

PFCC Decision Report

Report reference number: 050/2021
Classification: Not protectively marked
Title of report: BlueLight Commercial Limited – Customer Agreement and Fleet Sub-Agreement
Area of county / stakeholders affected: Countywide
Report by: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)
Date of report: 24 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 Fleet Sub-Agreement with BlueLight Commercial Limited, attached as Appendix 1 to this report.

2. Recommendations

That the PFCC enters into the Fleet Sub-Agreement with BlueLight Commercial Limited, attached as Appendix 1 to this report.

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 are to:

- Deliver 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).

The side letter to the overarching Customer Agreement that the PFCC has already signed (attached at Appendix 2) confirms that BlueLight Commercial Limited will work with the policing bodies, chief officers and other bluelight organisations to determine the most efficient, effective and lawful procurement and contractual route for each procurement. In the case of fleet procurement, the award of the call-off contracts by BlueLight Commercial will remove the need for individual force procurement teams to issue their own contractual documentation. Instead, they will simply raise a purchase order with suppliers.

4. Background and proposal

BlueLight Commercial Limited is a new national model for police procurement and commercial functions. On 18 March 2020, through decision 041/2020, the PFCC applied to become a member of BlueLight Commercial. Further to this, on 2 April 2020, via decision 044/2020, the PFCC confirmed their commitment to participating in a national fleet procurement exercise conducted by BlueLight Commercial by signing a Statement of Intent.

On 8 March 2021, through decision 032/2021, the PFCC entered into BlueLight Commercial Limited's overarching Customer Agreement. In doing so, it was clear that any specific procurement or project activity that is entered into will be governed by a separate sub-agreement which the parties wishing to participate will need to sign up to. The Fleet Sub-Agreement now attached at Appendix 1 sets out the detailed arrangements and process whereby forces will purchase vehicles once the call-off contracts are awarded under the national fleet procurement conducted by BlueLight Commercial. The terms of this Sub-Agreement take precedence over the Customer Agreement already signed.

Following circulation of an initial draft in December 2020, the Fleet Sub-Agreement has been amended and re-drafted in collaboration with the National Association of Police Fleet Managers (NAPFM) - which sets national standards and engages with the National Police Chiefs Council (NPCC) in respect of national fleet requirements and issues - and the Association of Policing and Crime Chief Executives (APACCE) Legal and Governance Sub-Group. Approval is required from all forces in order to permit completion of the procurement process conducted by BlueLight Commercial in partnership with the NAPFM.

The requirement submitted by participating forces will be for their anticipated fleet vehicle requirements over two years. There will be scope for forces to increase their order requirement if needed, subject to prior agreement with the supplier and BlueLight Commercial Limited. This does not commit forces to using BlueLight Commercial for any further vehicle purchase requirements.

5. Alternative options considered and rejected

The PFCC could chose to procure fleet for Essex Police outside of the proposed new national contracting arrangements. This approach is not recommended as it would not deliver benefits in terms of efficiencies and economies of scale comparable with those set out in decision report 044/2020. The PFCC would also need to balance any such decision against their statutory duty to collaborate and the Secretary of State's statutory power to compel or direct this where they consider appropriate.

6. Police and Crime Plan

The Police and Crime Plan sets out a clear commitment to delivering efficiencies by working more closely with other police forces. The proposal also aligns with the wider 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 advised that the national procurement of fleet makes "absolute sense" in terms of aggregating forces' collective buying power, and that neither he nor the Strategic Procurement Governance Board have any concerns regarding this.

Purchase of the vehicles will be overseen locally by Fleet Managers to ensure that demand is managed effectively, service levels remain consistent and supply is equitable across the country.

Confirmation was received from the Chief Constable's office on 18 March 2021 that he is content to sign the sub-agreement attached at Appendix 1 on behalf of the force.

8. Financial implications

Each force that has entered into the BlueLight Commercial Customer Agreement and the Fleet Sub-Agreement attached at Appendix 1 will utilise the Crown Commercial Service (CCS) Vehicle Purchase Framework Agreement RM6060 to purchase the number and type of fleet vehicles it requires, acting through BlueLight Commercial as its agent. BLC is running a mini competition under the framework on the basis of the requirements of forces and will enter into call-off contracts with each supplier appointed for the various lots on behalf of, and for the benefit of, the forces.

9. Legal implications

Having taken legal advice on the initial draft of the Fleet Sub-Agreement, the PFCC wrote to the PCC for Kent, as the Chair of the BLC Board, on 25 January 2021 seeking clarity regarding:

- How the forces needing to place purchase orders fits with the call-off process;
- What PCCs may be liable to pay the MPS for the provision of vehicle testing services;
- The extent to which PCCs and forces will have a direct contractual relationship with vehicle suppliers, and
- Requirements in relation to payment and delivery.

BlueLight Commercial's Legal Commercial Services Director responded to the PFCC as follows:

- BlueLight Commercial is the contracting authority and will be entering into the fleet call-off contracts. Once the call-off contracts are in place, forces will raise purchase orders to buy the number and type of vehicles they require in accordance with the terms of those contracts.
- The NAPFM is covering the costs of MPS testing.
- The extent to which PCCs and forces will have a direct contractual relationship with vehicle suppliers has been clarified in the revised Sub-Agreement attached at Appendix 1.
- Each force will need to follow the process set out in the call-off contract but will retain local control over the ordering of vehicles.

The Association of Policing and Crime Chief Executives (APACCE) Legal and Governance Sub-Group previously raised concerns with BlueLight Commercial's lawyers relating to:

- The content of (and indeed the need for) the Customer Agreement;
- The lawfulness for police services of the fleet procurement route that BlueLight Commercial Limited has used;
- The proposed contractual arrangements between police services, BlueLight Commercial Limited and the relevant fleet suppliers, and
- Whether, in the light of the above, BlueLight Commercial Limited's Articles require updating.

The Sub-Group has since undertaken extensive discussions with BlueLight Commercial Limited and has confirmed that:

- It is satisfied with regard to the need for a Customer Agreement and the content of it, which should be read in conjunction with the side letter attached at Appendix 2.
- As per the terms of the Customer Agreement, an annual review will be undertaken of the agreement in March 2022, and the Sub-Group will remain engaged with BlueLight Commercial to ensure that any changes required as a result of this are adopted as necessary.
- The concerns it raised regarding the structure of the fleet procurement route are to be addressed by the appointment of BlueLight Commercial as an agent of the police services, who wish to use this procurement option for the purposes of the conduct of the procurement, and for entering into call-off contracts with the suppliers appointed under the CCS framework that is being used for this procurement.
- It is content that, as BlueLight Commercial will enter into the call-off contracts with the relevant fleet suppliers as an agent of each participating police service, there will be a direct contractual relationship between police services and the suppliers. As set out earlier in this report, when police services wish to purchase vehicles, they will issue a purchase order to the fleet supplier under the relevant call-off contract.
- It is content that BlueLight Commercial's Articles, as currently drafted, require no further amendment at this time.

- In light of the above, it is able to support the signing of version 2 of the Customer Agreement (which the PFCC approved through decision 032/2021 on 8 March 2021) and version 2 of the Fleet Sub-Agreement attached as Appendix 1 to this report.

10. Staffing implications

There are no staffing implications for the PFCC arising from this report.

11. Equality and Diversity implications

There are no equality and diversity implications arising directly from this report.

12. Risks

There is a risk that the vehicles procured through this route will prove unfit for purpose. To mitigate against this, vehicle specifications have been developed by the NAPFM in consultation with operational colleagues and have been standardised where possible to ensure that the vehicles procured meet the demands of modern policing. The Metropolitan Police Service (MPS) has capability to test and evaluate vehicles against NAPFM standards. The Fleet Sub-Agreement attached at Appendix 1 sets out the testing procedure, providing clarity and transparency in relation to the approach and the associated liability. Negotiations remain ongoing between the NPCC Lead for Fleet and representatives of the MPS regarding the precise method for ensuring equitable sharing of that liability, and forces will be notified of the outcome of those discussions in due course. It should also be noted that the MPS does not warrant that compliant test findings mean vehicles are fit for a force's operational use. The Heads of Fleet for each force will therefore need to undertake their own professional assurance when selecting and operating vehicles as suitable for use.

13. Governance Boards

As set out above, the Seven Force Head of Strategic Procurement has advised that neither he nor the Strategic Procurement Governance Board have any concerns regarding the proposal.

The NAPFM, which represents all the UK's police fleet leads, is the intelligent client and forces' representative for this procurement activity.

14. Background papers

Appendix 1 – Sub-Agreement 1 – Fleet

Appendix 2 – V2 Customer Agreement Side Letter (11 March 2021)

Background papers:

- Decision report 041/2020
- Decision report 044/2020
- Decision report 032/2021

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: 24 March 2021

Chief Finance Officer / Treasurer

Sign: .....

Print: Julia Berry.....

Date: 24 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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.....None.....

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

Date signed: 30 March 2021

I do not agree the recommendations to this report because:

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Sign:

Print:

PFCC/Deputy PFCC

Date signed: