

Cabinet

SUPPLEMENTAL AGENDA 2

DATE: Thursday 9 May 2013

AGENDA - PART I

10. ANY OTHER URGENT BUSINESS

Which cannot otherwise be dealt with.

RESOURCES

- (b) Special Needs Transport Change Programme 3 (SNT 3) - Referral by Call-in Sub-Committee: (Pages 1 - 48)

Report of the Director of Legal and Governance Services.

AGENDA - PART II - Nil

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

Agenda item

Special Circumstances/Grounds for Urgency

10 (b).
Special Needs Transport
Change Programme 3
(SNT 3) – Referral
by Call-in Sub-Committee

Due to the proximity of the meeting of the Call-in Sub-Committee to the Cabinet agenda despatch, the report was not available for circulation. Members are requested to consider the report and

appendices, as a matter of urgency, as the Executive must reconsider the decision within ten clear working days of the referral.

[Note: Due to the circulation of the report at agenda item 10(b) after the normal Cabinet agenda despatch, the deadline for the receipt of public and Councillor questions on the content of the report is 3.00 pm on Wednesday, 8 May 2013.]

REPORT FOR: CABINET

Date of Meeting:	9 May 2013
Subject:	Special Needs Transport Change Programme 3 (SNT3) – Referral by Call-In Sub-Committee
Key Decision:	Yes (this is a reconsideration of the Key Decision made by Cabinet on 11 April 2013)
Responsible Officer:	Hugh Peart, Director of Legal and Governance Services
Portfolio Holder:	Councillor Mitzi Green, Portfolio Holder for Children, Schools and Families Councillor Thaya Idaikkadar, Leader of the Council and Portfolio Holder for Property and Major Contracts Councillor Margaret Davine, Portfolio Holder for Adult Social Care, Health and Wellbeing
Exempt:	No
Decision subject to Call-in:	No/Yes (please see end of report)
Enclosures:	Appendix 1 – Call-In Notice by Members of the Public Appendix 2 – Minutes of the Call-In Sub Committee – 29 April 2013 Appendix 3 – Extract of Cabinet Minutes - 11 April 2013 Appendix 4 – Cabinet Report on the Special Needs Transport Change Programme 3 (SNT3) + EqlAs Appendix 5 – Submission from Corporate Director of Children and Families

Section 1 – Summary and Recommendations

This report sets out the decision of the Call-In Sub-Committee held on 29 April 2013 following the receipt and consideration of a Call-In notice in relation to Cabinet's decision of 11 April 2013 on the Special Needs Transport Change Programme 3 (SNT 3).

Recommendations: That

- (1) in accordance with Committee Procedure Rule 46.8.3, the decision of Cabinet on 11 April 2013, as set out in Appendix 3, in relation to the Special Needs Transport Change Programme 3 be re-considered as result of the decision of the Call-In Sub-Committee;**
- (2) the original Cabinet decision of 11 April 2013 be confirmed or amended in light of the Call-In Sub-Committee's comments and having considered the submission and additional recommendation proposed by the Corporate Director of Children and Families at appendix 5.**
- (3) Cabinet be asked to consider requesting a report that outlines the process of drawing up and approving Equality Impact Assessments (EqIAs) for Cabinet level decisions.**

Reason (For recommendation): In accordance with Committee Procedure Rule 46.8.3, Cabinet must reconsider its decision within 10 clear working days of a referral by the Call-In Sub-Committee.

Section 2 – Report

On 11 April 2013, Cabinet agreed that the progress on the SNT3 programme be noted, that a further progress report with a final draft policy be received for approval in Autumn 2013 and gave delegated authority for the Corporate Director Children and Families, in consultation with the Portfolio Holders for Children, Schools and Families, Property and Major Contracts, and Adult Social Care, Health and Wellbeing, to procure, select and award contracts to the preferred transport services suppliers on such terms as agreed, acting in the best interests of the Council and in doing so promoting local social enterprises and private organisations and to consult on a new transport eligibility policy. The report considered by Cabinet is attached at Appendix 4.

On 19 April 2013, a Call-In Notice signed by over 150 members of the public was received citing the grounds of inadequate consultation with stakeholders prior to the decision, the absence of adequate evidence on which to base the decision and insufficient consideration of legal and financial advice. The Call-In Notice is attached at Appendix 1. Having been validated, a meeting of the Call-In Sub-Committee was held on 29 April 2013 to consider the Call-In notice. The subsequent reference arising from the Sub-Committee meeting is attached at Appendix 2 for Cabinet Members consideration.

The Sub-Committee agreed, unanimously, that the call-in on ground (a) – inadequate consultation with stakeholders prior to the decision - be upheld and referred back to Cabinet for re-consideration. The Members felt that the consultation was limited and the trades' unions had not been engaged properly. The Sub-Committee requested that the previously agreed cross party practice of early trade union engagement was followed. The Sub-Committee also expressed the view that it was best practice to engage with service users where there was a major change to the way a service was delivered.

The Sub-Committee agreed, by majority, that the call-in on the grounds of the absence of adequate evidence on which to base a decision not be upheld due to insufficient grounds. The Sub-Committee unanimously agreed Cabinet be asked to consider requesting a report that outlined the process of drawing up and approving Equality Impact Assessments (EqIAs) for Cabinet level decisions.

The Sub-Committee agreed, unanimously, that the call-in on the grounds of insufficient consideration of legal and financial advice not be upheld due to insufficient grounds.

In accordance with Committee Procedure Rule 46.8.3, Cabinet must reconsider its original decision within 10 clear working days of a referral by the Call-In Sub-Committee. Cabinet are requested to either confirm or amend their decision of 9 February in relation to this matter.

Options considered

Cabinet are requested to either confirm or amend their decision 11 April 2013 having considered the referral by the Call-In Sub-Committee.

Legal Implications

As set out in the Cabinet report of 11 April 2013

Financial Implications

As set out in the Cabinet report of 11 April 2013

Performance Issues

As set out in the Cabinet report of 11 April 2013

Environmental Impact

As set out in the Cabinet report of 11 April 2013

Risk Management Implications

As set out in the Cabinet report of 11 April 2013

Equalities implications

As set out in the Cabinet report of 11 April 2013

Corporate Priorities

As set out in the Cabinet report of 11 April 2013

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 1 May 2013		
Name: Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 1 May 2013		

Section 4 – Performance Officer Clearance

Name: Alex Dewsnap	<input checked="" type="checkbox"/>	Divisional Director Strategic Commissioning
Date: 2 May 2013		

Section 5 – Environmental Impact Officer Clearance

Name: John Edwards



Divisional Director
(Environmental
Services)

Date: 2 May 2013

Section 6 - Contact Details and Background Papers

Contact:

Nicola Fletcher
Democratic and Electoral Services Officer
Tel: 020 8416 8050
Email: nicola.fletcher@harrow.gov.uk

Background Papers:

Minutes of the Call-In Sub-Committee – 29 April 2013

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

**Call-in does not apply if
original decision of
Cabinet on 11 April is
confirmed unchanged.**

**However, if original
decision is amended
Call-in will apply.**

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CALL-IN NOTICE

To be completed by Members of the Public, as per the provisions of Committee Procedure Rule 46.5.

To: The Director of Legal and Governance Services

1. Notice of Call-In of Executive Decision

In accordance with Committee Procedure Rule 46.5, we, the 150 signatories to this call-in notice (see numbered continuation sheets overleaf), being members of the public registered on the electoral roll of the London Borough of Harrow, hereby give notice that we wish to call-in the Executive decision detailed in section 2 below.

2. Details of Executive Decision

The details of the Executive decision are as follows:-

Decision: Special Needs Transport Change Programme 3 (SNT 3)
.....

Made by: Cabinet Thursday 11th April 2013
.....
(Cabinet/relevant Portfolio Holder)

Published on: Friday 12th April 2013
.....
(Date)

3. Grounds for Call-In

(Please specify below the grounds for the call-in, in accordance with Committee Procedure Rule 46.5. Please note that, in the event that this call-in is referred to the Call-in Sub-Committee, the considerations of the Sub-Committee will focus on the grounds stated, and the Sub-Committee will seek evidence to support them. Please therefore also set out below details of the evidence to support the grounds for call-in, continuing on a separate sheet if necessary).

1) Inadequate consultation with stakeholders prior to the decision: No consultation took place with trade
.....

unions/staff prior to the decision to outsource SNT even though UNISON had requested a halt
.....

to proceedings on the 2nd April 2013 but did not receive a response before Cabinet agreed the project.
.....

No evidence of consultation with all service users e.g. Children & Adults and any other departments.

2) The absence of adequate evidence on which to base a decision: The accompanying EqIA dated 25th

February 2013 is inadequate, was not disclosed to any stakeholder other than senior internal staff and

completely fails to recognise and pay "due regard" to all of the protected characteristic groups under the

Equality Act 2010. It is not robust and did not follow normal EqIA processes prior to Cabinet submission.

3) Insufficient consideration of legal and financial advice: As above no "due regard" under the PSED.

Once completed, please forward this form to Nicola Fletcher, Legal & Governance Services, Harrow Council, Room M22, Civic Centre, HA1 2UH or send it by fax to 020 8424 1557 WITHIN 5 CLEAR WORKING DAYS OF THE DATE OF PUBLICATION OF THE DECISION.

Call-in Notice: 'Grounds for Call-in'

Decision: Special Needs Transport Change Programme 3 (SNT 3)

Made by: Cabinet Thursday 11 April 2013

Published on: Friday 12 April 2013

(NB- Below are details in support of the Grounds for Call-in for signatories & the Director of Legal and Governance, Harrow Council)

1. Inadequate consultation with stakeholders prior to the decision:

No consultation took place with trade unions/staff prior to the decision to outsource SNT even though UNISON had requested a halt to proceedings on the 2nd April 2013 in a letter written to the Leader of the Council which has not been responded to.

There is no evidence of adequate consultation methods used with staff/unions and service users during the equality impact assessing stage demonstrated in the 'SNT 3 Programme' Equality Impact Assessment (EqIA). This assessment was not widely circulated or shared with any stake holding party prior to Cabinet decision.

No evidence has been provided to confirm that a consultation process had taken place with all 515 children and adult service users and their families concerning the direction of overall provision of the service, service standards, health & safety and on the proposals to change and inevitably restrict service eligibility criteria for many users.

There is no evidence of consultation with other departments who use the in-house Special Needs Transport Service such as the Community Health & Wellbeing department.

2. The absence of adequate evidence on which to base a decision:

The accompanying EqIA dated 25th February 2013 is inadequate and fail's to compile robust assessment findings as to the potential impact upon all individuals i.e. staff and users within the Protected Characteristic Groups, failing to even assess or profile the impact on several Protected Groups.

The EqIA was not tabled at the Children & Families Directorate Equalities Group nor was it tabled and agreed at the Corporate Equalities Group, given its cross-directorate impact on service users, before it was agreed by Cabinet.

3. Insufficient consideration of legal and financial advice:

The SNT 3 Report for Cabinet did not contain a specific Legal Implications section for Equalities ensuring that members have due regard to the Public Sector Equality Duty (PSED), under section 149 of the Equality Act 2010, in the undertaking of decisions before they are made ensuring that all of the protected characteristics are listed and taken into account. It is clear the EqIA did not have sufficient 'due regard' and that advice was not fully included and considered by members.

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CALL-IN SUB-COMMITTEE MINUTES

29 APRIL 2013

Chairman: * Councillor Jerry Miles

Councillors: * Sue Anderson * Ajay Maru (2)
* Barry Macleod-Cullinane (1) * Paul Osborn

In attendance: Stephen Wright Minute 44
(Councillors)

* Denotes Member present
(1), (2) Denote category of Reserve Members

40. Attendance by Reserve Members

RESOLVED: To note the attendance of the following duly appointed Reserve Members:

Ordinary Members

Councillor Ann Gate
Councillor Susan Hall

Reserve Members

Councillor Ajay Maru
Councillor Barry Macleod-Cullinane

41. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 5 – Call-In of Cabinet Decision (11 April 2013) – Special Needs Transport Change Programme 3 (SNT 3)

Councillor Sue Anderson declared a non pecuniary interest in the above item in that she was a member of a different branch of Unison and as her husband

was Chair of Governors at Kingsbury School. She would remain in the room whilst the matter was considered and voted upon.

Councillor Barry Macleod-Cullinane declared a non pecuniary interest in the above item in that his sister was a teacher at Hatch End High School. He would remain in the room whilst the matter was considered and voted upon.

Councillor Ajay Maru declared a non pecuniary interest in the above item in that his wife was a teaching assistant at Ambrose School. He would remain in the room whilst the matter was considered and voted upon.

Councillor Jerry Miles declared a non pecuniary interest in the above item in that he was a member of a different branch of Unison. He would remain in the room whilst the matter was considered and voted upon.

Councillor Paul Osborn declared a non pecuniary interest in the above item in that he was the Portfolio Holder who had signed the decision on Special Needs Transport 1 (SNT1). He would leave the room if the Sub-Committee discussed the SNT1 decision.

42. Minutes

RESOLVED: That the minutes of the meeting held on 3 April 2013, be taken as read and signed as a correct record.

43. Protocol for the Operation of the Call-In Sub-Committee

The Chairman outlined the procedure to be followed at the meeting and advised the Sub-Committee that they would not be able to decide that the decision was contrary to the policy framework or contrary to or not wholly in accordance with the budget framework as the decision had not been called-in on this ground.

RESOLVED: That the Call-In would be determined on the basis of the following grounds:

- a) inadequate consultation with stakeholders prior to the decision;
- b) the absence of adequate evidence on which to base a decision;
- f) insufficient consideration of legal and financial advice.

RESOLVED ITEMS

44. Call-In of Cabinet Decision (11 April 2013) - Special Needs Transport Change Programme 3 (SNT 3)

The Sub-Committee received papers in respect of a call-in notice submitted by over 150 members of the public.

The Chairman invited the representative of the signatories, Mr Darren Butterfield of Unison, to present the reasons for the call-in of the decision to the Sub-Committee.

The representative of the signatories addressed each of the grounds for the call-in separately.

Ground 1 – Inadequate consultation with stakeholders prior to the decision

The representative of the signatories explained that at the Children and Families Departmental Joint Committee (DJC) on 19 March 2013 the information presented had been inadequate and had failed to include the Cabinet report, the Equality Impact Assessment (EqIA) and the full business case. A letter had been sent by the Unison Branch Secretary to the Leader of the Council requesting that the decision be suspended but a response had not been received. Meetings with staff had taken place on 28 March 2013 and, due to the timing of the sessions, many Special Needs Transport (SNT) staff had been unable to attend. The consultation did not satisfy Section 15 of the Recognition Agreement and consultation after the decision was not meaningful. There had not been any consultation with the 515 service users but there were potential impacts on users including health and safety concerns and any future changes to the eligibility criteria. There did not appear to have been any dialogue with officers in the Community, Health and Wellbeing Directorate or with other Members about the Cabinet report and the EqIA. Two versions of the EqIA were available on the Council's website, one of which was unsigned and undated, while the other had been signed by the Divisional Director Early Intervention Services. It was not clear whether a recognised Council group, such as the Quality Assurance Board or the Corporate Equality Group had met to consider the EqIA. There had not been consultation with Head Teachers on the EqIA.

Ground 2 – The absence of adequate evidence on which to base a decision

The representative of the signatories advised that the evidence provided was inadequate to assess the impact of the proposals and the EqIA assumed no impact on two of the protected characteristics, race and gender. The proposals did not include information on what the new eligibility criteria would be for the service.

Ground 3 – Insufficient consideration of legal and financial advice

The representative of the signatories made reference to the public sector equality duty under section 149 of the Equality Act 2010 and commented that full legal advice had not been given. He explained that if full advice had been provided then the information lacking from the EqIA on race and gender would have been identified.

The Chairman then invited the Portfolio Holder for Children, Schools and Families to address the Sub-Committee. She thanked the representative of the signatories for his presentation and introduced Councillor Phillips, her Portfolio Holder Assistant who had been involved with SNT 3. The Portfolio

Holder for Children, Schools and Families requested officers to respond to the detailed, operational points raised.

The Corporate Director, Children and Families and the Divisional Director, Special Needs Services, made the following comments in response to the presentation of the grounds of the call-in:

- there had been consultation with the trades' unions and with staff prior to the decision. At the Department Joint Committee (DJC) meeting on 19 March 2013, the unions had been in attendance and the proposals had been explained in detail. Meetings with staff had been held on 28 March 2013 at two different times but it was noted that it had been difficult to schedule a date for meetings with staff prior to the Easter holidays. Approximately 40% of SNT staff had attended and additional sessions would be held in different locations for the staff who had been unable to attend. Written communications about the proposals would be sent;
- the principles of the project had been outlined as there were no specific proposals to be explained during the pre-consultation;
- it had been felt to be unnecessary to engage with other stakeholders or service users because currently 20% of the service was outsourced and service users could be collected by either Council staff or an external provider;
- there would be consultation with other stakeholders and service users if there was a major change to the eligibility criteria. At present, it was proposed to refresh the criteria and it was not expected that there would be a significant change in eligibility. It was possible that one outcome of the eligibility refresh would be an increase in independent travel training;
- there had been consultation on the eligibility policy when it was last agreed in 2006 and the proposed refresh would address statutory changes;
- the EqIA would be revised throughout the three year programme and the version submitted with the Cabinet report was an initial version. The EqIA had been considered and developed by various Council officers meaning that it had received sufficient scrutiny;
- the report had been approved by officers from Legal and Governance Services and contained both legal and financial advice.

The Chairman invited the representatives of the signatories, Mr Darren Butterfield and Mr Gary Martin of Unison to ask questions of the Portfolio Holder for Children, Schools and Families. The questions were responded to by the Portfolio Holder and officers including the Corporate Director, Children and Families, as follows:

- the key elements of the business case had been shared with both staff and the trades' unions;
- no one present at the DJC meeting had requested the full business case although the document was available. There would be further consultation on the detailed proposals. The key element explained during the lengthy discussions at the DJC meeting was progressive outsourcing;
- the letter sent to the Leader of the Council by the Unison Branch Secretary on 24 March 2013 had not been specifically copied to the Portfolio Holder for Children, Schools and Families. If it had been then a response would have been pursued. It was not possible to answer on behalf of the Leader as to why a response had not been sent;
- the Council had a statutory duty to provide transport assistance but there did not have to be consultation on how it was delivered. As part of the Cabinet decision, it was agreed that there would be consultation with stakeholders regarding the eligibility criteria and the transport eligibility policy refresh. There were only limited options to change the eligibility criteria and any changes were, in the main, likely to be made to independent travel training;
- one version of the EqIA on the website was draft and there were differences between the two versions because SNT3 was a dynamic project. The EqIA would be revisited during the three year programme. There had been consultation with Members, transport service managers, human resources and legal officers, the Policy Officer, Equalities and Diversity, the Service Manager, Policy and Partnership and the Divisional Director, Strategic Commissioning on the EqIA. It had been commented that the EqIA did not include enough of the positive implications of the project. There was no requirement for the EqIA to be considered at the Departmental Children Equality Group and there was no necessity that the EqIA be considered by the Quality Assurance Group one month prior to Cabinet. A representative for the signatories commented that the EqIAs did not include any profiling information on gender or race;
- strong support for independent travel training but variability as to when it was used had been expressed during the SNT2 project. It was widely recognised that it was good practice to include an element of independent travel training to allow children to travel to school on their own. It should be noted that SNT was for vulnerable young people and their families and due to the dynamic nature of their needs, it was difficult to provide quantitative evidence. Meetings had been held with the head teacher, staff, service users and parents from Shaftesbury School and they had expressed support for independent travel training;

- the letter inviting staff to attend the meetings on 28 March 2013 had not explicitly made reference to outsourcing but had informed staff that at the sessions they would be able to learn about the project;
- the alternative options had been presented at the meetings on 28 March 2013 but it had been explained that in order to achieve the savings there would have to be progressive externalisation;
- an Official Journal of the European Union (OJEU) notice would be issued when a decision had been made on what would be procured and if the financial amount required a notice.

The Chairman then invited Members of the Sub-Committee to ask questions of the representatives of the signatories, the Portfolio Holder for Children, Schools and Families and officers.

A Member asked about the extent of the consultation on SNT 1 and SNT 2 when 20% of the service had been outsourced. In response, a Unison representative advised that the business cases had been provided to the unions and there had been regular meetings. An officer stated that the 20% of the service outsourced was not as a result of SNT 1 which focused on route planning and the vehicle fleet or SNT 2 which addressed travel plans. Taxis had been used to provide 20% of the service for a long time.

The Sub-Committee considered the consultation which had taken place on SNT 3 and questioned whether officers felt it was adequate. The officers commented that the Cabinet decision on 11 April 2013 was to allow the project to progress and that further reports would be submitted on the eligibility criteria.

A Member then queried whether an outline business case had been produced, as had been done by Capita for SNT 1 and 2 and if the established protocol of consulting the unions about the outline business case had been followed. The officers explained that the SNT 3 programme had followed a different procedure. Capita had produced an outline business case when SNT 2 had been nearing completion but this was not pursued and an in-house approach was followed resulting in the current full business case. The outline business case for SNT 3 had involved consideration of a series of options which were developed in the full business case and their suitability considered at various meetings. The process was in line with human resources advice. There had been delays in commencing the consultation due to the decisions being required on the principle of outsourcing and there had been time pressures created by the Medium Term Financial Strategy (MTFS).

When considering the EqIA and the approval process, such as which groups agreed the document, the Sub-Committee requested clarification as to who had approved the EqIA and why key factual information was absent. The officers explained that the EqIA had been considered by some Members of the Children's Services EQIA Quality Assurance group but not at a formal meeting. The document had been shared with divisional directors in the Children and Families Directorate and by the relevant officers such as the

Policy Officer, Equalities and Diversity, the Service Manager, Policy and Partnership and the Divisional Director Early Intervention Services. The lead officer was the Programme Manager.

A Member then commented on the issues raised by officers regarding the timetable and stated that meetings with the unions should have been scheduled. The officers acknowledged that the report could have been submitted to a later Cabinet meeting but informed Members that the advice from human resources was that the requirements for pre-consultation had been met. The unions had been aware of the MTFs and the savings for the special transport service since December 2012.

The Sub-Committee were reminded that it was usual practice for there to be trade union engagement prior to decisions being made by Members. The Sub-Committee suggested that it would be useful for an officer from human resources to be present at the meeting and an officer advised that the Senior Business Partner was able to attend the meeting.

The Chairman welcomed the Senior Business Partner to the meeting.

In response to questions from the Sub-Committee on the level of consultation with the unions, the timing of the consultation and the content of the DJC meeting on 19 March 2013, the Senior Business Partner and other officers repeated that a timetable of future consultation had been prepared to meet the requirements of the Change Management Protocol. The DJC meeting on 19 March 2013 was the appropriate place to consult with the unions. It had been made clear at this meeting that outsourcing was the option being pursued and this was acknowledged in the comments of the union representatives in attendance. Harrow was one of only two London Boroughs which had not outsourced a large proportion of the SNT service.

The Sub-Committee queried when the unions and staff had been provided with documents relating to the project. A Member questioned whether the 60% of staff who had not attended the sessions on 28 March 2013 had received any official communication relating to the project and the proposals. The officers confirmed that staff had received the letter of invitation in advance of the meetings on 28 March 2013. At that meeting staff had been given copies of the presentation. Consideration was being given to the available options for additional staff meetings. The intention had been that all staff would be written to following the Cabinet decision but this had been delayed due to the call-in of the decision. As it was a three year project, the implications for individual staff were not known at present but staff had been informed that the transfer of undertakings (TUPE) would apply. Unison had not received papers in advance of the DJC on 19 March 2013 and had received a presentation at that meeting. There were questions at the staff meetings on 28 March 2013 but these were predominantly from the trades' unions' representatives.

A Member commented that it was not appropriate to disregard protocols, such as trade union consultation because of the MTFs and the current financial challenges. The Member requested clarification on whether the outline business case had been shared. The officers responded that it had not been

as a decision on the savings had not been made at that point and therefore the document had not been shared.

(The Sub-Committee then adjourned from 5.58pm – 6.20pm to receive legal advice).

The Chairman announced the decision of the Sub-Committee and it was

RESOLVED: (unanimously) That

- (1) the call-in on ground (a) – inadequate consultation with stakeholders prior to the decision be upheld and referred back to Cabinet for re-consideration and the Sub-Committee requested that the previously agreed cross party practice of early trade union engagement be followed and it was felt that it was best practice to engage with service users where there was a major change to how a service was delivered;
- (2) the call-in on ground (f)- insufficient consideration of legal and financial advice not be upheld due to insufficient grounds;
- (3) Cabinet to consider requesting a report that outlines the process of drawing up and approving Equality Impact Assessments (EqIAs) for Cabinet level decisions.

and (by a majority decision) that

- (4) the call-in on ground (b) – the absence of adequate evidence on which to base a decision - not be upheld due to insufficient grounds.

(Note: The meeting, having commenced at 4.06 pm, closed at 6.26 pm).

(Signed) COUNCILLOR JERRY MILES
Chairman

DRAFT MINUTE EXTRACT

CABINET MINUTES

11 APRIL 2013

Chairman: * Councillor Thaya Idaikkadar

Councillors:

* Bob Currie	* Phillip O'Dell
† Margaret Davine	* David Perry
* Keith Ferry	* Sachin Shah
* Mitzi Green	† Bill Stephenson
* Graham Henson	

In attendance: Susan Hall Minute 624
(Councillors) Barry Macleod-Cullinane Minute 624

* Denotes Member present

† Denotes apologies received

RESOLVED ITEMS

628. Special Needs Transport Change Programme 3 (SNT 3)

Cabinet received a report of the Divisional Director of Special Needs Services, which set out a programme of change for the service that included significant procurement of new suppliers to the Council over the next 3 years.

In inviting the Portfolio Holder for Children, Schools and Families to introduce the report, the Leader of the Council stated that the way forward was well defined and he thanked officers and his colleagues for their work.

The Portfolio Holder for Children, Schools and Families stated that as part of the process for SNT 3, it was important that a high level of service continued to be maintained. She was supported by the Corporate Director of Children and Families in this regard, who added that following the successful implementation of SNT 1 and 2, the Council had been working with relevant parties, including the Unions, to deliver on SNT3.

The Corporate Director added that Harrow was one of the few local authorities that had continued to maintain an in-house service. She informed Cabinet that at present a percentage of the travel routes were outsourced. The Council would work with local providers and the existing work force, over a period of three years to deliver on this complex project. She cited an article in a local newspaper, which showed the support given to this project by the Chief Executive of the Harrow Association of Voluntary Services (HAVS).

The Portfolio Holders for Performance, Customer Services and Corporate Services and Community and Cultural Services commended the work undertaken by officers and the Portfolio Holder for Children, Schools and Families with a view to further radicalising the services over a period, including the building of relationships and trust with local organisations whilst maintaining the services provided.

RESOLVED: That

- (1) the progress on the SNT3 Programme be noted;
- (2) the Corporate Director of Children and Families, in consultation with the Portfolio Holders for Children, Schools and Families, Property and Major Contracts, and Adult Social Care, Health and Wellbeing, be authorised to:
 - a) procure, select and award contracts to the preferred transport services suppliers on such terms as agreed, acting in the best interests of the Council and in doing so promoting local social enterprises and private organisations;
 - b) consult on a new transport eligibility policy;
- (3) a further progress report with a final draft policy be received for approval in Autumn 2013.

Reason for Decision: The MTFS provided a need and a timeframe for delivering further savings of £540k from special transport. The SNT3 programme would deliver the required savings whilst maintaining the service required by residents.

To deliver savings within the timescales required delegated authority to identify best providers and award contracts to the best placed provider.

A broader, more flexible delivery would future proof the service for the direction of government policy. The preferred option would seek solutions that were delivered by local suppliers and local social and community enterprises.

Alternative Options Considered and Rejected: As set out in the report.

Conflict of Interest relating to the matter declared by Cabinet Member / Dispensation Granted: None.

REPORT FOR: CABINET

Date of Meeting:	11 April 2013
Subject:	Special Needs Transport Change Programme 3 (SNT3)
Key Decision:	Yes
Responsible Officer:	Roger Rickman, Divisional Director of Special Needs Service Councillor Mitzi Green, Portfolio Holder for Children, Schools and Families
Portfolio Holder:	Councillor Thaya Idaikkadar, Leader of the Council and Portfolio Holder for Property and Major Contracts Councillor Margaret Davine, Portfolio Holder for Adult Social Care, health and Wellbeing
Exempt:	No
Decision subject to Call-in:	Yes
Enclosures:	Full Equalities Impact Assessment

Section 1 – Summary and Recommendations

This report outlines the full programme of change for the service which includes significant procurement of new suppliers to the Council over the next 3 years. The report seeks delegated authority to deliver the full programme and procure, and award contracts to the preferred suppliers.

Recommendations:

Cabinet is requested to:

1. Note the progress on the SNT3 programme;
2. Authorise the Corporate Director of Children & Families in consultation with the Portfolio Holders for Children, Schools and Families, Property & Major Contracts and Adults & Housing to:
 - a) **Procure**, select and award contracts to the preferred transport services suppliers on such terms as are agreed, acting in the best interests of the Council and in doing so promoting local social enterprises and private organisations
 - b) **Consult** on a new transport eligibility policy
3. Agree to receive a further progress report with a final draft policy for approval in Autumn 2013.

Reason: (for recommendation)

The current MTFS provides a need and a time-frame for delivering further savings of £540k from special transport. The SNT3 programme will deliver the required savings whilst maintaining the service required by residents.

To deliver savings within the time-scales will require delegated authority to identify best providers and award contracts to the best-placed provider.

A broader, more flexible delivery will future-proof the service for the direction of government policy. The preferred option will be seek solutions that are delivered by local suppliers and local social and community enterprises.

Section 2 – Report

1. Introduction

1.1. Having already delivered two successful change programmes in Special Needs Transport Services over the last 3 years and saved between them over £1million in annual costs, a third programme, Special Needs Transport 3 or 'SNT3' is set-out to deliver a further saving of £540k.

1.2. The SNT3 Programme, has 10 complementary workstreams, which together will deliver the £540k savings target in 2014/15 as required by the MTFS for the year 2014/15. At the end of the 3 years, the programme will provide a sustainable saving of approximately £1.06m.

1.3. These significant savings will be achieved whilst increasing the independence of service users, lowering carbon emissions, improving delivery processes and safeguarding the provision of transport for children and young adults.

1.4. Within the programme's 10 workstreams, there are three main elements of activity; (1) Demand Management, (2) Current Cost-Control & (3) Future Cost-Control.

1.5. The outcome of the SNT3 Programme will be to preserve access to services, to increase the range of services available to transport recipients and in doing so improve the life experiences of learners that are receiving transport assistance.

1.6. The workstreams achieve more users travelling independently, lower costs in delivering the current transport operation and greater flexibility with lower costs for all future provision.

1.7. The most significant costs, savings and risks within the SNT3 programme, are within the third element, Future Cost-Control, which will require engagement with the market and Harrow Council moving from a provider of services to a commissioner of services.

1.8. Where services are transferred to external suppliers, Harrow Council will work to stimulate innovation and inclusion of Harrow's social enterprises, charities and small scale private service providers.

1.9. Using local, small scale community and social providers, will provide on-going employment opportunities for staff, create favourable conditions to stimulate innovation, maintain an element of competition and create resilience and capacity within the wider supply chain.

1.10. This will require breaking leases with the current vehicle provider, Fraikin Ltd, and commencing new service contracts with local social enterprises and small business.

2. Background

2.1. Harrow Council has a Statutory duty to provide transport assistance to 'eligible' children and young adults. An eligible child defined in Schedule 35B of the Education Act 1996 and include Children who attend schools beyond the statutory walking distance, Children with SEN, disabilities or mobility problems, Children whose route to school is unsafe and Children from low income families and so could be broadly described as someone for whom the use of standard modes of transport would be inappropriate due to their physical or emotional needs. An 'eligible' adult is 'an adult who is aged under 25 and is subject to a learning difficulty assessment.'

2.2. s508B of the same Act says that the LA must make such travel arrangements as they consider necessary 'in order to secure that suitable home to school travel arrangements for the purpose of facilitating the child's attendance at the relevant educational establishment...are made'

2.3. The future direction of Government Policy for Special Education and Transport is towards a greater level of customer choice and involvement. This could

go as far as a potential move towards the use of personal budgets for either education or transport or both elements, which could pose a significant financial risk to a mainly in house service. The design of the SNT3 programme creates more flexibility in the delivery of transport which will help mitigate risk, as well as creating choice.

2.4. In Harrow, there are 515 children and young adults who are given transport assistance to and from school or college. Transport is arranged for service users in what are called 'routes'. These routes range from 8-10 children transported in a Council minibus to one or more children transported in a private taxi.

2.5. Currently Harrow uses a fleet of 70 mini-buses to transport the children, operated by 154 staff, that are employed part-time, term-time only, to deliver the significant proportion of the Children's Special Transport Service.

2.6. The Adults element of the service caters for 350 users, with 14 mini-buses, and in the region of 35 full-time staff on more standard work and leave contracts.

2.7. All special needs transport (for Children and Adults) is managed by a single team of 10 staff (8.4 FTE) who between them manage the delivery of both services and the large workforce.

2.8. 20% of the current 'routes' are provided by local small business, social enterprises and local taxi firms. These have already been re-procured within the SNT3 programme using a newly established Transport Procurement Framework

2.9. The SNT3 programme will extend this strategy further, using more local, small scale private, community and social providers, creating a mixed approach to supply, a choice of providers for commissioners of services and a competitive element within the market.

2.10. Initial impact analysis of the re-tendering through the framework is forecasting a £115k reduction in overall costs, which is a 20% reduction from the previous spend. This serves as an indication of where well designed and well managed buying can reduce costs, even where already savings have been made.

The SNT3 Programme: Demand Management

2.11. As mentioned above, the SNT3 programme has three elements and 10 workstreams. The first of the three elements is 'demand management' which includes the following three work streams:

- 2.11.1. Eligibility Policy Refresh
- 2.11.2. Independent Travel Training (ITT)
- 2.11.3. Direct Transport Payments (DTP).

2.12. In summary, these were all trialled within SNT2 and all aim to offer new services to users, more flexible solutions, reduce the overall demand and cost of transport and to increase the life-long independence of service users

2.13. The policy refresh applies to services provided to those attending education placements and is designed firstly to give council support to the new forms of service

that will be mainstreamed within the programme. Eligibility for transport services to adults as part of community care services will not be affected. The refresh and re-determining of the policy may mean some children and young adults falling out of eligibility. The results of the policy consultation will be considered in the final policy drafting and brought back to Cabinet to provide information on the comments received and to make a decision on the formal adoption of a new policy..

2.14. Consultation on the policy will be with parents/carers of children, children and young adults attending education institutions, schools and representative groups. We will be asking service users questions regarding the use of alternative providers, the introduction of ITT and DTP, eligibility for those attending education placements and potentially the tightening of allocation for some users.

The SNT3 Programme: Current Cost Control

2.15. The Current Cost Control element includes the following six work streams:

- 2.15.1. Fraikin Supplier Relationship Development (SRD)
- 2.15.2. Identifying new providers for short-term hire
- 2.15.3. Invitations to all schools to become transport providers
- 2.15.4. A LEAN review of the Transport Services Processes
- 2.15.5. Re-tendering of the 20% of external routes (complete)
- 2.15.6. A focus on sickness absence from the outcomes of the LEAN project

2.16. All of the workstreams in Current Cost Control are attached to costs that can be reduced relatively quickly. For instance the Fraikin SRD work is already providing benefits, such as faster response times and spare vehicles provided free of charge. A new deal on spot-hire vehicles will be complete in March 2013. The re-tendering work for taxis is already complete and making positive budget impacts.

The SNT3 Programme: Future Cost Control

2.17. The Future Cost Control workstream is centred around a three year programme of market engagement and increasing the number of routes delivered by local suppliers including third sector and community organisations and small local business. This element of the programme is known as:

- 2.17.1. Strategic Market Engagement

2.18. A survey of 11 London Boroughs completed in January 2013, showed that 6 of the authorities had all transport provided externally (Lambeth, Haringey, Ealing, Croydon, Waltham Forest, Kingston), Brent are 90% external, Hounslow & Enfield ~60% external, Enfield split internal/external, Harrow & Lewisham are provided in-house except for the 20% taxi and smaller vehicle provision.

2.19. Within the boroughs that have services provided externally, there is a great variation in approach. For instance, two authorities have a single contract for the whole of the provision, one with a strategic partner that is profit driven, another with a Community Transport Group, others largely have two or more providers, particularly those that have been included in recent framework procurement activity where 3-5 providers is the normal range.

2.20. Having a balance of providers, creates opportunities for all types of suppliers to grow at a suitable pace, to take part in the market to the scale that suits them and to use the strengths of their individual organisations when bidding for work.

2.21. Keeping the number of providers higher, increases the stimulation to innovate, keeps costs low to the authorities and allows authority commissioners to both place contracts with the best-placed providers and avoid suppliers who cannot meet our quality criteria. Whilst maintaining the supply of core transport services, there will inevitably be an impact on delivery standards through reducing costs. These will be carefully managed and suppliers that fail to provide services to the required standard will have contracts put at risk or cancelled.

2.22. To further ensure there is a ready-supply of local, small and social providers with the capacity and capability to provide services to the required standard, the framework will be refreshed in 2014.

2.23. Refreshing the framework will re-open the supply of services to the full market, this gives the Council the ability to work with small business and social enterprises to further develop the market, to stimulate innovation and to improve the overall standard of delivery.

2.24. This activity is planned to commence in May 2013. This time-scale gives a long lead-in period which will favour those social and private organisations seeking to grow slowly, to make sure they are prepared for taking on new services and to ensure that our approach is broad in attracting a range organisations.

2.25. Two rounds of soft market testing have been completed to model potential savings from market engagement. The first with providers that are registered on the West London Alliance framework, which has provided real pricing for potential work, the second comparing Barnet procured routes (without escorts) with the Harrow current routes (taking account of escorts). These have shown a typical price reduction of around 30% from current costs to external costs.

2.26. Phasing provides additional opportunities for refreshing the suppliers within the framework and to work with suppliers to maintain and improve service delivery standards. A three year roll-out gives time for the management team to design and refine their contract management practices. Finally, the three year time-frame gives time to down-scale the fleet without flooding the market and choosing the timing and management of vehicle disposals.

2.27. *It is the intention of this Programme to offer a greater number of routes to local, social and private external suppliers. Over a period of three years the service will shift from being 20% externalised to towards 100%, allowing more freedom for Harrow Council and shifting to a commissioning model.*

2.28. *This will require cancelling leases with the vehicle provider (Fraikin) and designing a new client management team.*

2.29. *These are all factored into the SNT3 Programme workstreams and into the costings that form the business case.*

2.30. Cost-saving forecasts for this work stream, include the cost of buying-out of the current Fraikin leases which would be necessary to move to a commissioned service model.

The SNT3 Programme: Costs & Benefits

2.31. The benefits and costs of the full programme are shown in the table below. The aim of the SNT3 programme, is to meet the £540k MTFS savings target for 2014/15 and take account of the requirements of other budget pressures from previous programmes and changes in grant levels.

	2013/14 (Net Saving) / Net Cost £	2014/15 (Net Saving) /Net Cost £	2015/16 (Net Saving) /Net Cost £	2016/17 (Net Saving) /Net Cost £	2017/18 (Net Saving) /Net Cost £	Total (Net Saving) /Net Cost £
Medium Term Financial Strategy (MTFS) Savings	(56,000)	(641,000)	(641,000)	(641,000)	(641,000)	(2,620,000)
Medium Term Financial Strategy (MTFS) Costs*	495,852	207,870	81,388			785,110
Further anticipated budget pressures that need to be managed through SNT 3	(26,500)	(53,000)	(141,000)	(229,000)	(229,000)	(678,500)
Net MTFS Position	413,352	(486,130)	(700,612)	(870,000)	(870,000)	(2,513,390)
SNT 3 Forecast (Savings)	(307,485)	(773,822)	(987,863)	(1,062,328)	(1,062,328)	(4,193,825)
Implementation Costs						
Project Costs	52,000					52,000
Potential redundancies/severance (if applicable)	443,852	207,870	81,388	0	0	733,110
Vehicle lease termination costs	211,409	165,023	89,317			465,749
Total Delivery Costs	707,262	372,893	170,705	0	0	1,250,859
SNT3 Net (Savings)/Costs	399,777	(400,929)	(817,159)	(1,062,328)	(1,062,328)	(2,942,966)
(Over)/under delivery of MTFS Savings	(13,575)	85,201	(116,547)	(192,328)	(192,328)	(429,576)

** project costs included in MTFS growth and redundancy/severance costs (if applicable) considered as part of corporate provision for redundancy*

2.32. The programme will save £773k in the target year 2014/15, with costs of £373k, delivering a net saving of £400k. By the last year of the programme (2016/17), the full year effect of the three phases of work will deliver savings of £1.062m.

2.33. During the 5 year period there will be total savings of £4.2m, against total costs of £1.25m, delivering a net saving of £2.9m over 5 years.

2.34. As mentioned above, the final full-year effect is a saving of £1,061m, forecast to be delivered in 2016/17. The MTFS position requires a saving of £641k, SNT 3 therefore is forecast to over-deliver by £421k, this will manage the additional

requirements of anticipated budget pressures of £229k in that year, leaving a net budget position of £192k surplus.

2.35. The phasing and over-delivery allows a level of flex to manage any potential risks of quality in delivery and price sustainability.

3. Staffing Implications

3.1. Where there is a service provision transfer then The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will operate to transfer in scope employees to a new provider. All of the Council's rights, powers, duties, and liabilities (except criminal liabilities) under or in connection with the contracts of employment of the relevant staff will transfer. There are current Government proposals to amend the TUPE regulations, which could be implemented during the course of this programme.

3.2. The number of staff employed in connection with the service is approximately 200, which includes a high number of part time, term time only staff. 10 staff manage the delivery of the operation and large workforce.

3.3. Where any change results in a TUPE transfer the Council will meet all of its statutory obligations provided by TUPE. Under TUPE, existing contractual terms and conditions are protected on transfer. In addition the Council has a protocol for managing organisational change, which includes consultation and union engagement.

3.4. The full programme will be delivered over three years, which gives time to the staff affected by the change programme to adapt to the proposals and consider the options available.

3.5. Whilst TUPE applies by operation of law, it is possible that circumstances could arise where it would be in the interests of the Council to consider a voluntary severance or redundancy scheme. If this situation arises a separate report to Cabinet would be made.

4. Legal Implications

4.1. Under the Education Act 1996 local authorities have statutory duties to provide transport to 'eligible' children and young adults to educational establishments in specified circumstances. There is an element of discretion contained within these duties.

4.2. Any change to Harrow's eligibility policy, which sets out how it will exercise its discretion, must take account of any consultation responses, government guidance and equality issues. This will be particularly relevant if any child or young adult who was previously receiving a service will no longer be eligible. The results of the consultation and equality implications will be included in a future report on approval of the new eligibility policy.

4.3. In procuring and awarding contracts, the Council will comply with EU procurement rules and its own contract procedure rules.

5. Financial Implications

5.1. The budget for Children's Special Needs Transport in 2012/13 totals £3.34m.

5.2. Since 2009/10 the service has already delivered significant savings through improved efficiency and by reducing demand for the service; a further reduction of £101,000 from these programmes is still to be delivered in the 2013/14 MTFS. More significantly the service is tasked with delivering additional savings of £540,000 in 2014/15. Following these reductions (totalling £641k) the service is left with a net council budget in 2014/15 of only £2.7m, a 32% reduction since 2009/10. Given the scale of the savings already delivered these further budget reductions require transformational change to the service's operating model.

5.3. The work streams included in SNT3, when fully implemented look to deliver savings totalling £1,062k. In addition to meeting the MTFS budget reductions of £641k it will also meet the anticipated cessation of the Dept of Transport's Bus Services Operating Grant and provides for the loss of internal income for the courier service and from school buyback, totalling £229k.

5.4. The majority of the savings, £877k, are delivered by transferring the service to external providers. This projection is based on extensive soft market testing and benchmarking with neighbouring boroughs through the WLA, which should mitigate the risk that the market will not deliver this scale of savings. The soft market testing did not include the potential effect of staff transferring under TUPE, as the precise effect could not be identified and as such the level of savings could not take account of this. When tendering for services, providers will have to take account of potential TUPE transferring staff. However, the costs of potential redundancies/severance (if offered) have been included in the implementation costs.

5.5. The proposals require the termination of the vehicle lease agreements, which will incur termination costs. The extent of the termination payments will depend on resale values however the business case includes a prudent estimate of £466k over the 3 years 2013/14 to 2015/16.

5.6. Based on these forecasts there is a slight under delivery of saving in 2014/15 of £85k, this is more than off-set by projected on-going over delivery of £192k.

6. Performance Issues

6.1. Each of the new services introduced in the SNT3 Programme will have either Service Level Agreements in-place or contracts that set-out the required standards.

6.2. Performance of each of the services will be measured and managed against the standards set-out in the agreements and contracts.

6.3. There is a specific work-stream within the programme to identify the contract management needs of an increasingly commissioned service and to ensure that the right resources with sufficient skills are targeted towards the effective management of all new arrangements

6.4. Lessons learned in the Highway tender have been adopted within this programme to ensure there are effective mechanisms in-place for Councillor involvement in the procurement process and in the ongoing management of contractors.

6.5. Any customer complaints will be managed in the same way as they are currently managed. Contractors will be asked to show how customer feedback is being captured

6.6. Ensuring providers perform adequately and deliver services in accordance to contract specification is the principal reason for the LEAN review. The requirements of an increasingly commissioned service will be factored into the review to make sure the client team is appropriately staffed and trained, well ahead of the time when the team will be needed

6.7. The changes proposed under the programme do not have any impact on national indicators.

7. Environmental Impact

7.1. Harrow Council is fulfilling its duty to promote sustainable modes of transport in offering a broader package of services including Independent Travel Training.

7.2. If the Independent Travel Training service is successful, there will be a decreased demand for Harrow arranged and dedicated transport, with a corresponding increase in children and young adults using public transport. This will reduce local transport emissions and have the knock-on effect of those trained having a greater confidence and desire to use public transport outside of 'home to school' transport.

7.3. The greater use of personal budgets for transport may cause some displacement into private cars.

7.4. Any new providers that are applying to work for Harrow through the three phases of strategic market engagement, will be required to demonstrate how they comply with and support the Council's Sustainable Procurement Policy and where minibuses are used will have to report to the Council on their fuel usage.

7.5. Their responses to sustainability requirements will form part of the decision-making around supplier selection and supplier management. They will, therefore, have to demonstrate a real and measurable commitment to minimising environmental impacts and generating local "social value" in order to join the procurement framework.

7.6. Local Social Enterprises, small and medium sized private providers are the target market for procurement activity. Local small scale providers will have time and support to develop with the free and fair opportunity to compete for places on the procurement framework.

7.7. Where transport operators provide services, currently carried out in-house, the suppliers will need to report fuel use to the Council to enable carbon emission totals to continue to be reported by the Council.

8. Risk Management Implications

8.1. There is an up to date full risk register is kept by the Programme Manager. Strategic Risks are managed by the relevant boards, less significant risks managed by the Programme Manager.

8.2. The outputs of a risk workshop is the basis for the risk register and further risk workshops are completed quarterly to update and refresh the view of risk.

8.3. The Programme as a whole is 'managed by exception' and reports on this basis to three boards, the SNT3 Programme Board, the Children & Families Programme Board and the Corporate Transformation 2 Board through VERTO.

8.4. Issues and changes in risks are highlighted to the appropriate boards with requests for decisions or actions.

9. Equalities implications

9.1. The public sector equality duty under section 149 of the Equality Act 2010 provides:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. A full equality impact assessment was carried out and is attached to this report. As part of the procurement, robust equality requirements will be included within the specification and these will be part of the supplier selection decision-making process.

9.3. There was also a potential adverse impact in relation to users not having continuity of driver. A mitigating measure is to include in the tender a requirement to seek to ensure continuity of driver where possible and to give advance notice of the change of provider to all users. One of the consequences of the proposed changes is to offer alternative travel options, including independent travel training and use of personal budgets to secure transport. This may have a positive impact on disabled service users.

9.4. The assessment highlighted that there was a potential adverse impact in relation to age for staff, as nearly half the employees affected are age 60 or over. Whether the impact of the changes are positive or negative will depend on individual staff circumstances. Mitigation measures include compliance with the protocol for managing change, which is mentioned in the staffing implications section.

9.5. A further EQIA will be completed following consultation on the new draft policy and the results of this will be fed back in a further report to Cabinet.

10. Corporate Priorities

10.1. Please identify which corporate priority the report incorporates and how:

10.1.1. Keeping neighbourhoods clean, green & safe.

There will be a net decrease in the amount of council provided transport and an increase in the use of already operating sustainable modes of transport.

10.1.2. United and involved communities: A Council that listens and leads.

There are currently transport users that receive transport that would prefer to be travel-trained and use transport more independently. In providing a transport service, the Council is responding to a current demand for travel training.

In mainstreaming Direct Transport Payments, there will be a greater choice for customers in how they travel and the potential for arranging their own transport.

10.1.3. Supporting and protecting people who are most in need

The SNT3 Programme offers a continuous access to transport for dependent children and young adults. This will be achieved whilst delivering savings. Having a mix of future providers will stimulate customer quality focus, innovation and provider cost-consciousness.

10.1.4. Supporting our town centre, our local shopping centres and businesses.

The service will offer social enterprises and local small scale businesses based in Harrow the opportunity to become first tier suppliers to the Council through the procurement framework, and to become second tier suppliers by requiring all providers to make their supply and sub-contracting opportunities available to local businesses.

Section 3 - Statutory Officer Clearance

Name: Patricia Harvey

on behalf of the
Chief Financial Officer

Date: 4 April 2013

Name: Sarah Wilson

on behalf of the
Monitoring Officer

Date: 4 April 2013

Section 4 – Performance Officer Clearance

Name: David Harrington

on behalf of the
Divisional Director
Strategic Commissioning

Date: 4 April 2013

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker

on behalf of the
Divisional Director
(Environmental Services)

Date: 5 April 2013

Section 6 - Contact Details and Background Papers

Contact: Ben Sellar-Moore, Programme Manager
Tel: 020 8424 8218 (Int Extn: 8218)

Background Papers:

Special Needs Transport 3 – Full Business Case

**Call-In Waived by the
Chairman of Overview
and Scrutiny Committee**

NOT APPLICABLE

[Call-in applies]

TEMPLATE 2 - Full Equality Impact Assessment (EqIA)

In order to carry out this assessment, it is important that you have completed the EqIA E-learning Module and read the Corporate Guidelines on EqIAs. Please refer to these to assist you in completing this form and assessment.

What are the proposals being assessed? (Note: 'proposal' includes a new policy, policy review, service review, function, strategy, project, procedure, restructure)	SNT3 Programme: (1) refreshed policy (2) introduction of new services (3) shifting towards being a commissioned service through externalisation
Which Directorate / Service has responsibility for this?	Children's & Families Services
Name and job title of lead officer	Roger Rickman
Name & contact details of the other persons involved in the EqIA:	Ben Sellar-Moore (8218: ben.sellar-moore@harrow.gov.uk)
Date of assessment:	25 th February 2013

Page 1: Overview

35 What are the aims, objectives, and desired outcomes of your proposals? (Explain proposals e.g. reduction / removal of service, deletion of posts, changing criteria etc)	<p><i>Aims are: more independent travelling & use of personal budgets, clarity in new policy, more robust management of Fraikin, delivery of the LEAN project & new processes, reduced work-force absence, greater percentage of transport delivered by external providers</i></p>
2. What factors / forces could prevent you from achieving these aims, objectives and outcomes?	<p>The strategic risks are as follows:</p> <ul style="list-style-type: none"> 5. Back-dated claim from Fraikin not received 10. LEAN#1 Low number of LEAN opportunities identified 11. LEAN#2 Client Model not established 12. Absence project doesn't launch due to lack of scope 13. Fraikin buy-out more expensive than modelled 14. Contracts more costly than expected due to a high % of TUPE transfers 15. Contractors unable to maintain quality in delivery

<p>3. Who are the customers? Who will be affected by this proposal? For example who are the external/internal customers, communities, partners, stakeholders, the workforce etc.</p>	<p>Customers: Children receiving transport Affected stakeholders: Staff, suppliers, parents & carers, schools, transport planning team, SENARS team</p>
<p>4. Is the responsibility shared with another department, authority or organisation? If so:</p> <ul style="list-style-type: none"> • Who are the partners? • Who has the overall responsibility? 	<p>- Currently 20% outsourced, client & operational delivery by one team (Transport Planning Team) - Project will move to 100% commissioned over 3 years</p>
<p>4a. How are/will they be involved in this assessment?</p>	<p>- Staff will be consulted within the delivery phase. The Transport Team have chosen the ordering of the routes to be offered to the market, will be involved in the LEAN review & will become the client team</p>
<p>Stage 2: Monitoring / Collecting Evidence / Data</p>	
<p>3 3</p> <p>What information is available to assess the impact of your proposals? Include the actual data, statistics and evidence (including full references) viewed to determine the potential impact on each equality group (protected characteristic). This can include results from consultations and the involvement tracker, customer satisfaction surveys, focus groups, research interviews, staff surveys, workforce profiles, service users profiles, local and national research, evaluations etc</p> <p>(Where possible include data on the nine protected characteristics. Where you have gaps, you may need to include this as an action to address in the action plan)</p>	
<p>Age (including carers of young/older people)</p>	<p>500 service user customers aged 5 – 25 Staff age profile 3% 70+, 43% 60+, 35% 50+, 11% 40+, 8% <39.</p>
<p>Disability (including carers of disabled people)</p>	<p>All customers have a physical or learning difficulty, ages range from 5 to 25. 6 staff are known to have disabilities</p>

Gender Reassignment	No known impact			
Marriage / Civil Partnership	No known impact			
Pregnancy and Maternity	No known impact			
Race	No known impact			
Religion and Belief	No known impact			
Sex / Gender	More male customers than Female Most drivers are Male, most escorts are Female			
Sexual Orientation	No known impact			
6. Is there any other (local, regional, national research, reports, media) data sources that can inform this assessment?		There is likely to be a growth in SEN children & young adults according to demographic projections.		
37	clude this data (facts, figures, evidence, key findings) in this section.			
7. Have you undertaken any consultation on your proposals? (this may include consultation with staff, members, unions, community / voluntary groups, stakeholders, residents and service users)			Yes	No
<p>NOTE: If you have not undertaken any consultation as yet, you should consider whether you need to. For example, if you have insufficient data/information for any of the protected characteristics and you are unable to assess the potential impact, you may want to consult with them on your proposals as how they will affect them. Any proposed consultation needs to be completed before progressing with the rest of the EqIA. Guidance on consultation/community involvement toolkit can be accessed via the link below http://harrowhub/info/200195/consultation/169/community_involvement_toolkit</p>				

(1) Who was consulted?	What consultation methods were used?	What do the results show about the impact on different equality groups (protected characteristics)?	What action are you going to take as a result of the consultation? This may include revising your proposals, steps to mitigate any adverse impact. (Also include these in the Improvement Action Plan at Stage 5)
(1) Head Teachers of special schools	Face to face meetings	No impact on particular groups other than disabled customers from policy consultation	<p>(1) ensure that suppliers meet quality objectives</p> <p>(2) ensure parents agree any new independent travel arrangements</p> <p>(3) <u>consult with target audience in policy refresh & new services through school involvement</u></p>
(2) Team Manager: Transport Team	Face to face meetings	Certain customers would prefer continuity in drivers & escorts, Team input is essential in specifying contracts, roles & work tasks. Involve Trade Unions in staff consultation phase.	<p>(1) ensure that suppliers meet contractual quality objectives</p> <p>(2) ensure the transport team lead the appropriate work-streams (LEAN, Absence, Market Engagement, ITT, DTP)</p> <p>(3) Involve Unions in staff consultation</p>
(3) Team Manager: SENARS	Face to face meetings	Some SEN parents & carers receive a direct payment, other may like the option. Clients of Special Transport prefer consistency in transport provision.	<p>(1) continue to develop a DTP option</p> <p>(2) request that suppliers seek consistency in provision</p>

<p>(4) Parents & Carers: Shaftesbury School</p>	<p>Parents evening presentation</p>	<p>Children would prefer to be trained by people they know, parents will have to have the ability to stop training or not go ahead with independent travel after training</p>	<p>(1) continue to develop ITT offer (2) make sure parents are in control of training and travel arrangements</p>
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Stage 3: Assessing Impact and Analysis

8. What does your information tell you about the impact on different groups? Consider whether the evidence shows potential for differential impact, if so state whether this is an adverse or positive impact? How likely is this to happen? How you will mitigate/remove any adverse impact?

Protected Characteristic	Positive	Adverse	Explain what this impact is, how likely it is to happen and the extent of impact if it was to occur.	What measures can you take to eliminate or reduce the adverse impact(s)? E.g. consultation, research, implement equality monitoring etc (Also include these in the Improvement Action Plan at Stage 5)
Age (including carers of young/older people)	Yes	Yes	- Positive/Negative: 45% of staff are 60 or over - Definite change & potential redundancy could be either positive or negative depending on personal circumstances	- Project phased over 3 years, giving staff the opportunity to consider impact and options - Transfer through TUPE rights
Disability (including carers of disabled people)	Yes	Small	- Greater number of independent travellers - Changed transport provider & staff	- safety training before commencement - seek staff continuity in provider contracts - give notice of change to transport users
Gender	No	No		
Marriage and Civil Partnership	No	No		
Pregnancy and Maternity	No	No		
Race	No	No		
Religion or Belief	No	No		
Sex	No	No	- Definite change & potential redundancy could be either positive or negative depending on personal circumstances	- Project phased over 3 years, giving staff the opportunity to consider impact and options - Transfer through TUPE rights
Sexual Orientation	No	No		

Other (please state)	No	No	
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<p>9. Cumulative impact – Are you aware of any cumulative impact? For example, when conducting a major review of services. This would mean ensuring that you have sufficient relevant information to understand the cumulative effect of all of the decisions.</p> <p>Example: A local authority is making changes to four different policies. These are funding and delivering social care, day care, and respite for carers and community transport. Small changes in each of these policies may disadvantage disabled people, but the cumulative effect of changes to these areas could have a significant effect on disabled people's participation in public life. The actual and potential effect on equality of all these proposals, and appropriate mitigating measures, will need to be considered to ensure that inequalities between different equality groups, particularly in this instance for disabled people, have been identified and do not continue or widen. This may include making a decision to spread the effects of the policy elsewhere to lessen the concentration in any one area.</p>	
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10. How do your proposals contribute towards the requirements of the Public Sector Equality Duty (PSED), which requires the Council to have due regard to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between different groups.
(Include all the positive actions of your proposals, for example literature will be available in large print, Braille and community languages, flexible working hours for parents/carers, IT equipment will be DDA compliant etc)

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010	Advance equality of opportunity between people from different groups	Foster good relations between people from different groups	Are there any actions you can take to meet the PSED requirements? <i>(List these here and include them in the Improvement Action Plan at Stage 5)</i>			
<i>All client needs continue to be met, staff are given options for the their future employment</i>	<i>All staff supported in change management processes</i>	<i>Client, parent & carer needs met by proposals</i>	<i>Providing support to staff, providing new services for clients, meeting the needs of clients</i>			

11. Is there any evidence or concern that your proposals may result in a protected group being disadvantaged (please refer to the Corporate guidelines for guidance on the definitions of discrimination, harassment and victimisation and other prohibited conduct under the Equality Act)?

	Age (including carers)	Disability (including carers)	Gender Reassignment	Marriage and Civil Partnership	Pregnancy and Maternity	Race	Religion and Belief	Sex	Sexual Orientation
Yes	Potential								
No		Positive	No	No	No	No	No	No	No

If you have answered "yes" to any of the above, set out what justification there may be for this in Q12a below - link this to the aims of the proposal and whether the disadvantage is proportionate to the need to meet these aims. (You are encouraged to seek legal advice, if you are concerned that the proposal may breach the equality legislation or you are unsure whether there is objective justification for the proposal)

If the analysis shows the potential for serious adverse impact or disadvantage (or potential discrimination) but you have identified a potential justification for this, this information must be presented to the decision maker for a final decision to be made on whether the disadvantage is proportionate to achieve the aims of the proposal.

If there are adverse effects that are not justified and cannot be mitigated, you should not proceed with the proposal. (select outcome 4)

If the analysis shows unlawful conduct under the equalities legislation, you should not proceed with the proposal. (select outcome 4)	
Stage 4: Decision	
12. Please indicate which of the following statements best describes the outcome of your EqIA (tick one box only)	
Outcome 1 – No change required: when the EqIA has not identified any potential for unlawful conduct or adverse impact and all opportunities to enhance equality are being addressed.	
Outcome 2 – Minor adjustments to remove / mitigate adverse impact or enhance equality have been identified by the EqIA. <i>List the actions you propose to take to address this in the Improvement Action Plan at Stage 5</i>	Yes
Outcome 3 – Continue with proposals despite having identified potential for adverse impact or missed opportunities to enhance equality. In this case, the justification needs to be included in the EqIA and should be in line with the PSED to have ‘due regard’. In some cases, compelling reasons will be needed. You should also consider whether there are sufficient plans to reduce the adverse impact and/or plans to monitor the impact. (explain this in 12a below)	
Outcome 4 – Stop and rethink: when there is potential for serious adverse impact or disadvantage to one or more protected groups. (You are encouraged to seek Legal Advice about the potential for unlawful conduct under equalities legislation)	
12a. If your EqIA is assessed as outcome 3 or have ticked ‘yes’ in Q11 , explain your justification with full reasoning to continue with your proposals.	There will be impacts on the work force from the proposals. Staff may transfer to new suppliers under TUPE. Some staff may be made redundant, where redundancy is likely, staff will be considered for redeployment. The Protocol for Managing Organisational Change will be adhered to throughout the programme.

Stage 5: Making Adjustments (Improvement Action Plan)

13. List below any actions you plan to take as a result of this impact assessment. This should include any actions identified throughout the EqIA.

Area of potential adverse/positive impact	Action proposed	Desired Outcome	Target Date	Lead Officer	Progress
Age (adverse)	- Providing support to staff	Making staff aware of options & able to select the right option for them	April to June 2013	BSM	Design of staff consultation process
sability (positive)	- Offering new ITT service - Offering new DTP service - Seeking consistency in delivery from external providers	Achieving required savings whilst giving more choice, more independence & delivering assurance of supply for client group	ITT: June DTP: June Contracts: Nov	BSM	Programme design starts at first principles of customers needs & desired outcome

Stage 6 - Monitoring

The full impact of the decision may only be known after the proposals have been implemented, it is therefore important to ensure effective monitoring measures are in place to assess the impact.

14. How will you monitor the impact of the proposals once they have been implemented? How often will you do this? (Also Include in Improvement Action Plan at Stage 5)	- Performance monitoring the ITT & transport contracts - Profiling staff impact	
15. Do you currently monitor this function / service? Do you know who your service users are?	Yes	No

<p>16. What monitoring measures need to be introduced to ensure effective monitoring of your proposals? <i>(Also Include in Improvement Action Plan at Stage 5)</i></p>	<ul style="list-style-type: none"> - <i>Profiling staff impact</i> - <i>Contract management processes</i> - <i>Monitor client profile</i>
<p>17. How will the results of any monitoring be analysed, reported and publicised? <i>(Also Include in Improvement Action Plan at Stage 5)</i></p>	<ul style="list-style-type: none"> - <i>Reported to Programme Board whilst operational</i> - <i>Reporting to commissioning/client team when operational</i>
<p>18. Have you received any complaints or compliments about the policy, service, function, project or proposals being assessed? If so, provide details.</p>	<ul style="list-style-type: none"> - <i>No</i>
<p>Stage 7 – Reporting outcomes The completed EqIA must be attached to all committee reports and a summary of the key findings included in the relevant section within them. EqIA's will also be published on the Council's website and made available to members of the public on request.</p>	
<p>19. Summary of the assessment</p> <p>NOTE: This section can also be used in your reports, however you must ensure the full EqIA is available as a background paper for the decision makers (Cabinet, Overview and Scrutiny, CSB etc)</p> <p>What are the key impacts – both adverse and positive? Are there any particular groups affected more than others? Do you suggest proceeding with your proposals although an adverse impact has been identified? If yes, what are your justifications for this? What course of action are you advising as a result of this EqIA?</p>	<ul style="list-style-type: none"> - <i>Potential positive impact on client group through new services</i> - <i>Need for seeking consistency in supply from new providers</i> - <i>Potential negative effect on the workforce that has an older than average age-profile</i>
<p>20. How will the impact assessment be publicised? E.g. Council website, intranet, forums, groups etc</p>	<ul style="list-style-type: none"> - <i>Attached to Cabinet Report & published on intranet</i>
<p>Stage 8 - Organisational sign Off (to be completed by Chair of Departmental Equalities Task Group) The completed EqIA needs to be sent to the chair of your Departmental Equalities Task Group (DETG) to be signed off.</p>	

<p>21. Which group or committee considered, reviewed and agreed the EqIA and the Improvement Action Plan?</p>	<p>- Members of the Children's Services EQIA Quality Assurance group</p>		
<p>Signed: (Lead officer completing EqIA)</p>		<p>Signed: (Chair of DETG)</p>	<p>Richard Segalov</p>
<p>Date:</p>		<p>Date:</p>	<p>4 April 2013</p>

Submission by the Corporate Director of Children and Families

Special Needs Transport 3 Call-in report supporting information

Inadequate consultation with stakeholders prior to the decision:

Consultation to date

Prior to the decision of Cabinet on 11 April 2013, there had been consultation with the trade unions and staff, details of which are set out below. However, it is accepted that the report did not contain details of this consultation or any responses received. This detail is included in this appendix and Cabinet are requested to consider it when deciding whether to confirm its decision of 11 April 2013.

Unions: Discussions with Unions during the research phase were held at the Children and Families DJC where the possibility of further externalisation was referred to on 15th May & 10th July 2012.

The programme proposals were then confirmed and discussed with Unions again on 19th March 2013. At this meeting it was made clear that externalisation was the option being pursued. The union representative confirmed that the union would consider submitting a response. It is understood that a letter was sent direct to the Leader asking for reconsideration but no alternative proposals were submitted for consideration.

Staff: The programme has been developed with members of the special needs transport management team who work closely with their staff and have been integral board members. Their input has been vital in shaping the overall approach.

A meeting with the whole of the management team was held on 21st November 2012 and on 20th March 2013, when proposals were discussed.

The whole workforce were written to on 20th March inviting them to one of two all-staff meetings held on the 28th March at times of the day intended to best accommodate peoples availability. These sessions were attended by approximately 40% of the staff.

Questions and views arising from these meetings included the following:

- the possibility of an in-house option
- the possibility of offering a lower level of service at a cheaper cost
- concern about loss of the 'hidden values' of the in-house service
- questions around the use of local providers
- the West London Alliance proposal
- what steps the Council was taking to increase its grant from central government
- where the savings come from with the use of external suppliers
- whether the staff profile was considered in the EqIA
- whether there are further savings by managing the vehicle supplier more effectively
- what trade union consultation had taken place

- the risk of a fragmented TUPE process
- whether voluntary severance, redundancy or redeployment was a possibility
- whether the proposals incorporate escorts
- how contracts will be managed
- why some parents do not pay for transport

It was planned to give written responses to these questions after the Cabinet decision, although this was put on hold following the call-in of the decision.

In response to some of the points raised above, alternative options around changes to the in-house service have been considered previously but the running cost of the service and the long term vehicle leases mean that high levels of savings are not possible. The West London Alliance proposal to have a single transport hub was trialled in September 2012 and plans are on hold as the arrangements cannot demonstrate sufficient reliability and overall benefits to Harrow Council service users. Many of the questions raise issues that are relevant for consideration during the transition and implementation phases of any proposed externalisation.

Future Consultation

If agreement is given to the proposal to externalise the service in a phased way, the timetable incorporates a 2 month consultation phase to consider the detail of the proposal and its implementation. This, together with the earlier consultation, meets the requirements of the Council's agreed Protocol for Managing Organisational Change (PMOC). The PMOC has been developed with staff and unions and in adhering to the PMOC the programme is consistent and compliant with Council procedures.

This approach will also include the establishment of a partnership board that will include members of trade unions, staff and if possible service users or representatives.

Service users: The Cabinet report made it clear that service users would be consulted on the proposed new transport eligibility policy (section 2.13 & 2.14 of the Cabinet Report). We would also use this engagement opportunity to help ensure there is a smooth transition between providers and that new providers are appropriately ready and prepared to provide services (see section 11.19 of the Business Case, and section 2.13 & 2.14 of the Cabinet Report).

Recommendation

Given that trades unions and staff members have expressed significant interest in the key decision to externalise a greater percentage of the service, the recommendation is that Cabinet reconsider the key decision in September to allow fuller consultation with trades unions, staff and service users for the decision to be made with the benefit of the consultation responses.