

## **Cabinet – 21 June 2017**

### **Assisted Transport and Taxi Contract**

**Portfolio:** Councillor A Nawaz, Children's Services and Education

**Related portfolios:**

**Service:** Children's Services

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Summary**

- 1.1 In accordance with the Education Act 1996, the Council has a statutory duty to provide free, safe transport for eligible pupils to attend schools and other learning establishments.
- 1.2 Special Educational Needs (SEN) Home to School Transport is currently procured through a framework agreement which expires on 31 August 2017, with an additional option to extend for up to 12 months to 31 August 2018.
- 1.3 Whilst the current framework has worked satisfactory until this point there are issues with it going forward which is why the full 12 month extension was not taken up. However on 28 February 2017 the Council executed the option to extend the current framework agreement term by 4 months to 31 December 2017 in order to have sufficient time to complete a new procurement process.
- 1.4 The current framework has 40 transport providers of which the Council purchases (Call-offs) from 22 of those providers. The annual spend for Children's Services Home to School Transport is approximately £2.2 million per annum.
- 1.5 The commissioning intention is to procure the 7 service categories (detailed under 3.5) under a Mini Competition via the Councils' e-procurement portal, In-tend. DPS suppliers Mini Competition submissions will be evaluated through a combination of price and quality.
- 1.6 The Council is procuring the services required through a Dynamic Purchasing System (DPS) in accordance with regulation 34 of the Public Contracts Regulations 2015. The DPS is a form of framework agreement, which creates a contractual mechanism for the call off of contracts from approved providers via mini-tender competitions, with the entire system being operated as a completely electronic process.
- 1.7 It is intended to commence the DPS process between July and August 2017 and to subject to it remaining fit for purpose it is proposed to operate for a period of up to 10 years with the option to extend for a further 5 years, up to 15 years in total.

Suppliers who are reapplying or new suppliers may apply to join the DPS at any time during this period. The Council will also be able to terminate the DPS on giving at least 12 months notice in the event that it is deemed necessary to do so.

- 1.8 The DPS is a two stage process. In the first stage all applicants who meet the selection criteria and are not excluded will be admitted to the DPS. During the second stage all suppliers on the DPS will be invited under a mini-competition to bid for and call-off individual Contracts.
- 1.9 Only suppliers awarded a place on the DPS will be considered to provide a Passenger Transport Service. The DPS will remain open for the entire period of its validity and potential suppliers can join the DPS at any time subject to meeting the exclusion and selection criteria. The number of suppliers to be awarded a place on the DPS is unlimited.
- 1.10 Adult Social Care wish to be part of the DPS going forward, so that Contracts can be called off the DPS for adult service users.

## **2 Recommendations**

- 2.1 That cabinet delegate authority to the Executive Director, Children's Services to appoint transport providers to the DPS approved supplier list at the conclusion of this tender in July 2017 and in future when any new provider becomes eligible to join during the life of the Dynamic Purchasing System and any subsequent extension.
- 2.2 That the cabinet delegate authority to the Executive Director, Children's Services to award (or delegate to the Children's Commissioners to award) specific school and route contracts, during the life of the Dynamic Purchasing System and any subsequent extension from 26 July 2017, and to subsequently authorise the sealing of any deeds, contracts or other related documents for such services.

## **3 Report detail**

### Current Framework

- 3.1 The current transport framework was commissioned in August 2014 for 3 years, with the option to extend for up to a further 12 months. The service is funded through the SEN and Disabilities budget but is commissioned and managed by Children's Commissioning Service.
- 3.2 The commissioned service from August 2014 consisted of;
  - Adults Social Care
  - Children's Services
- 3.3 The current annual spend on home to school transport is approximately £2.2 million per annum
- 3.4 Home to school transport currently transports 668 pupils to schools and colleges in Walsall and 98 pupils are transported out of borough.
- 3.5 The current framework has a list of 40 providers ranked through a combined price and quality evaluation score.

- 3.6 The current framework has become inefficient as providers are struggling to retain staff or have no capacity to take on new work throughout the school year. Therefore more expensive providers lower down the ranking are being used resulting in more expensive provision. In addition, at the beginning of the framework there were 6 coach providers which has now reduced to 2 with the result that prices and expenditure have increased, vehicle numbers are limited and it has not been possible to add further providers to the framework. Evidence where DPS has been used in Hampshire County Council and Sandwell Council has shown that increased competitive bidding owing to a larger provider base realises greater value for money.

### New Framework

- 3.7 A new service specification has been developed to commission the best quality service at the most competitive cost. The transport will be split into 7 service categories as follows;
1. Special Schools (Long Term Contract)
  2. Mainstream Schools (in borough) (Short Term Contract)
  3. Out of Borough Schools (Short Term Contract)
  4. Respite (Short Term Contract)
  5. Looked After Children (Adhoc)
  6. Parenting Programmes (Adhoc)
  7. Adult Social care (Adhoc)
- 3.8 SEN Home to School Transport service will manage the process for service categories 1 to 6 (above). Adult Social Care will be able to utilise the framework to find the most effective transportation for the needs of adults.
- 3.9 The individual contracts which are formed with the providers who successfully tender to be included on the DPS will have varying terms dependant on the service category (see 3.7) and will be split into 3 main types as follows;
1. Short term contracts (up to 2 years plus one year)
  2. Long term contracts (up to 4 years plus one year)
  3. Adhoc contracts (these will vary in length depending on demand and need but will generally be for weeks or months rather than years).
- 3.10 In 2016, Home to School Transport service undertook a pilot of CCTV in one of its coaches. The pilot involved conducting a Privacy Impact Assessment to ensure that its use would be compliant with the requirements of the Data Protection Act and the Commissioners CCTV Code of Practice. The service determined that when cameras were in operation it:
- Increased the personal safety of students and staff, and reduced fear of crime / Safeguarding;
  - Supported monitoring and minimised the risk of unauthorised and inappropriate vehicle access;
  - Supported quick and efficient responses to any allegations made about conduct on the vehicle.

As such a requirement for CCTV to be installed and operated is incorporated in the new specification and contract for all coaches and 9 seater and above

minibuses. The procurement documents and specification will confirm that the CCTV provisions must be compliant with Data Protection legislation.

- 3.11 The service specification includes key performance indicators and detail of future monitoring arrangements, including spot checks, monitoring visits and proportionate monitoring reviews to ensure that quality standards are maintained throughout the duration of the contract.
- 3.12 The Council will procure the services through a Dynamic Purchasing System (DPS). DPS is similar in nature to a Framework Agreement except that, under a DPS operators can be admitted to the DPS at any time during its contractual term provided the supplier meets the required criteria. This maximises the number of available providers throughout the term of the DPS, improves competition and enhances capacity.
- 3.13 The use of a DPS will allow for improved and continuous market engagement and development throughout the term of the DPS which may address some of the issues regarding capacity with the current framework arrangements
- 3.14 The nature of the goods and services to be purchased via the DPS will not change in that suppliers will still be required to comply with the relevant legislation and licensing requirements and be required to provide suitably trained staff where appropriate.
- 3.15 A review by Children's Commissioning and Procurement Services identified that a DPS will allow for increased competition among suppliers.
- 3.16 The new framework approach being recommended (via the Dynamic Purchasing System – DPS) should allow approved providers to bid for work, in turn offering more competitive rates / pricing and help deliver greater value for money and a level of cost reductions where appropriate.
- 3.17 Once a route is ready to be tendered, the invitation to tender documentation will be issued to all approved suppliers on the DPS via the Council's electronic tendering site, In-tend, which will be initially be in the form of a mini competition.
- 3.18 Each mini competition will be specific to that individual contract and will comprise but will not be limited to:
  - the pupil/passenger profile, including each pupil's/passenger's anonymised personal travel requirements and other relevant information;
  - the pricing schedule setting out the tender price and rates which the supplier is required to tender
  - the service delivery questionnaire for each specific individual contract
  - any other documents that are deemed necessary at the time of the publication of the each specific mini competition.
- 3.19 Suppliers will be required to submit a transport solution for the supplied pupil profiles, a pricing schedule and a completed service delivery questionnaire and any other required information which is requested at the time that each specific mini competition is published on the Council's e-procurement portal, In-tend.

3.20 The overall evaluation criteria that will be used in evaluating the mini competitions will be:

Price	80%
Service Delivery	20%

3.21 Tenders will be evaluated on the basis of the most economically advantageous offer to the Council.

3.22 There will be a time period after each mini competition during which the supplier who submitted the winning bid will be asked to supply full details of precisely how the contract will be carried out. The information to be provided will be at the discretion of the Council and may include but will not be limited to;

- The number and type of vehicles to be used and how they will be acquired if they are not already available;
- Details of all drivers and attendants to be employed on the contract;
- Details of the route to be taken;
- The timings of the route (pick up and total journey times);
- Confirmation of which passengers will be allocated to which vehicles.

3.23 Contract award will be provisional until such time as the Council is satisfied that all of the information requested has been submitted and is in accordance with the contract terms and conditions and that the vehicle checks meet the council's requirements.

### The Procurement Process

3.24 The procurement exercise will be conducted in accordance with the Public Contracts Regulations 2015. The table below shows the proposed timeline:

<b>Target Date</b>	<b>Activity</b>
11 <sup>th</sup> May 2017	DPS Application advertised and issued
12 <sup>th</sup> June 2017 (12 noon)	DPS Application submission closing date and time
4 <sup>th</sup> July 2017	Completion of evaluation of DPS Application
26 <sup>th</sup> July 2017	Notification of DPS Application evaluation outcome and establish DPS
31 <sup>st</sup> July 2017	Initial Mini competitions issued via the DPS on In-tend
25 <sup>th</sup> August 2017	Initial Mini Competitions submissions closing date
Up to 20 <sup>th</sup> October 2017	Completion of evaluation of initial Mini Competition submissions
20 <sup>th</sup> Oct 2017	Suppliers notified of outcome and standstill period commences
31 <sup>st</sup> Oct 2017	Award letters issued following standstill period
31 <sup>st</sup> Oct 2017	Mobilisation period
2 <sup>nd</sup> Jan 2018	Service delivery commences

- 3.25 Officers have designed the first stage DPS Application, which has been published on 11 May 2017, where all applicants who meet the selection criteria and are not excluded will be admitted to the DPS. The selection criteria consist of minimum pass/fail requirements.
- 3.26 As part of the transition between the old framework agreement and the new DPS contracts, routes awarded via the framework will be retendered in the second stage of the procurement exercise through mini competitions under the DPS. This is to allow all routes to be brought in line with the updated contract terms and conditions that regulate the DPS. Where there are changes to providers, these will be communicated to parents and schools with as much notice as possible.

**4 Council priorities**

The Walsall Council Corporate Plan Priorities has 4 broad objectives. Relating specifically to children, the priorities will be met as follows:

- 4.1 **Children are safe from harm, happy and learning well with self-belief, aspiration and support to be their best** - All new private hire drivers will have to attend and pass a Disability Awareness driver training course delivered by Walsall Council and Walsall Adult Community College and current private hire drivers have to attend within the next 18 months.

One of the modules in the training covers Safeguarding and Child Sexual Exploitation (CSE). Home to School transport will check that all private hire drivers, working on contracted routes have attended and passed the training.

Pupil Attendants and Public Service Vehicle Drivers (vehicles over 9 seats) will be required to attend and pass Walsall Councils, Children’s Services, and Transport Safeguarding Training.

- 4.2 **Pursue inclusive economic growth**; the DPS approach allows the Council to ensure we have a wide range of local businesses which will provide a significant number of local jobs.
- 4.3 **Make a positive difference to the lives of Walsall people**; the provision of this service will ensure there is suitable home to school transport travel arrangements for eligible children of compulsory school age to facilitate their attendance at a school and support their learning.
- 4.4 **Safe, resilient and prospering communities**; providers will be expected to comply with appropriate legislation and invest in a sustainable and diverse workforce meeting individual service user’s cultural requirements.

**5 Risk management**

- 5.1 A full analysis of risk has been undertaken as part of the project management approach, in accordance with the council’s agreed approach, with risk management action plans in place for “high” risks. Key risks are summarised below:

Risk	Mitigation
Changes in legislation covering personalisation could reduce demand	No commitment on volumes to be provided in the contract.
Transition from old contracts to new	The project timeline has been designed

contracts. Change in transport provider may cause issues of trust and familiarisation.	with an implementation date that allows for introductory sessions with new providers.
Risk of Provider failure to deliver either all whole school or singular routes once engaged and children are unable to get to school	DPS allows for immediate re-tender process (mini-tenders) for individual and whole school routes.

## 6 Financial implications

- 6.1 The home to school transport services 2016/17 outturn position was an overspend of £0.352m against a budget of £1.87m. The main reasons for this overspend include an increase in the number of children receiving transport or requiring transport to out of borough schools along with delays in the implementation of the revised home to school transport policy, following an extended period of consultation.
- 6.2 The full year cost reductions associated with operational efficiencies derived from the re-tendering and procurement of home to school transport services, effective from January 2018 are estimated to be circa £0.100m. Taken together with the full year cost reductions associated with the revised home to school transport policy, approved by Cabinet on 15<sup>th</sup> March 2017, to be implemented by September 2017, will have the potential to reduce current costs by circa £0.280m, leaving a remaining overspend position of circa £0.072m.
- 6.3 At present, a pressure of circa £0.150m (which represents the remaining pressure of £0.072m plus an allowance for part year affecting implementing the policy and operational plans identified) is included within the Directorate's 2017/18 action plan with alternative mitigating action identified across Children's Services. There is however no further contingency built into the 2017/18 action plan and therefore, should the savings not be delivered or should the numbers and complexities of children's requiring transport increase, a net overspend position would arise in this service.
- 6.4 The total contract value would equate to circa £11m over the term of the proposed first four year call off contracts, if these long term contracts and any short term contracts continued into a fifth year under the DPS, assuming service demand remains at the current level and should no cost reductions be achieved. However it is hoped that by promoting effective and sustained competition throughout the term of the DPS, savings and efficiencies will be achieved.
- 6.5 The revised DPS approach will be at no additional cost as this is supported via the Council's existing electronic procurement portal known as Intend.
- 6.6 Inclusion of CCTV within vehicles will be at no additional cost to the Council.

## 7 Legal implications

- 7.1 To be included in the contract are services that the Council has a legal duty to provide (pursuant to sections 508A, 508B, 508C and schedule 35B of the Education Act 1996) and where the Council has a duty to assist with transport

arrangements in certain circumstances set out under the Care Act 2014. The specification will be designed to ensure these requirements are met.

- 7.2 The contract is to be procured in accordance with both the Council's Contract Rules and the Public Contracts Regulations 2015.

## **8 Procurement Implications / Social Value**

- 8.1 The Council issued an application to join a Dynamic Purchasing System (DPS) for the provision of passenger transport services via the Councils' e-procurement portal, In-tend on 11 May 2017. The procurement process will be conducted in accordance with the Public Contract Regulations 2015, the Council's Contract Rules and Social Value Policy.
- 8.2 Steps have been taken to minimise procurement-related risk. However, there will always remain an inherent risk of legal challenge associated with any procurement undertaken by the Council.
- 8.3 Input has and will continue to be sought from Procurement and Legal Services, as required to ensure the conduct of compliant procurement process and future mini competitions under the DPS.
- 8.4 All new services will be evidenced by a written contract in a form approved by the Head of Legal and Democratic Services and shall be made and executed in accordance with the Council's contract rules.

## **9 Property implications**

- 9.1 No implications

## **10 Health and wellbeing implications**

- 10.1 The service will help enable all children and young people to maximise their capabilities and have control over their lives by providing access to concessionary transport for young people.
- 10.2 The successful providers will be required to provide services that assist social inclusion and support the health and well being of children and young people with special educational needs and other vulnerable groups.

## **10.3 Staffing implications**

- 11.1 No Implications

## **11 Equality implications**

- 11.1 The service is designed to promote social inclusion of pupils and other vulnerable groups and requires staff with skills and knowledge, including communication skills to meet the needs of vulnerable passengers. An Equality Impact Assessment has been undertaken as part of the procurement process.
- 11.2 The new DPS agreements will make clear to all suppliers their duties under the Equalities Act. Compliance will be monitored by the home to school transport service for the duration of the proposed agreements.



### 11.3 Consultation

11.4 Consultation has been carried out with various stakeholders listed below in February 2017 to find out what they think of the current and proposed service models. The specification for the DPS service was influenced by these stakeholders as any relevant resulting issues were taken into account.

#### Internal

- Procurement
- Legal
- Adult Social Care

#### External

- Current Providers
- Voice of the Child
- Head Teachers (Specialist Schools)
- Policy Consultation
- West Midlands Authorities

11.5 Further consultation on the new specification and the new DPS has been undertaken with the following groups;

Group	Number of Attendees	Method
Parent Participation Group	15	Consultation Meeting
Parents	12	Consultation Meeting / Questionnaire
Providers	26	Consultation Meeting
Head Teachers (Specialist Schools)	8	Consultation Meeting
West Midlands Authorities	7	Questionnaire

**Background papers:** None

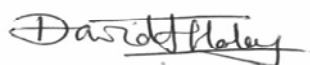
#### Author

Andrea Cooke

Commissioning Manager, Early Help & Corporate Transport

☎ 01922 655871

✉ [andrea.cooke@walsall.gov.uk](mailto:andrea.cooke@walsall.gov.uk)



Signed  
David Haley  
Executive Director: Children's Services  
13 June 2017



Signed  
Councillor Nawaz  
Portfolio Holder Children's Services  
13 June 2017