

Report of: Chief Officer, Partnership Development & Business Support

Report to: The Director of Children's Services

Date: 6th May 2016

Subject: Children's Transport Cooperation Agreement with West Yorkshire Combined Authority (WYCA)



Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Leeds City Council, through the Children's Transport service, has a cooperation agreement in place with the West Yorkshire Combined Authority (WYCA). The agreement ensures that the parties co-operate in the broadest sense and establish a framework under which they agree responsibilities to achieve the provision of high quality transport services for school children whilst at the same time securing best value for expenditure on public passenger transport as a whole in the Leeds City Council local authority area..
2. The current cooperation agreement was for an initial period of 5 years, with extension provisions and has been extended until 31st July 2016. This arrangement was previously administered by Education Leeds on behalf of Leeds City Council and has more recently been implemented through the Children's Transport section of Children's Services. There is now a need for a new cooperation agreement to take effect from the 1st August 2016.
3. The agency fee paid to WYCA to date has been £227,000 per year. This is currently being renegotiated and is expected to reduce to a figure approximate to £200,000
4. In addition, there are currently two staff working on secondment to WYCA. This arrangement was established with a view to these secondments becoming permanent TUPE arrangements following a period of review. This will add resilience to the service in terms of business continuity. At such time as TUPE arrangements can be finalised

the schedule to the Cooperation Agreement will be amended to reflect the duties being transferred and the agency fee will be increased by approximately £52,000 to reflect this. There will be no net additional cost to council in ensuring the service is maintained.

Recommendations

- 5 That the Director of Children's Services agrees to enter into a new cooperation agreement with WYCA, at a cost to be finalised and approximate to £200,000.
- 6 That the Director of Children's Services agrees to extend the range of duties undertaken by WYCA on behalf of Children's Transport at such time as TUPE arrangements may be finalised, at a further cost approximate to £52,000.
- 7 That the Director of Children's Services notes the Lead Officer for this is the Head of Commissioning and Market Management.

1 Purpose of this report

- 1.1. The purpose of this report is to seek approval from the Executive Board for Children's Transport to enter into a cooperation agreement with West Yorkshire Combined Authority.

2 Background information

- 2.1 The purpose of the Cooperation Agreement is to ensure that the parties co-operate in the broadest sense and establish a framework under which they agree responsibilities to achieve the provision of high quality transport services for school children whilst at the same time securing best value for expenditure on public passenger transport as a whole in the Leeds City Council local authority area. This purpose is supported by legislation through the following:

(A) By virtue of the Education Acts 1996 and 2006, as amended, Leeds City Council has a duty to make suitable arrangements for the transport of eligible school children in its local authority area.

(B) By virtue of Section 202(1) of the Local Government Act 1972 and the West Yorkshire Passenger Transport Area (Establishment of Executive) Order 1973 Metro is the Passenger Transport Executive for the County of West Yorkshire and has a duty to make suitable arrangements for socially necessary journeys including home to school journeys.

(C) By virtue of Section 88(2) of the Transport Act 1985 it is the duty, inter alia, of Leeds City Council and West Yorkshire Combined Authority to co-operate with one another so as to secure in the interests of the council tax payers in their area the best value for money from their expenditure on public passenger transport taken as a whole.

(D) Being an agreement concluded exclusively between two public authorities, the parties agree that by virtue of Regulation 12(7) of the Public Contracts Regulation 2015 this arrangement falls outside the scope of Part 2 of those Regulations because the following conditions are fulfilled:

(i) the agreement implements a co-operation between the parties with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;

(ii) the implementation of that co-operation is governed solely by considerations relating to the public interest; and

(iii) the parties perform on the open market less than 20% of the activities concerned by this co-operation.

- a. An agency fee is paid by Children's Transport to facilitate a range of duties being discharged on Leeds City Council's behalf by WYCA. This includes payment for such services as the assessment of applications for school bus passes and the tendering of contracts for school bus services and a range of other essential administrative and management functions associated with the

effective provision of school transport. These are detailed in the schedule to the Cooperation (appendix 1)

- b. In addition to the duties currently carried out by WYCA on behalf of Leeds City Council, it is also now intended to extend the range of duties performed on the Authority's behalf. This follows a restructuring of the Children's Transport service and an associated need to boost resilience for business continuity in light of a reduced number of staff.

3 Main issues

3.1 Following a restructure of Children's Transport in 2015 a new way of leading arrangements for the provision of home-to-school transport arrangements were required. This was necessary to minimise any possible risks to business continuity resulting from a reduced number of staff being involved in leading and administering the transport duties that have to date been preserved in-house. This includes duties such as reviewing transport applications, administering appeals processes and broadly ensuring that the children's transport policy is correctly implemented on a day-to-day basis.

3.2 The solution identified was to agree to place two staff on secondment to WYCA with a view to these secondments becoming permanent TUPE arrangements following a period of review. As WYCA act on behalf of the regional local authorities they employ a larger team of specialist school transport officers. By embedding current LCC staff within this team at WYCA there is enhanced business continuity resilience. This will be achieved through increasing the number of available specialist transport staff amongst whom duties may be allocated, thus ensuring greater resilience.

- a. Simultaneously, steps have been taken to prepare a new cooperation agreement between Leeds City Council and WYCA, to replace the current five-year agreement that is currently extended.
- b. It was intended that the new cooperation agreement would be finalised to include confirmed arrangements to TUPE the two seconded staff. However, due to recent changes at WYCA at a senior management level, a temporary pause has been placed on any recruitment or changes to their staffing structures.
- c. The current cooperation agreement is being delivered by way of an extension until the 31st July 2016. Given the delays in confirming the permanent TUPE of staff currently seconded to WYCA, a decision has been taken to secure agreement for a new five-year agreement to be entered into, which affords the opportunity to amend the level of the agency fee payable once TUPE arrangements have been finalised. The relevant schedule in the agreement would be amended at such time as this occurs and the agency fee adjusted to reflect the transfer of staff. There will be no net additional costs incurred by the council.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Consultation has been entered into with a Project Solicitor in the Projects Programmes & Procurement Unit and the relevant Procurement Category Manager in Strategy & Resources

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equalities Screening has been undertaken (Appendix 2). There is no identified need for a full EDCI assessment.

4.3 Council policies and Best Council Plan

- 4.3.1 The efficient provision of a fair and consistently applied transport policy, which would continue to be achieved through the cooperation agreement, supports our aspiration ensure children to have the best start in life and improve educational achievement. The proposed arrangements support our intentions to spend money wisely and be an efficient & enterprising organisation.

4.4 Resources and value for money

- 4.4.1 Entering into a new cooperation agreement will ensure that the most effective arrangements are kept in place and that resources are wisely spent. Extending the range of duties discharged on behalf of Children's Transport by WYCA at such time as staff currently seconded may permanently transfer to WYCA, will further enhance this. This will also increase business resilience.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Legal advice has been secured from colleagues and there are no issues to be resolved. Paragraph 7.1 above sets out the legislation that supports the entering into of a further cooperation agreement. The decision is open to call in.

4.6 Risk Management

- 4.6.1 A failure to enter into a new cooperation agreement would result in Children's Transport being unable to discharge our statutory duties without considerable risk. The expertise provided by WYCA in the assessment, administration and day-to-day implementation of the policy, along with specialist skills in tendering school bus services and market management is not available within the Council. There are no alternative providers.

5 Conclusions

- 1.1 Leeds City Council, through the Children's Transport Service, has in place a cooperation agreement with the West Yorkshire Combined Authority (WYCA). The agreement ensures that the parties co-operate in the broadest sense and establish a framework under which they agree responsibilities to achieve the provision of high quality transport services for school children whilst at the same time securing best value for expenditure on public passenger transport as a whole in the Leeds City Council local authority area.

- 1.2 There is now a need to renew this cooperation agreement following its expiry. The cost of this will be approximately £200,000 per annum.
- 1.3 There are proposals to make two current staff secondments to WYCA permanent transfers through TUPE processes. This will add resilience to business continuity. Whilst agreement in principle has been reached to achieve this, there is a temporary pause in any recruitment or changes to staffing structures at WYCA. Provisions have been made to amend the schedule of the cooperation agreement at any such time as TUPE arrangements may be finalised. This would increase the agency fee by approximately £52,000. As the increase in the agency fee would be in respect of the transfer of staff and their associated duties, this would not represent an increase in cost to Children's Transport.

6 Recommendations

- 6.1 That the Director of Children's Services agrees to enter into a new cooperation agreement with WYCA, at a cost to be finalised and approximate to £200,000.
- 6.2 That the Director of Children's Services agrees to extend the range of duties undertaken by WYCA on behalf of Children's transport at such time as TUPE arrangements may be finalised, at a further cost approximate to £52,000.
- 6.3 That the Director of Children's Services notes the Lead Officer for this is the Head of Commissioning and Market Management.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.