

Committee Name and Date of Committee Meeting

Cabinet – 18 October 2021

Report Title

Renewal of the “Transport for Children, Young People and Vulnerable Adults”
Contractor Framework

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The Council’s Transport Services, part of the Regeneration and Environment Directorate, currently has a statutory obligation to provide daily transport between home and school for more than 760 children, however this figure changes constantly and continues to increase year on year. The Council also currently facilitates journeys for 52 adults in order for them to attend day centre provision and provides transport to support the discharge and transfer of adults into adult care provision. Much of this transport is currently delivered through external contract arrangements.

The existing contractor framework was introduced in April 2017 and expired on 18th April 2021. The contract was extended due to Covid-19 to 31st August 2022, and the contract period was brought in line with the academic year.

The Council is therefore required to reprocure the external provision and proposes to use a Dynamic Purchasing System (DPS) going forward to improve the quality of the service, drive innovation and, importantly, increase competition and reduce costs. Should Cabinet agree the approach the new arrangement will be in place from September 2022.

Recommendations

1. To approve the re-procurement of the current transport framework using a dynamic purchasing system as detailed at option c.

List of Appendices Included

Appendix 1 Equality Impact Assessment Parts A and B
Appendix 2 Carbon Impact Assessment

Background Papers

Rotherham Metropolitan Borough Council Home to School Transport Policy: [School transport – Rotherham Metropolitan Borough Council](#).

Department for Education Statutory Guidance for Home to School Transport: [Department for Education \(publishing.service.gov.uk\)](#).

[The Public Contracts Regulations 2015 \(legislation.gov.uk\)](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

N/A

Council Approval Required

No

Exempt from the Press and Public

No

Renewal of the “Transport for Children, Young People and Vulnerable Adults” Contractor Framework

1. Background

- 1.1 The Council’s Transport Services, part of the Regeneration and Environment Directorate, has a statutory obligation to provide daily transport between home and school for more than 760 children however this figure changes constantly and continues to increase year on year.
- 1.2 In addition to statutory Home to School (H2S) services, the Council currently uses contracted external transport providers to fulfil transport requests for Looked After Children (LAC), Adult Social Care and for other ad-hoc journeys across the Borough and beyond. The Council currently provides transport for 52 adults in order for them to attend day centre provision and, in addition, supports the discharge and transfer of adults from hospitals or private residences into adult care provision.
- 1.3 Once assessed by Children’s and Young People’s Services (CYPS) children with an Education, Health and Care Plan (EHCP) citing Special Educational Needs and/or Disabilities (SEND) are eligible for transport provision under the Council’s Home to School Policy (H2S).
- 1.4 The Council’s current H2S policy was agreed by Cabinet in March 2018 and fully reflects Government statutory guidance, which states that local authorities are required to arrange transport for children, who cannot reasonably be expected to walk to school, with mobility problems, and/or associated health and safety concerns relating to special educational needs or disabilities.
- 1.5 Operating an in-house fleet of 25 minibuses and employing 51 drivers and passenger assistants, the Transport Services team are directly responsible for transporting 158 of the 760 children currently eligible under the Policy. The remaining 512 children, travel on external contracted provision that consists of taxis and community minibuses from 28 local suppliers.
- 1.6 In February 2020, Council agreed to allocate an additional £1.1m of revenue funding for 2020/21 and a further £200k for the 2021/22 financial year. This increased the budgeted provision for the transport service to £4.2m. However, the service is reporting an additional budget pressure of £900k in 2021/22, bringing the total expenditure on contracted services to around £5.1m.
- 1.7 The number of eligible children continues to track upwards, with around 80 additional children having entered the service in the September 2021 school term. Changes to the Policy in 2018 introduced the choice of Personal Travel Budgets for parents and carers. This policy was designed to reimburse parents and carers for transporting children themselves and therefore deliver a budget saving. The original budget saving set a target of 69 children to move to personal travel budgets, delivering a saving of £162k per annum. The table below shows the increasing number of young people receiving

personal travel budgets:

	2018/2019	2019/2020	2020/2021
School age	36	42	94
Post 16	10	13	23
Post 19	2	10	7
TOTAL	48	65	124

- 1.8 However, whilst 124 children are now in receipt of personal travel budgets, and the target has been achieved and surpassed, the level of cashable savings that were expected have not been achieved. This is largely due to the majority of the children being removed from minibuses, rather than individual provision, where no cashable saving can be achieved until the full route is reviewed.

2. Key Issues

- 2.1 The existing contractor framework was introduced in April 2017 and expired on 18th April 2021. However due to the complexities of undertaking a consultation and procurement procedure during the Covid-19 pandemic, a modification to the framework was approved in accordance with Regulation 72 of the Public Contracts Regulations 2015 (as amended.) This extended the contract term to 31st August 2022 as it was also deemed appropriate to bring the contract in line with the academic year.
- 2.2 The renewal of this contract is subject to the, “Public Contract Regulations 2015” (“as amended”) and falls within the scope of services defined as Social and Other Specific Services” (SOSS) also known as “The Light Touch Regime”. The Light Touch Regime requires public bodies to undertake a transparent, fair, and competitive process, but affords more flexibility in the design of the procurement method and the execution of the resulting agreement. This is of critical importance for this service considering:
- a) The need to involve and empower users of the service.
 - b) The specific needs of different categories of users, including disadvantaged and vulnerable groups.
 - c) The need to ensure quality, continuity, accessibility, affordability, availability, and comprehensiveness of the services.
 - d) The need to explore future innovations in terms of how services are delivered.

- 2.3 The current contract arrangement was awarded following a 'Standard open above EU Threshold' tender process that established a framework of suppliers to deliver services for the maximum permitted term of 4 years. This standard framework does not permit new contractors to be added throughout the term and is therefore inflexible and results in reduced availability and diminished competition, as demand on Transport Services increases.
- 2.4 Any additional routes throughout the term have been offered to the fixed list of operators, which has now reduced from 34 to 28 due to retirement and poor performance, with no opportunity to seek value for money through new healthy competition. The current low number of contractors means that transport rates are increasing due to a lack of competition. The service estimates that there are currently around 80 providers in the Borough who may wish to express an interest in participating in any new arrangement the Council may award. Competition in the marketplace could therefore be very good.
- 2.5 The 2017 procurement exercise saw a limited number of contractors participating in the bidding for transport routes. This was partially due to suppliers failing to understand the procurement procedure.
- 2.6 Research has shown that some local authorities have moved from the standard framework agreement approach to a Dynamic Purchasing System (DPS) for transport provision / home to school transport. In the regulations, a DPS is a procurement tool defined as having "*its own procedural requirements*". As the services being procured are classified as SOSS, the Council can adapt some of the requirements from the regulations, and therefore DPSs run under the Light Touch Regime are often referred to as a Pseudo DPS or Flexible Purchasing Systems (FPSs). This highlights to the market the Council are establishing something similar to a DPS, but not mirroring the procedural requirements entirely.
- 2.7 The main advantage of a DPS is the ability to allow suppliers to join at any point, giving wider competition for the Authority and better opportunities for local businesses. In addition, the DPS can exceed the 4-year maximum term available through a framework, giving greater stability to the market.
- 2.8 It is envisaged that implementing a DPS will therefore help to:
- Improve the quality of the service, as suppliers will not be accepted onto the DPS without passing the selection criteria and quality threshold. Suppliers will be encouraged to improve their proposition and re-apply.
 - Combat complacency and drive suppliers to be innovative with new approaches to service delivery, e.g. the use of technology.
 - Reduce cost, with more suppliers being able to bid on routes thus increasing competition throughout the life of the arrangement. This may help offset the rising number of children requiring transport

provision.

- Consider an element of parent/carer choice in deciding the final arrangement for their child's transport provision.

3. Options considered and recommended proposal

3.1 Whilst there are a number of options in terms of the delivery model for the provision of transport in the future this report does not consider those. Whilst there may be an option to deliver further minibus provision via the in-house service, the Council is not currently in a position to deliver the entirety of minibus transport without a third-party option being in place. The Council is also not in a position to deliver an individual transport service, i.e. taxi/private hire. There will therefore be the need for external provision to support service delivery that will require a form of competition in compliance with the Regulations to ensure the full range of transport provision can be delivered.

3.2 There are three potential options in terms of the procurement of transport services:

a) To award fixed routes of the service to specific suppliers using a traditional procurement process.

This approach would reduce the number of suppliers for each aspect of the service, leading to unacceptable risks to the delivery of the service, should suppliers fail or withdraw from the market. This option is not therefore recommended.

b) To reprocure the service using the current 'traditional' framework contract approach.

As outlined in 2.3 and 2.4 above, a standard framework contract does not permit new contractors to be added throughout the term and is therefore inflexible and results in reduced availability and diminished competition, as demand on Transport Services increases. This option is not therefore recommended.

c) To reprocure the service using a DPS arrangement

As described in section 2.6 – 2.8 above, a DPS would allow suppliers to join at any point during the term of the DPS, giving wider competition for the Council and better opportunities for local businesses. In addition, the DPS can exceed the 4-year maximum term available through a framework, giving greater stability to the market. This option is the recommended option.

3.3 Cabinet is therefore recommended to:

- Approve the re-procurement of the current transport framework using a dynamic purchasing system as detailed at option c.

4. Consultation on proposal

- 4.1 The decision within this report is a procurement decision and therefore not subject to public consultation.
- 4.2 The proposed changes to the contract arrangements are likely to result in changes to the contractors providing transport to individuals and this will require significant communications and engagement with parents and carers. Section 13 below describes the approach to communication and engagement that will support the implementation of the new contract in 2022.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The deadline for the implementation of new framework is September 2022.

The project key actions and timescales are as follows:

- October 2021 – Formal Competition to be advertised subject to Cabinet decision.
- March 2022 – Appointments to DPS made.
- April to August 2022 – Mobilisation including communications and engagement with stakeholders.
- September 2022 – DPS commences.

6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)

- 6.1 Budgeted provision for the transport service is £4.2m. The service however is reporting an additional budget pressure of £900k in 2021/22 caused by rising demand for authorised journeys, but also in part by additional journeys arranged to ensure safety under covid social distancing and cost increases as supplier rates climbed in the absence of real competition. This may be mitigated through updating the procurement arrangements that as a consequence may bring about the competition needed. Benchmarking and unit cost analysis is helping to determine where economies are in different forms of provision. This will help with making decisions on more optimal methods of transporting passengers intended to help with cost reduction. Demand continues to increase however and has to be factored in.
- 6.2 The key procurement implications have already been addressed in the main body of this report. The recommended proposal is compliant with the Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)

- 7.1 The main issue under consideration is whether these services fall under the light touch regime or whether they do not fall under that regime.
- 7.2 If these services fall within the light touch regime, the Council can add flexibilities to the DPS to conduct what is called a Pseudo DPS (also known as a Flexible Purchasing Systems (FPS)) described in paragraph 2.6).
- 7.3 The question of whether or not the proposed arrangement falls under the light touch regime depends on the character of these services and the relevant procurement. In the circumstances described, it is considered that these services are best characterised as 'social services' and as such would fall within the light touch regime under CPV code 8532000-8. An alternative view would be to consider the services as Transport Services whereby the Council would not be able to avail itself of the flexibilities of the FPS. However, any such challenge would be of no benefit to an operator and as such the risk of a challenge to the use of the light touch regime would be minimal.
- 7.4 Officers should consult with Legal Services regarding preparation of relevant legal documents.

8. Human Resources Advice and Implications

- 8.1 There are no Human Resources implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 Implementation of a Dynamic Purchasing System (DPS) will allow for a highly personalised and targeted approach to be provided to meet the needs of Children and Young people across transport requirements. The system will also support stronger engagement with stakeholders in identifying client needs within transport planning.
- 9.2 Appropriate updates and changes implemented through any proposed move to the Dynamic Purchasing System (DPS) will need to be effectively communicated internally across CYPS and to stakeholders to maximise positive impact of the developments that the Dynamic Purchasing System (DPS) will have across wider partnership.

10. Equalities and Human Rights Advice and Implications

- 10.1 An Equality Impact Assessment has been carried out in relation to this proposal and can be found at Appendix 1.
- 10.2 This report relates to the contractual arrangements for the delivery of transport services, rather than any change in the policy which dictates the type of transport that is provide. The equality implications are therefore limited to those relating to any change in contract delivery, for example

changes to the specific transport provider for a specific journey. In the main the new procurement approach should be positive in terms of the sustainable provision of home to school transport in the future. However, communications and engagement with parent, carers and other stakeholders will therefore be key during the contract implementation phase (see section 13 below).

11. Implications for CO2 Emissions and Climate Change

11.1 A Carbon Impact Assessment has been undertaken and can be found at Appendix 2. The main impact of the transport service in terms of carbon is via emissions from vehicles. The service is developing performance indicators to monitor the carbon impact of transport services.

11.2 The decision in this report does not increase carbon impact and has the potential to decrease the impact via more efficient and effective transport routes. Where possible contractors will also be encouraged to seek alternative fuel and electric vehicles.

12. Implications for Partners

12.1. There are no specific implications for partners of this report.

13. Risks and Mitigation

13.1 The main risks and challenges for the new procurement process are foreseen to be:

- Communication and engagement with parents and carers and managing any potential changes for service users.
- Explaining the process to suppliers clearly.
- Training applicants to use the procurement portal and ensuring they fully understand how the decision to award routes will be made.

13.2 Effective communication and engagement with all stakeholders will be required to support the change process. Several groups have been identified for specific communication and engagement including:

- Parents / Carers
- Relevant Parent and Carer Forums
- Schools
- Contractors

13.3 In particular the Council will ensure that it takes steps to empower parents and carers to bring forward their ideas to support the move to the new contract arrangements and takes action in response to any suggestions.

13.4 A detailed communications and engagement plan will be developed to support the implementation of the proposal.

14. Accountable Officers

Tom Smith, Assistant Director Community Safety and Streetscene
Karen Mudford, Head of Fleet and Transport Services

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	04/10/21
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	30/09/21
Head of Legal Services (Monitoring Officer)	Stuart Fletcher	30/09/21

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