

From: Peter Osborne, Cabinet Member for Highways & Transport
Simon Jones, Corporate Director, Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 9 September 2025

Subject: **To extend current Dynamic Purchasing System (DPS) framework SS15124 Home to School Transport (taxi)**

Key Decision: **25/00079**

Classification: **Unrestricted**

Past Pathway of Paper: **N/A**

Future Pathway of Paper: **For Cabinet Member Decision**

Electoral Divisions Affected: **All**

Summary:

The current DPS framework expires on the 31st of December 2026 and under the new Procurement Act 2023, there is no like for like replacement. To provide suitable time for alternative procurement frameworks to be fully explored and a new commercial strategy to be developed, it is proposed to extend the current DPS to 23rd February 2029. Such an extension is allowed under the Procurement Act 2015.

Recommendation: The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to:

- **EXTEND** the current DPS framework for the Home to School Transport (taxi) SS 15124 from its current expiry of 31st October 2026 to 23rd February 2029.
- **ENABLE** the development of an appropriate commercial strategy, taking account of the procurement options available under Procurement Act 2023.
- **DELEGATE** authority to the Director of Growth, Environment and Transport to approve the DPS extension report, as prepared by Commissioning and Procurement.
- **DELEGATE** authority to the Corporate Director of Growth, Environment and Transport to take other necessary actions, including but not limited to entering into contracts or other legal agreements, as required to implement the decision as shown at Appendix A.

1. Introduction

- 1.1 Since the 1st of January 2017, the procurement of Special Educational Needs (SEN) /Adult Social Care (ASC) transport has been through a Dynamic Purchasing System (DPS), compliant with the Public Contracts Regulations 2015 (PCR2015). This

framework for procurement was chosen following an exhaustive evaluation and it was chosen for the flexibility it provided for procurement, especially at short notice.

- 1.2 The DPS is due to expire on the 31st of October 2026 and Public Transport alongside colleagues in Procurement and Commissioning have been examining the options available under the Procurement Act 2023.
- 1.3 Under the new act there is no comparable replacement for a DPS and so, to provide further time to evaluate a new commercial/procurement strategy, this paper seeks to extend the current DPS from 31st October 2026 to 23rd February 2029. Under the Procurement Act, any DPS extension must be made by 23rd February 2026, and the latest it can run is to 23 February 2029.

2. Background

- 2.1 Kent County Council (KCC) has a statutory duty to provide home to school transport for eligible children of compulsory school age under the Education Act 1996. In addition, under Adult Social Care, it supports clients with transport to a range of support functions.
- 2.2 The annual budget (based on 25/26) for Home to School Transport SEN transport is £83.9M and is a budget within Children's, Young People and Education (CYPE). The cost of transport for Adult Social Care sits across a range of services within the ASC directorate.
- 2.3 The Home to School Transport (taxi) DPS, was put in place to enable the service to procure contracted services, for vehicles with 8 seats or less. Although named taxi, the framework is open to operators with hackney carriage (taxi), private hire, school only private hire or bus operators focused on specialist services.
- 2.4 The framework is used to procure transport for children and adults, covering SEN school transport, SEN Further Education (FE) transport, Adult Social Care and specialist educational support. These are bespoke transport arrangements, which could be a single trip, a range of trips or a fixed period, up to several years.
- 2.5 Due to the nature of the transport required, tenders can be on a planned cycle i.e. transport into one educational establishment every three years, to a need that has to be covered in 24 hours. Tenders can be released to the market in lots or as single needs. The volume of tenders is significant and there are service agreements in place with both CYPE and Adult Social Care, in respect of transport response times.
- 2.6 The DPS allows the Public Transport Team to run competitive and PCR2015-compliant tenders with pre-qualified operators.
- 2.7 The framework was determined as the most effective route to market in 2016. This determination was made, based on how transport contracts were tendered, the timescales sometimes involved, and the volume of tenders undertaken. In addition, feedback was sought from other local authority transport teams, in particular their preferred procurement routes and benefits of. Approval of the route to market involved full engagement with a range of stakeholders across the authority

- 2.8 When the DPS was set up in 2016, the Public Contract Regulations 2015 applied. However, as of 24th February 2025, any new procurement or purchasing mechanism is subject to the Procurement Act 2023, which provides new procurement processes but does not have a directly comparable replacement for Dynamic Purchasing Systems. Under the Procurement Act 2023 (PA23), there is no longer the option to establish new Dynamic Purchasing Systems. However, two new arrangements were introduced: Open Frameworks and Dynamic Markets. These options have been explored and assessed, and it has been determined that they are not currently viable routes to market for this service. In addition, 'Guidance: transitional and saving arrangements' was published to advise on managing the changeover from the previous legislation, including the lifespan of extant DPSs. With the current DPS set to expire at the end of next year, several options for fulfilling KCC's statutory obligations have been identified and evaluated.
- 2.9 Working alongside colleagues in Commissioning and Procurement, the service still believes that a DPS provides a procurement framework, that meets its needs in terms of being procurement compliant, flexible, allows planned tendering but also short-term tendering, even for urgent needs. Therefore, to not have a comparable replacement for the DPS under the new Procurement Act 2023, poses a risk to how the service tenders transport and ultimately users.
- 2.10 This is not an issue unique to Kent, several local transport authorities (those tender transport contracts) have conveyed to national government the risk of not having a DPS replacement and the limits that the procurement options available bring to transport tendering. It is hoped that this may see changes brought forward by national government. The recognition of this gap in the Procurement Act has led to the allowance for DPSs to continue under transitional provisions until 23 February 2029.
- 2.11 DPSs live at the time the new Act came into effect must expire by no later than 23rd February 2029. The current termination date is 31st October 2026, but can be varied as described in Section 34, and regulation 72 of the Public Contract Regulations 2015.
- 2.12 Extending the term of the current DPS would minimise service disruption by retaining processes which KCC staff and Suppliers are already familiar with. Additionally, it offers relative stability in the medium-term, while the potential impacts of Local Government Reform crystallise. Whilst this still does not directly resolve the matter of the route to market beyond 23rd February 2029, it does offer an interim solution which can be delivered by Place CPD and managed by the Public Transport team, while work progresses to develop a longer-term commercial strategy.

3 Financial Implications

- 3.1 There are no financial implications from this extension of the DPS.
- 3.2 The DPS continues to provide value for money, as all tenders issued through the framework are subject to market testing. In that every tender issued, is seen by every supplier on the framework, so all suppliers can bid for each tender. Lowest compliant tender, based on price, wins the tender and bidders are ranked, based on their price. There is no automatic annual inflation uplift provided to contracts (only price change at re-tender). The framework allows the packaging of tenders to be varied and to undertake re-tendering, in response to change circumstance.

4. Options (other options considered but discarded)

- Procuring under PCR15
- Dynamic Markets
- Open Frameworks

5. Legal Implications

- 5.1 Appropriate legal advice was taken in respect of extending the current DPS until 23rd February 2029. Advice was sought from KCC's legal team, and an appropriate legal organisation was commissioned to provide the necessary advice.
- 5.2 That advice set out a recommended approach for making the modification, including the use of safe harbour provisions under the regulations, which aligns with both the Public Contracts Regulations and the Procurement Act.
- 5.3 On which basis, there are no legal implications.

6. Equality implications

- 6.1 An EqlA has been undertaken and there are no equality implications.

7. Other corporate implications

- 7.1 It should be noted that in extending the DPS arrangement, this is to provide time to explore the opportunities under the Procurement Act 2023 for an arrangement, that whilst complying with the new regulations, provides the flexibility in tendering currently enjoyed.
- 7.2 As such work will continue, between the service, Public Transport, and Commissioning and Procurement, to determine a post 23rd February 2029 arrangement.

8. Governance

- 8.1 Subject to key decision, the extension report in respect of the DPS will be prepared by Commissioning and Procurement, to be approved by the Corporate Director of Growth, Environment and Transport.

9. Recommendation

Recommendation: The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to:

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- ENABLE the development of an appropriate commercial strategy, taking account of the procurement options available under Procurement Act 2023.
- DELEGATE authority to the Director of Growth, Environment and Transport to approve the DPS extension report, as prepared by Commissioning and Procurement.
- DELEGATE authority to the Corporate Director of Growth, Environment and Transport to take other necessary actions, including but not limited to entering into contracts or other legal agreements, as required to implement the decision as shown at Appendix A.

10. Appendices

- Appendix A – Proposed Record of Decision
- EqlA

11. Contact Details

<p>Report Author: Phil Lightowler Head of Public Transport</p> <p>Telephone number: 03000 414073 Email: philip.lightowler@kent.gov.uk</p>	<p>Director: Haroona Chughtai Director of Highways and Transport</p> <p>Telephone number: 03000 412479 Email: haroona.chughtai@kent.gov.uk</p>
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