

# AGENDA

## General Overview & Scrutiny Committee

Date: **Wednesday 15 January 2014**

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Time: **9.00 am**

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Place: **Council Chamber, Brockington, Hafod Road, Hereford**

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Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

**Ben Baugh, Governance Services**

Tel: 01432 261882

Email: [bbaugh@herefordshire.gov.uk](mailto:bbaugh@herefordshire.gov.uk)

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# Agenda for the Meeting of the General Overview & Scrutiny Committee

## Membership

**Chairman**                    **Councillor A Seldon**  
**Vice-Chairman**           **Councillor EPJ Harvey**

**Councillor EMK Chave**  
**Councillor BA Durkin**  
**Councillor DW Greenow**  
**Councillor JW Hope MBE**  
**Councillor RC Hunt**  
**Councillor TM James**  
**Councillor Brig P Jones CBE**  
**Councillor RL Mayo**  
**Councillor R Preece**  
**Councillor GR Swinford**  
**Councillor DB Wilcox**

**Co-optees**  
(education items)       **Mr P Sell**  
                                     [replacement to be appointed]  
                                     **Mr P Burbidge**  
                                     **Ms E Lowenstein**

**Church of England**  
**Primary School Governor**  
**Roman Catholic Church**  
**Secondary School Governor**

## AGENDA

**1. APOLOGIES FOR ABSENCE**

To receive apologies for absence.

**2. NAMED SUBSTITUTES (IF ANY)**

To receive details of Members nominated to attend the meeting in place of a Member of the Committee.

**3. DECLARATIONS OF INTEREST**

To receive any declarations of interest by Members.

**4. QUESTIONS FROM THE PUBLIC**

To note questions received from the public in relation to the call-in of the Cabinet decision on Changes to Herefordshire Schools and Post 16 Transport Policy.

*(Questions must be restricted to the grounds for the call-in - see pages 8/9 - and must be received no later than 5.00pm on Friday, 10 January 2014. Please forward such questions to the officer named on the front of the agenda by this deadline.)*

**5. CALL-IN OF THE CABINET DECISION ON CHANGES TO  
HEREFORDSHIRE SCHOOLS AND POST 16 TRANSPORT POLICY**

To review the Cabinet decision on Changes to Herefordshire Schools and Post 16 Transport Policy.

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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<b>MEETING:</b>	<b>GENERAL OVERVIEW AND SCRUTINY COMMITTEE</b>
<b>DATE:</b>	<b>15 JANUARY 2014</b>
<b>TITLE OF REPORT:</b>	<b>CALL-IN OF THE CABINET DECISION ON CHANGES TO HEREFORDSHIRE SCHOOLS AND POST 16 TRANSPORT POLICY</b>
<b>REPORT BY:</b>	<b>BEN BAUGH, DEMOCRATIC SERVICES OFFICER</b>

## 1. Classification

Open.

## 2. Purpose

To review the Cabinet decision on Changes to Herefordshire Schools and Post 16 Transport Policy which has been called in by three Members of the Committee: Councillors EPJ Harvey, A Seldon and GR Swinford.

## 3. Recommendation

**THAT the Committee reviews Cabinet's decision and decides:**

- a) **whether it accepts that decision with no further comment, or**
- b) **whether it wishes to accept the grounds on which the decision of the Cabinet has been called-in and refer the decision back to the decision maker for reconsideration and, if so, what recommendations to Cabinet it wishes to make.**

## 4. Background

- 4.1 Call-in is a statutory right for Members of the Council to review a decision of the Executive taken by Cabinet or an individual Cabinet Member after it is made but before it is implemented.
- 4.2 A decision cannot take effect pending consideration of the call-in by the General Overview and Scrutiny Committee.
- 4.3 After consideration by the General Overview and Scrutiny Committee, the decision maker may implement the original decision or reconsider it in the light of the Committee's comments.
- 4.4 The Committee has no power to overturn a decision of the Executive. It can only request the Executive to reconsider its decision.
- 4.5 The Constitution (4.5.16.5) provides that call-in should only be used in exceptional circumstances including but not limited to:

- a where there is evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in the Constitution;
- b where a key decision has been taken which was neither published in accordance with the requirements for the Forward Plan, and is not subject to the urgency procedures set out in the Constitution; or
- c where a decision is outside the Budget and Policy Framework.

4.6 The General Overview and Scrutiny Committee can either accept the Cabinet decision with no further comment or accept the grounds on which the decision of the Cabinet has been called-in and refer the decision back to the decision maker for reconsideration.

## **5. Reasons for Call-in**

5.1 In accordance with the Scrutiny Procedure Rules set out at Part 4 Section 5 of the Constitution, the Cabinet decision on 19 December 2013 concerning Changes to Herefordshire Schools and Post 16 Transport Policy has been called in for consideration by this Committee.

5.2 The stated reasons for the call-in are:

“This call-in qualifies under 4.5.16.5 part a and c for the following reasons:

Part a: This decision does not appear to have followed the decision-making principles set out in para 2.11.1 of the constitution - in particular points a, b, c & e:

- (a) make sure the action is proportionate to what the Council wants to happen;
- (b) consult properly and have regard to the professional advice from its Officers;
- (c) consider equality, diversity and respect for human rights;
- (e) be clear about what the Council wants to happen and how it will be achieved;

It is not clear that the cost modelling has taken the full cost impact of the decision into account across all areas of the council’s operation, and therefore assurance is sought that the total anticipated net financial effect is achievable, realistic and proportionate.

It is not clear that the significant and negative effects of the changes highlighted in the consultations have been given proper weight and due consideration in the decision-making process.

No reasons have been given for dismissing the approaches taken in other authorities, e.g. Durham provision of ‘nearest school in-county’ option to parents.

Post-16 SEN proposals go against the Council's first principle of protecting the vulnerable.

The decision has a disproportionate effect on families with more than one child if a sibling is forced to attend school out of county where holidays may not be taken at similar times.



Families unable to afford this additional cost have not been given the notice they need to amend their school choices for Sept 2014 intake in the light of this decision. Other counties are not allowing such changes to now be made.

Part c: The total effects of the decision in exporting the county's young people to schools in other counties, in not demonstrating adherence to the principles of our transport plan, in not evidencing alignment with our Sustainable Modes of Transport Strategy for schools\*, and in not demonstrating that net savings at council level exist when loss of pupil grants are taken into account, raise concerns that aspects of this decision fall outside of the council's current Budget Monitoring and Policy Framework.

\* All authorities are required to publish annually their county level Sustainable Modes of Transport Strategy according to the Education (School Information) (England) Regulations 2002, amended 2007.

<http://media.education.gov.uk/assets/files/pdf/g/2007%20h%20to%20s%20travel%20and%20transport%20guidance.pdf> ”

- 5.3 The decision notice (Reference No: 2013-14.CAB.031 KEY) and report presented to Cabinet on 19 December 2013 'Changes to Herefordshire School and Post 16 Transport Policy' are appended.

## **6. Appendices**

Appendix A Decision Notice of Cabinet on 19 December 2013

Appendix B Report to Cabinet on 19 December 2013 - Changes to Herefordshire Schools and Post 16 Transport Policy.

## **7. Background Papers**

- 7.1 None identified.



## WRITTEN STATEMENT OF A KEY DECISION CABINET

<b>ITEM:</b>	<b>CHANGES TO HEREFORDSHIRE SCHOOLS AND POST 16 TRANSPORT POLICY</b>
Members Present:	Councillors: AW Johnson (Leader), J Millar, PM Morgan (Deputy Leader), GJ Powell, PD Price.
Date of Decision:	19 December 2013
Exempt:	No
Confidential	No
<p>This is a key decision because</p> <p>It is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.</p> <p>And/or</p> <p>It is likely to be significant in terms of its effect on-</p> <p>Two or more Wards or electoral divisions;</p> <p>One Ward (unless the number of those affected is very small or it is impractical to treat this as a key decision).</p>	
A notice was served in accordance with Part 3, Section 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	
Urgency/Special Urgency: (As defined in Constitution)	No
Purpose:	<p>To consider in light of the responses to the public consultation, changes to the Council's home to school transport policy such that it provides the statutory minimum requirement of free transport; and</p> <p>To consider in light of the responses to the public consultation changes to the Council's school transport policy such that the subsidy for post 16 special educational needs (SEN) students is withdrawn and they pay the same charge as all other students.</p>
<b>Decision:</b>	<p><b>THAT: Cabinet agreed to amend or remove the discretionary transport policies with effect from 1 September 2014 as detailed in this report, as follows:</b></p> <p><b>(a) To withdraw the Herefordshire free home to school transport policy eligibility based upon nearest and catchment school and replace with</b></p>

	<p><b>eligibility based upon:</b></p> <ul style="list-style-type: none"> <li><b>i) nearest suitable school with places,</b></li> <li><b>ii) in England;</b></li> </ul> <p><b>(b) Continue to provide the Herefordshire free home to school transport policy eligibility based upon nearest and catchment school only for those pupils entering Y10 or in Y11 at their current school on 1 September 2014 so they may complete their study programmes;</b></p> <p><b>(c) 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;</b></p> <p><b>(d) 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;</b></p> <p><b>(e) To withdraw free transport for Herefordshire post 16 years with SEN and replace with the requirement to meet the annual charge of £720 from April 2014. This to be annually reviewed each September thereafter to take account of operating costs; and</b></p> <p><b>(f) The implications of these policy changes be reviewed annually or sooner in the event that the impact of the proposed changes was materially worse than anticipated.</b></p>
<p>Reasons for the Decision:</p>	<p>The Council is seeking to provide only the statutory minimum service it is required to do unless there is good reason to do otherwise. The council also has adopted a policy of full cost recovery unless there is good reason not to. There is good reason to make exceptions over the nearest school being in Wales and seeking not to cause potential disruption to key stage 4 pupils, as set out above.</p> <p>Post 16 students, apart from those with SEN, make a contribution to transport if they use it. The council may choose to require post 16 students with SEN to make the same contribution to transport. In taking their decision the cabinet will need to have due regard to any impact of</p>

	<p>on this group sharing the protected characteristic of disability. All post 16 students have opportunities to access funding through bursaries. The awarding bodies have to have due regard for those with a protected characteristic. The transport used by students with SEN is modified according to their needs.</p>
<p>Options Considered:</p>	<p>No change. The Council would continue to provide more than is the statutory obligation, requiring greater savings to be made elsewhere.</p> <p>Do not introduce the charge for SEN post 16 young people. The council would be providing more than it is obliged to and would not gain the additional revenue, requiring greater savings to be made elsewhere.</p> <p>Introduce a policy of providing free transport to the nearest school only for all pupils. The Council would provide free transport to a school in Wales if this was the nearest school. The curriculum and teaching approaches are different in the two countries. There is good reason therefore for the Council to provide free transport for eligible children to their nearest English school. Parents will of course still be able to exercise their preference to attend a Welsh school should they wish to.</p> <p>Introduce a policy such that all residents of Herefordshire who were entitled to transport could get transport to their nearest Herefordshire school, rather than one in another authority. This would realise only a third of the savings and would disadvantage schools with no borders to neighbouring authorities. Neighbouring local authorities have not adopted this approach when introducing nearest school only policies.</p> <p>Introduce the policy changes to nearest school for all year groups from September 2014. Whilst this change in transport policy does not mean that children are required to change school, some families may feel they have to change school because of the logistics and costs of making their own arrangements for transport. This would mean some pupils, at a key point of their education, might be disrupted.</p> <p>Introduce the policy changes to nearest school as the pupil's transition in YR or Y7 or change school. This would phase the budget savings in over at least five years, make route planning more complex and create confusion for operators and parents.</p> <p>Introduce the nearest school transport policy with effect from April 2014. This would not give parents and other organisations time to make alternative arrangements and could be disruptive mid-year.</p>

	<p>Introduce full cost recovery for post 16 SEN students. Many SEN students require specially adapted vehicles which are more costly to run and maintain (and can cost up to £8000 a year). To expect the students to fund the full cost would be considered unreasonable under equality legislation.</p> <p>Increase the vacant seat payment scheme and post 16 transport costs to the current overall full cost recovery figure of £850 from September 2014. The vacant seat payment is set annually and the last increase, in September 2013, was from £514 to £660; which represents a 28% increase. An increase, to the current full cost recovery of £850, would be a 29% rise. A £60 per annum represents a 9% annual increase, which, although significant, is more reasonable in the current economic climate.</p>
<p>Conflict of Interest ■ (See below):</p>	
<p>Date the key decision is due to take effect:</p>	<p>2 January 2014</p>

**COUNCILLOR AW JOHNSON:** .....Date: 19 December 2013  
**LEADER OF THE COUNCIL**

- a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision;

And

- in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

<b>MEETING :</b>	<b>CABINET</b>
<b>DATE:</b>	<b>19<sup>TH</sup> DECEMBER 2013</b>
<b>TITLE OF REPORT:</b>	<b>CHANGES TO HEREFORDSHIRE SCHOOL AND POST 16 TRANSPORT POLICY</b>
<b>REPORT BY:</b>	<b>HEAD OF SUFFICIENCY AND CAPITAL COMMISSIONING</b>
<b>CABINET PORTFOLIO:</b>	<b>CHILDREN'S WELLBEING</b>

### 1. Classification

Open.

### 2. Key Decision

This is a Key Decision because it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates:

AND

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 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### 3. Wards Affected

County-wide.

### 4. Purpose

- 1) To consider in light of the responses to the public consultation, changes to the Council's home to school transport policy such that it provides the statutory minimum requirement of free transport; and
- 2) To consider in light of the responses to the public consultation changes to the Council's school transport policy such that the subsidy for post 16 special educational needs (SEN) students is withdrawn and they pay the same charge as all other students.

## **5. Recommendation(s)**

**THAT: Cabinet consider whether or not to agree to amend or remove the discretionary transport policies with effect from 1 September 2014 as detailed in this report, as follows:**

- (a) 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) in England;****
- (b) Continue to provide the Herefordshire free home to school transport policy eligibility based upon nearest and catchment school only for those pupils entering Y10 or in Y11 at their current school on 1 September 2014 so they may complete their study programmes;**
- (c) 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;**
- (d) 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;**
- (e) To withdraw free transport for Herefordshire post 16 years with SEN and replace with the requirement to meet the annual charge of £720 from April 2014. This is to be annually reviewed each September thereafter to take account of operating costs; and**
- (f) The implications of these policy changes be reviewed annually or sooner in the event that the impact of the proposed changes is materially worse than anticipated.**

## **6. Key Points Summary**

- The Council's financial position is such that to enable essential services for its most vulnerable residents to be maintained it can only deliver the statutory minimum required unless there are clear reasons to do otherwise.
- There has been extensive consultation on the proposed changes to Herefordshire educational transport policies, with a high response rate including petitions and presentations to officers and members.
- There are a number of uncertainties about how parents/carers may respond to the proposed changes to policy. The impact on schools and the actual financial savings are therefore hard to forecast precisely. There will be a saving as the distances the Council is statutorily required to transport children and young people will be shorter.
- Some schools and parents expressed concern that the policy changes would adversely affect the numbers of pupils in some schools and therefore the finances available. Some



parents expressed concern that these changes would affect their choice and break long standing patterns of admission.

- The consultation has identified there is good reason to provide, for those whose nearest school is in Wales, free transport to the nearest school in England.
- The consultation has identified there is good reason to delay implementation of nearest only school for those in or entering key stage 4.
- The Council is subsidising the cost of the transport it makes a charge for because the child or student is not eligible. To cover the full cost would require 29% rise or an additional £5 a school week. The proposed increase is a 9% rise or an additional £1.50 a school week.
- The change in relation to post 16 SEN transport will mean withdrawing a benefit targeted at students with a disability. As such this change may adversely impact upon a group sharing a protected characteristic under the public sector equality duty and cabinet will need to have due regard to this impact when taking their decision.
- Other local authorities have already made similar changes to their educational transport policies.
- The integration of the transport planning functions across the Council has the potential to provide a better more efficient service for the residents of Herefordshire.
- Herefordshire has a duty to provide transport for pupils who live beyond a certain distance, or who would have a hazardous walking route to school. This does not preclude parents, carers and schools themselves, either individually or collectively, making local arrangements that would meet their needs in a better way for them.

## **7. Alternative Options**

- 7.1 No change. The Council would continue to provide more than is the statutory obligation, requiring greater savings to be made elsewhere.
- 7.2 Do not introduce the charge for SEN post 16 young people. The council would be providing more than it is obliged to and would not gain the additional revenue, requiring greater savings to be made elsewhere.
- 7.3 Introduce a policy of providing free transport to the nearest school only for all pupils. The Council would provide free transport to a school in Wales if this was the nearest school. The curriculum and teaching approaches are different in the two countries. There is good reason therefore for the Council to provide free transport for eligible children to their nearest English school. Parents will of course still be able to exercise their preference to attend a Welsh school should they wish to.
- 7.4 Introduce a policy such that all residents of Herefordshire who were entitled to transport could get transport to their nearest Herefordshire school, rather than one in another authority. This would realise only a third of the savings and would disadvantage schools with no borders to neighbouring authorities. Neighbouring local authorities have not adopted this approach when introducing nearest school only policies.
- 7.5 Introduce the policy changes to nearest school for all year groups from September 2014. Whilst this change in transport policy does not mean that children are required to change school, some families may feel they have to change school because of the logistics and costs

of making their own arrangements for transport. This would mean some pupils, at a key point of their education, might be disrupted.

- 7.6 Introduce the policy changes to nearest school as the pupil's transition in YR or Y7 or change school. This would phase the budget savings in over at least five years, make route planning more complex and create confusion for operators and parents.
- 7.7 Introduce the nearest school transport policy with effect from April 2014. This would not give parents and other organisations time to make alternative arrangements and could be disruptive mid-year.
- 7.8 Introduce full cost recovery for post 16 SEN students. Many SEN students require specially adapted vehicles which are more costly to run and maintain (and can cost up to £8000 a year). To expect the students to fund the full cost would be considered unreasonable under equality legislation.
- 7.9 Increase the vacant seat payment scheme and post 16 transport costs to the current overall full cost recovery figure of £850 from September 2014. The vacant seat payment is set annually and the last increase, in September 2013, was from £514 to £660; which represents a 28% increase. An increase, to the current full cost recovery of £850, would be a 29% rise. A £60 per annum represents a 9% annual increase, which, although significant, is more reasonable in the current economic climate.

## **8. Reasons for Recommendations**

- 8.1 The Council is seeking to provide only the statutory minimum service it is required to do unless there is good reason to do otherwise. The council also has adopted a policy of full cost recovery unless there is good reason not to. There is good reason to make exceptions over the nearest school being in Wales and seeking not to cause potential disruption to key stage 4 pupils, as set out above.
- 8.2 Post 16 students, apart from those with SEN, make a contribution to transport if they use it. The council may choose to require post 16 students with SEN to make the same contribution to transport. In taking their decision the cabinet will need to have due regard to any impact of on this group sharing the protected characteristic of disability. All post 16 students have opportunities to access funding through bursaries. The awarding bodies have to have due regard for those with a protected characteristic. The transport used by students with SEN is modified according to their needs.

## **9. Introduction and Background**

- 9.1 The Council keeps all services and functions under review. In looking at arrangements for transport across the County a number ways of improving efficiency and reducing costs were identified. Changes in the home to school transport policy were identified as potential opportunities to reduce costs as the current policy is in excess of what the Council is statutorily required to do.

## **10. Key Considerations**

- 10.1 The Council has agreed that to achieve its priorities it must:
  - Encourage individuals, communities and organizations to do more for themselves and for their local area;

- Radically reduce the costs, breadth and level of services we provide;
  - Ensure the services that we do provide are cost effective.
- 10.2 The Cabinet agreed to consult widely on proposed changes to the County's home to school transport policy. Detailed consultations were posted on the Council's website and people who may be affected were encouraged to engage with it or make other representation through attending meetings, writing in or telephoning officers.
- 10.3 There were 512 responses to the nearest school only proposals and 39 to the post 16 SEN. Additionally officers met with head teachers, parent groups in Brimfield and Credenhill. The nearest school proposals were raised in Herefordshire Schools Forum, two petitions were submitted to the Cabinet Member for Children's Services, BBC Hereford and Worcester discussed the idea and 27 children wrote in along with five Parish Councils and other local authority areas.
- 10.4 The majority of the respondents were against the Council making the changes and most were from parents who were in receipt of free transport. There was some recognition from some respondents that the Council needed to make savings. Cabinet's attention is drawn specifically to the view expressed on post 16 SEN transport funding that it may result in a student leaving education. Were this to happen it would seriously affect the life chances of a person with the protected characteristic of disability. Detailed analysis of all the consultation responses to both proposed policy changes is attached.
- 10.5 The potential impact on Herefordshire schools is a concern with respondents feeling it could reduce the numbers of pupils at some schools (and therefore their funding, and the total funding coming into the Herefordshire education system) such that it made them unviable. There are 21,400 school children in Herefordshire. Of these 3600 are eligible for free home to school transport. Analysis shows that the proposed changes would affect some 850 pupils (24% of the total number transported) as they live in the catchment area of a school, get free transport but have a nearer school (270 primary and 580 secondary). 160 of these pupils live in Herefordshire but their nearest school is in Wales. 180 pupils live in Herefordshire but their nearest school is in an English local authority area. The remainder have a different nearer school within Herefordshire.
- 10.6 There will still be choices for parents/carers. Some parents will prioritise their choice of school for quality and perception reasons and pay for transport, provided by the Council or other parties, like school or consortia of parents, if they are no longer entitled. Others may make different choices about their school. Currently 43% of parents are choosing to have their child attend a school other than their catchment one which suggests parents will prioritise their choice of school on factors other than transport. It is unclear and difficult to predict what parents of children affected by this change will choose to do and how this in turn will affect choices in the future.
- 10.7 Some respondents expressed concerns at the ability of parents to pay if they have more than one child. In implementing this policy change, it is proposed that the Council identify how parents can spread the cost through more frequent payments than is currently available, as well as ensuring that parents are well informed about bursaries and extended rights to free transport. The integrated transport unit will also be working with providers and schools to identify more cost effective ways of providing home to school transport, which may also reduce costs to families.
- 10.8 The estimated savings of £250,000 a year for the nearest school only policy and £50,000 a year for the post 16 SEN contribution were questioned in detail during the consultation. Calculating the precise financial impact is exceptionally difficult as it is dependent on choices

parents/carers make and how the offer of transport develops. This lack of precision has been criticised in the consultation. However, if 850 pupils are no longer entitled to free transport, due to the change in policy to nearest school, and using the average cost of home to school transport of approximately £800 per year, if no child changed school and all transport was withdrawn for all those non-entitled pupils, then the maximum cost saving could be in the region of £680K per annum.

- 10.9 However assuming that 60% (500) of those affected moved to their nearest (and non catchment) school and therefore remained entitled to free transport at an annual cost of £408K, 20% ( 175) pay for a Vacant Seat at £660 per annum (i.e. a net subsidy of £140 per pupil per annum) at a net cost of £24K and the remaining 20% (175) make their own arrangements or use those provided by schools then the potential annual cost saving equates to £680K – £408K – £24K = £248K hence the indicative saving of £250K per annum.
- 10.10 The consultation responses also raised concerns about the ability of parents to pay, particularly those on low incomes. The Council's transport policy will continue to include extended rights to free transport for students from disadvantaged backgrounds and this will mitigate effects for those students eligible for this support.
- 10.11 The timing of the introduction and approach to the proposed policy changes was a significant issue for many of those responding to the consultation. Introducing the changes from September 2014 provides opportunity for those affected to either make alternative arrangements through commercial schemes or other provision. Given that the policy changes may mean some parents choose to have their child attend a different school this could be highly significant for those studying GCSE courses.
- 10.12 Post 16 young people with SEN are already supported through independent travel training where appropriate having regard to their needs. This training improves independence and self-confidence. Significant reductions in transport spend has been achieved by successfully training and supporting young people with disabilities to use public transport. This will continue, although some people pointed out that reductions on the public service network may themselves cause an increase in spend in this area. As with all post 16 young people, financial bursaries are available to them to support access to education opportunities. In granting bursaries the awarding bodies should have a public sector equality duty to those with the protected characteristic of disability. These may be applied for in person or through the further education provider.
- 10.13 Some schools responded expressing significant concern that this change may cause so many parents to move their children or elect not to send their children to their schools in future, that their school would become unviable. Some other schools raised concerns that this would affect long-standing cluster arrangements. As stated earlier, it is difficult to predict what decisions parents may make. It is important that this policy change is kept under close review to ensure that any unintended consequences are identified early. As well as the changes to the proposal in response to the consultation set out above, there are other steps schools can take to mitigate further any possible negative effect. For example, a number of secondary schools already run or support the coordination of transport for their pupils as a way of enhancing or protecting their numbers and responding to parental choice.
- 10.14. Whilst the Local Authority cannot delegate the budget for home to school transport to schools; if schools were to ask the local authority to devolve funding, an arrangement may be made that secured travel for those entitled. This may enable more financially viable models of transport for parents and/or schools to develop.
- 10.15 While the recommendations are to provide the free transport to those entitled to a school in England, parents, whose nearest school was in Wales would be given free transport if they

choose to send their child to the school in Wales.

## **11. Community Impact**

- 11.1 The integration of the Council's transport functions, which include statutory duties, should assist in the provision of a more comprehensive and cohesive public transport network. Rural schools and their communities feel they may be disadvantaged by these policy changes but as many parents already prefer to send their children to schools other than their catchment or nearest school the impact is difficult to determine. It is unlikely that changes to transport policy will be the sole determinant as to whether a school becomes unviable or not. The Council's priority areas are, within the resource available to us, to keep children and young people safe, and give them a great start in life, enable residents to live safe, healthy and independent lives, and invest in projects to improve roads, create jobs and build more homes.

## **12. Equality and Human Rights**

- 12.1 The impact of the proposed changes to nearest school on any group of children/young people with protected characteristics under the 2010 Equalities Act has been examined carefully through an equalities impact assessment. There is roughly similar number of boys to girls. Children and young people with disabilities travelling to schools are supported through SEN legislation and will receive transport.
- 12.2 The changes to post 16 SEN entitlement may adversely affect students with the protected characteristic of disability. In taking the decision on post 16 SEN transport, the Cabinet must have due regard to this impact. This is fully explained in the legal implications below. The consequences of implementing the proposed changes will be monitored. In the event that the changes result in a material decrease in the number of post 16 students with SEN in education the policy will be reviewed by the head of service as a matter of urgency.
- 12.3 The Council, in no longer making this provision, may disadvantage young people with a disability. However, there are reasonable alternative arrangements that can be put in place. There are also reasons to propose the change as the council needs to make savings, not provide more than it statutorily has to. Mitigation is dependent on each individual circumstance but there are financial bursaries available. Additionally some may be in receipt of additional benefits and support associated with their disability that could be used to make the contribution.

## **13. Financial Implications**

- 13.1 The proposals should reduce costs for the Council. The net overall annual expenditure on home to school transport is circa £3.5m. The policy change to nearest school is estimated to realise £250,000. Introducing the nearest English school provides an estimated full year saving of £190,000. As stated above, it is however extremely difficult to model this with any certainty.
- 13.2 The protection to key stage 4 students is estimated to cost £188,000 in year reducing the 14/15 saving to £62,000. The 2015/16 cost is £93,000 resulting in a saving of £157,000.
- 13.3 The contribution of £660 for post 16 SEN students should realise approximately £74,000 which is additional to the £250,000. There are 110 students affected; some will make their own arrangements, others will be supported through independent travel training.
- 13.4 An increase in the post 16, vacant seat, and denominational scheme from £660 to £720 is

estimated to bring an additional £75,000 full year benefit.

- 13.5 If children attend a school other than a Herefordshire school, the Dedicated Schools Grant will not receive funding for those children. There is therefore a risk that pupil numbers will reduce. However, Herefordshire currently has more children from other authorities attending Herefordshire schools than Herefordshire children leaving to go to other authority schools. Until this policy is implemented with all possible mitigations, it is impossible to know whether there will be any impact of any significant scale.

## **14. Legal Implications**

- 14.1 In considering the recommendations, Members must have regard to the statutory guidance “Home to School Travel and Transport Guidance, 2007”, take into account the responses from the public consultation and consider the equality impact assessment and the potential effect on those with protected characteristics.
- 14.2 Section 508B of the Education Act 1996 (“the Act”) places a statutory duty on the Council to make and provide free of charge, such home to school travel arrangements as they consider necessary in order to facilitate attendance at school of an “eligible child.” “Eligible children” are defined in Schedule 35B of the Act. The recommendations in this meet this statutory obligation.
- 14.3 The recommendation for free home to school transport includes reference to a suitable school. The guidance gives advice as to what can and cannot be regarded as a suitable. The maximum recommended travel times are 45 minutes each way for primary school age children and 75 minutes each way for secondary school age children. But the special educational needs or disability of a child might indicate that the maximum journey time should be lower than this. In addition to the length of the journey, the suitability of the arrangements will be judged against a number of factors, such as: the age of the child, the child’s individual needs, the number of vehicle changes the child is required to make, the distance the child is required to walk at each end of the journey and the nature of the route. Travel arrangements must allow the eligible child to travel in reasonable comfort and safety. They can be considered suitable only if they do so and they enable the child to reach school without such stress, strain or difficulty that they would be prevented from benefiting from the education provided.
- 14.4 Any policy should also enable local authorities to recognise and remedy anomalies. A discretion should remain within any policy so as to avoid a challenge; that by excluding the exercise of discretion in exceptional cases an authority has fettered its discretion. Also to enable wishes of parents to be considered where there is due regard required in the legislation for example under Section 509AD of the Act in relation to the parents religion or belief. Or in other circumstances which warrant further consideration. Discretion is retained in the policy.
- 14.5 Whilst post 16 pupils are outside the definition of “eligible children” there is a duty to prepare an annual post 16 transport policy. There is a power to charge for this discretionary service under section 93 of the Local Government Act 2003 so long as the income does not exceed the costs of the provision (section 93(5)).
- 14.6 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.

- 14.7 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.
- 14.8 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.
- 14.9 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.
- 14.10 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.

## **15. Risk Management**

- 15.1 Parents express a preference to change schools to nearest and there are insufficient places. There are significant surplus places in schools which would be able to absorb these changes without incurring additional cost. In addition, should the council not be able to secure places at the nearest school, free transport would be provided to the next nearest school with places.
- 15.2 The integrated transport network may not be able make suitable or sufficient provision for those choosing a school, other than their nearest. The Councils integrated transport unit will liaise with the full spectrum of transport providers, including schools and community groups to ensure there is sufficient capacity.
- 15.3. Post 16 SEN students choose not to attend a place in education or training. Attendance levels will be monitored. The Council will seek to ensure there is sufficient independent advice and guidance (IAG) to young people so they make positive choices and working with providers will seek to ensure there are sufficient suitable courses ( including those for young people with SEN) available within reasonable travelling distance of their home.

## **16. Consultees**

- 16.1 Consultation on the proposed policy changes was posted on the Council website. Meetings were held with the Schools Forum which includes Head teachers, Governors and Diocesan education representatives; Head Teachers, Councillors and members of the community.

The Director of Children's Wellbeing, the cabinet member for children's services met with different groups of head teachers concerned about the implications for the numbers on roll at their school.

The Schools Forum was concerned about the wider financial implications the perceived lack of detailed evidence and modelling. As explained above this is difficult to forecast with precision.

Parents/carers who get free transport because they live in the catchment area of a school and have a nearer school were concerned about having to change schools.

Head- teachers were concerned about the impact on pupil numbers at their schools and along with the school forum

## **17. Appendices**

17.1 Appendix one: Equalities Impact Assessment (EIA)

Appendix two: Frequently Asked Questions (FAQs)

Appendix three: Summary of consultation responses.

## **18. Background Papers**

18.1 Detail of all consultation responses – Head of Service, Office Blackfriars.



## Equality Impact Assessment -Proposed policy changes

### – Home to school/college transport

#### Introduction

Herefordshire home to school/transport policy sets out what the Council is to provide, and make arrangements for, regarding transport for children and young people attending schools and colleges.

The policy sets out the circumstances where the Local Authority must make transport arrangement due to legislation and what is provided additionally by the Council as a result of local determination. The policy applies to children of statutory school age and young people between 16 and 19 years of age attending further education courses. The policy considers children and young people:

- of different ages;
- with identified learning difficulties and disabilities;
- who are from low income families;
- with different religion or belief.

The approximate number of children and young people using Council co-ordinated transport are given in the table below:

	Number
Children aged 5-16 attending mainstream school	3,600
Children with special educational needs attending mainstream and special school	230
Children attending schools on the grounds of religion and belief	130
16-19 years olds	1,100
16-19 year olds with SEN	110

The overall school population is 21,400.

The overall cost of transport provision is circa £3.7m. The costs are £4.8m and through charging for non-entitled transport there is an income £1.1m. The charges do not cover the average costs of transporting the non-entitled children and young people.

#### The proposed policy changes

- 1) To provide free home to school transport for children aged 5-16 years to their nearest school in England rather than their nearest and catchment.

- 2) To withdraw the subsidy for transport to 16-19 year olds with SEN and introduce the same charge as for non SEN 16-19 year olds.
- 3) Reduce the level of subsidy for those travelling on Council coordinated transport.

### **Numbers affected**

The number affected by change to nearest school only is approximately 800 (500 at secondary and 300 at primary).

The number of 16-19 year olds with SEN who would be charged under the revised is 110.

### **Consultation**

During May and June 2013 Council officers discussed the proposed changes with elected members and asked interested and affected parties to respond through the web site. There was subsequently 6 weeks of formal consultation between the 9<sup>th</sup> September and the 18<sup>th</sup> October. Respondents were asked:

- and what mitigation could be put in place for either group.
- what other savings might be made as an alternative;
- whether there were other ways of reducing the impact on young people with SEN or from rural communities;

Details of the proposals and information in the form of a frequently asked question (FAQ) response sheet were circulated. Head teachers, governors and parent groups were advised of the desire to get a wide range of responses. Affected and interested parties were asked to express their views and consider the implications. The responses to the consultations were collated and considered in officer groups and by cabinet member for Children's Services.

### **Impact**

Changes to nearest, rather than nearest and catchment, may mean that children from rural communities may not receive free transport to the school they are at now or would have chosen to go to. This is not considered to specifically disadvantage any children or parents with protected characteristics.

Changes to charging for students with SEN may adversely affect children and young people with disabilities. It may be that students feel they cannot attend a particular provision due to the cost.

### **Assessment of Impact**

There were no credible alternatives identified through consultation as to how to realise the savings the proposals bring.

Other Local Authorities already have such policies about nearest school and charging for post 16 SEN students. Where authorities have introduced these policies there was no discernible change in numbers attending provision.

While the charge to SEN students does have the potential to impact on a group with protected characteristics the introduction of charging is considered reasonable because:

There are grant schemes funded by the Education Funding Agency available through further education training providers or on an individual basis.

### **Mitigation**

1. If it is decided to introduce these changes, 3 months' notice will be given to parents to give time to secure an approach to payment.
2. The local authority and further education providers will support parents with information and guidance in making grant applications for financial assistance.
3. The local authority will make available easy ways for parents to pay the charges with weekly and monthly schemes.
4. The policy change will be monitored and reviewed in terms of the impact on a monthly basis.



## Mainstream Education Transport Consultation

### Outcomes

A) 512 completed response forms were received online, by email and in the post.

The summary of these responses is:

Q1 Do you think in the current financial climate the LA should provide transport in excess of the statutory minimum?

444 said Yes and 68 said No. Of those who said Yes 430 (97%) are parents and 279 (63%) in receipt of free transport. Of those who said No 61 (90%) are parents and 28 (41%) in receipt of free transport.

Q2 If no, who should fund this extra provision? 207 answered (but only 68 said No) as follows:

Parents	47
Schools	9
Council Taxpayers	139
Schools & Taxpayers	2
Parents & Taxpayers	7
Parents & Taxpayers & Schools	3

Q3 Please give us your views on the proposals. The main issues for those against the proposals are:

- The proposed cost of paying for a seat – £660 per annum – much too expensive;
- Families with more than one child using this system will have to pay a significant amount each year i.e. £1,220 or £1,980 or £2,640;
- An additional “Tax” that the council taxpayers of Herefordshire will have to pay;
- Whilst wealthy families will be able to afford the cost the less well off, including the “pressed” middle income families will not;
- What’s the point of a school catchment system for admissions with no linkage to school transport entitlement;
- A “backdoor” approach to changing school catchment areas;
- Cross-border travel to the nearest school will increase costs and will mean Herefordshire schools will lose funding and may have to close;
- Families on the Welsh border do not want to send their children to Welsh speaking schools;
- The potential disruption to KS4 pupils will be significant;
- Friendship groups will be broken up;
- Pupil confidence will be impacted upon;
- Siblings could end up at different schools;
- The nearest school is not as good as the catchment school i.e. Ofsted grading;
- Rural families already have less “choice” than urban families; these proposals will widen the gap.

Those in favour of the proposals cited matching responsibility with choice and the current financial climate as the reasons for their support.

- Q4 If the proposals are implemented will they affect you and your family, your school or your organisation? 416 (80%) said Yes and 101 (20%) said No. If Yes, please let us know how:
- The financial cost of paying for school transport was the main issue if children didn't change school along with the impact upon their children's education if they did change school;
  - The proposals take the element of "choice" away from less wealthy families;
  - If schools lose funding through the loss of pupils they will become less successful and may have to close;
  - Why can't all parents pay something (i.e. much less than £660 per annum) towards school transport i.e. no-one gets it free.
- Q5 Please give us your views about the timing of introducing the revised policy, if it is agreed. These ranged from "never" to "September 2014 at the earliest" and also the suggestion that the implementation should be phased so that existing pupils, particularly KS4 are not affected.

Analysis of respondents:

The majority of the respondents are Herefordshire citizens (96%).

64% have a child/children who currently receive free transport to school.

69% of respondents have a child or children who will be affected by the proposals.

20% of respondents are members of staff or governors of schools.

- B) Two separate petitions against the proposals were received, one from parents, members of staff, etc from the John Masefield "area" affected by the proposals – 295 petitioners (with significant "duplicates" and "anonymous" entries) and the other petition from parents, members of staff, etc from the Brimfield, Little Hereford & Orleton area affected by the proposals – 174 petitioners.
- C) Individual responses against the proposals were received from 4 schools: Pembridge, Cradley, John Masefield and the Ledbury "cluster".  
NB: Prior to the consultation process commencing a number of other schools submitted comments against the proposals namely Weobley High, Fairfield and Lady Hawkins.
- D) Responses against the proposals were received from five Parish councils: Titley (re Pembridge Primary), Credenhill (re Weobley High), Aymestrey (re Wigmore High), Wigmore (re Wigmore High) and Whitchurch & Ganarew (re John Kyrle).
- E) 27 hand written letters against the proposal received from year 6 pupils at St Mary's, Credenhill Primary School.
- F) In addition we have received confirmation from four out of five adjoining Local Authorities (Gloucestershire, Monmouthshire, Worcestershire and Shropshire) that they will not allow changes to parental preferences in the current Admissions Transfer Round (year 7 from September 2014) received after the official closing date of 31<sup>st</sup> October 2013 as a result of Herefordshire changing their transport policy with effect from September 2014.
- G) A response from Worcestershire LA confirming our proposals are as per their own back in 2011.

Proposal options:

1. Maintain status quo – find savings from somewhere else.
2. Implement proposed change in entitlement plus:
  - a. Only provide transport for entitled pupils;
  - b. Continue to provide transport for non-entitled pupils by way of the Vacant Seat Payment Scheme (VSPS) at £660 per annum;
  - c. As per b. except contribution set at a lower amount than £660 per annum;
  - d. As per c. plus further reductions in contribution for siblings using VSPS.
3. Implement proposals from:
  - a. September 2014 for all pupils;
  - b. September 2014 for all KS1, 2 & 3 pupils;
  - c. September 2014 for all new entrants at schools i.e. maintain status quo for all those currently in receipt of free school transport because they are attending their catchment school, even if it is not their nearest;
  - d. Some other date.
4. Allow parents to “choose” the nearest Herefordshire school rather than the nearest out of county school and still receive free transport (the Durham County Council model).

Alternative considerations:

1. Encourage Community transport providers to extend their provision to include school transport and out of hours transport (evenings and weekends) by using funding from the home to school transport budget (free for entitled pupils), parents (non-entitled pupils paying a contribution/fare), parish council precepts, schools (funding and/or use of school minibuses at no cost) and the LA funding for Community Transport.





## Post 16 SEN Transport Consultation

### Outcomes

A total of 39 completed response forms were received online, by email and by post.

The summary of these responses is:

- Q1 Do you think in the current financial climate the LA should provide transport in excess of the statutory minimum?  
35 said Yes and 4 said No. Of those who said Yes, 28 (80%) are parents and 20 of these (57%) in receipt of free transport. Of those who said No, 3 (75%) are parents and none of them are in receipt of free transport.
- Q2 If no, who should fund this extra provision? 19 answered (but only 4 said No) as follows:  
Make savings elsewhere e.g.:
- Merge/close small schools with too few pupils;
  - Get rid of local councillors;
  - Stop wasting money on projects like the refurbishment of the Masters House in Leominster at £2.92m;
  - Cut back on councillors expenses;
  - Reduce the Chief Executives salary to £45,000;
  - Raise council tax to fund the cost of provision;
  - Parents/guardians to make contributions.
- Q3 Please give us your views on the proposals. The main issues for those against the proposals are:
- The proposed cost of paying for a seat - £660 per annum – is much too expensive.
  - Single parent families will struggle financially
  - It will cause greater financial trouble especially in the current climate
  - Post 16 education is now mandatory and parents will be forced to pay
  - Most SEN pupils require specialist transport and it is therefore wrong to make parents find alternative transport if they can't pay the proposed level of contribution

Those in favour of the proposals cited discrimination against those without special needs already paying a contribution and another said that extra benefits are already provided to those families with extra needs.

- Q4 If the proposals are implemented will they affect you and your family, your school or your organisation?  
30 (81%) said Yes and 7 (19%) said No.

If Yes please let us know how:

- The financial cost of paying for school transport was the main issue;
- Will have to give up work/reduce hours to provide own transport;
- Mobility and independence of pupils will be compromised if transport not available.

Q5 Please give us your views about the timing of introducing the revised policy, if it is agreed. These ranged from “never” to “April or September 2014 at the earliest”. The majority believing that the raising of the statutory school leaving age should be taken into account (the Raising of the Participation Age is clearly widely misunderstood).

Analysis of respondents:

The majority of the respondents are Herefordshire citizens (95%).

56% have a child/children who currently receive free transport to school.

65% of respondents have a child or children who will be affected by the proposals.

16% of respondents are members of staff or governors of schools.

Proposal options:

1. Maintain status quo – find savings from somewhere else
2. Implement proposed change in entitlement
3. Implement proposals from:
  - a. April 2014 for all pupils;
  - b. September 2014 for pupils;
  - c. September 2014 for all new entrants at schools i.e. maintain status quo for all those currently in receipt of free Post 16 SEN transport;
  - d. Some other date.