



Leicester
City Council

WARDS AFFECTED
ALL WARDS

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Children & Young People Scrutiny Committee
Cabinet

18th March 2010
29th March 2010

HOME TO SCHOOL TRANSPORT POLICY FOR CHILDREN WITH SPECIAL EDUCATIONAL NEEDS/DISABILITY/MOBILITY NEEDS

Report of the Strategic Director, Children

1. Purpose of Report

- 1.1 The Council currently spends in the region of £3.8m annually on Special Educational Needs (SEN) transport, which is funded by the General Fund budget.
- 1.2 This report introduces a Home to School Transport Policy for Children with Special Education Needs / Disability / Mobility Needs (referred to in this report as the SEN Transport Policy) for qualifying children with special educational needs / disabilities / other mobility needs. The arrangements within the Policy are intended to improve our decision-taking, operational procedures and secure greater accountability; they will also enhance our customer service and contribute to improved outcomes for some of our most vulnerable young people.

2. Summary

- 2.1 This Policy has been the subject of extensive discussion within the Children's Services Group, the broader City Council, Leicester City Parent and Carers Forum, relevant Health Authority partners and the Equality and Diversity Partnership.
- 2.2 This Policy defines "need" with regard to a range of agreed *objective criteria* and clarifies decision-taking processes, respective responsibilities and accountabilities. The SEN Transport Policy also introduces an independent appeals procedure for families.
- 2.3 Key issues within the proposed arrangements are highlighted in the report below and are detailed in the attached draft SEN Transport Policy document – see **Appendix A**.

3. Recommendations (or Options)

Children & Young People Scrutiny Committee is asked to:

- 3.1 Scrutinise the contents of this draft report and attached Home to School SEN Transport Policy and provide comments to Cabinet upon its suitability.

Cabinet is asked to:

- 3.2 Support the introduction of these procedures within the attached SEN Transport Policy with immediate effect.

REPORT

- 4.1 Each year the City Council spends in the region of £3.8m providing transport for children with special education, disability and mobility needs.
- 4.2 Currently, a child is automatically entitled to free transport if they:
- are between 5 and 16 years old;
and
 - attend the nearest suitable, allocated school and the school is further away than the “statutory walking distance”.
- 4.3 The “statutory walking distance” is defined as:
- 2 miles for pupils aged under 8;
 - 3 miles for those aged 8 and over.
- 4.4 The measurement of the statutory walking distance is not necessarily the shortest distance by road. It is measured by the shortest route along which a child, accompanied as necessary, can walk with reasonable safety. As such, the route measured may include footpaths, bridleways and other pathways as well as recognised roads. The City Council adheres to national guidelines when determining whether or not a route is reasonable and safe.
- 4.5 In addition, recent legislative change has extended the right to free school transport to pupils who:
- are aged 8 to 11 years;
 - whose family is in receipt of maximum working tax credits;
 - go to their nearest suitable school and live more than 2 miles away.
- 4.6 Secondary school aged pupils 11-16 years old are also entitled to free school transport if:
- their family is in receipt of maximum working tax credits;
 - they attend any one of their three nearest, suitable, schools and the school is between 2 and 6 miles away from their home address; or
 - their nearest school preferred by their parents on the ground of religion or belief, and the school is between 2 and 15 miles away from their home address and where there is no suitable qualifying school nearer to home.
- 4.7 The attached SEN Transport Policy recognises all of the above and provides additional access to free Home to School transport for qualifying children with Special Educational Needs / disabilities / other mobility needs. Additionally, the SEN Transport Policy enables improved needs identification, decision-taking, enhanced service delivery and the introduction of an independent appeals process

that will strengthen customer-focussed and confidence in the integrity of the decisions taken.

- 4.8 Increased costs associated with the eligibility criteria detailed at 4.5 and 4.6 above are currently met by provision within the Area-Based Grant. Costs arising outside of this envelope with regard to this particular provision (extended right to free transport) will need to be met from the Council's General Fund Account.
- 4.9 The key issues arising from the attached SEN Transport Policy are highlighted as paragraphs 4.11 to 4.17 below.
- 4.10 This Policy differentiates between the provision for students with SEN, disability and mobility needs within *general education* (5 – 18 years) and those students generally aged 19 – 25 years in receipt of *FE provision* (Section 2.6 of the Policy). Students in FE provision will be expected to contribute annually towards the cost of transport, *unless* their family is on income support or income based job seekers allowance. This is in accordance with our published Policy for all post 16 students.
- 4.11 This Policy identifies a clear, objective and consistent process for assessment of transport needs (Appendix 5, 6 and 7).
- 4.12 Essentially need will be assessed *objectively* against 7 broad categories:
- *Long term severely restricted independent mobility, due to a physical disability* e.g. severe cerebral palsy requiring the daily use of significant physical aids such as a wheelchair.
 - *Long term severely restricted independent mobility due to a medical condition resulting in severe persistent pain and/or extreme fatigue.* An example of this might be juvenile arthritis.
 - *Long term restricted mobility due to a medical condition resulting in serious persistent health and safety risks.* Examples of this might be intractable seizure disorders e.g. Epilepsy.
 - *Impairment resulting in severely restricted oral communication skills.* Examples might be profound hearing impairment or severe autism or severe language disorder.
 - *A sensory impairment resulting in severely restricted mobility.* An example might be a severe visual impairment.
 - *Cognitive abilities within the range associated with Severe Learning Difficulties.* (See 2.1.2 of the Policy for further details).
 - *Severe behavioural emotional and /or social difficulties in comparison with other children of their age.*
- 4.13 The Policy specifies clear eligibility criteria (Sections 2.1 and 2.2 of the SEN Transport Policy) and associated processes. Assessment will necessitate the collation and analysis of information essential to the assessment of need and safe carriage. This represents a significant change in assessment procedure. It is however a change that will lead to better needs analysis, resource allocation, enhanced risk assessment, improved management and improved customer care.
- 4.14 The Policy also makes clear respective roles, responsibilities and expectations.
- 4.14.1 **Appendix 1** sets out a parent/carer agreement and expectations of parents.

- 4.14.2 **Appendix 2** provides a *Code of Behaviour for Pupils*.
- 4.14.3 **Appendix 3** provides summary guidance *Notes for Parents*.
- 4.14.4 **Appendix 4** indicates where information about the requirements placed on drivers and escorts can be found.
- 4.14.5 **Appendix 5** Note for Schools.
- 4.15 The Policy provides a clear statement about the determination of the “nearest appropriate school” and what will happen if this differs from parental preference (Section 2.4 of the Policy). This is important as this aspect can often prove an area of conflict.
- 4.16 Introduces a new appeals mechanism to enhance quality assurance and improve accountability (Section 1.13 of the Policy).

4.17 5. Financial, Legal and other Implications

5.1. Financial Implications

- 5.1.1 The arrangements within the revised SEN Transport Policy will introduce a more objective assessment of need and help secure better value for money. There will be a need to monitor transport assistance provided on grounds of low income.
- 5.1.2 Provisions at Section 4.13 of this report and Section 2 of the accompanying Policy will clarify appropriate placements and will contribute to more effective placements with reduced costs.

Colin Sharpe
Head of Service
Finance and Efficiency
Tel: 0116 252 7750 (29 7750)

5.2 Legal Implications

- 5.2.1 This report deals with two separate, though overlapping issues – (i) the Council’s Policy in relation to the provision of free transport to children with qualifying SEN/ Disability/ Mobility needs and (ii) the broader extended rights to free transport as a result of national legislative change.
- 5.2.2 The latter changes are already implemented, and the Council has no discretion in relation to them.
- 5.2.3 The former matter (i.e. the SEN Transport Policy) is drafted in accordance with National Guidance and relevant legislative and common law principles. Specific reference must be made to s.49A DDA 1995 (and the Disability Rights Commission Statutory Code of Practice), which states that:
- 5.2.4 [49A General duty]

Every public authority shall in carrying out its functions have due regard to:

- (a) the need to eliminate discrimination that is unlawful under this Act;
- (b) the need to eliminate harassment of disabled persons that is related to their disabilities;

- (c) the need to promote equality of opportunity between disabled persons and other persons;
- (d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
- (e) the need to promote positive attitudes towards disabled persons; and
- (f) the need to encourage participation by disabled persons in public life.

5.2.5 Cabinet (as well as officers throughout the process) must be mindful of their obligations under this provision when making decisions. These obligations require robust and proactive consideration.

Kamal Adatia
Head of Community Services Law
Legal Services
Tel: 0116 252 7044 (29 7044)

6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	Yes	Whole report
Policy	Yes	Whole report
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	Yes	4.2 to 4.4

7. Risk Assessment Matrix

It is recommended that this policy be implemented for the start of the 2010-2011 academic year. It would apply to all applications under the policy relating to the 2010-2011 academic year and subsequent years.

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
1. Fewer children become eligible for assistance with transport costs under the policy.	L	L	The arrangements within the policy are intended to improve transparency, improve decision-making, standardise operational procedures and secure greater accountability. They will also enhance our customer service and contribute to improved outcomes for some of our most vulnerable young

			people. It is anticipated that as a consequence of the introduction of this policy the number of children receiving assistance with transport costs will remain broadly the same.
2. More children become eligible for assistance with transport costs under the policy.	L	L	The arrangements within the policy are intended to improve transparency, improve decision-making, standardise operational procedures and secure greater accountability. They will also enhance our customer service and contribute to improved outcomes for some of our most vulnerable young people. It is anticipated that as a consequence of the introduction of this policy the number of children receiving assistance with transport costs will remain broadly the same.
3. The cost of providing the service will rise as a result of the introduction of the policy.	L	L	While there are cost pressures on this budget, the implementation of this policy is not one of the major cost drivers. Indeed it is anticipated that the improved transparency, improved decision-making and standardised operational procedures will contribute to efficiencies and thus better value for money.
4. The time from application to outcome takes longer.	L	L	The standardised operational procedures in the policy document are designed to improve understanding of the process and the time taken to complete the various stages. It is the intention of officers that these streamlined procedures will shorten the time from application to outcome.
5. The number of appeals would cause hold-ups to the efficient administration of the service.	L	L	The provision of an appeals process is a necessary element in improving transparency and user confidence. Currently there are 334 children of school age (plus 95 young people over 16 years old) receiving support under the existing arrangements. Given that fewer than 10 children have had an application refused in the

			last 12 months, it is anticipated that there will be no more than 2 or 3 appeals in any one year.
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8. Background Papers – Local Government Act 1972

None

9. Consultations

This revised Policy has been prepared by a working party (including health professionals). The working party has reviewed content, definitions, eligibility criteria, decision taking and quality assurance processes.

The final draft of the policy was circulated to the Leicester City Parent and Carers Forum and the Equality and Diversity Partnership. Members of these two groups have considered the draft and made a number of comments. The suggestions from these two groups have been considered by officers and many of the suggestions have been incorporated into the revised document that is now tabled for consideration.

10. Report Authors

Trevor Pringle
 Divisional Director
 Planning and Commissioning
 Tel: 0116 252 7702 (29 7702)

John Thatcher
 Principal Transport Manager
 Children and Young People’s Services
 Tel: 0116 252 7800 (29 7800)

Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)