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DERBYSHIRE COUNTY COUNCIL

CABINET

1 October 2013

Report of the Strategic Director for Children & Younger Adults

**Consultation on Changes to Policy for Home to School Transport
to Schools Preferred on Grounds of Religion or Belief – (Children
and Young People)**

1 Purpose of Report

- 1.1 To seek Cabinet agreement to carry out a consultation on proposed changes to Derbyshire County Council's provision of home to school transport to schools preferred on grounds of religion or belief.

2 Information and Analysis

2.1 Context

- 2.1.1 Due to reductions in funding from central government, Derbyshire County Council must reduce its expenditure by £157m over the next 5 years.
- 2.1.2 In order to meet these targets, Cabinet is reviewing all areas of expenditure. Cabinet will be guided in its decision making by the priorities contained within the new Council Plan, as it is developed.
- 2.1.3 Over recent years, a substantial and growing number of local authorities have taken, or are consulting on, the decision to change policy relating to provision of transport to faith schools, including phasing out or stopping the service. Such authorities include locally: Rotherham, Sheffield and Cheshire East.
- 2.1.4 Local authorities have statutory responsibilities to provide home to school transport in specified circumstances, but the provision of transport to schools preferred on the grounds of religion or belief is made on a discretionary basis.

2.2 Current Provision – Faith Transport

- 2.2.1 Derbyshire County Council currently spends £1,055,198 (2012/13) on the provision of transport for pupils attending faith schools.
- 2.2.2 There are 46,144 pupils in secondary schools and 55,646 pupils in primary schools in Derbyshire. Of these, 1,682 pupils use transport provided by the Authority to get to faith schools, including 84 pupils who are statutorily entitled to free school transport: 80 due to low family income (i.e. eligible for free school meals or receive the maximum level of working tax credit); and 4 due to living beyond walking distance (2/3 miles) but attending a school closer to home than the normal area school. 316 pupils use transport provided by the Authority to access faith schools outside of Derbyshire.
- 2.2.3 The local authority (LA) has a duty to have regard, amongst other things, to preference on the grounds of religion or belief when considering applications for transport (Home to School Travel and Transport Guidance, DfE, 373/2007).
- 2.2.4 For children aged 11-16 who are entitled to free school meals or whose families get the maximum level of working tax credit, where the school is preferred on grounds of religion or belief, the LA has a duty to provide free transport where the distance from their home address is between two and fifteen miles and the school is the nearest suitable school.
- 2.2.5 In July 2008, following consultation, Cabinet took the decision to introduce charges for those students not statutorily entitled to free transport, who were using transport provided by the Authority to travel to faith schools. This was introduced for new transport users only, from September 2011. The current average annual cost to the Authority per pupil is approximately £713 (Mar 2013). From September 2013 the charge is £349 a year per pupil for secondary pupils and £316 for primary pupils, and as such the council subsidises the cost to parents.
- 2.2.6 In March 2011, the Authority took the decision to withdraw all school transport subsidies for those pupils travelling to non-faith schools who were not statutorily entitled to free school transport, from April 2012. The Authority's current policy, as it stands, is inequitable since in practice it provides assistance to pupils choosing to attend certain faith schools on the grounds of religion

or belief, but not to pupils attending other faith or non-faith schools. The proposed changes, should they be introduced, would remove these inequalities and reduce the risk of future challenge on equalities grounds.

2.2.7 Table 1 shows a breakdown of the current contracts used for home to school transport in faith schools.

Table 1: Costs of different types of transport provision

Faith School transport as at Apr 2013			
Type of contract	Estimated cost	Number travelling	Average cost
Bus	£1,006,308	1,586	£634.50
Taxi	£117,538	16	£7,346.13
Parent refund	£75,904	80	£948.80
Total	£1,199,750	1682	£713.28

Table 2: Numbers using transport to each faith school in Derbyshire as at March 2013

SCHOOL NAME	Number of pupils	SCHOOL NAME	Number of pupils
In County		Out County	
Christ The King Catholic Primary School	25	All Saints RC Comp Sch (Mansfield)	20
English Martyrs' Catholic Primary School	3	All Saints RC High Sch (Sheffield)	2
Immaculate Conception Catholic Primary	119	Blessed Robert Sutton College	104
St Anne's Catholic Primary School (BUX)	9	Blue Coat School (Oldham)	43
St Edward's Catholic Primary School	4	Bluecoat School Nottingham	18
St Elizabeth's Catholic Primary School	29	Harrytown Catholic High School	4
St John Houghton Catholic School	216	Notre Dame High School	1
St Joseph's Catholic & C of E Primary Sch	2	Priory RC Primary	5
St Joseph's Catholic Pri Sch (Matlock)	18	Samworth Church Academy School	1
St Joseph's Catholic Pri Sch (Shirebrook)	10	St Benedict Catholic School	116
St Mary's Catholic High School	824	St Joseph's Catholic Pri Sch (Derby)	1
St Mary's Catholic Pri Sch (Chesterfld)	24	St Modwen's Catholic Primary Sch	1
St Philip Howard Catholic School	2		
St Thomas Catholic Primary School	4		
St Thomas More Catholic School	72		
Taddington & Priestcliffe CE Primary	5		
Total	1366	Total	316

2.3 Key principles

2.3.1 The following principles underpin proposed changes to the provision of discretionary transport to schools.

- Transport policy relating to home to school transport should be fair and equitable.
- The policy should ensure efficient use of resources and avoid spending public money unreasonably.
- Where possible the Authority would offer non-financial assistance to develop replacement transport arrangements.
- Charges for transport provided by the Authority should represent good value for money compared to alternative forms of transport.

2.4 Detailed Service Proposals

It is proposed that the following policy change is consulted upon:

2.4.1 From September 2015, with the exception of pupils entitled to assistance due to low income or disability, transport assistance would be provided only to pupils attending their nearest suitable or 'normal area' school, irrespective of whether this was a faith or non-faith school, and only where the distance between home and school was more than 2 miles for primary school pupils and more than 3 miles for secondary school pupils. The Council would continue to provide transport for children attending a school of choice if this school was closer to home than the normal area school but more than the two/three miles walking distance.

2.4.2 Due to the potential disruption to pupils at key stages of their education, the Authority would continue to provide transport to pupils going into Year 10 in September 2014, until the end of the 2015/16 school year. Spare seats on vehicles contracted for this purpose would be available to other pupils on a first come, first served, basis.

2.4.3 The Authority would give non-financial support to schools and parents who chose to develop replacement transport arrangements. This would involve liaising with potential operators to find suitable alternative provision, including opportunities for commercial solutions.

2.5 Consultation Process

2.5.1 The consultations will last for 6 weeks (during term time). The consultations will take place using an on-line questionnaire, with paper copies available on request.

- 2.5.2 Letters would be written directly to key stakeholders advising them of the consultation, including: families currently using home to school faith transport, affected Dioceses, local Members of Parliament, neighbouring Authorities, all local schools and colleges (including out of County faith schools and colleges attended by Derbyshire pupils).

3 Financial Considerations

- 3.1 Local Authorities across the country are facing significant financial challenges which, for Derbyshire, represents a cut to its budget of £157m over the next 5 years. In order to meet these targets Cabinet will be invited to review all its provision to see whether it is now affordable. Cabinet will be guided in its decision making by the priorities contained within the new Council Plan as it is developed. The total annual saving from implementing the changes proposed in this paper would be approximately £760,000 by 2016.
- 3.2 Following the introduction of charges for transport to non-entitled faith school pupils in 2011, the income level in 2012/13 was £250k. The majority of pupils who pay are in the secondary sector where, due to phased introduction of charges, it will be another 3 years before all students are charged, 5 years in the primary sector. This would generate approximately £80,000 in additional income per annum for the next 3 years, up to a maximum of £500, 000 in total annual income by 2017. The total cost of providing transport to faith schools is £1.06m (2012/13). Current predictions for the level of spend in 2013/14 are £1.2m. The actual cost of providing this transport is approximately £713 per pupil. As such, even with a charge in place, currently there is a substantial subsidy.
- 3.3 From September 2015, the anticipated annual savings made by the proposed cessation of provision of transport to faith schools would be £1.23m minus income received. This income is predicted at £390k for this financial year. It is anticipated that costs for specially commissioned vehicles and contributions to public service transport for entitled children would increase due to economies of scale. At the time the data was taken from the travel system there were 80 pupils entitled to transport due to low income and 4 pupils with other circumstances (parental choice closer than normal area school). There would continue to be a cost, which is not possible to ascertain at present, for providing transport for statutorily entitled pupils, who live in various parts of

the County. If there are commercial replacement services a bus pass would be purchased if not taxis or minibuses would be used.

- 3.4 There are currently 16 pupils travelling in taxis to faith schools due to disabilities; these pupils are not charged. If faith transport was withdrawn it is proposed that pupils with disabilities who have chosen a school on faith grounds would be subject to a charge consistent with other charges for local authority provided transport, and subject to any provision set out in a Statement of Special Educational Needs.
- 3.5 If the proposals were not approved contributions generated from the sale of spare seats in contracted vehicles during the 2014/15 school year would continue at the new rate plus inflation.
- 3.6 The charges are currently invoiced annually, termly, twice yearly or by direct debit in 10 instalments. Currently, 60% pay by direct debit. If the proposals were approved, the current charging regime and methods of payment would continue until service provision ceased in September 2015.

4 Human Resources Considerations

- 4.1 During the consultation period a substantial amount of officer time would be required to manage the consultation process. There may be some additional time requirements for Environmental Services officer time to support schools in developing their own travel arrangements, should they choose to do so.
- 4.2 There would be a moderate reduction in requirement for financial and environmental services officer time in procuring vehicles and managing payments following the proposed cessation of discretionary transport provision.

5 Legal & Human Rights Considerations

- 5.1 Section 509AD Education Act 1996 places a duty on local authorities to have regard, amongst other things, to parental preferences on grounds of religion or belief, when exercising their powers relating to home to school transport provision. The definition of “religion or belief” follows that in the Equality Act 2010, so the duty covers all religions and philosophical beliefs, and includes lack of religion or belief.

- 5.2 Human rights legislation also requires parental preferences based on religious and philosophical convictions to be taken into account, in so far as this is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.
- 5.3 The Education Act 1996 sets out the Council's duties relating to school transport. The Council must provide free transport to children who are "eligible children". Some children who attend faith schools will be eligible children but only if their families are on low incomes or they meet other criteria. If the proposed policy changes were made, the Council would continue to meet these statutory obligations.
- 5.4 Subject to Paragraphs 5.1 and 5.2, for children who do not fall within the definition of "eligible children", the Council has no duty to provide assistance with transport although it has a discretionary power. As set out in DfE Guidance 373/2007, it will be important to consider in this context the outcome of the equality impact assessment being undertaken, to ensure that the Authority's policy and arrangements continue to comply with equalities and human rights duties.

6 Equality of Opportunity Considerations

- 6.1 In March 2011, the Authority took the decision to withdraw all school transport subsidies for those pupils travelling to non-faith schools who were not statutorily entitled to free school transport, from April 2012. The Authority's current policy, as it stands, is inequitable since in practice it provides assistance to pupils choosing to attend certain faith schools on the grounds of religion or belief, but not to pupils attending other faith or non-faith schools. The proposed changes, should they be introduced, would remove these inequalities and reduce the risk of future challenge on equalities grounds.
- 6.2 Pupils travelling longer distances to access faith schools and those without access to public service transport are likely to be more greatly affected. This will be considered as part of the full equalities impact analysis.
- 6.3 Full equality considerations are to be considered and a full equality impact analysis will be completed following the consultation process.

7 Environmental Considerations

- 7.1 If the home to school transport to faith schools was withdrawn there could be an increase in the number of parents using cars for such journeys. It is difficult to assess the increase at this stage.

8 Transport Considerations

- 8.1 The current provision of public transport will be taken into consideration. Availability of public transport will vary from area to area and this will be considered when supporting schools and parents in identifying alternative transport options should they choose to take them up.

9 Property Considerations

- 9.1 There are no direct property considerations resulting from the proposed policy.

10 Other Considerations

- 10.1 Some pupils may consider transferring from faith schools to a school closer to their home or their normal area school. The Council's Home to School Transport policy would apply to these journeys. Spare capacity in other schools has been considered and in the majority of cases there are spaces in the nearest suitable school. Health impacts resulting from proposed changes will also be considered.

11 Key Decision

Yes

12 Background papers

Increase to Charges for Denominational Transport on Home to School Transport Spare Seats Increase, October 2012

Increase to Charges for Spare Seats on Home to School Transport, July 2012.

Home to School Transport policy, January 2012

Review of Support Bus Network and Public Transport Subsidies, March 2011

Transport Based on Faith or Belief Future Funding Arrangements,
July 2008.

13 Strategic Directors' Recommendations

- 13.1 That Cabinet agrees to consult on the proposed changes to arrangements for home to school transport to schools preferred on the grounds of religion or belief.
- 13.2 That Cabinet will consider a further report on the outcome of the consultation.

Ian Thomas, Strategic Director for Children & Younger Adults