

OFFICER DECISION

Decision: Dial & Ride				
Decision Date: 13 March 2024				
Type of Decision: Director		Key	Non-Key	X
Portfolio Area that decision relates to:				
Leader (inc Corporate Services, Policy, Strategy & Partnerships)		Environment and Climate Emergency		
Economy & Transport	X	Finance, Performance, Major Projects & Equalities		
Children, Young People and Education		Children, Young People & Education		
Health, Wellbeing and Adults Social Care		Housing, Planning & Safer Communities		
Background / Decision Summary:				
<p>At the end of December 2023, local community transport York Wheels Limited (“YW”) took the difficult decision to cease their ‘Dial & Ride’ service due to severe reliability issues with the two new minibuses (“the Vehicles”) purchased by YW using capital grant funding provided by City of York Council (CYC) to YW pursuant to the Dial & Ride Capital Grant Funding Agreement entered into between CYC and YW on 20th October 2022 (“the Capital Funding Agreement”).</p> <p>YW say they cannot continue with the Dial & Ride operation due to the material risk it poses to their ongoing financial viability.</p> <p>Pursuant to the Capital Funding Agreement, ownership of one older 2015-registered vehicle (registration number SF65 APV) was transferred by CYC to YW.</p> <p>One of the 2 new Vehicles has been off the road awaiting replacement parts since spring 2023. The vehicle manufacturer (“Mellor”)’s parent company, WN V-Tech Limited (company no. 04747125), was placed into administration and its coachbuilding assets sold off to the Belgian-owned Dumarey Group in December 2023 and reformed as a new entity (Mellor Bus Limited, company no 14729062). The new business entity appears to hold no liability for products manufactured under the previous ownership, severely hampering the ability of YW or CYC to get them back in roadworthy condition or claim restitution for any resultant financial losses.</p>				

The chassis/engine manufacturer, Fiat, is liable for any warranty repairs to the engine, chassis and running gear, however they have been unable to provide a clear date by which the required replacement parts might be available.

YW advised that they were unable to continue to wait for repairs as they would be at severe risk of becoming insolvent by the time the vehicles were fit for service again, and requested that CYC take ownership of SJ72 HJF & SJ23 HZX in lieu of the Capital Grant funding provided in 2023.

It is the opinion of officers that retaining vehicles in CYC's ownership and awaiting warranty repair work is not a desirable solution given the scale of the manufacturing issues identified to date.

It is therefore recommended that both of the 2 new Vehicles (i.e. the two new minibuses with vehicle registration numbers SJ72 HJF & SJ23 HZX but not 2015 bus vehicle registration number SF65 APV) be sold at auction on an "as-is" basis in their current condition, and that the Dial & Ride agreements between CYC and YW be formally terminated with no financial penalties. CYC's fleet services team has confirmed that they are able to make the necessary arrangements for sale of the vehicles at auction.

YW have indicated that they have a continued use for 2015 bus vehicle registration number SF65 APV, which is in roadworthy condition but of relatively low capital asset value. It is proposed that this vehicle remains in YW's ownership.

The amount of funding provided by CYC to YW pursuant to the Capital Funding Agreement was £190,000.

The combined purchase price of the Vehicles (registration numbers SJ72HWF and SJ23HZX) was £190,000 ("Purchase Price Amount").

The proportion of the Purchase Price Amount therefore:

- (i) Funded by CYC was 100%;
- (ii) Funded by YW was 0%

Clause 8.10 of the Capital Funding Agreement (CGFA) states that the Grant Recipient (YW) must not before the end of the 'Depreciation Period' [as defined in clause 1 – the Depreciation Period has not yet ended] sell, dispose of...'any Vehicles' [for the purposes of the CGFA 'Vehicle(s)' appears to mean the two new minibuses that were to be purchased by YW using the Capital Grant Funding but excluding vehicle registration number SF65 APV] without the prior written consent of the Council.

Where the Grant Recipient sells any Vehicles before the end of the Depreciation Period, the Recipient must use its best endeavours to achieve the full market price

for the Vehicles, and must pay to the Council a proportion of the proceeds of such sale, equivalent to the proportion of the purchase costs of the Vehicles that was funded by the Grant, provided that the Council may at its absolute discretion allow the Grant Recipient to keep all or a part of the relevant proceeds where:

- the sale of the Vehicles takes place after the end of the Depreciation Period;
- the proceeds of sale are to be applied directly to the purchase by the Grant Recipient of vehicles that are equivalent to or replacements for the Vehicles;
or
- the Council is otherwise satisfied that the Grant Recipient will apply those proceeds for purposes related to the Project or related activities that benefit the City of York Area.

It is therefore proposed that any net proceeds of sale resulting from any disposal by YW (or by CYC on YW's behalf) of the Vehicles will belong solely to, and be retained wholly by, CYC.

CYC's Legal Services team will need to be consulted with in order to ensure the Dial & Ride Capital & Revenue Agreements and the Licence to Occupy in relation to car parking spaces at Hazel Court Depot for the Dial & Ride Vehicles are properly terminated in accordance with their terms and conditions, and to ensure any unspent grant monies or monies realized from any disposal of the 2 Vehicles are returned to CYC, and to ensure both parties are properly released from any liability under the current agreements going forward.

Further advice on any requirements upon termination with the Dial & Ride Capital & Revenue Agreements must also be obtained from Legal Services before proceeding with this option, as well as advice from other relevant departments (e.g., HR and Finance in respect of any TUPE/Pension related issues in relation to the transfer of any York Wheels staff to CYC).

Options Considered:

a) To formally terminate the Dial & Ride operating arrangements with York Wheels, dispose of the 2 new Vehicles (with ownership of vehicle registration number SF65 APV to remain with YW) and consider options for the resulting capital and revenue funding, by:

- CYC taking back ownership from YW of non-roadworthy vehicle assets SJ72HWF and SJ23HZX before CYC then arranges disposal of both of those vehicles at auction, with a further decision on how to use the resulting funds.
- YW to retain ownership of one older vehicle, SF65APV, with no further obligations on either party.
- Cover any admin, insurance, or tax costs to YW which directly result from the delay to the decision regarding the above vehicles being sold.

- Instructing CYC's Legal Services team to terminate the Dial & Ride capital & revenue agreements with YW, along with the Licence to Occupy agreement for parking by YW of vehicles at Hazel Court.
- Instructing CYC's Public Transport team to produce a paper detailing future option for the use of the unspent Dial & Ride revenue budget.

b) As above, but for CYC to instead retain ownership of vehicle registration numbers SJ72HWF and SJ23HZX (after taking back ownership thereof from YW) rather than those vehicles being disposed of.

Options Rejected:

b) To retain the vehicles in CYC's ownership.

Consultation Process:

Detailed discussions have been held between CYC Transport officers, YW's management and trustees, CYC's fleet services management and Cllrs. Kilbane, Fenton and Steward.

A task and finish group has been set up by the Economy, Place, Access & Transport (EPAT) Scrutiny Committee, which will suggest options for a future Dial & Ride service replacement.

Implications

Crime & Disorder		Equalities		Highways	
Human Resources		Legal	X	ICT	
Financial		Affordability		Property	X
Climate Change		Health		Other	
Environment		Human Rights			

Implications Contact:

Dan Moynihan and
Gerry Allen

Level of Risk: Low

Wards Affected:

All Wards	X	Fishergate		Holgate		Rural West York	
Acomb		Fulford & Heslington		Hull Road		Strensall	
Bishopthorpe		Guildhall		Huntington & New Earswick		Westfield	
Clifton		Haxby & Wigginton		Micklegate		Wheldrake	
Copmanthorpe		Heworth		Osbalwick & Derwent			

Dringhouses & Woodthorpe		Heworth Without		Rawcliffe & Clifton		
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Comments/Observations:

Decision: To formally terminate the Dial & Ride operating arrangements with York Wheels, dispose of vehicles and consider options for the resulting capital and revenue funding.

Decision Made by: James Gilchrist, Director of Transport, Environment and Planning in consultation with Executive Member for Transport and Economy.

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On behalf of: Neil Ferris, Corporate Director of Place

To be implemented by: Sam Fryers

On Completion – Signed off by:

Date: 13.03.24



James Gilchrist