



Report of: Children's Transport Programme Manager
Report to: Director, Children and Families
Date: 27 September 2019
Subject: Cooperation Agreement between Leeds City Council Children's Transport and West Yorkshire Combined Authority

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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

1. Main issues

- This report relates to continuing the cooperation between Leeds City Council and West Yorkshire Combined Authority to provide education transport assistance for children in mainstream education. This cooperation broadly concerns: the provision of free bus passes or a fare-paying seat on a school bus; taxis in rural areas where the public transport network is unavailable; and the provision of transport to swimming lessons for primary school children.
- Matters concerning eligibility to, and provision of, transport for children with SEND are separate matters dealt with in-house and are not connected to, and are unaffected by, the arrangements set out in this report.
- Under the Education Acts 1996 and 2006 the council has a duty to make suitable school transport arrangements for eligible children. Under the Local Government Act 1972 WYCA has a duty to make suitable arrangements for socially necessary journeys including home to school journeys. Under the Transport Act 1985 it is the duty of LCC and WYCA to co-operate with one another to secure the best value for money from their expenditure on public passenger transport taken as a whole in the Leeds City Council local authority area.

- Following a number of technical and administrative revisions, approval is sought to enter into a new cooperation agreement.

2. Best Council Plan Implications

- The continued efficient provision of school buses and associated education transport arrangements will support the aims in the Best Council Plan to be a Child Friendly City, where money is spent wisely in an efficient & enterprising organisation

3. Resource Implications

- The council's net contribution to the services provided through the cooperation agreement will be approximately £1.4m.

Recommendations

- a) That the Director of Children and Families agrees to enter into a new cooperation agreement with WYCA, at a cost to be finalised with a net figure approximate to £1.4m.
- b) That the Director of Children and Families 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 Director of Children and Families for Children's Transport to enter into a cooperation agreement with West Yorkshire Combined Authority.

1. Background information

- 1.1 A Cooperation Agreement between Leeds City Council and WYCA 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. 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 WYCA 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 WYCA 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.

1.2 The duty to cooperate is fulfilled through a Cooperation Agreement between Leeds City Council's Children's Transport service and WYCA. Through this agreement children are broadly provided with the following assistance:

- Free passes for eligible children to use on dedicated school buses
- The opportunity for non-eligible children to buy tickets to travel on dedicated school buses where available
- Free passes for school journeys made by eligible children on the public transport network
- The provision of taxis for eligible children in rural areas where the public network is unavailable
- The provision of primary school transport to swimming lessons

2. Main issues

2.1 Leeds City Council, through the Children's Transport service, has a legal duty to work closely with the West Yorkshire Combined Authority (WYCA) in respect of the provision of school transport services. This broadly relates to the provision of home-to-school transport assistance and school swimming transport and the assessment & issue of the relevant bus passes to eligible children. For many years this has been implemented through a cooperation agreement with WYCA. This ensures that the parties fulfil the statutory duty to co-operate in the broadest sense and establish a framework under which they agree responsibilities to achieve the provision of high quality school transport services for 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.

2.2 Following a number of technical and administrative changes a new cooperation agreement has been prepared. Changes include the disaggregation of the former cost-share ratio applied to school transport services & bus passes. This cost share ratio saw all mainstream school transport costs being totalised and then apportioned to each agency through a complex formula to reflect the extent of each agency's specific duties, on a ratio of LCC 65% / WYCA 35%. The new agreement reflects a disaggregation of the cost-share ratio to provide greater visibility of the individual school bus services provided by each agency under their different duties, although the actual proportion of costs is unchanged.

- 2.3 Other changes concern the transfer of a small number of additional functions from LCC to WYCA to build greater business resilience following a significant reduction in the associated workforce in recent years and revised data governance procedures relevant to the transfer of those duties and the General Data Protection Regulations (GDPR).
- 2.4 Included in the approximate contribution to costs of £1.4m by the council is an agency fee of £145,000 paid to WYCA. Although a small number of additional duties have transferred to WYCA, the agency fee payable has fallen from previous years due to a reduction in spending arising from staffing efficiencies achieved by both parties through close cooperation in recent years.

3. Corporate considerations

3.1 Consultation and engagement

- 3.1.1 As the agreement, including the amendments, effect no change to the public and essentially represent a 'business as usual' position, no consultation has been carried out.

3.2 Equality and diversity / cohesion and integration

- 3.2.1 Equalities Screening has been undertaken (Appendix 1). There is no identified need for a full EDCI assessment.

3.3 Council policies and the Best Council Plan

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

Climate Emergency

- 3.3.2 The provision of school buses, whilst not ideal due to the polluting nature of all kinds of transport, helps to reduce the number of car journeys.

3.4 Resources, procurement and value for money

- 3.4.1 Entering into a new cooperation agreement will ensure that the most efficient and effective arrangements continue to be delivered in a way that ensures money is spent wisely.

3.5 Legal implications, access to information, and call-in

- 3.5.1 Legal advice has been secured from colleagues in Procurement and Commercial Services. The background information, above, sets out the legislation that supports the entering into of a further cooperation agreement.
- 3.5.2 The previous agreement expired in 2016 and the arrangements have been carried out on an implied agreement basis whilst negotiations concerning the necessary revisions have been completed. This has included disaggregation of the cost-share ratio and the transfer of a number of additional functions from LCC to WYCA to build greater business resilience following a reduction in staff numbers in recent years. Other necessary changes have included a need for revised data governance procedures relevant to the transfer of those additional duties and the introduction of General Data Protection Regulations (GDPR).
- 3.5.3 Whilst the agreement has continued on an implied basis a continued focus on delivering improvement has seen efficiencies of approximately £250,000 being achieved
- 3.5.4 There is a legal duty for the two authorities to cooperate in the broadest sense to provide school transport services for children whilst at the same time securing best value for expenditure on public passenger transport as a whole. There is no potential competition from other market operators as the duty specifically applies to LCC and WYCA.
- 3.5.5 The decision is open to call in.

3.6 Risk management

- 3.6.1 A failure to enter into a new cooperation agreement would leave a reliance on an out of date agreement for any dispute resolution between the two parties following a period during which a number of changes have been agreed and tested in practice. It would therefore now be beneficial to enter into a new agreement reflecting the recent changes.

4. Conclusions

- 4.1 A Cooperation Agreement between Leeds City Council and WYCA 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.
- 4.2 There provision for children with Special Education Needs is not connected to, and is unaffected by, the arrangements set out in this report.
- 4.3 There is a need to renew this cooperation agreement following a number of technical and administrative changes. The cost of this will be approximately £1.4m per annum.

5. Recommendations

- 5.1 That the Director of Children and Families agrees to enter into a new cooperation agreement with WYCA, at a cost to be finalised with a net figure approximate to £1.4m.

5.2 That the Director of Children and Families notes the Lead Officer for this is the Head of Commissioning and Market Management.

6. Background documents¹

6.1 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.