

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO CABINET

20 JULY 2021

### REPORT OF THE CORPORATE DIRECTOR EDUCATION AND FAMILY SUPPORT

#### SUSPENSION OF THE CONTRACT PROCEDURE RULES FOR HOME-TO-SCHOOL TRANSPORT MINIBUSES AND TAXIS

#### 1. Purpose of report

- 1.1 The purpose of this report is to request that Cabinet suspends the relevant parts of the Council's contract procedure rules in respect of the requirement to re-tender 154 proposed contracts for home-to-school transport services, and to authorise the Corporate Director - Education and Family Support to enter into the contracts directly with relevant operators for the autumn term 2021-2022.

#### 2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:

- **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
- **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

#### 3. Background

- 3.1 The local authority has a statutory duty under the Learner Travel (Wales) Measure 2008 to make suitable transport arrangements to facilitate the attendance of children each day at the relevant places where they receive their education or training. This is primarily achieved via the contracting of transport services from the private sector.
- 3.2 On 20 October 2020, Cabinet approved a procurement exercise to invite tenders to bid for contracts for multiple home-to-school transport services for a term of five years with the option to extend by two further periods of one year. The indicative total value for the full term was identified as £34.2m.

#### 4. Current situation/proposal

- 4.1 In order to ensure that the local authority is meeting its responsibilities under the Public Contracts Regulations 2015, the Council's contract procedure rules and to seek value for money, a procurement exercise was progressed during June and July 2021 for taxis, minibuses, special taxis and special minibuses.

4.2 The tender comprised of a schedule of 154 separate routes that will expire at the end of the current 2020-2021 academic year. The breakdown of the types of vehicles required for these contracts is identified in Table 1 below.

**Table 1 Type and number of vehicles per route/contract**

<b>Vehicle type</b>	<b>Number of routes/contracts</b>
Minibus	4
Nursery minibus	6
Special minibus	54
Special taxis	57
Taxis	33
<b>Total</b>	<b>154</b>

4.3 These were tendered by the Corporate Procurement Team utilising an open competition advertising at first on 'Sell2Wales' and the 'Find a Tender Service' (FTS). This was conducted electronically utilising 'eTenderWales'.

4.4 Unfortunately, technical issues with the Sell2Wales notice coupled with recent information concerning changes to COVID-19 operational guidance for schools that are likely to be in place for the start of the autumn term in September 2021, have had an impact on the routes, and the capacity of vehicles required to deliver the service which would have required a substantial material change to the published invitation to tender.

4.5 Therefore, the local authority has found it necessary to abandon the procurement prior to the deadline for tender submissions.

4.6 The local authority had intended to award new contracts in August 2021 in readiness for the start of the autumn term in September 2021. However, as the procurement has not been able to be progressed as intended and given there is insufficient time between now and the start of the autumn term to repeat the procurement exercise, Cabinet is requested to:

- suspend the relevant parts of the contract procedure rules requiring a competitive procurement exercise;
- authorise officers to identify suitable operators for each route referenced in Table 1 (at paragraph 4.2); and
- enter into contracts with them directly for a period of four months from September 2021 to the end of December 2021.

4.7 This will ensure that there is sufficient time to ensure that the technical issues that impacted upon the current procurement exercise are addressed and also, that the expected changes to national legislation and guidance as a result of the COVID-19 pandemic, currently impacting upon the type and size of provision of school transport, are able to be taken into consideration.

4.8 Cabinet needs to be aware that, in awarding these short-term contracts to the current providers, the Council is exposed to the risk of potential challenge from other

providers of such services. The Council's contract procedure rules ensure that procurement exercises are carried out in compliance with the Public Contract Regulations 2015. The report proposes entering into contracts with the existing school transport operators without any competition, in breach of the requirements of the Public Contract Regulations 2015.

- 4.9 The risk of challenge is not possible to quantify. However, given the provision of free home-to-school transport is a statutory responsibility of the local authority, Cabinet may take the view that the potential for challenge is one it is prepared to accept.

## **5. Effect upon policy framework and procedure rules**

- 5.1 This report seeks the suspension of the Council's Contract Procedure Rules.

## **6. Equality Act 2010 implications**

- 6.1 An initial equality impact assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh language. It is therefore not necessary to carry out a full EIA on this policy or proposal.

## **7. Well-being of Future Generations (Wales) Act 2015 implications**

- 7.1 A Well-being of Future Generations (Wales) Act 2015 assessment has been completed. A summary of the implications from the assessment relating to the five ways of working is as follows:

Long-term	The identification of the continuity of the current contracts for four months identifies that the local authority understands the impact on operators of supporting the sustainability of school transport services.
Prevention	The local authority assesses the suitability of transport operators to deliver home-to-school transport services. The local authority requires operators to support staff training, to enable them to develop and maintain their knowledge and skills, and be successful in fulfilling the role.
Integration	School transport operators have a strategic role in providing a service so that all eligible pupils are supported in accessing their place of education. This ultimately means that learners can learn and achieve, so that they can access opportunities for further learning and employment, and can play active roles in their communities, contributing positively to society as a whole.
Collaboration	School transport providers have a strategic role in supporting access to school for eligible pupils. Transport providers need to ensure the health and wellbeing of pupils and their own staff. The local authority, in conjunction with transport providers, are ensuring that services are improved to meet the needs of all learners.

Involvement The local authority engages with transport operators on a regular basis.

## **8. Financial implications**

- 8.1 The current value of the contracts required to provide transport for the 2021-2022 autumn term is estimated as £1.07m. By direct awarding new contracts, there may be some positive and negative variation to the rates currently charged to the local authority by contractors through to the end of December 2021. Therefore, at this time it is difficult to estimate the accurate cost of this proposal until the market has been engaged.
- 8.2 The costs of these contracts will be met by existing budgets, however it is noted that this is a pressurised budget.

## **9. Recommendations**

- 9.1 Cabinet is recommended to:
- suspend the relevant parts of the Council's contract procedure rules in respect of the requirement to re-tender the contracts listed at Table 1 (at paragraph 4.2) of this report for home-to-school transport services;
  - authorise officers to identify suitable operators for each route referenced in Table 1 (at paragraph 4.2); and
  - authorise the Corporate Director (Education and Family Support) to enter into the contracts with transport operators from 3 September 2021 until 17 December 2021.

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### **Background documents:**

None