

Appendix 1 – Options Appraisal

	Option	Description	Discounted or Recommended
1.	Do nothing.	ATG will cease to trade under administration after the 31 May 2019.	Option Discounted – <ul style="list-style-type: none"> • Council has a statutory duty to provide home to school transport, this option would have an adverse impact on vulnerable services users. • High likelihood of legal challenges and fines. • Reputational repercussions for the Council.
2.	Secure alternative piecemeal provision and continue with the preferred procurement route for all routes (as set out in the December 2018 Cabinet report).	The Council will offer the routes to providers within the current T023 framework agreement until preferred procurement route implemented (1 Nov 2019)	Option Discounted – <ul style="list-style-type: none"> • There is a lack of capacity within the current framework to transfer the routes to the existing providers. • Review of the T023 Framework is currently underway and a decision is yet to be made as to its continued sufficiency. • Smaller providers may not be able to provide the same quality of service within the timescales and manage the associated issues. • There is a risk that the service will become too fragmented meaning it will require a higher resource from the Council to monitor quality and safeguarding compliance until new arrangements are put in place by the DPS. • TUPE would apply if the routes were transferred prior to ATG entering liquidation, the cost associated with this and the cost associated with

			<p>licensing issue make it less likely those current providers can take additional routes.</p> <ul style="list-style-type: none"> • The service could become inconsistent across the City.
3.	Extend the Travel Assist framework for a further 6 months to stabilise the market.	<p>Once the Administrators have secured a sale the incoming organisation would continue to provide the services by extending the current Travel Assist framework agreement for a further 6 months.</p>	<p>Option Discounted -</p> <ul style="list-style-type: none"> • Existing framework providers do not have capacity to take on additional routes pending successful sale of the ATG. • Cabinet unlikely to approve any further extensions. • Review of the T023 Framework is currently underway and a decision is yet to be made as to its continued sufficiency. • TUPE would apply if the routes were transferred prior to ATG entering liquidation, the cost associated with this and the cost associated with licensing issue make it less likely those current providers can take additional routes.
4.	Secure a contract with the purchaser of ATG.	<p>Work with the Administrator to shape the sale with an agreement in principle that the Council will provide a contract of up to two years with the purchaser of ATG while continuing with the preferred procurement route for the remaining home to school transport routes.</p>	<p>Option Recommended -</p> <ul style="list-style-type: none"> • The Council and WMCA can complete a due-diligence process on all bidders and provide the Administrator with a recommendation on who both parties would prefer to work with. • This option will support local businesses while also securing a national organisation that has experience in delivering home to school transport on a large scale.

			<ul style="list-style-type: none"> • The larger organisation will be more likely the capital required for compliance with licencing and Clean Air Zone. • This is the only option which officers feasibly believe can be completed within the timeframes allowed with minimal disruption for service users. • This could provide significant opportunities to refresh the strategic approach to supporting children to make journeys in the city in line with the outcomes of the recent home to school transport consultation. • The two year term contract would allow time for the Council to support a full commissioning review of the whole service and look at alternative methods of delivery, for example, seeking a strategic partner or a managed service provider. • In conjunction, the Council would also have the opportunity to complete an SEND service review in line with recommendation from the joint Ofsted and CQC visit in 2018. • The collapse of ATG has caused widespread concern, it was the largest provider of home to school transport in Birmingham. By awarding a two year contract the Council can provide reassurances to service users and stakeholders that the service in the future will be stable given the recent events.
5.	Seek a new provider by undertaking a full procurement exercise.	Undertake a full procurement exercise.	Option Discounted – <ul style="list-style-type: none"> • This option is not feasible as there is insufficient time to conduct a full procurement exercise.

6.	Extend the TTSA until 30 October 2019.	ATG would continue to trade under administration until the DPS is set to go live.	Option Discounted - <ul style="list-style-type: none"> • The TTSA places all the risk on the Council while the services are being delivered under the TTSA. • The Council would have to continue to indemnify the Administrators and carry the risk of service which is not feasible. • This option does not provide value for money. • Initially the Administrator indicated that they were not willing to trade the company in administration after 31 May 2019. It is unlikely the Administrators will agree an extension to 31 May 2019 but may be willing to consider a short extension of 2 months if required.
7.	Bring services in-house under direct BCC management.	The Council 'steps into the shoes' of ATG and becomes a direct provider of the routes previously provided by ATG.	Option Discounted – <ul style="list-style-type: none"> • The Council does not have the internal capacity and skills to mobilise services in a short time scale. • Capital requirements to ensure Clean Air Zone and driver licencing compliance. This option does not provide value for money. • TUPE would apply if the routes were brought in-house before ATG entered into liquidation, the cost associated with this and the cost associated with licensing issue.
8.	Call off from the Crown Commercial Services framework	Crown Commercial services have recently procured a framework for Public Sector	Option Discounted – <ul style="list-style-type: none"> • The framework was only released in March; there are 21 suppliers on

	Passenger transport services (RM 6121) There is an option to call off this framework.	<p>the current national framework.</p> <ul style="list-style-type: none"> • The further competition stage may delay the process longer than is acceptable in the current situation.
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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> <p>a) Costly litigation</p>	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</p>	<p>Triggers</p> <p>Challenge from the external market</p>

	<ul style="list-style-type: none"> b) Set aside of the contract c) Damages and civil penalty d) Reputational repercussions. 			<p>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 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>Triggers</p> <p>The purchaser experiences similar financial difficulties or if the business is not operationally.</p>

				iii. Financial accounts will be reviewed through the questionnaire to ensure the bidders have strong financial accounts.	
	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 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>Triggers</p> <p>Inaccurate initial costings due 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</p>	<p>Triggers</p> <p>If the purchaser is reliant upon the depot.</p>

				<p>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 Ring and Ride services.</p> <p>v. Create a contingency plan to source alternative depot arrangements.</p>	
	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	<p>i. Council could look to create a Special Purpose Vehicle with purchaser for the transition and the phase out of licensing.</p> <p>ii. Negotiations by the Council and WMCA with the Traffic Commissioner to allow a transition period where the licences could be phased out.</p>	Triggers If the purchaser is not a charitable organisation.
	vii. The purchaser of ATG does not meet the	Low	High	i. Council Officers will continue the extensive engagement plan with all	Triggers If the

	Council's due diligence standards or sale of ATG falls through.			<p>bidders.</p> <p>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.</p>	<p>purchaser does not meet due diligence standards.</p>
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