

CABINET – 8th MAY 2012**RESULTS OF CONSULTATION ON HOME TO SCHOOL TRANSPORT
POLICY AND DISCRETIONARY ELEMENTS OF THE CONCESSIONARY
TRAVEL SCHEME AND PROPOSED CHANGES TO POLICY****REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT****PART A****Purpose of Report**

1. The purpose of this report is to advise the Cabinet of the results of the public consultation into proposals for the Mainstream Home to School Transport Policy as well as the discretionary elements of the English National Concessionary Travel Scheme (ENCTS). The Cabinet is invited to consider its responses to the consultation process in light of the findings of an Equality Impact Assessment.

Recommendations

2. The Cabinet is recommended to agree -
 - (a) That the responses to the consultation process and the Equality Impact Assessment (EqIA) be noted;
 - (b) That with regard to concessionary travel, the discretionary elements be removed from 1st October 2012, namely: half fare on community transport, £33 of vouchers as an alternative to a bus pass, free travel before 9.30am Monday to Friday for disabled pass holders and free travel for all concessionary pass holders after 11.00pm Monday to Friday;
 - (c) That the draft Mainstream Home to School Transport Policy set out in Appendix G to the report be approved, and that the particular changes to the policy contained therein be noted, namely -
 - (i) With regard to 16+ transport to educational provision – from September 2012 to continue to provide this at an annual charge for each pupil of £430 with a new concession, at no charge, for students from families on low income. From September 2014 onwards to continue this provision but only to the nearest 6th Form/Further Education College. All farepaying spaces to be increased to £430 per academic year from September 2012 to fall in line with this 16+ charge;
 - (ii) With regard to denominational transport - from September 2012 to continue providing this at an annual charge for each pupil of £320, with continuing concessions, at no charge, for students from families on low

income. From September 2013 onwards to no longer make this provision for all new students and also to phase it out for students part-way through their denominational education. From September 2013 onwards, to apply full cost recovery at a yearly charge of £490 in 2013/14;

- (iii) From September 2012 - to no longer automatically to provide free transport for pupils in their final year of each phase of their compulsory education, when they move to a new address which is outside their current catchment area;
- (iv) From September 2014 - to introduce a change to entitlement to statutory free home to school transport only to the nearest maintained school/college or Academy school/college measured as the crow flies, aligning with the admissions process. An exception to this to be made for journeys beyond statutory walking distances, where a child attends a school which is the nearest school to the home address when comparing the distance to that of the nearest other school by the shortest available road route. In these cases the nearest available school by shortest available road route will be deemed the nearest school to the home address and will give the parent a choice of transport assistance to either of the two schools.

Reasons for Recommendations

- 3. To enable the Cabinet to take into account the results of the consultation and the EqIA before making a decision on the Mainstream Home to School Transport Policy (September 2012) and the composition of the concessionary travel scheme. The consultation arose from the need to address budget pressures and the impact of schools moving to academy status.

Timetable for decisions (including Scrutiny)

- 4. The Cabinet considered the provisional Medium Term Financial Strategy (MTFS) at its meeting on 17th January 2012 and authorised the Director of Environment and Transport to undertake consultation on proposals for changes to the discretionary elements of home to school transport and discretionary elements of concessionary travel with a view to achieving the proposed savings as indicated in paragraph 46 of the report. The Full County Council on 22nd February 2012 approved the MTFS for 2012/13 through to 2015/16.
- 5. The Mainstream Home to School Transport Policy for the 2012/13 academic year starting in September 2012 has to be published by 31st May 2012. Any changes to this Policy and the elements of discretionary concessionary travel should be introduced during autumn 2012 to achieve the savings targets agreed in the MTFS for 2012/13. The draft policy covers phasing arrangements for 2013/14.
- 6. This report will be considered by the Scrutiny Commission on 2nd May 2012 and its comments will be reported to the Cabinet.

Policy Framework and Previous Decisions

- 7. There are a number of distinct elements covered by the proposed changes.

8. The Mainstream Home to School Transport Policy covers the following consultation proposals:
 - a) Eligibility to statutory free home to school transport following the conversion of community schools to academy schools.
 - b) Either the continued provision of discretionary transport to denominational schools at an increased fare from the present £240 currently to an average full cost recovery estimated at £490 per academic year or the withdrawal of this discretionary provision.
 - c) Either the continued provision of discretionary transport for 16+ students to 6th forms and Further Education Colleges at an increased fare from the present £240 currently to average full cost recovery estimated at £430 per academic year or the withdrawal of this discretionary provision.
 - d) The measurement of statutory travel distances.
 - e) Transport eligibility around moving home address during final GCSE year.
9. There are 4 discretionary elements provided in addition to the statutory English National Concessionary Travel Scheme (ENCTS):
 - a) Free travel for disabled concessionary pass holders before 9.30am Monday to Friday.
 - b) Free travel after 11.00pm Monday to Friday for disabled and older concessionary pass holders.
 - c) £33 of vouchers for use on local taxi and bus services as an alternative to the statutory concession scheme if the application is disabled or lives over 800 metres from a frequent bus service.
 - d) Half fare on community transport services.
10. The report of the Scrutiny Review Panel on Concessionary Travel undertaken in the first half of 2010 supported the retention of all discretionary elements from April 2011, and the introduction of pre-9.30 am half fare travel for older people in North West Leicestershire, to give consistent discretionary elements across Leicestershire. At the same time, the Scrutiny Review Panel recognised concerns about costs and Government funding from April 2011 onwards and the consequent difficulties in implementing the Panel's recommendations. The Panel's report was considered by the Cabinet in June 2010. In November 2010 the Cabinet requested that a public consultation and EqIA be undertaken on the discretionary elements of the scheme provided by Leicestershire Districts at that time, as funding responsibility was to pass to the County Council with effect from April 2011.
11. The proposals and recommendations within this report were considered by the Scrutiny Commission on 2nd May 2012. Its comments will be reported to the Cabinet.

Resource Implications

12. Within the MTFs, a saving of £735,000 is built in against denominational and 16+ transport for 2012/13 rising to £1,100,000 from 2013/14 onwards (which breaks down as approximately £850,000 for 16+ transport and £250,000 for denominational school transport).
13. Both of these discretionary schemes presently require a contribution of £240 towards the cost of provision. There are reductions for low-income families at denominational schools (but not at 16+) and the costs of transport to denominational schools are presently

capped at £480 for any family with more than two children of statutory school age. The County Council provides a grant of £20,000 for the administration of a hardship fund by the diocesan authority for all denominational schools. This hardship fund will continue until the 2015/16 academic year to allow for phasing out of this discretionary provision. By only increasing the contribution for denominational school transport to £320 rather than the full cost of £490 the saving in 2012/13 for the provision of denominational school transport would reduce from £250,000 to an estimated £100,000 in a full academic year.

14. A saving of £135,000 is built in against concessionary travel for 2012/13 rising to £270,000 from 2013/14 onwards. The recommendations as laid out in paragraph 2 (b) of this report will allow these savings to be mainly achieved in 2012/13 and fully realised from 2013/14 onwards.
15. The Director of Corporate Resources has been consulted on the financial implications of this report.

Legal Issues

16. The changes to the policy and the legal implications have been fully considered in the drafting of the proposed Mainstream Home to School Transport Policy both in May 2012 and the notice of the changes proposed from September 2013 and September 2014.

Comments of the County Solicitor

17. The Council would be at substantial risk of legal challenge if it were to remove discretionary 16+ and Denominational transport from September 2012 as the statutory guidance requires that any changes are phased in and come into effect as pupils start school. The Council would face significant challenge and complaint if there is any change in the charging arrangements once decisions have been made on preferences for particular schools by parents as such preferences will have been based on the Council's published criteria at that point. This means that it is reasonable to distinguish between denominational transport where parents had expressed a preference for secondary transfer in October 2011 and 16+ transport where decision making generally takes place in January and February with offers of places being made at the end of April. Parents and pupils in the latter category would have had the opportunity to be aware of the proposals contained in the consultation at the point that they made their applications.
18. However, it is more likely to be reasonable to make a smaller increase in the charge for denominational transport as the guidance issued to parents in August 2011 indicated that this charge might change.
19. It is recognised that the proposed changes in the policy may result in a geographical adjustment of entitlement in certain areas because of the way in which the current catchment areas are defined. The introduction of entitlement based on 'nearest' maintained school or academy inevitably means that entitlement based on traditional catchment area is lost. To preserve entitlement on the basis of catchment area would be to create exceptions to the policy at the outset with no obvious justification from a legal or equitable perspective.
20. 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 policy and to make reasonable adjustments to the policy where required by individual circumstances.

21. The Equality Act does not apply to the provision of transport on faith grounds as the discrimination provisions on the grounds of age and religion or belief do not extend to transport arrangements.
22. Article 2 of the First Protocol of the European Convention on Human Rights (ECHR) states that no person shall be denied the right to education and that the state shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions. This is subject to a reservation entered by the UK government which states that this right is applicable only so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure. Case law confirms that the ECHR is concerned with access to the educational institutions that the state makes available and requires the Authority to consider the wishes of the parents but this does not equate to a duty to give effect to those wishes.

Circulation under the Local Issues Alert Procedure

23. A copy of this report is being circulated to all Members under cover of the Members' Information Service.

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PART B

24. The results of this consultation and an Equality Impact Assessment (EqIA) are attached as Appendices A, B, C and F to this report. The consultation was designed to examine the potential impact of savings agreed in the Medium Term Financial Strategy (MTFS) in February 2012. The results of this consultation will inform the design of the Mainstream Home to School Transport Policy to be published in May 2012 and applicable from September 2012 (with some transitional arrangements), as well as the composition of the concessionary travel scheme in Leicestershire from 1st October 2012.

Results of the Consultation on Concessionary Travel

25. The main results of the consultation are attached in Appendix A to this report. The consultation responses suggest that retention of the discretionary elements of concessionary travel is strongly supported. 2,542 responses were made to this consultation. 72% of respondents had some form of concession.
26. The highest level of support was for retention of the vouchers, however this does reflect the fact that all voucher holders were contacted directly and alerted to the consultation process by the Council as part of the renewal process for vouchers from 1st May 2012.
27. A number of comments were made on this part of the consultation and a summary of these is attached at Appendix C.

Proposed changes to Concessionary Travel

28. The removal of free travel for disabled concessionary pass holders before 9.30am Monday to Friday will mean that pass holders will have to pay full adult fare to travel before 9.30am on Mondays to Fridays. This will affect pass holders in employment wishing to travel to work and those traveling to early medical appointments.
29. The removal of free travel after 11.00pm Monday to Friday for disabled and older concessionary pass holders will be of limited impact as there are few bus service departures after this time and generally travel will be for discretionary leisure purposes.
30. The removal of £33 of vouchers for use on local taxi and bus services as an alternative to the statutory concession scheme will mean that this value will be lost and generally recipients of this alternative discretion will either opt to apply for an ENCTS concessionary pass or pay the taxi fares. Where Demand Responsive Transport (DRT) services are provided in rural areas free travel will be available for concessionary pass holders.
31. The removal of half fare on community transport services will affect regular users but research has shown that users value the service offered by such services and consider that they offer good value for money. It is suggested users will be prepared to pay the higher fare for the low number of journeys taken.

Results of the Consultation on Home to School Transport

32. The headline results of the consultation are attached at Appendix B. The consultation response strongly opposed any changes to the existing policy and to the removal of

denominational and 16+ transport. Many respondents were prepared to cover the cost of transport if it continued.

33. An online petition on the Council's website specifically commenting on the withdrawal of denominational school transport attracted 328 signatures. The petition read as follows:

"We the undersigned petition the council to refrain from increasing the current charge of to £240 per annum to £490 per annum, as proposed in the document 'Consultation on proposed changes to transport', for transport to faith and voluntary aided schools."

Faith based education is a right. When LCC introduced a charge for travel to faith based schools several years ago it was done on the basis of charging the difference between the average cost of transport to catchment area schools and the average cost of transport to faith schools. There was an explicit understanding that pupils at faith based schools were entitled to the same rights as those at catchment area schools. In effect the charge was to be a top up. The proposals within the consultation document are unjust inasmuch as they prevent faith school pupils accessing the same basic level of transport as catchment area schools. The proposed additional charge may well lead to parents moving children away from faith schools and in effect amount to a 'faith school tax'.

34. The wording of the petition is incorrect in its assertion that the charge was based on a difference between the cost of transport to faith schools and the cost of transport to catchment area schools.
35. A number of generic and individual letters were received commenting on the proposals and a summary of these comments is attached at Appendix C.

Proposed Changes to the Provision of Mainstream Home to School Transport

Home to School Transport Policy (and specifically with reference to Academy Status)

36. There are three options for delivery of a change to the home to school transport policy:
- a) introduce in September 2012 for Academy schools
 - b) transitional policy giving dual entitlement over a number of years
 - c) continue with existing catchment areas but change to nearest school in September 2014
37. It is proposed that the current Home to School Transport Policy remains unaltered until July 2014. This means that existing catchment and nearer school eligibility is retained and allows schools and parents time to consider the implications of changes proposed for introduction from September 2014.
38. From September 2014 any transport would only be provided to the nearest Academy or Free School measured as the crow flies. Schools remaining as Community Schools as well as other maintained schools and Further Education Colleges would also be subject to a nearer school only policy from September 2014. All schools will retain their current catchment areas until July 2013. An exception to this will be made for journeys beyond statutory walking distances, where a child attends a school which is the nearest school to the home address when measuring the distance to all schools by the shortest available road route. In these cases the nearest available school by shortest available road route will be deemed the nearest school to the home address and will give the parent a choice of transport assistance to either of the two schools.

39. Noting that there are schools that are significantly affected by nearest school only (e.g. South Charnwood and Ibstock) it is recommended that the Cabinet approves this approach recognising that some schools may have reduced numbers of pupils if the nearest school only policy proposed by this report is implemented. But the 'available space' issue means it will take some time before travel patterns change. To date the number of spaces available at community schools has been balanced against the number of pupils requiring spaces. In the future Academies are likely to offer additional spaces and will effectively be competing for pupils but in the short term some schools may be oversubscribed and should they be full, transport may be required to the next nearest school measured by the shortest road distance.

Home to School Transport Policy (with reference to denominational schools)

40. There are three options for delivery of denominational transport:
- a) to cease providing denominational transport from September 2012.
 - b) to introduce the full cost recovery of £490 per pupil per annum from September 2012 or a proportion of cost recovery between £240 and £490 from September 2012.
 - c) to make no change at present and to reconsider removal at some point in the future.
41. It is proposed that the current discretionary entitlement will remain throughout the attendance of any child starting at any denominational school from September 2012, at a cost of £320 for the 2012/13 academic year and then at full cost recovery from September 2013. No transport provision will be made for children starting at denominational schools from September 2013. Effectively this would phase out provision of denominational school transport over 4 years (longer for primaries) from September 2013 through to July 2017. The cost of provision would be fully recharged and reviewed on a yearly basis during the phasing out period.
42. It is also proposed that the present cap of £480 per family per year be removed from September 2013 and that full cost recovery be made for all pupils, in line with the withdrawal of denominational schools transport for new applicants. Transport payment terms on direct debit would be increased from 6 payments to 8 payments during the academic year.
43. Pupils attending denominational schools would have the option of instead attending a nearer maintained or academy school and, if over the qualifying distances, would be entitled to statutory free transport.

Home to School Transport Policy (16 plus sixth form and Further Education College supported transport)

44. There are three options for delivery of 16+ transport:
- a) remove provision from September 2012. All 16+ transport is withdrawn for students starting at colleges or 6th forms from September 2012. For students starting a second year the charge for 16+ transport is increased to £430 from September 2012.
 - b) increase charges from September 2012 to recover the full cost of provision
 - c) continue to provide transport and potentially remove at some point in the future

45. It is proposed that transport for 16+ students continues to be provided at average full cost recovery of £430 - this is likely to increase as students migrate to lower cost commercial bus pass offers. However, there will be a number of 16+ students, especially in rural areas, who have no alternative and no nearer school or college they could attend. Discretionary 16+ transport will continue to be provided from September 2012 but at the increased cost.
46. Costs could be further reduced by only offering transport to the nearest 6th Form or Further Education college to home address. This would enable the Council to support the delivery of increasing compulsory ages of participation in education (to 17 in 2013 and 18 in 2015).
47. Raising the age of participation could be further supported by removing the charge for families who are on low income. Further Education providers have raised this as a specific concern. The actual numbers of families on low income is estimated to be low at around 15% of applicants and the provision of an exemption for low income families would align with the recently agreed SEN Transport policy.
48. Transport payment terms on direct debit would be increased from 6 payments to 8 payments during the academic year.

Home to School Transport Policy (farepaying spaces)

49. The farepaying charge needs to be in line with that for 16+ or denominational full cost recovery, therefore it is proposed that the charge for farepaying spaces is increased from £300 to £430 for primary age children and from £400 to £430 for secondary age children.

Home to School Transport Policy (change of address)

50. It is proposed, in certain circumstances, to remove entitlement to free transport to families that move at any stage of education and in particular the GCSE exam years. Consideration should be given to exceptional circumstances.

Home to School Transport Policy (other issues)

51. The Mainstream Home to School Transport Policy has been redrafted to reflect the recommendations in paragraph 2 (c) above. This must be published by 31st May 2012 to be applicable from the start of the 2012/13 academic year in September 2012.
52. The policy has been amended to reflect the transfer of responsibilities for its delivery of the policy from the Children and Young People's Service to the Environment and Transport Department.
53. Appendix 3 of the policy (see Appendix G to this report) has been redrafted to reflect the statutory Home to School Travel and Transport Guidance provided on the assessment of the availability of walking routes to school by the then Department for Education and Skills. This aligns with the Council's current assessment criteria based on Road Safety GB's detailed guidance on the undertaking of such assessments. The process outlined in Appendix 3 now provides more detailed information on how assessments are undertaken, what will be reported, and some Frequently Asked Questions.

54. The revised policy also defines in more detail the circumstance in which home to school transport will be provided on medical grounds and the types of medical evidence supporting the case for short term under distance travel.

Equality Impact Assessments (EqIAs)

55. EqIAs, attached at Appendix F, have been completed for the proposals in the consultation on both discretionary elements of concessionary travel and mainstream home to school transport.
56. Removal of 16+ transport would have a more severe affect on those living in rural areas needing to travel to 6th Forms or Further Education Colleges where there is no frequent bus local bus service.
57. The assessment concludes that there could be a low level negative impact on service users in regard of their age or disability. For some segments of the disabled population there may be a high adverse impact e.g. those pass holders with visual impairments.
58. There may also be an adverse effect on low income service users who may have to pay full fare at certain times if discretionary elements are withdrawn.
59. However, it should be noted the ENCTS will still result in a positive impact for elderly and disabled residents of the County even in its minimum statutory form.

Background Papers

Home to School Travel and Transport Guidance (Department of Education and Skills 2007)

Mainstream Home-School/College Transport Policy (May 2011)

Cabinet minutes of 17th January 2012 considering the provisional Medium Term Financial Strategy (MTFS)

County Council minutes of 22nd February 2012 approving the MTFS for 2012/13 to 2015/16

Report of the Scrutiny Review Panel on Concessionary Travel to Cabinet in June 2010

Your guide to Primary Education in Leicestershire 2012/13

Your guide to Secondary Education in Leicestershire 2012/13

Education and Skills Act 2008 - Raising the Participation Age

Appendices

Appendix A - details of consultation response of concessionary travel

Appendix B - details of consultation response on Mainstream Home to School Transport

Appendix C - summary of written responses

Appendix D - copy of consultation

Appendix E - copy of consultation response form

Appendix F - Equalities Impact Assessments

Appendix G - draft Mainstream Home to School Transport policy including appendices 1, 2 and 3