

MEETING:	CABINET
MEETING DATE:	13 MARCH 2014
TITLE OF REPORT:	HOME TO SCHOOL TRAVEL
REPORT BY:	DIRECTOR OF CHILDREN'S WELLBEING

Classification

Open

Key Decision

This is a key decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

NOTICE has been served in accordance with Part 3, Section 10 (general exception) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Wards Affected

County-wide

Purpose

To confirm a revised implementation date of September 2015 for the policy changes agreed by Cabinet in December 2013.

Recommendation(s)

THAT:

- (a) the implementation date for the policy changes agreed by Cabinet in December 2013 be amended to September 2015, having the following effect:**
- (b) to withdraw the Herefordshire free home to school transport policy eligibility based upon nearest and catchment school and replace with eligibility based upon:**
 - i) nearest suitable school with places,**
 - ii) where the nearest suitable school is in Wales, transport will be provided to that nearest school or the nearest school in England;**

- (c) To withdraw from September 2015 free transport for Herefordshire post 16 years with SEN and replace with the requirement for all post 16 years with SEN to pay the same contribution as all other post 16 students.
- (d) To apply the policy change in (b) only to those children newly entering a school from September 2015.
- (e) The implications of these policy changes are reviewed annually or sooner in the event that the impact of the proposed changes is materially worse than anticipated.

Alternative Options

- 1 Not to amend the implementation date. Council have approved a budget with a view to enabling a change in implementation date to allow schools and parents greater time to plan for change; although not to amend the date would deliver savings it would not allow for the planning time desired.
- 2 The policy changes be introduced in September 2015 but exclude some year groups. Parents/carers who had made choices about school based on transport entitlement would be faced with having to make further choices while their child was settled at a school.

Reasons for Recommendations

- 3 To determine how the one-off funding approved by Council as part of the budget is to be applied and to ensure that any period of uncertainty for parents, schools and transport operators is minimised.

Key Considerations

- 4 On 19 December 2013 Cabinet agreed changes to home to school transport policies; this decision was confirmed on 23 January 2014 following call-in by General Overview & Scrutiny Committee.
- 5 When setting the budget at its meeting on 7 February, Council approved one-off funding of £112,000 to re-instate the element of the budget for providing free home to school transport based upon nearest in county or catchment school and for post 16 year olds with SEN planned for the academic year September 2014.
- 6 The following elements of the decision taken by Cabinet 19 December 2013 remain unchanged:
 - To continue to charge parents for a seat on a school bus (because the child is not eligible for free transport) but reduce the Council's subsidy by increasing annual charge by £60 (£1.58 a week) from £660 to £720 (£17.36 - £ 18.95) in September 2014 and to annually review the subsidy each September thereafter to take account of operating costs;
 - To continue to charge post 16 transport but to reduce the Council's subsidy by increasing the annual charge by £60 (from £660 to £720) in September 2014 and to annually review the subsidy each September thereafter to take account of operating costs.

7 In straightforward terms, the changes mean that:

- The Council is to change the home to school transport policy to the statutory minimum it is required to provide.
- **The policy change will come into effect a year later than originally planned, i.e. September 2015.**
- In addition, the policy will be introduced on a phased basis:
 - Parents/carers free transport entitlement for the current Year 6 moving into Year 7 and YR children (those starting schools in September 2014) will be on the basis of their nearest and catchment school).
 - All pupils will be able to keep their current entitlement to transport through to when they leave their school.
- For children starting or transferring school from September 2015 their transport entitlement will be on the basis of nearest school only.
- All post 16 SEN students will be asked to contribute the same as other post 16 students from September 2015.
- The level of charging for vacant seats and post 16 transport in September 2014 will go up as already agreed by cabinet from £660 to £720. The level of charge for these services in September 2015 has not yet been agreed because it changes annually and is moving towards full cost recovery. Officers are investigating the introduction of payment methods which mean parents who elect to buy a vacant seat can pay easily and through regular payments.

Community Impact

8 The change in implementation date for the agreed policy changes will provide additional planning time for young people, parents/carers, schools and transport providers to prepare for the changes whilst still ensuring that the council continues to direct its resources at the agreed corporate priorities.

Equality and Human Rights

9 Public sector equality duty (PSED) implications of the policy changes were explored when Cabinet took the decision in December 2013; the change to the timing of the implementation with the slower phasing will mitigate further some of the impacts.

Financial Implications

10 Council has approved one-off funding of £112k in 2014/15 budget (£62k nearest school policy and £50k for Post 16 SEN for the Autumn 14 and Spring 15 terms).

11 The policy change will also impact financially in 2015/16 by £96k.

Legal Implications

12 The council is required under section 508B of the Education Act 1996 (“the Act”) to make and provide free of charge, such home to school travel arrangements as they

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consider necessary having regard for the Department for Education's statutory Home to School Travel and Transport Guidance, 2007.

- 13 Section 149 of the Equality Act 2010 imposes a duty on local authorities 'when exercising public functions' to 'have due regard to' the need to: eliminate discrimination and advance equality of opportunity (and foster good relations) between persons who share a relevant protected characteristic and persons who do not. This is generally referred to as the Public Sector Equality Duty (PSED). The nine 'protected characteristics' are: age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). SEN students are likely to share the 'relevant protected characteristic' of disability.
- 14 The concept of due regard requires a proper and conscientious focus on what the public sector equality duty requires. The decision maker must be clear precisely what the equality implications are when they put them in the balance. The decision-maker must recognise the desirability of addressing the equality implications, but ultimately it is for them to decide what weight they should be given in the light of all relevant factors.
- 15 In certain situations a local authority may conclude that other considerations outweigh the equality ones. This could include, for example, local priorities or available resources. However, the weight given to countervailing factors by the decision maker can be challenged in court if the decision is irrational or based on irrelevant considerations or facts.
- 16 As referenced in paragraph 9 of this report, the courts have established the following principles which a body subject to the PSED should take into account in making decisions to which the duty applies:
 - The duty means that the potential impact of a decision on people with different protected characteristics is always taken into account
 - Where large numbers of vulnerable people – very many of whom share a relevant protected characteristic – are affected consideration of the matters set out in the duty must be very high.
 - However, even if the number of people affected by a particular decision may be small, the seriousness or extent of discrimination and harassment might be great. The weight given to the aims of the duty is not necessarily less when the number of people affected is small.
- 17 The courts have made it clear that decision makers must have due regard to the PSED implications when they take their decision. Councils cannot try to justify decisions retrospectively if they are challenged.

Risk Management

- 18 The delayed implementation date and phasing mitigates further some of the risks identified by allowing additional planning time. Schools and transport providers have already started to come forward with proactive proposals

Consultees

- 19 There have been ongoing discussions with group leaders and schools regarding the change in implementation date and communications have been issued to all schools

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and to all elected members.

Appendices

None

Background Papers

None identified.