

Review of Admission Arrangements & School Travel Policies – Cover Report

Purpose of Report

1. This report presents the information gathered in support of the review and the Committee's findings and recommendations.

Background to Review

2. At a scrutiny work planning event held in July 2011, Members of this committee discussed a range of possible topics for scrutiny review this municipal year. The issue of the changing demographics for York's primary schools was raised as a matter of concern and as a result it was agreed to proceed with this review.

Background Information on Admissions to York Schools

3. The Local Authority (LA) is the admissions authority for all 43 Community and Voluntary Controlled Primary Schools (including Infant schools) across the LA area. The LA also coordinates the admissions process for all schools, whether Community, Voluntary Controlled, or Voluntary Aided.
4. The LA first established the policies upon which its admission arrangements are based in 2002, following extensive consultation. The principle behind the arrangements is that every child has a guaranteed place at the school where their home address falls within its catchment area. However the arrangements include an equal preference system whereby parent/carers can select up to 5 schools for which they have a preference. Each of these preferences is considered by the LA and/or Voluntary Aided schools, but only one school is offered. This will be the highest ranked school that can be offered.
5. For September 2011 entry, the LA allocated 1,966 places. 93% of these allocations were for the parent/carers' first preference. 97% were

allocated a school at either their first or second preference. Only 61 parent/carers appealed against the LA's decision, and of these, only 2 were successful. 80% of these appeals were heard on Infant Class Size grounds i.e. the limit of 30 pupils to one teacher in a class of 5, 6 or 7 year olds.

6. Where there are more applications for places than places available at any given school, applications are ordered according to the oversubscription criteria within a Local Authority's Admissions Policy. The criteria apply to both Community and Voluntary Controlled schools. If a child meets more than one criterion e.g. is both a sibling and resident in the catchment area, then they are categorised under the higher of the two priorities. However, the admission of pupils with a statement of special educational needs is covered by separate admission regulations which are allocated *before* the application of an LA's oversubscription criteria.
7. If after the allocation of places there are applicants who are unsuccessful in obtaining a place of their first preference (or a higher preference than they were allocated), then these applicants will form a waiting list. Through this system, applicants who are unsuccessful on the offer day of 1 April may receive a place through either the independent appeals process, or through movement from waiting lists where applicants change their preferences, take up a place in the independent sector, or through movement in and out of the LA area.
8. In addition, the committee received a detailed presentation on primary school demographics across York which drew attention to the ongoing issues around supply and demand i.e.:
 - Ensuring the Local Authority's Admissions oversubscription criteria are fair and the catchment system works for parents and the LA?
 - Ensuring the Local Authority's school travel policies are fair and appropriate and understanding the implications for school travel given the changing demographics
 - The provision of new schools and the changing role of the Local Authority (LA) in relation to Academies and Schools' partnership
 - The effect of new housing developments e.g. Germany Beck, Fulford (175 primary pupils), Derwenthorpe, Osbaldwick (135), British Sugar (250+) and York Central
9. Having considered all of the background information presented, the Committee agreed to focus their review on the examination of whether:

- a) The oversubscription criteria in use in York's Community and Voluntary Controlled schools, is made up of the right priorities, and in the right order?
- b) The current School Travel Policies are fair and appropriate given the changing demographics?

Consultation

10. Senior officers working within School Organisation & Support assisted the Learning & Culture Overview & Scrutiny Committee with their work on the review. The committee also met with the head teachers from Hempland Primary School and Scarcroft Primary School.

Council Plan 2011-15

11. This review supports the Council Plan in that the provision of appropriate and improved local infrastructure (including schools) will help to build strong communities.

Options

12. Having considered the final report shown in booklet format at Annex A, detailing the work carried out by the Learning & Culture Overview & Scrutiny Committee in support of the review, the Cabinet may chose to amend and/or approve or reject the recommendations arising from this review.

Review Conclusions

13. Objective A – Oversubscription Criteria
Having considered all of the information provided in relation to the LAs Oversubscription Criteria and the steps taken by the Local Authority to respond to oversubscription in 2011-12 where it occurred, the Learning & Culture Overview & Scrutiny Committee agreed that the current criteria was made up of the right priorities, in the right order, and that it was robust enough to stand up to legal challenge. On that basis, the committee therefore agreed it was not necessary to recommend any changes to the Oversubscription Criteria.
14. Objective B – School Travel Policies
Having considered all the information provided in support of the second objective of this review, the 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 i.e. 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.

15. Prior to the Cabinet approving the withdrawal of free transport on a denominational basis, statutory consultation with the relevant bodies will need to be undertaken and an Equality Impact Assessment carried out. If the Cabinet then choose to approve its withdrawal, a further consultation period informing parents of the forthcoming change will need to be carried out. Officers have confirmed that all the required consultation could be completed by July 2012 to allow for any approved changes in policy to be reflected in the relevant documentation, in time for it to be sent out in summer 2012 to parents of those pupils due to transfer to secondary school in September 2013.
16. Having 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, together with the savings each option could potentially realise, the Committee agreed the fairest option was Option 3 i.e. the withdrawal of all free denominational transport and introduction of concessionary fares.

Recommendations Arising from the Review

17. Having considered all of the information provided and their findings, the Learning & Culture Overview & Scrutiny Committee agreed to make the following recommendations:

In regard to Objective A:

- i. That no changes be made to the Local Authority's oversubscription criteria.

In regard to Objective B, the Local Authority commences appropriate statutory consultation, regarding:

- ii. A phased withdrawal of free denominational transport be commenced as from 1 September 2013 in line with Option 3

- iii. The introduction of concessionary fares on transport provided by the Local Authority, whilst that provision exists, for new pupils taking denominational places, as from 1 September 2013
- iv. Working with those schools offering denominational places to support the implementation of this change in policy.

Reason: To ensure that the LA's provision of free school transport is fair and equitable to all.

Associated Implications

17. **Financial** – The withdrawal of free transport on a denominational basis would realise a saving for the Council from the school year 2013-14 onwards, as shown in Annex G of the full final report. 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 i.e. as each school year ends, and a cohort of year 11 pupils receiving free transport leave school.
18. **Equalities** – 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.
19. 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
20. The Council will normally confirm its compliance with that duty by completing an equalities impact assessment. This will be done as part of the statutory consultation process outlined in the recommendations arising from the review.

21. **Legal** – 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; or
 - d. is entitled to free school meals or his parents receive the maximum amount of tax credits
22. 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.
23. In making a decision the Cabinet 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.”*
24. The Cabinet must consider that guidance but Members do not have to slavishly follow it. If there are other factors which, in the Cabinet’s view, outweigh the considerations referred to by the Secretary of State, then a decision can be made to reduce the discretionary support.
25. 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.

26. **Other** – There are no other known implications associated with the recommendations arising from this scrutiny review.

Risk Management

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

Recommendations

28. The Learning & Culture Overview & Scrutiny Committee ask the Cabinet to:
- i. Note the contents of the final report attached
 - ii. Consider the recommendations as shown at paragraph 16 of this cover report.

Reason: To fully inform the Cabinet of the outcome of the review

Contact Details

Author:

Melanie Carr
Scrutiny Officer
Scrutiny Services
Tel No.01904 552063

Chief Officer Responsible for the report:

Andrew Docherty
Assistant Director - Governance & ICT

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Wards Affected:

For further information please contact the author of the report

All

Background Papers: N/A

Annex A – Final Report from Demographics Scrutiny Review (Booklet)