


<b>Report to:</b>	People Committee	<b>Date:</b>	10 October 2019
<b>Report title:</b>	Report on Petition for SEN Transport		
<b>Report from:</b>	Jessica Crowe, Assistant Director Customers, Commissioning and Governance		
<b>Ward/Areas affected:</b>	Borough Wide		
<b>Chair of Committee/Lead Member:</b>	Councillor Marian James		
<b>Author(s)/Contact Number(s):</b>	Terry Clark, Head of Commissioning & Health Integration		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• Living Well Independently</li> <li>• Keeping People Safe</li> </ul>		
<b>Open/Exempt:</b>	Open		
<b>Signed:</b>		<b>Date:</b>	4 October 2019

## 1. Summary

- 1.1 This report is in response to a petition submitted to the Council in relation to the management of Assisted Transport.
- 1.2 Ambitious for Sutton sets out our vision for the borough of Sutton, focused on making Sutton a great place to live, work and raise a family. There are a range of priorities which cover keeping residents safe, healthy and resilient and investing in young people. A key part of this ambition is that children and young people in Sutton will have the right opportunities to be educated and to thrive in their local area.
- 1.3 The Council currently arranges assisted transport for 707 children and young people through 221 different routes across the borough. The Council has a duty of care to all of those children that receive a service. Safety of those transported is paramount and we therefore undertake robust and rigorous assessments of the providers we contract with, which have been even more thorough this year than in previous years due to the implementation of a new procurement system. Savings that have been made as a result of the new system also means that we are able to provide more services to more people.

## 2. Recommendations

- 2.1 To note the petition received.
- 2.2 To note that a lessons learnt review will feed into the already planned December 2019 People Committee report on SEN Transport.

- 2.3 To note that an Independent Expert is already reviewing whether the current arrangement between the Council and Cognus is the best operating model.

### 3. Background

- 3.1 Dr Alan Courtney created a petition which started on Monday 13 September 2019, in relation to the management of assisted transport. The petition closed on Wednesday 25 September with 133 eligible signatures. The petition therefore reached the threshold for referral to the People Committee for consideration.
- 3.2 Those who signed the petition are requesting that the Council bring the management of Assisted Transport back into the Council. The petition prayer is set out below:

We the undersigned petition the Council to:

- *SEND transport to be brought back under direct control of the LA with immediate effect.*
  - *Due to the clinical risk and children safeguarding issues surrounding the lack of essential checks with respect to the new transport tender, providers and subsequent arrangements, there should be an immediate referral of transport and Cognus services to the CQC and OFSTED.*
- 3.3 In accordance with Part 4E of the Council's Constitution, in paragraph 34.5, the Scheme for dealing with petitions and e-petitions states that the spokesperson may talk to the petition for up to 5 minutes and the petition will then be debated.

### 4. Issues

#### Background to changes to SEND Transport provision

- 4.1 Prior to this school year the Council had used a framework contract to meet its statutory duty to provide home to school transport for children with disabilities and additional needs. This had been in place since June 2015 and came to an end in July 2019, requiring the Council to put a new set of arrangements for allocating providers in place. Over time, fewer providers had become available for the Council to use through the framework, leading to reduced choice and quality control for the Council on behalf of children and families, and significantly poorer value for the public purse.
- 4.2 To address these problems with the previous arrangements, on 6 December 2018 People Committee approved the procurement of a Dynamic Purchasing System (DPS) in order to commission assisted transport. Authority was delegated to the strategic director to award contracts to join the DPS and to call off contracts for individual routes.

- 4.3 In accordance with the Public Contract Regulations the Council procured a DPS on 18/03/2019 via a call off from the YPO (Yorkshire Purchasing Organisation) Government Procurement Framework following an options appraisal of market solutions. During May and June, the Council and Cognus worked in partnership to engage with the market and to rigorously evaluate provider applications to join the DPS and award contracts.
- 4.4 Through this process the Council undertook a robust and rigorous assessment of potential providers. This included Providers meeting a number of core compliance questions, assessed on a Pass/Fail basis and responding to a series of questions addressing the quality of service provision. When evaluating responses to questions the panel considered the following areas:
- Safety
  - Communication and passenger experience
  - Company relationship with passenger and family
  - Vehicle and equipment
  - Staff training
  - Business continuity
- 4.5 The Council and Cognus worked closely together to plan and agree the process for the implementation of the new arrangements from planning routes and arranging call off from the DPS, to the start of the new transport at the beginning of the school term in September.
- 4.6 In addition to this internal planning, the service specification for assisted transport was shared with the Sutton Parents Forum (SPF) for review to ensure that the service provision met the needs of parents and families. Commissioners and Cognus attended a SPF coffee morning (16 May 2019) to talk about the new DPS and the call off of routes for September 2019. Parents had the opportunity to feed back on the quality criteria that were set to enable providers to enrol on the DPS. Parents were also given the opportunity to review the Driver and Passenger Assistant Handbook that sets out the expectations of those providing transport. Following this review amendments were made to the handbook and procedures for staff. A Question and Answer document was drawn up by SPF with the questions raised at the event and circulated by them.
- 4.7 As set out in 4.1 above the Council was previously relying on a small number of providers to deliver transport, which provided a lack of resilience and choice within the market. The new DPS ensures that there is a wider market to deliver the services, increases service resilience and ensures the council is securing value for money for local taxpayers.
- 4.8 This academic year the Council is providing transport for 707 children and young people. So far, we have re-procured transport for 586 children and young people across 180 different routes. 121 children have remained with their existing transport

provider and their routes will be re-procured in early 2020. The number of children being allocated to new providers or routes is significantly more than in previous years as set out in the table below.

<b>Year</b>	<b>Number of C&amp;YP</b>
September 2019	586
September 2018	131
September 2017	110
September 2016	183

- 4.9 The large proportion of families who receive assisted transport from the council are happy with the new arrangements that have been put in place for their child or young person. Over the course of the implementation from 23 August 2019 to 19 September 2019 the Cognus transport team have received queries that relate to at least 75 named individual children & young people. This equates to 10.6% of those receiving assisted transport. An analysis of themes suggests that the majority (95%) of these queries relate to issues that usually occur within the borough at the beginning of the school year. For example, families unhappy with a change in provider, moving from solo to shared transport, change of pick up time or late pick ups. The proportion of enquiries is therefore on a par with previous years based on the number of route changes.
- 4.10 The Council recognise that any change can be unsettling for families and children and young people, and takes time to adjust, but the new arrangement for this academic year as set out throughout this report, puts the Council in a stronger position to ensure that we meet statutory duties to keep children safe. In addition, because we recognise the challenges for families and children in adjusting to new drivers and other support staff, we held a 'Meet the Provider' event before the start of the new term which was attended by 58 people, and was commented on by both providers and parents as being useful in answering concerns, putting faces to names and as being good practice which other boroughs should emulate.

## **5. Options Considered**

### **Management of Assisted Transport**

- 5.1 As part of any large scale project the Council always undertake a lessons learnt and project closure review, which is the case with this project.
- 5.2 The lessons learnt and project closure review started on 13 September 2019 and will conclude by the end of October 2019. The findings from this review will form part of

the report already scheduled for the People Committee on 12 December 2019 and added to the Forward Plan in June 2019, to report back to Members on the implementation of the new system.

5.3 The scope of the lessons learnt review is broadly to review:

- 5.3.1 The procurement of the new Transport Dynamic Purchasing System (DPS), the implementation of the DPS and sourcing of providers.
- 5.3.2 The transport application process for parents - from initial application to communication of their child's arrangements.
- 5.3.3 The planning of routes and the call off process via the DPS.
- 5.3.4 The planning and mobilisation of the new arrangements and the service issues encountered.

5.4 In addition, the lessons learnt and project closure report will also be shared with the Independent Expert's review on the best education delivery model as set out in the report of the 4 July 2019 at the People Committee. An update by the Independent Expert is the subject of an agenda item at this committee and members will be updated on the early findings of the review.

#### **Referral to CQC & Ofsted**

5.5 Assisted Transport provision that the Council provides or commissions is not a regulated activity as defined by CQC and is therefore not registrable or referable to CQC and Ofsted.

5.6 Both the Council and Cognus have appropriate processes in place should an individual have a reason to complain about the service they are receiving. These are set out on each organisation's website. In addition the Independent Expert's early findings report, to be discussed later on the agenda, also highlights that the Council's and Cognus's systems and practices are compliant with legal requirements around SEND.

5.7 As set out in 4.3 above as part of the tender process for the DPS the council undertook a rigorous assessment of providers to assess their suitability to provide the service. This included:

- 5.7.1 **Licence arrangements** - ensuring providers held appropriate licences to deliver the service.
- 5.7.2 **Credit Scoring** - using a national recognised credit scoring process to ensure provider resilience, strength and capacity.
- 5.7.3 **Operating Policies** - reviewing of company operating policies and compliance with national policy and safeguarding requirements.
- 5.7.4 **Quality Questions** - a range of questions based around, communication, safety, relationships, training and equipment.

5.8 More detail on all the areas evaluated as part of the tender can be found at appendix A

- 5.9 The Council has only appointed providers to deliver this service that meet our high thresholds. We have appropriate contract management arrangements in place and where needed will take appropriate action with our providers if they fail to meet our service requirements. The Council therefore refutes the claim that a lack of essential checks have been carried out on the providers we contract with.
- 5.10 The Council worked with Cognus to put in place systems to track queries raised by families during the changes. We recognise that the response may not have been as swift as families may have wanted or the response they were seeking. The Council used the local offer website and worked with Sutton Parents Forum to ensure that the latest correct information on changes was published for families.
- 5.11 The Council agree that a number of provider changes did occur in the run up to the start of term, which does happen every year, and we recognise can cause concern to children and families, but does not agree that there was a cancellation of routes at the last minute.

## **6. Impacts and Implications**

### Financial

- 6.1 There are no specific financial implications arising from this report.

### Legal

- 6.2 The Council has a duty under section 508B of the Education Act 1996 to secure that suitable home to school travel arrangements are made and provided free of charge for eligible children. Where there is a duty to make travel arrangements, the arrangements must be suitable to enable the child's attendance at school. Case law and statutory guidance states that "For arrangements to be suitable, they must also be safe and reasonably stress free, to enable the child to arrive at school ready for a day of study".
- 6.3 Local authorities must publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. Under statutory guidance the policy should also set out clearly how parents can hold local authorities to account through their appeals processes. Local authorities should have in place both complaints and appeals procedures for parents to follow should they have cause for complaint about the service, or wish to appeal about the eligibility of their child for travel support. The statutory guidance provides a recommended review/appeals process.
- 6.4 The Council must also publish transport policy statements for young people over 16 including the process which will be followed should a complaint or an appeal against a local authority decision be made on behalf of, or by, a young person.

- 6.5 Provision of transport is a function of the Council under the Education Act 1996 which is not subject to regulation by the CQC or OFSTED. If a parent considers that there has been a failure to comply with the procedural rules or if there are any other irregularities in the way an appeal was handled they may have a right to refer the matter to the Local Government Ombudsman. The Council's decision on eligibility for home to school transport or on the suitability of arrangements could also be challenged in an individual case by way of judicial review.

## 7. Appendices and Background Documents

Appendix letter	Title
A	Tender Compliance and Quality Checks

Background documents
N/A

Audit Trail		
Version	Final	Date: 4 October 2019
Consultation with other officers		
Finance	Yes	Solomon Akuffo
Legal	Yes	Sarah Willis
Equality Impact Assessment required?	No	N/A

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