

ED2. EXECUTIVE DECISIONS BY A CABINET MEMBER OR AN OFFICER

A. Report Title: PROCUREMENT OF HOME TO SCHOOL TRANSPORT – FOR CONTRACTS EXPIRING IN JULY 2014	
B. Report Author(s): Mark Livermore, Commissioning Team	Tel: 01375 652531 E-mail: mlivermore@thurrock.gov.uk
C. Decision Maker: Roger Harris	
D. Position held: Director of Adults, Health and Commissioning	
E. Key decision: YES	F. Delegation ref: 01104264
G. Is the decision urgent? NO	
H. If yes, state why.	

<p>I. DECISION (strike out whichever does not apply) :</p> <p>1. I agree the recommendations in the attached report for the reasons given in the report; OR</p> <p>2. *My decision is:</p> <p>To award contracts to the most economically advantageous tenders. Details of providers are contained as an Appendix to this document.</p> <p>*The reason for my decision is:</p> <p>A compliant open tender EU procurement process has taken place. Following this, providers underwent a pricing evaluation process. Providers were appointed to all contracts (routes). The overall saving made as a result of this procurement process were £29k per annum, £116k over the four year contracts.</p> <p>In addition the 'ad-hoc' framework agreements have been awarded and will be utilised as they are required with effect from September 2014.</p> <p>Following award of contract the Council will be able to maintain its statutory provision of school transport (mainstream and special schools). Some of the contracts covered denominational schools. Whilst these are not statutory, the Council has a current policy of providing transport to these schools, subject to a charging policy that commences from September 2014.</p> <p>* Continue overleaf or on an additional sheet if necessary.</p>
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X
Signed:



Date:

5/6/14

URGENCY

Democratic Services will arrange for the completion of the following:

J. I confirm that in my opinion a decision on this matter is urgent and cannot reasonably be delayed:

Signed:

Date:

To be completed by Democratic Services

Date decision received by Dem. Services:	Date decision published:
Implementation date:	
Relevant O & S Committee:	

The provision of school transport is governed by statute, the Education Act 1996 and the Transport Act 1985.

There are 85 contracts for the provision of home to school transport that are due to expire in July 2014.

The service comprises of the Council arranging buses, coaches, minibuses and taxis for pupils requiring access to their educational establishment. Home to school transport can be broken down into the categories below:

- o Mainstream schools where distance to school requires the Council to provide school transport - statutory
- o Travel to special schools – statutory subject to meeting criteria
- o Travel to denominational faith schools – discretionary

The aforementioned 85 contracts consist of the following:

- o Special needs contracts - £965,843 per academic year 2014/15 – 52 routes
- o Mainstream schools (including denominational) - £645,036 per academic year 2014/15 - 33 routes
- o Total - £1,610,879

In addition a budget of £450,000 per academic year has been agreed for 'ad-hoc' routes that need to be established outside of the above agreed routes,

dependent on transport needs of individual pupils throughout the year. This will only be instigated if a spare seat on an existing commissioned service is not available.

Cabinet sanction was obtained in January 2014 to delegate award of contract decision to the Director of Adults, Health and Commissioning, Roger Harris.

This was an EU open tender combining technical criteria and tender price.

Tenders were received on 11/4/2014 and evaluated.

These tenders were evaluated against the agreed criteria (embedded below).



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Following this a pricing evaluation process took place whereby providers could package their bids for individual routes offering savings and discounts for delivery of multiple routes. An automated system then selects the most advantageous bids to the Local Authority.

The two stages involved representatives from both Procurement and the Passenger Transport Unit.

The highest scoring bidder was selected for each contract (route) and will be awarded contract for that route.

The record of scores for each provider by route is detailed in the Form C, Award of Contract Form.

In line with the original Cabinet report of January 2014 and accompanying Commissioning Report the most economically advantageous tender was selected for each route.

APPENDICES TO THIS REPORT:

- Form B – Commissioning Report (exempt)
- Cabinet Report – January 2014 (shown below)
- Form C – Contract Award Request (exempt)
- Tender scoring matrix –embedded above

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8th January 2014	ITEM:
Cabinet	
PROCUREMENT OF HOME TO SCHOOL TRANSPORT – FOR CONTRACTS EXPIRING IN JULY 2014	
Report of: Councillor John Kent – Portfolio Holder for Finance and Education	
Wards and communities affected: All	Key Decision: Yes
Accountable Head of Service: Roger Harris – Head of Commissioning	
Accountable Director: Roger Harris – Acting Director of Adults, Health and Commissioning	
This report is PUBLIC with exempt Appendix	
Purpose of Report: To seek approval from Cabinet to enter into procurement exercise for home to school transport contracts due to expire in July 2014 for four years commencing in the 2014/15 academic year. To seek approval for delegation to be given to the Director of Adults, Health and Commissioning to sanction 'in year' requests for school transport for four years commencing in the academic year 2014/15. To provide a brief update on the review of all school transport with a view to providing savings.	

EXECUTIVE SUMMARY

A number of contracts for home to school transport are due for renewal in July 2014 and the value of the contracts requires a Cabinet decision. The report sets out the details of these contracts and a brief summary of the current work that is being undertaken in reviewing the overall effectiveness of school transport and opportunities for savings.

1. RECOMMENDATIONS:

- 1.1 That Cabinet give approval to re-tender for the contracts detailed for home to school transport, in accordance with EU procurement**

procedures, for a term of four years commencing in the academic year 2014/15.

- 1.2 To give approval for delegated authority to the Director of Adults, Health and Commissioning to approve the award of contracts.
- 1.3 That Cabinet give approval to the Director of Adults, Health and Commissioning to have delegated authority to sanction 'in year' school transport requests where a new route and contract is required or where routes have to be varied mid year, and no suitable existing route (contract) exists. This will be in liaison with the Portfolio Holder on a regular basis.
- 1.4 That Cabinet agree to increase the concessionary fares charge from £200 to £400 per academic year, with the charge being full cost recovery for those pupils applying for a concessionary fare to travel on denominational transport.

2. INTRODUCTION AND BACKGROUND:

- 2.1 The provision of transport is governed by statute, the Education Act 1996 and the Transport Act 1985. The letting of the contracts that are due to expire for home to school transport is a key decision as in aggregate these contracts currently exceed the threshold that is reportable to Cabinet (see Appendix A – exempt Commissioning Report for full details).
- 2.2 The Council currently has a total of approximately 140 contracts for home to school transport provision, provided by bus, coach, minibuss and taxi. This has significantly reduced from 162 in 2012 and 179 in 2011. In addition there are instances where public transport tickets are purchased by the Council on behalf of pupils.

There are three distinct areas of school transport:

- **Mainstream schools** where distance / safety of route to school requires the Council to provide school transport - statutory
 - Travel to **special schools** – statutory subject to meeting criteria
 - Travel to **denominational faith schools** – discretionary (chargeable from September 2014)
- 2.3 The contracts detailed in this report expire in July 2014 and cover 85 contracts (routes). Agreement to tender these contracts is sought for a period of four years.
 - 2.4 Furthermore there will always be additional requests for new pupils who either commence or change schools outside of the usual admissions application dates.

3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:

3.1 The agreement to tender is sought for a period of four years.

Cabinet agreed in June and September 2013 to cease provision of post 16 transport unless in exceptional circumstances, or where students' parents were in receipt of qualifying benefits. This decision is now in place with the Council realising the savings in this respect. Furthermore, Cabinet agreed to continue with transport to denominational schools, but to charge full cost recovery, except in those circumstances outlined for post 16. The Council will start to realise these savings in the academic year 2014/15.

There remain school transport contracts for special schools and mainstream schools, where pupils are entitled to transport due to distance or the unsafe nature of the route to school. In addition, the denominational routes are still commissioned by the Council, but with full cost recovery. The above types of transport are within those contracts expiring in July 2014, for which approval to commence the procurement process is sought from Cabinet.

The large majority of contracts that expire in July 2014 are in respect of special schools, denominational and mainly primary mainstream. There are a small number of secondary mainstream school contracts due for tender.

With the exception of the small number of secondary school mainstream contracts the bulk of the contracts can be let for the four year period. It is recognised that there are numerous day to day changes to contracts, with pupil numbers and needs changing continually. For this reason, whilst contracts are let for a number of years, a 56 day 'no fault' termination clause forms part of each contract.

Following the agreement to cease post 16 transport and charge for denominational transport, the School Transport Review Project Team are now commencing a review into mainstream secondary school provision. Cabinet have already given their agreement to explore this area. The aim will be to ensure more pupils are offered local bus passes, as opposed to the Council commissioning their own transport, the latter being more costly to administer than public transport. Whilst there are a few contracts for mainstream schools that expire in 2014, these are sought for the same four year term, given the 56 day termination clause that will apply. The Passenger Transport Team will ensure that providers are kept informed of the intentions of the Council, as soon as these plans become public.

On occasions there may be particular needs of a child with special educational needs which would mean that changing driver/escort during a re-tender exercise could cause distress to that child. On

occasions, in exceptional circumstances, the pupils education and welfare can be affected detrimentally and in these cases we have waived the requirement to re-tender a particular route. This will remain and be assessed on a case by case basis.

- 3.2 There will always be additional requests for pupils who start school or change school 'in year' and where routes have to be varied to accommodate pupil changes, therefore increasing the cost of that individual route. These can be for mainstream, denominational or special schools. Where suitable existing routes are already in place these will always be fully utilised and any spare capacity utilised in the first instance.

However there will always be occasions when new routes will be required, particularly where children with special educational needs come on school roll and often require individual adapted vehicles. On occasions school transport is granted in exceptional circumstances i.e. a child with a temporary medical condition.

The costs are always difficult to calculate and can be unpredictable. They are demand led and continually fluctuate.

All additional contracts are verified and signed off by the Acting Head of Adults, Health and Commissioning, making reference to the current budget position and the need to provide statutory transport for these children.

In line with the standard contracts a 56 day termination clause will form part of the contract.

The timescale for providers to reply is also limited to ten working days for these cases making it unviable to approve sanction through the usual Cabinet procedures. Approval is therefore sought to delegate authority to the Acting Director of Adults, Health and Commissioning to approve all of these 'in year' requests without referral to Cabinet.

The value for the 'in year' requests is estimated at c. £450k per annum, however, as stated, this is an indicative figure that can be subject to change dependant on demand and need.

Liaison will take place between the Director and the Portfolio Holder on a regular basis to ensure this position is monitored and scrutinised. This will ensure that there are no time delays in providing transport for those pupils that are statutorily entitled to it. Monitoring of the budgets around school transport will continue to be reported via the usual financial monitoring and reporting processes.

- 3.3 The routes and values of the contracts are detailed in the Commissioning Report attached. The Passenger Transport Unit is continually re-assessing contracts to ascertain if certain routes can be

amalgamated to make best use of vehicles and achieve value for money. Some of the routes detailed within the Commissioning report will likely change in the period between report writing and presentation at Cabinet, due to this constant re-assessment process. There may also be a small number of new routes identified between the compilation of this report and the commencement of the tender process.

- 3.4 Due to the value of contracts these are subject to EU procurement legislation. The first stage of this process is to put a notice on the Official Journal of the European Union (OJEU). It is possible that an e-auction will be conducted, as was the case in the previous year's procurement, which resulted in savings of around £12k.
- 3.5 Full details of the procurement timeline are contained in the Commissioning Report. The individual contracts need to be let by the end of May 2014 for commencement in September 2014.
- 3.6 The full process will take around 4 months to complete and will follow OJEU timelines. Contracts will be awarded to the most economically advantageous tender.
- 3.7 Under the Council's Constitution the letting of contracts can be delegated to the accountable Director, in this case the Acting Director of Adults, Health and Commissioning, reporting back to the Portfolio Holder. The rationale for this delegation being that the volume of contracts being let would be an inappropriate use of Cabinet time to review small individual contracts for taxi/bus routes. The delegation also allows for a timely award of contract to providers allowing them to set up routes ahead of the summer 2014 break with commencement at the start of the 2014/15 academic year. The report back to the accountable Director will detail the selection procedure results and compliance with the EU procurement regulations and the Council's contract compliance rules.
- 3.8 Cabinet should be aware that due to the nature of these contracts they change daily. It should be noted that the financial breakdown detailed in the Commissioning Report will be a snapshot of the current position at the time of reporting.
- 3.9 Point 1.4 on the recommendations in this paper refers to the concessionary fares that the Council offers. The Council will sell spare seats to any pupils that would not ordinarily be statutorily entitled to school transport. Upon completion of the process of allocating transport to entitled pupils, the Passenger Transport Unit offer any spare seats on buses, coaches and minibuses that would otherwise be unused. These will only take effect from after the October half term, so that all entitled pupils have their place agreed and implemented. Furthermore

if a place is applied for mid-year it will be put in place at the start of the next term.

- 3.10 The concessionary charge has remained at £200 since the authority changed to unitary status in 1998. Clearly there is a case to increase this charge and it is proposed to **increase this to £400** and increase annually by the rate of inflation with any increases above this referred back to Cabinet. This equates to £2.10 per day for a return fare. The figure is based on research of what other local authorities charge for a concessionary seat. At present this applies to 24 pupils within mainstream schools. In addition the concessionary fare for those pupils travelling on denominational transport should be charged at full cost from September 2014, given that all other pupils will be paying full cost following the Cabinet decision to implement charges. Those pupils not of the faith, but attend a denominational school, could apply for a concessionary fare once all pupils who meet the usual criteria had been allocated places. This would have to be at full cost and would be able to be withdrawn at any time if an entitled pupil required a seat. This is made clear to the parents of concessionary pupils from the outset. Furthermore, the Passenger Transport Unit do not procure transport in order to accommodate concessionary pupils and will only sell seats that are spare in order to generate income and ensure value for money. The number of pupils currently receiving a concessionary seat travelling to a denominational school is 57.

4. REASONS FOR RECOMMENDATION:

- 4.1 Recommendation 1.1 – This recommendation will ensure that contracts are let for a period of time that reduces the procurement processes being repeated regularly for these contracts. With the 56 day termination clause it ensures the Council can exit contracts with ease where this is required. Contractors understand the nature of this provision and have always worked on this basis, with no challenge.

As there are only a small number of contracts to secondary schools this decision does not have any negative impact on the plans to review mainstream secondary transport and look at other options to replace or supplement the current Council procured transport.

Recommendation 1.2 – This will ensure that there is not a requirement for Cabinet to review individual routes that are awarded for the current 85 contracts that are due for renewal.

Recommendation 1.3 – delegated authority to sanction 'in year' requests will ensure that day to day business can continue without the need to return to Cabinet for further decisions that would disrupt the usual course of business. Cabinet can be assured that financial reporting mechanisms would ensure that this spend would not be unaccounted for.

Recommendation 1.4 – This will ensure concessionary fare holders pay a fair price for their seat, given there has been no price rise in 15 years. In addition, those who apply for a concessionary fare to travel on denominational transport will pay the full cost. Failure to implement a full cost charge will mean that their charges will not be aligned to those travelling who are entitled. This would create the possibility that pupils would wait to apply for a concessionary fare at a lower charge, reducing income to the Council, once charges start to be applied in 2014.

5. CONSULTATION (including Overview and Scrutiny, if applicable)

- 5.1 As part of this tender process there has been a transport provider consultation event. This brought together a large number of transport providers; all in Thurrock were invited to the event which was well attended.

During the day we consulted on the format of future tender processes; what has worked in the past and what providers would like to see more or less of in respect of the process. It also focussed on the way in which providers could quote for work and how local providers may work together.

This will be followed by a further event prior to the invitation to tender and will focus on the process for this next stage.

The tender process will be open to all licensed providers and community transport providers in Thurrock and details of the tender lots will be emailed to providers on that list. An advert is also to be placed in the local newspaper and CVS will be sent the link to the tender.

6. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

- 6.1 **Create a great place for learning and opportunity** – provision of transport assists with attendance and leads to the improvement of education and skills of local children.
- 6.2 **Protect and promote our green and clean environment** – sustainable transport to school accords with the Council's priority to a clean and green environment.

7. IMPLICATIONS

7.1 Financial

Implications verified by: **Kay Goodacre**
Telephone and email: **01375 652466**
Kgoodacre@thurrock.gov.uk

Schools Transport costs, have a significant impact on Council budgets. By putting out contracts to tender we can ensure best value. With the break clause of 56 days, we are able to ensure routes can be continually monitored and reviewed for potential savings.

The increase of the concessionary charge will on current levels, reduce Council costs by £16,200 per annum.

7.2 *Legal*

Implications verified by: **Courage Emovon**
Telephone and email: **01375 652834**
Courage.Emovon@BDTLegal.org.uk

Section 508B of the Education Act 1996 which was inserted by Part 6 of the Education and Inspections Act 2006 sets out the general duties placed on local authorities to make school travel arrangement as they consider necessary for “eligible children” within their area, to facilitate their attendance at the relevant educational establishment. Such arrangement must be provided free of charge.

Section 508A places a duty on local authorities in England to assess the school travel needs of all children and persons of sixth form age in their area and to assess and promote the use of sustainable modes of transport.

Section 508C of the Act provides local authorities with discretionary powers to make school travel arrangements for other children not covered by section 508B but the transport does not have to be free and the local authority is entitled to charge for this.

Section 508D of the Act places a duty on the Secretary of state to issue guidance to which local authorities have to have regard to in the performance of their functions under Section 508B (Travel arrangements for other children). The Secretary of state may revise the guidance from time to time.

Section 444 of the Education Act 1996 expressly states that the child shall not be taken to have failed to attend regularly at the school if the parents proves that the local authority fails to make appropriate transport arrangements to and from school under Section 508,

however parents are responsible for ensuring their child's attendance at school and local authorities are under a duty to provide home to school transport, where necessary, to enable them to enforce attendance.

7.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**
Telephone and email: **01375 652472**
Sdealyn@thurrock.gov.uk

The Council has a statutory duty under the Equality Act 2010 to promote equality of opportunity in the provision of services and employment. This means that due regard should be given by the Council to the equality implication of any strategy, policy or function of the Council. This means that the Council must ensure that all policies and local strategies promote the inclusion of all groups and equality of opportunity. Any tendering process will be designed with these duties in mind.

The Council's procurement strategy will be followed to ensure equality of opportunity in the tendering process. Once the tendering process is initiated and a contractor selected, the Council will ensure its new partner meets the statutory duties of a local authority in the provision of providing home – school transport, and also in its HR policies.

The authority should note that where an external supplier carries out a function, the Council remains responsible for meeting the statutory duty set out in the Equality Act 2010. The authority should give due regard to ensuring that all services are delivered in a way which is non-discriminatory, and promotes equality of opportunity for staff and service users. The services provided will cater for the needs of all users.

Ensuring prospective contractors provide services for the whole community and identify the needs of particularly vulnerable groups will be a key aspect of the tender process. Prospective contractors should give due regard to the diverse needs of young people in Thurrock and plan to meet these accordingly. The equality requirements will be identified within the service specification and pre-qualification questions.

7.4 **Other implications** (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental

None

BACKGROUND PAPERS USED IN PREPARING THIS REPORT (include their location and identify whether any are exempt or protected by copyright):

- None

APPENDICES TO THIS REPORT:

- Appendix A – Commissioning Report (Exempt)

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