

**Decision Session Cabinet Member – Education, 3 September 2012
Children & Young People**

Report of the Director of Adults, Children and Education

Review of Home to School Transport Policy

Summary

1. To consider a change to the Local Authority's home to school transport for a phased withdrawal of free denominational transport commencing in September 2013.

Background

2. Following the work of the Learning and Culture Overview and Scrutiny Committee, the council's Cabinet met on the 3 April and supported the committee's recommendations as set out below.
 - That a phased withdrawal of free denominational transport be commenced from September 2013.
 - That from the 1 September 2013, the LA to introduce concessionary fares on transport provided by the LA where the provision exists for new pupils taking up denominational places.
 - That the LA works with those schools offering denominational places to support the implementation of this change in policy.
3. Prior to the Cabinet Member approving the withdrawal of free home to school transport on a denominational basis, the Cabinet agreed that statutory consultation with the relevant bodies would be undertaken.

Consultation

4. Consultation on the proposal for a phased withdrawal of free home to school denominational transport has taken place with all schools through headteachers and chairs of governors during the summer term. Both the Church of England and Roman Catholic Diocesan Boards have also been consulted on the proposed changes.

5. As outlined earlier in the report the recommendations of the Learning and Culture Overview Committee are set out in paragraph 2 whilst their full report is attached in Annex A.
6. In response to the consultation no responses were received from any school whilst the education diocesan boards requested and received confirmation that the proposed changes to the home to school transport policy will not affect voluntary controlled schools. Those schools affected by these propose changes are those who give priority to pupils on the grounds of religion or belief.

Options

7. Having considered the final report shown in Annex A, detailing the work carried out by the Learning & Culture Overview & Scrutiny Committee in support of a change to the home to school transport policy, the Cabinet Member may chose to amend and/or approve or reject the recommendations arising from this review.

Analysis

8. The Scrutiny Committee agreed the current arrangements for the provision of free school transport on a denominational basis were not fair or equitable to all pupils across the city. However, in order not to adversely affect those families with children currently receiving free transport on a denominational basis, the committee agreed the best approach would be that of a phased withdrawal ie those currently receiving free school transport on a denominational basis would continue to do so until they leave school, but any new pupils taking up denominational places as from September 2013 would not receive it.
9. Cabinet appreciated why any withdrawal of free denominational transport could not begin until September 2013. And, having carefully considered the alternative approaches to withdrawing the transport detailed in the options shown on the final page of the attached booklet in annex A, together with the savings each option could potentially realise, the Committee agreed the fairest option was the withdrawal of all free denominational transport and introduction of concessionary fares.

Implications

Financial

10. The withdrawal of free transport on a denominational basis would realise a saving for the council from the school year 2013-14 onwards. This saving would change year on year dependant on the number of denominational places offered to children living more than 3 miles and less than 15 miles from a qualifying school, and based on a phased withdrawal, would grow over the first five years ie as each school year ends, and a cohort of year 11 pupils receiving free transport leave school. The estimated savings are as follows:

School year	13/14	14/15	15/16	16/17	17/18	18/19	19/20
Estimated savings	31,000	51,000	80,600	107,200	125,700	131,300	137,700

Equalities

11. The committee agreed that the provision of free transport on a denominational basis was neither fair nor equitable to all pupils in the city, and therefore agreed its withdrawal was necessary. However, in order not to adversely affect financially those families with children currently receiving free transport on a denominational basis, they agreed its withdrawal should be phased.
12. The Equalities Act duty not to discriminate on grounds of religion or belief in the provision of services does not apply to the provision of school transport. However, the public sector equality duty does still need to be considered. As Members are aware this duty requires the council to:
- eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between people who share a protected characteristic and those who do not
 - foster good relations between people who share a protected characteristic and those who do not

Legal

13. In certain circumstances the council has a duty to provide free school transport and this may include travel to a denominational school. The duty applies to “eligible children”. A child is eligible if he or she:
- a. has special educational needs, disability or mobility problems which prevent him or her walking to school

- b. cannot reasonably be expected to walk because of the nature of the route to school
 - c. lives outside walking distance and no suitable alternative arrangements have been made for him
 - d. is entitled to free school meals or his parents receive the maximum amount of tax credits
14. The recommendations arising from the review do not affect these duties. The proposal is that the council adopts a policy of not funding transport where doing so is discretionary. It would be unlawful to adopt any policy which was incapable of allowing exceptions. The council's procedures do allow for appeals to Members against the application of the policy and this therefore allows exceptions to be considered.
15. In making a decision the Cabinet Member must have regard to guidance issued by the Secretary of State. The key part of the relevant guidance says:
- “the Secretary of State hopes that local authorities will continue to think it right not to disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools*
- The Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical beliefs, and believes that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express.”*
16. The Cabinet Member must consider that guidance but do not have to slavishly follow it. If there are other factors which, in the Cabinet member's view, outweigh the considerations referred to by the Secretary of State, then a decision can be made to reduce the discretionary support.
17. The Human Rights Act includes a right to education in accordance with parental religious convictions. There is judicial authority that does not include a right to transport to a particular school and, even if that authority is wrong, the right to education applies only so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.

Other

18. There are no other known implications associated with the recommendations arising from this scrutiny review.

Risk Management

19. There are no known risks associated with the recommendations arising from this review.

Recommendations

20. The Cabinet Member is asked to consider the content of this report and approve changes to the home to school transport policy by agreeing to a phased withdrawal of free denominational transport from September 2013.

Reason: to implement the recommendation of the Scrutiny Committee which seeks to promote a fair and equitable transport policy.

Contact Details

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Report Approved **Date** 31 August 2012

Specialist Implications Officer(s) None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers

None

Annexes

Annex A – Final Report from School Admissions & School Travel Policies Scrutiny Review (Booklet)