
REPORT FOR: CABINET

Date of Meeting:	14 March 2019
Subject:	Procurement of Contractor for Mobility Assessments regarding Concessionary Travel
Key Decision:	Yes The proposed support involves revenue expenditure for Harrow and Lambeth Councils of approximately £3m over a seven year term.
Responsible Officer:	Dawn Calvert, Director of Finance, Resources & Commercial Directorate
Portfolio Holder:	Adam Swersky, Portfolio Holder for Finance & Resources
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	Appendix - Equalities Impact Assessment

Section 1 – Summary and Recommendations

The purpose of the report is to seek authority to procure a contractor to support the assessment of applications for the concessionary travel assessment service which includes Blue Badges, Freedom Passes and Taxi Cards.

The proposed procurement is necessary as the existing contract for this work expires in May 2020.

In addition, TfL have recently issued their response to consultation on widening eligibility criteria for the award of Blue Badges, and guidance is to be issued (date not yet confirmed) to assist in assessing hidden disabilities. There will be a requirement for local authorities to also assess such cases under criteria covering applicants suffering from conditions such as dementia, mental health etc.

Recommendations:

Cabinet is requested to:

1. Authorise the procurement of a contract for a Concessionary Travel Mobility Assessment supplier with a total contract value up to £3m for the assessment of non automatic applications or a combination of non automatic, automatic applications as well as the full concessionary travel service administration, subject to demonstration of Best Value, for a period of 5 years with an extension of 1+1 additional years at the sole discretion of the Council.
2. Delegate authority to the Director of Finance, following consultation with the Portfolio Holder for Finance and Resources, to award the contract for Concessionary Travel Mobility Assessments and Administration.

Reason: (For recommendations)

Guidance no longer allows the Council to use GP endorsement letters and also states that mobility assessments for concessionary transport services should be carried out by professional occupational or physio therapists.

Concessionary travel applications are currently assessed in two areas. Automatic qualifying applications are administered and assessed via a desk top assessment by Harrow Council staff and non-automatic applications are assessed through either a desk top or a face to face mobility assessment, carried out by qualified external contractors via existing contracts.

When the existing contract for non automatic assessments ends in May 2020, it will be necessary to have a new contract in place. It is also the intention to use the opportunity to test the market regarding automatic assessments and the full administration of concessionary travel, to see if offering the opportunity for a contractor to deliver the whole of the concessionary travel service can bring further savings through economies of scale. This strategy will ensure we not only appoint a contractor for the non automatic assessments but also have the option to externalise the automatic assessments as well as the administration of the service, subject to the market proving that it can provide both capacity and further savings due to the bigger potential volumes of work on offer.

Section 2 – Report

Introductory paragraph

2.1 Harrow Council provides the following concessionary transport services or eligible residents:

- Freedom Pass (Discretionary and National Disabled passes only): The Harrow Discretionary Disabled Person's Freedom Pass, for people suffering chronic mental health issues, allows free travel within Greater London only. The National Disabled Person's Freedom Pass, for disabled people who reside in the Borough, allows free travel in the Greater London area on buses, tube, national rail (London network), DLR and Tramlink.

- Blue Badge: The Blue Badge scheme gives free and dedicated parking close to amenities for drivers and passengers with mobility-related disabilities, or who are blind. Blue Badge holders are able to park on yellow lines for up to three hours and are also exempt from the central London congestion charge. A pass is valid for a maximum 3-year period when holders have to reapply;

- Taxicard: for people with serious difficulties with walking (including breathing problems and sight loss) to travel in taxis at reduced rates.

These services are funded by the Council and remain subject to review. Overall, Harrow contributes £750k annually towards the cost of Discretionary and National Disabled Freedom Passes and spends around £215k administering these services. Considering that demand for these services grows year or year, it is imperative that all new applicants are assessed for eligibility in order to ensure that residents remain properly entitled to the concession/s, and that Harrow Council reviews all existing holders periodically. Additionally we have a statutory duty to assess applicants for Blue Badges to ensure only those eligible are issued with them.

Harrow Council already has in place a mobility assessment contract with an independent company of health professionals. The contract considers all new applications and renewals under the non-automatic criteria.

2.2 Options considered

The option of not appointing a contractor was considered but dismissed. This was because a) guidance requires the Council to use professional Occupational/Physio therapists as well as qualified mental health professionals for all non-automatic applications and b) the Council does not have employed qualified staff to carry out the mobility or mental health assessments in house.

2.3 Current situation – Eligibility Criteria

Eligibility is based on a number of automatic and discretionary criteria. To be eligible, applicants must have a disability that is permanent, having lasted, or expected to last, at least twelve months.

Following recent consultation, Transport for London have confirmed that the Eligibility criteria for blue badges is to widen to include so called 'hidden' conditions, and it is likely that Guidance when issued will require the introduction of eligibility assessors who are familiar with relevant non physical disabilities

Automatic eligibility is based upon the applicant receiving certain disability benefits or alternatively being registered for conditions which give rise to automatic qualification, for example registered as severely Sight Impaired/Blind.

Applications that are outside the above 'automatic' qualifications are for determination by the Council. Harrow Council uses a comprehensive approach to determining eligibility for the transport concessions, which requires applicants to provide evidence that their disabilities or medical conditions are such that they meet the eligibility policy.

Any contractor appointed will be required to adhere to any national guidance or published criteria for automatic eligibility cases, including guidance issued post the date of this report. For all applications that are defined as being "Subject to Further Assessment" or non- automatic cases, the contractor will be required to either adopt the current assessment model used or supply an assessment model to determine eligibility that mirrors the existing process or improves it.

The Harrow process is currently extremely robust ensuring those who should not be eligible to concessions do not obtain them. Additionally they generate very few Appeals and is seen to be fair, equitable and a transparent process by the public and the Local Government Ombudsman. Any new contractor assessment model will be expected to deliver the same high quality assessment methodology and adhere to relevant guidance as issued by

The Concessionary Bus Travel Act 2007

<http://www.legislation.gov.uk/ukpga/2007/13/contents?wb48617274=E592A94A>

The Department for Transport (DfT) 2008 guidance on The English National Concessionary Travel Scheme (ENCTS)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/3621/travelconcession.pdf

Blue Badge Guidance

<https://www.gov.uk/government/publications/blue-badge-scheme-enforcement-changes>

The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) (No. 2) Regulations 2011

The Disabled Persons (Badges for Motor Vehicles)(England)(Amendment) Regulations 2011 (SI 2011/1307)

2.4 Procurement Implications of the Recommendation

Subject to approval, Harrow are in early discussions with Lambeth to run a collaborative procurement, Harrow would be the lead authority and the open procedure is proposed for the procurement of the support service and will be subject to the Public Contract Regulations 2015, with the evaluation being based upon the most economically advantageous tender. There is the potential to undertake this procurement as a collaboration if those discussions are positive, otherwise Harrow Council will continue to run its own procurement.

It is proposed that in addition to the mobility assessments that are currently carried by an external contractor, that future applications received under “hidden disabilities”, which will require professionally qualified mental health assessors, as well as the automatic desktop assessments and the wider administration of all concessionary travel work, currently carried out in house, is also market tested.

Subject to the market being able to deliver this area of work, moving the automatic assessments to a contractor may offer the Council increased value for money through “economies of scale” for the contractor.

2.5 Staffing and Workforce Considerations

These are set out under the “Legal Implications” section below.

2.6 Legal Implications

Under Section 3 of the Local Government Act 1999, Local Authorities are under a general Duty to secure Best Value services. The duty is to “make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness.” The recommendations in this report will assist with the achievement of Best Value.

Procurement - The value of the proposed Services is higher than the current EU financial threshold for Services and so the procurement and award of the contract is subject to the full application of the Public Contracts Regulations. The award of the contract is also subject to the Council’s own Standing Orders in respect of High Value contracts and Financial Regulations.

An indicative timetable for the procurement based upon the open procedure is shown in Table 2 below.

Table 2

Timing	Activity
14 th March 2019	Cabinet Decision authorising Procurement
2 nd September 2019	OJEU Advert – Expressions of interest
2 nd September 2019	Issue Invitation to Tender (ITT)
2 nd October 2019	Receive tenders
3 rd - 18 th October 2019	Evaluate tenders
22 nd October 2019	Moderation
11 th November 2019	Cabinet report for contract award and Alcatel standstill period of ten calendar days
1 st January 2020 to 31 st May 2020	Contract Mobilisation
1/6/2020	Contract Start Date

Public Sector Equality Duty - Decision makers must have due regard to the public sector equality duty in making their decisions.

Consideration of the duties must precede the decision. It is important that Cabinet has regard to the statutory grounds in the light of all available material. The public sector equality duty is set out at section 149 of the Equality Act 2010 and is as follows:

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.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) Tackle prejudice, and
- (b) Promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race,
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

An equalities impact assessment has been undertaken and completed. A potential for adverse impact has not been identified for this proposal within the predictive Equalities Impact Assessment attached at Appendix A.

TUPE - refers to the “Transfer of Undertakings (Protection of Employment) regulations 2006” as amended by the “Collective redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

These apply to organisations of all sizes and protect employees’ rights when the organisation or service they work for transfers to a new employer.

Where TUPE applies, the contracts of employment of affected employees transfer automatically from the transferor to the transferee. Their terms and conditions of employment and continuity of service transfer with them and they also receive certain protections around dismissal. Benefits from occupational pension schemes are excluded in the regulations, although there are particular protections for local government employees subject to outsourcing.

There are two situations when the TUPE regulations may apply referred to as “business transfers” and “service provision changes”. Collectively these are called “relevant transfers”.

A “business transfer” may occur if a business or part of a business moves to a new owner or merges with another business to make a brand new employer. For this to apply there must be a transfer of economic entity which retains its identity.

A “service provision change” may occur in the following circumstances:

- A contractor taking over activities from a client (i.e. outsourcing)
- A new contractor taking over activities from another contractor (i.e. re-tendering)
- A client taking over activities from a contractor (i.e. in-sourcing).

For a service provision change to apply, there must be an organised grouping of employees whose principal purpose is to carry out the activities in question.

Consideration has been given as to whether the provisions of TUPE apply to the recommendations set out in this report based upon the statutory provisions and case law.

Whilst there are currently several employees within Access Harrow carrying out activities which are not currently outsourced, their job descriptions are generic and as there are multiple vacancies within the service, employees will simply carry out other duties instead of non automatic assessments for concessionary transport. As such, it is believed that TUPE will not affect the employees currently working on these services should this work be outsourced. However, in the case of some work activities currently carried out by the dedicated existing contractor's staff, there may be a TUPE implication that will need to be addressed through the procurement arrangements and contract documentation.

Consultation - Consideration has been given to the Council's duty to consult in accordance with Section 3 of the Local Government Act 1999. However, there is no requirement to consult in relation to this provision as there will be no significant changes to the services provided as a result of the proposals recommended in this report.

Changes to Blue Badge eligibility criteria

Transport for London have concluded consultation in respect of the eligibility criteria for Blue Badges, and are to issue revised Guidance in respect of new eligibility criteria to confirm that non physical disabilities such as autism or dementia are to be considered. These changes are likely to mean that local authorities will need to appoint Eligibility assessors to undertake assessments in respect of these conditions as well. There is currently no firm date for the issue of new Guidance

2.7 Financial Implications

As the Council is responsible for the expenditure of Discretionary and National Disabled Freedom Pass costs, has a statutory duty to assess Blue Badges and Taxi card applications in line with both national guidance and the London wide Taxi scheme in place, it is paramount that an effective eligibility assessment process is in place, including an independent assessor supplier for non-automatic cases.

The current Harrow annual value for the proposed services in scope is approximately £215,000. A budget of £215k exists which currently pays for non automatic and automatic assessments as well as the full administration of concessionary travel. As such the expected Harrow expenditure for these services over 7 years is £1.5m.

As it is anticipated that the procurement will be a joint one with Lambeth (lead by Harrow), the headroom in the overall contract value has been raised to £3m. This will ensure that Lambeth's expected expenditure is also covered.

2.8 Performance Issues

The new contract will make provision for compliance with a number of key performance targets concerning provision of the service. The targets will need to be complied with to ensure no detriment to the current service and a seamless service to residents.

2.9 Environmental Impact

There are no direct environmental impacts anticipated from the recommendations contained within this report.

2.10 Risk Management Implications

Risk included on Directorate risk register? No
Separate risk register in place? No

Due to the fact that guidance for processing “hidden disability” applications has not yet been issued, that the local authority has no history of application volumes regarding this area of work, and the fact that service providers only have the DfT consultations outcomes to guide them, there is the risk that a new supplier will not deliver the quality aspect of the contract, or that to meet quality, that the market price may be much higher than the existing available budget, leading to budget pressures within the service.

There is an additional risk that the market may not be prepared to take on the full administration of the service and as such this is being mitigated by the breaking down of the services into different LOTs. This will ensure that the traditional mobility assessment requirement is separated from the Concessionary Travel administration LOT, which will ensure we encourage the market to tender for the LOT's they are comfortable with.

2.11 Equalities implications

A predictive Equalities Impact Assessment has been undertaken for the proposed procurement and is attached in the Appendix to this report.

2.12 Corporate Priorities

The recommendations contained within this report support the Council's corporate priority of “Making a difference for the vulnerable”. Carrying out the procurement for a contractor to continue assessing mobility claimants ensures those in need of concessionary travel concessions are awarded them quickly and are assessed fairly and in a consistent manner.

Section 3 - Statutory Officer Clearance

Name: Sharon Daniels

on behalf of the
Chief Financial Officer

Date: 12 February 2019

Name: Sharon Clarke

on behalf of the
Monitoring Officer

Date: 21 January 2019

Section 3 - Procurement Officer Clearance

Name: Nimesh Mehta

Head of Procurement

Date: 12 February 2019

Ward Councillors notified:

NO

EqIA carried out:

Yes

EqIA cleared by:

Alex Dewsnap

Section 4 - Contact Details and Background Papers

Contact:

Fern Silverio (Head of Service – Collections & Housing Benefits),
Tel: 020-8736-6818 / email: fern.silverio@harrow.gov.uk

Background Papers:

None

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

NO – CALL IN APPLIES