

SEN Transport Extensions

REPORT TO; Stuart Carlton, Corporate Director

DECISION DATE: 5 April 2022

SUPPORTING ANNEX; This report includes a supporting Annex which contains exempt information as described in paragraphs 1, 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

PROPOSED RECOMMENDATION

SEND Home to School Transport

Extension of contracts for the following 7 schools:

- Welburn Hall: (recommend extend to April 2023)
- Mowbray School: (recommend extend to April 2023)
- Springhead School: (recommend extend to April 2023)
- Hob Moor Oaks School: (recommend extend to April 2023)
- Applefields School: (recommend extend to April 2023)
- Brooklands School: (recommend extend to April 2023)
- Dales School: (recommend extend to April 2023)

The current contract end date for all of the above contracts is 8th April 2022.

BACKGROUND TO SUPPORT THE RECOMMENDATION

Request for Key Decision in relation to these proposed extensions due to no record of an original Key Decision for the initial term. This extension allows IPT / Procurement to conduct a full review of each schools / pupil needs, the outcome will result in a competitive procurement process. The whole life costs for these routes is £3,419,209 including these proposed extensions.

These contracts are needed to allow the Council to continue to fulfil its statutory duty to provide home to school transport for pupils from April 2022 and given that Covid-19 has brought huge day to day workload issues for the IPT team, CYPS SEN team and operators, there has been insufficient time to procure these services any other way.

LEGAL AND GOVERNANCE COMPLIANCE

Review Area/SEN School	Extension Required	Does contract value exceed threshold
Contracts under threshold but over max extension		
SEND Springhead School	1 year	NO
SEND Springhead School	1 year	NO
Contracts under threshold but at or close to max extension		
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Springhead School	4 months	NO
SEND Welburn Hall	1 year	NO
SEND Welburn Hall	1 year	NO
SEND Welburn Hall	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Springhead School	1 year	NO
Contracts Over Threshold and over or at extension max		
SEND Springhead School	4 months	YES
SEND Springhead School	1 year	YES
SEND Springhead School	1 year	YES
SEND Springhead School	1 year	YES
SEND Mowbray Bedale	1 year	YES
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	NO
SEND Mowbray Bedale	1 year	YES
SEND Mowbray Bedale	1 year	YES
SEND Mowbray Bedale	1 year	YES
SEND Welburn Hall	1 year	YES
SEND Mowbray Bedale	1 year	YES
SEND Welburn Hall	1 year	YES
SEND Welburn Hall	1 year	YES
SEND Mowbray Bedale	1 year	NO

Legal advice has been sought and a risk note to support the decision to extend the above contracts based on the following:

Contracts under threshold but over max extension: The PCRs 2015 do not apply. Advice has been given to follow the process in Procurement and Contract Procedure Rules to vary the contract outside its original term.

Contracts under threshold but at or close to max extension:

The PCR 2015 do not apply. Advice has been given to follow the process in Procurement and Contract Procedure Rules to vary the contract also advice has been sought that regulation **72(1)(a) states** Variations/extensions are permitted without the need to undertake a new procurement procedure where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses:

- state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
- do not provide for modifications or options that would alter the overall nature of the contract or the framework agreement.

It follows that those contracts listed which contain Express review clauses and comply with the requirements set out above, can be automatically extended without a new procurement and are therefore not at risk of been successfully challenged. This is a very attractive exemption and should always be utilised where possible.

Contracts Over Threshold and over or at extension max: The risk here is that a compliant procurement process has not been carried out and this risk shall remain in extending the arrangements further. The higher the value of these contracts the more other suppliers may be interested, and any challenge would be to the award rather than just the extension. Likelihood of challenge low as we have not been challenged to date.

RECOMMENDATION

It is recommended that the Authority approve the extensions in relation to the 7 schools as listed above.