

Subject:	Items referred from the Council meeting held on the 24 October 2019		
Date of Meeting:	11 November 2019		
Report of:	Executive Lead Officer for Strategy, Governance & Law		
Contact Officer:	Name:	Mark Wall	Tel: 01273 291006
	E-mail:	mark.wall@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To receive the following deputation and Notice of Motion referred from the full Council meeting held on the 24 October 2019.

2. RECOMMENDATIONS:

- 2.1 That the Committee responds to the deputation either by noting it or where it is considered more appropriate, calls for an officer report on the matter which may give consideration to a range of options and writes to the deputation spokesperson setting out the committee's decision(s);
- 2.2 That the Committee considers the Notice of Motion and decides on whether to take accept the request outlined or to note the motion.

3. CONTEXT / BACKGROUND INFORMATION

Deputation and Notice of Motion

- 3.1 To receive the extract from the minutes of the full council meeting held on the 24 October 2019 setting out the deputation and the Notice of Motion and recommendations for the committee to consider as detailed in paragraph 3.2. Supporting papers to the deputation are listed as an appendix to the extract.

(1) (a) Deputation concerning Home to School Transport for Students with Special Educational Needs & Disabilities (SEND)

Spokesperson Pippa Hodge

Supported by:

Rob Arbery

Adrian Carver

Sam Bayley

Rachel McDonald

Amanda Stockford

Maxine Pallister

Debby Norris

Jane Kemp

(1) (b) Notice of Motion – Home to School Transport

This council resolves to ask the Children, Families & Skills Committee to urgently establish a cross-party Member led Policy Panel consisting of six Members, two from each political party, and chaired by a Member of the Opposition. It would have the remit to, inter alia, review and discuss solutions to resolving the current negative impact on schools, families, children and young people and generally the implementation of the home to school transport service; and oversee any results of the external investigation proposed by the Administration.

3.2 Extract from full Council:

COUNCIL

**4.30pm 24 OCTOBER 2019
HOVE TOWN HALL, - COUNCIL CHAMBER**

MINUTES

Present: Councillors Phillips (Chair), Robins (Deputy Chair), Simson, Allcock, Bagaean, Barnett, Bell, Brennan, Brown, Childs, Clare, Davis, Deane, Druitt, Ebel, Evans, Fishleigh, Fowler, Gibson, Grimshaw, Hamilton, Heley, Hill, Hills, Hugh-Jones, Janio, Knight, Lewry, Lloyd, Mac Cafferty, Mears, McNair, Miller, Moonan, Nemeth, Nield, O'Quinn, Osborne, Peltzer Dunn, Pissaridou, Platts, Powell, Rainey, Shanks, C Theobald, West, Wilkinson and Williams.

PART ONE

37 DEPUTATIONS FROM MEMBERS OF THE PUBLIC.

- 37.1 The Mayor reported that three deputations had been received from members of the public and noted that there was a Notice of Motion listed at Item 45 (3), Home to School Transport – Policy Panel on the agenda which related to the first deputation. She was also aware of an amendment to the notice of motion from the Green Group and would therefore take the motion and the amendment directly after the deputation had been made and responded to.
- 37.2 The Mayor also noted that some of the people supporting the first deputation had been delayed and therefore invited Mr. Rolfe as the spokesperson for the second deputation to come forward and address the council.
- 37.6 The Mayor then invited Ms. Pippa Hodge as the spokesperson for the first deputation to come forward and address the council.
- 37.7 Ms. Hodge thanked the Mayor and stated that, Children as young as 4 or 5 years old, rely on this Service to take them safely to/from the setting named in their Education, Health & Care Plan (EHCP) in line with Statutory Duties* (Appendix 2). Numbers are rising year on year. The previous 4-year Contractor Framework expired in August 2019. Several years of Contractor consistency created effective links between Schools/Colleges, Parent Carers (& their CYP) and the local Brighton Contractors (Community Transport take many of the children using wheelchairs, some with

profound and multiple learning disabilities). Whilst not without glitches, the long-standing system centred around acquired SEND/Autism training & awareness, plus familiarity with pupils individually, which built trust and delivered a reliable service. Crucially:

Each child was recognised as an individual with discreet Core Support Needs, e.g. living between 2 parents' homes, or being a child who regularly went to Respite (their Care package), or specialist clubs, to enhance Life Skills. This essential community cohesion was recognised as a fundamental factor in 'Whole Child' Wellness and Development, upholding Equalities and City CYP Key Principles

Drivers and Escorts, supported by back offices, used their common sense and route knowledge to minimise the stress for children, ensure that they arrived on time and ready to learn, and to enable working parents to meet their obligations, or get other young children to school.

When possible, Drivers and Escorts remained with their cohort of children, building up trust and assisting that difficult transition between home/school/home which many youngsters with SEND, especially those with Autism &/or Sensory Processing Difficulties, typically find overwhelming.

In March 2019, a Dynamic Purchasing System/DPS (a bid-down system) to reduce Overspend was proposed by Edge Public Solutions (employed as Advisors in January 2019). A DPS approach had been discussed at Policy, Resource & Growth Committee (11/10/18*). Meeting minutes (Conclusion 7.2) authorised a new framework, but not a DPS (since the simulated desktop exercise did not prove the anticipated savings to the Committee's satisfaction). Nevertheless, a DPS was approved, via Urgency Powers (March 2019) without passing back through PRG or CYP Committees. As a direct result of these changes the transport scheme is failing to safeguard our children.

We Request A Full Cross-Party Scrutiny Group So This Never Happens Again. We ask Councillors from each party to fulfil your Responsibilities and personally conduct a beginning to end scrutiny of events, in keeping with your stated civic duties as elected councillors.

We challenge the logic & validity of the Independent Review: this was again presented as a 'fait accompli'; 'Officers investigating Officers' cannot be 'independent' (every LA is facing Transport issues); Parent Carers do not want to speak with yet more Officers from another Authority when they struggle with their own; Officers will leave once their report is submitted, and there will be no accountability for changes or a safe framework legacy. You are our Councillors & Moral Guardians of Civic Services. Please, put our City's Children above local Politics. We must learn how this has gone so shockingly wrong. No more personal cost to our children's physical safety, mental wellbeing and education; or to families; no more 'wait and see if there are incidents'; no more financial cost of outsourcing to '3rd parties' from our City Budget. Councillors, we are beyond apologies, please act.

- 37.8 Councillor Allcock replied, Thank you for your passionate and heartfelt deputation Pippa. Obviously, we have been in contact before today in person and by email, but I am glad to have your direct input at this meeting, as I am sure all elected Members are.

I hope you are able to accept that there has been full recognition of the problems that some parents faced at the start of this term and I know that for some this is still

ongoing. Arrangements certainly did not proceed as planned. This should not have happened, and no one wants this to happen again. I want to repeat this unreserved apology today. But I also want to reassure you and all parents and carers that we will not rest until this situation is completely resolved.

I understand we urgently need to re-build trust between the community and the local authority and therefore, as an Administration, we believe it is important that a review is carried out. A review that will be fully independent of the Council which will be asked to investigate all areas of the home to school transport function, including the initial decision-making process to change the arrangements. Lead reviewers have already been identified and a decision on this will be made by me in consultation with the Chair of the Audit & Standards Committee and PACC. In addition, following a suggestion from PACC, the review will be supported by a representative from Contact – a national charity working with the families of disabled children who will also get in touch with families directly. Contact is not a Local Authority service and is not staffed by council officers. We are also considering other ways to enable greater levels of parent/carer oversight of the review.

We want a level of scrutiny and challenge to make sure that we learn all there is to learn from this and so we can use that knowledge to make improvements. We know this will not be comfortable, but it needs to be done and done quickly so that any improvements can be implemented as soon as they are identified. The final draft of the terms of reference for the Independent Review have now been agreed which, again, incorporates valuable input from the Parent and Carer Council as well as the suggestions of the Chair of the Audit & Standards Committee. At our request these are drawn as widely as possible. As Chair of this committee I promise you that I want every aspect looked at and when I say no stone unturned I mean it.

Representative groups, many of them here today, as well as individual families affected must and will have the opportunity to share their views and experiences with the reviewers, as part of their work. I know that you, and others are asking for an internal, cross-party Member led Policy Panel, and we are more than happy to work with Members to provide this additional layer of scrutiny. But our first priority has always been to resolve the problems our young people and their families have faced, with the scrutiny and review now running alongside. Having an independent outsider working on this as well will, we hope, encourage greater openness and transparency. Of course, we completely understand why other elected Members want answers to questions and a degree of oversight themselves. So, as well as encouraging councillors across the spectrum to engage with, and contribute to, the Member-led panel and the Independent Review, I have agreed that there could be a that a short report to provide a progress update on the independent review and the current situation with Home to school transport brought to the next meeting of the Children Young People & Skills Committee in November. Members will have an opportunity there to ask questions about the review.

Once the Independent Review is completed as planned, it is anticipated that a further, final report will be brought to the January meeting of the CYPS committee. The committee system in Brighton & Hove is designed to give opportunities for councillors to both set policy at committees and also to scrutinise the work of the council. I expect and hope that councillors will want to ask questions about any recommendations coming from the review and also to be assured that actions are in place to address these recommendations. Future meetings of the CYPS committee and reports from the policy panel will provide robust opportunities to scrutinise progress.

By its definition, an Independent Review ensures that all areas of the council's work can be explored as part of the review without any party-political influence getting in the way of the changes that I'm sure families in the city would want for the future. If the CYPS committee or the Policy Panel continues to have concerns, then these can also be referred to a future meeting of Full Council. It is vital therefore that we learn from what went wrong and make changes for the future.

45 NOTICES OF MOTION.

(3) HOME TO SCHOOL TRANSPORT – POLICY PANEL

- 37.9 The Mayor then invited Councillor Mears to move the Notice of Motion, Item 45 (3) on the agenda.
- 37.10 Councillor Mears thanked the Mayor and Ms. Hodge for bringing her deputation to the meeting. She stated that all Members had a responsibility as corporate parents and to ensure that the home to school transport service met the needs of the children concerned. She acknowledged that all new contracts experienced teething troubles, but it was clear this contract was not fit for purpose. Members had raised questions at the committee and expressed concern over the lack of Member oversight for the contract. Hence the motion called for a cross-party Member Panel to review the process of issuing the contract and to feed into the Independent Review. She also confirmed that she was happy to accept the Green Group's amendment.
- 37.11 Councillor Simson formally seconded the motion and reserved her right to speak in the debate.
- 37.12 Councillor Clare stated that she wished to thank the parents and children for attending today's meeting and that she believed the changes to the contract had led to an unacceptable level of distress for them. She welcomed the proposal for an Independent Review but agreed that there was a need to begin reviewing the process as soon as possible and therefore the amendment sought to add to the notice of motion.
- 37.13 Councillor Hugh-Jones formally seconded the amendment.
- 37.14 Councillor Knight stated that no-one had wanted to be in the position that currently existed and fully supported the apology given by Councillor Allcock. However, there was a need to move forward and take action and to understand the decision-making process so that improvements could be made. She welcomed the cross-party panel as it would enable Members to review matters and provide transparency and accountability. She hoped that all councillors would work together to resolve the difficulties and to regain the trust of parents and the young people.
- 37.15 Councillor Bell expressed his concern over how the situation had been reached and his frustration that having raised questions previously at committee these had not been addressed. He believed it was appropriate to have a cross-party Member Panel and hoped that it could begin its review as soon as possible.
- 37.16 Councillor Simson noted that the value of the contract had meant it fell below the threshold for a report to have to come to committee, however she felt for such an important matter, Members should have had oversight. She questioned whether the Independent Review would be fully independent given that the decision to award the contract was taken under delegated powers. She fully supported the need for a cross-

party Member Panel and hoped that lessons could be learnt in regard to the process of awarding the contract and a solution found to the current problems with the contract.

- 37.17 Councillor Mears noted the comments and stated that it was important for Members to be involved in the review process and the cross-party Member Panel would enable that. She hoped it would then be able to feed into the Independent Review and that all parties concerned would have the opportunity to input into the review process.
- 37.18 The Mayor thanked Ms. Hodge for attending the meeting and speaking on behalf of the deputation. She explained that the points had been noted and the deputation would be referred to the Children, Young People & Skills Committee for consideration. The persons forming the deputation would be invited to attend the meeting and would be informed subsequently of any action to be taken or proposed in relation to the matter set out in the deputation.
- 37.19 The Mayor then noted that the amendment to the Notice of Motion had been accepted and therefore put the following motion as amended to the vote:
- “This council resolves to ask the Children, Families & Skills Committee to urgently establish a cross-party Member led Policy Panel consisting of six Members, two from each political party, and chaired by a Member of the Opposition. It would have the remit to, inter alia, review and discuss solutions to resolving the current negative impact on schools, families, children and young people and generally the implementation of the home to school transport service; and oversee any results of the external investigation proposed by the Administration.”
- 37.20 The Mayor confirmed that the motion had been carried unanimously.

Deputation:**Para 1**

There has been a tsunami of Reported Incidents about Safeguarding Issues; vulnerable pupils with no Escort; pupil-pupil assaults; assaults on Escorts/Drivers; vehicles failing basic safety standards (below the “Blue Book”); DBS Certificates not checked, Personal Handling or Training (eg Epilepsy) not in place; Safety Sheets/Risk Assessments not provided to Contractors; distressed pupils self-harming on journeys of up to 90 minutes; waiting 30 minutes or more to get off once at school; children late/disruptive to class, lost planning/teaching time; students losing *significant* learning time while they try to recover from overcrowded stressful journeys, day after day, week after week. Transport/Edge have received *daily* calls and emails from Schools, Parents, Contractors and the PaCC, who have a 6-week Record* of Complaints. Parents report being bullied into “take it or leave it” unsafe solutions amid their fear of losing jobs. Fragile family life/function is disrupted by the impact.

We are concerned that the 2016 Equalities Impact Assessment* was not updated, allegedly not necessary as Eligibility & Process are unchanged. Recruiting Edge operationally (already paid £96,356.68 in just 3 months to date) and devolving responsibility for Equalities and operational decisions from Contractors back to Transport/Edge (meaning no adjustments that incur ‘cost’ may be made without their agreement) is a wholesale change with grave consequences for our most vulnerable young citizens. This falls shamefully below our City’s stated Aspirations & Values*.

Appendix 1: *Documents & Chronology of Meetings/Responses Regarding Home to School Transport Provision for Students with SEND**Brighton & Hove Corporate Plan & City Vision & Values 2015-2019 - [Corporate Plan](#)**

The city’s vision is the council’s vision “Brighton & Hove – the connected city. Creative, dynamic, inclusive and caring. A fantastic place to live, work and visit”
(especially these Priorities: Increasing Equality; Active Citizenship; Children & Young People; Health & Wellbeing; Community Safety & Resilience)

Equalities & Impact Assessment 2016 (CS37 first written 2015, available on request)**Policy, Resources & Growth Committee** (Item 64 11th October 2018 Pages 489 – 500)

[https://present.brighton-hove.gov.uk/Published/C00000912/M00008107/\\$ADocPackPublic.pdf](https://present.brighton-hove.gov.uk/Published/C00000912/M00008107/$ADocPackPublic.pdf)

7.2 Conclusion: approved a new framework and advised against a DPS approach

January 2019

Edge commence work in advisory capacity

March 2019

Urgency Powers applied by Executive Director Families Children & Learning, Pinaki Ghoshal, according to Part 6.2 Part A 7(2) of the council’s Constitution, consultation with Chair of Children, Young People & Services Committee, and consent given to procure the Dynamic Purchasing System

Parent Carer Consultation Groups (25/26th June 2019)

<https://paccbrighton.org.uk/wp-content/uploads/2019/07/PaCCConnect-transport-minutes-June19.pdf>

Meetings held for all Parents and Carers to attend at Hill Park School and Downs View School.

Information regarding new system, core operating principles and Q&A

Attended by Richard Barker (Transport Manager) and Stuart Cooper (Edge Public Solutions)

Policy, Resources & Growth Committee (Item 16 11th July 2019 pages 255 – 260)

[https://present.brighton-hove.gov.uk/Published/C00000912/M00009322/\\$ADocPackPublic.pdf](https://present.brighton-hove.gov.uk/Published/C00000912/M00009322/$ADocPackPublic.pdf)

Use of Urgency Powers in Relation to Transport Services for Vulnerable Children and Adults

~~ 25th July Last Day of Summer Term ~~

PaCC Emergency Position Statement (3rd September 2019)

<https://paccbrighton.org.uk/wp-content/uploads/2019/09/Home-to-School-Transport-PaCC-Emergency-Position-Statement-final-3.9.19-4.pdf>

~~ School Term Commences 6th September 2019 ~~

PaCC Document of Concerns on behalf of PaCC Families (11th September 2019)

<https://paccbrighton.org.uk/wp-content/uploads/2019/09/HTST-Short-and-Long-term-issues-Action-Plan.pdf>

Green Party Statement “Parents Need Reassurances This Will Not Happen Again” (17th September 2019)
<https://www.brightonhovegreens.org/2019/09/17/parents-need-assurances-this-will-not-happen-again-say-greens-on-home-to-school-transport-row/>

Official Response from Pinaki Ghoshal (11th October 2019) (may not reach other families)
<https://paccbrighton.org.uk/wp-content/uploads/2019/10/Briefing-on-school-transport-for-PaCC-network-111019.pdf>

Appendix 2

contact *For families
with disabled children*

Local authority duties in brief

All duties are set out the Home to school travel and transport for children of compulsory school age: Statutory guidance for local authorities 2014 issued by the Department for Education

Local authorities are required to arrange free, suitable, home to school transport for children of compulsory school age who are ‘eligible’, to their nearest suitable qualifying school (section 508B of the Education Act 1996).

This law says a child with SEN, a disability or mobility problems that would prevent them walking to their nearest suitable school must get free transport help regardless of distance. An assessment must be made on the child's individual needs. This is set out in set out in Schedule 35 Education Act 1996.

Suitable school transport

The duty on the local authority is to make suitable 'travel arrangements' are defined in section 508B(4) Education Act 1996. The local authority has a duty to provide suitable transport that is "non-stressful". The courts have defined this as transport that enables a child "to reach school without undue stress, strain or difficulty such as would prevent him from benefiting from the education the school has to offer, [...] [and] to travel in safety and in reasonable comfort".

Statutory guidance recommends maximum journey times of 45 minutes for primary-aged children and 75 minutes for secondary.

Staff training

Some parents report that staff on school transport are caring and a full part of their child's education team. In other cases, drivers and escorts may be unaware of children's difficulties and poorly trained to handle their behaviour. Guidance is clear that all staff should have up-to-date training, including

- An awareness of different types of disability including "hidden" disabilities
- An awareness of what might be discrimination.
- Skills to communicate with children with different disabilities and to manage behaviour.

Local authorities must also ensure that the necessary safeguarding checks are carried out.

Other relevant legislation Local authorities must comply with the Equality Act 2010 and the European Convention on Human Rights, which is incorporated into UK law by the Human Rights Act 1998, when exercising their home to school transport functions. The Act also places a legal obligation on the local authorities to comply with the public sector equality duty. This means they must consider how their home to school transport decisions and policies affect people with protected characteristics and must have due regard to the need to: ‘advance equality of opportunity for disabled learners’ the transport policy must not have a: ‘significant negative impact on the ability of disabled students to access education’.

Contact is a trading name of Contact a Family, Charity registered in England and Wales 284912 and Scotland SC039169. Company limited by guarantee registered in England and Wales 16333333 VAT Registration GB 749 3846 82

