


## LONDON BOROUGH OF WALTHAM FOREST

Meeting / Date	<b>Cabinet – March 2023</b>	
Report Title	Extension of Contract for In-borough Special Educational Needs and Disabilities Home to School transport	
Cabinet Portfolio	Councillor Cllr Strathern, Portfolio Lead Member for Childrens and Young People	
Report Author/ Contact details	Lauren Ovenden, Director of Education People Directorate	
Wards affected	All	
Public Access	Open except for Appendix 1 which is exempt in accordance with Section 100 (A-H) of the Local Government Act 1972 and Schedule 12A as amended, on the grounds that it involves the likely disclosure of exempt information as defined in Part 1, paragraph 3, as it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and disclosure would not be in the public interest	
Appendices	Appendix 1 – Finance and Contract Costs Appendix 2 – Equality Analysis Screening	

### 1. SUMMARY

- 1.1 The Education Act 1996, places a duty on Local Authorities to ensure that suitable arrangements are in place to provide transport to and from educational establishments, for children with eligible needs.
- 1.2 Children and young people are eligible based on the statutory responsibilities set out in the Education Act and in line with the Waltham Forest Home to School Assistance with Travel Policy. This predominantly includes children with special educational needs and disabilities who require additional support to facilitate their attendance at school through assistance with travel.

- 1.3 To ensure that Waltham Forest Council fulfils this duty, an external organisation is contracted to deliver the scheduling and delivery of this transport.
- 1.4 This contract was novated to the current provider, HATS Group Limited (HATS), in August 2022 following notification from the previous provider that they would be unable to continue with the contract to provide the service.
- 1.5 This report is seeking approval to extend the existing contract with HATS, which is due to expire in August 2023, for 2 years (to August 2025).

## **2. RECOMMENDATIONS**

- 2.1 Cabinet is recommended to:
  - 2.1.1 Approve the extension of the Home to School Transport Contract with HATS Group Limited for 2 years, to 31<sup>st</sup> August 2025.

## **3. PROPOSALS**

- 3.1 The service will provide transport for eligible children to and from school (and occasionally to respite facilities where agreed). This is usually provided by minibus.
- 3.2 Following the emergency procurement exercise and novation of the contract in the summer of 2022, the current contract is with HATS until August 2023.
- 3.3 Considering the pressures of the short timescales during the novation, the transfer of services went relatively smoothly. There were fewer complaints than previous provider during mobilisation, and stakeholders, including parents and schools, have fed back that they are happy with the quality of the service.
- 3.4 The new provider worked with the Local Authority Designated Officer to advise on safeguarding arrangements, and to date, no concerns have been raised during the first term.
- 3.5 Market engagement exercises in 2021 and 2022 have indicated the annual cost for running the service, based on 500 pupils, from 2023 may cost between £3.4-£5.5m.
- 3.6 We are currently facing unprecedented high levels of fuel costs and inflation. As a result, the new contract terms and conditions will include the flexibility to reduce contract cost if there are significant reduction in fuel price and inflation.

#### **4. OPTIONS & ALTERNATIVES CONSIDERED**

##### **4.1 Carry out procurement to provide a service from September 2023.**

This was rejected:

- While it would challenge the market to provide the best solution, due to possible change in provider, it would be the second change in the same number of years;
- the volatile market and economic uncertainty could produce a higher cost due to front loading of risk;
- market engagement during the emergency procurement process highlighted only 2 viable providers at the at time;
- there is no time to carry out review of current service delivery or possible in-house service.

##### **4.2 Extend current contract for 1 year: this is not the recommended option because the provider has advised they would continue to rent vehicles, which would incur higher costs with no discernible benefit to service users.**

##### **4.3 Extend current contract for 2 years: this is recommended option, due to the ability to continue the service for young people; savings due to vehicle purchase rather than continued rental; time for service delivery review including in-house option**

##### **4.4 Do nothing: If the contract is allowed to expire without extension or a new provision being procured the council will be in breach of its statutory duties resulting in significant legal and reputation risk as well as poor outcomes for service users.**

#### **5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)**

##### **5.1 This provision contributes to meeting the commitment outlined in the SEND Vision 2020-2023, approved at Cabinet in October 2020, to implement a new approach to travel assistance to maximise independence from young age.**

##### **5.2 The provision is in line with the Home to School Assistance with Travel Policy that was approved at Cabinet in March 2021.**

#### **6. CONSULTATION**

##### **6.1 Consultation was previously carried out. Consultation has been held with service users and their families, current contract provider, internal stakeholders, and the market. Feedback predominantly focused on the effective delivery of a user app, pick up points, call-back, punctuality,**

communication, and tightening our key performance indicators. The proposed extension has been to PLT and SLT. In addition, boards including the SEND Improvement Board, SEND Strategic Board and Parent Carer Forum have been engaged in the work around Home to School Transport.

## **7. IMPLICATIONS**

### **7.1 Finance, Value for Money and Risk**

- 7.1.1 In 2021-22, Waltham Forest's (WF) spend across the whole of SEN transport was £3.4m. This compared favourably with the SEN transport costs of WF's neighbouring boroughs which varied between £4.9m and £10.6m. WF average cost per child £4.8k. whilst surrounding boroughs ranged from £6.4k to £7.5k per child.
- 7.1.2 For 2022-23, the entire SEN transport costs is anticipated to be £4.57m. This is still below the costs of WF nearest boroughs and represents good value for money and the best financial option for Waltham Forest. The contract provides good value in that it is on an open-book accounting cost-plus model so that any reductions in costs (e.g., a fall in fuel prices) are passed through to the Council.
- 7.1.3 The additional cost of awarding this contract will be partly met by £500k from the Social Care grant but remains an ongoing pressure on the general fund, however, further resources may be reallocated across the the People Directorate, and the service will continue to seek mitigations to increase independence for children using the service and manage any budgetary pressure.
- 7.1.4 The risk of not extending the existing contract with HATs would leave WF with the potential increased costs of another provider and further disruption to the operations and user having to transfer to another provider within a very short time frame.

### **7.2 Legal**

- 7.2.1 Section 508B of the Education Act 1996 imposes a duty on the local authority - in the case of an eligible child in its area who meets the specified criteria - to make such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitation of the child's attendance at the relevant education establishment in relation to him, are made and provided free of charge in relation to the child.
- 7.2.2 An eligible child includes a child who is of compulsory school age and who: (i) has special education needs; (ii) is a disabled child; or (iii) is a child with mobility problems. It is for the local authority to determine what travel arrangements are necessary, for the relevant child, in order to secure the home to school transport.

7.2.3 The contract for Home to School transport was awarded in 2018 for a term of 4 years with the option to extend for a further year. The proposed extension of a further 2 years is therefore outside the original contract term. Regulation 72 of the Public Contracts Regulations 2015 provides circumstances where existing contracts may be modified without the need for a new procurement. These include where all the following 3 criteria are met:

- (a) the need for modification has been brought about by circumstances which the Council acting diligently could not have foreseen,
- (b) the overall nature of the contract is not affected and
- (c) any increase in price does not exceed 50% of the value of the original contract.

7.2.4 The need for the proposed extension has been brought about by the failure of the previous provider so could not have been reasonably foreseen by the Council, the overall nature of the contract is not affected by a two year extension and an additional two years on an existing 5 year contract is less than 50% additional value.

### **7.3 Equalities and Diversity**

7.3.1 The provision of home to school transport is a vital service for children with special educational needs and disabilities to enable their attendance at school. It is therefore expected to have a positive impact for people with a disability. The service aims to minimise disadvantages suffered by people with disabilities and to take steps to meet their needs.

7.3.2 An equality impact assessment screening has been completed as part of the process to date and no negative impacts have been identified.

### **7.4 Sustainability (including climate change, health, crime and disorder)**

7.4.1 The Council, with its partners, are committed to improving the health and wellbeing of children and young people to enable excellent outcomes for all people of Waltham Forest. The Waltham Forest Home to School Assistance with Travel Policy promotes the use of sustainable methods of transport, and particularly encourages independent travel training which enables children and young people to walk, cycle, or use public transport to travel to and from school if possible. However, the Local Authority has a duty to provide transport to vulnerable residents to facilitate their attendance at school.

7.4.2 The use of electric vehicles was explored for this contract, however, there is a significant cost associated with this, including the need to develop the infrastructure to support vehicles at the depot as well as the cost and availability of suitable vehicles. Over the lifetime of this contract,

council officers will endeavour to work with the provider to consider any potential for trialling sustainable options for this service. The social value element of the procurement process from 2025 will enable a more meaningful assessment, including taking a longer-term view around the investment. Vehicles that are part of the contract will be operating in a newly extended ULEZ zone.

## **7.5 Council Infrastructure**

- 7.5.1 There are no TUPE implications associated with this provision if the extension is agreed.

### **BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)**

None