

Report To: **Cabinet**

Date of Meeting: **26th June, 2018**

Lead Member / Officer: **Brian Jones, Lead Member for Highways, Planning & Sustainable Travel**  
**Tony Ward, Head of Highways & Environmental Services**

Report Author: **Peter Daniels**

Title: **Establishment of a Dynamic Purchasing System for Passenger Transport Services**

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## **1. What is the report about?**

To seek approval to commence a procurement to establish a transport dynamic purchasing system (DPS) to operate learner transport and local bus services across Denbighshire.

## **2. What is the reason for making this report?**

To streamline the procurement process for officers and for suppliers; and to comply with corporate procurement rules, which require Cabinet approval before commissioning contracts worth £2m or more.

## **3. What are the Recommendations?**

- 3.1 To commence the procurement to establish a DPS for learner transport and local bus services.
- 3.2 To authorise the Head of Highways & Environmental Services to appoint suppliers to the DPS during its lifetime, provided a supplier meets the qualifying criteria for appointment to the DPS; and to remove suppliers who no longer wish to be registered on the DPS or who fail to be eligible to be part of the DPS.
- 3.3 To authorise Head of Highways & Environmental Services to administer mini-competitions under the DPS during its lifetime and to award contracts as required.

## **4. Report Details**

- 4.1 The Council has a statutory requirement to provide learner transport to certain eligible learners at schools, in addition to which the Council has adopted policies regarding transport to colleges. The Council also tenders supported local bus services. The current contracts are due to expire on various dates and upon expiry will be replaced by contracts under the proposed DPS. The Council has an on-going responsibility to continue to provide learner transport and to consider whether to provide local bus services. The DPS will be established for 7½ years, expiring at the end of February 2026.

- 4.2 To continue to comply with the Council's Contract Procedure Rules and EU Legislation, the Council is required to continue to use competitive tendering. The intention is to set up a DPS which is permitted under the Public Contract Regulations 2015. A DPS provides a shortlist of suppliers from which the Council can conduct a competition to appoint a supplier to provide passenger transport services. Unlike a framework agreement, suppliers can apply to join the DPS at any point during its cycle.
- 4.3 The DPS is established in two stages. The first involves the Council issuing a notice expressing an intention to establish a DPS. Suppliers wishing to be considered for the DPS have 30 days minimum to respond. Once applications are received the Council has another 10 days (or 15 in exceptional circumstances) to accept or decline the supplier's application to be part of the DPS. All suppliers, who meet the selection criteria and avoid exclusion, are mandatorily admitted onto the DPS. There is no legal limit on the number of suppliers in a DPS. Once the DPS is established, the Council can use it to award specific contracts. This is done by inviting all suppliers in the relevant category to tender. The usual timescale for return of tenders is 10 days and the Council will select the winning bid to provide the learner transport/bus service as appropriate. Suppliers can apply to join the DPS and leave it whenever they choose, allowing new suppliers to apply to be part of the DPS at any time before it ends.

## **5. How does the decision contribute to the Corporate Priorities?**

Connected Communities: to ensure that communities throughout the county are connected and have access to the goods and services they need.

Resilient Communities: the Council works with people and communities to build independence and resilience.

Young People: to promote a place where younger people will want to live and work and have the skills to do so.

## **6. What will it cost and how will it affect other services?**

There is no additional cost as a result of the DPS itself. At current prices and under current policies, it is estimated that some £28m of transport services will be procured during the life of the DPS.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

The impact assessment considers a procedural change to the way in which the Council will in future procure transport services rather than assessing specific activates (e.g. local bus services) which have their own WIA. The DPS itself, therefore, has no significant impacts when compared to methods of buying services and is neutral.

The full report can be found in the attached appendices as Appendix 1.

## **8. What consultations have been carried out with Scrutiny and others?**

Officers have already begun discussions with suppliers about the DPS and will continue to do so, offering such training as may be required in order for suppliers to engage fully. There have been no public consultations or report to Scrutiny regarding the DPS.

## **9. Chief Finance Officer Statement**

The proposals in this report support the business needs of the Council and appear to deliver value for money and are therefore supported. The budgets are held within the service and it is the Head of Highways & Environmental Services' responsibility to ensure that passenger transport contracts are managed efficiently. There is no additional financial cost to the authority regarding the DPS. There are non-cashable savings in terms of officer and supplier time.

## **10. What risks are there and is there anything we can do to reduce them?**

There are no additional risks regarding the DPS over other methods of buying services. The following key risks have been identified and will be managed by the Collaborative Procurement Unit and Legal Services:

- Legal challenge in relation to the procurement process: managed by the input of specialist legal advice in terms of the process and drawing up the required documentation;
- Transition arrangements arising from change of supplier: a transition plan can be agreed between the incumbent supplier and the appointed supplier.

## **11. Power to make the decision**

11.1 Cabinet is required to authorise the commencement of this procurement procedure pursuant to section 2.7.2 iii of the Council's Contract Procedure Rules.

11.2 The Council also has power to issue the procurement and enter into contracts pursuant to section 111 Local Government Act 1972 (power to undertake any act to facilitate, or which is conducive or incidental to, the discharge of any of their functions); section 135 Local Government Act 1972 (power to make standing orders to govern entering into contracts), section 112 Local Government Act 1972 (appoint such officers as they think necessary for the proper discharge by the authority of the authority's functions); section 3(1) Local Government Act 1999 (general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised) and section 1(2) Local Government Contracts Act 1997 (empowers local authorities to enter into a wide range of contracts providing assets or services in connection with the discharge of their functions).