

Public Report
Birmingham City Council
Report to Cabinet
11th December 2018



Subject: **Travel Assist Service**

Report of: **Acting Corporate Director Children & Young People**

Relevant Cabinet Member: **Cllr Jayne Francis - Education, Skills & Culture**
Cllr Kate Booth - Children’s Well-being
Cllr Paulette Hamilton - Health & Social Care
Councillor Brett O’Reilly - Finance & Resources

Relevant O &S Chair(s): **Cllr Mariam Khan - Learning, Culture & Physical Activity**
Cllr Mohammed Aikhlaq – Children’s Social Care
Cllr Rob Pocock - Health & Social Care
Cllr Sir Albert Bore - 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
If relevant, add Forward Plan Reference: 005449/2018		
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, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

1.1 This report provides details of proposals to proceed on two key areas required to modernise and improve the Council’s Home to School Transport Service (Travel Assist). The report follows-on from an earlier report to Cabinet on the

26th June 2018, where it was agreed that the following documents would be presented:

- The proposed 0-25 Home to School transport policy (**Appendix A**)
- The Home to School transport commissioning strategy (**Appendix B**)

2 Recommendations

That Cabinet approval is given to; -

- Consult on the draft 0-25 Policy for Home to School Transport (see **Appendix A**).
- Adopt and implement the Commissioning Strategy at **Appendix B** to this report.
- Delegate authority to the Acting Corporate Director, Children and Young People in conjunction with the Director of Commissioning and Procurement, the Corporate Director, Finance and Governance (or their delegate) and the City Solicitor (or their delegate) to award contracts to the successful providers following completion of the tendering process.
- Authorise the City Solicitor to negotiate and execute any documents to give effect to the above recommendations

3 Background

- 3.1 Birmingham's Travel Assist Service provides a variety of transport options to over 4,250 children on a daily basis, with an additional 1,500 receiving bus passes, and has an overall budget of £18.4m for 2018/19. The majority of the children using the service have requirements related to SEND but the service also supports eligible children without SEND, looked after children; children in temporary accommodation and other vulnerable groups. The service operates more than 600 routes and has a range of support options including: 1-to-1's; mini bus/coach transport; Travel Guides; Personal Transport Budgets; Bus Passes and Independent Travel Training. The latter has been introduced over the last 18 months and has been well received by schools with many developing and expanding their own complimentary programmes.
- 3.2 Since 2016 the service has been the subject of a root and branch review, and delivered 90% of the planned changes at that time. Consequently complaints have reduced, operational efficiency has improved (lower numbers of staff and a faster turn-around for applications) through better use of IT and lean processes and external relationships have improved with key stakeholders such as Headteachers.
- 3.3 However, Travel Assist continues to overspend against budget, and there are continuing issues with the delivery of such a large scale transportation operation, which can impact on the service that families receive.

- 3.4 Travel Assist is part of a group of services that support families with children with SEND. These include SENAR, Early Support and Access to Education. The recent SEND Inspection report looked at the whole system of SEND support across the city, and partners. The recommendations and action being taken following this report, will positively impact upon transport provision. One key proposal is to develop more local special educational provision within the city, reducing the need for children to travel long distances to a suitable education placement. Another important aspect is the need to focus on independence, working with families and young people much earlier in the child's life to develop important skills (such as travelling independently) and preparing for adulthood.
- 3.5 Over recent years in line with home to school transport services nationally, Travel Assist has been experiencing an increase in demand. Over 330 additional families successfully applied for specialist transport during the 2017/18 academic year and the numbers of children being transported across the city has grown year on year, in line with an increase in Education, Health and Care Plans.
- 3.6 The service simply cannot continue to provide travel assistance in the manner it has to date, and the full range of options available, including Personal Transport Budgets and bespoke solutions for families will be further developed.
- 3.7 0-25 Policy**
- 3.7.1 At present the law is different in relation to Home to School transport based on the differing ages of children and whether they are of compulsory school-age.
- 3.7.2 The Council has a number of legal duties and powers related to home to school travel assistance, including a duty under Section 508A Education Act 1996 to promote sustainable modes of travel. The Council also has a duty under Section 508B Education Act 1996 to make suitable home to school travel arrangements for eligible children.
- 3.7.3 When reviewing existing policies from other Local Authorities, Birmingham should be doing more to help families consider and adopt independent travel options. Too many of our children are still on buses for far too long which affects their readiness to learn and, in some cases, school attendance and behaviour. The service is still too reactive and does not provide enough support, working with other SEND-focused services, early in a child's life to plan for and support families as their children grow older.
- 3.7.4 The key principles proposed in the new policy (to be consulted upon) will be in line with the findings of the SEND Inspection June 2018 and reflect national good practice and the latest statutory guidance. A new policy also offers an opportunity to ensure that the clarity of the offer is in line with the transparency required across the SEND system, for example, with regards to budgetary

challenges and city-wide partnership outcomes for children. Proposed changes include:

- Combining the policies into a single 0-25 composite policy document.
- Changing the Stage 2 Appeal Panel from a Members Panel to Officers. This is in line with good practice nationally; retains a Stage 2 Appeals process; and will involve officers who have a related specialism but have not been involved directly in any of the cases.
- Increasing the financial contribution requested from parents of children and young people who are not of compulsory school age.
- Clarifying the circumstances when travel assistance will be provided for children who are below compulsory school age.
- Setting out the Council's policy in relation to travel assistance for young adults over the age of 19.
- Strengthening the emphasis on independent travel training and alternative modes of transport.
- An increased emphasis on the use of Personal Transport Budgets.
- Greater clarity of the application process and eligibility for parents (what we will and won't do).
- Greater clarity concerning the rights and responsibilities of parents towards accompanying their children to school.
- Greater clarity around the factors that will be relevant to the decision whether to offer travel assistance.

3.7.5 The draft policy and consultation process reflects the consideration of future anticipated demand across the city, to better plan transport options, reduce travel times, build and move provision in line with the SEND and Inclusion Strategy and inform the new commissioning and procurement process. It will include working with the market to understand how we can improve the logistics of the service and if appropriate adopt the expansion of pick-up points. It will also include consideration of the green transport agenda and emission reductions in line with the Council's clean air strategy. This work will require close working across teams including: Travel Assist; Finance; Legal and Governance; Commissioning and Procurement, SENAR, Early Support, data and performance.

3.7.6 A further report will be brought to Cabinet outlining the outcome of the consultation and any proposed changes to the draft policy.

3.8 Commissioning Strategy and Plan

3.8.1 Since the Cabinet report in June 2018 soft market testing has been completed, to give a better understanding of the different models of service delivery in order to inform the decision on the best future model(s). The soft market testing has

enabled us to gather intelligence as to what works well elsewhere across the public sector in relation to the provision of the travel assist service. It has also revealed that many of the local authorities are facing the same challenges and increasing costs of the Travel Assist Service.

3.8.2 Many local Authorities are considering both in-house and third party provision of the service, with many opting for a Dynamic Purchasing System (DPS) for a procurement route. Unlike other procurement routes such as open and restricted processes, a DPS permits new suppliers, after a pre-qualification stage; to join the DPS framework at prescribed times during its life time. This provides the Council with a refreshed competitive framework and negates the requirement, as is the requirement of other frameworks to conduct frequent contract renewals as the DPS can be awarded for a period longer than four-years (which is the restriction for traditional frameworks). Further information on the DPS to be adopted for this procurement will be included in the procurement strategy in the New Year.

3.8.3 The commissioning strategy in **Appendix B** outlines the commissioning intentions for the Travel Assist Service.

4 Options Considered and Recommended Proposal

4.1 A full options appraisal will take place as part of the Commissioning process to determine the best solution(s) to deliver the future service requirements. The consultation with service users, parents, schools and providers will help to inform this process.

4.2 The options which have been considered in relation to the proposed 0-25 policy are as follows. First, to not consult on the draft 0-25 policy, retain the existing policies and adopt a post-19 policy. However, the existing policies require amendment to be brought up to date with current statutory guidance, ensuring they are lawful, and to give effect to the proposed commissioning strategy, if approved. Therefore, this option is not recommended. Secondly, to consult on the draft 0-25 policy. This option is recommended because a policy has been drafted which complies with the statutory guidance and would be compatible with the commissioning strategy, if it is adopted.

5. Consultation

5.1 Internal

5.1.1 Consultations have taken place with the following:

- The Interim Assistant Director for SEND, Children & Young People Directorate
- The Interim Assistant Director for Commissioning, Children & Young People Directorate
- Council Management Team

- The Travel Assist Manager
- The Commissioning and Contract Management Board

5.1.2 This report has been drafted in consultation with officers from Legal and Governance, Finance and Corporate Procurement and Commissioning.

5.2 External

5.2.1 Market engagement has been completed by the commissioning and procurement team with external providers and public sector bodies.

6 Risk Management

6.1 The Corporate Procurement Service (CPS) approach is to follow the Council Risk Management Methodology and the Travel Assist Team is responsible for local risk management. A risk register for this project will be jointly produced and owned by The Travel Assist team and CPS with arrangements being put in place to ensure operational and procurement risks (respectively) are appropriately mitigated.

7. Compliance Issues:

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

7.1.1 The recommended decisions are consistent with the Council policies, plans and strategies;

- The Council has a statutory duty to make transport arrangements for eligible children with Special Educational Needs and Disabilities (SEND) and to provide free transport to eligible children based on distance, safe walking routes and low income. Some children and adults have needs that require specialist vehicles and escorts; this can be provided under the proposed contract.
- Having access to appropriate travel assistance ensures every child is supported to attend school. Regular reviews of travel plans will support the development of increased independence where appropriate.
- Supporting educational attainment and independence helps to tackle the causes of deprivation and inequality through improving educational performance and confidence.

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

- Due to the value of spend for some suppliers being below £200,000, the Birmingham Business Charter for Social Responsibility will not apply to them.

- For those suppliers with whom we spend £200,000 or more per annum, as part of the contract review and extension we will seek to put in place new charter actions plans for all contractors
- The design of a new contract will include consultation on what social value can be sought from the contract. In part this will be through pre-market engagement to determine the social value opportunities.

7.2 Legal Implications

- 7.2.1 The Council has a duty under Section 508A of the Education Act 1996 to promote sustainable modes of travel.
- 7.2.2 The Council also has a duty under Section 508B of the Education Act 1996 to make suitable home to school travel arrangements for eligible children.
- 7.2.3 The Council has the power under section 509A of the Education Act 1996 to make travel arrangements for children receiving early years' education otherwise than at school.
- 7.2.4 The Education Act 1996 requires local authorities to adopt and give effect to a transport policy statement dealing with young people of sixth-form age (section 509AA) specifying the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age at their place of education or training.
- 7.2.5 The Council has a duty under section 508F of the 1996 Act to make such arrangements for the provision of transport and otherwise as the authority consider necessary for facilitating the attendance of adults at their place of further or higher education, and the Council must prepare and publish a transport policy statement dealing with young adults aged 19 and over for whom an Education, Health and Care Plan is maintained (Section 508G).
- 7.2.6 The Education Act 1996 does not expressly require the preparation of a transport policy for children of compulsory school age. However, the statutory guidance says "local authorities must publish general arrangements and policies in respect of home to school transport for children of compulsory school age. This information should be clear, easy to understand and provide full information on the travel and transport arrangements. It should explain both statutory transport provision, and that provided on a discretionary basis. It should also set out clearly how parents can hold local authorities to account through their appeals processes".
- 7.2.7 The Council is under a duty to have regard to statutory guidance issued by the Department for Education when carrying out its duties in relation to home to school travel and transport, including when making and

consulting on policy changes. The statutory guidance is at **Appendices C and D** to this report.

- 7.2.8 The requirements of the Data Protection Act 2018 and Human Rights Act 1998 will be taken into consideration in terms of the processing, management and sharing of data involved in these proposals. The recommended tenderer will be required to demonstrate or evidence that they have appropriate policies and procedures relating to data protection in place. A full diligence exercise will be undertaken by Legal Services. Data Processing / Sharing Agreements will be agreed with the recommended tenderer.
- 7.2.9 There have been a number of legal challenges recently with regards to Home to School Transport provided by other Local Authorities and the quality of consultations. The consultation to be undertaken on the 0-25 Policy will reflect this learning nationally, ensuring that all statutory stakeholders are consulted; and the consultation process is robust and meaningful.

7.3 Financial Implications

- 7.3.1 The Travel Assist Service continues to face severe financial pressures in 2018/19, which it is seeking to address.
- 7.3.2 The budget for Travel Assist in 2018/19 is £18.396m and the forecast spend at Month 7 was £21.912m, which represents an overspend on budget of £3.516m. This is largely a result of the non-delivery of savings in previous years and increasing demand for the service.
- 7.3.3 To address the underlying issue the current Budget Consultation proposals incorporate assumptions of both pressures, funding and savings, to seek to deal with the overspend going forward. In 2019/20 pressures funding of £2.200m is included in the proposed LTFP together with assumed savings of £1.718m, based on a part year effect of changes introduced in 2019/20. Savings increase to £2.488M in 2020/21 based on the full year effect of those changes.
- 7.3.4 This report identifies the measures which will seek to deliver the required savings which are quoted above, to bring spend back in line with budget resources and consistent with the proposed LTFP.
- 7.3.5 Dependent upon the outcome of the consultation process and the consideration of various options for transport going forward, referred to in the Commissioning Strategy, there will be a need to develop further, more detailed costings and forecasts. If this results in a materially different financial position, then further consideration by Cabinet may be required.

7.3.6 The Commissioning Strategy has also highlighted the expected increase in demand for the service over the next four years, so the impact of demand changes will need to be kept under review over this period.

7.4 Procurement Implications

7.4.1 This is reflected in the Commissioning Strategy.

7.5 Human Resources Implications

7.5.1 There may be Human Resources and workforce considerations, including potential TUPE implications, staff and trade union consultation and engagement if any Council staff, including transport guides, are entitled to transfer to a new provider as part of the commissioning strategy.

7.6 Public Sector Equality Duty

7.6.1 This is reflected in the Commissioning Strategy. The consultation will be undertaken in line with the Equality Impact Assessment for the project.

8 Background Documents

8.1 List of Appendices accompanying this Report (if any):

- **Appendix A:** Draft 0 – 25 Policy
- **Appendix B:** Travel Assist Commissioning Strategy
- **Appendix C:** Home to school travel and transport guidance – statutory guidance for local authorities – July 2014
- **Appendix D:** Post-16 transport to education and training – statutory guidance for local authorities – October 2017

8.2 Background Document:

- Cabinet Report 26th June 2018 – Travel Assist Service (Forward Plan Ref. No. 005164/2018)