion to publicise who had won the various passenger contracts on the Councils internet was also worthy of consideration although we did have reservations about business confidentiality. We thought this may be a positive step in being seen to be open and fair.

Recommendation 6: That the Assistant Chief Executive (Corporate Governance) explore with the contractors concerned the possibility of publishing winning firms and prices for these contracts on the Council’s internet site each year to contribute to the transparency of process.

We wanted to be assured about a range of equality issues and whether robust equality monitoring and data collection was undertaken in respect to these contracts.

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It was clear to us that whilst some monitoring was being undertaken, an Equality Impact Assessment Audit would be appropriate at this time in view of the Framework Contract being let in September 2008.

It was confirmed to us that English was a required condition for operators and drivers. We recognised that standards must not be lowered because of some language and cultural barriers that may exist amongst some licensed private hire and hackney carriage operators. We simply wanted to ensure that the process was being applied fairly, consistently and transparently to everyone. We also wanted to confirm that there is no disproportionate impact on any one section of the community concerning these contracts and we felt strongly that an Equality Impact Assessment Audit should be undertaken before the letting of the Framework Contract in September 2008. We look forward to receiving this report in due course.

Recommendation 7:

That the Assistant Chief Executive (Corporate Governance) arrange for an Equality Impact Assessment Audit prior to the letting of the Framework Contract in September 2008 and report to this Scrutiny Board on the outcome.

We noted that officers were organising briefing sessions for passenger transport and taxi and private hire firms in March 2008 to encourage them to apply for inclusion on the new

Framework Contract in September 2008. These sessions will explain how the process works and what criteria firms would be required to meet in order to be included on the Framework Contract. Once on the Framework Contract, firms would then be able to bid for contracts on the basis of best price.

We supported this approach but also felt that more publicity and training should be offered to operators who request support whilst having regard to the level of available resources.

Recommendation 8:

That the Assistant Chief Executive (Corporate Governance) arrange (i) to send flyers to the 132 licensed private hire and hackney carriage operators in the city publicising the briefing sessions in March 2008 concerning the Framework Contract 2008 and (ii) consider training and support methods that could be used to assist licensed private hire and hackney carriage operators to complete the necessary documentation perhaps through the Council's internet site and in time for the Framework Contract in 2008. This should include a suitable training session for Members on Licensing/ Procurement being held immediately after the local elections in May each year, to ensure that Members understand the processes involved and are kept up to date with developments so that they are able to give sound advice and guidance to their constituents on these matters.

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Referring to the joint report of the Procurement Unit and Passenger Transport we noted that under EU Rules it is obligatory to advertise contracts in the Official Journal of the European Union (OJEU) if they exceed the existing stated financial thresholds, (from 1st January 2008 £139,893 for Service Contracts). As a result, the current contract was advertised in the OJEU on 17th March 2005, using the Open Procedure. The closing date for expressions of interest was 4th May 2005 with a tender return date of 11th May 2005. We considered that setting a closing date for expressions of interest as the 4th May and return of the tender document by 11th May 2005 was unreasonable.

Recommendation 9:
That the Assistant Chief Executive (Corporate Governance) extend the closing date for tender returns of the 2008 Framework Contract to ensure that there are at least 10 working days between the documents being available and the closing date for expressions of interest.

We noted that in addition to the OJEU these contracts in 2005 were advertised in the Yorkshire Evening Post on 17th March 2005, and in the April 2005 edition of the Private Hire & Taxi Monthly. In addition a notice was placed on the Advertised Tenders section of the Council's electronic tendering system and posters were put up in the Taxi and Private Hire Licensing reception at York Road.

We were of the view that whilst this was commendable we recognised that the publications referred to and our internet site had limited readership. We felt strongly that the Council needed to be seen to make greater efforts to advertise these contracts more widely within local communities to reduce allegations that certain sectors of the community were being disadvantaged and the Council's "Narrowing the Gap" agenda was being ignored in this regard.

Recommendation 10:
That prior to letting of the Framework Contract in September 2008 the Assistant Chief Executive (Corporate Governance) extend the advertising of the Framework Contract to include other appropriate publications and Council offices within the community that are open to the public.

We recognised that only a small number of licensed private hire operators had expressed concern about the commissioning and operation of the passenger transport and taxi and private hire contracts.

A number of licensed private hire operators had attended as witnesses supporting the current commissioning arrangements, acknowledging:

- such contracts can be complicated and require time and effort to find out how they work.
- that there are a number of contacts within the Council who can provide help and assistance if asked.

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- that they have been in business a number of years and they have taken the time and trouble to understand and invest in getting on to the Framework Contract and then undertaken to bid for contracts against other operators. They have had to develop business plans and detailed investment strategies.
- that Council business has reduced by 40% as a result of the Council becoming more effective and efficient in how it lets its contracts with Social Services and Education Leeds now working together.
- a need for businesses to continually source new income streams.
- a need to establish and maintain high standards, good quality vehicles and proper training for all staff.
- dealing with clients who are some of the most vulnerable in society means standards must be beyond reproach.

We have spent some considerable time looking at the processes involved with these contracts and the evidence that has been presented to us.

We are grateful to the representatives of the licensed private hire and hackney carriage operators for their attendance and contribution.

We concluded that, whilst we have identified a number of proposals aimed at improving communication, publicity and understanding of the processes involved, the overall commissioning of

these contracts seem to us to be fair and understood by most licensed private hire and hackney carriage operators.

Recommendation 11:
That the Assistant Chief Executive (Corporate Governance) and the Director of Resources convey the thanks of the Scrutiny Board to the officers in the Procurement Unit and Passenger Transport for their significant contribution to improving the commissioning of these contracts since taking over responsibility for this service.

Monitoring arrangements

- Standard arrangements for monitoring the outcome of the Board's recommendations will apply.
- The decision-makers to whom the recommendations are addressed will be asked to submit a formal response to the recommendations, including an action plan and timetable, normally within two months.
- Following this the Scrutiny Board will determine any further detailed monitoring, over and above the standard quarterly monitoring of all scrutiny recommendations.

Reports and Publications Submitted

- Minutes of Scrutiny Board meeting held on 29th November 2007.
- Letters from two private hire companies as follows:-
 - (i) RoadRunners dated 15th November 2007
 - (ii) Speed Line dated 26th November 2007
- Joint report of the Procurement Unit and Passenger Transport outlining the processes undertaken in procuring and managing the contract for the supply of passenger services.
- Note of the Board's Working Group held on 18th December 2007.
- Note of the Board's Working Group held on 15th January 2008.
- Minutes of Scrutiny Board meeting held on 21st December 2007
- Data on ethnic origin of current licensed private hire operators.
- Minutes of Scrutiny Board meeting held on 24th January 2008

Evidence



Witnesses Heard

- Wayne Baxter, Chief Procurement Officer, Chief Executive's department
- Stephen Priestley, Procurement Projects Officer, Chief Executive's department
- Julie Meakin, Chief Commercial Services Officer, Resources department
- Julie Hatton, Head of Passenger Transport, Resources department
- Mr Jody Hodgson, Operations Manager, RoadRunners Licensed Private Hire
- Mr M Farook, Road Runner Licensed Private Hire
- Mr M Zahire, Road Runner Licensed Private Hire
- Mr M Latif, Manager, Speed Line Licensed Private Hire
- Mr Mohammed Hanif, Ace Cars Licensed Private Hire
- Mr Aurangzeb Qabal, Ontime Taxis
- Mr R Holt, South Leeds & Hunslet Cars
- Mr D Richmond, Shiny Sky (Trading as Arrow Universal)
- Mr Ken Gill, Chairman of LeedsTaxi Owners Ltd.
- Mr Brian Heptinstall Leeds Taxi Owners Association
- Martyn Johnson, Licensing Manager, Chief Executive's department
- Mr Khizar Hayat, Senior Project Officer, Equality Team, Chief Executive's department
- Councillor Kabeer Hussain Hyde Park and Woodhouse Ward member
- Ms Ann McMaster, Strategy Equality Manager, Chief Executive's department

Dates of Scrutiny

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| • 29 th November 2007 | Scrutiny Board Meeting |
| • 18 th December 2007 | Scrutiny Board Working Group with relevant officers |
| • 21 st December 2007 | Scrutiny Board Meeting |
| • 15 th January 2008 | Scrutiny Board Working Group with representatives from private hire firms, Leeds Taxi Owners Association and relevant officers |
| • 24 th January 2008 | Scrutiny Board Meeting |