

# Internal Audit Report

## Home to School Transport (Procurement Issue)

### Final Report

Assignment Lead: Carolyn Sheehan, Principal Auditor

Assignment Manager: Mark Dallen, Audit Manager

Prepared for: Brighton & Hove City Council

Date: 2 September 2019

## Internal Audit Report – Home to School Transport

### Report Distribution List

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### Brighton & Hove City Council - Internal Audit Key Contact Information

**Chief Internal Auditor:** Russell Banks, ☎ 01273 481447, ✉ russell.banks@eastsussex.gov.uk

**Brighton & Hove City Council**

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**Audit Manager:** Mark Dallen, ☎ 01273 291314, ✉ mark.dallen@brighton-hove.gov.uk

**Anti-Fraud Hotline:** ☎ 01273 291700, ✉ anti-fraud@brighton-hove.gov.uk

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### 1. Introduction

- 1.1. Home to school transport is provided by the Council to pupils with special educational needs and includes other hired transport for vulnerable children and adults.
- 1.2. The service was overspent by £210k in 2018/19 and was predicted to be overspent by £330k in 2019/20.
- 1.3. In October 2018, the Policy Resources & Growth (PRG) Committee agreed to re-procure home to school transport services for September 2019, with a 4 year contract worth in the region of £12m, or £3m per annum.
- 1.4. One of the options under consideration, as a method of procurement, was a Dynamic Purchasing System (DPS), which had been favoured by the Procurement Advisory Board. A DPS is a completely electronic system used by a contracting authority to purchase goods, works or services. Unlike a traditional framework agreement, suppliers can apply to join at any time. However, at the time of this PRG meeting, the committee report stated officers were concerned that a DPS required “additional administration from Council staff which is not currently factored in to roles and responsibilities and initial soft market testing did not produce significant savings on potential journeys that would be awarded under a DPS”.
- 1.5. Delegated authority was therefore granted to the Executive Director for Families, Children & Learning to carry out procurement and award of the contract for four years from September 2019, including the award and letting of a framework agreement. The decision as recorded was,  
  
“That the Committee –
  - (i) Approved the procurement of a contract for home to school transport for pupils with special educational needs and other transport for vulnerable children and adults on behalf of social care teams, for a term of four years from 1 September 2019 to 31 August 2023;
  - (ii) Granted delegated authority to the Executive Director of Families, Children & Learning to carry out the procurement and award of the contract referred to in Paragraph 2.1 above including the award and letting of the framework agreement”.
- 1.6. After the decision at the October 2018 PRG meeting, further consideration of budget pressures meant a review was undertaken of the social care costs which included the home to school transport services. This resulted in consultants reintroducing a DPS as one of the solutions to deliver savings.
- 1.7. Consequently, additional approval was provided for use of a DPS process as the key procurement process. Authority was provided by the use of urgency powers by the Executive Director of Finance Children and Learning after receiving advice from a Senior Lawyer in Legal Services.
- 1.8. This desk top review was requested by Councillors at the July 2019 Audit & Standards Committee, following the receipt of a letter presented by Cllr. Lee Wares, setting out a

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number of concerns about the re-procurement process.

1.9. It is an additional review to the agreed internal audit plan for 2019/20.

### 2. Scope

2.1. The purpose of the review was:

- To determine whether the decision to adopt a DPS for home to school transport and the appointment of consultants was properly approved in accordance with Council procedures and delegations.
- Ascertain if any decision had been made to bring the service in-house, and if so whether there have been any breaches of Council procedures.
- Determine if a business case had been prepared that supports the implementation of a DPS.
- Ascertain if the service delivery criteria for suppliers to be included in the DPS was set in accordance with Council Policy regarding licensed carriers and safeguarding of vulnerable children or adults.

### 3. Management Summary

#### Approval of Decision to Use a DPS

- 3.1. After the October 2018 PRG Committee meeting, the Executive Director of Families, Children and Learning made the decision that additional review of the service was required in order to help deliver the level of savings necessary. This review was carried out by an external consultant, who recommended within their report that the use of a DPS would offer a better procurement solution. The net savings were estimated between 12 to 14% over the four year contract.
- 3.2. The Executive Director FCL considered whether he had the necessary powers to approve the change in the procurement route to a DPS and therefore consulted with Legal Services. The Director of FCL was advised that this was as a technical change to the procurement process rather than a change to the decision to tender the contracts. In addition, it was highlighted that if an additional PRG Committee were held, this would have coincided with local and European elections and the purdah period. Ultimately these considerations concluded with a Senior Lawyer advising the Executive Director of FCL that it would be appropriate to use urgency powers to make sure that the decision to change the procurement route was properly documented and authorised. We are therefore satisfied that this decision process was in accordance with existing Council procedures and delegations.
- 3.3. The engagement of the consultants, for the initial review of social care transport and to

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help implement a DPS were compliant with Council procedures and Contract Standing Orders. The consultant was engaged through a framework agreement for professional services, using the delegated authority of the Executive Director of Children's, Families and Learning.

- 3.4. We have identified that a DPS is widely used by other Councils to purchase transport services for adults and children. This includes both of the Council's Orbis partners (East Sussex and Surrey County Councils).
- 3.5. The appointed consultant has provided data to support their claim that savings could be made to this service through use of a DPS, despite the initial set up costs. It was also the preferred option of the Council's Procurement Advisory Board in June 2018.
- 3.6. Since the launch of the DPS in June 2019, 17 suppliers have successfully met the criteria and have been able to bid for routes. This is more than double the number previously contracted but also includes some suppliers who were on the previous framework. It was explained during this review that the increase in potential suppliers reduces the risk of one supplier dominating the market and increases service resilience if a supplier ceases trading.

### Insourcing of the Service

- 3.7. Whilst we have been told that officers have been asked by Members to consider and report on the options for bringing elements of this service in house, we have not seen evidence to indicate that any detailed plan, or decision, relating to this has been made at the current time. Internal Audit is not aware of any breach of Council procedures.
- 3.8. One of the changes in the process has meant that the lots are offered by route. They were previously offered by destination. As a consequence a small part of the service (route planning) is now completed in-house by the service, instead of by the supplier.

### Business Case for the Implementation of a DPS

- 3.9. There is no separate business case to support the DPS procurement option. However, a briefing report for Members and a presentation prepared for the Executive Leadership Team in March 2019 contains the key elements of a business case.
- 3.10. Council arrangements only require a formal business case if additional funding is required or the plans have financial implications for other directorates, in which case these are presented to the Modernisation Board. In this case, no additional funds are being requested as all set up costs are covered within the existing budget. As a consequence a formal business case was not required.

### Service Delivery Criteria

- 3.11. A review of the criteria that suppliers have to meet in order to be accepted for contracts via the DPS indicates that there is no reduction from the previous contracts agreed through the framework. All relevant checks have to be in place for drivers, assistants and vehicles, including abiding by the blue book (relevant to taxi licensing in Brighton and Hove). It is understood that checks will take place to ensure suppliers are compliant with

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the terms of the contract.

### Other Findings

- 3.12. The current DPS arrangements include a requirement for public liability insurance of up to £5m to be in place. An increase in this to £10m would bring these contracts in line with other contracts with external suppliers and comply with recent guidance from the Council's Insurance Team.

## 4. Action Summary

Risk Priority	Definition	No	Ref
High	Major control weakness requiring immediate implementation		
Medium	Existing procedures have a negative impact on internal control or the efficient use of resources	1	1
Low	Represents good practice but its implementation is not fundamental to internal control		
<b>Total number of agreed actions</b>		1	

- 4.1. As part of our quarterly progress reports to Audit Committee we track and report progress made in implementing all high priority actions agreed. Medium and low priority actions will be monitored and re-assessed by Internal Audit at the next audit review or through random sample checks.

## 5. Acknowledgements

- 5.1. We would like to thank all staff that provided assistance during the course of this audit.

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Ref	Finding	Potential Risk Implication	Priority	Agreed Action
1	<p><b>Public Liability Insurance</b></p> <p>Suppliers on the Dynamic Purchasing System are required to have public liability insurance of £5m. This is the same amount as set on the previous framework agreement.</p> <p>However, the insurance team have advised that standard public liability insurance requested for external suppliers should be increased to £10m.</p>	Where suppliers to the Council do not have sufficient public liability insurance, it is more likely that the Council could become liable where a claim is in excess of the suppliers insurance cover.	Medium	To ascertain what level of existing public liability cover the suppliers accepted onto the DPS have and review the ability to amend the current Schedule 2 – Service Specification at the earliest opportunity to reflect the standard public liability insurance expected.
<b>Responsible Officer:</b>		Richard Barker, Head of School Organisation	<b>Target Implementation Date:</b>	30 <sup>th</sup> November 2019



# Appendix A

## Management Responsibilities

The matters raised in this report are only those which came to our attention during our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

This report, and our work, should not be taken as a substitute for management's responsibilities for the application of sound business practices. We emphasise that it is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal Audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems.

