

London Councils' Transport and Environment Committee

Parking On Private Land Appeals (POPLA) Service – Contract Tender Decision Item no: 11

Report by:	Spencer Palmer	Job title:	Director, Transport and Mobility
Date:	19 March 2015		
Contact Officer:	Spencer Palmer		
Telephone:	020 7934 9908	Email:	Spencer.palmer@londoncouncils.gov.uk

Summary	London Councils currently operates the Parking on Private Land Appeals (POPLA) service under contract with the British Parking Association (BPA). The current contract ends on 1 st October 2015 and following a competitive re-tender process the BPA have decided to award the contract to another bidder. This means London Councils will not operate POPLA after 1 st October 2015.
----------------	---

Recommendation	To note that London Councils will no longer operate the POPLA service from 1 st October 2015.
-----------------------	--

Background

1. On 15th March 2012 TEC agreed that London Councils should provide an appeals service for parking on private land for the British Parking Association (BPA) under contract. This was on the basis that this would complement the service provided by PATAS which deals with appeals made against parking enforcement on the highway within England and Wales. It was considered at the time that providing the service on a cost-recovery basis would be in the public interest as: restrictions on parking within London on private land would have a direct impact upon London local authorities, their resources and residents; a significant proportion of the public affected and inclined to avail themselves of the POPLA service were likely to come from the Greater London area; and, having regard to those matters, as TEC was the only interested and qualified bidder. On 14th June 2012, TEC received a report to say that the basis for providing such a service had been accepted by the BPA and agreed that a contract should be entered into to provide the service.

2. The service, known as POPLA (Parking on Private Land Appeals) started on the 1st October 2012 and has since provided the appeals service to more than 60,000 motorists. The service operates on a full cost recovery basis and at no cost to the London Council Tax payer.
3. The current contract ends on 1st October 2015 and at its meeting on 13th November 2014 the TEC Executive Sub-Committee agreed that London Councils should submit a non-compliant bid proposal in response to the BPA's re-tender process to continue running the POPLA service on a full cost recovery basis. London Councils officers subsequently prepared and submitted a comprehensive bid proposal at the end of last year before the BPA's tender response deadline.

The BPA's Decision

4. After consideration of several tender responses, the BPA wrote on 24th February 2015 to advise that London Councils' bid proposal had been unsuccessful and that they were planning to award the contract to another organisation. This decision was subject to a ten day standstill period, which has now passed. The BPA has since confirmed that the contract has been awarded to the Ombudsman Service, a private company specialising in dispute resolution, which is based in Warrington.
5. Feedback received from the BPA explained that the main reason for not retaining the contract was that London Councils, as a publicly funded body, could only offer to continue running the service on a full cost recovery basis and could not offer the fixed cost certainty that the BPA was seeking. Detailed feedback on the BPA's decision is being sought.

Transition and Exit Arrangements

6. At this early stage little is known about the detailed plans of the BPA and its new contractor's for the transition of the POPLA service. However, it is anticipated that London Councils will continue to run the service until the end of the current contract and will work with the BPA and the new supplier to help ensure a seamless transition.
7. It is expected that the London Councils staff dedicated to the POPLA service, including the Lead Adjudicator, assessors and administrative staff, will transfer to the new supplier on 1st October 2015, under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). A meeting was held with POPLA staff and a management briefing provided within hours of the notification of the BPA's decision. London Councils' management team will continue to keep staff informed throughout the transition period and provide support and advice as necessary.

TEC Powers to Operate POPLA

8. As reported to TEC Exec Sub-Committee on 11th September 2014, an objection was raised on the London Councils consolidated accounts by an interested person (residing within London) that TEC did not have the legal power to provide the POPLA service. The 11th September report explained that London Councils and its legal advisers are satisfied that appropriate powers and authority do exist. However, for the avoidance of doubt and to facilitate a conclusion to the issue with the auditor and the objector, the sub-committee agreed to recommend to all

33 London local authorities that they: formally confirm that the functions delegated to TEC to enter into the arrangement with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011; resolve to expressly delegate the exercise of section 1 of the 2011 Act to the TEC joint committee for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract; and that the TEC Governing Agreement be varied to this end. The required delegations from each authority are currently being sought and with only a few outstanding it is expected to have all of them returned and the TEC Agreement to be varied by the next meeting of TEC in June. This remains an important objective in respect of the operation of the service until October and in terms of the position reached with London Councils' external auditor.

Financial implications for London Councils

9. The current POPLA contract with the BPA is operated on a non-profit, full cost recovery basis, meaning that the costs recharged to the BPA include a proportion of London Councils' management time and corporate overheads, such as accommodation, HR, Finance, Communications and TEC administration costs. The loss of the POPLA contract from 1st October 2015 will therefore require a redistribution of these management and overhead costs across all London Councils' services including those London Councils operates on behalf of other organisations such as the Road User Charging Appeals service for the GLA. This is likely to lead to an increase in costs for these services, some of which will be outside of the TEC funding stream.
10. The total management and central recharge overhead to be redistributed will be approximately £150,000 in 2015/16 and £300,000 in a full year. The financial implications of the changes will be reflected in the budget monitoring reports presented to Committee during the course of the next financial year, with the full year effect included in the budget proposals for 2016/17 onwards, which will be presented for member approval next autumn.

Legal Implications for London Councils

11. London Councils will ensure that it fulfils its obligations under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and meet all requirements of the current contract with the BPA during the transition period.

Equalities Implications for London Councils

12. There are no equalities implications for the boroughs or London Councils arising from this report. The POPLA service will still be available to anyone who receives a parking charge notice from an authority or organisation operating private land enforcement as a member of the BPA's approved operator scheme.

Background Papers

- TEC - 15/03/2012 - Item 10 - Proposed Appeals Service in relation to Parking on Private Land
- TEC - 14/06/2012 - Item 20 - Independent Appeals Service for Parking on Private Land
- TEC Exec Sub Committee - 11/09/2014 - Item 4 - TEC Agreement - POPLA Amendment
- TEC Exec Sub Committee – 13/11/14 – Item 101 – Parking on Private Land Appeals – Potential Continuation of Service