

**Decision Maker:** EXECUTIVE

**For Pre Decision Scrutiny by:**

**Care Services Policy Development and Scrutiny Committee on  
26<sup>th</sup> June 2014**

**Education Policy Development And Scrutiny Committee on  
Wednesday 2<sup>nd</sup> July 2014**

**Date:** 16<sup>th</sup> July 2014

**Decision Type:** Non-Urgent Executive Key

**Title:** TRANSPORT GATEWAY REVIEW

**Contact Officer:** Dan Jones, Assistant Director Street Scene and Green Space  
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**Chief Officer:** Executive Director of Education, Care and Health Services

**Ward:** (All Wards);

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1. Reason for report

- 1.1. The report follows the Executive report Adult Social Care – Gateway Review (report no. CS13/017) and the Executive endorsed Commissioning Programme (Report No. DRR13/043), of which Transport was one of the ten services to be reviewed. This report is part of the agreed Gateway Process for determining the best method for the delivery of these services in accordance with the Council's Target Operating Model.
- 1.2. The current Passenger Transport Framework Agreement, utilised by Bromley for the delivery of transport by the Special Educational Needs Transport (SENT) team, is due to expire in August 2015. The current vehicle hire agreement for the delivery of the Passenger Transport Services (PTS) has been extended to November 2015. The combined delivery of these two services after August 2015 needs to be market tested to ascertain if significant costs savings can be realised by contracting either elements or holistically delivering these services through alternative means.
- 1.3. Transport was identified as one of the first ten service areas to be reviewed by the Commissioning Board and this review focused on transport activities undertaken or commissioned by the Education and Care Services Department for adults, predominantly the activities of the PTS, and for children, predominantly the activities of the SENT team.

- 1.4. As part of the service review, these services have been soft market tested, including discussions with the service managers, and permission is being sought to formally go to the market to for the delivery of these services in order to determine the best value option.
  - 1.5. The proposed contract(s) have a potential value of £5.8m per annum and therefore this exercise will be required to follow European Union public procurement regulations and the placement of a Contract Notice advertisement in the OJEU seeking expressions of interest from organisations wishing to tender as required.
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## **2. RECOMMENDATION(S)**

- 2.1. The Executive is asked to approve the tendering of contract(s) for the provision of transport services for adults and children as outlined in paras 3.28 – 3.30 and to agree to the placement of any required Notice of advertisement in the OJEU, seeking expressions of interest from organisations wishing to tender.**

### Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Children and Young People and Supporting Independence:
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### Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: 813006, 845030, 136586, 136587, 845000, 845900
  4. Total current budget for this head: £5,795kk
  5. Source of funding: RSG and DSG
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### Staff

1. Number of staff (current and additional): 57 posts / 46.1 FTE
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Current: 525 Adults & 818 Children (SEN)
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### **3. COMMENTARY**

- 3.1. In the report to the Executive (DRR13/043), Transport services was identified by the Commissioning Team as one of the first service areas to review in order to assist the Council in delivering its Target Operating Model as a "... Commissioning organisation, determining who is best placed to deliver high-quality services based on local priorities and value for money principles".
- 3.2. As part of the agreed Gateway Process of the Commissioning Programme, this report forms part of Stage 4 of the process to ensure that the implementation decision follows the appropriate committee process.
- 3.3. Staff have been made aware through the Commissioning Programme process that this service is being reviewed and that soft market testing was undertaken. Further staff engagement and communication will be undertaken as part of this process by the service management team to ensure that all staff are briefed on the progress of this project.
- 3.4. Currently the London Borough of Bromley provides transport services for three reasons:
  - a) as a means of facilitating respite for carers;
  - b) to allow individuals to access social interaction; or
  - c) to provide access to education

#### **Adults:**

- 3.5. In the current system, the transport service takes users to and from day centres as part of provision of sociable day opportunities. Day activities are usually a response to two assessed needs, either A or B as above.
- 3.6. One or both may apply depending on the individual situation. The future provision of access to adult transport will be governed by an agreed transport policy.
- 3.7. Transport for adults is not an explicit statutory duty in itself, however, the Council must provide for adequate day opportunities for those assessed as needing respite or social interaction under 'Substantial' and 'Critical' Fair Access to Care Services (FACS) criteria. Under the current perspective of Care Services for respite in particular, this involves the Council facilitating individuals to get out of their homes, which requires an element of transport. The duty can be met indirectly through Direct Payments or directly by the providers of the day opportunities.

#### **Children:**

- 3.8. The LA has a statutory duty to make free home – school travel arrangements for eligible children to access their education, both SEN (Special Educational Needs) and non-SEN children, and this was the reason for Council-funded transport for children originally. The legislation underpinning the service provided still reflects this 'access to education' priority.
- 3.9. A child is obliged to attend the school nearest to their home where the local authority assesses that their education needs can be met.

For SEN this is to their specialist provision named in their statement / (to be) Education Care & Health plans. The manner in which these arrangements are made are determined by the LA but must be suitable taking into account the age, ability and needs of the child, this may be a mainstream class, a SEN unit at a mainstream school, or a Special School.

The duty is extended, to non-SEN schools, including parental choice of school based on religious grounds, depending on age and home to school distance, for some eligible children from low income families; e.g. in receipt of free school meals and or highest working Tax Credit benefit.

In Oyster card zones this can be public transport as long as the journey is not too arduous and does not on average take longer than 45 minutes for primary school age and no longer than 75 minutes for secondary school age pupils.

- 3.10. The local authority is required by statute to provide transport to children (both SEN and mainstream) if the nominated best school is beyond guideline distances (2 or 3 miles, depending on age), and regardless of these distances if the child has a disability such that support is necessary.
- 3.11. The statutory requirements are more complex after school leaving age (16, 18 or 19 depending on the individual school) meaning that the local authority only needs to fund transport for those young people whose families' income falls below a threshold.
- 3.12. Statutory transport obligations to mainstream children are met overwhelmingly through Transport for London and free Oyster travel. The main source of principal demand for the children's transport service is SEN, although there are also a number of subsidiary users of transport for children, namely children's disability respite and Looked After Children.

#### **Current management arrangements:**

- 3.13. The existing management provision for these two distinct service areas are integrated, being directly managed by the Passenger Transport Operations Manager and operating out of the Central Depot.
- 3.14. The functions of the Passenger Transport Service (PTS) are principally around delivery of the transport service that is requested by Older People or Learning Disability care management, with appropriate route planning to ensure optimal routing efficiency within parameters is maintained.
- 3.15. The in-house PTS uses 20 vehicles leased from a single provider. The daily pattern begins at 8am, first delivering Learning Disability clients to day opportunity venues, followed by Older People clients. Most buses return to the Depot by 11.30am. The sequence is reversed commencing at around 2.30pm. Buses return to the Depot between 4.30 and 6pm. The drivers are employed throughout the day while passenger attendants are not employed during the middle hours of the day. A number of the buses may be used for additional work during the middle hours of the day, such as transferring individual clients to nursing homes or returning them from hospital.
- 3.16. Children's transport is arranged through outsourcing to providers on a framework jointly let by Bexley and Bromley, which is due to expire in August 2015, and primary functions of the SEN Transport Team are around contract management, eligibility assessment and demand management, as well as close contact and co-ordination of delivery elements, including efficient route management. There are currently 12 service providers utilised by the service to operate 252 routes which transport 818 pupils. Within the service, there are 219 listed locations that service users may access and the peak operating times are term-time from 7:00am to 9:00am and 3:00pm to 4:30pm.

3.17. A further bus service operates at The Phoenix Pre School four days per week in the morning and afternoon only, during school term time. The school buses are donated by The Friends of The Phoenix Pre School and owned by LBB. All maintenance costs and staff costs are funded from the SEN Transport budget.

### **Transport review and soft market testing:**

3.18. The scope of the Transport Review and associated assessment of service requirements was informed by and considered the Best Practice Guidance issued by the Department of Transport *Tendering Road Passenger Transport Contracts* – October 2013. The recommendations made align with the best practice arrangements it identifies as appropriate for the activities the Council carries out.

3.19. The soft market testing exercise performed as part of the Transport review and was not fully conclusive on what service delivery model would best suit the changing demands of transport requirements for these services.

3.20. Further efficiency in transport operations may be achieved through the successful integration of these two service models, with the primary transportation delivery being through the use of large capacity vehicles (Bus Model). However, the use of large specialist vehicles by private companies also has the risk of the company not being able to generate commercial income when vehicles are not in use, thus potentially raising costs.

3.21. Alternatively, the use of saloons, estates and MPVs could be used, as similar to the current framework contract used for SEN transport, to competitively deliver a large element of the transport requirement for Adults and Children by private sector business (Taxi Model).

3.22. The adults' system has been designed on a 'bus model' basis for many years. The destinations (day centres) are limited in number (10-15) and the vehicles used are large 11-seat plus wheelchair capacity buses. A passenger attendant is present on all journeys to look after service users and to ensure passengers are not left unattended during pick-ups/drop-offs, but practicalities limit the average number of passengers scheduled per route to 6. Also, there are 'down times' in the middle of days, in evenings and at the weekend when the vehicles are not productive.

3.23. Children's SEN transport has just fewer than 10 routes using minibuses with very high volumes (10-15 passengers). Quite a large number of routes have 5 or 6 passengers. There are also a large number of routes with 1-3 passengers. The average passenger number is approximately 4. The children's system can be categorised as part 'bus model' and part 'taxi model'. Besides simple passenger numbers, the key distinction, as outlined, is whether the vehicle used for the council contracted work is then used for commercial work. Only the lower volume range of SEN routes conform to this 'taxi' definition; soft market testing has shown that providers of routes with 5 or 6 passengers particularly in specialist vehicles can struggle to use these vehicles in the remainder of the day.

Further, the successful SEN Invest to Save programme focusing on travel training has seen a reduction in those requiring transport and a shifting expectation around need.

3.24. The fragmentation of transport solutions is likely to occur in the future because of a combination of personalisation and a possible policy direction away from building-based day opportunities to 'community-based activities'. People may choose to access a personalised solution nearer to their own community instead of travelling to a centralised day centre they used to attend. Scaled up, this is likely to mean shorter journeys with fewer passengers, and a preference for greater flexibility in any procurement solution. The conclusion is that the future requirements are moving toward the 'taxi model' with a smaller element fitting a 'bus model' scenario.

- 3.25. The SEN service has established limits for journey times and routing options are designed to ensure journeys for children of Primary School age do not exceed 1 hour and children of Secondary School age do not exceed 1 hour and 15 minutes. The Adults transport service does not have a statutory journey time limit, but the service attempts to limit journeys to no longer than an hour. Future developments and policy changes will impact on how these two service areas can be integrated which will influence the optimal procurement options available.
- 3.26. It is important to note that by its very nature, the potential use of smaller vehicles as a service delivery option is likely to encourage local and SME participation, while also allowing for the delivery of the service from locations nearer to the recipient's place of residence.
- 3.27. Under the Public Services (Social Value) Act 2012, consideration will need to be made based on the economic, environmental and social benefits of the procurement approach at a pre-procurement stage which precedes the issuing of the official notice in OJEU. This evaluation will apply to any public services contract or framework agreements to which the Public Contracts Regulations 2006 apply.

### **Procurement options:**

- 3.28. The various procurement methods that we recommend in order to enable the flexible procurement of transport provision to meet changing demands for these services are:
- A) Combined Contracts with 'Lots' - Re-procurement of current children's non-volume guaranteed framework, with some or all of adults' transport in addition. Sourcing all transport routes through a framework, if it is achievable in terms of capacity and cost, would be the optimal solution because of the flexibility offered.
  - B) Separate Contracts - It cannot be assumed that a non-volume guaranteed framework can provide for all adult transport and / or transport which require specialist equipment, so the procurement of a fixed contract for a core service delivering complex transport solutions may be required.
  - C) Single Contract - The procurement of all journey requirements together including the co-ordination and route planning – "wholesale commissioning". This option has not been tested for viability in terms of operational efficiency to ascertain if a market provider has the capacity to be able to deliver the flexible service model LBB requires of its developing transport service.
- 3.29. An additional purchasing solution may potentially be the use of a Dynamic Purchasing Solution (DPS) to facilitate the purchase of the elements identified in the above table that would be procured through a framework type arrangement which also provides for ongoing competition and the ability to add new providers to the approved supplier list post implementation. An additional procurement option could be the use of E-Auctions for the procurement of identified transport routes. This would need to be assessed against the provision of a DPS as there are many similarities.
- 3.30. Therefore, it is recommended that the services are offered to the market as set out in Table 1 below. This would enable providers to tender on their preferred modus operandi whilst allowing for the various options to be considered in competition.

Table 1. Potential procurement matrix – FW: Framework; FC: Fixed Contract; IH: In-House

| Procurement Option | SEN Specialist Transport (Lot 1) | SEN Standard Transport (Lot 2) | Adults Specialist Transport (Lot 3) | Adults Standard Transport (Lot 4) | Transport Coordination and Route Planning |
|--------------------|----------------------------------|--------------------------------|-------------------------------------|-----------------------------------|---|
| A                  | FW                               | FW                             | FW                                  | FW                                | IH  |
| B1                 | FW                               | FW                             | FC                                  | FW                                | IH  |
| B2                 | FC                               | FW                             | FC                                  | FW                                | IH  |
| C                  | FC                               | FC                             | FC                                  | FC                                | FC  |

3.31 In terms of realising further efficiencies through the joint procurement of services with other neighbouring authorities, officers will continue to explore these options. We have met recently with LB Croydon and LB Bexley to discuss the potential opportunities for the joint procurement of multiple services to gain further service efficiencies. The consensus was that until strategies for the procurement and future service delivery models and strategies are realised and consistent, it was premature to make a commitment by any party at this time.

3.32. It is intended that the arrangement will run for a period of 4 years. The evaluation of tenders submitted will be completed in line with the Councils standard process and be completed on a 60/40 cost to quality basis which incorporates minimum quality thresholds in the assessment of the quality factors used.

3.33. As part of the procurement process, consideration will be given to the resourcing requirements to ensure a robust client management arrangement is in place. This includes contract monitoring, performance management and quality assurance consistent with the Council's COP.

#### 4. POLICY IMPLICATIONS

4.1 Any future or developing policy changes to the access guidelines for service users or the method of operation may have an impact on the provision of transport and any associated costs.

#### 5. FINANCIAL IMPLICATIONS

5.1 Adults and SEN transport services cost the Council approximately £5.8m.

Total controllable budget

|              |   |
|--------------|---|
| Children's   | £3,964k (of this £330k is Dedicated Schools Grant backed) |
| Adults       | £1,831k   |
| <b>Total</b> | <b><u>£5,795k</u></b>                                     |

5.2 Any savings and efficiencies that may arise from this process will need to be fed into the medium term financial strategy. There are currently no budget savings factored into these areas and they are unlikely to be identified at this early stage. Once the tender process has been completed and analysis of the bids have been carried out a report will come back to this committee and provide the detailed information.



## 6. LEGAL IMPLICATIONS

- 6.1 The 2014 EU Public Procurement Directives were approved by the European Parliament on 15 January 2014 and by the EU Council on 11 February 2014. These Directives were published in the Official Journal of the EU on 28 March 2014 and came into force on 17 April 2014. EU member states have 2 years to implement them in national legislation.
- 6.2 The Council are required to comply with the Council's Financial Regulations and Contract Procedure Rules and the current Public Contracts Regulations 2006 (as amended). It appears that these have been considered in this report and recommendation.

## 7. PERSONNEL IMPLICATIONS

- 7.1. If Members agree to the recommendation to proceed with tendering, staff and their representatives will be engaged and consulted as early as practicable at each stage of the formal consultation process with staff and their representatives going forward, subject of course to any commercially sensitive information. There will also be engagement with services users and their representatives who might be affected by the proposals.
- 7.2. Any staffing implications arising from the recommendations in this report will need to be carefully planned for and managed in accordance with Council policies and procedures with due regard for the existing framework of employment law. The tendering process would consider whether or not the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended by The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

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|---|--|
| <b>Non-Applicable Sections:</b>                       | None   |
| Background Documents:<br>(Access via Contact Officer) | Commissioning Team Programme Budget - Report No. DRR13/043<br><br>Adult Social Care – Gateway Review (Report No. CS13/017) |