

**Open Report on behalf of Andy Gutherson
Interim Executive Director for Place**

Report to:	Highways and Transport Scrutiny Committee
Date:	29 April 2019
Subject:	TransportConnect – Teckal Company Update

Summary:

This report provides an update on the Council's Teckal Company, Transport Connect Ltd. which was established in July 2017 as an intervention into the market.

Actions Required:

- 1) To consider the attached report on the Teckal Company
- 2) To agree any additional comments to be passed to the Executive Councillor for Highways Transport and IT

1. Background

- 1.1 In April 2016, the Council's Executive Committee considered and approved the establishment of a Teckal Co. wholly owned by the Council and meeting the requirements of Regulation 12 of the Public Contract Regulations 2015 for the purposes of delivering passenger transport services.
- 1.2 The purpose of establishing a Teckal company was primarily to enable the Council to moderate the market for passenger transport services as it faced further significant reductions in market capacity through the loss of a major Special Educational Needs and Disabilities (SEND) and local bus operator, along with increasingly unrealistic tender prices, particularly from operators in a monopolistic position.
- 1.3 Due to paucity of supply, it was not unusual to receive one or zero bids for transport supply tenders, so the Council was at increasing risk of not meeting its statutory obligations for Home to School Transport, particularly in relation to SEND pupils. The provision of supported local bus services like CallConnect were also at risk as retendering exercises failed to secure affordable operator provision.
- 1.4 Despite significant work having been done on operator engagement and market development there was still evidence of a broken market, with the south of the county being most adversely affected.

- 1.5 The then Passenger Transport Unit, created a project team to successfully establish the Teckal Company, assisted by the Council's Legal, Property and Finance Services and with oversight by Assurance Lincolnshire.
- 1.6 Transport Connect Ltd (TCL) was established in July 2016 with a direct award of 27 contracts, the majority of which had been thrown in by Essential Fleet Services, the transport operator that was exiting the market. TUPE transfers of relevant transport crews also took place.

Governance and Management

- 1.7 A Teckal Company is a company (limited by shares or guarantee) for which regulations require that:-
 - a) the council exercises over the company a control which is similar to that which is exercised over its own departments
 - b) more than 80% of its activities must be carried out in performance of tasks entrusted to it by the council; and
 - c) there can be no direct private capital participation in the company.
- 1.8 Where the above conditions are met the award of a contract by the council to such a company falls outside the scope of the procurement rules, so it may receive direct awards.
- 1.9 A robust Members Agreement is in place that details the level of control and decision making required by the Council, in addition to agreements pertaining to the loan and cash flow facilities agreed by the Council's Executive Committee.
- 1.10 The Council's owner representative role is in place and this is undertaken by the Head of Transport Services.
- 1.11 The owner representative attends all Board Meetings for strategic oversight and also delivers operational insight and scrutiny through the officer's commissioning and performance monitoring functions.
- 1.12 Prior to establishment, it was envisaged that a Sub Committee of the Executive would provide a formal governance role and work was undertaken in readiness for this. A Business Units Sub-Committee was subsequently mooted and a number of other options have been presented for consideration by the Head of Legal Services. Determination of a preferred method is awaited.
- 1.13 In the absence of a formal member arrangement, brief updates on the activities and any issues in relation to the company, are provided to the relevant Portfolio Holder for Transport and in periodic updates through the Scrutiny Committee process.
- 1.14 In addition, the owner representative ensures that risks to the Council (see Appendix 2) and the company are identified and acted upon; acts quickly on potential conflicts of interest, seeking advice as necessary; monitors the company's financial and service performance; takes action in the event of any short-comings or under-performance identified and continues to review the company's delivery arrangements to ensure that the best use is made of

resources, that clear company governance is in place and that it continues to contribute to the Council's aims. LCC Finance and Legal representatives also provide relevant support and input into this scrutiny.

- 1.15 During the establishment process, Assurance Lincolnshire provided advice and produced a series of advice sheets. Assurance Lincolnshire is currently reviewing the on-going Teckal company arrangements as part of its rolling programme of audits and assurance checks.
- 1.16 TCL is also subject to operator compliance checks by LCC Transport Inspectors. This has seen audits of office systems, policies and procedures, ongoing DBS checks, vehicle inspections, driver training and both planned and unannounced operational surveys.
- 1.17 The Company has formal contract management and operator liaison meetings with relevant contract managers in relation to the contracts delivered including One School One Provider (OSOP) undertakings.
- 1.18 The Company has commissioned its own external audit by the Fleet Transport Association to audit its processes and procedures in relation to compliance of O' Licence regulations and requirements.
- 1.19 As a new transport company TCL has been subject to two formal industry audits by the DVSA.
- 1.20 All internal and external audits and compliance checks have been positive and showed the company to be adopting a compliant, professional and caring service.
- 1.21 Findings from recent surveys conducted in relation to the OSOP contracts operated by TCL into Boston John Fielding, Grantham Sandon and Spalding Priory Schools showed the following excellent results:

<i>John Fielding School, Boston</i>	Good	Very Good	Excellent
Satisfaction with Driver/PA service delivery	4%	4%	92%
Overall Satisfaction with the service provided by TCL		6%	94%
<i>Sandon School, Grantham</i>			
Satisfaction with Driver/PA service delivery		6%	94%
Overall Satisfaction with the service provided by TCL		12%	88%
<i>Priory School, Spalding</i>			
Satisfaction with Driver/PA service delivery		5%	95%
Overall Satisfaction with the service provided by TCL		9%	91%

Company Arrangements

- 1.22 Until recently the Company's Board has consisted of Howard Rowbotham (MD), and Non-Executive Directors David Harrison (Transport Specialist) and Richard Wills (Chairman & Formerly Director of Environment &

Economy). As the company has seen sizeable expansion, from 1st April 2019 two further non-executive directors joined the Board, Nicole Hilton (Assistant Director for Communities & Place) and Howard Gannaway (Independent Consultant).

- 1.23 The directors bring in expertise and knowledge from public, private and third sector organisations, offering insights, acumen and potential healthy challenge for all the necessary, professional and commercial activities of the business. All Directors are covered by Director Liability Insurance.
- 1.24 Insurance, Legal, HR, Finance and Accounting Services are all bought in by the company. The Company's legal support provides the necessary Company Secretary services. The Company's accounting year has been aligned to LCC's and their Accountants support the production and submission of annual accounts to Companies House. All information is shared with and open to the Council for inspection.
- 1.25 In the main, TCL's commissions have continued to be for plugging the gaps in CallConnect and Special Needs transport where the tendering processes have failed to find a supplier or affordable solution. It should be recognised that this has required the Company to expand at a pace and in a direction that it may not have taken were it acting purely in a commercial capacity.
- 1.26 Given the drivers for establishing the company were to address failings in the market and to bolster the available resource on which the Council could call to meet transport demands, the financing of the contracts performed by TCL to date have not been based on maximising profit for the company but instead maximising the cost avoidance for the council. As a consequence the Company is yet to make any profit.
- 1.27 To avoid any conflict with State Aid in relation to the Company's freedom to undertake up to 20% non-LCC commissioned work, the company is established and financed through market rate interest payable loans and rolling credit agreements. Appendix 3 provides more detailed financial information.
- 1.28 In the Company's first year of operation (2016/17) TCL had a turnover of £910k with an operating deficit of £110k. In 2017/18 it achieved a turnover of £2.2M with a deficit of £63k and it is expected that at the end of 2018/19 the Company will have made a small surplus for the year against its £2.8M turnover. Going forward, the objectives of the business to provide intervention in and moderation of the passenger transport market will continue. The strategic business plan for the next few years also sees the company continuing to work towards making the company more solvent and financially independent.
- 1.29 TCL's management structure is lean and the company have made a concerted effort to reduce overheads and running costs since commencing trading. This has been hampered somewhat by the loss of its workshop facility following a fire on the 17th June 2017. The rebuild of the workshop is still not completed and the company continues to outsource maintenance

work they could be performing themselves. The time taken to make good the workshop is considered excessive and representation have been made to the landlord LCC Property Services. A further electrical fire affecting the office building occurred in January of this year, presented further disruption and the need for more temporary arrangements. The staff is to be commended for working in very difficult circumstances.

1.30 The Company now employs 127 staff, operates 66 vehicles from 4 depots (Barrowby, Boston, Spalding and Ketton) and currently performs 23 contracts including 3 volume SEND (OSOP) contracts.

1.31 Appendix 1 provides a briefing report from the perspective of the Teckal Company Board.

Market Impact

1.32 The passenger transport market continues to see unprecedented volumes of change which has seen rationalisation and loss of many commercial bus services within the county. The public passenger transport network has seen over 120 registrations to amend or cancel services in the last six months alone. The PSV market has gained one SME but lost a further four and we have seen only one small scale entrant into the Specialist Transport market over the period since TCL was established.

1.33 Bid analysis showed some evidence of operators reducing OSOP tender prices for repeat tenders. TCL has bid for and being awarded contracts as the lowest and equally as important, the only bidder in quite a few cases.

1.34 A report from the perspective of the Teckal company is enclosed as Appendix 1.

2. Conclusion

As intended, intervention in the market through the creation of a Teckal Company is providing a mechanism for market moderation in areas of low competition and where high contract prices are existent elsewhere in the county. It is helping to reduce the risk of non-delivery of statutory home to school provision and to provide a safety net of rural bus services for fare paying passengers. It is providing LCC with some leverage and flexibility to utilise vehicles more efficiently across multiple passenger transport contracts and it is producing demonstrable cost reductions for the authority.

3. Consultation

a) Have Risks and Impact Analysis been carried out??

No

b) Risks and Impact Analysis

N/A

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Transport Connect Limited - the story so far
Appendix B	Extract of risk register
Appendix C	EXEMPT (NOTE: Appendix D to this report contains exempt information under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, and discussion of this information could result in the exclusion of the press and public)

5. Background Papers

Document title	Where the document can be viewed
Exempt Report to the Executive Committee, Passenger Transport Market Moderation, 05/04/16	Democratic Services

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