

# Norfolk County Council

## Record of Individual Cabinet Member Decision

**Responsible Cabinet Member: Cllr Fisher (Cabinet Member for Children's Services)**

### **Background and Purpose:**

- 1.1 In recent months, there has been a significant rise in the cost of fuel due to a number of worldwide events. NCC has received correspondence from operators highlighting the impact of the fuel increases on their cost of operations and the pressure that this is causing and longer-term implications if the situation were to continue, which ultimately could lead to the operators handing contracts back.
- 1.2 Reflecting cost increases and reduce competition prior to the Ukraine invasion, we have seen significant increases in contract prices for contracts tendered since September 2021

### **Decision:**

- 1. Temporary financial support arrangements are put in place for transport operators to assist with the significant, recent fuel cost increases seen as a result of significant, world economic shocks for a period of up to six months:**
  - a) The temporary financial support will be for contracts let prior to 31<sup>st</sup> December 2021, based upon 13% of the contract price and is only payable whilst fuel prices remain above 150p per litre for unleaded petrol (as per BEIS);**
  - b) The temporary financial support paid for each month will be based upon the weekly fuel price (unleaded petrol as per BEIS) at the end of the preceding month compared to the fuel price at the start of 2022, capped at 14%;**
  - c) The Executive Director for Children's Services is given delegated authority to agree the details of the scheme, due to Children's Services bearing the majority of the financial impact, with reference to the Executive Director of Adult Social Care and the Executive Director of Community and Environmental Services.**

**Is it a key decision? No**

**Is it subject to call-in? yes**

**If Yes – the deadline for call-in is:** 4pm, Thursday 28 April 2022

**Impact of the Decision:**

As detailed in the attached Report.

**Evidence and reason for the decision:**

As detailed in the attached Report.

**Alternative options considered and rejected:**

As detailed in the attached Report.

**Financial, Resource or other implications considered:**

As detailed in the attached Report.

**Record of any conflict of interest:**

None

**Background documents:**

**Date of Decision:** 20 April 2022

**Publication Date of Decision:** 21 April 2022

**Signed by Cabinet Member:**

I confirm that I have made the decision set out above, for the reasons also set out.

**Signed:**



**Print name:** Cllr John Fisher

**Date:** 20 April 2022

**Accompanying documents:**

# **Individual Cabinet Member Decision Report**

**Item No:**

**Report Title: Temporary Financial Support to Transport Providers**

**Date of Meeting: 14 April 2022**

**Responsible Cabinet Member: Cllr Fisher** (Cabinet Member for Children's Services)

**Responsible Director: Sara Tough** (Executive Director of Children's Services)

**Is this a Key Decision? No**

**If this is a Key Decision, date added to the Forward Plan of Key Decisions: N/A**

## **Executive Summary / Introduction from Cabinet Member**

In recent months, there has been a significant rise in the cost of fuel due to a number of worldwide events. NCC has received correspondence from operators highlighting the impact of the fuel increases on their cost of operations and the pressure that this is causing and longer-term implications if the situation were to continue, which ultimately could lead to the operators handing contracts back.

Reflecting cost increases and reduced competition prior to the Ukraine invasion, we have seen significant increases in contract prices for contracts tendered since September 2021.

On the 23<sup>rd</sup> March 2022, the Chancellor announced a 5p reduction in fuel duty as of midnight that evening. Given the size of increase in fuel prices since the start of 2022, this announcement, whilst welcome for providers, will not mitigate the difficulties being seen of delivering transport contracts within the current contract price.

The proposal for capped support up to 6 months allows for the market to settle following the recent economic shocks and allow NCC and the market to better understand the ongoing cost of fuel as part of transport contracts.

## Recommendations:

It is recommended that:

1. Temporary financial support arrangements are put in place for transport operators to assist with the significant, recent fuel cost increases seen as a result of significant, world economic shocks for a period of up to six months:
  - a) The temporary financial support will be for contracts let prior to 31<sup>st</sup> December 2021, based upon 13% of the contract price and is only payable whilst fuel prices remain above 150p per litre for unleaded petrol (as per BEIS);
  - b) The temporary financial support paid for each month will be based upon the weekly fuel price (unleaded petrol as per BEIS) at the end of the preceding month compared to the fuel price at the start of 2022, capped at 14%;
  - c) The Executive Director for Children's Services is given delegated authority to agree the details of the scheme, due to Children's Services bearing the majority of the financial impact, with reference to the Executive Director of Adult Social Care and the Executive Director of Community and Environmental Services.

## 1. Background and Purpose

- 1.1 As widely reported, we are seeing a significant rise in the cost of fuel due to a number of worldwide events, which has come on top of previous significant rises since the start of this financial year (2021-22). Table 1 in Appendix A provides more data points showing the level of increases.

Date	Pump price in pence/litre: ULSD <sup>1</sup>	% Increase since January 2022	% Increase since April 2021
05/04/2021	129.35	-13%	0%
03/01/2022	148.85	0%	15%
14/03/2022	169.48	14%	31%

- 1.2 We have had correspondence from operators highlighting the impact of the fuel increases on their cost of operations and the pressure that this is causing and longer-term implications if the situation were to continue, which ultimately could lead to the operators handing contracts back.

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<sup>1</sup> Sources: BEIS road fuel price statistics providing average UK retail 'pump' prices on a weekly basis

- 1.3 Since September 2021 **we have retendered 530 new contracts and have seen an overall general increase of 9.75% in the contract prices.** As discussed in a number of other forums, the increase in costs is due to a range of factors however, general inflation and particularly fuel costs are likely to play a part in this. The table below (table 2) shows a comparison for replacement and new contracts since September 2021.

**Table 2 - Replacement and new contracts**

<b>Framework Contract Basis</b>	<b>Baseline Contract Price (annual)</b>	<b>Total Award Price (annual)</b>	<b>Variance Contract Price</b>	<b>%</b>
Child and Adult Social Care	591,700.25	612,285.74	20,585.49	3.48%
Education Post 16	284,181.60	312,482.40	28,300.80	9.96%
Local Bus Services	408,832.87	411,295.89	2,463.02	0.60%
Mainstream Home to School	2,253,462.70	2,763,965.77	510,503.07	22.65%
SEN Home to School	6,607,484.90	7,035,131.44	427,646.54	6.47%
<b>Grand Total</b>	<b>10,145,662.32</b>	<b>11,135,161.24</b>	<b>989,498.92</b>	<b>9.75%</b>

- 1.4 For replacement contracts, we are able to compare directly the previous contract rate to that of the new tendered rate, whilst there are both increases and decreases in contract cost the underlying trend is an overall increase.

Table 4 – change in contract rate replacement contracts			
	Increase	Decrease	Total
Replacement	76	44	120
	63%	37%	

Where we are procuring new contracts, we do not have a previous contract rate, so have based the comparison on the estimate prior to tender.

Table 6 – change in contract rate new contracts			
	Increase	Decrease	
New Contract	173	103	276
	63%	37%	

For reference, tables 3 and 5 within Appendix A provide a split between replacement contracts and new contracts respectively.

- 1.5 Recognising that we are in highly unusual times, we have aimed to mitigate the impact of cost increase on the longer term by tendering for “shorter term contracts” of two years, with the option to extend, rather than the standard 5 years. It is felt that any shorter than the 2 years and we would not get sufficient interest from bidders.

- 1.6 The number of bids received for each tender is very low, again a good indicator of how poor the current market is currently with 400 routes having 3 or fewer bids, 128 routes only having one bidder.
- 1.7 As part of the annual contract review we would update the contract price and in normal circumstances this would reflect an increase in-line with the Council's planning assumptions around contracts, which this year is 2%. This 2% will be added to contracts from 1st April, but operators are saying this is not enough. The relevant details of our contracts are shown in Appendix B.
- 1.8 On the 23<sup>rd</sup> March 2022, the Chancellor announced a 5p reduction in fuel duty as of midnight that evening. Given the size of increase in fuel prices since the start of 2022, this announcement, whilst welcome for providers, will not mitigate the difficulties being seen of delivering transport contracts within the current contract price.
- 1.9 Despite this announcement, the national picture, in line with Norfolk, remains precarious as shown in this recent reporting by the Local Government Chronicle<sup>2</sup>:

*“With the war in Ukraine destabilising fuel supplies, some providers are exercising break clauses in their contracts and coming back with new tenders that are up to 20% more than last year. According to CCN, it is leaving councils with a choice - find the extra money or have the contracts and routes handed back to them. With a shortage of operators, there is a risk that services could be lost.”*

## **2. Proposal**

- 2.1 In addition to the 2% uplift from the 1<sup>st</sup> April 2022, it is proposed that we offer temporary support to operators through an uplift to the contract price for contracts let prior to 31<sup>st</sup> December 2021, specifically related to an allowance for fuel cost increase. This support would need to be time limited and only payable whilst fuel prices remain above 150p per litre<sup>3</sup> whilst both oil prices and the local transport market re-stabilises.
- 2.2 Whilst operators do not provide a breakdown of their costs as part of the tender submissions, we estimate that fuel represents about 13% of their overall contract price. This is based upon previous work undertaken through the covid pandemic where we adjusted operator costs to reflect reduced mileage.
- 2.3 The percentage payable is proposed to be based upon the weekly fuel price at the end of the preceding month compared to the fuel price at the start of 2022,

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<sup>2</sup> [Escalating fuel prices 'putting school transport at risk' | Local Government Chronicle \(LGC\) \(lgcplus.com\)](#)

<sup>3</sup> Sources: BEIS road fuel price statistics providing average UK retail 'pump' prices on a weekly basis

capped at 14% to reflect the fuel prices resulting from the Ukraine conflict whilst also reflecting good stewardship of NCC resources.

- 2.4 A review will be undertaken at the end of six months to determine if any further action is required.

### 3. Impact of the Proposal

- 3.1 The aim of the proposal is to share the impact of the sudden increase in fuel prices since January 2022 with providers to minimise the risk of providers being unable to deliver contracts.
- 3.2 If we modelled upon a 14% increase and made a monthly payment of 14% on the estimated fuel element of contract prices, in line with the increase in fuel price since January 2022, the impact would be as follows per month:

<b>Table 7 – Increased cost for 1 month increase</b>			
	<b>Estimated annual costs</b>	<b>Estimated annual fuel cost</b>	<b>Assumed temporary increase in Fuel allowance</b>
Adult	5,088,086.00	661,451.18	7,716.93
Children's Services	43,535,031.74	5,659,554.13	66,028.13
Public Transport	3,414,561.80	443,893.03	5,178.75
<b>Grand Total</b>	<b>52,037,679.54</b>	<b>6,764,898.34</b>	<b>78,923.81<sup>4</sup></b>

- 3.3 Presuming that the time-limited period was for 6 months (i.e. until 30 September 2022) and the proposed payment was made at the level of the cap, the estimated cost would be:

<b>Table 8 – Increased cost for 6 month increase</b>			
	<b>Estimated annual costs</b>	<b>Estimated annual fuel cost</b>	<b>Assumed temporary increase in Fuel allowance</b>
Adult	5,088,086.00	661,451.18	46,301.58
Children's Services	43,535,031.74	5,659,554.13	396,168.79
Public Transport	3,414,561.80	443,893.03	31,072.51
<b>Grand Total</b>	<b>52,037,679.54</b>	<b>6,764,898.34</b>	<b>473,542.88<sup>5</sup></b>

- 3.4 Over the next few months, it is anticipated that oil prices will have settled as supply and demand around the world adjust to the recent economic shocks and become more stable, reducing the risks to transport providers.

<sup>4</sup> This would be the equivalent of 2% of contracts being handed back and retendered at a high price, in line with table 2

<sup>5</sup> This would be the equivalent of 9% of contracts being handed back and retendered at a high price, in line with table 2

## **4. Evidence and Reasons for Decision**

- 4.1 The proposal seeks to share the additional cost burden currently being experienced by transport providers fulfilling NCC contracts with the intention of mitigating the risk of significant market failure and / or significant increases in the cost of contracts through retendering if contracts are returned by providers.
- 4.2 Additionally, a significant increase in contracts being returned by providers and additional retendering processes takes up significant NCC staffing resource, resulting in an opportunity cost preventing work to be undertaken that could contribute towards the delivery of budget savings.
- 4.3 The proposal for capped support up to 6 months allows for the market to settle following the recent economic shocks and allow NCC and the market to better understand the ongoing cost of fuel as part of transport contracts.

## **5. Alternative Options**

- 5.1 We could allow contracts to continue on current terms and agreed contract rates. However, as highlighted above, the main risk is that operators could hand back contracts or go out of business, leading to higher contract prices through retendering processes and service impact (and possible disruption) for some of our most vulnerable users.
- 5.2 Where necessary, it is possible to re-procure transport provision within one week, but the whole process can require an additional week to ensure that there is an opportunity for handover where appropriate (e.g. 'meet and greet' arrangements for some Special Educational Needs contracts).
- 5.3 It is expected that providers will want to mitigate risk of further increases and would therefore anticipate further price uncertainties and increases in any new tendering costs as well as potentially being unwilling to tender for new business if they fear that contracts will become unprofitable. The resulting scenario could be that contracts cannot be let and / or the prices paid for contracts significantly increase in excess of the direct cost increases seen.

## **6. Financial Implications**

- 6.1 The proposed support arrangements have an estimated cost of up to c. £0.5m for a 6-month period, as detailed above.
- 6.2 Whilst pressure within fuel prices had been seen prior to these 2022-23 Budget being set for NCC, these are additional costs to those anticipated due to the recent escalation, particularly seen since the invasion of Ukraine. The

proposed expenditure is intended to mitigate the risk of even more significant costs of market failure.

- 6.3 The most significant cost is anticipated to be for contracts within Children's Services. One-off funding is currently held in the Transport Equalisation Reserve<sup>6</sup> for additional school days in the financial year anticipated in 2024-25. This funding could be used to fund the majority of the cost of this proposal and future year's budgets will need to consider how the additional day anticipated in that financial year is funded.
- 6.4 The costs for Adult Social Care and Community and Environmental Services is less significant and if there are not sufficient resource within existing 2022-23 revenue budgets, then the costs will have a call upon each department's respective Business Risk Reserves.

## **7. Resource Implications**

- 7.1 **Staff:** By offering the proposed support arrangements the impact upon staff who deal with the contracting process and management will be minimised. However, if the alternative option is pursued, then there is likely to be a significant impact upon NCC staffing resource as they will need to deal with providers returning contracts and instigating and managing a significant number of additional re-tendering processes.
- 7.2 **Property:** None known
- 7.3 **IT:** None known

## **8. Other Implications**

### **8.1 Legal Implications:**

- 8.1.1 It had been planned that contracts would be increased by 2% inflation from 1<sup>st</sup> April 2022, in line with budget assumptions, in accordance with the extract of the contracts that NCC has with transport providers shown in Appendix B.
- 8.1.2 The proposal in this paper does not seek to amend this overall uplift to contracts on a recurring basis but is, instead, additional funding on a one-off basis.

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<sup>6</sup> Schools are expected to be open to children for 190 days per academic year but, due to the movement of Easter and the associated holiday each year, the number of days that fall in each financial year can vary (normally between 187 and 194 days). Therefore, the budget for Home to School Transport is normally prepared for 190 days and the Transport Equalisation Reserve is utilised to 'smooth' the impact of the varying numbers of days between financial years.

8.1.3 The Conditions of Contract for the Provision of Passenger Transport Services allow for variations in price to be made and as this proposed increase is for a maximum fixed term and only on 13% of the daily contract cost, the price variation would not exceed the limit allowed under Contract Standing Orders.

8.1.4 Any variations made to contracts will be done by way of a deed of variation to ensure that any changes are properly controlled.

**8.2 Human Rights Implications:** None known

**8.3 Equality Impact Assessment (EqIA) (this must be included):** If no action is taken to mitigate the impact upon providers, then potential market failure that may ensue could affect those with protected characteristics, most significantly due to lack of alternative service options being available – this would particularly impact those with special educational needs and disabilities for whom consistency of operator is key and could lead to some children not being able to attend school for a period of time. It would also affect those living in rural areas, e.g. the elderly, who rely on transport services to attend day care and health appointments and to alleviate social isolation.

**8.4 Data Protection Impact Assessments (DPIA):** None known

**8.5 Health and Safety implications (where appropriate):** None known

8.6 Sustainability implications (where appropriate): If no action is taken it could lead to a loss of transport operators in the market, making our ability to procure transport contracts much more difficult and/or more expensive. This would lead to an unsustainable situation for our future transport needs.

**8.7 Any Other Implications:** None known

## **9. Risk Implications / Assessment**

9.1 Given the correspondence received to date from operators, there is a significant and real risk that if costs continue to rise in the way they have over recent months, they could either go out of business or hand back contracts. Taxi contracts can generally give 28 days to 2 months-notice and bus contracts 4 months-notice.

9.2 In either situation we would need to reprocure services, which would be highly disruptive for pupils, especially for those with Special Educational Needs where routine and consistency is a key consideration, but it would also likely lead to higher contract costs as demonstrated in the recent tendering process, particularly as operators will be putting in prices with the view that fuel prices will continue to increase.

- 9.3 If contractors hand back contracts, they are excluded from rebidding for those contracts to prevent the approach being used to secure a price increase. However, this means that the pool of contractors available and, therefore, the potential competition reduces. As the number of bids for contracts has already significantly reduced following the pandemic, driver shortages and increased fuel prices, the impact of further reduction to competition could be significant price rises and / or contracts not being let.

## **10. Recommendations**

**It is recommended that:**

- 1. Temporary financial support arrangements are put in place for transport operators to assist with the significant, recent fuel cost increases seen as a result of significant, world economic shocks for a period of up to six months;**
  - a) The temporary financial support will be for contracts let prior to 31<sup>st</sup> December 2021, based upon 13% of the contract price and is only payable whilst fuel prices remain above 150p per litre for unleaded petrol (as per BEIS);**
  - b) The temporary financial support paid for each month will be based upon the weekly fuel price (unleaded petrol as per BEIS) at the end of the preceding month compared to the fuel price at the start of 2022, capped at 14%;**
  - c) The Executive Director for Children's Services is given delegated authority to agree the details of the scheme, due to Children's Services bearing the majority of the financial impact, with reference to the Executive Director of Adult Social Care and the Executive Director of Community and Environmental Services.**

### **Officer Contact**

If you have any questions about matters contained within this paper, please get in touch with:

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## Appendix A

**Table 1 – Increase in fuel prices**

Date	Pump price in pence/litre: ULSD	% Increase since start of the year
05/04/2021	129.35	
03/01/2022	148.85	0%
10/01/2022	148.65	0%
17/01/2022	148.70	0%
24/01/2022	148.81	0%
31/01/2022	149.68	1%
07/02/2022	150.30	1%
14/02/2022	151.10	2%
21/02/2022	151.95	2%
28/02/2022	153.36	3%
07/03/2022	158.56	7%
14/03/2022	169.48	14%

Sources: BEIS road fuel price statistics providing average UK retail 'pump' prices on a weekly basis

**Table 3- Replacement Contracts**

Framework Contract Basis	Baseline Contract Price (annual)	Total Award Price (annual)	Variance Contract Price	%
Child and Adult Social Care	172,340.25	138,888.94	-33,451.31	-19.41%
Education Post 16	70,461.60	80,544.00	10,082.40	14.31%
Local Bus Services	148,027.87	165,751.06	17,723.19	11.97%
Mainstream Home to School	955,762.70	1,143,294.65	187,531.95	19.62%
SEN Home to School	2,065,614.90	2,229,516.10	163,901.20	7.93%
<b>Grand Total</b>	<b>3,412,207.32</b>	<b>3,757,994.76</b>	<b>345,787.44</b>	<b>10.13%</b>

**Table 5 - New Contracts**

Framework Contract Basis	Baseline Contract Price (annual)	Total Award Price (annual)	Variance Contract Price	%
Child and Adult Social Care	419,360.00	473,396.80	54,036.80	12.89%
Education Post 16	213,720.00	231,938.40	18,218.40	8.52%
Local Bus Services	260,805.00	245,544.83	-15,260.17	-5.85%

Mainstream Home to School	1,297,700.00	1,620,671.12	322,971.12	24.89%
SEN Home to School	4,541,870.00	4,805,615.34	263,745.34	5.81%
<b>Grand Total</b>	<b>6,733,455.00</b>	<b>7,377,166.49</b>	<b>643,711.49</b>	<b>9.56%</b>

## Appendix B

10.1 The Council shall vary the Contract Price annually in March in accordance with the provisions of Condition 10.3, with any resulting price change applied from the following April.

10.2 Contracts that have been in operation for less than six months at 1 April and/or which have a contract length of less than 12 months will not qualify for a price increase.

10.3 An annual price review will be undertaken and determined by the Council, taking into account national movements in labour costs, fuel costs and the general movement of costs in the market. A determining factor of the price review will also be the availability of funding from within the Council.

10.4 Any decision in respect of the annual Contract price review and any subsequent variation in the price shall be at the Council's sole discretion.

10.5 Where the contract period has been extended a price increase will not be given for the remaining contract period unless agreed at the point of extending the contract.