

## **APPENDIX X - ADDITIONAL INFORMATION - SEND Post-16 Transport: Proposed Policies**

### **Purpose of The Briefing Paper**

- 1.1 This briefing paper provides further context to proposals to:
  - approve the new SEND travel policy for the 2025/26 and subsequent academic years
  - approve the new post-16 transport policy statement for the 2025/26 academic year
- 1.2 The paper gives a short history of the Council’s consideration of making changes to the policy, the response to previous recommendations by the Children, Young People and Education Scrutiny Committee, the submissions by lobby group STILL SEND (16+) and benchmarking with other Councils.
- 1.3 The drivers for the proposed changes are to mitigate an unsustainable growth in costs and provide better services to promote independence.

### **SEND Home to School Travel Policy and Post-16 Travel Policy Revision 2022**

- 2.1 A revised SEND Home to School Travel Policy and Post-16 Travel Policy was agreed on 25 March 2022. This followed a consultation process which, despite writing to some 700 parents directly and publicity through the Parent Carer Forum, SENDIASS and special schools, garnered a very minimal response. The proposed changes removed transport for post 16 individuals bar “exceptional circumstances”. Transitional arrangements were put in place so that the policy was effectively not to be implemented until September 2024. The proposed changes were to affect new and existing children with SEND. The policy was reviewed by the Children Young People and Education Scrutiny Commission on 8 March 2022 who supported approval of the policy change.
- 2.2 The policy was prepared for implementation in 2024 but received a belated threat of legal challenge; an omission in publishing a post-16 Transport Police Statement in 2023 left a significant risk of a Judicial Review and as such the changes were withdrawn with a fresh consultation taking place in 2024.
- 2.3 The proposed policy being put forward for decision in 2025 is significantly more generous than the policy which received support from the CYP&E Scrutiny Commission in 2022.

### **Children, Young People an Education Scrutiny Commission - 25 February 2025**

- 3.1 The Director of SEND and Education submitted a report. The report set out the approach that the Council intended to adopt during the 2025-2026 academic year, for the provision of transport assistance to certain individuals who attend schools, colleges or other providers.
- 3.2 It was explained that whilst it was compulsory for all young people to remain in education, employment or training until the age of 18/19 years, there was not a statutory duty to provide Post 16 SEND School Transport. A change in legislation was recommended, to allow funding for said transport. A letter had been sent to the Secretary of State for Education and City MPs were urged to lobby on the issue.
- 3.3 The Strategic Director of Social Care and Education gave an overview of the prospective Post-16 SEND Home to School Transport policy. Key points to note were as follows:
  - The decision was still pending, allowing due scrutiny.
  - A formal decision had been made recently to accept the budget proposals for the upcoming year recently agreed in Full Council.

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- There was a savings target of half a million pounds in the budget proposal for Children and Young People's services but it where the savings were to be found was unspecified
  - Funds normally taken for discretionary provision would now be utilised for statutory school age transport arrangements including earlier intervention with travel training.
  - Pressures on SEND school transport had increased with the numbers of Education and Health Care Plans (EHCPs), rising National Insurance costs for transport providers, fuel costs and enhanced National Living wage.
  - The cost of discretionary travel for Post 16 SEND students presents an unsustainable pressure going forward.
  - Efforts had been made to provide clear policy proposals, despite the complexity of legislation.
- 3.4 The Chair invited The Strategic Director of Social Care and Education to provide a response to the statement submitted by STILL SEND 16+ (attached). It was advised that the report covered the areas raised, but the statement could be taken for reflection when forming the final decision.
- 3.5 The Scrutiny Commission made the following recommendations and officers have responded to them as follows:
- **Officers to reflect on wider implications of the statement from Ms Northey and consideration to be given to the option contained within it**  
  
When drafting the final proposed policy for a decision by the Assistant Mayor officers considered the implications of the statement Ms Northey combined with consultation response and recommendations made by scrutiny. Changes have been made to the policy itself to ensure that there is individual assessment of needs and for inclusion of a wider cohort to receive Personal Transport Budgets. Transitional arrangements have been added to the policy.
  - **Officers to look again at suggestion that parents and Young People should choose educational institutions closer to home**  
  
The draft decision report highlighted the legal obligation of the Assistant City Mayor to ensure that individuals in Leicester had reasonable opportunities to choose between different education or training establishments, and the final decision report also takes this into account. The policy does not undermine the fact that the placement must meet educational need as specified in a young person's EHC Plan. There remains choice by the parents and young person to request an institution, which may be further from home, but the local authority will not need to fund this unless directed to do so by a Tribunal. Tribunals tend only to direct this where costs are similar.
  - **Officers to consider how to enable as many young people as possible to remain in relevant educational institutions and reassurance to be given that places are available for young people to continue education for as long as possible in the appropriate educational institution**  
  
**Our response:** The final policy makes transitional arrangements for those going from year 12 to 13 where they are continuing a course of education so that their education is not disrupted. We talk later in this document about the need to ensure appropriate provision across the city.
  - **Impact to be tracked and reported on to scrutiny**

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**Our response:** A commitment has been made to report back to scrutiny on the impact of any policy change as soon as meaningful data is available.

- **Wording on 4.4.35 "If travel is temporarily or permanently withdrawn for behavioural reasons parents would be responsible for getting their children to school and for any costs incurred." to be revised.**

**Our response:** The wording has been changed to reflect the need for full assessment of the factors behind any such behaviour and engagement in attempts to address and modify it.

- **Data to be provided on Travel Plans and how they affect families**

**Our response:** This was interpreted to reference Cllr March's question surrounding data regarding Independent Travel Training and data was provided. There are plans and a commitment to extend the range of travel training over the course of the next academic year drawing from best practice and with a medium-term goal to start this earlier in a young persons' schooling to build confidence over time.

- **Forecasts and assumptions on costs to be looked at again**

**Our response:** Forecasts and assumptions have been reviewed based on the latest data. This has included an improved financial position because of a taxi re-tendering exercise which has driven out savings by using a dynamic purchasing system. There has also been an uptake in Personal Transport Budgets by parents of school aged children. This has allowed us to alter the proposed policy so that our forecast is that 83% of young people will receive a Personal Transport Budget and 4% will receive commissioned transport or an enhanced offer. All young people will be able to benefit from a travel training offer.

- **Consideration to be given to the need to avoid young people becoming NEET**

**Our response:** The Council continues to operate a Connexions service to support the most vulnerable young people before they leave school, those at risk of becoming NEET and those who are NEET. The service supports young people up to the age of 18 or up to 25 years old if they have an EHC plan working across secondary mainstream, special and independent schools, colleges, training providers and in the community.

The Connexions team has 15 members of staff of whom 6 who are employed as SEND Personal Advisors (SEND PA). In 23/24 academic year the service supported 481 pieces of work with young people who have an EHCP plan. These pieces of work have included:

- advice and guidance with a young person and/or their parent
- attendance at Annual Reviews
- completion or support with applications for Post-16 provision
- advocacy (both across the Local Authority and with external partners)
- interview/assessment support (including attending visits and interviews with young people)

Leicester City Council also continues to invest significantly in the development and expansion of Supported Internship (SI) opportunities. Led by the Connexions Team, Ellesmere, Gateway and Leicester Colleges in partnership with Project Search. SIs are 1-year programmes designed for young people up to the age of 25 with an EHCP. A young person accesses academic support in an education provision, whilst spending the majority of their time in a host workplace. During the SI a job coach works alongside them to help them to break down and learn different tasks, enabling increased independence and work readiness. Travel training is also an integral part of the SI offer. Host businesses currently include Leicester City Council, University Hospitals

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Leicester, Voco Hotels, Marriott Hotels, Leicester University and Chartwells. In 23/24 academic year 73% of interns went on to secure paid employment.

### “STILL SEND 16+” Statement to Scrutiny - 6th April

- 4.1 In their statement to the 6th April Children, Young People and Education Scrutiny Commission STILL SEND 16+ welcomed the progress made by Leicester City Council in developing its Post-16 Transport policy, particularly the involvement of finance and legal teams in shaping a more robust framework. However, the group noted that since submitting its original statement to the council, the policy landscape had shifted significantly—most notably due to the High Court judgement in the case of *TYC (by his litigation friend and mother, KVD) v Birmingham City Council*, delivered on 13 March 2025.
- 4.2 **Our response:** This ruling was directly relevant to the concerns raised by STILL SEND 16+. In the Judge’s analysis and conclusion, it was made clear that local authorities must act reasonably in the performance of their duties. Specifically, the Judge stated that councils must not implement blanket policies that exclude the possibility of discretionary travel support. Instead, they were required to consider the individual circumstances of each applicant and properly engage with the reasoning provided by families. STILL SEND 16+ argued that this judgement supported their previously proposed Option 4—namely, a flexible policy in which each application was individually assessed, and alternatives to a Personal Transport Budget (PTB) were made available where appropriate. It was confirmed that the local authority was aware of the ruling and that it was being taken into account in the drafting of the final policy and transport statement.
- 4.3 STILL SEND 16+ also expressed concern over the continued assertion, stated in the council’s Action Update (2.3), that the needs of all young people with SEND could be met within the boundaries of Leicester City. While the group supported efforts to expand local provision, it insisted that the council must recognise that, in some cases, provision outside the city was necessary to meet specific and often complex needs. Many young people required placements in therapeutic or highly specialist settings not available within the city limits. To deny this, they argued, was inconsistent with the council’s own history of out-of-area placements.
- 4.4 **Our response:** It is recognised in the final policy that provision may not all be within the boundaries of Leicester City itself and provision named in an EHC plan might be further afield either due to any provision in the city that can meet need or as a matter of parental preference.
- 4.5 Further concerns were raised regarding Actions 3 and 4 of the council's update, which related to young people already undertaking post-16 courses. STILL SEND 16+ emphasised that those who had begun study programmes needed to be supported to complete them, regardless of location. This position was, they stated, backed by the High Court judgement, which noted that transport disruption had led to sharp declines in school attendance and had negatively affected the claimant’s wellbeing. The group asserted that Leicester City Council had a duty to ensure that no local young person suffered similar consequences due to changes in transport policy.
- 4.6 **Our response:** Mitigation has been made to the policy to allow for the transition year to minimise the disruption to those in the middle of courses during what would be their sixth-form years,
- 4.7 Another key issue identified was the oversimplification of behavioural and SEND needs. STILL SEND 16+ strongly challenged the implication, found in Action Update 6.2, that such complex factors could be generalised or uniformly categorised.

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- 4.8 **Our response:** The claimant in the Birmingham case, for example, had a range of overlapping conditions including behavioural challenges, and the success of that legal case underscored the need for a nuanced understanding and greater flexibility which is now embedded into our assessment process. As stated above, the authority has taken the ruling into consideration in the final policy which has had oversight from a specialist barrister.
- 4.9 The group also relayed concerns expressed by Minister Liz Kendall in a meeting, where she expressed concern regarding the potential increase in NEET (Not in Education, Employment or Training) figures resulting from restrictive transport policies.
- 4.10 **Our response:** The Assistant Mayor has written to government to lobby for a change in duties, and the consequent funding, to extend education transport to young people with SEND past statutory school age. This report goes on to describe the support given to students with SEND who are risk of becoming NEET.

### STILL SEND Statement 6 May 2025

- 5.1 The intention to make a decision on SEND Transport was published on 2 May 2025 with the decision due on 13 May 2025. The “STILL SEND” group produced an additional statement on 6 May 2025 which they sent to an audience including members of the Children, Young People and Education Scrutiny Commission. In their statement they begin with a general point about the potential level of saving.
- 5.2 **Our response:** The financial picture is covered in the Decision report including the issue of the wider Council finances and the additional pressure of providing discretionary transport provision. Reasonable assumptions and projections have been made on finances based on a case-by-case review of the entire current cohort.
- 5.3 The statement goes on to raise three areas and provide a position from the STILL SEND group. In relation to financial hardship their position is that “the “demonstrable financial hardship” test should instead be used to determine whether parents should pay a reasonable contribution towards the cost of transport, as in Leicestershire County Council and others”.
- 5.4 **Our response:** Leicestershire’s policy, and that of other local Councils, is explained in the Benchmarking section below. It is correct that parents are asked for a financial contribution if the young person as exceptional circumstances and transport is provided but generally. Leicester City Council is not suggesting that parents would be asked to make a contribution in such circumstances. The proposal put forward for the decision is more generous than that in the Leicestershire County Council.
- 5.5 The statement also comments on exceptional circumstances.
- 5.6 **Our response:** The policy is now in line with the legal judgement, highlighted by the STILL SEND group themselves, *f TYC (by his litigation friend and mother, KVD) v Birmingham City Council* which means there will be an individual assessment in each case and the ability of parents to put forward evidence of the impact on issues such as employment (for example where working hours cannot be changed or employers will not consider reductions or flexible working in relevant cases) and household finances so that families do not find themselves in poverty, as the statement describes.
- 5.6 The process of individual assessment builds on the current process and sufficient resource is already in place to manage these. The process will be improved through the development of a web-based portal for applications at minimal cost as part of the department’s efficiency plans. An appeals process has been designed with timescales in line with national guidance.

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- 5.7 The statement also touches on the transitional arrangement. Post-16 courses are almost exclusively one or two years aside from university courses where funding and support are separate from the local authority and an EHCP. If a young person on a three-year long course was at risk of their education being disrupted due to transport the policy makes provision for this to be looked at as an exception on a case-by-case basis.
- 5.8 **Our response:** For those who have places specified for year 12 they will be aware of the possibilities of a policy change. Support will be available to any young person and family where year 12 arrangements risk reduction due to the change of policy. This may include travel training over the summer holiday in appropriate cases.

### **Independent Travel Training**

- 6.1 There are some very good and effective practice examples of independent travel training (ITT) at some schools and colleges which can be built on. The financial modelling for all age SEND includes an additional investment of £300,00 per annum to grow the availability of ITT and to ensure that where appropriate this happens early in a child's secondary education journey so that they are confident in independent travel before the age of 18. Plans for how this will be delivered are currently being formulated ready for the new academic year.

### **Benchmarking**

- 7.1 Many local authorities have already reviewed and revised their post-16 SEND transport policies to better meet the needs of young people with special educational needs and disabilities, while also managing demand and resources more effectively. A comparison of the current offers from Nottingham City, Derby City, and Leicestershire reveals a range of approaches, each tailored to local circumstances and priorities.
- 7.2 Nottingham City considers eligibility based on the presence of "significant SEND," a term broadly aligned with what some authorities define as "complex SEND need." The support provided can vary, including options such as travel training, a Personal Transport Budget (PTB), or council-funded transport. However, if council-funded transport is provided, there may be a charge, though the exact amount is not specified in the policy. Eligibility and the type of support offered are determined by the Special Educational Needs (SEN) service following an individual needs assessment.
- 7.3 Derby City offers a more flexible, discretionary approach. In some cases, free shuttle buses are available to Derby College, which provides an accessible transport option for students attending that institution. The standard offer across the city is a Personal Transport Budget, supporting families in arranging their own transport solutions. Council-funded transport is reserved for exceptional circumstances, assessed on a case-by-case basis, and there is no charge when such transport is approved.
- 7.4 Leicestershire has adopted a more uniform approach for young people aged 16 to 19 with eligible SEND needs. Since September 2021, traditional transport methods—such as taxis and council fleet minibuses—have largely been phased out and replaced by direct payments in the form of a Personal Transport Budget. The value of the PTB is determined by factors including journey length and number of days required. Exceptions to this model may still be made on a case-by-case basis. The authority also applies a means-tested contribution system: low-income families are asked to pay an annual contribution of £330, while non-low-income families pay 50% of the full charge. Notably, there is no charge at all for eligible students aged 19 to 25. Leicester City Council would not be requesting a financial contribution under the new policy.

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- 7.5 Nottinghamshire assess that a need or transport support may arise if evidence is provided that a student is unable to walk or travel safely when accompanied to the special school, sixth form or college or is unable to use public transport when accompanied. Eligibility is based on residence, a full-time course, having an EHC Plan and travel distance. Travel assistance normally takes the form of the provision of a Direct Travel Assistance Payment (DTAP) at 22.6 pence per mile or provision of special/medical transport provided to and from a designated collection/drop off point located within one mile of the home address in exceptional case. All students are enabled to undertake independent travel training.
- 7.6 Derbyshire County Council's scheme is similar to that of Nottinghamshire but offers 45 pence per mile in terms of a transport budget. For those who are both eligible and assessed as requiring other types of transport an annual contribution is required of £438 or £296 for those assessed as being on a "low income" (i.e. maximum Working Tax Credit, Income Support or Universal Credit where income does not exceed £660 per month). As stated above Leicester City Council would not be requesting a financial contribution under the new policy.
- 7.7 Together, these examples illustrate how local authorities are balancing equity, flexibility, and financial sustainability in their approaches to post-16 SEND transport. Each model offers a different blend of targeted support and personalisation, often underpinned by a focus on promoting independence through options like travel training or direct payments. The offer from Leicester City Council far outweighs the offer from other authorities. The policy strongly considers the financial need of individuals with a strong commitment to promoting independent living.

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