

# Brighton & Hove City Council

## Children Young People and Skills Committee

## Agenda Item 71

**Subject:** Home to School Transport for Pupils with Special Needs and Other Social Care Transport Contract

**Date of meeting:** 7 March 2022

**Report of:** Executive Director of Families, Children and Learning

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**Ward(s) affected:** All

### For general release

#### 1. Purpose of the report and policy context

- 1.1 To provide the Committee with an update and progress report on the Home to School Transport (HTST) service.
- 1.2 This report seeks endorsement of the re-procurement of a contract to provide for home to school transport to pupils with special educational needs, and other hired transport for vulnerable children and adults on behalf of social care teams.
- 1.3 The Policy and Resources Committee will approve the method of re-procurement on 24 March 2022.

#### 2. Recommendations

That the Children Young People and Skills Committee:

- 2.1 Note this progress report on the Home to School Transport (HTST) Service.
- 2.2 Endorse the re-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 2023 to 31 August 2027;
- 2.3 Endorse the option of an amended Dynamic Purchasing System, without reverse auction bidding, tendered on a route-by-route basis.
- 2.4 Grant delegated authority to the Executive Director of Families, Children & Learning to carry out the procurement and award of the contract referred to in Paragraph 2.2 above including the award and letting of the framework agreement. A progress report will be shared at each Committee meeting.

- 2.5 Endorse expectations that Operators pay (and verify that they pay) their staff the living wage, where they directly employ them (see 14.19).

### **3. Context and background information**

- 3.1 The 2019 introduction of a HTST new Dynamic Purchasing System (DPS), based on a reverse auction bidding process, resulted in significant loss of trust and confidence in the service and the council from families, transport operators and schools. The service was subject to internal and external reviews and was placed on the corporate risk register. As a result, routine progress reports have been tabled for CYPS committee scrutiny. What follows is a report in two parts:

- Part A – a general service update; and
- Part B - Re-procurement of the Service post August 2023

#### **Part A: A general service update**

### **4. Co-production with the Parent Carers' Council**

- 4.1 A co-production working agreement was co-produced between PaCC representatives and the Home to School Transport Service and ratified by the HTST Governance Board in June 2020. The HTST has valued the extensive and excellent input from the assigned PaCC representative, which has made a very significant contribution to service improvement. An addendum by PaCC to this report is included below as supporting documentation to this report.

### **5. COVID-19 Update**

- 5.1 The service regularly keeps operators up to date on changes to national and local guidance, as well as offering advice on lateral flow testing. The service was also able to arrange booster vaccinations for drivers and vehicle passenger assistants who were supporting clinically vulnerable children, as they were classified as care workers and therefore a priority group. Lateral flow testing kits and PPE have also been made available to all operators.
- 5.2 The service no longer operates socially distanced routes. However, this remains under review as the Omicron variant crisis unfolds. Out of 197 journeys there are 18 shared journeys with 6 or more children in the vehicle. These routes are carefully monitored for comfort and safety and to ensure journey times do not exceed the prescribed statutory timeframes (within 45 minutes for primary age children, 75 minutes for secondary aged children).

### **6. Monitoring Contractual Compliance**

- 6.1 The Service has have held termly contractor review meetings with our operators, where we have monitored the contract's Key Performance Indicators (KPIs) as well as checking insurance documentation, DBS background checks, training compliance, and reflecting on incidents, complaints and concerns. All operators had contractor review meetings in November 2021, there were no significant issues of note.
- 6.2 Since the Autumn term a full compliance spot check programme has been implemented. We have undertaken 4 compliance spot checks to the following schools; Downs View Link College, Northease Manor, Hill Park Upper, Downs View Woodingdean. Licensing colleagues have supported at one of the spot checks, reviewing Northease Manor. The spot checks were overwhelmingly positive. Where issues did arise with operators, those were fed back and resolved as a priority.

## **7. Training**

- 7.1 The service considers high quality training to be essential for the safety and wellbeing of children and young people on HTST and is mindful that parents and carers are of the same view. Over the last year, 9 modules for training drivers and vehicle passenger assistants have been written for the Home to School Transport service providers.
- 7.2 5 of the 9 Operators on the HTST framework are 100% complete with all their drivers and vehicle passenger assistants for all 9 modules. 4 of the Operators have completed 90%+ of the modules.
- 7.3 There is a now a requirement that all training must be completed by transport staff before Operators are awarded a route.
- 7.4 Bespoke support has been offered to a few operators where circumstances have requested or needed it, e.g. six bespoke training webinars for two drivers and a VPA, to learn basic British Sign Language for a team that support three young people who are deaf.
- 7.5 Planning for further webinars, particularly focusing on communication and interaction and children and young people with primary needs of Social, emotional and mental health (SEMH), is underway at the time of writing.

## **8. Independent Travel Training (ITT)**

- 8.1 The Members Policy Panel Final Report of November 2020 recommended that 'Supporting young people with independent travel training should be an essential consideration and resourced where appropriate'.
- 8.2 HTST aims to maximize independence for all its young people, and to enable that independence as early as possible. By teaching young people with SEND to travel independently we aim to increase confidence, independence and choices for young people.

- 8.3 A new ITT service is being set up under the control of the Home to School Transport team. Pump-priming funding has been agreed. This service aims to offer ITT to every HTST student, of any age, who is willing and able to be trained for a greater degree of independent travel. The ITT service aims to become self-funding from the savings to the HTST budget.
- 8.4 As per the Members Policy Panel recommendation, the service is also exploring an offer to parents to pay them a personal travel budget in place of the standard service, if parents are able to find alternative means of getting their child to school. This will be voluntary.

## **9. Team**

- 9.1 A new, fixed-term for two years, Head of Service has been appointed to take the service through to re-procurement. The Team Manager has gained a secondment elsewhere in the council and the SEND Officer is Acting Up at Team Manager until October 2022. The SEND Officer is currently being externally recruited to (following a failed attempt at internal recruitment). Interviews will take place in early March 2022. The Contracts and Service Development Manager remains vacant following four failed recruitment attempts. Attempts to recruit are ongoing at the time of writing this report. This role is vital to ensure robust contractual compliance and will be even more crucial at the start of the 2023 contracts.

## **10. Value for Money**

- 10.1 Numbers of children eligible for HTST are steadily increasing, the current (at the time of writing) number of pupils on contracted taxi routes is an increase of 10% since this time last year.
- 10.2 The number of children requiring the more costly travel alone and solo passenger status is also increasing. The cost of these travel arrangements is currently £5,319.59 per day for a total of 68 children on either 'solo' or 'travel alone' status.
- 10.3 Budget pressures rise each year with increases in the number of children and young people on Education and Health Care plans and becoming eligible for transport. This is the case nationally as well as in the City. The percentage of EHC plans more than doubled since 2015 (1,006 /2,024 children).
- 10.4 The number of families successful at SEN Tribunals is also steadily rising, and they frequently seek schools outside the City borders, which require the more costly solo passenger journeys over longer distances. Plans are being developed for 70 specialist ASC placements over the next financial year through resource base provision on mainstream school sites and 2 satellites of special schools. With hopefully an additional 30 special school ASC places the next financial year.

- 10.5 While the service has achieved some success in controlling spiraling costs to date, more work needs to be done, and the service has developed a Value for Money tool. This was not used during the pandemic due to the distortions from social distancing and partial school closures. However, from September 2021, this tool has been updated with current pricing. This has helped the service recognise outliers in terms of cost and exert some moderating influence.

## **11. Satisfaction Surveys**

- 11.1 A rolling parent and pupil satisfaction survey is in operation. A reminder to complete this was sent to all parents carers at the end of term. At the time of writing 95% of respondents (170 families) are very (136 families) or fairly (25 families) satisfied with the travel arrangements for their children.
- 11.2 On 25 October 2021 all operators were invited to a consultation session on the 2023 procurement options. Half of the operators attended and feedback was generally positive. Operators felt the Service is responsive and that contract review meetings are helpful. Their full feedback, including their thoughts on re-procurement, can be read in Appendix 4 of the Options Appraisal.
- 11.3 In the summer of 2020, maintained schools/colleges and non-maintained placements including specialist independent provisions were consulted as to how the HTST service ranked in their opinion. 50 schools were consulted and approximately half participated. 26% said the service was Good/Very good, and 22 said satisfactory, no schools scored the service as unsatisfactory. This exercise will be repeated in the Spring of 2022.

## **12. Policies & Processes**

- 12.1 The national guidance on home to school transport was last published in 2014 and updated in December 2016. An update is anticipated, but COVID-19 has frustrated the pace. In consultation with PaCC, there are no current plans to update the local home to school transport policy in silo, but this will be priority once the national update is published. There has been a request to review the policy to cover the costs of transport arrangements to respite provision and to re-integration days from the Pupil Referral Unit to mainstream provision. These changes would lead to further budget pressures on an already stretched budget.
- 12.2 The Home to School Transport Service is responsible for around 780+ vehicle movements at peak times across the city. A Home to School Transport Sustainability Strategy is being co-produced with parents and schools at the time of writing.
- 12.3 All post 16 transport is discretionary. However, there is national guidance which our local post-16 statement follows and is considered generous by the standards of neighbouring LAs. This is consulted upon annually, and will be

reviewed between January – March 2022 taking into account new initiatives set out in the draft Sustainability Policy:

- Central pick-up points for students, rather than door to door, to promote independence
- More independent travel options
- Minibuses only at appointed times

12.4 A revised, and standalone, Appeals Policy was co-produced with PaCC in November 2021.

12.5 In consultation with PaCC, revised Parent Guidelines and a Parent Carer Agreement have been drafted. These have been better aligned to the local policy and now also set out the rationale for 'solo' and 'travel alone' status journeys.

12.6 In consultation with PaCC, Pupil Travel Information Forms have been streamlined.

### 13 **Priorities for further Improvement**

13.1 Top priorities include:

- Consulting on an updated HTST, Post-16 Transport Policy and Sustainability Strategy, when the government revises the national policy and guidance (time frame on revisions to national guidelines are at this time unknown. *The Post 16 Transport Policy and HTST Sustainability Strategy will be consulted upon by May 2022*).
- Providing a quality independent travel training option available to all families for whom independent travel is an option, subject to a budget being secured for this; (*Pilot year effective by September 2022*).
- Extending compliance checks to include spot checks at all school and college sites; (*to commence from June 2022*)
- Establishing a regular integrated survey of key stakeholders to provide a 360-degree perspective on the work of the service; *\*September 2022*
- Ensuring a balanced budget (*ongoing and supported by Service benchmarking*)

### 14. PART B: Re-procurement of the Service post August 2023

14.1 The current DPS comes to an end in August 2023 and the council has to make a decision about onward procurement of this essential statutory service in good time to allow for effective and efficient implementation.

14.2 A public consultation for all stakeholders on re-procurement options concluded in November 2021. Full feedback is detailed in appendix 4 of the Options Appraisal.

- 14.3 A Procurement Project Board has been meeting since April 2021. It is chaired by Jo Lyons, Assistant Director of Education and Skills and includes representation from schools and from the Parent and Carers Council (PaCC). The board is advised by the Head of Procurement and a lawyer from the council's Legal Team. There is also representation from licensing colleagues. The guiding principle has been to ensure that the safety and wellbeing of children and young people is at the forefront of decision making.
- 14.4 HTST re-procurement options have been explored by the Procurement Board, and the advantages and disadvantages of each option have been carefully considered.
- 14.5 The current timeline requires an options appraisal and business case with recommendations to be presented to CYPS Committee in March 2022 culminating in approval by Policy and Resources in March 2022, leaving a full four school terms for implementation of the chosen way forward.
- 14.6 The HTST Members Policy Panel in 2020 offered caution in adopting a procurement model that focused on reverse auction bidding /e-auctions designed in such a way as to either give routes to the lowest bidder, or accept unnecessarily high service costs on routes receiving only one bid. Reverse auction bidding was disbanded in October 2019 and will not be used going forward.
- 14.7 The HTST Members Policy Panel requested the service ascertain the benefits of cross-county collaboration in terms of procurement, provision and/or standard setting. Detailed talks have been held with both East and West Sussex, but both operate home to school transport very differently (to one another, and to Brighton & Hove) making collaboration and standardisation a challenge.
- 14.8 Councilors requested that a 'One Contract One School' approach at selected sites be scoped. Only two of the nine transport operators supported this proposal. This was initially suggested to support traffic management at Hill Park and Downsview Schools, but work carried out in partnership between operators, schools and the home to school transport team appears to have largely alleviated these issues.
- 14.9 Councilors encouraged contract revisions to be negotiated with operators for the rest of the current contract term. There were felt to be no substantial issues with the quality of service, as suggested by feedback from the operator consultation session on 25 October 2021.

### **The Preferred Option**

- 14.10 The preferred option is an 'open bid' Dynamic Purchasing System (DPS) model of procurement, with a new contract and service specification in line with responses to the consultation. This option was endorsed unanimously by the Members' Procurement Advisory Board which met this month on 10.1.2022.

- 14.11 An 'open bid' model allows new suppliers to apply to join at any time, in contrast to a 'closed' Framework. This reduces the risk of the council being left with too few suppliers if other suppliers drop out. This addresses some of the problems associated with the council's previous experience using a Framework from 2015-19.
- 14.12 A DPS procurement model is common for Home to School Transport and many other services and is encouraged by the Local Government Association. It has been recommended and supported by the council's Procurement Team.
- 14.13 In the *Association of Transport Coordinating Officers Local Authority Passenger Transport Survey 2020*, the method used to procure mainstream education transport services varied between authorities. Methods or processes used to procure SEND transport services included dynamic purchasing (33); open tenders which were moving to DPS (2); framework agreements (7); DPS and frameworks (3).
- 14.14 A DPS is currently used in Adults Services for Home Care; homeless services and commissioning of services for people with learning disabilities. In West Sussex it is used by the Children's Disability Commissioning Team for special school placements for non-maintained schools
- 14.15 The DPS procurement model was not responsible for the concerns and problems that arose in 2019. As described in the LGA's Independent Review: Home to School Transport Feedback Report, January 2020:
- 'these concerns primarily focused on the speed of the procurement, lack of political oversight, and the fact that Edge Public Solutions were the only bidder'.*
- 14.16 A DPS is most likely to control costs. The service is running within budget despite 10% extra pupils on transport since this time last year, but there are very limited opportunities to control demand, which has more than doubled since 2015, and continues to rise with increasing numbers of children and young people on Education and Health Care plans becoming eligible for free transport.
- 14.17 A full list of advantages and disadvantages is set out on pages 6 and 7 of the options appraisal.

### **Specific considerations**

- 14.18 Routes are currently tendered individually. The Procurement Board feel this is a good configuration for the service, which most importantly can deliver continuity for children and parents, by firms with local knowledge operating within a competitive market. Two of the nine transport operators have written in support of a 'One Contract One School', basing tenders around one or two individual special schools (either for a single provider or a consortium) where there are multiple journeys and limited car park/ turning space, e.g. at Hill Park and Downsview Schools. This was a scheme used under the

previous Framework agreement. However, work carried out in partnership between operators, schools and the HTST team has led to the resolution of traffic issues to a significant degree at Hill Park and Downsview.

- 14.19 It is proposed that the re-procurement process should include a clause in the contract that operators, where they directly employ staff, should pay (and verify that they pay) the Voluntary Living Wage<sup>1</sup> (VLW). This is in line with Corporate Cleaning, Corporate Security and School Meals contracts.

What would it cost the council? Without knowing the numbers of employed staff, and the rates of pay, it's difficult to say exactly what the impact on the council's budget might be.

## **15. Analysis and consideration of alternative options**

- 15.1 Two alternative options have been explored.
- 15.2 Revert to a closed Framework. The key risk with a closed Framework and a limited number of suppliers is that the market in which transport operators are working is volatile, with an emerging shortage of drivers and Vehicle Passenger Assistants (VPAs), plus rises in the Living Wage and fuel prices. In these conditions relying on a small number of firms is a risk to the sustainability of the service and cost control. A full list of advantages and disadvantages is set out on pages 7 and 8 of the options appraisal.
- 15.3 Bring the service in house. A fully in-house service covering all routes would cost in the region of £1.2m more than the current contracts based on part-time staff costs.
- 15.4 A smaller in-house service, covering only the ten most expensive contracted out routes would cost around £144,000 more than those 10 contracted out routes.
- 15.5 A 'hybrid' in-house and outsourced service was explored around five years ago – this was in the context of a review of the small Adult Social Care (ASC) fleet, alongside a Needs Assessment of the transport needs of all vulnerable people in the city. The outcome was that an Integrated Transport Unit manager was appointed to explore the potential for a city-wide transport service covering patient transport, community and voluntary sector, social care and Home to School/education. However, the project folded and the ASC fleet was sold. A full list of advantages and disadvantages is set out on pages 8 and 9 of the options appraisal.

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<sup>1</sup> The Voluntary Living Wage rate, £9.90 from April 2022, is set by the Resolution Foundation and this rate covers the whole country outside London. The National Living Wage is the term given to the statutory National Minimum Wage for people over 23. It will be £9.50 from April 2022.

## **16. Community engagement and consultation**

For a description of extensive engagement, see attached options appraisal and business case at appendix 4.

## **17. Conclusion**

It is necessary to re-tender this framework agreement which expires at the end of August 2023. In order to build in sufficient time to carry out a fair and transparent procurement process, the process must commence now. It will enable the Council to comply with its duty to provide home to school transport for all eligible pupils in the city from 1 September 2023, as well as providing other social care transport, whilst achieving value for money savings through a revised contractual specification.

## **18. Financial implications**

The method of procurement of services does not have a financial value in itself and so there are no direct financial implications from the recommendations of this report. The process must be fair, transparent and provide the best value for money for the Council. The financial demands on the service have intensified in recent years with increasing numbers of children being eligible for home to school transport and appropriate, constructive procurement is a vital factor in effective budgetary control.

The financial implications of the alternative options explored are highlighted in the main body of the report and in the options appraisal.

Name of finance officer consulted: David Ellis      Date consulted: 11/02/22

## **19. Legal implications**

A DPS is similar to an electronic framework agreement, but new suppliers can join it at any time. The DPS involves a two-stage process. First, in the initial setup stage, all suppliers who meet the selection criteria and are not excluded must be admitted to the DPS. Contracting authorities must not impose any limit on the number of suppliers that may join a DPS. Unlike framework agreements, suppliers can also apply to join the DPS at any point during its lifetime. Individual contracts are awarded during the second stage. In this stage, the authority invites all suppliers on the DPS (or the relevant category within the DPS) to bid for the specific contract. The DPS should be set up and run in accordance with the PCR as well as the Council's Contract Standing Orders.

Name of lawyer consulted: David Fairfield      Date consulted: 14/02/2022

## **20. Equalities implications**

The statutory duty on the council to provide free Home to School Transport for children and young people with complex special educational needs and disabilities (SEND) is aimed at ensuring their access to schooling is assured, especially given mobility issues and the fact that the nearest suitable school may be further than for children without SEND. In arranging transport, the council must comply with the Equalities Act of 2010 which requires that children and young people with SEND are not treated 'less favourably' than their peers and that there is no indirect discrimination against their parents and carers by requiring of them more than would reasonably be required of other parents. An Equalities Impact Assessment is available in the options appraisal.

## **21. Sustainability implications**

The Education Act 2006 (as amended) places a general duty on the Council to promote the use of sustainable travel and transport. The duty applies to children and young people of compulsory school age and sixth-form age who travel to receive education or training in the Council's area.

The addition of up to 200 vehicles travelling twice a day at peak times across the City adds to pollution and in that context, it is important that transport providers invest in newer more environmentally sustainable vehicles.

The service is consulting on a draft sustainability plan, outlining its part in helping to meet the council's target of zero carbon emissions by 2030.

It is also important that the best and most efficient route planning minimises the numbers of vehicles needed by using the most suitable vehicles for each shared journey.

## **22. Other Implications**

### **Social Value and procurement implications**

The Home to School Transport Service provides significant funding in the order of £3m per annum to the local economy through its contracts to the taxi and private hire trade and public service vehicle companies. The contract could require employers delivering services on the council's behalf to pay their employees the Living Wage, and this will be monitored through the contract management process. The procurement process will ask suppliers how they intend to deliver social value to support the objectives in the City Plan, and social value will form a significant percentage of the tender evaluation process.

Keeping business local - One potential consequence of either a DPS or a closed Framework arrangement is that operators can potentially come from any part of the country. Tendering individual routes, and using a DPS, both encourage smaller local

providers to bid. Few providers from outside the city can be competitive if their base is some distance outside of the city. In order to establish a DPS the procurement will follow the restricted procedure. A restricted procedure utilises a Selection Questionnaire (SQ) prior to full tender. How these questions are answered will determine which suppliers will be entitled to bid. One advantage of using a DPS is that all operators who satisfy the selection criteria will be admitted to the DPS. This should result in operators from Sussex or the Greater Brighton area being admitted to the DPS and for journeys to schools and colleges outside the city this can potentially provide shorter journey times at lower cost, as happens now with a small number of routes.

The criteria for admission to the Framework/DPS will specify that operators must follow the Brighton and Hove 'Blue Book' of local Licensing regulations. This will eliminate the advantage that operators based in more lightly regulated authorities and help to ensure fairness to local operators.

### **Risk and Opportunity Management Implications**

Potential risks arise for pupils and service users if suitable contractual arrangements are not made and any failure to do so would mean that the council would not comply with its statutory duty to provide home to school transport to pupils with special educational needs. The greatest risk for students is that in the absence of transport they could not attend school.

Any overspending on home to school transport and social care transport will likely impact upon other service provision within the council and services to children and families in particular. It is considered that the procurement of a framework agreement, and the subsequent implementation of call-off arrangements, will achieve the greatest value for money for the council.

A full risk register is detailed in the options appraisal.

There has been a consolidation of providers in the local taxi market since 2011. The specification for the service and the contract terms must limit the possibility for unexpected additional costs whilst attracting sufficient interest from providers to achieve value for money. Consultation with current providers and careful drafting of the specification and framework agreement in advance of the formal tender will be undertaken to endeavour to mitigate this risk.

### **Supporting Documentation**

#### **Appendices**

1. Home to School Transport Report for Children & Young People's Education & Skills Committee 7th March 2022
2. Options Appraisal and Business Case