

<b>Subject:</b>	<b>Home to School Transport Service: Response to the Recommendations from the Independent Review Report</b>		
<b>Date of Meeting:</b>	<b>15 June 2020</b>		
<b>Report of:</b>	<b>Deb Austin, Interim Executive Director for Families, Children &amp; Learning</b>		
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**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report sets out the response of the Home to School Transport Service to the recommendations in the Independent Review Report and outlines progress made to date with improvements.
- 1.2 The report also outlines issues for the service over the pandemic period, the actions taken to mitigate risk, and the likely impact going forward.

**2. RECOMMENDATIONS:**

- 2.1. That the Committee notes the report.
- 2.2. That the Committee notes the report to Policy & Resources Committee on 27 May in Appendix B.
- 2.3. That the Committee notes the Use of Officer Urgency Powers in relation to supplier relief in Appendix C.

**3. CONTEXT AND BACKGROUND**

- 3.1 The council has fully accepted that much went wrong with the introduction of new arrangements for Home to School Transport in autumn term 2019.
- 3.2 The council has apologised profusely to families, headteachers, school staff and transport operators for failings in the service over the past several months and sincerely regrets the problems caused, particularly the disruption caused to many children and young people with complex SEN and disabilities in the early part of last autumn term, when transport arrangements for some failed altogether.

**Scope and Remit of the HTST Service**

- 3.3. In the Spring term of 2020 (prior to school closures), the Home to School Transport (HTST) service managed the transport of approximately 470 children with complex SEN and disabilities to school and back each day in term time, on

177 routes operated by 8 different firms (numbers quoted are subject to variance).

- 3.4. Many of the children have high risk medical conditions and/ or severe emotional and behavioural difficulties.
- 3.5. From September 2019, the council contracted with 9 firms, but the contract with one firm was terminated in March 2020, following contractual breaches.
- 3.6. Destinations for transport are many and varied, including a wide range of mainstream and special schools and colleges, within and beyond the City borders.
- 3.7. The service also books and arranges transport for social care and manages the system of bus passes.
- 3.8. The HTST team is small, with the equivalent of 1.75 FTE transport officers and a team manager. It has been acknowledged that this is insufficient for the capacity needed to respond to the recognised need for improvement and the recommendations from the Independent Review, and some temporary staff have been provided on short-term basis to:
  - provide additional leadership capacity;  
enable risk assessments to be carried out on all children and young people on transport;
  - provide some administrative support.

### **Independent Review of the Home to School Transport Service**

- 3.9. The Children, Young People and Skills Committee agreed on the 16<sup>th</sup> September 2019 to carry out an independent review of the Home to School Transport Service. This decision was made following significant concerns raised by members and stakeholders in September 2019 about the delivery of the Council's HTST arrangements.
- 3.10. The Local Government Association were commissioned to undertake this piece of work and the Independent Review team arrived in Brighton and Hove on the 28 January 2020 for a three-day onsite visit. In preparation for their visit they considered a wide range of documents and information submitted by stakeholders to ensure they were familiar with the Council and aware of the challenges it had faced since the decision to re-procure the service.

### **Scope and focus of the review:**

- 3.11. The independent review of the Home to School Transport Service focussed on the following areas:
  1. Procurement of consultants working on Home to School Transport Service
  2. The Dynamic Purchasing System and Procurement of Operators
  3. Implementation of the new system
  4. The Council's response to the disrupted delivery of the Home to School Transport Service
  5. Concerns and complaints

## **The independent review process**

3.12. The review team was led by an experienced Director of Children's Services. They were supported by three other officers, all of whom had expertise in SEND legislation and with experience of successfully managing SEND services. Each person in the team had significant experience of the strategic and operational management of the effective delivery of home to school transport arrangements in a range of local authorities. The fifth member of the team was a programme manager for the Local Government Association and was responsible for co-ordinating the review.

The process was comprehensive and included the views of a wide range of stakeholders through discussions, interviews and focus groups. The independent review team used their experience and knowledge of local government to reflect on the information presented to them by people they met, things they saw and material that they read.

3.13. During the onsite visit the team:

- Spoke to 113 people including a range of Council staff together with councillors, stakeholders, parents and providers;
- Gathered information and views from more than 40 meetings, 33 survey responses, visits to schools and additional research and read over 288 documents provided by the Council and other parties;
- Collectively spent more than 150 hours to determine their findings – the equivalent of one person spending more than four weeks in Brighton and Hove.

3.14. On the 12 March 2020 three members of the independent review team presented their report to the Interim DCS; Assistant Director, Education and Skills; Assistant Director, Health, SEN & Disability; Chair of Children and Young People and Skills Committee and Deputy Leader of the Council; PaCC Chair and Co-Chair. The report provided a summary of the team's findings and 10 key recommendations. The report was published on the Brighton and Hove City Council's website <https://new.brighton-hove.gov.uk/independent-review-home-school-transport>

3.15. The Council has fully accepted the findings of the Independent Review Report into changes to the way the service operated (see appendix), and has committed to following its recommendations.

3.16. Council is mindful of the comment by the Independent Review that '*the Council needs to put children and young people back at the centre of the Home to School Transport Service, making them the focus, their voice and needs should be more prominent,*' and will make every effort to ensure that is the case going forward.

## **4. Response to the Recommendations in the Independent Review Report**

4.1. An action plan responding to the recommendations in the Independent Review has been co-produced with representatives from the Parent and Carers Council (see Appendix A). The action plan is summarised below.

- 4.2. The action plan identifies the following success criteria to be achieved over the next 12-month period:

**By 31 October 2020:**

1. New 'tell it once' online form for parent/carers in use, combining application, pupil information and risk assessment
2. Service response times to communications with and from parent/carers are met at least 90% of the time (see 4.10 below).
3. 100% of new transport staff have undertaken training as appropriate in relation to safeguarding and SEND awareness
4. 100% of all Transport Panels have a trained Amaze parent/carer worker present to represent parents' viewpoint (see 4.6 below).
5. 100% of all interviews for staff in HTST are conducted with a representative of PACC on the interview panel
6. 90% of all spot checks and compliance monitoring passed and any breaches corrected within 24 hours
7. Long term leadership and capacity of HTST team established.

**By 31 March 2021**

8. Parent/carer satisfaction via survey shows at least 80% trust and confidence in the service
  9. A quality independent travel training option is available to all families for whom independent travel is an option
  10. A fully revised and updated HTST policy is published, following co-production between the council and PACC and Amaze.
  11. 100% of existing transport staff have booked onto refresher training and extended training as appropriate.
- 4.3. Monitoring of progress of the action plan and evaluation of achievement against the success criteria will be undertaken by the HTST Governance Board, meeting monthly, and by regular reports to the CYPS Committee and the Members' Policy Panel as required.
- 4.4. A summary of key areas highlighted by the review, with progress to date on actions taken to resolve these, is included below.

**Communications and rebuilding trust**

- 4.5. Working together with PACC, it has been agreed that co-production will be embedded at every level of the service's work, from operational processes to policy.
- 4.6. There will be an Amaze worker, who is also a parent/carer on all Transport Panels, putting the voice of parents at the heart of decision-making on individual pupils. These workers also represent parents on the SEND Panel and are provided with training, plus they sign a confidentiality agreement.
- 4.7. Amaze/ PACC will be part of all interview panels appointing staff to the HTST service.

- 4.8. The post-Independent Review Action Plan and the Plan for September Arrangements have been co-produced with PACC.
- 4.9. Parents/carers are receiving regular updates on service developments via the service's email circulation list and the PACC website.
- 4.10. The service monitors its response times for communicating with parents and carers: one working day for initial response to queries and concerns, ten working days for responses to formal complaints. Currently these response times are being met.
- 4.11. Parents/ carers will be surveyed in this academic year on their views of the service and their responses, once the schools are fully re-open and arrangements are back to normal. Responses will be collated and published against a target of an 80% satisfaction rate or higher. The survey will be annual thereafter with the aim of increasing levels of satisfaction.
- 4.12. Regular partnership and co-production meetings have been established with PACC and from September there will be termly meetings for transport operators, PACC, school representatives and officers to review arrangements and make any improvements needed.

#### **Links with the SEN and Disabilities Team**

- 4.13. The Independent Review recommended links were strengthened between the SEND and HTST teams. As a consequence, a new post of SEN caseworker has been agreed. This post will sit within HTST but will have responsibility for linking and liaising between the teams and ensuring the correct and timely transfer of information about children's needs between the services and from the service to transport operators and their staff.
- 4.14. A senior member of the SEND team is part of the Transport Panel, where all operational decisions are made.
- 4.15. Senior representatives of the SEND team are also part of all policy decisions affecting eligibility and arrangements for HTST.

#### **Pupil Information and Risk Assessment**

- 4.16. The current system for passporting pupil information to transport firms is being completely changed. PACC representatives are working with the team to devise a new system, which will combine the application process with information about pupils' needs and a risk assessment. This is an online system, although parents will be able to have paper copies if needed. Meantime, while the new system is in development, the current system of pupil information sheets is being upgraded with updated risk assessments ensuring all information is as full and accurate as possible.

## **Training for Transport Staff**

- 4.17. The contract with transport operators requires all transport staff to have undergone training in SEN and disability awareness, safeguarding, equalities and first aid, procured by the transport operator at their own expense. However, contract reviews with firms have established there is not full compliance with this requirement across firms. Some firms have expressed a wish for the council to provide training as they have not found it easy to access.
- 4.18. In response, the service has worked with the Council's Learning and Development Team to produce a full programme of training for drivers and VPAs to consist of modules on:
- Safeguarding
  - Equalities and tackling disability discrimination
  - SEN and disability awareness.
- 4.19. It is intended that the online modules will be a compulsory requirement for all new or untrained transport staff prior to beginning work on HTST.
- 4.20. In addition to the online modules, there will be a rolling programme of extended and specialist face to face training, but this may not be possible until social distancing rules are relaxed further.
- 4.21. The aim is to have online training modules available by September 2020.
- 4.22. PACC will be involved in both the online and face to face training programmes and will be invited to give the perspective of parent/ carers.
- 4.23. The Members' Policy Panel will also contribute to reviewing the online training materials and giving feedback.

## **Independent Travel**

- 4.24. There have been initiatives to increase independent travel in recent years, but the take-up for these has been limited and it has been difficult to ensure sustainability of programmes over time. A new approach is needed, with adequate resource to ensure this is of high quality. The HTST service will work with PACC and schools on an Independent Travel training programme for those young people where this is appropriate. This will require a budget set aside for this purpose and the acquisition of some expertise from those offering such training. The aim is for this training to be in place by March 2021.

## **Contract Management with Transport Providers**

- 4.25. Although the majority of transport providers take care to fulfil the contract specifications in providing HTST, there have been some contractual breaches identified and as a consequence, contract management processes have been tightened.

- 4.26. Until the school closures began in response to the Covid19 pandemic, weekly spot checks had been introduced at school sites to check on vehicles' safety and requirements on staff for identification and high visibility jackets. Any breaches found had to be rectified before continuing transport.
- 4.27. Contract review meetings are held termly between the council and transport operators, where issues can be discussed on and resolved.
- 4.28. Regular checks are made to confirm that all transport staff have an enhanced DBS and that a record of this is held at the council offices as well as with the transport operators.
- 4.29. In addition, when schools re-open the transport team will be conducting unannounced compliance visits to the offices of the different transport operators to check on all aspects of compliance.
- 4.30. The Independent Review recommended that the transport operators who had yet to sign contracts were asked to do so, and this is being pursued.
- 4.31. The Members' Policy Panel is considering the current Dynamic Purchasing System introduced in the summer of 2019 and whether there are alternatives that might be preferable going forward.
- 4.32. Operators have expressed concern about the HTST contractual term, which although four years, can theoretically be terminated on three months-notice. The Members' Policy Panel have raised a query about whether there could be greater reassurances for operators to underpin investment in new vehicles for operators who are complying fully with the terms of the contract, and this is being considered.

### **Governance arrangements and oversight**

- 4.33. The Children, Young People and Skills Committee is responsible for overseeing improvements to the service in the light of recommendations by the Independent Review.
- 4.34. In addition, the Members' Policy Panel is a short-term group, which is reviewing improvements and providing challenge and support to the developing service.
- 4.35. An officer-led Home to School Transport Governance Board has been established, which reports as required to the CYPS Committee. The Governance Board has representatives from a variety of council teams, from PACC and from schools. The Board meets monthly to consider reports and progress on action planning and to make recommendations for further improvement.
- 4.36. Additionally, the Independent Review recommended that HTST be adopted as a corporate risk. This has been actioned and therefore the risks and actions to mitigate risk are reviewed regularly by the Executive Leadership Team.

### **Staffing and Budget**

- 4.37. The resource implications of improvements to the service were the subject of a report taken to the Policy and Resources Committee on 27<sup>th</sup> May 2020 (see Appendix B).
- 4.38. The report to Policy and Resources Committee covers two recommendations in the Independent Review, notably to increase staffing to ensure responsiveness at peak times, and to recognise the pressures on the HTST budget.
- 4.39. The Members' Policy Panel has requested a breakdown of budget information on the service to assist with advice in realising value for money.
- 4.40. The current budget for the service is £2.4M. The overspend at the end of 2019/20 was £968K. The projected overspend for 2020/21 was £1.2M, but the impact of covid-19 and school closures make previous predictions less reliable.
- 4.41. In terms of benchmarking, many caveats apply to section 251 data, including different structures within local authorities and variable reporting. Nonetheless, benchmarking for the financial year 19/20 indicates the following:
- The 19/20 budget for Brighton (£2.375m) was 59% lower than the average budget for our statistical neighbours\*. This equates to £1.4m.
  - BHCC budget increased by 2% from 2018/19. The average increase for our statistical neighbours was 4% and nationally it was 9%.
  - On average our statistical neighbours overspent their 2018/19 budget by 7% (nationally this was 16%). BHCC overspent by 9% (£0.210m).
  - Children with EHCPs have increased by an average of 14% each year over the last 4 years. Special school pupil numbers have increased by 2.4%

\*The City's 'statistical neighbours' used in benchmark comparisons above are

Bournemouth, Christchurch & Poole  
Bristol, City of  
Reading  
Bath and North East Somerset  
Sheffield  
Portsmouth  
York  
Leeds  
Bromley  
Southend-on-Sea

## **5. Response to the Issues arising from the Pandemic Crisis**

### **Supplier Relief**



- 5.1. On the 18 March, the Government announced the closure of schools after the 20<sup>th</sup> March until further notice, with an exception for the children of keyworkers and vulnerable children. The council decided to pay transport operators in full up to the end of March 2020 in recognition of the sudden loss of income they experienced. Operators who have carried out runs over the Easter holidays have also been paid in full.
- 5.2. Further arrangements have been made subsequently to provide support to the end of June 2020, as outlined below (see use of urgency powers in Appendix C).
- 5.3. The Government's Policy Procurement Note of March 2020 (see link below) stated that public bodies should pay suppliers until the 30 June 'as normal' if they considered them to be 'at risk' over the current crisis, on the proviso that firms operated an 'open book' approach so public bodies could check that relief was genuinely needed and not being double-claimed.  
[P:\Documents\PPN\\_02\\_20\\_Supplier\\_Relief\\_due\\_to\\_Covid19.pdf](P:\Documents\PPN_02_20_Supplier_Relief_due_to_Covid19.pdf)
- 5.4. The PPN set out an expectation, but it was not statutory or mandatory for councils. Councils, as well as their suppliers, are facing unprecedented financial challenges over this crisis period. It is not easy for councils to pay 'as normal' until the end of June 2020, when their revenue is being substantially reduced, and in the case of Brighton and Hove, by an estimated loss of £8m per month. This is in addition to additional costs of approximately £3m per month.
- 5.5. In this context, Brighton and Hove City Council published guidance to all suppliers about claiming relief, suggesting a consideration of financial support on a case by case basis, but with the expectation that suppliers would use all appropriate government schemes as a first port of call (for example, the government furlough and self-employment schemes for staff).  
<https://www.brighton-hove.gov.uk/content/council-and-democracy/contracts-and-tenders-council>.
- 5.6. However, the council recognised that there were special considerations in the case of HTST suppliers and that there were specific vulnerabilities in the workforce. The service had also been added to the corporate risk register, as advocated by the Independent Review. In that context, some additional proposals were made to ensure the sustainability of a vital and statutory service.
- 5.7. For HTST operators 'at risk' over the crisis, the council followed the spirit of the Government's PPN and ensured that payment would be made 'as normal', but with the proviso that firms were asked to make use of government's schemes to support businesses as their first port of call, for example by claiming the business grants available, furloughing staff or asking them to claim via the government's self-employment schemes, where this was a reasonable and viable option.
- 5.8. As government schemes for staff only pay 80% of normal income up to a certain limit, the council has provided 'top-up' for the remaining 20% as a means of ensuring the retention of staff who might otherwise seek employment elsewhere. In the case of Vehicle Passenger Assistants (VPAs), specific considerations for this workforce meant that the council decided to fund 100% of their salary costs over this period and the rationale for this is set out below.

- 5.9. Funding accessed through the government schemes is to be subtracted from any relief offered, plus an agreed element for costs that are not being incurred (petrol, vehicle maintenance etc). This proposal should enable firms to retain staff as the large majority will experience no reduction in income, while the burden on the council is reduced to more manageable levels.
- 5.10. Each of our eight providers is very different in terms of structure, size, percentage of work undertaken for the council, employment status of staff, and financial viability over the crisis period, so a case by case examination has been followed. Discussions with firms have been thorough and detailed, involving officers from HTST, Finance, Legal, Procurement and Internal Audit, in order to ensure the robustness of proceedings and the protection of public funds.
- 5.11. **Vehicle Passenger Assistants (VPAs):** The council will support the salaries of this group of staff in full without requiring firms to furlough these staff or require them to access the government's self-employment scheme. This is because their work is so critical to the operation of the HTST service and because the more casual and part-time nature of their work may make it more difficult for them to access government schemes to support workers. VPAs are known to be a difficult workforce to recruit. They are mostly self-employed, with operators recruiting them to work for around 2 hours only per day, before and after school, usually on low wages. The hours are not attractive to many, and consequently, this work tends to be fitted around other jobs or to be taken by workers of retirement age. We have some information that several VPAs have left already to take on key worker posts over this period. Additionally, VPAs must have an enhanced DBS and these can take several weeks to come through. It is essential for the sustainability of the service that the VPA workforce is protected and that enough time is allowed for workers to be recruited, checked, trained and introduced to families before school starts in September.

### **Arrangements for Transport during the Pandemic**

- 5.12. In addition to risk assessments of individual children, the service has considered risks on each vehicle operating routes to school over the pandemic period. Arrangements have been altered to maintain social distancing as far as possible, by limiting the number of children on vehicles and not allowing children to sit in the front next to the driver.
- 5.13. If there is a requirement to maintain social distance on transport when schools return to normal and a much larger group require transport, there will be issues around rising costs, and also potentially the supply of sufficient additional vehicles and transport staff. However, despite a level of uncertainty affecting all services, HTST is considering all options in discussion with operators within business continuity planning.
- 5.14. Firms have all been asked to confirm their schedules for cleaning vehicles between passengers, so that the service can check that government advice is being followed in full.
- 5.15. Although at the time of writing the Government is not recommending the use of masks and gloves outside of care settings, the Council understands the concerns

of transport operators and supports the use of masks and gloves where social distancing cannot be maintained. While it is the responsibility of transport operators to source appropriate PPE, the Council is aware this is a difficult area and will offer support with supplies where it is able to do so, subject to prioritisation and availability.

- 5.16. While the service can work with operators to mitigate risk of transmission of the virus, it cannot be eliminated completely.
- 5.17. On 8<sup>th</sup> May 2020, draft local guidance on the use of PPE, social distancing and the cleaning of vehicles was sent to transport operators, PACC and special school headteachers for feedback and comments by 22<sup>nd</sup> May.

## **6. Planning for September 2020**

- 6.1. The HTST service has formulated a plan for ensuring a high-quality service from September, with the needs and interests of children front and centre of all arrangements.
- 6.2. The contracts with operators are for 4 years so there is no need to re-tender them. This has been communicated to parents. This means change will be minimal in September which will allow for consistency and consolidation of current arrangements and relationships between children and transport staff.
- 6.3. Inevitably, there are changes every year as children leave and new children join require? transport, but these will be kept to a minimum and all parents will be informed of changes well in advance and have the opportunity with their children to meet their drivers and VPAs.
- 6.4. The service welcomes the recommendation of the independent review not to require annual re-applications for transport as routine. It is also working with PACC on a new online system that will combine an application process with information on each child and a risk assessment.
- 6.5. The plan for September has been shared with PACC and will be communicated more widely with parents and carers both via the service's email communication links with parents and via the PACC website.
- 6.6. However, the current pandemic introduces an element of uncertainty to all planning. The service, along with services across the country, is grappling with issues of social distancing on transport and queries about PPE, which government guidance has not yet fully covered. We are carrying out the necessary risk assessments locally, but these issues may mean unavoidable changes to transport arrangements, albeit temporarily, in September. Additionally, while we will do our best to ensure there are no problems with the supply chain of drivers, VPAs and vehicles, events may not always be within the Council's control.
- 6.7. Families understand that changes may result from the on-going pandemic, but the service will make sure there is full communication with parents/ carers in all eventualities.

## **7. CONCLUSION**

- 7.1. The service is committed to improvement via a co-production model with the PACC and Amaze and including all other stakeholders as necessary.
- 7.2. Strong governance arrangements are in place to ensure progress on recommendations from the Independent Review and meeting success criteria in the service action plan.
- 7.3. Although arrangements are in place for September, uncertainties around the pandemic crisis may still create substantial challenges.
- 7.4. A review of the capacity of the HTST service suggest that there is a need to establish permanent leadership arrangements and expand the staffing levels of the service.
- 7.5. The HTST service budget appears to be considerably less than the average for our statistical neighbours, which may explain at least in part the large overspend. The base-budget therefore needs to be re-considered in the light of benchmarking and increased demand, as SEND numbers rise.

## **8. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 8.1 The 2020/21 agreed budget for the HTST service is £2.414M. The overspend at the end of 2019/20 was £0.968m. The initial forecast overspend for 2020/21 was £1.202M, but the impact of covid-19 and school closures make previous predictions less reliable. However, it is certain that the costs of providing HTST in 2020/21 will exceed the available budget and significant investment will be required to meet the current commitments and the recommendations of the independent review.

Finance Officer Consulted: David Ellis

Date: 26/05/20

### Legal Implications:

- 8.2 Contract variations which shift the economic balance in favour of the supplier do not usually comply with the public procurement regime. However, in this case it is likely that the variation falls within the safe harbour provided in Regulation 43(c) (the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen). It is unlikely that any legal challenges will be issued during the pandemic provided the variation is the justified by the immediate need to mitigate the impact of the crisis. The risk that it would be deemed to be state aid is low. If it is state aid; the European Commission has now approved the UK government's support scheme which allows payments of up to €800,000 to a company to address its urgent liquidity needs.

- 8.3 The contract variation which the operators will be required to sign is based on the model interim payment terms issued by the government to accompany PPN 02/20. They require the supplier to act on an open book basis and prevent them from making any profit.

Lawyer Consulted: Alice Rowland & Natasha Watson Date: 27/4/20

Equalities Implications:

- 8.4 The HTST transport service caters for some of the most vulnerable children and young people in the City and it is essential that their specific needs are recognised in providing a safe and stress-free service.

Sustainability Implications:

- 8.5 The additional services will be delivered across the city to reduce the need for travel and maximise the sense of community for young people.

Any Other Significant Implications:

- 8.6 None

## **SUPPORTING DOCUMENTATION**

Appendices:

- A: High Level Action Plan Responding to Independent Review Report
- B: Report to Policy and Resources Committee of 27.5.20
- C: Use of Officer Urgency Powers (supplier relief over pandemic period)

Documents in Members' Rooms:

None

Background Documents:

None