

Argyll Air Services PSO Tender

1.0 EXECUTIVE SUMMARY

- 1.1 The current contract for the provision of Air Services between Oban and the Islands of Coll, Colonsay and Tiree is operated by Hebridean Air Services Ltd (HASL) on behalf of the Council at a cost of £720,756 per annum. This contract will expire on 15 May 2019 and flights cannot currently be booked beyond this date.
- 1.2 Following a non-compliant single tender submission for the next Argyll Air Services Public Service Obligation (PSO) contract, the procurement had to be abandoned. Given the delay in securing a new operator there is now a risk of a break in service from one contract finishing to the next starting.
- 1.3 It is proposed to retender the Argyll Air Services PSO contract applying the minimum timescale possible, within the rules under the European Commission (EC) which apply to PSO air services. The timetable for the retender of the PSO contract has been programmed with invitation to tender now planned for the end of Feb 2019 and contract award proposed 28th June 2019.
- 1.4 The Council have been advised by Transport Scotland that permission by the European Commission (EC) will not be granted to extend the current contract temporarily as there is no legal authority to do so. If the Council is found to have breached state aid rules the operator would have to repay any subsidy with interest.

Strategic Transportation have made the operator aware of the above EC implication and the operator has advised that they would require an indemnity ensuring that they are not liable for this penalty.

- 1.5 It is not possible to provide the indemnity sought as to do so would fail to give effect to any direction by the EC and would itself constitute state aid. Given that the operator will not take on the legal risk of breaching EC regulations and would seek to transfer this risk to the Council it is considered impossible for the Council to extend the current PSO contract.

- 1.6 It should be noted it is proposed to retender the Argyll Air Services PSO contract applying the minimum timescale possible, within the rules under the EC which apply to PSO air services.
- 1.7 The Group is asked to note that it is not legally possible to extend the existing air services contract.