

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**26 January 2016**

**Report of the Strategic Director for Children's Services**

**Consultation on Changes to Policy for Home to School Transport for Pre-School and Post-16 Students with Special Educational Needs or Disability and 8-11 Year-olds (over 2 miles and under 3 miles from school) – (Children Services)**

**1 Purpose of Report**

- 1.1 Cabinet approval is sought to undertake a consultation on the proposed changes to Derbyshire County Council's Transport Policy for Children and Young People in relation to post-16 students and children of pre-school age with Special Educational Needs or Disability (SEND). The report also seeks approval to consult on not providing free travel to children between 8 – 11 years who live over 2 miles and under 3 miles from school.

**2. Information and Analysis**

**Background**

- 2.1 The Comprehensive Spending Review and associated Local Government Finance Settlement, announced in December 2015, provide clear indications of likely levels of Government support up to 2019-20.
- 2.2 The ability of the county council to fund services is influenced by a number of factors, one of the most significant of which is the availability of support from Government in the form of Revenue Support Grant (RSG). Throughout the current period of cuts in public sector spending, since the global financial crisis in 2008, the Government has consistently reduced its support to local authorities and by 2019-20 it is forecast by the Department for Communities and Local Government that the county council's support through RSG will have fallen to around £13m and the county council is expecting this support to end in totality

in the following year (2020-21). By way of comparison the county council received £98.050m of RSG in 2015-16.

- 2.3 This will bring to an end decades of support to local authorities through the allocation of a large non-ring-fenced Government grant; other, less significant, grant streams are also expected to reduce and some to end over the forthcoming five years. By 2021-22 it is envisaged the vast majority of the county council's funding will come from Council Tax and Business Rates, topped up by direct charges for services where appropriate.
- 2.4 The reduction in Government grants is only part of the problem faced by the county council; there are significant pressures, particularly in Adult Care which require the county council to allocate approximately £20m to that service alone in each of the next five years and probably around £15m a year thereafter. The pressures in Adult Care are a combination of additional cost arising from the Chancellor of the Exchequer's announcement about the introduction of a National Living Wage and increasing numbers of clients requiring support and the increasingly complex needs of those clients.
- 2.5 In mitigation, the Government have announced that councils will be able to increase their Council Tax by an additional 2% per annum in each of the next four years and there is provision for further payments to be received from the Better Care Fund, potentially reaching £25m per annum by 2019-20. However, neither of these measures will offset the pressures in Adult Care on an annual basis and are not available to help prevent savings being required in other service areas.
- 2.6 Overall, the county council's revised Five Year Financial Plan which is also on the agenda for approval at this Cabinet Meeting indicates cuts of at least £115m are still required from 2016-17 until 2020-21. This is in addition to cuts identified in the period 2010-11 to 2015-16.
- 2.7 In the last five years the county council has had to face unprecedented reductions in its finances. During this period Children's Services has seen its budget fall from £126.8m to £95.3m, a reduction of almost 25%. The county council's need to make further cuts means that the Children's Services budget could ultimately reduce to circa £70m, around half of the 2010-11 budget. Consequently, the service has no alternative but to consider implementing savings in key service areas. It is important to note that the pressing financial position is the driver for the changes set out in this paper; the services themselves are of a high quality and are valued by service users.
- 2.8 The county council has a statutory duty to make home to school/college travel arrangements free of charge for entitled pupils of compulsory

school age (5 to 16). In addition to this, the county council currently provides transport assistance for the following children/young people:

- Pre-school children with Special Educational Needs and Disabilities (SEND) attending specialist nurseries which is provided free of charge;
- Children in education aged between 8 and 11 who live over 2 miles but less than 3 miles from their nearest area school (statutory walking distance for those aged 8 and above is 3 miles) which is provided free of charge;
- Post-16 learners with SEND of which there is a charge of £360 per annum (reduced by a third for those on low income).

2.9 The Children's Services Department spent last year approximately £14,300,000 on home to school transport. This provides for:

- Transport for eligible children aged 5 to 16 to mainstream schools - which the county council are legally required to provide; and
- Transport for eligible children aged 5 to 16 to special schools and alternative educational placements - which the county council are legally required to provide.

Approximately 40% of expenditure is spent on mainstream transport (approximately 8,500 children/young people); with the remaining 60% spent on SEND transport (approximately 1,200 children/young people). SEND provision is usually referred to as specialised transport and is typically provided by a large supplier base of accessible/non accessible minibuses and taxis.

2.10 Children's Services has an overall budget reduction target for transport of £2,000,000 by 2018. Of this sum around £0.2m will be found from the introduction of charges for post-16 transport, which Cabinet approved on 6 May 2014. Whilst the county council has a statutory duty to make home to school/college travel arrangements free of charge for entitled pupils of compulsory age (5 to 16 years), the remaining £1,800,000 needs to be found from efficiencies in mainstream and specialised transport, of which a significant saving could be achieved by ceasing the home to school transport for children of pre-school age, sixth form students, young adults with SEND and those aged 8 to 11 who live over 2 miles but under 3 miles from their normal area school.

2.11 An overview is provided below of the current Pre-School, Post-16 and 8-11 year old Home to School transport arrangements that the county council provides, including the potential savings that could be achieved if these services are withdrawn.

### **Post-16 Transport**

- 2.12 For transport policy purposes, the statutory definition of a person of sixth form age is someone who is over compulsory school age but below 19, or someone who began a particular course of education or training before they reached 19 and continues to attend this course.
- 2.13 Eligibility for Post-16 transport and travel assistance arrangements for learners of sixth form age is not prescribed by statute and the county council must decide what transport and travel arrangements it considers necessary as a response to local needs. The Post-16 Transport Policy Statement (Academic Year 2015 – 2016), which was approved by Cabinet in May 2015, specifies the discretionary transport and travel support arrangements that the county council currently considers necessary to facilitate the attendance of Post-16 learners (16-25) who are subject to a Statement of Special Educational Needs (SEN), a Learning Difficulty Assessment or an Education, Health and Care plan (EHCP).
- 2.14 The county council provides the “b\_line” scheme providing a 25% discounted travel on local buses and trains for all young people accessing learning. It is anticipated that most young people with learning difficulties and/or disabilities should be able to use this to get to their places of learning. Where a student is not able to travel independently, the county council will, in the first instance, explore if a parent is able to provide transport and receive a mileage reimbursement. If this is not possible the county council would investigate alternative transport arrangements.

### **Current Provision - Sixth Form Age Students**

- 2.15 The county council provides the following support for learners with Learning Difficulties and/or Disabilities in educational years 12, 13, 14 and up to age 25:
- Independent Travel Training.
  - Parental car mileage re-imburement.
  - Bus/rail pass (including disabled person’s Gold Card).
  - Minibus – shared occupancy (with passenger transport assistant if deemed necessary).
  - Taxi - solo or shared occupancy (with a passenger transport assistant if deemed necessary) and
  - Specialist vehicle equipped with medical support equipment.

Students can access bursaries provided by the colleges to offer financial assistance.

- 2.16 The total cost in 2014/2015 was £1,562,000 to transport 286 students from home to schools and colleges, an average cost of £5,540 per student.

The potential maximum savings by ceasing to pay for the travel costs of from sixth form age students would be **£1,562,000**.

### **Current Provision – Young Adults (Aged 19-25) with SEND**

- 2.17 The county council currently provides transport for 143 young adults (age 19 to 25) with SEND. The total cost in 2014/2015 was £550,000 to transport the 143 students from their home to the educational establishment, with an average cost of £3,847 per student.

The total maximum potential savings from Young Adults (aged 19-25) would be **£550,000**.

### **Current provision – Pre-School Age pupils**

- 2.18 Pre-school children with SEND may benefit from attending specialist early years provision which can offer intensive support and assessment. Within Derbyshire, there are currently 2 specialist nurseries plus 4 special schools who cater for children under 5 and, in addition, 2 mainstream schools with enhanced resource facilities offering 2 specialist nursery places in each setting. In addition, the county council also has to provide a passenger transport assistant. Access to this assistance is universal and is not means-tested.
- 2.19 Whilst numbers vary from year to year, the county council is currently transporting 31 pre-school children with SEND to their nearest specialist nursery at a cost of £187,000 per annum (average cost of £6,036 per child, per annum).

Potential maximum savings by ceasing to pay for the transport costs of pre-school age children would be **£187,000**.

### **Current Provision – Children between years 8 – 11 years**

- 2.20 The statutory guidance (Home to school travel and transport guidance Statutory guidance for local authorities July 2014) states that the statutory walking distances are:

- Beyond 2 miles (if below the age of 8); or
- Beyond 3 miles (if aged between 8 and 16).

- 2.21 Since 2012, the county council has extended the threshold of 2 miles up to the end of the primary phase education. There is no charge for the

provision of this transport which the county council is not legally obliged to provide. The county council is currently providing home to school transport assistance for 50 pupils.

This proposal would not affect extended rights eligibility for those pupils who are entitled to free school meals or their parents are in receipt of maximum Working Tax Credit.

Potential maximum savings, by ceasing to pay for the transport costs of children aged between 8 and 11 years, would be **£25,000**.

### **3. Proposed changes to the Transport Policy for Children and Young People and Post-16 Transport Policy Statement**

3.1 The consultation would seek views on the proposal that from September 2016, the county council would cease to provide minibus, taxi (solo or shared occupancy), specialist vehicle and mileage reimbursement for the following bands of pupils and students:

- Sixth Form students and young adults aged 19 to 25 with learning difficulties or disabilities;
- Pre-school age pupils with an assessed need; and
- Children aged between 8 to 11 years who live over 2 miles but under 3 miles from school.

3.2 Whilst the county council would continue to encourage the participation in education by persons who are over compulsory school age; young learners would be expected to meet the full cost of travel between home and the establishment at which they are receiving education or training (as are students without SEND). The county council would continue to offer travel concessions; local transport providers and services and other sources of additional support.

### **4. Consultation Process**

4.1 The proposal to withdraw the pre-school, post-16 home to school transport and 8 to 11 year olds transport who live over 2 miles and under three miles from school would require a six-week consultation period, arranged to coincide with term time. The consultation would include the opportunity to complete an online questionnaire, also available for completion by telephone and with paper copies available on request.

4.2 The consultation would include writing directly to:

- Service users using the transport and their families.
- Potential future service users.
- Statutory stakeholders.
- Local Members.
- Local Members of Parliament.
- Neighbouring Authorities.
- All schools and colleges.
- Community groups.
- Youth Council.
- Voluntary organisations with an interest in disability issues.

4.3 Subject to the outcome of the consultation and to further consideration by Cabinet, these proposals could come into effect from September 2016. A further report would be presented to Cabinet in Spring 2016 to enable Cabinet members to make a final decision on the proposals, to take account of the consultation.

4.4 The county council's Home to School Transport Policy for all students (including Post-16) is reviewed annually and, if changes are agreed, a revised policy will be published for implementation from 1 September 2016, by 31<sup>st</sup> May 2016.

4.5 It is proposed to consult on whether all transport assistance would stop at the same time or whether those currently receiving it would continue to do so for a period of time to phase out the assistance so as to assist the transition process. The consultation proposal would be that post 16 who have been receiving free transport under this service from September 2015 should continue to do so until summer term 2017 (unless their attendance circumstances change significantly). If any such proposal is eventually agreed, it is proposed that the policy change would be introduced from 1 September 2016 i.e. that the new provisions would apply to new users. If a phasing out of transport provision were to be agreed then a full year saving would not be achieved until the financial year 2018/19 having taken into account both the academic year start date and the impact of transitional protection.

4.6 The county council understands that if this proposal were to be agreed, for some children and young people with very complex and severe needs, travelling independently may not be possible and the responsibility of providing transport may be financially difficult for some families. As part of the proposals' equalities analysis and by considering feedback from the consultation, the county council will investigate what if any other internal and external support can be accessed by families and if there are any other transport assistance schemes which may be of assistance.

- 4.7 It is proposed that any new policy adopted will include a process for considering the eligibility of those who can demonstrate exceptional circumstances and so require assistance. This is likely to involve the development of a needs assessment criteria and application process to access a transport support fund. The nature of any transport assistance provided (bus/rail pass, parental reimbursement etc.) for exceptional circumstances would be at the county council's discretion. The proposed consultation will include seeking views on this process.
- 4.8 Applications for transport under exceptional circumstances would be considered on a case by case basis and the county council would support families in the first instance in the following ways:
- Maximising opportunities for benefits assessment to ensure that families are supported from a range of sources.
  - Signpost families to access Education Funding Agency (EFA) bursary funding.
  - Help equip students to travel independently, where appropriate.
- 4.9 In the event of any policy changes being ultimately agreed, the county council would make early contact with families with pre-school children with SEND and those with children in Year 11, through the SEND review process, prior to decisions being made about post-16 education and training. Discussion about travel assistance and how that could be provided will be a key aspect of the decision making process.
- 4.10 If the proposal to cease transport for those aged 8 to 11 years who live over 2 miles but less than 3 miles from their normal area school is agreed, the county council would ensure that families affected are notified and given details about the 'extended rights' which may be applicable (see para 2.21).

## 5 Financial Considerations

- 5.1 The current cost to the county council in providing transport in 2014/2015 for the following was:

Pre-school age children	£187,000
Sixth Form Age (16-18)	£1,562,000
Young Adults (19-25)	£550,000

If all of the above proposals were implemented, the potential maximum savings based on 2014/2015 would be in the region of **£2,299,000**

## **6 Human Resources Considerations**

6.1 None.

## **7 Legal and Human Rights Considerations**

- 7.1 The county council has a duty to prepare and publish an Annual Transport Policy Statement specifying the arrangement for the provision of transport, or otherwise, that the county council considers it necessary to make to facilitate the attendance of students of sixth form age receiving education or training at schools and other prescribed establishments, and for the learners with SEND aged 19 to 25 who are subject to a Learning Difficulty Assessment or Education Health Care Plan (EHC).
- 7.2 The county council has a statutory duty to make home to school travel arrangements for eligible children of compulsory school age. Such arrangements must be free of charge.
- 7.3 For students of sixth form age, the county council must produce an annual policy statement setting out the transport arrangements it considers necessary. The statement must set out the extent to which the arrangements include those for persons with learning difficulties and disabilities.
- 7.4 In considering what travel arrangements it is necessary to make for persons of sixth form age, the county council must have regard to: the needs of those for whom it would not be reasonably practicable to attend education/training if no arrangements were made; the need to secure reasonable choice; distances, journey times, cost of transport; and the county councils duty to secure enough suitable education/training for persons of sixth form age, having particular regard to a person's age, ability, aptitudes and any learning difficulties they may have.
- 7.5 In considering what transport arrangements to make for adults under 25 with SEND, the county council must have regard to its statutory duty to secure enough suitable education and training to meet such adults' reasonable needs. The county council also has a duty to encourage participation in education and training for persons over compulsory school age but under 19, and for persons aged 19 - 25 subject to learning difficulty assessment.
- 7.6 Further consideration will be given to any arrangements to ensure young people can access education and training as a result of the outcomes of the consultation.

- 7.7 In discharging its functions relating to sixth form travel arrangements, the county council must have regard to guidance contained within “Post-16 transport to education and training Statutory Guidance for local authorities February 2014”.
- 7.8 It should be noted that the county council must also have regard to the guidance on the participation of young people in education, employment or training that states that the county council must promote the effective participation in education and training of 16 to 18 year olds in their area.
- 7.9 Once the consultation and the equality analysis has been completed and the original or amended proposals represented to cabinet Members will need to give careful consideration in particular to the Council’s duties under the Equality Act.

## **8 Equal Opportunity Considerations**

- 8.1 The county council arrangements for transport for persons of sixth form age with disabilities or learning difficulties must be no less favourable than for pupils and students of the same age attending maintained schools.
- 8.2 The county council’s arrangement for providing transport for relevant young adults to establishments outside Further Education and Higher Education sector, where the county council has secured education or training, must be no less favourable than the arrangements made for relevant young adults of the same age for whom the county council secures education at another institution.
- 8.3 The proposals would be subject to an Equality Analysis and Health Impact Assessment

## **9 Transport and Environmental Considerations**

- 9.1 These proposals would significantly affect how transport is provided in the future. If the proposal is agreed, the county council would continue to provide the discount b\_line scheme for young people accessing learning. It is expected that most young people with learning difficulties and/or disabilities will use this to get to their places of learning.

## **10 Key Decision**

No.

## **11 Background papers**

Home to School Transport Policy, May 2015.

## **12 Strategic Director's Recommendations**

That Cabinet approves:

- 12.1 to consult on the proposals to cease the provision of transport assistance for:
- Learners with Learning Difficulties and/or Disabilities in educational years 12, 13, 14 and up to the age of 25 that would come into effect from September 2017 for students that received free transport from September 2015;
  - Pre-school age children that would come into effect from September 2016; and
  - Free home to school transport for pupils aged 8 -11 who live more than more 2 miles from school in order to align the county council transport policy with the statutory guidelines that would come into effect September 2016.
  - and to carry out a full equality analysis in relation to these proposals.
- 12.2 To include the proposed cuts to the provision of Home to School transport for post-16 students and pre-school age children within the 2016/2017 Revenue Budget Report.
- 12.3 Cabinet to receive a further report once the consultation and the equality analysis has been completed.

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