

# Public Document Pack

## Executive Member Decisions

Friday, 24th February, 2023  
10.00 am

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### AGENDA

1. **Contracts for SEN and home to school transport**  
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Date Published: Friday, 24th February, 2023  
Denise Park, Chief Executive

## EXECUTIVE MEMBER DECISION



<b>REPORT OF:</b>	Executive Member for Children, Young People and Education
<b>LEAD OFFICERS:</b>	Strategic Director of Children's & Education (DCS)
<b>DATE:</b>	24 February 2023

**PORTFOLIO/S AFFECTED:** Departments

**WARD/S AFFECTED:** (All Wards);

**SUBJECT: Contracts for SEN and home to school transport**

### 1. EXECUTIVE SUMMARY

To seek approval from the Executive Member for Schools and Education to create a new framework to retender 4 home to school transport contracts in March and for any future tenders. Approval is also sought to vary the pricing mechanism used to pay Special Educational Needs and Disability transport operators to reflect any future price increase in diesel.

### 2. RECOMMENDATIONS

That the Executive Member:

- Approves the mechanism for varying the price of contracts for Special Educational Needs and Disability transport to reflect any future rises in the price of Diesel.
- Approves the creation of a new DPS framework for a four year period for any future procurement of Home to School transport.
- Approves the retendering of these four contracts in March 2023 under the proposed newly created framework from September 2023 to Easter 2025.
- That the appropriate budget adjustments will be made to reflect the increased costs should diesel prices increase by the required amount, funded by way of a contribution from the Council's General Fund Working Balance.

### 3. BACKGROUND

#### SEN Transport fuel increase

The majority of contracts for SEN transport were awarded through a tender exercise which commenced on the 17th March 2022, with contracts being awarded for a 2 year period to Easter 2024. Due to the volatility of fuel prices at this time and complaints from suppliers who felt they could not bid for contracts with the uncertainty of fuel costs a mechanism was therefore built into the pricing based on the average UK pump prices as below;

Where pricing of unleaded is between £1.41 and £1.71 per litre no adjustment will be made.

Where the price of unleaded goes above / below these rates the Council will make the following adjustments;

For each 15p per litre that the cost of unleaded goes above / below the pricing the Council will add or deduct 3.33% to the costs of the contract. This will occur on a monthly basis with the Council looking

at the price of fuel on the last day of the month through the RAC website and then applying the adjustment for the contracts delivered that month.

This mechanism provided support to operators running up to the summer school holidays with appropriate payments being made. It was felt at the time that historically increases in fuel prices have generally applied in equal measures to both unleaded and diesel and therefore the structure was only built around the pricing for unleaded fuel.

Since then the pricing for unleaded fuel has stabilised with a current average pump price of £1.53, diesel fuel however did not stabilise and rose to very high levels and although has dropped recently suppliers are worried should this occur again in the future. The majority of the vehicles on the framework use Diesel.

Suppliers have complained that the fuel price increase was not sustainable for them and the mechanisms used to protect them from the fuel price increase has not worked.

The Council has just had its first 4 contracts handed back to us with the supplier quoting fuel increases and also the planned increase in minimum wage coming into force next April. With one supplier doing this there is a possibility that other providers could also follow their lead meaning the Council having to run multiple tender exercises and having contracts at a higher price. It is therefore proposed that a similar mechanism be put in for Diesel fuel. The Council emailed providers back on the 9th March 2022 with the mechanism that was set out for price increases for unleaded, it is estimated that on this date the average UK diesel price provided by the RAC on this date would have been £1.67 (this is based on straight line appreciation of the published prices on the 1st and 16th March), this would mean the payments would be instigated when diesel prices exceeded £1.82. The new mechanism will be put in place from this month.

#### **Home to School transport – Creation of new DPS**

The Council previously established a DPS (Dynamic Purchasing System) in 2018 for a four year period. A DPS framework unlike a traditional one allows suppliers to join the framework at any stage whilst the framework is live, this will ensure that as many suppliers as possible could qualify to participate in the framework in order to create more competition. As this framework has now expired it is proposed that a new one be created for another four year period which will provide the Council with a compliant and cost effective route for procurement. Any further competitions that are run under this framework will be subject to additional approval in accordance with the constitution where required. The new framework will also include the 15% requirement for social value which will be evaluated as part of any tender exercise.

#### **Home to School transport – Retendering of Contracts**

With the above four contracts only being let until July approval is sought to re-tender these routes through the newly formed DPS in March/April this year through a sealed bid process. These will be let until the Easter break in 2025 which is the date where other contracts previously let will end. If the same level of pricing is applied to the re-tender then this could result in a tender worth circa £300k and it is expected that the costs for the contracts will have an increase from the current budget. A separate approval paper for the award of these contracts and any associated budget increase will be submitted once the new costs are known.

#### **4. KEY ISSUES & RISKS**

- If contracts are not awarded then the Authority would be at increased risk of being in breach of its statutory responsibility to provide transport for children and young people.
- The Council needs to have a cost effective, timely and compliant procurement solution to ensure that the requirements for school transport services can be provisioned when required, use of the framework agreement will achieve this.
- By using a DPS framework this will enable suppliers to join at any stage over the duration of the framework allowing a constant flow of suppliers ensuring there is sufficient competition to drive best value for money.

## 5. POLICY IMPLICATIONS

A continuation of service is required in order to meet the required statutory obligation of providing Home to School Transport and Special Educational Needs and Disability Transport. Education and Inspections Act 2006.  
508B and 508C Education Act 1996.

## 6. FINANCIAL IMPLICATIONS

Variation of prices to reflect any future rises of Diesel

The current average UK price for diesel according to the RAC website on the 6<sup>th</sup> January is £1.7285 per litre with market predictions that this will fall further, with the payments only coming into effect when prices reach £1.82 no current payments would be made.

If fuel prices were between £1.82 and £1.97 for an entire year then the additional cost to the authority would be circa £49,950 with this cost doubling should diesel prices move into the next bracket above this.

## 7. LEGAL IMPLICATIONS

The procurement process used to create the new DPS framework complies with the requirements of the Council's Contract and Procurement rules and the Public Contracts Regulations 2015. The modification to the SEN transport contract is permitted by Regulation 72(1)(f).

## 8. RESOURCE IMPLICATIONS

There are no resource implications associated with this decision.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

None with this report.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with

equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>Peter Hughes</b>
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<b>DATE:</b>	10/01/2023
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<b>BACKGROUND PAPER:</b>	None
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