

Delegated Decision report



31 January 2023

EXTENSION OF CLEAR CHANNEL CONTRACT

Name of Cabinet Member	Councillor Paul Trendall (Interim Cabinet Member for Public Realm)
Report sponsor	Stuart Proffitt Director of Public Realm
Report author	Graham Cox Head of Highways and Transportation Graham.Cox@milton-keynes.gov.uk

Exempt / confidential / not for publication	Yes (Paragraph 3 (Information relating to the Financial or Business Affairs of the Authority) of Part I of Schedule 12A of the Local Government Act 1972)
Council Plan reference	Not in Council Plan
Wards affected	All wards

Executive summary

Following a formal tendering process in 2016, MKCC awarded a concessionary contract to Clear Channel Ltd on 8 February 2016 for advertising on the bus shelters and free-standing digital screen units across Milton Keynes in a number of key locations.

The initial contract was for a seven-year period with the option to extend for a further 3 years, up to a ten years (maximum) duration.

The contract was structured in such a way as to ensure that each quarter MKCC receives a fixed amount in rental income from the agreed units and receives a further percentage of the overall revenue generated from the advertising space sold (an open-book revenue share).

This has proved successful to date, giving a guaranteed base income (fixed rental charges) and a good, strong additional income from the revenue share.

The initial 7-year contract period is set to end on 7 February 2023. This report seeks to recommend the activation of the permitted 3-year extension, maintaining the current model and also develop potential new locations, giving financial stability to the budgetary position of this sponsorship income.

1. Proposed Decision/s

- 1.1 That the press and public be excluded by virtue of Paragraph 3 (Information relating to the Financial or Business Affairs of the Authority) of Part I of Schedule 12A of the Local Government Act 1972.
- 1.2 That the contract with Clear Channel, be extended up to 7 February 2026, in line with the existing contractual agreement.
- 1.3 That associated advertising infrastructure be amended in line with the existing contractual agreement and to include up to eight new free standing unit sites, subject to planning consent being given.
- 1.4 That authority be delegated to the Director Environment and Property to agree non-material changes to the contract as may be required, in consultation with the Director of Finance and Resources and Director of Law and Governance.

2. Why is the decision needed?

- 2.1 The contract was awarded in 2016 and included the option to extend up to a maximum of 10 years for the total term. The formal decision to extend for 3 years will have material impact on the council's budgetary position.
- 2.2 The contractor has met all the conditions set out in the contract for an extension to be given.
- 2.3 The rent and revenue share income are a source of income for MKCC and an extension with additional sites could increase this, whilst also rationalising the existing advertising infrastructure.
- 2.4 The additional 3-year period will be utilised to further develop the sponsorship 'offer' ahead of a retendering process that will commence in 2025.

3. Implications of the decision

Financial	Y	Human rights, equalities, diversity	N
Legal	Y	Policies or Council Plan	N
Communication	Y	Procurement	Y
Energy Efficiency	N	Workforce	N

a) Financial implications

The contract includes both a fixed sum payable to MKCC for the sites and a percentage share of the revenue that the contractor receives from those businesses advertising at the sites, therefore the actual revenue share is variable.

The financial implications of this contract are included in Annex A (confidential). This contract extension is likely to result in income greater than budget in the next 3 years. As such, the MTFP can be updated during the next budget setting stage.

b) Legal implications

The original contract provides for an extension of up to 36 months (3 years). The request to extend is therefore compliant with procurement law and MKCC procurement rules. The extension has to be effected before the expiry of the initial term of contract on 7 February 2023. The contract also permits the inclusion of additional new advertisement sites as may be agreed by the parties and therefore the request under 1.2 of the decision section if granted would remain compliant with procurement law. The extension of contract and variation as detailed in this report will need to comply with any variation provisions as detailed in the contract.

c) Other implications

Not extending the contract in line with the contractual agreement would mean potentially losing a significant revenue stream for several months whilst a new tender procurement exercise was undertaken.

4. Alternatives

4.1 Do nothing

This would result in the contract finishing after the initial seven years has passed and Clear Channel would need to remove all infrastructure. There would be a significant loss of income to MKCC.

4.2 Extend for 12 or 24 months

For commercial reasons this is not suitable for Clear Channel as it does not provide enough time to receive enough return on their investment or to apply and install eight new units, and it therefore unlikely that they agree to this duration of extension

4.3 Extend for full three years up to 10

This is the preferred option as it gives Clear Channel enough time to implement their commercial objectives. It also gives MKCC time to plan for the next contract and reassess the available assets in the public realm whilst securing revenue.

5. Timetable for implementation

5.1 7 November 2022, Clear Channel notified in writing of the intention to extend the contract as per the terms of the agreement and advised it is subject to MKCC internal governance.

5.2 If approved, Clear Channel will be notified of the decision and that the contract will terminate as stated by 7 February 2026.

5.3 Any approved new sites will be added as an appendix to the contract including an increase to the rent amount. Any additional revenue will also be subject to inclusion in the quarterly financial figures of which the share will be calculated for invoicing.

List of annexes

Annex A – Rent and Revenue Share (Confidential)

List of background papers – None

N/A