

FALKIRK COUNCIL

**Subject: ACCESSIBLE TRANSPORT AND SHOPMOBILITY - ORDER OF MALTA
DIAL-A-JOURNEY LTD**
Meeting: POLICY AND RESOURCES COMMITTEE
Date: 15 NOVEMBER 2011
Author: DIRECTOR OF DEVELOPMENT SERVICES

1 INTRODUCTION

- 1.1 At the Policy & Resources Committee on 18 October 2011, Members agreed to defer making a decision on the above services operated by Order of Malta Dial-a-Journey Ltd (DAJ) until a Member / Officer /DAJ working group had reconvened to consider the following issues:
- EU Procurement Legislation
 - Issue regarding the merging of the accounting systems of DAJ and Shopmobility
 - The door-to-door evening service
 - Taxicard Booking Service on Saturday mornings
- 1.2 The Member /officer/DAJ Working Group met on Thursday 27 October 2011

2 UPDATE

2.1 EU PROCUREMENT LEGISLATION

- 2.1.1 From the Scottish Procurement Policy Note SPPN 10/2008, EU Procurement Legislation states that it is 'the responsibility of the individual contracting authorities to decide whether EC Treaty principles require advertising and competition. This decision should be based on the individual circumstances of the case taking into account:
- The subject matter of the contract;
 - The estimated value of the contract;
 - The specifics of the sector concerned (the size and structure of the market, commercial practices etc); and
 - The geographic location of the place of performance'
- 2.1.2 Circumstances where advertising and competition may not be required should be taken on a case by case basis and includes:
'where a service is of such a specialised nature that no market of suitable potential providers exist'.
- 2.1.3 Where an authority decides that a service does not need to be advertised and put out to competitive tender, it should ensure that it complies with the authority's standing orders and local procurement policy and that they are able to demonstrate that best value has been achieved.
- 2.1.4 However the SPPN 10/2008 also stipulates that 'contracting authorities should be aware that the award of Part B service contracts without any advertising or competition may be challenged by aggrieved suppliers.

- 2.1.5 The procurement regulations split services into two parts: Part A and Part B. Part A services require full compliance; Part B services only require compliance with some of the regulations. Transport services are Part A; social services are part B. This type of work can potentially fall within both categories. On balance it is considered that Part B applies to the accessible transport service. This on the basis that the predominant object behind these arrangements is a social one rather than the straightforward conveyance of passengers.

2.2 MERGE ACCOUNTING SYSTEMS OF DAJ & SHOPMOBILITY

- 2.2.1 At the P&R Committee on 18 October 2011, a question was asked that if DAJ and Shopmobility were merged the Order of Malta Dial a Journey Ltd would be able to make savings. However, Shopmobility has already been absorbed into DAJ it is only the accounts that remain separate. Order of Malta Dial-a-Journey did say that the underspend from Shopmobility has previously been diverted into the accessible transport budget where the funding was tight. It was agreed that there was little benefit in merging the two accounting systems.

2.3 DOOR-TO-DOOR EVENING SERVICE

- 2.3.1 Owing to a reduction in grant funding to DAJ (grant funding was reduced in 2010/11 by 3% and in 2011/12 by 5% with no inflationary increases), the Order of Malta Dial a Journey Board concluded that they are unable to sustain the level of service required by the current Service Level Agreement. They are intending to reduce the service operating time from 8am -9pm to 9am - 7pm. DAJ have agreed to fund the current service from the surplus of their commercial activities until 31 March 2012, when this will be reviewed once the Order of Malta Dial a Journey know what funding they will be receiving from Falkirk, Stirling and Clackmannanshire Councils.
- 2.3.2 It was reported to the P&R Committee of 18 October 2011, that the actual costs of running the Shopmobility service was £18,000 less than the current grant funding. It was recommended that the Council could realise a saving and reduce the grant payment for the Shopmobility service by £15,000.
- 2.3.3 At the Member / Officer / DAJ Working Group, DAJ asked if these monies could be retained due to the reduction in grant funding in recent years and the consequential difficulty they are having operating the accessible transport SLA. DAJ has suggested that this funding could be used towards the continuation of the existing accessible transport service beyond 7pm in the Falkirk area and if there is any remainder, this would be used to help off set the potential financial losses incurred in delivering the door-to-door service in Falkirk area.
- 2.3.4 Table 3 shows the number of single trips undertaken over an 18 month period, before 9am and after 7pm. The number of passengers carried is low. DAJ has suggested that their most busy evening is a Friday. On that basis, Members could consider paying 1/7th of the £15,000 towards maintaining the Friday evening service in the Falkirk area. This would be in the region of £2,150.

2.4 TAXICARD BOOKING SERVICE (SATURDAY MORNINGS)

- 2.4.1 Due to the recent budget cuts as stated above, the Order of Malta Dial a Journey Board has stated that it wishes to reduce the booking service for Taxicard on a Saturday. The effect is that people will no longer be able to book a taxi on a Saturday morning for the following Monday. (Taxicard users were never able to book a taxi on the Saturday morning for the same day).

3 SUMMARY

3.1 As outlined in the report, Members do not have to decide to go to tender for the accessible transport service as it can be described as a social service and therefore falls into part B of the EU Procurement legislation. However, it appears that there is an emerging market for the supply of such services and, although this market may be limited, Falkirk Council could be challenged for not competitively tendering these services.

3.2 Three broad options for operating the accessible transport service, Shopmobility and the Taxicard Booking Service have been reported previously. There are possible variants depending on the intentions of other Councils and the position regarding the Falkirk Shopmobility service. They are as follows:

3.3 Focused Development of the Current Position

3.3.1 This would be to provide DAJ with a more robust SLA setting out key performance indicators, benchmarking, quality standard and progressive targets along with sanctions and rewards. This approach has been taken over the last two years and the necessary financial and operating information is now more forthcoming. There has been much improvement in the allocation of overheads between the accessible transport service and other activities DAJ is involved with. There remains one key question which has not yet been answered, and that is the mileage for the vehicles used on the accessible transport service within the Falkirk Council area.

3.4 Tender the Accessible Transport Door to Door and associated services

3.4.1 The recent expressions of interest have indicated that there is a market for the supply of the door to door wheelchair accessible transport service, Taxicard booking and Shopmobility services. After evaluation of the Pre-Qualifying Questionnaire, six organisations were found to meet the minimum criteria. The organisations involved varied in size and included the following types:

- (i) Taxi Company
- (ii) Large community transport operator
- (iii) Major bus operator

3.4.2 This evaluation process was completed in conjunction with officers from Stirling and Clackmannanshire Councils.

3.4.3 The benefit of following a tendered approach to the supply of these services is that it would resolve some of the issues regarding Best Value and EU procurement regulations. In this instance the cost would more demonstrably reflect the market value for the provision of these services.

3.5 Extend the Remit of the In-House Day Centre Operation

3.5.1 There are increasing examples of local authorities taking the accessible transport element in-house. In these instances these services tend to operate around the Social Work Adult Day Centre transport service and typically operate as a maximum between 9:30am and 2:30pm, Monday to Friday; and often it is not a door-to-door service but operates on a semi-fixed route to fixed destinations (e.g. Bonnybridge area to Falkirk town centre on Tuesday mornings).

3.6 Other Forth Valley Councils

- 3.6.1 The procurement by tender of these services could allow for the service to be continued across Forth Valley. However, until it is clear whether Stirling and Clackmannanshire Councils would join in with any tender process, it could leave Falkirk Council to tender for a service within the Falkirk Council area only. It is not known when Clackmannanshire and Stirling Councils will make a decision.
- 3.6.2 The Shopmobility service is specialist and is not always provided in conjunction with an accessible transport provider. Stirling Council's Shopmobility is contained within their bus station and they could conceivably operate it in-house. However, Falkirk Council's Shopmobility service is provided within a private shopping centre car park, which would require the Council to find suitable premises if it were to take this service in-house. On balance, it is recommended that Committee offers DAJ a five year SLA to operate the Shopmobility service at £49,000 per annum (plus inflation) from 1 April 2012.

4 CONCLUSION

- 4.1 Of the above options, it is considered that, sooner or later, tendering as much as possible of the services would demonstrate Best Value and would comply with EU procurement regulations.
- 4.2 However, there are issues which need to be considered. Does this Council wish to await the decisions by Stirling and Clackmannanshire Councils? The Taxicard booking system would have to have sufficient control measures for booking taxis to avoid any conflict of interest if a taxi company were to be awarded the contract. If the Shopmobility tender were awarded to a company other than Order of Malta Dial-a-Journey, premises may need to be found by the successful bidder.
- 4.3 If Members wish to proceed with tendering in the near future, it is recommended that the previously agreed Service Level Agreement from 1 April 2012 to 30 September 2012 be extended to 31 March 2013 in order to give certainty to the company. (This could also be exempted from the 2012/3 budget process on this occasion, in view of the recommended £15,000 reduction for Shopmobility support (para 2.3.2.). The amounts for these grants would be £49,000 for Shopmobility and £190,798 for the accessible transport service.
- 4.4 Alternatively, if Members wished to await decisions by the other Councils an extension of the SLA to 31 March 2013 would also be required.

5 POLICY, PERSONNEL, LEGAL AND FINANCIAL IMPLICATIONS

- 5.1 There are no policy implications, as the services would still be provided for residents.
- 5.2 The legal implications of state aid legislation are that the possibility of tendering should be considered periodically.
- 5.3 The financial implications are that the cost of the services would be more thoroughly identified. However, it does not mean that through the tendering process that the services will necessarily cost less than the service operated by the Order of Malta Dial-a-Journey Ltd.
- 5.4 TUPE (Transfer of Undertakings Protection of Employment Regulations (2006)) regulations may apply to Shopmobility and door-to-door accessible transport staff should these services come under the control of another organisation. This would be a matter between DAJ and any potential new provider.

6 RECOMMENDATIONS

6.1 It is recommended:

- a. that operation of the Shopmobility service should be offered to the Order of Malta Dial-a-Journey under a new SLA from 1 April 2012 to 31 March 2017 at £49,000 (plus inflation) per annum for acceptance within one month of the offer;
- b. that the already authorised SLA from April to September 2012 be extended to 31 March 2013;
- c. that Members decide whether they wish to await decisions by Stirling and Clackmannanshire Councils or tender for the Accessible Transport and Taxicard Booking Service (and Shopmobility Service if recommendation (a) above is not approved, or not accepted by the company) for the Falkirk Council area only; and,
- d. that the funding of the accessible transport, Shopmobility and Taxicard booking services be exempted from the annual corporate external funding review because they are reviewed on a longer term basis by this Committee.

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Director of Development Services

Date: 9 November 2011

Contact Officer: Gary McGowan, Tel. 01324 504925

Table 1 - Falkirk Summary Statistics 2001-2011

Table 2 - DAJ Falkirk Passenger Statistics between April 2009 and March 2011

Table 3 – Falkirk Door to Door Single Trip Analysis – April 2010 to September 2011

LIST OF BACKGROUND PAPERS

1. 2010/11 DAJ Service Level Agreement Review Papers
2. DAJ Activity Report
3. Report by the TAS Partnership, January 2008, *Order of Malta Dial-a-Journey: Analysis and CT Procurement Options for Falkirk Council*.
4. Report by TAS Partnership, 2006, *Review of Order of Malta Dial-a-Journey*
5. Scottish Procurement Directorate, 22 August 2008, *Scottish Procurement Policy Note SPPN 10/2008*

Anyone wishing to see these reports should contact Gary McGowan (01324 504925)

Falkirk Summary Stats 2001-2011
Table 1

	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2008/09	2009/10	2010/11	2011/12
DaJ Passengers	5562	5110	4784	4701	4647	4525	7491	9546	10560	
DaJ Escorts	1037	1031	964	851	983	956	1179	1779	1931	11851*
Other Contracts Pass	117	82	149	76	73	24				
Group Hire	1656	1315	1524	1261	1324	1389				
Total	8372	7538	7421	6889	7027	6894	8558	11325	12525	11851*

Falkirk Passengers Year on Year Comparison
Table 2

2009/10				2010/11				2011/12	
	Pass	Escorts	Total		Pass	Escorts	Total	Projecte d	Total
Apr	747	134	881	Apr	1008	231	1239	Jul 10	1052
May	782	127	909	May	975	190	1165	Aug	1106
Jun	961	159	1120	Jun	933	161	1094	Sep	1105
Jul	987	232	1219	Jul	821	231	1052	Oct	1096
Aug	976	253	1229	Aug	907	199	1106	Nov	1349
Sep	865	117	982	Sep	976	129	1105	Dec	422
Oct	709	163	872	Oct	926	170	1096	Jan	875
Nov	745	131	876	Nov	1169	180	1349	Feb	954
Dec	642	108	750	Dec	360	62	422	Mar	1068
Jan	568	90	658	Jan	700	175	875	Apr	935
Feb	727	125	852	Feb	848	106	954	May	936
Mar	837	140	977	Mar	958	97	1068	Jun 11	953
Total	9546	1779	11325	Total	10560	1931	12525		11851*
Monthly Average		944		Monthly Average		1044		Monthly Average	987*

Figures supplied by Dial-a- Journey Ltd July 2011

* Projected Usage Figures based on actual Jul10- Jun 11

Falkirk Door to Door Single Trip analysis - April 2010 to September 2011
Before 9am and After 7pm

Table 3

	<8am	8am – 9am	7pm – 8pm	8pm – 9pm	9pm – 10pm	10pm – 11pm	11pm>
Apr – Jun 2010	0	16	19	14	22	28	0
Jul – Sept 2010	0	50	29	11	8	13	0
Oct – Dec 2010	0	96	33	15	10	25	0
Jan – Mar 2011	1	62	17	13	16	30	0
Apr – June 2011	0	59	16	4	21	18	0
Jul – Sept 2011	0	66	19	9	11	14	0
Total	1	349	133	66	88	128	0