



**RETURN OF LOCAL TRANSPORT FUNCTIONS FROM PETERBOROUGH CITY COUNCIL TO THE CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY**

**COUNCILLOR PETER HILLER, CABINET MEMBER FOR STRATEGIC PLANNING AND COMMERCIAL STRATEGY AND INVESTMENTS**

**March 2021**

**Deadline date: 31 March 2021**

Cabinet portfolio holder:	Councillor Peter Hiller, Cabinet Member for Strategic Planning and Commercial Strategy and Investments
Responsible Director:	Steve Cox, Executive Director Place & Economy
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: Yes Unique Key decision Reference from Forward Plan: KEY/04JAN21/05
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	N/A

**RECOMMENDATIONS**

The Cabinet Member is recommended to:

1. Note the expiry of the delegation of Local Transport Functions to Peterborough City Council (PCC) from the Cambridgeshire and Peterborough Combined Authority (CPCA) on 31 March 2021 and authorise the resulting transfer of related transport services from PCC to the CPCA to be effective from 1 April 2021;

2. Note the operation of the Transfer of Undertakings Regulations on this matter and the transfer of one PCC employee engaged in Local Transport Functions to the CPCA;
3. Authorise the transfer to or use of the Council's assets by the CPCA and/or third parties in connection with the transport functions including bus stops and the Queensgate bus station subject to agreement of appropriate terms.
4. Authorise the CPCA's access to Section 106 monies held by the Council under agreement with various developers to the extent to which they are applicable to the Local Transport Functions subject to the agreement of appropriate terms.
5. Authorise the Director of Governance in consultation with the Corporate Director, Resources, to negotiate, draft, and enter into agreements to give effect to the transfer, including a commercial transfer agreement, novation agreements, data sharing arrangements, amendments to software licence agreements, new property licences or leases or the amendment of existing agreements, a service level agreement by which the Council provides certain ancillary services to the CPCA and documentation related to the transfer of the transferring PCC employees.

## 1. SUMMARY OF MAIN ISSUES

- 1.1 The CPCA holds strategic transport functions (set out at Article 8 of the Cambridgeshire and Peterborough Combined Authority Order 2017 (SI 2017/251)) exercisable through the office of the Mayor and is the Local Transport Authority for the Cambridgeshire and Peterborough area.
- 1.2 Prior to the establishment of the CPCA, Cambridgeshire County Council and Peterborough City Council exercised these functions in their respective areas, and even after the creation of the CPCA these arrangements have continued in practice because the CPCA has opted to delegate Passenger Transport Functions to both Cambridgeshire County Council and Peterborough City Council.
- 1.3 On the 26<sup>th</sup> October 2020 the Council received a letter from the CPCA detailing its intention to end the delegation and to deliver the local transport functions itself when the current delegation ends on 31 March 2021.
- 1.4 Officers are working closely with the CPCA and colleagues at Cambridgeshire County Council to ensure a smooth transfer of services, details of which are set out in section 4 below.

## 2. PURPOSE OF THIS REPORT

- 2.1 This report is for the Cabinet Member for Strategic Planning and Commercial Strategy and Investment to consider exercising delegated authority under paragraph 3.4.8 (b) of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (b).

## 3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>
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## 4. DETAILS OF DECISION REQUIRED

- 4.1 This report seeks approval from the Cabinet Member to authorise the transfer of services associated with Local Transport Functions, when current delegations expire, from Peterborough City Council to the CPCA to be effective from 1 April 2021.

## 5. CONSULTATION

- 5.1 Prior to the transfer of functions consultation will be undertaken with officers directly affected by this change and those that are eligible for TUPE. Unions will be fully appraised in line with standard processes. Communication will take place with members of the public who use specific services currently operated by the Council. Further communication will take place, with the support of the Council's Communications team, to provide information to wider users including Concessionary Bus Pass holders.

## 6. ANTICIPATED OUTCOMES

- 6.1 It is anticipated that the Cabinet Member will authorise the transfer of Local Transport Functions, from Peterborough City Council to the CPCA to be effective from 1 April 2021 and that the CPCA will continue to support services in line with those currently provided.

## 7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION

- 7.1 The CPCA holds strategic transport functions and is the Local Transport Authority for the Cambridgeshire and Peterborough area. Since the establishment of the CPCA in 2017 the CPCA has opted to delegate Passenger Transport Functions to both Cambridgeshire County Council and Peterborough City Council.

- 7.2 The delegation of functions since the establishment of the CPCA in 2017 to 31 March 2021 has enabled the Council to continue to deliver various public transport functions. The Council budgets for these services through a Levy payment to the CPCA, retained by the Council during the period of delegation, which has been calculated with due regard to the cost to the Council of providing the services.

- 7.3 The delegated services which the Council currently has responsibility for and the agreed future intentions for these include:

- **Local bus services** – the Council is required to identify gaps in the commercial network; develop timetables; consultation; procurement; contract management; payments to operators; budget management; monitoring; publicity (paper and electronic); public enquiry line; Traveline updates; NapTan updates; comment on S106 proposals; implement services from S106 agreements; procure services on behalf of partners; comment on long term transport plans and policies, respond to DfT consultations and questionnaires; distribute the Bus Services Operators Grant (BSOG);
  - Stagecoach 60s Services: the current contract between the Council and Stagecoach will be extended in accordance with its contract terms to 31 October 2021 and the contract will novate to CPCA.
  - Stagecoach 'citi' services: the current contract between Stagecoach and the Council will end on 31 March 2021, and new regional service arrangements are being procured by Cambridgeshire County Council on the CPCA's behalf.
  - Call Connect: contract currently between the Council and Lincolnshire County Council will novate to CPCA.
- **Concessionary travel** – implement the English National Concessionary Travel Scheme; procure and implement contract to enable passes to be applied for, printed, distributed and hotlisted; identify reimbursement rate; negotiate reimbursement rate with operators; provide agreements; pay operators; budget management;
  - CPCA will take general responsibility for these arrangements from 31 March 2021 and specifically will be responsible for agreeing and processing reimbursement to

operators, although the Council will continue to issue and manage bus passes, in relation to which a further Levy adjustment will be made.

- **Community transport** – give advice to providers and public; tender for grants; payments to providers (Dial-a-Ride, community car schemes); issue s19 permits; budget monitoring; grant agreement management;
  - Community Link: although the CPCA will take bookings, PCC will continue to deliver this service on behalf of CPCA. The Levy will be adjusted to take into account the cost of doing so to the Council.
  - Rural Dial a Ride: again, the CPCA will take bookings and PCC will provide the service. The Levy will be adjusted accordingly.
- **Infrastructure** – although not a service in itself, certain infrastructure is required to support the local transport services, and the Council's responsibilities with regard to this include installing and maintaining bus stops/shelters, installing dropped kerbs, operation of the Queensgate Bus Station and Real Time Passenger Information (RTPI).
  - The Council will continue to install, maintain and improve its bus shelters in its capacity as the Highways Authority.
  - The Council will continue to operate the Queensgate Bus Station and charge departure fees to bus operators. The CPCA will liaise with bus operators using the bus station and provide such information as the Council may require, to enable it to charge and collect the departure fees. The parties will determine the cost to the Council of operating the bus station and the Levy will be adjusted accordingly.
  - The parties intend that the agreements associated with the provision of RTPI will novate to the CPCA on 1 June 2021 and until such transfer the Council will continue to operate this arrangement on behalf of the CPCA, and the Levy will be adjusted accordingly.

Provision will be made to allow the CPCA to identify and fund enhanced infrastructure works if it chooses to do so. The parties will determine the cost to the Council of maintenance/installation and the Levy will be adjusted accordingly.

7.4 The transferring services have a number of associated assets and legal documents which may require novating to the CPCA, the provision of new contractual arrangements, or the granting of licences or leases to enable the CPCA to continue to provide them. These include:

- Contracts with bus operators;
- Passenger information to enable concessionary fare passes to be granted and certain request based bus services accessed;
- Agreements (software, licences, lease, maintenance) with regard to provision of services;
- Contract variations in relation to the Council's arrangements with third parties.

7.5 The Council holds s106 monies, some of which is designated for the support of local transport and the Council will continue to hold these after the transfer. The CPCA will be able to access these monies from 1 April 2021 on the following basis:

- The Council will retain the funds received in respect of each S106 agreement and release these funds to the CPCA on a case by case basis i.e. when the CPCA is able to submit a plan detailing how it intends to use the funds in order for the Council to satisfy itself that this is in line with the terms of the applicable S106 agreement.
- The Council will provide the CPCA with a copy of each relevant S106 agreement at the date of the transfer.

- The Council will provide on a six monthly basis, a list of current S106 agreements and endeavor to answer and questions the CPCA may have in the intervening periods.
- The Council will seek to discuss future developments with the CPCA to understand the required passenger transport contribution and take this in to consideration when approving applications.

7.6 In addition, the Bus Services Act 2017 provides the CPCA with powers to reform the bus market and provide for new types of partnership schemes and the option to franchise bus services. In anticipation of the end of the delegation, the CPCA has commenced a programme of work to assess the new bus reform options available under the Act and pursuant to section 123C(4) of the Act published a notice stating their intention to do so in May 2019. This work is underway but at this point in time there is no preferred option determined for the future provision of bus services.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 PCC do not have the right to insist that the Transport Functions are retained by PCC as the CPCA are the Transport Authority and the delegation is not being renewed. PCC will not legally be able to deliver these services to the city without relevant delegations from the CPCA after 31 March 2021.

## **9. LEGAL IMPLICATIONS**

9.1 The following functions were delegated to PCC until 31 March 2021:

- (a) The role of Travel Concessionaire Authority;
  - (b) The funding and management of bus services including the ability to let contracts and enter into Advanced Quality Partnership Schemes and Enhanced Partnership Schemes;
  - (c) Provision of socially necessary bus services; and
  - (d) Provision of bus information, including Real Time Passenger Information
- in furtherance of which, PCC has provided the various services set out in 7.3 above.

9.2 In order to effect the smooth transfer of services to the CPCA as the delegation comes to an end, the parties will agree the terms of a Commercial Transfer Agreement which will determine the manner in which the various matters set out in 7.4 and 7.5 above will be dealt with. The CTA will also set out any additional terms relating to the transfer of employees under the TUPE Regulations and include a service level agreement for the supply of ancillary services from the Council to CPCA from 1 April 2021.

9.2 PCC is the Highway Authority for the City and the highway function will remain with PCC notwithstanding the return of the Transport Function to the CPCA. PCC will therefore be responsible for the maintenance of the adopted public highway and any structures that it owns on the highway. The CPCA will need to obtain consent/laise with PCC as Highway Authority if they determine that they require the erection any new structures upon the highway e.g. new bus shelters/signs.

9.4 PCC has a long leasehold interest in the Queensgate Bus Station which prohibits PCC from transferring underletting or parting with possession of the bus station to a third party. Further consideration needs to be given as to how the bus station is dealt with as the lease does not allow PCC to transfer the lease. The CPCA have also indicated that it would not in any event wish to take over the lease and take on the liabilities. PCC will therefore retain the leasehold interest and the continued liabilities. The Commercial Transfer Agreement will include provisions relating to the operation of the bus station to ensure that any liability relating to the Transport function is recoverable from the CPCA.

## **10. FINANCIAL IMPLICATIONS**

10.1 Peterborough City Council has budgeted for the payment of the Levy to CPCA since the CPCA introduced the Levy with effect from 1 April 2019. Whilst the functions have continued

to be performed by PCC under the delegation, this funding has been retained by PCC to fund the provision of the associated services. The sum levied by CPCA has so far been calculated with due regard to the cost of PCC providing the services.

- 10.2 From 1 April 2021 PCC will not retain this funding, nor hold any budgets for service provision, but will continue to budget for the Levy sum which will now be paid to CPCA.
- 10.3 CPCA will be able to determine the future sums to be levied on PCC based on the cost to CPCA of delivering the service in Peterborough. For 2021/22 The Levy sum proposed is £3,793,631, which is within the sum provided for in the council's budget. In future years PCC will need to remain engaged with CPCA to consult on the level of service proposed, as CPCA will be determining a budget that directly impacts the budget setting for PCC. The CPCA Governance process requires the proposed budget to be approved by the Combined Authority Board. The Council is represented at these meetings and the representative is able to use the power of veto to prevent a transport or related funding decision being taken that would have significant adverse impact on the Council. This therefore ensures that future sums are agreeable to both parties.
- 10.4 It is noted that CPCA are indicating a 2% annual increase in their Levy budget over the period of their MTFS – something not currently matched by the PCC MTFS. It is anticipated that future Levy sums will be adjusted to take account of the final service costs experienced by CPCA.
- 10.5 After the transfer, the CPCA has requested that the Council continue to perform certain related services on its behalf, where such services are not easily disaggregated from the Council's own responsibilities, or where the cost of setting up a stand-alone service may be disproportionate. These are noted in this report at Clause 7 and include activities related to the issue of Concessionary Bus Passes, Community Link, Rural Dial a Ride and the continued maintenance by the Council of related infrastructure. In such circumstances the Council will negotiate a suitable charge back rate with the CPCA and encapsulate these arrangements within a service level agreement.

## **11. PROCUREMENT IMPLICATIONS**

- 11.1 None.

## **12. EQUALITY IMPLICATIONS**

- 12.1 An Initial Equality Impact Assessment has been carried out and there are no detrimental effects associated with the recommendation due to the CPCA confirming their intention to continue to provide like for like services across Peterborough initially.

## **13. CARBON IMPACT**

- 13.1 There are no direct carbon impacts as a result of this decision. However, the Council will no longer have a direct role in the provision of local bus services and therefore would not be able to use contractual mechanisms to seek to improve the efficiency of any fleet operating locally.

## **14. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED**

- 14.1 None.

## **15. BACKGROUND DOCUMENTS**

- 15.1 None.