



CABINET – 15TH SEPTEMBER 2017

**SPECIAL EDUCATIONAL NEEDS AND MAINSTREAM HOME TO
SCHOOL TRANSPORT POLICIES – APPROVAL TO CONSULT**

**REPORT OF THE DIRECTOR OF ENVIRONMENT AND
TRANSPORT**

Purpose of the Report

1. The purpose of this report is to seek the Cabinet's approval to consult on proposed changes to the Special Educational Needs Transport Policy and the Mainstream Home to School Transport Policy so far as they relate to non-compulsory school age children.

Recommendations

2. It is recommended that:
 - (a) The proposed changes to the Special Educational Needs Transport Policy and the Mainstream Home to School Transport Policy as set out in paragraphs 22 to 24 of this report, be approved for consultation, including any low income contribution;
 - (b) A further report be submitted to the Cabinet in spring 2018 regarding the outcome of the consultation and presenting the final revised Policies for approval.

Reasons for Recommendations

3. Significant growth pressures on the Council's Special Educational Needs (SEN) transport budget mean that a review of the discretionary element of transport provision for children not of statutory school age is required to ensure future expenditure on this Service can be contained within the funding available.

Timetable for Decisions (including Scrutiny)

4. Subject to approval by the Cabinet, the consultation will take place from 25th September 2017 to 21st December 2017. The Environment and Transport

Overview and Scrutiny Committee will consider the proposals as part of the consultation on 22nd November 2017. The outcome of the consultation together with the revised Policies will be presented to the Cabinet for approval in spring 2018.

5. Any changes to the existing Policies will need to be determined and published by mid-September 2018 if it is to be implemented with effect from September 2019 as there is a statutory requirement to give 12 months' notice of a change in Policy.

Policy Framework and Previous Decisions

6. The Council has a statutory duty to provide free transport to schools for eligible compulsory school age children. For non-eligible children (i.e. children not of statutory school age) the provision of transport is at the County Council's discretion and any proposed changes to such provision should be consulted upon and the responses considered before any change in policy is introduced.
7. The current policy on Mainstream Home to School Transport was agreed by the Cabinet in July 2013 and implemented in September 2015. The Special Educational Needs Transport Policy was agreed by the Cabinet in April 2012 and implemented in September 2013.

Resource Implications

8. The Director of Corporate Resources has been consulted on this report.
9. The current Medium Term Financial Strategy (MTFS) for 2017/18 to 2020/21 has a shortfall of £23m by 2020/21. A number of 'savings under development' are being considered which will contribute to closing this gap. One of these is a review of discretionary school transport provided for children not of statutory school age of which this consultation considers options for reducing spend.
10. The changes proposed are estimated to generate annual savings up to £946,000 depending on exactly what is implemented following the consultation. The amount will also depend on the number of individuals with other circumstances that will require the County Council to continue to provide transport in the conventional way.
11. The proposed changes will also specifically mitigate the increasing cost of post-16 SEN transport. The SEN transport budget is growing at around 5% per year due to increasing delivery costs and increasing numbers of SEN pupils. More detail is given in Part B of this report, below.

Comments of the Director of Law and Governance

12. The Council is required to produce an Annual Transport Policy Statement which specifies the transport arrangements it has put in place for students of 6th form age (i.e. children not of statutory school age) receiving education or training, as well as the arrangements it considers necessary for the provision of financial assistance for reasonable travel expenses.
13. The Council has discretion to determine what transport and financial support is necessary to facilitate attendance but must have regard to the Post-16 transport to education and training guidance issued by the Department for Education in – February 2014. The Council must give effect to the arrangements set out in its Policy Statement and must act reasonably in the performance of its duties.
14. The current Department for Education statutory guidance on home to school travel and transport (July 2014) does not specify any timescales for policy changes.
15. The guidance suggests in paragraphs 52 and 53 that:

52. Local authorities should consult widely on any proposed changes to their local policies on school travel arrangements with all interested parties. Consultations should last for at least 28 working days during term time. This period should be extended to take account of any school holidays that may occur during the period of consultation.

53. Good practice suggests that the introduction of any such changes should be phased-in so that children who start under one set of transport arrangements continue to benefit from them until they either conclude their education at that school or choose to move to another school. Parents make school choices based on, amongst other things, the home to school transport arrangements for a particular school, and any changes might impact adversely on individual family budgets.

Circulation under the Local Issues Alert Procedure

A copy of this report has been sent to all Members of the Council under the Members' News in Brief service.

Officers to Contact

Phil Crossland Director Environment and Transport
 Telephone: 0116 305 7001
 Email: Phil.Crossland@leics.gov.uk

Ann Carruthers, Assistant Director Highways and Transportation
Telephone: 0116 305 7966
Email: Ann.Carruthers@leics.gov.uk

PART B

Background

16. The Education Act 1996 places a duty on Local Authorities to provide free transport to school for eligible compulsory school age children. The statutory framework defines eligible children as:
 - those who are unable to walk to their nearest qualifying school because of their SEN, disability or mobility problems;
 - those who are unable to walk to their nearest qualifying school in reasonable safety because of the nature of the route;
 - those who live outside of the statutory walking distance of two miles for children aged under 8 and 3 miles for children aged 8 or over (which are the distances which children or young people are deemed to be able to walk to school accompanied as necessary by an adult, provided a suitable walking route is available);
 - those whose parents are in receipt of certain specified benefits, where walking distances are reduced and choice of schools increased (Extended Rights eligibility).

17. The provision of post-16 mainstream and SEN transport and pre-school SEN nursery transport is on a discretionary basis and the County Council makes a charge for their provision. Mainstream post-16 transport is charged for at an average of the full cost of providing the service (£660 for 2017-18). SEN pupils who apply for discretionary transport to nursery or post-16 provision are charged a contribution at the same rate as the mainstream discretionary transport, although the average full cost of providing transport for SEN children is much higher. Children from a qualifying low income family receive transport for free.

18. The implementation of the above charges was determined by the Cabinet in July 2013 as a full cost recovery model against mainstream post-16 transport costs, meaning charges have increased in subsequent years from £425 in 2013-14 to £660 in 2017-18. The post-16 SEN contribution is charged at the same rate as mainstream as the average cost of provision is around £5,000 per school year.

19. The SEN transport budget has growth of £350,000 in 2017/18 and is £9.1m. Further growth of £365,000 is forecast for 2018/19, £380,000 in 2019/20 and £395,000 in 2020/21 if costs cannot be mitigated.

20. In 2014/15 the Highways and Transport revenue budget was £48m with the SEN transport budget spend being £7.1m (14.8% of the budget). In 2020/21 the Highways and Transport budget is expected to be £35.5m and SEN transport spend with growth is forecast to be £10.24m (28.8% of the budget).
21. There were 1,512 SEN pupils transported in 2013/14 with an increase to 1,608 in 2016/17 and these numbers are expected to continue to rise. Increasing complexity of medical and behavioural needs of pupils have increased the costs of such transport as more solo transport and better trained drivers and staff are required to ensure the safety of pupils in the event of an incident whilst travelling.

Proposed policy amendments for consultation

22. Given the current savings gap faced by the County Council and the increasing pressure on the home to school transport budget, in particular regarding SEN transport, current service levels are unsustainable and action needs to be taken to manage the growth pressures in this area. Therefore the following changes to the Council's current Policies in regard to discretionary transport provision and low income exemptions are being proposed:
 - i. To remove the 100% discount received by low income families for non-compulsory school age children travelling to SEN nurseries and introduce a contribution for transport cost (where provided). The consultation will seek views on the appropriate level of contribution. This affects 38 children attending nursery and could generate savings of up to £25,000.
 - ii. To remove the 100% discount received by low income families for non-compulsory school age children travelling to mainstream and SEN post-16 education providers and introduce a contribution for transport cost (where provided). The consultation will seek views on the appropriate level of contribution. This affects 151 SEN and 32 mainstream post-16 children and could generate savings of up to £121,000.

and/or

- iii. To remove traditional transport methods (Council fleet minibuses or taxis) for all eligible SEN post-16 children and replace it with a Personal Transport Budget (PTB) payment. Consideration will need to be given to exceptions where traditional transport would be retained – the consultation responses will inform this. This affects 320 children and could generate savings of up to £773,000.

and/or

- iv. To cease providing post-16 transport for eligible mainstream post-16 students but to provide a travel grant to assist with transport costs for those in isolated rural areas or on low income. This affects 58 children and could generate savings of up to £27,000.
23. There may be circumstances where traditional transport may still be provided for a small number of passengers. Any application of low income exemptions and contributions for post-16 transport (mainstream or SEN) would need to be considered when calculating any PTB offered. A similar consideration may be required for travel grants.
 24. The consultation will seek to determine whether students from low income households should have a different PTB rate. There will be a continuing expectation that students make a contribution towards the cost of their transport arrangements (currently £660 for the 2017/18 academic year), therefore the PTB offered would take account of any contribution determined.
 25. Comparisons have been made with the arrangements adopted by other local authorities and some expect some form of contribution to be made by students from a low income background. These range from no discount in Sheffield (students are signposted to the 16-19 national bursary fund), a 50% discount in Essex, a £20 discount in Derbyshire (from a £265 contribution) and no contribution for SEN post-16 students in Norfolk. In exercising discretion, the statutory guidance makes it clear that the Council should take into account affordability issues and arrangements to support those on low income.

Implications of the proposed policy changes

26. There are 380 students who travel on the mainstream post-16 scheme of which 32 are exempt from charges as they are from a low income family. There are a total of 375 students who travel on the SEN post-16 scheme of which 151 are exempt from charges due to low income. In addition there are 38 children with SEN who receive transport to nursery all of whom are exempt from charges due to low income.
27. There can be no doubt that the proposed changes represent a radical shift in service delivery from that which has traditionally existed for many years. However the effect of public sector austerity means that both the Council and communities will need to come to terms with different models and levels of service delivery. With the removal of traditional transport particularly for a number of children with SEN, families will need to consider

how they will provide for their child's travel needs in the future, and the consultation will seek views on this.

28. From September 2017 PTBs have been a discretionary offer for all SEN passengers as an alternative option to traditional transport, as required by the SEN Code of Practice, and have already been taken up by around 8% of families receiving transport under the SEN Transport Policy.
29. Families can use a PTB in a number of ways, including:
 - a) Using their own car – using a PTB to cover the cost of fuel and maintenance for their vehicle.
 - b) Sharing with other families – families with individual PTBs pool their resources and share the journeys to and from school between them to suit their individual family and work commitments during the week.
 - c) Arranging care for other children – using the PTB to pay someone to childmind other siblings in the morning and in the afternoon so that the parent can take their child to and from school.
30. Phasing and/or transitional arrangements will also be considered and these will be informed by the consultation responses.
31. Revised application processes will need to be designed to deliver transparent transport eligibility application and decisions linked to the PTB offer.

Consultation

32. A full public consultation will be undertaken from 25th September 2017 to 21st December 2017 to seek feedback regarding the proposed Policy changes. The consultation will be available online via the County Council's website with paper copies available upon request. Specific consultation will also be undertaken with SEN nurseries, SEN schools, mainstream and SEN post-16 schools/colleges and parents/guardians.

Equality and Human Rights Implications

33. The Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination and to promote equality of opportunity between different protected groups. The Council will need to take account of the requirements of disabled parents and children in the application of the SEN Transport Policy and Mainstream Home to School Transport Policy and to make reasonable adjustments to this Policies where required by individual circumstances.

34. Any changes to the current SEN Transport Policy and the Mainstream Home to School Transport Policy will impact on parents/guardians of children accessing discretionary education provision who are not of compulsory school age. There are provisions in the Statutory Guidance providing for low-income families of compulsory school age children which provide free school transport to the three nearest schools between 2 and 6 miles from home address.
35. An Equality and Human Rights Impact (EHRIA) assessment will be completed and informed by the outcome of the consultation, the outcome of which will be presented to the Cabinet in spring 2018 alongside the consultation outcomes to assist the Cabinet with the exercise of its Public Sector Equality Duty under the Equality Act 2010.

Background Papers

Mainstream Home-School/College Transport Policy (May 2017)

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2017/6/28/Mainstream-Policy-2017-18.pdf>

Special Education Needs Home to School/College Transport Policy for the 2017/18 Academic Year

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2016/9/26/SEN-school-transport-policy2017-2018v1.1.pdf>

Transport policy statement for learners aged 16-18 in further education and continuing learners aged 19 and over

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2017/5/26/Post-16-Transport-Policy-Statement-For-Sep-2017-v1.pdf>

Post-16 transport to education and training (Department for Education – February 2014)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277016/Post-16_Transport_Guidance.pdf

Home to school travel and transport guidance (Department for Education – July 2014)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575323/Home_to_school_travel_and_transport_guidance.pdf

Participation of young people in education, employment or training (Department for Education – September 2016)

<https://www.gov.uk/government/publications/participation-of-young-people-education-employment-and-training>

Report to the Cabinet – July 2013 - Results of Consultation on Home to School Transport Policy and Proposed Changes to Policy and Charging

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&Mid=3857&Ver=4>

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