
Executive Decision Lead Member

2024-2025 Post 16 Transport Policy Statement Revision

Decision to be taken by: Assistant City Mayor for
Education

Decision to be taken on: 1 October 2024

Lead director: Sophie Maltby, Director SEND and
Education

Useful information

- Ward(s) affected: All
- Report author: Strategic Commissioning Team
- Report version number: 0.1

1. Summary

- 1.1 Under s 509AA of the Education Act 1996¹, the Council is required to prepare for each academic year, a Post 16 Travel Policy Statement (TPS) which specifies:

‘the arrangements for the provision of transport or otherwise that the Council considers it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training at the institutions specified in section 509AA(2), and the arrangements that the Council considers it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at such an institution.’
- 1.2 The council’s Post 16 TPS for the 2024-2025 academic year was formally adopted and published on 10 April 2024 (Appendix 1).
- 1.3 The TPS involved a change in approach from the previous Post-16 Transport Policy Statement (the 2021 – 2022 to 2023-2024 Post-16 TPS – Appendix 2), at least in practice. It removed the discretionary general entitlement to post 16 SEND transport support unless there were ‘exceptional circumstances’ for young people with special educational needs and disabilities.
- 1.4 It was at the time understood that this change merely implemented a decision that had been taken in 2022.
- 1.5 However, in May 2024, the Council received letters before claim threatening challenges to the TPS, and the decisions to which it had given rise in individual young person’s cases.
- 1.6 Upon investigating the background to the 2024-2025 Post 16 TPS in order to respond to those claims, it came to officers’ attention that, contrary to the requirements of the Education Act 1996, there had been no consultation on it.
- 1.7 Accordingly, the decision was taken not to contest the claims, and to agree to continue to provide the proposed claimant young people during 2024-2025 with the transport that they were then currently receiving in 2023-2024.
- 1.8 The Council also expressed an intention, subject to the relevant legal requirements being met, to revise the TPS to continue in 2024-2025 the arrangements for post-16 children with special educational needs that were in place during 2023-2024.

¹ [Section 509AA, Education Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/509AA)

- 1.9 The letters before claim constituted sixth form transport complaints about the Council's transport arrangements for the purposes of the Education Act 1996, therefore there is a power to revise the TPS if the Council considers the change necessary for the purpose of the TPS (see section 509AE of the 1996 Act²).
- 1.10 The proposed revision to the 2024-2025 Post 16 TPS adds back in the previously detailed eligibility criteria for young people with SEND in post 16 education and older. Appendix 3 contains a copy of the policy with the additions highlighted in yellow for ease of reference and deletions struck through. The effect of the revision is to align the 2024-2025 Post 16 TPS with the current operational practice that was previously communicated via news release (Appendix 4).
- 1.11 The Lead Member is asked to decide whether it is necessary and appropriate to make the proposed changes. Particular regard should be given to whether the revised TPS makes the arrangements for the provision of transport/financial assistance that are necessary to facilitate the attendance of persons of sixth form age receiving education or training at the institutions specified in s 509AA(2).
- 1.12 In taking this decision, it is requested that the Lead Member should have regard to the following factors (which will each be addressed below):
- Each of the matters specified under s 509AB(3) of the Education Act 1996.
 - Department for Education guidance in this area
 - The likely impact on the statutory qualities objectives set out in s 149 of the Equality Act 2010 (the public sector equality duty).
 - The Council's sustainable modes of travel strategy.
 - The financial implications for the Council.
- 1.13 Section 509AB(3) of the Education Act 1996³ says:
- “(3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the [local authority] shall have regard (amongst other things) to—
- (a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made,
 - (b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided,”
- 1.14 The TPS is concerned with support for young people in post 16 Education. The way that the council meets the requirements in section 509AB(3) above is contained in two home to school and college travel policies:
- the Mainstream Home to School Transport Policy 2021/2022 (Appendix 5).
 - the Children and Young People with SEND Home to School and College Travel Policy 2021/2022 (Appendix 6).

² [Section 509AE, Education Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/509/section/509AE)

³ [Section 509AB\(3\), Education Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/509/section/509AB(3))

- 1.15 The Children and Young People with SEND Home to School and College Travel Policy 2021/2022 stated the council's intention to only provide transport for young people with SEND in post 16 Education in 'exceptional circumstances' in the 2024/2025 academic year.
- 1.16 For the reasons above the council will not be doing this and the revised TPS reflects that. The result is that the arrangements that were in place for the 2023/2024 academic year will remain in place for the 2024/2025 academic year.
- 1.17 To ensure that policy is clear for 2025/2026 as per the news releases a full consultation will take place in advance of the TPS being published before 31 May 2025.
- 1.18 Appendix 7 contains Statutory guidance for local authorities for Post-16 transport and travel support to education and training. This was published in 2019 and remains applicable.
- 1.19 Section 4 of this guidance highlights the duty upon councils to prepare an annual policy statement under Section 509AA of the Education Act 1996:
- "Local authorities have a duty to prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport, or otherwise that the authority considers necessary, to make to facilitate the attendance of all persons of sixth form age receiving education or training."
- 1.20 Section 43 onwards of the guidance explains the way local authorities must consult with stakeholders to ensure that how the council is meeting its statutory duties surrounding Post-16 SEND transport is clear.
- 1.21 Local authorities have until 31 May each year to publish the Post-16 annual transport statement.
- 1.22 The likely impact on the statutory qualities objectives set out in s 149 of the Equality Act 2010 (the public sector equality duty): Due to the fact that the proposed 2024-2025 TPS does not alter service but aligns the policy documents with operational practice means that there is no material change. On the basis that there will be no change to eligibility there will be no impact to the change such that the public sector equality duty has been considered and is met.
- 1.23 The council is committed to ensuring the city is accessible as possible for all ages in the most sustainable way. This is reflected in the City Mayors ['Connecting Leicester' vision](#) and the ['Choose how you move'](#) project resources. These reflect the council's sustainable modes of travel strategies at the current time.
- 1.24 An open letter to the Secretary of State for Education, dated 3 September 2024, from a number of highly respected and credible stakeholders details the challenges within the SEND and Education system (Appendix 7). As SEND needs have increased so has demand for SEND transport with associated costs.
- 1.25 It is well documented that the council is facing very significant financial pressures, prompting a review of all discretionary services. The local authority does not have any statutory duty to provide post-16 SEND transport and receives no funding from

central government to do so. It is not something that can be paid for from the Schools Grant and needs to be met through local taxation.

- 1.26 The cost for discretionary Post 16 SEND transport in Leicester exceeded £4 million for the 2023/2024 academic year. The budget for 2024/2025 is projected to be over £13m in 2024/2025, with an unbudgeted overspend of over £1.5m.
- 1.27 It is generally beneficial for young people to be as independent as possible as they prepare for adulthood ([Preparing for adulthood strategy 2021-2025 \(leicester.gov.uk\)](#)). Independent travel is a valuable life skill and should be fostered whenever possible. However, the financial challenges detailed above were a significant reason the Children and Young People with SEND Home to School and College Travel Policy 2021/2022 stated the council's intention to withdraw general discretionary support for young people with SEND in post 16 education, from the 2024/2025 academic year.
- 1.28 To reiterate the requested decision does not affect service for young people as the proposed, revised policy reflects the reinstatement of discretionary, post 16 SEND transport eligibility, as in previous years, for 2024/2025. The financial information above is included for broader context.

2. Recommended actions/decision

- 2.1 That the details surrounding the council's statutory responsibilities and financial implications contained within this report are considered.
- 2.2 A decision whether to revise the 2024-2025 Post 16 TPS under s 509AE of the Education Act 1996.⁴
- 2.3 That the forward plan regarding the broader policy is noted.

3. Scrutiny / stakeholder engagement

- 3.1 Extensive stakeholder engagement is planned and underway regarding the broader policy but minimal updates through existing school networks are planned alongside that deeper communication in relation to this policy.
- 3.2 There has been public communication via news release about this policy revision as detailed in Appendix 4.
- 3.3 Officers acknowledge the situation has been confusing for stakeholders, particularly families and schools. There is a risk that communication surrounding this policy update could distract from the important key message

⁴ [Section 509AE of the Education Act 1996 \(legislation.gov.uk\)](#)

regarding the forthcoming policy consultation. Sharing this updated policy broadly has minimal practical impact given the time of the academic year and the substance of the changes to the 2024-2025 Post 16 TPS revision.

4. Background and options with supporting evidence

- 4.1 Due to the nature of the decision the background is included within the summary above.
- 4.2 The main options available are:
- Option 1: Do nothing. This is liable to result in further confusion for stakeholders as the online TPS doesn't reflect what the council is doing in practice.
- Option 2: Revise the 2024-2025 Post 16 TPS as per the proposed draft (recommended).
- 4.3 There is no underlying analysis / evidence to share beyond the narrative in the summary based on the nature of the decision.

5. Financial, legal, equalities, climate emergency and other implications

5.1 Financial implications

The 2024/25 SEND Transport budget is £15m, forecast is £17m an overspend of £2m. This budget funds post 16 travel which in 2023/24 was circa £4m, for 24/25 this is expected to be similar.

Signed: Paresh Radia

Dated: 17.09.2024

5.2 Legal implications

The legal implications are set out in the body of the report.

On the basis that the threatened legal challenges constituted sixth form transport complaints about the council's transport arrangements, the council has the power to revise the TPS if revision is necessary for the purpose of the TPS.

In deciding whether it is necessary and appropriate to make the revisions to the TPS, the decision makers should have specific regard to the matters set out at paragraphs 1.13 to 1.28 above.

If, following the above consideration, a decision is taken to revise the TPS, the council must publish the TPS and a description of the revision as soon as practicable.

Signed: Julia Slipper, Principal Lawyer (Education & Employment). Tel: ext 6855

Dated: 16.09.2024

5.3 Equalities implications

Under the Equality Act 2010 (including the local authority and schools), Local Authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

The report updates on the consultation process to consult on amendments to the Post 16 Travel Policy Statement. Changes made to the statement and the subsequent changes imposed, such as the withdrawal of transport service, is likely to have a negative impact on Post 16 young People with Special Education Needs and Disabilities (SEND). SEND children and young people and young adults are likely to face challenges when integrating into some aspects of social life and whilst independence can be beneficial, without support it may also be detrimental to their growth.

An Equality Impact Assessment (EIA) has been done to consider the impacts and to give due regard to the protected characteristics affected by the policy change. Carrying out an EIA is an iterative process that should be revisited throughout the decision-making process and this should be updated to reflect any feedback/changes due to consultation as appropriate.

The findings of the EIA should be shared, throughout the process, with decision makers to inform their considerations and decision making.

Where any potential disproportionate negative equalities impacts are identified in relation to a protected characteristic/s, steps should be identified and taken to mitigate that impact.

The EIA findings should continue to be used as a tool to aid consideration around whether we are meeting the aims of the PSED, and to further inform the work being progressed on managing placement sufficiency demands.

Signed: Kalvaran Sandhu, Equalities Manager

Dated: 10th September 2024

5.4 Climate Emergency implications

There are no significant climate emergency implications directly associated with the recommendations of this report. More widely, however, SEND Transport is a significant source of carbon emissions for the council, due to the use of vehicles to transport service

users. As such, consideration should be given to opportunities to reduce emissions from this service, as appropriate and feasible, such as the use of lower emission vehicles and public transport as well as route planning to maximise efficiency. Alongside reducing emissions and potentially costs, this could have a further positive impact through supporting service users to independently use sustainable transport modes in the future, increasing their range of transport options.

Signed: Aidan Davis, Sustainability Officer, Ext 37 2284

Dated: 11 September 2024

5.5 Other implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

6. Background information and other papers:

6.1 Referenced in links and Appendices for ease of correlation to content.

7. Summary of appendices:

Appendix 1: 2024-2025 Post 16 Travel Policy Statement.

Appendix 2: 2021 – 2022 to 2023-2024 Post 16 Transport Policy Statement.

Appendix 3: Proposed Draft Revised 2024-2025 Post 16 Transport Policy Statement with revisions highlighted.

Appendix 4: SEND Transport news releases.

Appendix 5: Mainstream Home to School Transport Policy 2021/2022.

Appendix 6: Children and Young People with SEND Home to School and College Travel Policy 2021/2022 (Appendix 6).

Appendix 7: Statutory guidance for local authorities for Post-16 transport and travel support to education and training.

Appendix 8: Open letter to the Secretary of State for Education highlighting a 'SEND Crisis'

8. Is this a private report (If so, please indicate the reasons and state why it is not in the public interest to be dealt with publicly)?

8.1 No.

9. Is this a “key decision”? If so, why?

9.1 This is not a key decision unless Lead Member has a differing view. It has not been published on the plan of key decisions.