



SHEFFIELD CITY COUNCIL Cabinet Report

Report of: Jayne Ludlam, Executive Director, Children, Young People and Families

Date: 12 December 2012

Subject: Home to School Transport Policy

Author of Report: John Bigley, Manager, Admissions & Access

Summary: This report provides a summary of the responses to the consultation process on the proposal to withdraw the discretionary element of free transport that is currently approved for attendance at denominational schools with effect from September 2013. The Council consulted upon two proposals. First to withdraw all discretionary provision from September 2013 and second to withdraw provision on a year by year basis from September 2013.

Reasons for Recommendations:

The current provision to fund denominational transport is discretionary. Under the current economic climate there is an urgent necessity to explore all areas of potential savings and efficiency.

The proposed change in policy would also ensure that all children are treated more equitably. Under current arrangements a child may receive a free bus pass to attend a Catholic School even though that may not be their nearest school. If a non-Catholic student wishes to attend an out of catchment area school that is beyond the statutory walking distance they are not provided with free transport.

Recommendations: To receive the report and consider options outlined at Section 7.

Background Papers: Consultation Document

Category of Report: OPEN

If Closed add – ‘Not for publication because it contains exempt information under Paragraph... of Schedule 12A of the Local Government Act 1972 (as amended).’

* Delete as appropriate

Statutory and Council Policy Checklist

Financial Implications
YES Cleared by:
Legal Implications
YES Cleared by: Nadine Wynter
Equality of Opportunity Implications
YES Cleared by: Bashir Khan
Tackling Health Inequalities Implications
YES/NO
Human rights Implications
YES/NO:
Environmental and Sustainability implications
YES/NO
Economic impact
YES/NO
Community safety implications
YES/NO
Human resources implications
YES/NO
Property implications
YES/NO
Area(s) affected
ALL
Relevant Cabinet Portfolio Leader
Cllr. Jackie Drayton
Relevant Scrutiny Committee if decision called in
Children, Young People and Families
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
YES/NO

Children & Young People Cabinet Member Portfolio

REPORT TITLE HOME TO SCHOOL TRANSPORT POLICY

1.0 SUMMARY

- 1.1 This proposal is in response to the urgent requirement to reduce expenditure in light of the budget settlement from the Coalition Government for the 2013/14 financial year and beyond.
- 1.1.2 If implemented the proposal to withdraw discretionary transport with effect from September 2013/14 would save the Authority expenditure of approximately £250K each year.
- 1.1.3 Sheffield City Council's Home to School Transport Policy sets out the circumstances in which it will provide free transport, in the form of a bus pass, to assist pupils to get to School. Under the current budgetary pressures and in order to ensure efficiency and equity in its use of resources, the Council has decided that it would like to consider making changes to the discretionary part of the policy to be brought in for the 2013/14 school year starting in September 2013.
- 1.1.4 The proposal is to withdraw any free bus pass that is currently offered under the provisions of the policy for attendance at a denominational school.
- 1.1.5 Many other Authorities have or will be withdrawing the provision of free bus passes for attendance at denominational schools for the same reasons. This includes the other South Yorkshire Authorities Barnsley, Doncaster and Rotherham.
- 1.1.6 Families who meet specific requirements have a statutory entitlement to free transport if they wish to attend a school on grounds of religion or belief that is between 2 and 15 miles from their home address. This entitlement is unaffected by this proposal.

2.0 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

- 2.1 This proposed amendment does not impact on a parent's right to apply for their child to attend a denominational school. Any such application will be considered under the individual school's admission policy.
- 2.1.2 In reviewing discretionary transport that is currently provided it is clear that the current policy and practices do not treat all pupils equally: some pupils receive free transport to attend their preferred school and others do not. Parents who want a denominational education for their child can get help with transport whereas those who want a school for a particular specialism do not.

3.0 OUTCOME AND SUSTAINABILITY

- 3.1.1 The current policy is not fair or equitable. The fact that the Council only funds Catholic children to attend Catholic schools means that it could be open to challenge from parents of other faiths.
- 3.1.2 At a time when the Council is having to make significant cuts to the services it provides, including to the most vulnerable in our community, this change of policy will enable the Authority to re-direct funds to other areas that have a far greater need.

4.0 MAIN BODY OF THE REPORT

Background

- 4.1.1 The legislation which places a duty on the local authority to provide free home to school transport is contained principally in the Education Act 1996 as amended by later legislation including the Education Act 2002 and the Education and Inspections Act 2006. Local authorities have a duty to provide free home to school transport for eligible children of compulsory school age living in the local authority's area. There is no legal obligation to provide free transport for children who are below or above compulsory school age. Compulsory school age is defined in section 8 of the Education Act 1996 and in associated regulations.
- 4.1.2 Section 508B of the 1996 Act sets out the duty to provide free travel arrangements for 'eligible children' to 'qualifying schools' The Authority will continue to make arrangements for free transport where there is a statutory duty to do so. Statutory criteria are:

- Children with special education needs who have a disability or mobility problem.
- Children who live within the statutory walking distance to school, however there is no suitable available route.

The statutory walking distances are:

- (a) for a child under the age of 8 years - 2 miles;
- (b) for a child aged 8 years and over - 3 miles.

- Children who live outside the statutory walking distances and no suitable school place is available nearer to their home.
- Children entitled to free school meals, or whose parents are in receipt of their maximum level of Working Tax Credit.

- 4.1.3 Section 509AD of the 1996 Act places a duty on local authorities in fulfilling their duties in relation to travel, to have regard to the wish of the parent for their child to attend a school on the grounds of the parent's religion or belief. Although Section 509AD states that "*a local authority in England must have regard, amongst other things to the parents' religion or belief based on preference,*" arrangements for transport under this section are discretionary and need not be implemented or can be discontinued.

Any Local Authority therefore has the right to discontinue such discretionary provision.

- 4.1.4 The proposal would withdraw discretionary free transport to denominational schools with effect from September 2013.

4.2 Outcomes from the Consultation

- 4.2.1 The consultation exercise was conducted between 29 October and 4 December 2012.

- 4.2.2 There were a total of 326 responses received, broken down as follows:

Against the proposal

Parents	308
Schools/Governors	6
Secondary Headteachers	All
Sheffield Hallam Diocese	1

In support of the proposal

Parents	10
Schools/Governors	1

4.3 Summary of Key Points Raised in the Consultation:

- 4.3.1 Parents against the proposal:

Full responses are too numerous to provide in the main body of the report but are provided for Cabinet Members in the Leader's Office. A summary of the main themes raised by respondents is provided below in their own words. In each case officer comments and perspectives are given in italics below the view of respondents.

Issue 1: Location of the two Catholic Schools

The fact that both Catholic Secondary schools are located where they are means that many families have no option but to travel long distances to access them. This is not a fault of parents or children.

The Local Authority acknowledges this point but sees the choice of a Catholic school as a matter of parental preference not necessity. The importance for parents of the decision about a school place is not underestimated.. That is why parents have been contacted directly and the deadline for applications for Y7 has been extended so as to ensure that they do not suffer any detriment and also why secondary Headteachers have been asked to be responsive and sensitive to any approaches by families to visit.

Issue 2: Article 2 of the European Convention of Human Rights and other Legal Challenge

The First Protocol of the European Convention of Human Rights reinforce the principle that no child shall be denied the right to education in accordance with the wishes of parents especially with regard to their own philosophical and religious conventions.

We would respectfully point out that we were not consulted on this proposal through a fair or reasonable timeframe. The proposal is restrictive in that it may amount to discrimination and moreover a serious breach of the rights of ourselves and more seriously the rights of our children. By removing bus subsidies the choice for my family to elect for our children to have a religious education may be hindered or removed due to a lack of ability to afford the necessary transport costs.

I believe that the actions of the local government concerning this matter ought to be widely publicized for the contentiousness of its demands at both local and national level.

Article 2 states:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions.”

This confirms a right to education, it does not confirm a guarantee to study at a specific school. The proposal to withdraw free transport does not prevent any parent from applying for and attending a voluntary aided school.

Issue 3: Removing Parental Choice

By removing the subsidy for families to go to their chosen school the Local Authority are basically removing the choice for many families as they will not be able to afford to travel. No Catholic child should be denied the opportunity of a Catholic education solely because their parents cannot afford transport costs.

Entitlement to statutory free transport would remain for families who meet the "Low Income" definition (children entitled to free school meals, or whose parents are in receipt of the maximum level of Working Tax Credit). Children whose parents wish them to attend non denominational schools that are more than 3 miles from their home address do not receive free transport. This proposal would make the current system more equitable.

Issue 4: The Consultation Period is Invalid

You may wish to note that the consultation period is invalid. It should have started much earlier as students were applying for places for September 2013 so that they could make an informed choice. The launch date was 29 October but your letters were posted on this date. This means that we received the letters after the consultation period had begun.

The consultation timescale is unrealistic and seems to have been deliberately introduced to prevent any meaningful consultation from taking place. Other Authorities have considered similar proposals, taking a year for their deliberations and fully involving all stakeholders. Why does Sheffield introduce this proposal at the start of the half term break with such a short timescale?

It is acknowledged that the consultation should have ideally taken place before parents were asked to make applications for places in September 2013. The closing date for applications was 31 October 2012. However all parents who have submitted a preference for a Catholic secondary school have been contacted directly to make them aware of the consultation and to allow them to comment.. . In addition, the consultation has been extended to 4 December, allowing for 26 working days of consultation in total. If the proposed withdrawal of free transport is to be implemented, parents will have the opportunity to amend their application in light of the new policy

Issue 5: Council Policy, Social and Financial Impact

The proposal is at odds with the Local Authority and Government's desire to improve parental choice and accessibility. For Catholic children from deprived areas seeking access to education for their children the proposed withdrawal of services runs against this commitment. The Authority's stance may create schools that are elitist, i.e. the Catholic schools serve only those families who can afford to send their families there.

This proposal goes against the City Council's environmental targets as it will force more families into using their cars to transport their children to school.

I have three children at Notre Dame. If I had to pay for transport for all three children it would cost £7.20 a day, £36 a week, £144 a month and £2000 a year.

The Authority will continue to provide free bus passes to those who qualify under the low income criteria. It is acknowledged that there will be financial implications for families that do not qualify just as there currently is for families of other faiths who wish to attend a church school because of their beliefs but do not receive free transport. This also applies to any parent applying for a non-catchment school which is more than 3 miles away on the grounds of the school specialism.

Issue 6: The Proposal is Discriminatory

This is another attack on the rights of parents to choose a school with a religious character. The proposal implicitly suggests that you should choose your local community school. The letter from the Authority states that anyone applying for a Catholic School may wish to reconsider their preferences in light of any possible change in policy. This appears to be blatant discrimination.

Parents have been advised of the consultation and if the provision is withdrawn will have the opportunity to change their preference if transport was one of the main reasons for their decision. Parents ultimately still have the right to apply for whichever schools they wish.

Issue 7: Proposed Scale of Implementation

The Local Authority is proposing a change for September 2013 for the incoming Year 7 but is also suggesting they are looking at extending the proposal to all year groups. This means that parents/carers with children already at our schools will need to fund transport costs that they were not aware of when they originally applied.

This issue has been raised by a number of parents of children already in receipt of passes. The Authority will carefully consider all views received in relation to this aspect of the proposal.

Issue 8: Expand Provision of Free Transport

In my opinion ALL children should receive free transport from home to school. This would reduce the number of cars on the roads doing the "school run" thereby reducing congestion in the rush hour and it would educate our younger generation in public transport use. I am aware that this is a proposal that would demand an increase not decrease in funding but it is I feel something that should be given consideration before any reductions in help with transport costs are made.

The reason that the Authority is consulting about the withdrawal of discretionary passes is the need to review all Council Services under the current budget pressures. Under the current financial climate the Authority could not therefore fund transport for all children.

Issue 9: Impact on low income families

It will be those who are most in need who are hit hardest. i.e. families with an income just high enough to ensure that they are not entitled to statutory benefits and subsidies. Typically a family with two children will have to find over £400 a year.

I feel that Sheffield Council is once again rewarding people who don't work and don't pay their way.

It is acknowledged that this proposal would require some families to fund their own transport to attend a denominational school. This is no different to the position for many other families in the city who choose to attend schools other than their catchment school.

Issue 10: Impact on Other Schools

I would be interested to know if any calculations have been undertaken to establish the knock on effects on admissions to other Sheffield schools. Children who may no longer be in a position to afford to travel to a faith school will presumably take a place at a different local school therefore displacing a child who will in turn be required to travel to a different school further away.

If the proposal is implemented all parents would have the right to apply for other schools if the cost of transport proved to be a barrier. There can not however be any guarantees of places at alternative schools as that will be dependent on the availability of places.

Issue 11: Impact on Deprived areas

For Catholic children from more deprived areas seeking to access education for their children the proposed withdrawal of this service runs against the commitment to improving parental choice and access. The Authority's stance may create schools that are elitist, i.e. serving only families who can afford to send their children there.

As confirmed in issue 5 above there would be no change in the statutory provision for families meeting the low income criteria.

Issue 12: Impact on Children already receiving passes

If we had realised that there could be a possibility that the free transport to school may not continue, then very sadly we would have had to make

a very real decision and informed choice as to whether or not we could even afford to send our children to a catholic school. It would now be very unfair and cruel to my children to have to remove the girls from Notre Dame after they are both so happy and settled at school.

The Authority acknowledges the possibility that some families may feel that they have to transfer school due to the cost of transport.

Issue 13: Impact on environment

This proposal would inevitably lead to a greater number of car journeys during rush hour as travel by car will be far cheaper for many families. This will not only cause more congestion but is bound to have a detrimental effect on the safety of pupils walking to school. This seems quite ironic as Sheffield City Council is constantly trying to encourage people to use public transport and leave their cars at home.

It is anticipated that the current bus services will remain place. There should not be any requirement for parents to take their children to schools in their car.

Issue 14: This proposal is too late for those applying for Year 7 places in September 2013

The Authority does not underestimate the importance of this decision for parents. That is why we have ensured that parents in this position have been contacted directly and have extended the deadline for application so as to ensure that they do not suffer any detriment and also why we have asked secondary Headteachers to be responsive and sensitive to any approaches by families to visit

4.3.2 Schools & Governors against the proposal

Responses against the proposal were received from Notre Dame Catholic High School, St Marie's Catholic Primary School, Sacred Heart Catholic Primary School and 1 Governor from Notre dame and 1 Governor from St Ann's Catholic Primary School.

The reasons for opposing the proposal are largely the same as those summarised above in section 4.3.1.

4.3.3 A letter in support of the objection raised by All Saints and Notre Dame schools has been submitted and signed by all **Secondary Headteachers.**

The full responses are available in the Leaders Office for Cabinet Members

4.3.4 Sheffield Hallam Diocese

Sheffield Hallam Diocese objects to the proposal. The Diocese raises many of the concerns identified in 4.3.1. The full response is available in the Leaders Office for Cabinet members. Additional concerns are summarised as follows:

The Diocese of Hallam calls on Sheffield City Council to abandon any plans that would result in an end to the funding of 'discretionary' transport for Catholic students attending Catholic schools. The Council should acknowledge the fact that Catholic schools have been a key partner in the local school sector over many years, that this position is enshrined in law and that Sheffield City Council has a duty to enable Catholic children to attend their nearest Catholic school. The removal of subsidised transport seriously damages this partnership arrangement and the historical tradition on which it was based.

The Diocese believes that no Catholic child should be denied a Catholic education because their parents cannot fund transport.

The Diocese questions the legality of the proposal under Article 2 of the European Convention on Human Rights.

There is a concern about the impact on Catholic Schools longer term if large Catholic families can no longer afford to send their children to Catholic Schools.

There is concern about the environmental impact if families resort to transporting children by car as a consequence of being unable to fund transport by bus.

4.3.5 In support of the proposal

Responses in favour of the proposal were received from parents and a Governor.

I think that the zero bus pass system should be either made available to all children attending a Catholic School or none at all (apart from children on free school meals). My children are C of E and attend a Catholic school due to our Christian faith. As you are aware they do not receive a free bus pass. A much fairer system would treat all pupils equally regardless of their faith.

I would agree with the comments in the consultation document regarding the unfairness of the current system. I am personally aware of some who get a pass who live closer to the school than those who don't. I also think that at times when cuts are being made to important services such as libraries that this is one cost that the Council should not cover. I think only those who cannot afford transport costs should get help but those that can afford it should not. I think your intention to protect families on

low income is sound. I expect that you will get a lot of negative feedback so thought it important you should get some support.

I think it would make sense to cut the amount of money it costs the LEA to provide free home to school transport. I say this as a parent who has two children attending a church school and chair of Governors at Emmaus Primary School. I would definitely prefer funds to be spent on Education and not bus fares.

I have only recently become aware that Catholic children receive this benefit while non-catholic children have to pay for bus fares. It seems a rule that is not explained to parents and is almost kept quiet about. This discriminates against non-Catholics.

I know of a number of families who 'go through the process' of becoming a Catholic but never attend church or actively 'practice' the catholic ways. They do this to secure a place at a Catholic school simply because they are outstanding schools as deemed by OFSTED. I have also been told by parents that they have moved primary schools to increase their chance of getting into a catholic secondary school. Therefore not all pupils at Catholic schools go there for religious reasons but to simply to ensure their children get the best education on offer. This needs to be addressed.

I would imagine that the people affected will voice their opinions but fear the ones that do not receive benefit will not be so inclined to do so. I would have to question, has every council tax payer been sent a letter to voice their opinions or just parents of children at catholic schools.

I think families on low income regardless of religion should be entitled free transport and this should continue.

It should also be noted that the Council only consulted with parents of children who currently attend a denominational school. It did not consult with the wider population. Consequently the majority of responses were heavily opposed to any change to the current arrangements, this is to be expected.

The Sheffield Star covered this issue on 23 November. In response to the article there were a significant number of responses from the wider population that were in support of the proposal.

4.3.6 Schools & Governors in favour of the proposal

A Governor from a Catholic School:

I do not feel that I can support the Diocesan position on this. I believe that parents who select particular schools, in this case Catholic schools, have to accept that this choice may come with certain conditions such as buying particular uniforms, contribution to Diocesan Building Fund, support of the Catholic ethos.

I do not think it is the Local Authority's responsibility to subsidise travel in this way. If there are hardship issues which need to be considered then I think this is down to the churches supporting these Catholic families and the Catholic schools themselves to look for solutions.

As the Catholic High Schools are both academies, I am sure that they would be able to find funds to support these families if they so wished.

Full responses are provided in the Leaders Office for Cabinet Members.

4.4 Financial Implications

- 4.4.1 The cost of providing free transport to denominational schools for the 2011/12 academic year was £275K. Of this £21K was statutory provision for children from Low Income families. Net discretionary expenditure was therefore £254K. This represents a significant saving in terms of the overall budget position for the Council which Members must consider in light of the need to find a further £50M of savings in 2013/14.

4.5 Legal Implications

- 4.5.1 As stated in earlier paragraphs of this report, the Council has responsibilities under section 508B of the Education Act 1996 to provide free transport to “eligible” children to the nearest “qualifying” school. Currently the Council also provides support on a discretionary basis, under sections 508C and 509AD of the 1996 Act, to some pupils that attend denominational schools but who are not eligible under section 508B.
- 4.5.2 Section 29 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination and to promote equality of opportunity between different protected groups. However the Equality Act does not apply to the provision of transport on faith grounds as the discrimination provisions on the grounds of age and religion or belief do not extend to transport arrangements as stated in paragraph 11 of part II of part 2 of Schedule 3.
- 4.5.3 In light of the above statutory provisions the Council can lawfully decide either to withdraw the discretionary transport incrementally or to withdraw the support completely.
- 4.5.4 However before making any changes to the current discretionary arrangements, proper consideration must be given to the consultation and equalities impact assessment provided for in this report. The Council will also take account of the requirements of disabled parents and children in the application of the changes and make reasonable adjustments where required by individual circumstances.

4.6 Equalities Implications

4.6.1 An Equalities Impact assessment has been carried out.

5.0 REASONS FOR THE PROPOSAL

5.1.1 The current provision to fund denominational transport is discretionary. Under the current economic climate the Authority has a duty to explore all areas of potential savings and efficiency.

5.1.2 The proposed change in policy would also ensure that all children are treated more equitably. Under current arrangements a child may receive a free bus pass to attend a Catholic School even though that may not be their nearest school. If a non-Catholic student wishes to attend an out of catchment area school that is beyond the statutory walking distance they will not be provided with free transport.

6.0 REASONS FOR EXEMPTION (if a Closed report)

6.1 None

7.0 RECOMMENDATIONS

7.1.1 This report is to inform the Cabinet of the outcome of the consultation process. Cabinet is asked to make a decision based on the following options:

- i) To retain the current provision for funding discretionary transport for attendance at denominational schools.
- ii) To withdraw current provision for funding discretionary transport on a phased basis commencing with entry to Reception and Year 7 in September 2013 and each subsequent year. Under this option pupils currently receiving a pass under discretionary criteria would continue to receive it until they finish at their current school.
- iii) To withdraw all current provision for discretionary transport with effect from September 2013. This would include the withdrawal of passes for pupils who are currently in receipt of them under the current policy.

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Date 5 December 2012.

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