

PFCC Decision Report

Report reference number: 032/2021

Classification: Not protectively marked

Title of report: BlueLight Commercial Limited Customer Agreement

Area of county / stakeholders affected: Whole of Essex

Report by: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

Date of report: 2 March 2021

Enquiries to: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

1. Purpose of the report

The purpose of this report is to seek the PFCC's approval to enter into the Customer Agreement with BlueLight Commercial Limited attached at Appendix 1.

2. Recommendations

That the PFCC enters into the Customer Agreement with BlueLight Commercial Limited attached at Appendix 1.

3. Benefits of the proposal

BlueLight Commercial was established as a condition of the police funding settlement for 2020/21 to oversee and undertake procurements on a national basis in order to secure both financial and resource savings for UK policing by reducing the need to duplicate procurement processes and by utilising and co-ordinating its purchasing power. The company's key objectives, as set out in clause 2 of the agreement, are to:

- Deliver greater efficiencies through procurement of some key categories at a national level and increase revenue generation through, for example, better cost recovery;
- Deliver strategic supplier management to maximise buying power, reduce contract leakage and drive improvement across strategic and critical suppliers throughout the commercial lifecycle;
- Bring together cross-customer data; provide a unified approach with suppliers when required, and secure best practice to improve local decision making;

- Deliver procurements with a focus on key issues such as sustainability, improved contract and performance management, resilience and social value, and ensure that contracts deliver innovative solutions in these areas, and
- Build capacity and credibility at all levels of the commercial profession within policing, and to develop a commercial and strategic risk-based business function delivering the best value and maximising benefits to the front line (rather than a compliance focused discipline focused on lowest price).

4. Background and proposal

BlueLight Commercial Limited is a new national model for police procurement and commercial functions. On 18 March 2020, under decision 041/20, the PFCC for Essex applied to become a member of the company.

The Customer Agreement attached at Appendix 1 is essentially the overarching collaboration agreement between BlueLight Commercial and each force area. It sets out the collaborative working arrangements between the parties to it, the principles of the collaboration and its intended purpose, along with the respective roles and responsibilities of each party in order to deliver the financial and resource savings anticipated by the Home Office.

The agreement will be reviewed as required, and not less than once per annum, and may be varied with the agreement of a majority of the parties to it.

Signing the overarching Customer Agreement does not commit the PFCC to participating in any individual procurement exercises. Each force area can decide on a case by case basis which procurement(s) they wish to participate in, and such commitment will be secured and governed through separate sub-agreements in respect of each exercise. However, in order to take part in any individual procurement, the PFCC is required first to sign the overarching Customer Agreement.

Parties to the agreement may terminate their participation by giving no less than six months' notice in writing to the company.

5. Alternative options considered and rejected

The PFCC could decline to sign the Customer Agreement however to do so would fail to secure the anticipated benefits set out in section 3 above. Non-participation in BlueLight Commercial may also demonstrate a lack of commitment on the part of the PFCC to fulfilling a condition of the police funding settlement for 2020/21.

6. Police and Crime Plan

The proposal aligns with commitments made to collaboration and partnership working within the Police and Crime Plan.

7. Police operational implications

The Seven Force Head of Strategic Procurement has been consulted on the agreement and has confirmed that, from a contractual / commercial perspective, there are no impediments to either the PFCC or the Chief Constable signing up to the agreement and

that, as such, neither he nor the Seven Force Strategic Procurement Governance Board has any concerns with either the PFCC or Chief Constable approving it.

The Chief Constable has already signed the agreement on behalf of Essex Police.

8. Financial implications

BlueLight Commercial is a private company limited by guarantee. As a member of the company, the PFCC guarantees its debts to a maximum amount of £10.

As set out in clause 8 of the Customer Agreement, it is intended that BlueLight Commercial will be fully grant funded by the Home Office up to 31 March 2023. Thereafter, the funding of BlueLight Commercial will be agreed through negotiation between the Home Office and parties to the agreement.

9. Legal implications

The PFCC sought legal advice on a previous draft of the agreement circulated in December 2020. The PFCC's legal advisors confirmed that it generally reflected the principles of joint working that they would expect to see in a collaborative arrangement of this nature, and also raised a number of issues for further consideration. In consequence of the advice received, the PFCC sought clarity on several matters contained within the document. As a result, the responsibilities of local policing bodies have been clarified within clause 7 of the agreement. In addition, a clause (12.3) has been added, confirming that BlueLight Commercial will hold and maintain, for the duration of the agreement, professional indemnity insurance with an overall limit of liability of not less than £5m.

The agreement confirms (at clause 1.6) that nothing within it shall conflict with the PFCC's core duties and responsibilities as set out in the Police Reform and Social Responsibility Act 2011 and the Policing Protocol Order 2011.

10. Staffing implications

There are no direct staffing implications of the proposal for either the PFCC or Essex Police.

11. Equality and Diversity implications

There are not considered to be any equality and diversity implications arising from the proposal.

12. Risks

As set out in section 5 above, refusal to sign the Customer Agreement would risk failure to secure the anticipated benefits described in section 3 above and may also demonstrate a lack of commitment to fulfilling a condition of the police funding settlement for 2020/21. In this context, it should be noted that the PFCC has a statutory duty to collaborate, and that the Secretary of State has a statutory power to compel or direct such collaboration where they consider this appropriate. The recommendation set out in section 2 above mitigates these risks.

An element of risk remains for the PFCC however, in that the national collaborative approach adopted via BlueLight Commercial necessarily means that individual PCCs and Chief Constables will have less direct control and / or direct contractual arrangements with suppliers, and will be reliant on the company to carry out its collaborative procurement role and contract management functions appropriately. There is limited redress or protection for the PCCs and Chief Constables if BlueLight Commercial fails to do so however, given that its members are public sector commissioners, it is anticipated that it will be in all parties' interests to make these arrangements work. Accountability for this will be exercised via the governance arrangements set out in the agreement and at section 13 below.

In addition, it should be noted that BlueLight Commercial's Articles of Association vest responsibility for directing the company in the hands of a few PCCs nominated by the membership to represent the interests of all. If members become dissatisfied with how they are represented, they may nominate alternative Directors.

13. Governance Boards

PCCs agreed to the establishment of a police commercial organisation, now named BlueLight Commercial Limited, at the October 2019 General Meeting of the Association of Police and Crime Commissioners (APCC).

BlueLight Commercial is a not for profit company wholly owned by PCCs and governed by the BLC Board, which meets at least quarterly to provide overall strategic oversight and direction to the company. The Board consists of the following Directors:

- Five Police and Crime Commissioners (PCCs);
- One representative appointed by the National Police Chiefs Council (NPCC);
- One Chief Constable;
- One representative of the Finance Co-Ordinating Committee of the NPCC, and
- One Independent Non-Executive Director

The Board has final determination on all matters, including as to how disputes are determined, and decisions taken by the Board are binding on all parties to the agreement. However, no proposal relating to the company's budget, finances or strategy is to be voted on unless PCC Directors constitute a majority of the Directors present and eligible to vote at the relevant meeting of the Board.

Sub-boards relating to particular procurements may be established by the BLC Board as required.

PCCs may attend the Annual General Meeting of the company in their capacity as members of BlueLight Commercial, or else may nominate a delegate or proxy to attend on their behalf.

14. Background papers

Appendix 1 – Customer Agreement between BlueLight Commercial Limited and Customers

Background paper – Decision report 041/2020- BlueLight Commercial Limited

Report Approval

The report will be signed off by the PFCC Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.


Chief Executive / M.O.

Sign: 

Print: P. Brent-Isherwood

Date: 4 March 2021

Chief Finance Officer / Treasurer

Sign: .....

Print: Julia Berry.....

Date: 4 March 2021.....

Publication

Is the report for publication?

YES

NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

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.....N/A.....

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES
NO

2. Of Appendix? YES
NO

If 'YES', please provide details of required redaction:

.....
.....N/A.....

Date redaction carried out:

Treasurer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

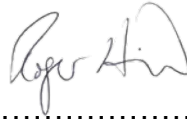
Sign:

Print:

Chief Executive/Treasurer

Decision and Final Sign Off

I agree the recommendations to this report:



Sign:

Print: ROGER HIRST

PFCC/Deputy PFCC

Date signed: 8th March 2021

I do not agree the recommendations to this report because:

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Sign:

Print:

PFCC/Deputy PFCC

Date signed: