

Appendix 2 – Risk Mitigation

Option	Risk	Probability (L,M,H)	Impact (L,M,H)	Risk reduction actions Proposed and Actual	Triggers
1) Secure a contract with the purchaser of ATG with a term of two years.	<p>i. Procurement challenge from other external providers as value of the contract is over the OJEU threshold and is a direct award without competition.</p> <p>A successful procurement challenge could expose the Council to:</p> <ul style="list-style-type: none"> a) Costly litigation b) Set aside of the contract c) Damages and civil penalty d) Reputational repercussions. 	Medium	High	<p>i. Regulation 32 (2) (c) of the Public Contract Regulations 2015 (“PCR 2015”) permits direct of a contract , where for reasons of extreme urgency brought about by unforeseen events, the time limits for open or restricted or competitive procedures cannot be complied with.</p> <p>It is contended that the requirements of Regulation 32 are met as :as the insolvency and administration of ATGCSL and ATG were not foreseen by the Council and the given the need to provide vital transport services to vulnerable children it is extremely urgent that alternative service provision is put in place as soon as possible.</p> <p>Risk also regards to contract duration - challenger may contend that a 2 year period is not reasonable, proportionate and in accordance with EU principles.</p> <p>However, for the reasons set out as</p>	<p>Triggers</p> <p>Challenge from the external market</p>

				<p>paragraph 7.6, award of 2 year contract is considered a proportionate response to the unforeseen insolvency, lack of short term interim provision and risk to education of the affected service users.</p> <p>Further risk of challenge from the market is mitigated by the prospect of the new procurement process for the replacement T023 contract.</p>	
	ii. Placing too many routes with one provider.	Medium	High	<p>i. Robust mobilisation plan is put in place along with a contract management plan. On-going regular contract management and review meetings throughout the duration of the contract</p> <p>ii.A DPS would be in place from November 2019 so may be an alternative solution to pick up routes not being able to be provided by the ATG replacement</p> <p>iii.Financial accounts will be reviewed through the questionnaire to ensure the bidders have strong financial accounts.</p>	<p>Triggers</p> <p>The purchaser experiences similar financial difficulties or if the business is not operationally.</p>
	iii. May not demonstrate Value for Money	Low	High	<p>i. Benchmarking against the new DPS would demonstrate a comparison for VFM. This would have to take into account any exclusivity offered to the</p>	<p>Triggers</p> <p>Inaccurate initial costings due</p>

				<p>purchaser of ATG.</p> <p>ii. The innovations the Council is seeking will more than likely provide savings from using smaller, less-efficient taxi firms.</p> <p>iii. Two bidders have successfully delivered Independent Travel Training and support training with staff for Personalised Transport Budgets – savings could be made there where possible taking into account the services users' needs and age.</p>	<p>to Clean Air Zone / no depot / licencing / priced based on assumptions / liabilities.</p>
	iv. The Aston Depot is sold separately	Medium	High	<p>i. The purchaser of the depot might be willing to rent the space to the purchaser of ATG</p> <p>ii. Officers in contact with Property Services to see what land the Council has to be utilised as a depot.</p> <p>iii. Work closely with WMCA</p> <p>iv. Officers in contact to see if there is any legal basis the land has to be sold with ATG as it was a charitable organisation and funded by WMCA for</p>	<p>Triggers</p> <p>If the purchaser is reliant upon the depot.</p>

				Ring and Ride services. v. Create a contingency plan to source alternative depot arrangements.	
	v. The Administrator gives notice on the TTSA	Medium	High	i. SCN for the unallocated 195 routes with the interested parties outside of the TTSA and ATG. One interested party already as a footprint in Birmingham e.g. depot is in place.	Triggers Notice served on the TTSA.
	vi. Staff with Section 19 permits are not able to operate until the holder of an 'O' Licence.	Medium	High	i. Council could look to create a Special Purpose Vehicle with purchaser for the transition and the phase out of licensing. ii. Negotiations by the Council and WMCA with the Traffic Commissioner to allow a transition period where the licences could be phased out.	Triggers If the purchaser is not a charitable organisation.
	vii. The purchaser of ATG does not meet the Council's due diligence standards or sale of ATG falls through.	Low	High	i. Council Officers will continue the extensive engagement plan with all bidders. ii. Create a contingency plan whereby the Council could enter into negotiations with an alternative bidder that meet Council standards in order to maintain service delivery.	Triggers If the purchaser does not meet due diligence standards.