



Cabinet
18 July 2022

**Report from the Strategic Director
for Regeneration & Environment**

**Renewal of the Special Needs Transport Service Inter
Authority Agreement with Harrow Council**

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Chris Whyte, Operational Director, Environment Services 020 8937 5342 Chris.whyte@brent.gov.uk Simon Finney, Head of Neighbourhood Management 020 8937 5072 Simon.finney@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report sets out a proposal to enter a new one year Inter Authority Agreement with Harrow Council for the provision of Special Needs Transport services.

2.0 Recommendation(s)

That Cabinet:

- 2.1 Approves an exemption from the usual tendering requirements set out in the Contract Standing Orders 84 for good operational financial reasons in relation to entry into an inter authority agreement for Special Needs Transport.

- 2.2 Approves entering into a new 12 month inter authority agreement for the provision of Special Needs Transport services by Harrow Council on behalf of Brent Council from 1 August 2022 reflecting current contractual arrangements.
- 2.3 Notes the collaborative review of Special Needs Transport as set out in paragraph 3.1.3 that will assist the Council in determining its longer term options.

3.0 Detail

3.1 Background and current position

- 3.1.1 Both Harrow and Brent Councils have a statutory duty to provide transport assistance to eligible children who access education and college placements. Eligible children are those that have physical and behavioural needs that make the use of personal or public transport unsuitable.
- 3.1.2 Brent and Harrow Councils entered into an inter-authority agreement (“IAA”) for special needs transport (“SNT”) which commenced in September 2016 and was due to expire on the 31st July 2019. Officers exercised the option to extend the IAA for a further 3 years ending on the 31st July 2022.
- 3.1.3 The directorates for Regeneration & Environment (“R&E”) together with Children & Young People (“CYP”) and Adult Social Care (“ASC”) are seeking to undertake a collaborative review of the SNT client side model, the policy framework that underpins the service and the operational delivery by Harrow during 2022. As this work is ongoing, it is considered appropriate to enter into a short term IAA for SNT with Harrow Council pending agreement on longer term options. This is likely to be a longer-term IAA shared service arrangement with Harrow Council, subject to the outcomes of this full service review.
- 3.1.4 With regard to the short term, the option to extend the current IAA has already been exercised and there is therefore no option in the current agreement to extend further. As a result, Officers recommend the award of a new one year IAA. Harrow Council have indicated their willingness to enter into a new short-term IAA for up to 12 months based on the same terms and conditions of the current IAA to enable Brent to undertake the review. Their Cabinet report seeking approval for this is due to be considered on 23rd June.
- 3.1.5 The current IAA has delivered successful outcomes. These include the delivery of route sharing initiatives resulting in a shared savings of circa £250,000 each year, economy of scale savings through the procurement of large contracts and reductions in carbon emissions as a result of fewer and shorter journeys being made.
- 3.1.6 Harrow is responsible for operational service delivery of the shared service from its Harrow Council Hub, with Harrow also leading on the required procurement and management of third-party supporting contracts such as labour, taxi, vehicle provision and related IT.

- 3.1.7 The current number of clients transported by Harrow on behalf of Brent is approximately 1228 SEN children and 119 adults.
- 3.1.8 In terms of comparable size and scale of the transport services provided by Harrow on behalf of Brent, there are currently 92 in-house operated routes and 223 taxi routes compared to 74 in-house operated routes and 123 taxi routes for transporting clients in Harrow.
- 3.1.9 Year on year service demand increases by a net average of around 5%.

3.2 Implications of this proposal

- 3.2.1 The overall IAA arrangement will continue to be governed by both Authorities through the joint SNT Board.
- 3.2.2 The IAA will be unchanged and will continue to include the existing provision for:
- a) Objectives and partnership working.
 - b) General operational arrangements.
 - c) Governance including the Special Needs Transport Advisory Board and change control mechanisms that govern how the increase in activities are agreed, costed and financed.
 - d) Performance and finance review meetings that govern discussions on finance matters and key performance indicators and rectification plans that underpin the resolution of any non / underperformance.
 - e) Monitoring reports and monthly meetings to track financial savings and operational performance of the shared service.
- 3.2.3 This IAA will provide a continued opportunity over 12 months for both councils to gain the benefits of economies of scale in contractual arrangements, greater efficiencies in operational front line staffing (drivers and passenger attendants) and the benefits of shared policies and approaches from cross working with staff, systems and processes from both authorities.
- 3.2.4 The proposal also provides the continued opportunity for shared utilisation of premises and assets to create efficiencies of the combined service in the following areas:
- a) Premises – Harrow is able to offer shared fleet parking and office facilities at the Harrow Council Hub.
 - b) Route sharing and route reduction on border routes.
 - c) Fleet - greater economies of scale and market leverage are created through the pooling of demand from respective Councils.
 - d) Systems and processes – this includes the use of a single routing and scheduling IT system.
 - e) Contractual arrangements – Transport Service Taxi Framework and the Labour Supply Contract with NR Limited are currently in term and provide better contractual terms given the larger value contracts.
- 3.2.5 In addition to the operational and contractual efficiencies listed in paragraphs 3.2.3 and 3.2.4, there is also scope to achieve further savings from passenger

journey management and income producing activities. These will be jointly reviewed by the SNT Advisory Board under these continued IAA arrangements.

- 3.2.6 Although the SNT service will make its mission to keep operational costs at a minimum, it is unable to influence demand. Future policy direction and commissioning will significantly influence the level of savings or cost pressures in the shared SNT service. The upcoming review will have a clear focus on these issues. Savings of up to £1.4m per annum by 2025/26 and £2.1m by 2026/27 have been suggested by the recent Brent led preliminary scoping review. A full review of the Brent client side arrangements, policies and strategies is therefore now essential to improving the quality of the service overall and to driving down future costs before a longer term IAA can be agreed.

4.0 Financial Implications

- 4.1 Under the current IAA, Harrow leads on the delivery of Special Needs Transport service on behalf of Brent. The full costs of the Brent operation are therefore recovered by Harrow via quarterly invoices. The financial process as outlined below will remain the same.
- 4.2 At the beginning of each financial year Harrow submit a full year forecast for approval by the SNT Advisory Board. Financial progress reports and forecasting updates are thereafter discussed in detail at monthly finance meetings and used to inform Brent forecasts. A quarterly financial update is also presented by Harrow to the SNT advisory Board for sign off.
- 4.3 Toward the end of the financial year (February / March), demand lead pressures are identified and agreed and used to inform future growth bids.
- 4.4 The current BTS budget is £13.16m therefore presenting a £540k pressure which officers from both Brent and Harrow are working to mitigate during the financial year. It is expected that the available budget will be sufficient to cover costs for 2022/23 however, officers will work closely with Harrow to mitigate any pressures which may arise.

5.0 Legal Implications

- 5.1 The recommendation in this report is for the Council to enter into an IAA with Harrow Council for SNT services. The SNT service will operate under an IAA that sets out the financial arrangements, as well as the legal and contractual obligations applicable to the parties. The IAA will also set out key performance indicators and service standards.
- 5.2 Regulation 12(7) of the Public Contract Regulations 2015 (“the Regulations”) establishes that where two or more local authorities enter into a contract exclusively between themselves, provided the arrangement fulfils three conditions the contract would fall outside the scope of the Regulations. The three conditions are as follows:
- a) The contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public

- services they have to perform are provided with a view to achieving objectives they have in common;
- b) the implementation of that co-operation is governed solely by considerations relating to the public interest; and
 - c) The participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.”
- 5.3 Officers have concluded that they fulfilled the criteria in 5.2 above by establishing this collaborative partnership.
- 5.4 The estimated value of the proposed IAA is £13.7m over the life of the partnership agreement and therefore it is classed as a High Value Contract for the purposes of the Council’s Contract Standing Orders.
- 5.5 Contract Standing Order 95(c) provides that for contracts with an estimated value in excess of the threshold for Schedule 3 Services, tenders shall be invited using the procedures outlined in Contract Standing Order 95(a). However, Contract Standing Order 84(a) provides that subject to compliance with procurement legislation, Members may agree an exemption from the requirement to procure in accordance with Contract Standing Orders where there are “good operational and/or financial reasons”.
- 5.6 For the reasons detailed above, it is not considered that there is a breach of procurement legislation as Regulation 12(7) permits the joint collaborative partnership proposed between authorities. Furthermore, Officers consider that there are good operational and financial reasons for entering into the IAA with Harrow as set out in paragraph 3 of this report.

6.0 Equality Implications

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,
- pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.
- 6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.

6.4 The proposals in this report have been subject to screening. There are no proposed strategic delivery changes to the current IAA that would cause any adverse equalities impact and a further equalities impact assessment is therefore not required.

7.0 Consultation with Ward Members and Stakeholders

7.1 None other than to share information and inform members and stakeholders of intentions.

8.0 Human Resources / Property Implications (if appropriate)

8.1 This report has no direct impact on Brent staff or property assets.

Report sign off:

Alan Lunt

Strategic Director of Regeneration &
Environment