

**Report to CABINET**

## **Special Education Needs (SEND) Transport Service**

**Portfolio Holder:**

Councillor Shahid Mushtaq, Cabinet Member for Education and Skills

**Officer Contact:** Richard Lynch, Director of Education, Skills and Early Years

**Report Author:** Ben Holt, SEND Transport Manager  
**Ext. 3224**

**21<sup>st</sup> March 2022**

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**Reason for Decision**

To advise on the process undertaken on the Transport Service Tender.

**Executive Summary**

The report details the recent tender allocation process. It also outlines details of the current provision of Travel Assistance, provided by the SEND Transport Team.

**Recommendations**

Cabinet is requested to authorise:

- The acceptance of the formation and opening of the Dynamic Purchasing System
- Undertake a retendering exercise for the 200+ routes under the Dynamic Purchasing System via mini competition
- Delegated authority is given in awarding the initial mini competition (200+ routes) and any subsequent mini competitions during the lifetime of the DPS.

## **Special Education Needs (SEN) Transport Service**

### **1 Background**

- 1.1 The SEND Travel Assistance Service provides the current provision for Home to School Transport. The service currently transports approximately 830 pupils with either special educational needs, disabilities or because of their mobility issues. There are approx. 2600 children and young people with EHCPs in the borough and circa 5000 children and young people 0-25 years on SEN Support.
- 1.2 The SEND Travel Assistance Service operates over 190 school days as determined by the School Holiday Calendar and other occasional days determined by individual schools governing bodies. All pupils with SEND are provided with free travel assistance, in accordance with the Council's current Travel Assistance Policy (July 2019), IPSEA Legal guidance and the Education Act 1996. It is the legal responsibility of the Local Authority to provide this service, as outlined in the Education Act 1996.
- 1.3 The provision of transport is determined by the needs of the individual pupil. Those with severe and complex health, physical or educational needs can be transported by either individual taxis or adapted vehicles. Children or young people with less severe needs ordinarily travel via a multi-passenger minibus.

The SEND Travel Assistance Policy aims to ensure that all pupils eligible to access transport, will receive the appropriate provision which meets their needs. When assigning the appropriate provision to be provided, the Transport Moderation panel consistently applies the following principles:

- The aim of the service is to support parents, not absolve them of their responsibility to ensure their child attends school on time with regular attendance.
- The SEND Travel Assistance team ensures all arrangements put in place shall be cost-effective, so the Authority receives value for money.
- Wherever possible, the provision provided will look to build and promote independence, to help prepare children and young people for later life.
- The health, safety and well-being of the children and young people will remain paramount.
- Both current providers and winning tenders are subject to relevant DBS checks. Both current and new providers of transport will be required to undertake safeguarding training

1.4 At present, there is a concurrent internal travel training program in place with Oldham Council, led by the SEND Travel Assistance Service. The program aims to provide independent travel training to 30 children and young people per annum. New delivery models for providing a greater level of scale and pace for independent travel training will be considered before the financial year end as 30 per annum is deemed insufficient to meet potential demand/need, ensure independence and preparation for adulthood and ensure best value for money/a potential invest to save model. This will help to mitigate costs moving forwards as more children and young people may migrate to travel training from transport and/or assigned travel training in place of transport in the first instance.

**2 Current Position**

2.1 The current contract to provide SEND Travel Assistance expires on 31<sup>st</sup> August 2022. although there is an option to extend by another year.

2.2 A dynamic purchasing system (DPS) is to be established and used for allocating routes via mini competitions of which can be accessed via the Chest. In accordance with the Council’s Contract Procedure Rules and Public Contract Regulations 2015 the following procurement process was undertaken in establishing the DPS.

2.3 A supplier engagement event was advertised on the Chest accompanied with a soft market testing questionnaire designed to inform the Council of the market’s perception of the current and future ways of working.

2.4 Following the event, the DPS opportunity was advertised on the Chest on 17<sup>th</sup> December 2021 with a closing date of 21<sup>st</sup> January 2022. Bidders were asked to review and complete a standard selection question which looks to assess the capability and quality. The following criteria was applied:

SQ Section	Selection criteria	Weighting
1. Supplier information	For information only	N/A
2. Grounds for mandatory exclusion	Pass or Fail	N/A
3. Grounds for discretionary exclusion – Part 1	Pass or Fail	N/A

4. Grounds for discretionary exclusion – Part 2	Pass or Fail	N/A
5. Economic and Financial Standing	Pass or Fail	N/A
6. Technical and Professional Ability	For Information Only	N/A
7A. Project specific questions to assess Technical and Professional Ability	Pass or Fail and the weightings stated against the questions:  Safe & Appropriate Service – 40% Complaints – 30% Business Continuity – 30%	100%
7B. Insurance	Pass or Fail	N/A
7C. Compliance with equality legislation	Pass or Fail	N/A
7D. Environmental Management	Pass or Fail	N/A

7E. Health and Safety	Pass or Fail	N/A
7F. Data Protection	Pass or Fail	N/A
7G. Ethical Values	Pass or Fail	N/A

2.5 The DPS has been broken down into separate lots for:

- Private Hire/Taxi
- PSV Buses
- Minibuses
- Black Cab
- Wheelchair Adapted Minibuses
- PSV Wheelchair Adapted Buses

2.6 Once bidders have passed this initial stage, they shall enter into a Dynamic Purchasing Agreement, following which they are eligible to submit bids for routes via the published mini competitions. The mini competition documents will be evaluated 90% on price (on a fixed price basis) with a 10% caveat based on vehicle emissions and companies' adherence to Oldham's clean air policy.

2.7 Oldham's Travel Assistance Team works in partnership with Oldham Licensing, this is to ensure all of Oldham's licensed Private Hire and Hackney Vehicles, working on an Oldham School Transport route, meet Oldham's minimum licensing standards. Transport also works to ensure the minimum standards of all other authority's vehicles are met, using Oldham Licensing standards as a benchmark.

2.8 It is intended that approximately 220 routes will be tendered via the mini competition process which is anticipated to start in April 2022 with a deadline of May 2022. These routes are due to commence in September 2022. It is recommended that delegated authority (Managing Director, Children & Young People) is given in awarding the routes in this mini competition. It is also recommended that any subsequent mini competitions during the lifetime of the DPS will also be approved by delegated authority (Managing Director, Children & Young People).

2.9 Both a quality assurance score and price check are used to ensure that operators offer value for money for the local authority. Contractors will be awarded routes via this process. Routes can change daily due to availability of personal assistants, change of school, change of home address, and change of composition of group pick-ups.

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- 2.9 All new contractors will comply with and sign, a contract for the provision of transport for children and young people in Oldham. In addition, they will have qualified through the Chest and signed the standard Council form of tender.
- 2.10 The contracts included in the tender were offered out for bids via the chest and broken down into separate lots for PSV Vehicles, PSV Adapted Vehicles, Multi Passenger Vehicles, Multi Passenger Adapted Vehicles, Black Cabs, Adapted Taxis and Taxis.
- 2.11 The decision has been taken to request written bids for fixed price basis for all contracts.
- 2.12 The SEND Travel Assistance Service are proposing both the DPS, and route call off contracts run for a 5-year period, commencing in September 2022, expiring in August 2027.

### 3 **Options/Alternatives**

#### 3.1 Option 1

Open the Dynamic Purchasing System under The Chest and tender the 200+ routes to the successful bidders on the System. This approach would:

- Attract new companies to the tendering process, via the Chest, enhancing Oldham's pool of approved contractors.
- Seek new tenders at a lower price than current.
- Support local business, as well as enhancing Oldham's and Greater Manchester's transport network.
- Support Oldham's and Greater Manchester's Clean Air policy.

#### Option 2

Utilise the last term extension period of 1 year. Approach the current suppliers to continue undertaking the route previously tendered for the same price, This approach would:

- Provide a continuation of service, from the contract period which commenced in September 2019.
- Risk of Contractors pulling out from the contract, as increases in cost of living, petrol price increases and the introduction of Greater Manchester's Clean Air policy, could see contractors not afford to provide a service.
- Not having enough contractors to be able to provide a service, since 2019 we support 200+ more children. Oldham need to attract new companies to be able to meet future demand.
- Will not be able to push Oldham's and Greater Manchester Clean Air Policy.

#### Option 3

To work with Procurement to explore the possibility of procuring our own fleet of PSV/Adapted Buses and employ a fleet of drivers under Oldham Council. In the future Oldham would utilise a hybrid model, opening the Dynamic Purchasing System under The Chest and tender the remaining Private Hire Taxi routes. This approach would:

- Remove daily pricing for all PSV/Adapted Vehicles
- Greater control of vehicle standards and passenger accessibility
- Quicker/leaner tender process
- Increase the number of staff employed by the Council
- Outlay of equipment, financial upkeep of the vehicles (PSV Standard Tests/MOT'S)
- Reduction in partnership working with Local Business

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At this stage a full financial breakdown has not been completed, meaning a cost analysis process will have to be undertaken. It is estimated this would cost in excess of £5 million.

#### **4 Preferred Option**

- 4.1 Option 1 – Complete retendering exercise for the 200+ routes under the Dynamic Purchasing System via the Chest.
- 4.2 Explore Option 3, working with Procurement and provide a full cost analysis.
- 4.3 This option will ensure the Council is operating within the guidelines set out in the Dynamic Purchasing System, by ensuring a fair and moderated tendering process has ensued. This will also maximise the opportunity to ensure the service operates in the most financially efficient way.

#### **5 Consultation**

- 5.1 Consultation with the Commercial Procurement Unit (Emily Molden – Senior Category Manager) and SEND Services (Ben Holt – SEND Transport Manager)
- 5.2 Prior to the commencement of the proposed tender process a customer engagement day was held on 2<sup>nd</sup> November 2021. All current contractors were invited plus new potential providers via local Private Hire firms licensed within the Oldham borough. At the session a joint presentation was produced by Transport and Procurement which outlined the plans for the service moving forward and changes to the procurement process and pricing model. (See Appendix 1)

#### **6 Financial Implications**

- 6.1 The SEN Transport Service (Home to School Transport) has been experiencing significant demand increases over recent years resulting in budget pressures. The costs associated with awarding the SEND transport contract is not yet known but is estimated to be over £3.3m and will have a yearly cost of living rise built into the routes, in line with inflation as of September and the costs associated with Oldham's Clean Air Policy and Greater Manchester Emission Policy, which comes into effect from June 2022. The budget for 2022/23 has been increased to £3.055m. When this is taken in conjunction with the other activities of the Home to School Transport Service such as Passenger Assistants, Personal Allowances, Travel Training and anticipated additional routes needed over the year, the total budget for the service for the 2022/23 financial year is £4.050m. Whilst the contract value is still to be confirmed, it could result in a pressure of £0.042m when set against an available budget of £3.055m in 2022/23.
- 6.2 There is an expectation that the pressure, should it materialize, will be managed within the resources available to the wider Education Directorate, however, this will be monitored and reported to Members over the year as part of the Revenue monitoring report. (Liz Caygill)

#### **7 Legal Services Comments**

- 7.1 The procurement process is compliant with the Council's Contract Procedure Rules. A Dynamic Purchasing Agreement shall be entered in to with each successful bidder following which the supplier will be eligible to bid for routes advertised by Procurement as Mini Competitions from time to time which shall be contracted for as Call-Off Contracts. The

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Council shall at all times have the right to terminate a Call-Off Contract upon one months' notice or sooner in the event of a change of requirements. (Sukie Kaur – Solicitor)

**8. Co-operative Agenda**

8.1 The proposals ensure that the borough's children and young people with SEND can access education which is in line with the Council's Co-operative and Thriving Communities agenda to support better health and life chances in the borough. (Amanda Richardson)

**9. Human Resources Comments**

9.1 No HR implications identified at this stage. (Daksha Mistry)

**10 Risk Assessments**

10.1 It is important that the Council in letting these works can demonstrate the process is open and transparent and can be subjected to external scrutiny. An authority in the Midlands let a contract via a dynamic purchasing system which has attracted adverse comments from the external auditor in the value for money opinion. As such this tender process will be subject to an internal review within the 2022/23 Internal Audit Plan (Mark Stenson)

**11 IT Implications**

11.1 None

**12 Property Implications**

12.1 None

**13 Procurement Implications**

13.1 The Commercial Procurement Unit supports the recommendations outlined in the report. A full market engagement exercise was carried out to prepare potential suppliers and stimulate the local market. The procurement process to establish the dynamic purchasing system (DPS) has been carried out in line with the Public Contract Regulations 2015. The team will continue to support the SEND Transport Team in managing the DPS ensuring compliance and value for money is achieved. (Emily Molden)

**14 Environmental and Health & Safety Implications**

14.1 It must be ensured that health and safety documentary evidence is submitted and assessed during the tendering process. The Health and Safety team (healthandsafetyteam@oldham.gov.uk) can support in assessing tender applications and can provide competent advice. Option 3 (to bring the service back 'in house') will require consultation with Operational Services (Fleet management) and the Health and Safety Team, to ensure its feasibility and compliance with the council's Driving at Work policies and procedures.

14.2 SEND Officers are also requested to liaise with the Licensing Team regarding revised licensing requirements for vehicles linked to age and emissions. It is suggested that our most vulnerable residents should not be transported in vehicles which do not meet Greater Manchester clean air requirements and that compliance with the Clean Air emission



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requirements are built into the policy for SEND contract work. (Neil Crabtree, John Garforth and Laura Smith – 25<sup>th</sup> January 2022)

15 **Equality, community cohesion and crime implications**

15.1 None

16 **Equality Impact Assessment Completed?**

16.1 Yes

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 ED-01-22

19 **Background Papers**

19.1 Oldham Council Home to School Transport Policy (July 2019)

19.2 Education Act (1996)

19.3 IPSEA Legal Guidance/SEND Code of Practice

20 **Appendices**

20.1 Appendix 1 – Supplier Engagement Event

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