

Report to the Cabinet Member for Children, Young People and Schools
Report submitted by: Interim Executive Director for Children and Young People

Date: 5 June 2014

Part I

Electoral Divisions affected:
All

Transport Policy for Children and Young People with Special Educational Needs and Disabilities

(Appendices 'A' and 'B' refer)

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Executive Summary

This report summarises the outcome of the consultation on changes to the policy for home to school/college transport for young people with Special Educational Needs and Disabilities (SEND) relating to the introduction of a parental contribution for discretionary post-16 transport support.

Recommendation

The Cabinet Member for Children, Young People and Schools is recommended to:

- (i) note the response to the consultation detailed in Appendix 'A';
- (ii) approve that the transport policy be revised to include the introduction of a means tested parental contribution of £475 per annum with an annual formulaic increase based on the Retail Price Index (RPI) plus 5%; and
- (iii) delay the implementation of the new charging arrangements until 1 September 2015 so that the implications of the new SEN Code of Practice (due to be published in mid-June 2014) can be fully considered.

This is deemed to be a Key Decision and Standing Order 25 has been complied with.

Background and Advice

On 5 December 2013, the Cabinet Member for Children, Young People and Schools agreed to a recommendation to consult upon changes to the transport policy for children and young people with special educational needs and disabilities (SEND).

The county council proposed to:

- introduce a parental contribution for discretionary post 16 transport support of £475 per annum with effect from September 2014; and
- apply a formulaic increase to future years' concessionary charge that is on the basis of Retail Price Index (RPI) plus 5%.

The proposed changes would ensure that transport provision for children and young people with special educational needs and disabilities would continue to be provided in a transparent, supportive and cost-effective way for families.

Statutory Transport Responsibilities

The cost of providing home to school transport for children and young people with special educational needs and disabilities (SEND) in the financial year 2012/13 was £16.26 million. 2,907 pupils aged 3-19 currently receive free travel to school or college, the majority of them attending special schools. Local authorities have certain statutory responsibilities around home to school transport and have the discretion to offer additional provision where deemed appropriate.

Local authorities have a statutory duty to provide school transport for children of statutory school age whose circumstances fall within the following categories:

- a) Statutory Walking Distances:
 - children aged under 8 who live more than 2 miles away from their nearest suitable school and no suitable alternative arrangements have been made for them
 - children aged over 8 who live more than 3 miles away from their nearest suitable school and no suitable alternative arrangements have been made for them

- b) Children from low income families: (defined by entitlement to free school meals or parents/carers in receipt of maximum levels of working tax credit) as follows:
 - children aged between 8 and 10 (inclusive) – the qualifying walking distance is 2 miles (not 3 miles as for other children);
 - children aged 11 and over qualify if they attend any one of their three nearest schools, provided it is between 2 and 6 miles away; and
 - children aged 11 and over qualify if they attend their nearest school preferred by reason of a parent's religion or belief, provided it is between 2 and 15 miles away.

Where children are assessed on grounds of distance, the route is measured along the shortest suitable walking/road routes.

Children whose circumstances fall within the following categories also have a statutory entitlement to school transport provided that they attend the nearest suitable qualifying school - the distance test is not applied:

- c) children with special educational needs, disability or mobility, including temporary medical conditions that prevent them walking to school; or
- d) children who cannot reasonably be expected to walk to school because of the nature of the route to school (unsuitable routes).

In the 2012/13 financial year, the cost of compliance with the statutory requirements of home to school transport for children of statutory school age and young people with special educational needs and disabilities was £13.5 million for 2,414 pupils. This makes up 83% of the overall current costs of transport provision, the remainder being spent on non-statutory (discretionary) transport provision.

In view of the considerable financial pressures which the County Council faces, both currently and in the foreseeable future, it is considered necessary to revise the Home to School/College Transport Policy for Children and Young People with SEND with a view to identifying possible savings and/or generating additional revenues.

Discretionary Transport

Home to school/college transport support for post-16 young people with special educational needs and disabilities (SEND) is a discretionary policy area. The current Home to School Transport Policy for children and young people with special educational needs and disabilities provides discretionary door to door transport for young people aged between 16 and 19, where they meet the eligibility criteria which applies to those pupils aged under 16.

Prior to 2008, discretionary home to school/college transport for young people post-16 with special educational needs was means tested. However, the Cabinet Member, at that time, amended the policy to remove means testing which gave rise to increased entitlement amongst SEN learners aged 16 to 24. Since this time, requests for post-16 SEND transport assessments have increased three-fold which increased the home to school/college transport costs for children and young people over 16 with SEND to £2.5m per annum.

The number of pupils who received discretionary free travel in 2012/13 was 493 at a cost to the County Council of £2.74 million. In 2013/14 costs for discretionary transport to local colleges alone increased by £245,000 to £1,114,530 with 87 separate contracts in place for 247 students.

Consultations

A comprehensive public consultation on the proposed changes was undertaken from 3 February 2014 to 25 April 2014.

A document explaining the proposed changes, a covering letter explaining the consultation and a questionnaire asking for views on the proposed changes was sent to 2,587 parents/guardians of children and young people currently in receipt of SEN

school or college transport. The consultation documents were also emailed to the following groups:

- neighbouring local authorities;
- independent non-maintained schools;
- Lancashire schools;
- Lancashire colleges;
- Barnardos;
- Welfare Rights;
- Parent Carer Forum;
- Lancashire Youth Council; and
- Family Information Service

The consultation was also available online to any other interested parties, through the Lancashire County Council 'Have your say' website:

In total, 634 questionnaires were returned, 313 paper copies and 321 online copies.

The responses to the consultation are summarised and analysed in Appendix 'A'.

In relation to the parental contribution for discretionary post 16 transport of £475 per annum, whilst mitigating against the impact of the financial contribution whereby post 16 SEND students from low income families (defined by entitlement to free school meals or parents/carers in receipt of maximum levels of working tax credit) would be exempt from the charge. Respondents to the consultation were asked how strongly they agree or disagree with this proposal. Over four-fifths of respondents (83%) strongly disagree with the proposal.

In relation to the annual increase in charge based on Retail Price Index (RPI) plus 5%, respondents were asked how strongly they agree or disagree with this proposal. Four-fifths of respondents strongly disagree (81%) with this proposal.

Respondents were asked if they would like to give reasons for their responses to the questions and were given a space to write their reasons in. 449 respondents (71%) chose to give a reason. Responses to this question were categorised and the table below shows the most common categories of response. In the chart below, responses do not add up to 100%, this is due to multiple responses or computer rounding.

Reason	Count	Percentage
Can't/won't be able to afford to pay for transport to and from school for child/children	102	23%
Other	47	10%
Lack of provision leads to children travelling further to schools/colleges	46	10%
A lot of people won't be able to afford these charges	43	9%
The charge prohibits children and young people from attending school/college of their choice/may stop them	42	9%

going altogether		
Transport provided is essential/needed as cannot make other arrangements	40	9%
The charge is unfair	39	9%
The charge may lead to financial hardship within families/could cause difficulties	38	9%
Not fair to parents of disabled children as they already have more costs/hardship than other parents	36	8%
The proposed rate of increase (RPI+5%) is too harsh	27	6%
The working sector are hit harder financially because not on benefits	24	5%
Transport services should be provided for free	20	5%
There are other areas which can be considered for cuts	18	4%
The proposed charge for transport is too expensive	18	4%
Children with SEND need all the help they can get	17	4%
Pupils with SEND should pay the same as non-SEND pupils	14	3%
Children could become isolated from a decreased social life	12	3%
It is not unreasonable to ask for a contribution	12	3%
If education is compulsory until aged 18 then costs should be funded up to that age	7	2%
Proposed charges should be based on income	5	1%
Charge should be means tested or stay the same	4	1%
The proposed charge is a tax on disability	4	1%
Disability/mobility allowance should be used to pay for the transport	3	1%
Parents may consider lowering hours to claim benefits and free transport	2	0%

Observations on the consultation responses

Although the survey was available for anyone to respond to, the aim of the consultation was to gain the views of those who will be affected by the changes and so the responses should not be seen as the view of the overall Lancashire population.

However, there are a number of variables that need to be taken into account:

- a) It is perhaps unsurprising that a high proportion of parent/carers are reluctant to make a financial contribution for a discretionary post-16 transport service that they have enjoyed free of charge for the past 6 years.

- b) A number of respondents felt the proposed charge was too high. To mitigate the impact of the financial contribution, it is proposed that post 16 SEND students from low income families would be exempt from the charge. However, it is noted that those parents who work but may be low earners are hit harder financially because they are not on benefits. Furthermore, some families are affected by other government policy changes to the welfare and benefits system which has resulted in a disproportionate impact on the disposable income of families with a disabled child or adult. It is also recognised that it is more expensive to raise a disabled child than a non-disabled child, given the impact on increased heating, clothing and other personal expenses, the reduced capacity for one or both parents to gain and maintain employment and the higher incidence of one parent families where there is a child with a disability.
- c) Respondents made a number of comments about means testing. Accordingly, mitigating against the impact of any future financial contribution for low income families who would be exempt from the proposed charge, a more comprehensive definition of entitlement is proposed defined by entitlement to Free School Meals for school sixth form pupils and post-16 pupils at a special school or Income Support, or Job Seekers Allowance (Income based) or support under part VI of the Immigration and Asylum Act 1999 or the guaranteed element of State Pension Creditor Income Related Employment Support Allowance or Child Tax Credit and are not entitled to Working Tax Credit and the annual income, as assessed by the Inland Revenue, does not exceed £16,190 (April 10 figure) or Working Tax Credit during the four week period immediately after employment finishes or after starting to work less than 16 hours per week or maximum amount of working tax credit.
- d) Implementation of the proposed contribution would still result in the County Council providing a large subsidy to support transport for the most vulnerable students who, due to the impact of impairment or disabling circumstances, cannot safely travel by other means to the nearest available establishment that meets their identified learning needs. The average annual cost to provide SEN transport to all eligible children and young people is £5,500 per child/young person so, whilst appreciating that some respondents feel the charge is excessive, it represents a very small proportion of the actual average cost.
- e) Given the overall financial position of the Council and in developing options for amending post-16 SEND transport support, consideration has been given to the national picture where a significant number of local authorities ask for a contribution towards transport support for post 16 young people with SEND (Northamptonshire, Worcestershire, Calderdale, Devon, Essex, Norfolk, Staffordshire, Warwickshire). On average, these charges are between £500-£600 per annum, with the exception of Calderdale which charges £350 per annum. This suggests that the proposed charge of £475 plus an annual increase linked to the Retail Price Index + 5% is reasonable when compared with charges imposed by other shire counties or statistical neighbours.

- f) Mainstream post-16 students in Lancashire attending school sixth forms and further education colleges do not receive any financial support from the Council to fund their transport costs. Thus, the Authority is providing assistance to those with SEND, beyond that given to their mainstream counterparts.
- g) Similarly, for parents who pay the contributory charge to faith schools the largest area of discretionary home to mainstream schools transport, the charge is set at £475 per annum, and increases, thereafter, by Retail Price Index plus 5%. Thus, this proposal aligns the two policies.
- h) Consideration has also been given to the importance of enabling students to access further education. A number of respondents suggested that the charge may prohibit young people from attending a school/college of their choice or they may stop them going altogether. Students will not be required to move to courses at their nearest college; more rather, the post-16 transport policy will continue to enable students to attend the nearest college offering an *appropriate* course. However, the Children and Families Act 2014 and the new SEN Code of Practice place new duties on local colleges (and all FE providers including school sixth forms) which expect an enhanced and improved universal offer for students with SEND, to enable them to attend their local college wherever possible. Furthermore, the reforms introduce new funding and study programme arrangements which should be used to tailor packages for young people with SEND including supported internships, traineeships and apprenticeships, in partnership with employers. Thus, increasingly, the SEND reforms place an expectation of an improved and enhanced local college offer so that young people with SEND can access their nearest college with suitably accessible courses offering the same opportunities for social inclusion which the vast majority of non-disabled students enjoy. The same issues also apply to school sixth forms. It is not possible with any major certainty to predict what impact the proposed contributory charge increase will have on future young people's or parental preferences.
- i) The future costs of fuel and transport cannot be predicted.
- j) The proposals take due account of the Children and Families Act 2014 published in March 2014 but publication of the new SEN Code of Practice has been delayed to mid-June. Whilst the anticipated content has been widely communicated, the delay in publication means that the annual requirement to update the Post-16 Transport Policy Statement by 31 May in anticipation of any changes for the following September has been missed. Accordingly, it is proposed that any changes to the policy approved by the Cabinet Member should be implemented from 1 September 2015 rather than from September 2014 as originally proposed. Thus, the delayed implementation will enable full account to be given to the new SEN Code of Practice and will also enable an extended period to support parents and young people in adapting to the new charging regime. The anticipated savings of £109,625 expected in 2014/15 academic year will need to be found from other efficiency savings within the Directorate for Children's and Young People. Based on an assumption that the demand for transport support for post 16 students with SEND will remain

at current levels the proposals are estimated to generate revenue of around £329k per annum when fully operational in 2017/18 onwards. The proposed delay in the implementation date will mean that from 1 September 2015, the contributory charge would be £475 + RPI + 5%.

Conclusion

634 (24%) responses were received from 2,587 parents/guardians of children and young people currently in receipt of SEN school or college transport. Of these, 89% responses came from parent/carers. Whilst the response to the consultation was largely negative, this was to be expected, particularly as the responses predominantly came from parents/carers of children with Statements of SEN who receive home-to-school/college transport free of charge up to the age of 16 and they have enjoyed free discretionary post-16 transport since 2008.

The proposed changes to SEND Home to School/College school transport must be set in context; they only affect young people who have no statutory entitlement to travel assistance aged 16+ and low income families are protected from the impacts. In addition, the County Council will still be heavily subsidising the costs of discretionary transport and, therefore, shielding parents from the full costs (many other local authorities have removed discretionary transport assistance altogether); and the right to appeal to the Student Support Appeals Committee remains in place.

Implications:

This item has the following implications, as indicated:

Risk management

The implications of introducing a charge for Post 16 SEND students for individual young people and their families are set out in the Equality Analysis at Appendix 'B'. Should the implementation of charges not go ahead, the estimated annual revenue from this proposal would not be achieved.

Detailed feedback from the consultation exercise has identified additional risks associated with these proposals which have been updated in the Equality Analysis at Appendix 'B'.

Financial

In 2012/13, 515 post-16 students were in receipt of transport support. 15.1% of pre 16 pupils were eligible for free school meals as they meet the low income criteria. If it was assumed that the same percentage would apply to post-16 learners then the number of students who would be exempt from the charge would be 78.

If the proposed charges were introduced and phased in over three years, the income generated, by academic year, is presented in the table below:

	Academic Year	Total Students*	No of potential	Number of students	Total including	Potential revenue in
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			low income students @ 15.1%**	eligible for charge	previous years students	academic year (net of admin costs)
Year 1	2014/15					Nil; delayed implementation
Year 2	2015/16	277	42	235		£117,438
Year 3	2016/17	258	39	219	454	£244,899
Year 4	2017/18	255	38	217	671	£388,455

*Based on all current 2013/14 students continuing into Further Education.

** Based on current % of pre 16 pupils eligible for Free School Meals

The above figures are based on:

- £475 being the baseline charge set at September 2014, plus
- 2% indicative only RPI increase based on the increase from December 2012 to December 2013. The actual increase applied each year will be based on Government published inflation figures, plus
- an annual 5% rise.

As a result of the handling of the charges there will be additional administration costs. As the number of students paying the charge increases incrementally, the cost of the administration will increase also. It is anticipated that £2,000 per year should be added for additional administration costs. The cost of the administration has been deducted from the income listed above.

Legal

The Local Authority's statutory obligations to provide free home to school transport are outlined above. These elements of the home to school transport policy for children and young people with special educational needs and disabilities will remain intact and the Local Authority is consulting on changes to the discretionary elements of the policy only.

Equality and Diversity

A full Equality Analysis has been completed following the consultation process and is set out at Appendix 'B'. The Equality Analysis will be updated as required.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Children and Families Act	2014	Helen Green/Children and Young People/01772 530974
Department for Education 2010 Post-16 Transport to Education and Training Guidance	2014	Helen Green/Children and Young People/01772 530974 Helen Green/Children and Young People/01772 530974
Apprenticeships, Skills, Children and Learning Act	2014	Helen Green/Children and Young People/01772 530974

Department for Education & Skills Home to School Travel and Transport Guidance	2009	Helen Green/Children and Young People/01772 530974
Education and Inspections Act 2006	2007	Helen Green/Children and Young People/01772 530974
Education Act 2002	2006	Helen Green/Children and Young People/01772 530974
Education Act 1996	2002	

Reason for inclusion in Part II, if appropriate

N/A