

Subject:	Special Needs Home to School Transport Contracts 2011		
Date of Meeting:	17 March 2011		
Report of:	Strategic Director, People		
Contact Officer:	Name: Steve Healey	Tel: 29-3444	
	E-mail: steve.healey@brighton-hove.gov.uk		
Key Decision:	Yes	Forward Plan No: CAB20537	
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 A number of home to school transport contracts for students with special educational needs come to an end in the summer of 2011. In order to comply with legislative requirements and Council standing orders and financial regulations, a formal tendering process must take place to set up new contracts. In the absence of new contracts and transport arrangements many children with special needs could not travel to school. The Council has a responsibility to provide transport for entitled pupils under the provisions of the Education Act 1996.
- 1.2 In order to streamline the tendering process for the future and secure best value, the intended tendering process for 2011 will also be used to set up what is known as a framework agreement (contract) incorporating a list of preferred providers. It is proposed that the framework should also cover transport procured through the Departmental Transport Service (DTS), which buys in hired transport for vulnerable children and adults on behalf of social care teams.

2. RECOMMENDATIONS:

- 2.1 That Cabinet approves the arrangements for home to school transport contract tendering set out in the report.
- 2.2 That Cabinet approves the change to a framework contracting approach to home to school transport.
- 2.3 That Cabinet approves Departmental Transport Service work operating within the framework arrangements.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Hired home to school transport is provided for approximately 500 pupils with special educational needs who would otherwise have difficulty in attending. Each child's needs are assessed individually before transport is provided, and there is

no automatic entitlement to hired transport assistance. Transport is provided for most students through whole school contracts established with external transport providers. A number of these contracts come to an end in the summer of 2011. In order to comply with legislative requirements and Council standing orders and financial regulations a formal tendering process must take place to set up new contracts.

- 3.2 In line with national good practice guidelines a proportion of home to school transport contracts for pupils with special educational needs come up for re-tendering every year. This spreads the changes out so that we do not have change across the whole school transport system all at once. It also means that the financial implications in any one year are limited. In 2011 ten whole school contracts (known as lot contracts) valued at around £660,000 per annum are due to end. The total budget for hired home to school transport in 2010/11 is approximately £2.5 million. All the contracts provide transport from home to school for children with special educational needs, some attending maintained special schools or other maintained schools in the City, some attending non-maintained schools in the City or beyond.
- 3.3 In accordance with developing procurement good practice, it is proposed that in the course of tendering for those contracts finishing this summer, the Council should establish a framework agreement contracting process whereby a list of preferred contractors and the contractual terms governing contracts placed with them is established ('the Framework'). Contractors wishing to apply to join the Framework first need to complete a pre-qualification questionnaire (PQQ). Applicants who meet the general requirements of the PQQ will be sent an Invitation to Tender (ITT) which sets out the precise quality and service requirements and seeks indicative costs of providing the services. Tenderers who demonstrate that they can achieve the quality and service requirements and offer best value will be included on the Framework. Once the framework list is established then not only this year's home to school transport contracts will be called off from the Framework, but all such contracts coming up in the next four years. This may be for whole school contracts such as those mentioned above, and also for smaller items of business or even one off journeys as and when required. Individual call off contracts placed under the framework arrangement will be for a varying periods not exceeding four years. All those providers on the Framework will be invited to tender for this work. There will be a saving in administrative time in future years by negating the need to advertise, evaluate PQQ's and ITT's annually for the period of the Framework arrangement and this will make the process of awarding new contracts more efficient.
- 3.4 The Departmental Transport Service buys in transport on behalf of child and adult social care teams in order to secure best value and manage social care transport requirements in one place. It is now incorporated with the home to school transport team, as the work is similar. All this work is commissioned by social care teams and is re-charged to them. The overall value of DTS business in 2010/2011 is estimated at £320k. The majority of DTS work is commissioned on a one off basis, although there is some recurring business. Transport is provided for vulnerable children and adults, including children in care, adults with learning difficulties and older clients. Clients are transported to a variety of destinations including contact meetings (Children in Care), hospital appointments and day centres.

- 3.5 If the Council was not to proceed with the tendering process it would mean that when the current contracts come to the end of in the summer, no new arrangements would be in place for transporting children with special needs to those schools. This would have a direct effect on the well being and possibly health of those students, who would be unable to attend school or would experience significant difficulty in getting there.

4. CONSULTATION

- 4.1 The tendering and contracting process for the Framework will be taken forward through the publication of an OJEU (Official Journal of the EU) notice as required in law, and the publication of notices in the local press. All current home to school and DTS contractors will be invited to apply to join the framework, and expressions of interest from other transport providers will be welcomed.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 This report contains details of the home to school transport contracting arrangements for 2011. It is not possible to predict the costs of the contract tenders that will be received. The projected budget for hired transport for 2011/12 was £2506k, but this will be subject to further savings of £200k, giving a net figure of £2306k per annum. The overall transport contract arrangements, including new contracts, must be constrained within this total figure.

Finance Officer Consulted: Louise Hoten Date: 16/02/11

Legal Implications:

- 5.2 The council has a responsibility to determine which children are eligible for home to school transport in accordance with Section 508 of the Education Act 1996 and to make suitable provision for them without charge. This includes children who are unable to walk or travel independently to school by reason of their special educational needs, disability or temporary medical condition. It can determine through local arrangements (transport policy and individual assessment) who is eligible and on what grounds. This responsibility is consolidated in the Education and Inspections Act 2006.
- 5.3 The contractual arrangements described in this report are subject to the application of the Public Contract Regulations 2006 and the process for the tendering and award of contracts must therefore comply with the legislative requirements. Contracts over £75,000 in value must be in a form approved by the Head of Law.

Lawyer Consulted: Serena Kynaston / Sonia Likhari Date: 18/02/11

Equalities Implications:

- 5.4 The City council has a responsibility to promote access to appropriate educational provision for all in accordance with the legislative requirements of successive education acts and disability discrimination provisions within the Equalities Act 2010. This includes those with special educational or other special

needs. It must balance that responsibility against any change in transport provision, and be sure that it is not compromising access.

Sustainability Implications:

- 5.5 Hired home to school transport contributes to traffic levels in the City. This is offset by the Council's requirements to maximise the use of all spaces on vehicles (except where through health or safety considerations children must travel alone), and through the coordination of home to school transport.

Crime & Disorder Implications:

- 5.6 There are no direct crime and disorder implications, although in the absence of transport some pupils might not attend school and could potentially become involved in criminal activity or be at risk.

Risk & Opportunity Management Implications:

- 5.7 Potential risks arise for pupils if suitable contractual arrangements are not made in good time for September 2011, and for the Council in not meeting its legal obligations to provide home to school transport to entitled students. The greatest risk for students is that in the absence of transport they could not attend school. Not only does this impact on the pupil, but also on their families.

Corporate / Citywide Implications:

- 5.8 Any overspending on home to school transport is at the opportunity cost of other service provision within the Council and services to children in particular.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Given the Council's legal responsibility to provide transport to eligible pupils it must identify means of providing that transport. Whilst it could in theory maintain its own fleet of vehicles for this purpose this would not be cost effective, given the costs of capitalising the service and the amount of vehicle "down time" outside of school hours and the school term. Staffing such a service would also be difficult in that staff are only required in the early mornings and late afternoons, and would need to have licences suitable to the various types of vehicle that they would drive.
- 6.2 The use of external transport contractors or other individual school transport arrangements could be managed through schools, but only for children attending the Council's own maintained schools. This would have the disadvantage of tendering or otherwise making in school provision on a smaller scale and would potentially drive up costs. The fair disaggregation of transport budgets would also be difficult to achieve, and would place an additional task with schools. Separate arrangements would still have to be made by the Council for pupils attending non-maintained schools or maintained schools in other Local Authority areas.
- 6.3 The DTS arrangements could operate within a separate framework arrangement, but this would require a separate PQQ and tendering process. Given that the

home to school and DTS arrangements are made through the same team this is unlikely to represent best value.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The operation of transport contracts via a framework agreement arrangement offers the best value solution to the provision of home to school transport for entitled pupils, and for DTS travellers. Such contracting does not tie the Council to fixed value contracts, and where the numbers of pupils (or DTS clients) travelling reduces, as in recent years, then the value of the contract automatically reduces. The period of contract can be set in accordance with the needs of the school and the future likely pupil profile. Arrangements within the framework can also be made to meet shorter term needs whilst still securing the best price and quality standards.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

