

Points from STILL SEND 16+ ahead of Scrutiny Committee in response to CYPE Scrutiny 25.02.2025 Action Update with specific reference to High Court Judgement on TYC (by his litigation friend and mother, KVD) and Birmingham City Council, dated 13 March 2025

We are pleased to hear that in-depth work is taking place with finance and legal teams to develop the policy on Post-16 Transport.

However, we note that since STILL SEND 16+ submitted their statement for consideration the landscape has changed considerably. We proposed an Option 4. We asked that all applications be considered individually and that alternatives to a Personal Transport Budget be provided where applicable. It is our understanding that in the recent high court judgement noted above these points were supported by the Judge. In Analysis and Conclusion (17) of the judgement, the Judge stated that “Local Authorities must act reasonably in the performance of their functions. They should not have a blanket policy of never providing discretionary travel and must properly consider and engage with the reasons given by a parent as to why they consider that their child’s particular circumstances are exceptional and justify an award of travel support to school.” We expect that the published policy will follow the legal precedent set in this case.

We continue to be concerned that officers stand by the belief that the needs of all Post-16 young people with SEND can be met within Leicester City boundaries (Action Update, 2.3). Whilst we appreciate and support the development of options within the city, officers must acknowledge that in some cases young people will be placed outside of the city boundary to meet their needs. Although there is a range of SEND provision within Leicester City, these places will not currently meet the variation of needs for this cohort of young people. For example, some young people require therapeutic settings in rural areas. To claim otherwise is to contradict the council’s own decision making on suitable education.

In regard to Actions 3 and 4 of the Action Update, we continue to make the case that young people who have begun courses need to be supported to complete them, wherever those placements may be. In the recent High Court judgement, the Judge quoted evidence from the young person’s school which stated that the Claimant’s attendance “sharply declined” and the “disruptions to his routine have had a profound impact on his overall wellbeing”. We therefore expect that the policy will ensure that young people in Leicester City are not disadvantaged in a similar way.

We are concerned by the homogenisation of behaviours and SEND needs. In our experience these issues are inexorably linked and cannot be determined in the way suggested in the Action Update (6.2). We note that the young person who successfully brought a claim against Birmingham City Council has a range of conditions including challenging behaviour.

During a recent meeting with Government Minister Liz Kendall expressed concern about the council’s complacency over the inevitable increase in NEET young people, which is admitted within the draft decision report. She emphasised the importance of young people “earning or learning, and we expect the council take rigorous action to ensure no young person becomes NEET as a result of policy changes.

We believe there is no sense in irrational decision making when such an important policy change is under consideration. We expect the council to take into account the recent High Court Judgement and develop a rational, legal and ethical policy rather than simply publish an Appendix.