

Birmingham City Council

Report to Cabinet

21st March 2023



Subject: CHILDREN'S TRAVEL SERVICE TRANSPORT PROCUREMENT STRATEGY

Report of: Sue Harrison,
Strategic Director for Children and Families

Relevant Cabinet Member: Cllr Karen McCarthy, Children Young People & Families
Cllr Yvonne Mosquito, Finance & Resources

Relevant O&S Chair(s): Cllr Kerry Jenkins, Education and Children Social Care
Cllr Akhlaq Ahmed, Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Forward Plan Reference: 010980/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential: n/a		

1 Executive Summary

- 1.1 This report provides an overview of the current contractual arrangements and recommendations for the procurement of transport services (vehicles, drivers and guides) used within the front-line Birmingham City Council (“BCC”) Children’s Travel Service.
- 1.2 This report sets the strategic direction for the procurement of these services, focusing on the recommended process for their required re-procurement and the high-level timescales for implementation. The recommendations enable a stronger financial grip on this demand led service, in addition to supporting more effective management of the market.
- 1.3 The report details the options explored and the recommendations to meet the key imperatives which will be to establish a sustainable mechanism for the ongoing, compliant procurement of quality transport services (vehicles, drivers and guides), with the required number of providers to meet the demands of the service, in the most cost-effective manner.
- 1.4 These recommendations support what is a critical front line service and continue to build on the positive improvement transformation journey of Children’s Services. Acknowledging the current budgetary overspend, driving increased value for money to help reduce the overspend and moving the service towards a balanced budget are key criteria.
- 1.5 All requests for transport provision that result in going to market for either a new contract or a variation of an existing contract (where the Young Person can be added to an existing route), the Young Person would have first gone through a robust application and eligibility process to ensure genuine entitlement under Birmingham’s current Policy. This Policy is reflective of the Department for Education Home to School Transport Statutory Guidance and transport will always be suitable for the needs of the Young Person. Whilst this Policy is under review, there are no expected changes to it, but will be clarified and continue to be adhered to, ensuring only appropriate expenditure is agreed.
- 1.6 These recommendations support contract flexibility, deliver robust contract management mechanisms, and the ability to deliver an agile, child centred and responsive transport services in line with the needs of the children and young people in a timely and efficient manner.
- 1.7 The recommended procurement process of a Framework will provide BCC with clear service pricing for the next 4 years, moving away from the current “reactive” pricing mechanism and is suitably flexible to recognise other transformation projects underway and any future service delivery models. In respect of implementation, the recommended option provides both the service and the market alike sufficient time to plan and mobilise and ensure the continued operational success of the Service.

2 Recommendations

That Cabinet

- 2.1 Approves the procurement of a Council framework for a four-year period commencing 1st August 2023 with expiry date of 31st July 2027.
- 2.2 Authorises the Director for Children and Families (or their delegate), in conjunction with the Strategic Director of Council Management (or their delegate) and the City Solicitor & Monitoring Officer (or their delegate) to:
 1. Approve the procurement strategy report prior to publication of the opportunity for a Council framework.
 2. Approve the award of contract to providers to be admitted to the Council framework; and
 3. Approve any call off contract relating to the Council framework.

3 Background

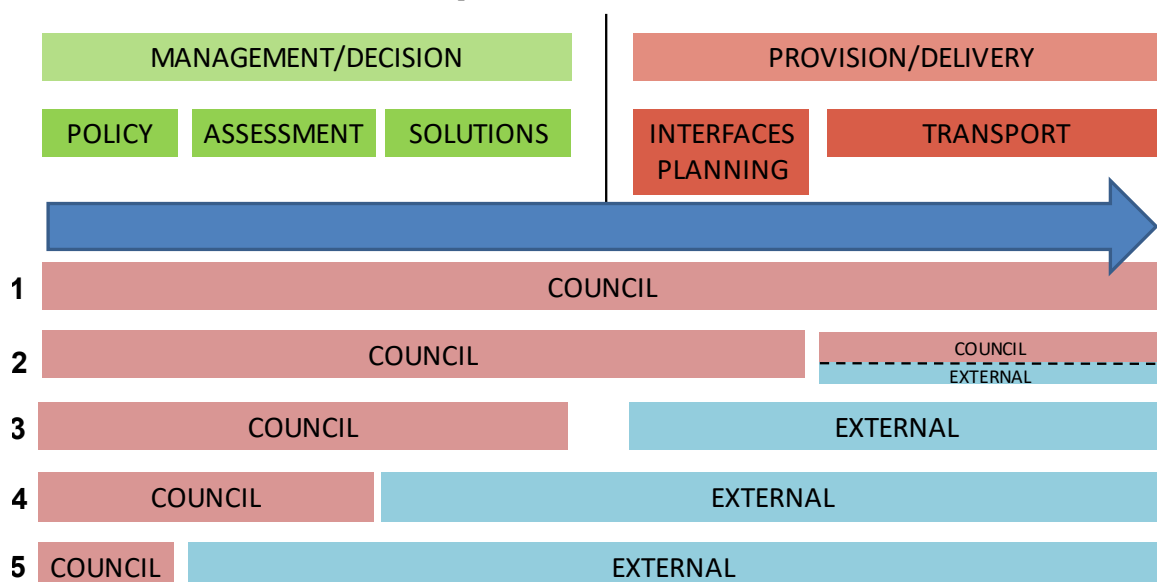
- 3.1 Local authorities must meet the statutory requirements relating to home to school transport and sustainable travel. The Birmingham City Council (“BCC”) Children’s Travel Service is the largest service of its kind in the country providing transport services to support over 4,500 children and young people with Special Educational Needs and Disabilities (“SEND”). There are over 1,200 transport routes operated each day and, as at early September 2022, approximately 920 of these routes require guides to support the needs of these children and young people.
- 3.2 At the latest forecast, BCC utilises 17 external providers to provide transport services (vehicles and guides) spending £42.1m per year (£38.7m vehicles & £3.4m guides). This cost of transport provision plays a significant part in the forecast overspend and therefore any recommendations need to help address this issue. The recommendations in this report form a key part of the overall budget management strategy for the Children’s Travel Service.
- 3.3 BCC must have a legally compliant mechanism for the ongoing procurement of transport services for its children and young people. BCC must also have a commercially viable route to market that delivers value for money and a quality service to its children and young people, parents and schools.
- 3.4 The current mechanism for awarding transport services contracts, the current Dynamic Purchasing System (“DPS”), commenced on 1st November 2019 and is due to expire on 31 October 2023.
- 3.5 The majority of contracts, which cover approximately 850 routes, from the DPS are due to expire either on 31st July 2023 (at the end of this academic year) or expire at the same time as the DPS on 31 October 2023¹. However there exists the opportunity to extend these until 31st July 2024 with the option of a further

¹ The exact expiry dates of all contracts are to be confirmed.

year (until 31st July 2025) with revised terms and conditions. The remaining (c350) route contracts were reprocured as a separate exercise for 4 years in September 2022 following on from a short-term, one year, procurement in 2021 after a supplier failure where the contractual breaches could not be remedied.

- 3.6 BCC therefore must have a compliant mechanism for procurement of transport provision before the current DPS expires on 31 October 2023 to accommodate any new transport requirements not covered by the contract extensions referred to in paragraph 3.5 above.
- 3.7 As part of the Children's Travel Service transformation programme a contracts and commissioning workstream was established. Part of their remit was to support the service by project managing the re-procurement of the transport services. A project team and project board were therefore established comprised of officers representing the operational service, contracts, commercial and compliance management, procurement, commissioning and finance.
- 3.8 It was important to define the scope of the project and consideration was given to the organisational / operational "breadth" of the project. In summary, should BCC be looking for providers to deliver more elements of the service than at present. To achieve this, analysis was undertaken in respect of the various transport service models and the breadth of control options available to the Council. This can be expressed diagrammatically as follows:

Transport Service Models



1 Fully In -House Model

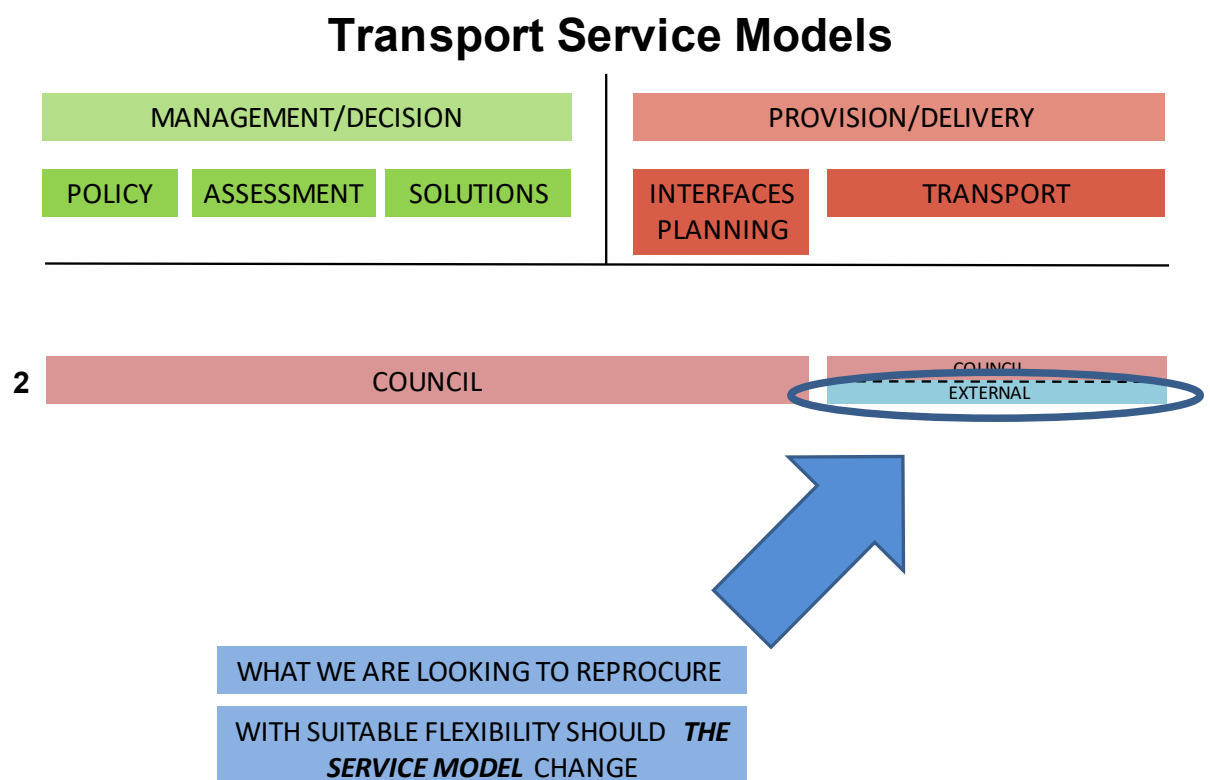
2 Council Managed Model – Transport External or Mix of Council/External

3 Council Client Model - External Managed Service Delivery

4 Council Client Model - External Managed Service plus Solutions

5 Council Client Model - External Managed Service plus Solutions plus Assessment

- 3.9 Analysis (expressed diagrammatically above) shows that transport service functions are carried out by the Council or externally according to different models. These models are not exhaustive and there are variations including some elements potentially delivered in partnership or via joint venture. Councils cannot 'externalise' ultimate responsibility for delivery and the Policy elements has to be legally retained by the Council. The more functions that are external the greater the degree of 'trust' and 'monitoring' that are required, arguably increasing risk to Councils.
- 3.10 Clarification on the scope of this project was achieved by engaging with Commissioning colleagues and understanding the work that was being undertaken in respect of the new structure for the Children's Travel Service which focused on the continued external delivery of transport with the planning interfaces continuing to being controlled by the Council. Despite this clear direction of travel, it was also agreed that the design of any new solution should also be suitably flexible to reflect any changes in the future to the service model and any future growth in Birmingham's own in-house fleet. The focus of this project can be expressed diagrammatically as follows:



- 3.11 Once agreed that the focus should be on procuring the external provision of transport services it was then important to determine an appropriate route to market.
- 3.12 Market Research demonstrated a concentration of awards using either a Framework or a Dynamic Purchasing System (DPS). The ATCO (Association of Transport Co-ordinating Officers) 2021 survey of 53 Local Authorities set out: *“Methods or processes used to procure SEND transport services included dynamic purchasing (36); framework agreements (8); DPS and frameworks (2); open tendering and quotations (2); moving to DPS (2); whilst 3 authorities did not answer the question.”*
- 3.13 Procurement colleagues supported either of these two legally viable procurement options (DPS and Framework) and helped discount any alternatives.
- 3.14 The report in Part 1 weighs up the options between DPS and Framework and sets out a recommendation which is supported by the incoming new Assistant Director for the Children’s Travel Service.
- 3.15 The report in Part 2 then goes onto explore implementation options and make a recommendation where the objectives (in addition to reprocurring a new Framework) are to:
- conduct a successful call off process;
 - award contract to suppliers for circa 850 routes; and
 - safely mobilise the new service whilst working alongside our key stakeholders (schools, children and young people and parents).
- 3.16 These recommendations support what is a critical front line service. Driving increased value for money to help move the service towards a balanced budget is a key criteria; alongside contract flexibility, robust contract management mechanisms, and the ability to deliver transport services in line with the needs of the children and young people in a timely and efficient manner. The plan is suitably flexible to recognise other transformation projects underway, notably the project in relation to the future target operating model for the Service.

4 Part 1 – Dynamic Purchasing System or Framework?

4.1 Introduction

- 4.1.1 Before undertaking any analysis, it was important to have a common understanding of the definition of a Dynamic Purchasing System and that of a Framework. A qualitative and quantitative framework of success criteria was then developed to assist with the decision-making before a recommendation was presented to both the Project Board and to the incoming new Assistant Director for the Service. This recommendation is now presented here in this Report.

4.2 Definitions

- 4.2.1 A procurement Framework is an agreement where an Authority selects a list of suppliers whilst also setting the terms, prices and conditions for a period of time in advance – normally 4 years. With specific pertinence to the provision of transport it is anticipated that as part of any framework, price per mile information by vehicle type would be obtained from suppliers so that there would be absolute clarity on pricing from the outset and providers can be “called off” through direct award as well as mini-competition.

A Dynamic Purchasing System (DPS) is similar to a framework agreement, but new suppliers can apply to join at any time. Whilst DPS’ are also run as a two-stage process, prices will be latterly obtained (only) through mini-competition. DPS can run up to a maximum period of 10 years.

4.3 Key Criteria

- 4.3.1 In order to help make a decision, the stakeholders within the project team expressed during the course their meetings what the success factors would be from the perspective of the service, finance, procurement and commissioning. As advised by procurement colleagues, these “success factors” were then distilled into a set of criteria summarised by the project manager. These were as follows:

Criteria	Service Context
Speed of call-off / mini comp to mobilise service delivery as soon as possible. Delivering faster turnaround / more efficient / maximising time for mobilisation / communication and quicker outcomes to children and young people	Current arrangements require a mini-competition process involving Corporate Procurement colleagues which can take 4-6 weeks which is not conducive to operational requirements.
Clear specification of routing – to be able to, as exactly as possible, specify route requirements & obtain accurate pricing	Having a clear relationship between price and the Council’s requirements – not paying “over the odds”.
Clear specification of standards – to maintain (improve?) standards	There is a desire to have a clear, standalone, service specification that can be actively monitored and managed. Stakeholders may want the opportunity to improve current standards.
Cost transparency to manage variations & control controls (incl. managing inflationary demands). This will also permit more accurate forecasting	Current arrangements do not provide robust controls when variations (change in vehicle, route length etc) are required. At present this is in the control of the provider, not the Council.
Clear KPIs / robust contract management	These both need to be established from the outset.
New arrangements in place on time (high level timetable)	BCC must have a compliant mechanism for procurement of transport provision before the current DPS expires on 31

	October 2023 to accommodate any new transport requirements.
We need to deliver cost reductions & as soon as possible	The Service is overspending on their budget by £16.05m therefore delivering a reduction in current costs as soon as possible is very important.
Ability for Children's Travel Service operations staff to undertake call-offs / mini competition	The proposed new structure does not include specific contract management staff but rather this being part of the operational staff's responsibilities.
Good supply of providers	As of November 2022, there were 36 transport providers admitted onto the current Dynamic Purchasing System although only 17 were actively being contracted with. 12 of these have worked with BCC since the outset of the current DPS in 2019; and 5 have joined the DPS since then. There will be a requirement for supply levels of this size to meet BCC's needs.
Contingency arrangements if a provider goes out of business	The transport market has seen companies go out of business in recent years therefore arrangements need to be in place to address these scenarios.
Meeting ad-hoc (short term or particularly fast turnaround) requirements	The increase in demand for transport in emergency or respite scenarios means that it is a regular occurrence for transport to need to be organised extremely quickly.
Flexible contracts (to reflect optimisation / service changes / including non-default termination)	It will be critical that should BCC no longer need a vehicle then this can be terminated with a reasonable notice period without financial penalty.

4.4 Scoring against the criteria

- 4.4.1 There were eight members of the project team which included an Education and Skills procurement transformation lead, a Contract and Commissioning Manager; an Assistant Category Manager from Corporate Procurement (Finance and Governance); the Interim Deputy Operations Manager for the Children's Travel Service; the Manager of the Children's Travel Service Contracts, Commercial and Compliance team, one of the Travel Assist Supervisors for the Children's Travel Service, the Project Lead and a Project Manager.
- 4.4.2 Seven members of the project team (the Assistant Category Manager from Corporate Procurement (Finance and Governance) abstained as both options were compliant from a procurement perspective) independently voted on either 1) the DPS had clear advantages (over a framework) or 2) whether the framework

had clear advantages (over the DPS); or 3) that neither option provided any benefit over the other.

4.4.3 The results can be seen in the table below. Scoring 27 to 14; or “winning” 9 criteria to 2, the framework was the recommended option.

Service Demands / Criteria	DPS	Framework	Both/No preference
Speed of call-off / mini comp to mobilise service delivery ASAP. Delivering faster turnaround / more efficient / maximising time for mobilisation / communication and quicker outcomes to children	0	5	2
Clear specification of routing – to be able to, as exactly as possible, specify route requirements & obtain accurate pricing	2	3	2
Clear specification of standards – to maintain (improve?) standards	1	2	4
Cost transparency to manage variations & control controls (incl. managing inflationary demands). This will also permit more accurate forecasting	0	4	3
Clear KPIs / robust contract management	0	1	6
New arrangements in place on time (high level timetable)	0	2	5
We need to deliver savings & ASAP	0	1	6
Ability for HTST operations staff to undertake call-offs / mini competition	0	5	2
Good supply of providers	4	0	3
Contingency arrangements if a provider goes out of business	6	0	1
Meeting ad-hoc (short term or particularly fast turnaround) requirements	1	4	2
Flexible contracts (to reflect optimisation / service changes / incl non-default termination)	0	0	7
TOTALS	14	27	43

4.4.4 The Framework scored particularly strongly in respect of costs transparency to manage variations and cost controls. As the Framework would require the Council to be very clear from the outset on its requirements, prices can then be allocated from the outset. Up front price per mile information by vehicle type and split by whether or not a guide would be required would give absolute clarity on costs and variations. The current arrangements, which utilise a DPS, struggle to accommodate the operational requirements of the service or the desired cost & compliance controls of the Council.

4.4.5 An example of this is in circumstances where the Council wishes to add or remove a child from a transport route but also wants to maintain continuity of provider so that those children/young people who will stay on the route stay with the same crew (driver and possibly also guide). Under the DPS arrangements, there should be a requirement to put these new requirements out to those on the DPS in the form of mini-competition; however this would mean that there could be a change of provider, therefore undermining the desired outcome of continuity of service. The desire to maintain continuity of service therefore can result in the mini-competition process not taking place and price variations being a matter of local negotiation where providers hold the power. So, by using a Framework, where prices are allocated from the outset, using a price per mile pricing mechanism, changes such as the one outlined above can be financially controlled whilst also delivering the desired continuity of service. To provide a “real world”

scenario, if we know that, from our Framework costs allocated from the outset of the procurement exercise, a 5-seater vehicle will be £2.00 per mile, and we want to add a child to that same vehicle resulting in an additional mileage on the journey of 2 miles; then we know that the additional cost of that journey will be £4.00. The same controls would be in place for any required reduction in route mileage should a child need to be removed from that vehicle. Up front price per mile information by vehicle type and categorised by whether or not a guide would be required would give absolute clarity on initial costs and also for variations. These clear controls are seen as vital to the ability to control this significant area of expenditure, and a clear advantage of the Framework over DPS.

- 4.4.6 The ability to undertake mini-competitions would be built into this model so that exceptionally, and at its discretion, the Council may award particular requirements following a mini-competition amongst all the providers awarded to the Framework Agreement on a 'best price' basis. This may be pertinent to longer-distance journeys where extrapolation of the 'per-mile' pricing may be disadvantageous to the Council.
- 4.4.7 It is anticipated that the Framework prices set from the outset will have a clearly contractually established annual price review mechanism based around agreed inflationary indices, which will permit the Council to forecast more accurately than if a DPS were to be used. Prices will therefore only be permitted to increase on the basis of pre-agreed indices, rather than the desires of the market at the point of mini-competition, where the market may make a determination on the urgency of the requirement from the Council and/or the prevailing economic conditions and price accordingly.
- 4.4.8 The Framework also scored particularly strongly in relation to the speed of call off in order to mobilise the service delivery as soon as possible. Delivering a faster turnaround would be not only more efficient for the Council but also would deliver quicker outcomes to the supported children and young people. This is because of the ability of the Framework not to have to require a separate procurement "stage" to obtain pricing; but rather to undertake a direct award to the highest placed provider on the Framework. Direct Award would generally be the 'default.' Presently this second "stage" of mini-competition takes between 4-6 weeks and requires the specialist input of Corporate Procurement colleagues.
- 4.4.9 It was also the case that the Framework was the strong "winner" when it came to equipping the operational staff with the ability to undertake the call-offs because of the ability to undertake a direct award to the highest placed provider on the Framework. A standard operating procedure will be established for operational staff to undertake these call-offs without the need for intervention or support from Corporate Procurement colleagues; therefore this is a more efficient methodology requiring reduced officer intervention and time than is the case at present.
- 4.4.10 In the scenarios where the DPS scored more strongly than the Framework, these scenarios will be explored and addressed as best as possible in the development

of the procurement strategy. A prime example will be to clearly address a scenario where a provider goes out of business and the resulting approach taken.

- 4.4.11 The main risk in adopting a framework arrangement as opposed to a DPS, is that the Council will not have the flexibility to add additional providers during the lifetime of the framework. This risk is mitigated by our knowledge of the market and confidence in being able to award sufficient quality and quantity of providers onto the framework. A dedicated early market engagement meeting will be held to generate interest in the procurement opportunity and this has been advertised via the issue of a Prior Information Notice and in national transport and local publications. Prior Information Notices form a common part of market sounding and early soft market engagement tool they help contracting authorities in seeking to understand how a market may respond to a potential tender, assist in helping to shape commissioning ideas, and overall possible issues or wider opportunities if a tender was progressed. Prior information Notices have no legal status around a commitment to progressing to a formal contract opportunity.
- 4.4.12 Prior Information Notices in the UK are published on the Find a Tender Service ("FTS"). As some businesses, in particular small to medium size enterprises ("SMEs"), may not be signed up to FTS, further advertising of the opportunity has been undertaken in national transport publications/websites such as RouteOne and Coach and Bus Week and in a local newspaper, The Birmingham Mail. The early market engagement meeting is another part of soft market engagement to both generate interest and take feedback from the market on these proposals. Both the link to the Prior Information Notice and how to attend the early market engagement meeting are set out in the advertisement.
- 4.4.13 Market feedback via the Contracts, Commercial and Compliance team is that the current DPS is proving prohibitive to entry for a number of providers because of the present requirement for all providers to have a vehicle storage depot within the City's geographical area. It is anticipated that as long as providers can demonstrate their ability to deliver the service it should not be a requirement to have a physical vehicle storage depot within the City's geographical area. The Council has also been approached by a major national provider of travel services who is presently not on the DPS, expressing their interest in any future arrangements.
- 4.4.14 It should also be noted that both the Framework and the DPS options offer the opportunity to establish a robust specification building on the standards already set by the Council. It is important to inform that there are plans to change the way that the Disclosure and Barring Service ("DBS") checks are undertaken; that any driver or passenger assistant would need to have a current and valid DBS certificate which would be issued by Birmingham City Council prior to undertaking any contract work for Birmingham City Council. This will be supported by a dedicated DBS badging officer within the Home to School Transport Service. There will also be a DBS panel set up to assess the suitability of service provider staff. All panel members will be NACRO Safer Recruitment Trained. All

information and decisions will be stored on a centralised and live database. These changes will be in place prior to the start of the new framework. The new framework will also ensure that there is a contract management regime which will be underpinned by both the Framework contract terms and the call-off terms themselves, thereby establishing regular and rigorous checks as a legal obligation.

4.5 National Insight & Conclusion

- 4.5.1 The above rationale and recommendation for the utilisation of a Procurement Framework was shared with the incoming Assistant Director. The Assistant Director for the Service brought national experience of how, in many cases, DPS' were not delivering good value because of the ability of providers, in the absence of a guiding pricing framework, to offer prices that were well above what would be viewed as "normal" market rates, and that Councils were compelled to accept in order to meet their statutory requirement to deliver home to school transport. This is particularly prevalent in less desirable routes, typically low mileage, that Transport Operators put speculative bids in with very little value. The Assistant Director also highlighted one particular area of cost that Local Authorities struggle to control is contract variations, where new students are added and routes changed. A revised quote is sought which shows no consistency and the Local Authorities either have to accept poor value prices or seek to terminate contract and retender which causes considerable upset to the students and families who need consistency. This can be managed more effectively under a framework as set mileage and time rates ensure fairness and clarity to revised prices and allow the flexibility of adding and removing students where it is good to do so. The Assistant Director also clearly expressed the unique position of BCC of being the largest Local Authority in Europe with the opportunity therefore to use this size to its advantage by establishing its own Framework. The rationale for a Framework was therefore understood, and the recommendation supported to be presented here to Cabinet.

5 **Part 2 – Implementation**

5.1 Introduction

- 5.1.1 In addition to the work undertaken and subsequently recommended in relation to the route to market, that being a new procurement Framework, work was undertaken in parallel to explore the implementation of any such recommendation.
- 5.1.2 The objectives of the project were therefore to not only reprocure a new Framework but also to:
- conduct a successful call off process;
 - award contract to suppliers for circa 850 routes; and

- safely mobilise the new service whilst working alongside our key stakeholders (schools, children and young people & parents).

5.1.3 Establishing a new Framework would not, on its own, deliver the desired outcomes particularly in relation to delivering cost reductions. Unless the Service was given enough time to undertake the above objectives bullet-pointed above then cost reductions would not be delivered and, at worst, new arrangements would not be in place, putting the entire service provision at risk.

5.1.4 The recommendations established in this Cabinet Report will be further developed within a subsequent procurement strategy report which will be agreed and issued prior to publication of the opportunity for a Council framework.

5.2 Summary of Options

5.2.1 The options explored can be summarised as per the table below:

	“Single Year” 2023	“Single Year” 2024	“Multiple Years”
Establish New Framework	Option 2	Option 3	Option 5
Utilise Current DPS	Option 1	Not an option because action has to be taken prior to expiry of current DPS (before 31 October 2023)	Option 4

5.2.2 The term “Single Year” was utilised by the Project Team as a common terminology for making a wholesale change to the routes in one or two project increments in one academic year. The term “Multiple Years” explored options where changes were made in a phased manner, with multiple increments, specifically 50% of change in one year and then another 50% the following year.

5.2.3 Whilst the options involving the extension of the current DPS (Options 1 and 4) were explored, once the decision had been taken by the Project Board to move to the establishment of a new Framework, these two options became null and void. BCC had to act boldly to deliver the required cost reductions and the desired robust pricing mechanism and increased financial controls.

5.2.4 For the sake of simplicity for this report, because Options 1 and 4 were discounted on this basis, these are therefore not explored further in this report.

5.2.5 The remaining options, Options 2, 3 and 5 are however explored within this report. Considerations needed to be given to parallel transformation projects and key dependencies as well as the complexity of this project and the critical time duration of certain elements, importantly the required governance process and

the procurement process which had to comply with 2015 Procurement Regulations.

5.3 Key Criteria

- 5.3.1 Stakeholders within the project team expressed during the course of the meetings what was important to them, and these were summarised by the project manager. Whilst one option, Option Three, developed into the most strongly preferred option through the discussions, in order to help make and quantitatively evaluate a decision, the stakeholders within the project team expressed during the course of their meetings what was important to them, and these were distilled into a set of criteria summarised by the project manager. Five of these criteria were identified to be “key” criteria to a successful implementation. These were as follows:

Key Criteria	Service Context
Time for Market to respond and mobilise post call-off / mini-competition (contract award)	With particular relevance to the minibus market, once they have been awarded contracts, providers may need time to purchase or lease vehicles and all providers certainly need time to plan and mobilise resources. It would be unreasonable to expect providers to have “spare” capacity of vehicles and crews on standby to deliver at short notice.
Clarity on costs / cost reductions – best ability to forecast	Pertinent to comparing multiple vs single year implementation options, important to have the time to plan arrangements and know as soon as possible the revised costs to provide a strong forecasting base.
Amount/scale of potential cost reductions	The Service is overspending on their budget by £16.05m therefore delivering a reduction in current costs as soon as possible is very important. Ensuring time to drive competition in the marketplace will deliver maximum cost reductions.
Time for BCC HTST Operations to plan routes (to maximise benefits of procurement)	Ensuring time for the Service to plan and optimise routes before undertaking contract call-offs will deliver maximum cost reduction.
Minimise risk of service failure	With c850 routes to potentially change it will be important to allow sufficient time for the service to carefully plan, communicate and deliver implementation to minimise the risk of service failure.

5.3.2 A scoring system was developed for the above criteria and the project team independently scored each option against the criteria. These independent scores were then moderated to identify a majority score. The scoring system was as follows:

0 = No benefit

1 = Low benefits

2 = Medium benefits

3 = Good benefits

4 = Excellent benefits

5.4 Detailed Options Appraisal

5.4.1 As stated above, whilst the options involving the extension of the current DPS (Options 1 and 4) were explored, once the decision had been taken by the Project Board to move to the establishment of a new Framework, these two options became null and void. The options involving the establishment of a new Framework, Options 2, 3 and 5, are detailed below.

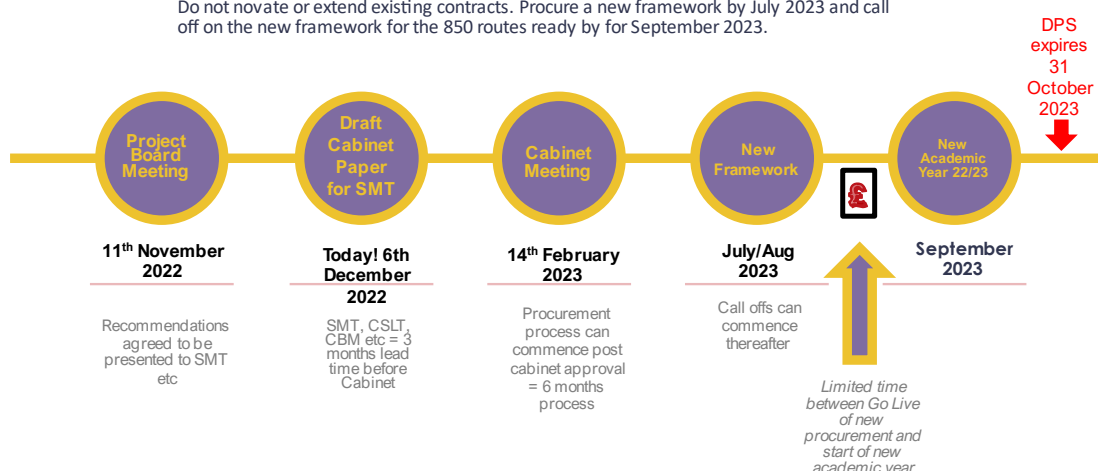
5.5 Option 2 – Single Year 2023 - “Full speed ahead” for 2023

5.5.1 Option 2 Summary

- 5.5.1.1. This option would see the establishment of a new Framework as soon as possible. After the Governance requirements leading into this report being presented at Cabinet on 14th February 2023, the procurement process could potentially commence. Given the desire to generate interest in the marketplace and the value of the contract it is anticipated that this process will take approximately 6 months. This would result in the new Framework being available from July/August 2023.
- 5.5.1.2. Under this Option, all (c850) contract call-offs would be undertaken as soon as possible after the Framework becoming available i.e. as soon as possible after July/August 2023.
- 5.5.1.3. This option can be expressed diagrammatically using the slide below which was used at the Procurement Project Board meeting on 11th November 2022. The ‘£’ symbol represents the opportunity to start delivering cost reductions from the point of new contracts being called off from the framework at this time. It would mean the new framework would be established and contracts called off prior to the expiry of the current DPS on 31st October 2023.

Option 2 – Full speed ahead for 2023

Do not novate or extend existing contracts. Procure a new framework by July 2023 and call off on the new framework for the 850 routes ready by for September 2023.



5.5.2 Option 2 Commentary and Scores

- 5.5.2.1. It is entirely possible to establish a new Framework for July/August 2023 ensuring the robust governance arrangements of the Council are followed as well as following a procurement process in line with the 2015 Procurement Regulations for a competitive process of this kind and value.
- 5.5.2.2. However, and this is reflected in the scores in the table below, there is a fundamental problem with this approach which carries significant risk to the service. That is, that there is insufficient time between the availability of the new Framework and the start of the new academic year. It has been assessed that there is insufficient time between July/August 2023 and the start of the new academic year to undertake the contract call-offs, for the change of provider to be notified, for the new provider to mobilise and for the change to be effectively communicated with parents, carers, schools and the children and young people themselves.

Option 2 – “Full speed ahead for 2023” - Evaluation

Criteria	Option 2 (Big Bang using new DPS in 2023) Score & Comments
Time for Market to respond and mobilise post call-off / mini-comp	2
Clarity on costs / savings – best ability to forecast	2
Amount/scale of potential savings	1
Time for BCC Operations to plan routes (to maximise benefits of procurement)	0
Minimise risk of service failure	1
TOTAL SCORE (Max 20)	6

0 = No benefit
1 = Low benefits
2 = Medium benefits
3 = Good benefits
4 = Excellent benefits

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5.5.3 Option 2 Conclusions

- 5.5.3.1. Despite objectively appearing to deliver cost reductions as quickly as possible, by seeking to undertake contract call-offs as soon as possible; given the lack of time to undertake the required elements of the contract call-offs, this is somewhat of a “false economy”.
- 5.5.3.2. This Option is not recommended given the extreme risk of service failure trying to make this significant change in an insufficiently long period of time.

5.6 Option 3 – Single Year 2024 – Establish new framework/DPS in 2023 with new contracts in 2024

5.6.1 Option 3 Summary

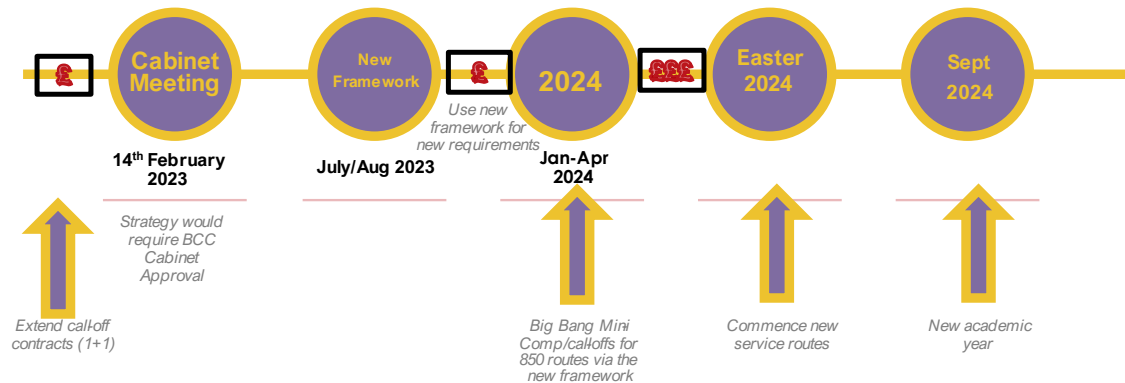
- 5.6.1.1. This option would see the establishment of a new Framework as soon as possible. After the Governance requirements leading into this report being presented at Cabinet on 14th February 2023, the procurement process could potentially commence. Given the desire to generate interest in the marketplace and the value of the contract it is anticipated that this process will take approximately 6 months. This would result in the new Framework being available from July/August 2023.
- 5.6.1.2. Under this Option, current contracts* would be extended on the basis of 1 year plus the option of an additional year (to protect against any delay in the framework procurement and implementation) with the contracts containing non-default termination clauses which would provide BCC with the flexibility it requires should there be opportunities to optimise or reduce routes during the academic year 2023. The offer of contract

extension would also be the opportunity to talk to providers about price reductions, symbolised by the first “£” symbol on the diagram below. (*In terms of precise contractual detail, the current ‘contracts’ are actually, presently, specified as ‘Individual Service Agreements’ (ISAs) and these would be varied specifically into Call-Off contracts). It should be noted that this contract extension would involve negotiating with the current providers regarding any changes to the terms and conditions. This may jeopardise the extension if a “for convenience” termination clause is included and any other variations which the providers are not prepared to agree to or agree to at a premium price.

- 5.6.1.3. The new framework would be available from July/August 2023 and therefore any new contractual requirements could be met from the new framework from this point in time onwards. As it is anticipated that the new Framework will deliver lower prices than present, this point in time is also denoted by the second “£” symbol on the diagram below.
- 5.6.1.4. Under this option the Service would undertake the major change of contracts in one or two project increments, in one academic year, from Easter 2024 having spent the time from January to Easter reviewing the current routes and producing a more optimised solution; undertaking the call-offs, notifying the providers of the change so they can prepare to mobilise and for the change to be effectively communicated with parents, carers, schools and the children and young people themselves. This point in time is denoted by a “£££” symbol as this represents the moment when most cost reductions can be delivered through a combination of both a change of provider and the effect of route optimisation.
- 5.6.1.5. The option would ensure compliance because the new framework would be established prior to the expiry of the current DPS on 31st October 2023.

Recommended Option 3 – Establish new framework in 2023 with new contracts in 2024

Vary the existing ISAs to calloff contracts (including desiredDoVs) and extend for 1 + 1 years. New Framework available for new requirements from August 2023. Wait until quieter /more “static” operational time Jan-April 2024 to undertakecontract call-offs via the new framework. Commence new service/routes at Easter 2024.



5.6.2 Option 3 Commentary and Scores

- 5.6.2.1. Option 3 scores most highly (against all other options) as it provides a new Framework as soon as the processes allow but then additionally allows time for both the Service to internally plan routes to maximise the benefits of the procurement alongside giving the market time to mobilise.
- 5.6.2.2. There are 3 opportunities to drive cost reductions; firstly at the point of offering contract extensions; secondly the ability to use the new Framework to meet any new requirements in the lead up to and the early months of the new academic year; and then thirdly, and of most significance, to make the major change from Easter 2024 benefitting from the Service having had time to internally plan and optimise the routes. This option can be summarised as delivering the maximum cost reductions at the earliest opportunity without putting the service at risk.
- 5.6.2.3. By allowing the time between the establishment of the new Framework and the contractual call-off process, this option reduces significantly the amount of risk in relation to service failure resulting from this major procurement exercise.

Option 3 – Establish new framework/DPS in 2023 with new contracts in 2024 - Evaluation

Criteria	Option 3 (Big Bang with new contracts in 2024)
Time for Market to respond and mobilise post call-off / mini-comp	3
Clarity on costs / savings – best ability to forecast	3
Amount/scale of potential savings	2
Time for BCC Operations to plan routes (to maximise benefits of procurement)	3
Minimise risk of service failure	2
TOTAL SCORE (Max 20)	13

0 = No benefit
1 = Low benefits
2 = Medium benefits
3 = Good benefits
4 = Excellent benefits

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5.6.3 Option 3 Conclusions

- 5.6.3.1. Through the discussion at the dedicated project team Option 3 was the preferred option and indeed scored most highly when it came to the independent scoring.
- 5.6.3.2. The option aligns with the incoming Assistant Director's experience and desire to implement provider and route changes at Easter time.
- 5.6.3.3. This Option, Option 3, is the recommended option.

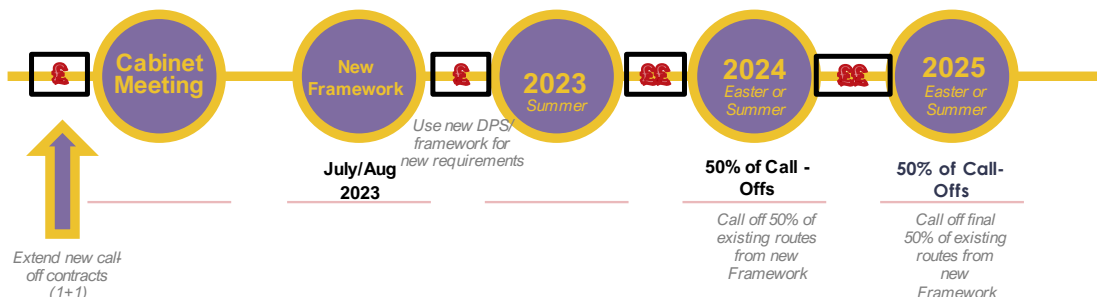
5.7 Option 5 – (Multiple Years) – Establish new DPS/framework & take phased approach to contract call-offs

5.7.1 Option 5 Summary

- 5.7.1.1. Option 5 can be most easily summarised as being the same as Option 3 however rather than taking a “singular” approach to making the change in one academic year, it phases the delivery of the change and therefore the potential cost reductions over a two-year period; undertaking 50% of the change in 2024 and the remaining 50% in 2025.
- 5.7.1.2. This option can be expressed diagrammatically below:

Option 5 (Multiple Years) – Establish new Framework & take phased approach to contract call-offs

Vary the existing ISAs to call-off contracts (including desired DoVs) and extend 50% to Easter or Summer 2024 and 50% to Easter or Summer 2025 or alternative profile and then at these points in time call these off from the new framework



5.7.2 Option 5 Commentary and Scores

- 5.7.2.1. Whilst sharing many of the benefits of Option 3, Option 5 scores lower in respect of the clarity of costs/cost reductions as it delivers change over a two-year period, making forecasting more complicated.
- 5.7.2.2. Whilst objectively it may appear to give BCC Operational staff more time to plan routes, the Service had a desire to make these changes in one increment to maximise the benefits of the procurement as soon as possible and to benefit from taking a “one council” approach to route planning, rather than splitting this task into two increments.

Option 5 (Multiple Years) – Do not extend current DPS, establish new framework/DPS & take phased approach to contract call -offs - Evaluation

Criteria	Option 5 (New framework/DPS and phased implementation of contracts)	
Time for Market to respond and mobilise post call -off / mini-comp	3	
Clarity on costs / savings – best ability to forecast	2	
Amount/scale of potential savings	2	
Time for BCC Operations to plan routes (to maximise benefits of procurement)	2	
Minimise risk of service failure	2	
TOTAL SCORE (Max 20)	11	

0 = No benefit
1 = Low benefits
2 = Medium benefits
3 = Good benefits
4 = Excellent benefits

5.7.3 Option 5 Conclusions

- 5.7.3.1. Particularly because of the budgetary pressures this option was viewed as sub-optimal as it would not deliver the maximum level of cost reductions at the earliest opportunity (without putting the service at risk).

5.8 Recommended Proposal

- 5.8.1 Option 3 is the recommended Option. Whilst Options 1 and 4 were discounted because they relied upon the existing DPS, for full visibility, these options were assessed, and the table below shows the full set of scores:

Implementation Options - Summary Matrix & Scores

	Single Year 2023	Single Year 2024	Multiple Years
Establish New Framework / DPS	Option 2 Score – 6 / 20	Option 3 Score – 13 / 20	Option 5 Score – 11 / 20
Current DPS	Option 1 Score – 6 / 20	Not an option because have to do something with current DPS before 31 October 2023	Option 4 Score – 10 / 20



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- 5.8.2 Option 3 provides the time for BCC to establish its own Framework, compliant with Public Contracts Regulations 2015, tailored to the requirements of the Service. It will also allow new providers entry to provide increased competition. There will be consistent pre-negotiated terms and conditions and transparency of costs. A new, detailed, specification will be constructed and consulted on with stakeholders including the Parent Carer Forum which will set out the standards BCC expects of its providers and mechanisms for addressing any poor performance.
- 5.8.3 When exploring the implications of the recommended option in respect of implementation; it is important to set out the opportunities, through this recommendation, to undertake activity which will help reduce the overspend and support the strategy to move back towards a balanced budget. Three main opportunities have been identified.
- 5.8.4 Under the recommended option the first opportunity to reduce costs will already have been derived from meetings that will have taken place prior to the presentation of this Cabinet Report. These tactical meetings led by the Contracts, Commercial and Compliance team will focus on providers offering a reduction in

their costs and their agreement to revised terms and conditions in return for the offer of an extension of their contracts until 2024. “Outlier” prices, i.e. those significantly above the average cost of provision, will also be challenged. These current contracts would be extended on the basis of 1 year plus the option of an additional year (to protect against any delay in the framework procurement and implementation) with the contracts containing non-default termination clauses which would provide BCC with the flexibility it requires should there be opportunities to optimise or reduce routes during the academic year 2023. This opportunity should result in a reduction in current costs.

- 5.8.5 Secondly, the new framework would be available from July/August 2023 and therefore any new contractual requirements (outside of those contracts agreed & extended above) could be met from the new framework from this point in time onwards. New contractual requirements may include new routes to existing schools and colleges or new routes to new schools and colleges, for example. It is anticipated that the new framework will deliver lower prices than present, however because these are new requirements, this opportunity would not result in a reduction in current costs, but would represent “cost avoidance” in the sense of purchasing at a lower cost than would have been the case should this project have not gone ahead.
- 5.8.6 Thirdly, finally and most importantly to the delivery of cost reductions, under this option the Service would undertake the major change of contracts in one academic year (rather than two) from Easter 2024 having spent the time from January to Easter reviewing the current routes and producing a more optimised solution; undertaking the call-offs, notifying the providers of the change so they can prepare to mobilise and for the change to be effectively communicated with parents, carers, schools and the children and young people themselves. This point in time represents the moment when most cost reductions can be delivered through a combination of both a change of provider and the effect of route optimisation.
- 5.8.7 Through the proposed Option, clear call-off procedures will be established thereby providing a fully auditable and transparent approach to future expenditure. Internal Audit will be engaged with the design of the call-off and variation procedures.
- 5.8.8 The Option provides all flexibility to reflect any future changes in service provision and, in particular, any growth in the in-house service provision.
- 5.8.9 The recommended Option set out in this Cabinet Report will be further developed within a subsequent procurement strategy report which will be agreed and issued prior to publication of the opportunity for a Council framework.

6 Consultation

- 6.1 The new Assistant Director for the Children’s Travel Service held a meeting with the Parent Carer Forum in January 2023 who understood the recommendations

and were supportive of the planned outcomes, particularly of having better controls in place to ensure a more consistent service.

- 6.2 Meetings have been established with the new Assistant Director for the Children's Travel Service and all current providers in early February 2023 to assess their interest in the new Framework. Once completed, their feedback will then be included into the full Procurement Strategy.
- 6.3 Consultation has also been undertaken with the Director of Place, Prosperity and Sustainability who is supportive of these proposals.
- 6.4 There is also planned consultation to be undertaken by the new Assistant Director for the Children's Travel Service with the key Special Schools in the City. They, and all other schools, will then subsequently be engaged at the point of planning and communicating the implementation of the new Framework.

7 Risk Management

- 7.1 The provision of transport services (vehicles, drivers and guides) is, arguably, the most integral part of service delivery for the Children's Travel Service. The requirement to re-procure provides the most significant opportunity for change but therefore the high potential for service failure.
- 7.2 This report, and the work leading up to its presentation, has therefore focused as much on the implementation of the proposed procurement process as the process itself. Time will need to therefore be needed to deliver a change of this significance and the recommended implementation option supports this requirement.
- 7.3 Changes to providers and therefore personnel can lead to some children and young people having greater difficulties accessing transport services. Many children and young people with additional needs struggle to adapt with change and therefore unnecessary or frequent changes are often detrimental to an individual's mental wellbeing and ability to learn. This change cannot be pre-determined, but it can be well communicated, and it will be the intention of the Service to deeply engage with stakeholders throughout the procurement process.

8 Compliance Issues:

8.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 8.1.1 The recommended decision supports the delivery of Birmingham as an aspirational city to grow up in as this will aim to continue to support the SEND offer to Birmingham's children and families; modernising, safeguarding and improving outcomes for children and young people.

8.2 Legal Implications

- 8.2.1 Sections 508B and 508C of the Education Act 1996 make provision for local authorities to ensure that suitable travel arrangements are made, where

necessary, to facilitate a child's attendance at school. Suitable travel arrangements may include the provision of guides to support eligible children and young people to get to school.

- 8.2.2 Under Section 1 of the Localism Act 2011, the Council has the power to enter into the arrangements set out in this report and they are within the boundaries and limits of the general power of competence under Sections 2 and 4 of the Localism Act 2011.

8.3 **Financial Implications**

In terms of the recommendation to progress with a Framework, rather than a Dynamic Purchasing System ("DPS"), the analysis undertaken by the Project Team clearly demonstrated the advantages of the Framework in respect of cost transparency as detailed in the table over.

Framework	Dynamic Purchasing System (DPS)
<p>Financial Risks/Benefits</p> <ul style="list-style-type: none"> • Pending approval, new Framework can be available from July/August 2023 and is expected to reduce the service overspend through improved cost transparency. • Framework based on set price per mile by vehicle type for all awards/routes. • Better cost transparency and establishes clear relation between mileage and cost, improving ability to control/forecast service costs based on changes in mileage/children & young people on transport. • Framework also allows for mini competitions (like DPS), enhancing the Council's ability to award particular requirements following a mini competition amongst all the providers awarded to the Framework Agreement on a 'best price' basis. The ability to undertake both direct call-offs as well as mini-competition strengthen the Council's power to negotiate on pricing. 	<p>Financial Risks/Benefits</p> <ul style="list-style-type: none"> • Current DPS expires in October 2023 exposing Council to ongoing price volatility and ongoing budget overspend. • Variable pricing – based on type of vehicle and dependant on outcome of mandatory DPS mini competition for new awards/routes. • Poor cost transparency with no relationship between cost and mileage resulting in unpredictable price variations– difficult to forecast and control service costs.
<p>Service Operations</p> <ul style="list-style-type: none"> • The Framework agreement allows for changes in transport provision to occur within the agreed pricing framework enabling both flexing of number of children & young people on transport and mileage at a set cost enhancing continuity of provider, drivers and guides for vulnerable service users. Overall achieving desired cost control while maintaining a child centric service. • It is expected that significant cost reductions will be realised (the actual benefit is difficult to establish given the prevailing volatility in pricing) post Easter 2024 having spent the time from January to Easter reviewing the current routes and producing a more optimised solution; undertaking the call-offs, notifying the providers of the change so they can prepare to mobilise and for the change to be effectively communicated with parents, carers, schools and the children & young people themselves. 	<p>Service Operations</p> <ul style="list-style-type: none"> • The requirement to go to mini competition for any changes to transport provision (number of children/young people or mileage) can disrupt continuity of providers and staff (Drivers & Guides) associated with a route, placing pressure on the Council to negotiate expensive local agreements with providers to maintain continuity for service users. • Continuing with current DPS is not currently viewed as a viable option.

- 8.3.1 The recommended option of a Framework with the majority of routes changed from Easter 2024 will provide the ability to control/forecast service costs and deliver the maximum cost reductions at the earliest opportunity **without putting the service at risk**. The detailed appraisal can be found in paragraphs 4.4.4 to 4.4.7 and paragraphs 5.8.3 to 5.8.7 above.

8.4 **Procurement Implications**

- 8.4.1 The procurement of the framework will follow the Open tender route and will be fully compliant with the Public Contract Regulations 2015. A full Procurement Strategy will be submitted to those officers identified in para 2.2 above for their approval prior to commencing the procurement.

8.5 **Human Resources Implications**

- 8.5.1 There are no human resource implications identified in the report at this moment in time. In the event there is a need to review, reduce, recruit or transfer any City Council employees – existing or new - linked to the proposals set out in this report, then Birmingham City Council policy and procedure will prevail and must be adhered to. In the event, advice should be sought from the Directorate People Partner on the approach to be taken.

8.6 **Public Sector Equality Duty**

- 8.6.1 An Equality Impact Assessment has been undertaken, reviewed for quality assurance and signed off. There are no negative implications associated with these recommendations.

8.7 **Environmental and Sustainability Implications**

- 8.7.1 An Environmental and Sustainability Assessment has been completed and signed off.
- 8.7.2 We do not anticipate that there would be an increase in the number of vehicles as a result of this tender process and so we believe that the environmental impact will be negligible.
- 8.7.3 The specification will ensure the providers meet the standards sets by Birmingham, including the current clean air zone (CAZ) and any future required legislation.
- 8.7.4 It is proposed that the environmental impact of tenderers' bids will be expressly part of the quality assessment / evaluation and it is proposed that the tender process will assess suppliers based on their responses to their strategic approach to mitigating adverse environmental impacts and their plans to meet BCC's target of becoming "Net Zero" by 2030, being clear on the council's commitment to a sustainable future.
- 8.7.5 It is also proposed that the new contracts will have clear "non default" termination clauses which will permit route optimisation to be undertaken which should,

subject to their needs being met, result in a reduction in the overall number of vehicles required per child or young person.

- 8.7.6 Colleagues from the Route to Net Zero team will be engaged in the development of the specification to ensure alignment with the Council's priorities around climate change.

9 Appendices

- 9.1 Appendix 1 - Equality Impact Assessment.
- 9.2 Appendix 2 – Environment and Sustainability Impact Assessment.

10 Background Documents

None.