

Leicestershire County Council
Liberal Democrat Group



Exploring the Possibility of Subcontracting School Transport to Schools

26th February 2014

Summary

- This report was written following requests from some headteachers that their schools be given the money to organise their own transport.
- The Council had recently looked into this and found that they cannot devolve their statutory responsibility to provide transport to schools. That means that if a school failed to provide transport to a student then the Council would be legally required to provide it instead.
- An alternative could be based around subcontracting schools as providers of school transport; so although the Council will still have the statutory duty to provide transport, the schools will have a contractual duty to provide it on the Council's behalf.
- The Liberal Democrat Councillors on the Scrutiny Commission are requesting that officers look into this idea in more detail.

Background

- This report was written following requests from some headteachers that their schools be given the money to organise their own transport.
- They acknowledged that the funding provided by the Council would not necessarily cover the costs and that the gap would have to come from their own budgets.
- However, if the Council replaces the current catchment-based policy with the proposed 'nearest school' policy then they'd need to make their own transport arrangements in addition to what the Council would be providing.
- It was their opinion that rather than both the Council and the schools duplicating efforts on transport, it would be cheaper and more efficient for the schools to be provided with the funds to organise it themselves.
- The Council has already looked into the option of devolving the responsibility for school transport to schools. Advice from the Government says that while they could devolve the money, they would retain the statutory responsibility.
- That is, if any school failed to provide transport to a child, the Council would have the legal duty to pick up the pieces. This would be an unacceptable liability for the Council.
- However, while the Council can't pass on its statutory duty to schools, it may be able to enforce a contractual duty on schools if it subcontracted them to provide school transport on their behalf.



Subcontracting Transport to Schools

- It has been suggested that although schools can't have the Council's statutory duty passed on to them, the Council may be able to subcontract the provision of school transport to schools, giving them a contractual duty to provide transport on behalf of the Council.
- This idea has not been checked over by Council officers and has not been yet cleared as legally sound. We do not yet know whether such a policy would be workable, this is merely the first step towards getting it investigated further.
- A starting point for the policy might be as follows:

The Council offers schools the chance to sign a *contract* where:

- For every student the school admits, they are given the amount of money that it would cost the Council to send those students to their nearest school.
 - The school is then contractually responsible for providing transport for those students.
 - If the school fails to provide any of their students with the necessary transport then that will be a breach of contract and they will be liable to pay the Council the cost for transporting that student instead.
- While the Council will still have the statutory responsibility, schools will have the contractual responsibility and will have to compensate the Council if they fail it. That should remove the risk to the Council, meaning they can allow schools run their own transport arrangements if they wish.
 - It has also been suggested that as this policy is likely to cost the Council less than the existing policy, that the money saved be given back to schools providing transport so as to reduce the impact on their budgets for learning.
e.g. If the money saved is 10% of the new transport budget, each school providing transport could be given an extra 10% towards their transport funds.
 - This policy would carry risks for schools (as there would be penalties for not upholding the contract) but it would give them full control on how transport was provided for their students.

The Liberal Democrat group's preferred policy for Home to School Transport is one based around the relationships between secondary schools and their feeder primary schools.

However, giving schools the option to take responsibility for their transport under a contract doesn't necessarily contradict and the two policies could potentially work alongside each other.

We would like to request that officers explore this idea in further detail.