

CABINET MEETING – 16 MAY 2016

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Home to School Transport Review: outcomes from the consultation process in relation to post- 16 transport for pupils with special educational needs and disabilities.

Author(s):

Interim Director of Children's Services

Purpose of Report:

To update Cabinet on outcomes of the public consultation in relation to home to school and college transport for post 16 students with special educational needs and disabilities.

The report seeks approval to introduce a funding contribution of £651 towards the costs of travel from home to school/ for post -16 learners with special educational needs and disabilities where appropriate from September 2016.

Description of Decision: Cabinet is asked to :

- i. Consider the outcomes of the consultation with a view to introducing a funding contribution of £651 towards the costs of travel from home to school/college for post -16 learners with special educational needs and disabilities where appropriate from September 2016.
- ii. Consider the outcomes of the consultation with a view to having a zero cost exemption to the funding contribution for low income families who meet specified criteria and foster carers.
- iii. Agree to continue with the provision of free transport for those post 18 learners to whom the provision of transport to college/further education would fall under the Care Act 2014 until internal processes have been put in place to carry out the assessments required under legislation to introduce a contribution charge.

Is the decision consistent with the Budget/Policy Framework? *Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

Legally the Council is not required to meet the full cost of home to school/college/training provider transport for all post 16 learners with special educational needs and disabilities, but historically has done so. Along with all Council Services, the service is being reviewed in order to identify the most cost effective delivery approach. It is considered that a post 16 contributory charging scheme, of £651 for the academic year 2016/2017 would assist in enabling a cost effective service, whilst satisfying the Council's duty to ensure learners with special educational needs and disabilities are not put at a disadvantage in accessing education/training.

Alternative options to be considered and recommended to be rejected:

1. Take no action in relation to home to school/college/training provider transport for post 16 learners with SEND and continue to provide the transport with the full cost being paid for by the Council. It is recommended this option is rejected given that it is discretionary, and the current requirement to ensure the most cost effective method of service delivery.
2. Offer no assistance with home to school/college/training provider transport for post 16 learners with SEND. It is recommended this option is rejected due to the potential of legal challenges that could be brought about if post 16 learners with SEND were put at a disadvantage when seeking to access education/training.
3. Introduce a contributory charge of an amount less than £651 for the academic year 2016/2017. It is recommended this option is rejected as savings needs to be made by the Council, legislation allows the Council to seek a contribution from families and learners and as the cost of transport currently is within the range of £1,544 to £11,692, the contribution charge of £651 is a reasonable proportion of the actual transport costs.
4. Introduce a contributory charge of an amount more than £651 for the academic year 2016/2017. It is recommended this option is rejected because of the affordability arguments raised by a number of respondents to the consultation.
5. Introduce a contributory charge for those low income families meeting specified criteria. It is recommended this option is rejected to ensure that those Post 16 learners who come from families with low income are not disadvantaged and still have an opportunity to access education.
6. Require foster carers to pay the contributory charge of £651 for the academic year 2016/2017. It is recommended this option is rejected because the Council is the 'Parent' of those children, not the foster carer, and if a charge was introduced this might dissuade more from becoming foster carers.

Impacts analysed;

Equality **Privacy** (n/a) **Sustainability** (n/a) **Crime and Disorder** (n/a)

Is the Decision consistent with the Council's co-operative values? Yes

Is this a "Key Decision" as defined in the Constitution? Yes

Is it included in the 28 day Notice of Decisions? Yes

HOME TO SCHOOL TRANSPORT REVIEW: OUTCOMES FROM THE CONSULTATION PROCESS IN RELATION TO POST 16 TRANSPORT FOR PUPILS WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITIES**REPORT OF INTERIM DIRECTOR OF CHILDREN'S SERVICES****1. Purpose of the Report**

- 1.1 To update Cabinet on outcomes of the public consultation in relation to home to school and college transport for post 16 students with special educational needs and disabilities.
- 1.2 This report seeks approval to introduce a funding contribution of £651 towards the costs of travel from home to school/ for post -16 learners with special educational needs and disabilities where appropriate from September 2016.

2. Description of Decision

- 2.1 Cabinet agreed on 13 January 2016 that consultation be undertaken on a proposal to introduce a funding contribution of £651 towards the cost of travel from home to school or college / training provider for post 16 learners with special education needs and disabilities where appropriate from September 2016, with an exception made for low income families who meet specified criteria and for whom transport provision will continue to be funded in full by the Council
- 2.2 Cabinet is recommended to:
 - i. Consider the outcomes of the consultation with a view to introducing a funding contribution of £651 towards the costs of travel from home to school/college for post -16 learners with special educational needs and disabilities where appropriate from September 2016.
 - ii. Consider the outcomes of the consultation with a view to having a zero cost exemption to the funding contribution for low income families who meet specified criteria and foster carers.
 - iii. Agree to continue with the provision of free transport for those post 18 learners to whom the provision of transport to college/further education would fall under the Care Act 2014 until internal processes have been put in place to carry out the assessments required under legislation to introduce a contribution charge.

3. Introduction and Background

- 3.1 The previous Cabinet Report of 13 January 2016 described the detail of statutory legislative duties in relation to home to school transport. In summary legislation gives local authorities discretion to determine what transport and financial assistance are necessary to facilitate a young person's attendance post 16 providing that the local authority has ensured those with disabilities are not put at a disadvantage. In addition DfE statutory guidance states local authorities may ask learners and their parents/carers for a contribution to transport costs. This Cabinet Report is attached as Appendix 1.

4 Consultation and key issues and outcomes

- 4.1 On 13 January 2016 it was agreed by Cabinet that formal consultation take place with parents/carers, schools and other stakeholders with respect to the Post 16 transport proposals to introduce a contributory charge. Consultation took place between 2 February and 2 March 2016. A copy the consultation questionnaire can be found at Appendix 2. The consultation was made available on-line via the Councils main website and paper copies were made available and offered for completion to anyone who did not have online access or wish to complete electronically. A targeted letter was also sent to 368 parents and carers of those likely be impacted by the proposal advising them of the online consultation and how to contribute their views. Similarly head-teachers across all schools in Sunderland were advised in writing of post 16 proposals and how to take part in the consultation. Sunderland City Council liaised with the Sunderland Carers Centre in order for them to facilitate three separate community engagement sessions which allowed for parents and carers to meet and discuss with Sunderland City Council officers transport proposals. Two further specific engagement sessions were arranged to take young people's views into account and were held in mid- February with Sunderland Youth Parliament and City Equals (City Equals are a group of young people with learning difficulties and/ or disabilities that meet weekly to ensure the voice of young people are heard in decision making processes).
- 4.2 In total 73 people completed the consultation survey online or via a paper copy of the questionnaire, with 28 of those 73 respondents confirming that they would be personally affected by the proposals to introduce a contributory charge towards the cost of Post 16 transport for those learners with SEND. In addition, 38 adults and 22 children and young people attended the community engagement sessions arranged to capture their views.
- 4.3 Appendix 3 is a pie chart summary of responses received to the questions. However as respondents were also given an opportunity to provide more detail on their answers, all comments made have been analysed by Council officers to ensure that specific issues and key themes have been recorded and appropriately fed into this report to Cabinet.
- 4.4 **Key themes from the comments made:-**

Question 2: Respondents were asked their views on the proposed £651 contribution. Of the 73 responses, 41 felt this was too high, with 27 confirming they felt this contribution was about right and a further 1 respondent indicating that they felt it was too low.

31 of the 73 respondents went on to provide further information to their answer. A number of themes emerged, namely:

- Affordability and ability to pay with some respondents indicating that they felt unable to pay. With respect to this, it is being recommended to Cabinet that a zero cost exemption be introduced for those families on low income meeting specified criteria. For those families not falling within the low income definition, options would be given in order for them to be able to spread the cost of the contribution over the academic year.
- The timing of the introduction was also highlighted as an issue with some respondents advising that if a contribution was to be introduced a greater lead in time would be preferred to allow them more time to adjust their finances and factor in this additional cost. As significant savings need to be made by the

Council, it is therefore considered that September 2016 is still an appropriate date for introducing the contributory charge.

- Disability discrimination was also raised however Cabinet is asked to note that the proposal is not to remove the provision of transport but rather continue with this support albeit requesting a contribution towards the cost of the transport. It is therefore felt that learners with SEND are not being put at a disadvantage when seeking to access education/training. However any arguments raised in respect of disability discrimination will be considered on an individual basis taking into account the specific circumstances of the learner with respect to a contributory charge.
- Council spending should prioritise children and young people with disabilities..

Question 3: Respondents were asked if they could suggest any alternative options with regards to SEND transport that could help the local authority to provide this service to parents. 29 of the 73 respondents provided a response to this question. A number of themes emerged however the majority of suggestions do not fall within the remit of SEND transport and therefore are outside the scope of the home to school transport review. Of those suggestions that fell within SEND transport, the following were the key themes:

- The possibility of sharing taxis, using larger vehicles and also ensuring contracts are at best price. These are matters officers have already reviewed and will continue to keep under review where possible. Routes are analysed and adjusted on a regular basis with one third of all contracts being tendered for on an annual basis. Vehicles are used are dependent upon the needs of the young people and are fully utilised where possible, taking into consideration length of journey time in line with DfE Guidance.
- A suggestion was also made regarding the possibility of using chaperones to accompany young people to and from placements. This would be cost prohibitive given there are currently 245 young people who fall into this category and the staff costs alongside travel costs would exceed the cost paid towards taxi transport where young people share costs. This would also be unachievable for some of the more severely disabled young people who would not be able to manage to access public service transport.
- The possibility of offering a bus pass rather than seeking a contributory charge. This is an option that can be taken forward as an alternative to offering a School Transport Mileage Rate and may be particularly beneficial to those parents who do not drive or do not have access to a vehicle to transport their child/young person to school/college. This option could be considered where the cost of a bus pass to the Council would be less than the cost of the taxi transport (i.e. where it is cost effective to the Council).
- The possibility of offering a cycle allowance to learners who decide to use a bicycle to travel to school/college rather than accessing taxi transport. Clearly this is not an option that would be appropriate for everyone. However if a learner wished to pursue this as an option, then consideration could be given to giving them a cycle allowance, where this would be cost effective to the Council.

Question 5: 45 of the 73 respondents agreed that there should be a zero cost contributory charge for low income families (low income defined as those in receipt of free school meals or higher Working Tax Credits) however 27 felt that a contribution should also be sought from those falling within this definition with suggestions ranging from 10% to 100% of the contributory charge. At community engagement sessions respondents who are just above the low income threshold voiced their

concern believing they were always just missing out. However providing a zero cost option for low income families is recommended and is also consistent with previous decisions in relation to discretionary home to school transport.

Question 6: Independent Travel Training (ITT)

It is clear that some further work can be done to promote ITT to those children and young people for whom ITT may be considered appropriate and achievable. What was clear from some of the responses to the consultation was that there will be some children and young people for whom ITT is not and will not be appropriate because of the high level of their needs, for example. The community engagement sessions at the Carers Centre were particularly useful to develop discussion on ITT. At the sessions Council officers reassured parents that there is an acknowledgement that ITT is not appropriate for all children and that it would only be put as an option where it was felt it to be appropriate and achievable, with their agreement. ITT will therefore continue to be promoted and offered as an option to those families requesting it.

Currently the Council invests around £10,000 annually into ITT, which is a relatively small amount given the overall budget. Pilot work has taken place within schools and the average saving per child removed from supported taxi transport to ITT £1,000 per year. An invest to save approach is recommended with ITT and further scoping of costs, benefits and potential partners be in considered. At the City Equals engagement session young people who had become independent travellers were keen to explain the positive impact it had on their lives. One young man who had previously been in supported taxi provision and moved on to become an independent traveller suggested that young people such as himself could be commissioned to support independent travel training programmes; the idea being that young people would be able to directly relate to their experience of this. This suggestion is currently being explored.

Question 7: School Transport Mileage Rate (STMR)

27 respondents were aware of STMR. From those who answered if they would be interested in the scheme, 6 stated that they would be. Some parents/carers asked for further information around the scheme before considering if it would be viable for their own circumstances. With this in mind, a STMR leaflet is in the process of being prepared for parents/carers, outlining key points and including FAQ's.

A number of responses who indicated STMR would not be suitable for their family, stated similar reasons throughout; work commitments, unable to drive/no vehicle, and siblings at another school.

4.5 **Other matters which have been given consideration:**

- a) There is a potential issue with those young people in education and for whom transport is provided falling under the Care Act 2014 rather than the Education Act. The Care Act 2014 provides for local authorities to meet adults' needs for care and support and therefore we envisage that it would be those aged 19 -25 that the Care Act 2014 may apply to. Under the Care Act 2014, although a charge can be made for services provided, such as transport, if an authority decide to charge then it must do so in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014 which in general terms means that certain forms of the adult's income and capital must be taken into account when deciding what amount to charge. To ensure this legislation is

applied correctly, internal processes need to be put in place to ensure that the relevant forms of income are taken into account. Further work is required to be done in order to ensure these processes are in place and it is highly unlikely these will be in place for September 2016. It is therefore expected that for those falling under the Care Act 2014, seeking a contribution charge towards the cost of transport could commence from September 2017 once the relevant internal processes are in place.

- b) Section 508F of the Education Act provides that where it is considered necessary to provide transport for the circumstances set out in that section, the transport must be provided free of charge. For the avoidance of doubt, in order to comply with this duty, where a learner falls within the provisions of this section, transport will continue to be provided free of charge.
- c) One of the respondents to the consultation raised the issue of foster carers and the ability to pay a contribution charge if they did not fall within the definition of a low income family. As the Council is the Corporate Parent to children who are fostered it is considered inappropriate to seek a contribution charge from those foster parents and instead it is proposed that the Council continue to meet the full costs of transporting those post 16 learners with special educational needs who reside with foster parents.

5. Reasons for the Decision

- 5.1 Legally the Council is not required to meet the full cost of home to school / college / training provider transport for all post 16 learners with SEND but historically has done so. Along with all Council Services, the service is being reviewed in order to identify the most cost effective delivery approach. It is considered that a post 16 contributory charging scheme of £651 for the academic year 2016/2017 to be subject to review for subsequent years would assist in enabling a cost effective service, whilst satisfying the Council's duty to ensure post 16 learners with SEND are not put at a disadvantage in accessing education/training.

6. Alternative Options

- 1. Take no action in relation to home to school/college/training provider transport for post 16 learners with SEND and continue to provide the transport with the full cost being paid for by the Council. It is recommended this option is rejected given that it is discretionary, and the current requirement to ensure the most cost effective method of service delivery.
- 2. Offer no assistance with home to school/college/training provider transport for post 16 learners with SEND. It is recommended this option is rejected due to the potential of legal challenges that could be brought about if post 16 learners with SEND were put at a disadvantage when seeking to access education/training.
- 3. Introduce a contributory charge of an amount less than £651 for the academic year 2016/2017. It is recommended this option is rejected as savings needs to be made by the Council, legislation allows the Council to seek a contribution from families and learners and as the cost of transport currently is within the range of £1,544 to £11,692, the contribution charge of £651 is a reasonable proportion of the actual transport costs.

4. Introduce a contributory charge of an amount more than £651 for the academic year 2016/2017. It is recommended this option is rejected because of the affordability arguments raised by a number of respondents to the consultation.
5. Introduce a contributory charge for those low income families meeting specified criteria. It is recommended this option is rejected to ensure that those Post 16 learners who come from families with low income are not disadvantaged and still have an opportunity to access education.
6. Require foster carers to pay the contributory charge of £651 for the academic year 2016/2017. It is recommended this option is rejected because the Council is the 'Parent' of those children, not the foster carer, and if a charge was introduced this might dissuade more from becoming foster carers.

9 Impact Analysis

9.1 Equalities

An Equalities Impact Assessment has been undertaken and is set out in the Appendix to this report.

10. Other Relevant Considerations / Consultations

- (a) **Co-operative Values:** *“Sunderland City Council is a co-operative council and in being so will act ethically in all its actions while adhering to and actively promoting its co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity. These values will underpin its decision making and actions.”*

The change being made of introducing a contributory charge to post 16 SEND home to school transport will better enable the council to manage within the budget available. The option of Independent Travel Training (ITT) is being promoted to encourage children and young people, where this is appropriate and achievable to acquire this life-skill. Parents and carers are being encouraged to take ownership of their child's transport needs with the expansion of the School Transport Mileage Rate (STMR)

- (b) **Financial Implications / Sunderland Way of Working**
Subject to the outcome of the consultation process, it is anticipated the proposals set out in this report will save in the region of £100,000 per annum.
- (c) **Employee Implications** – The Director of Human Resources and Organisational Development has been consulted and as there are no direct Council employee implications, has no objections to the proposals.
- (d) **Legal Implications** – The Head of Law and Governance has been consulted and her comments incorporated in the report.
- (e) **Health & Safety Considerations** – There are no anticipated Health and Safety issues.
- (f) **Procurement** – The proposal may result in more parents of post 16 learners deciding to transport their children to school/college instead of by procured taxi routes. This possibility has been discussed with procurement and within

the current contracts there is a 7 day notice period to cancel any current route. All routes are reviewed at the end of every academic year, taking into consideration; transfers and leavers. Application forms for Post 16 travel assistance will indicate how many routes may be affected by the contribution decision.

- (g) **Risk Analysis** - The Head of Assurance, Procurement and Projects has been consulted and there are no anticipated risk implications.
- (h) **Policy Implications** - A Post 16 Transport Policy Statement must be made available by 31 May every year by the Local Authority. This is in line with DfE Transport Guidance. Although the Statement is updated every year there is nothing to prevent the Local Authority making changes to the document during the year. It has already been specified in the 2015/16 Statement that Post 16 Travel is currently under review

10. **Background Papers**

- Appendix 1 Cabinet Report, 13 January 2016, in relation to Home to School Transport
- Appendix 2 Consultation survey
- Appendix 3 Pie chart results of the consultation
- Appendix 4 Equality Analysis

