

North Yorkshire County Council

Executive Members Report

12th March 2019

Home to School Transport – Proposed policy changes

Report of the Corporate Director – Children and Young People’s Services

1.0 Purpose of report

1.1 This paper provides an overview of a number of proposed changes for permission to go out for formal consultation in relation to the Home to School Transport policy to ensure it remains fit for purpose, and provides a sustainable framework for transport into the future. The policy must be compliant with legislation and must align with budgetary allocation going forward to ensure the Council can still provide transport or assistance to those who eligible under the Statutory Duty.

Executive Summary

2.0 Issues

Following the 2018 policy change in which the focus was to realigned SEND transport with Mainstream. A number of suggestions and comments were submitted in regards to how and what the Council provides in regards to home to school transport. In responding to this feedback the Council applied a further in-depth review of the full Home to School Transport policy for areas above statutory minimum was identified to look for further efficiencies.

Home to school Transport is a demand lead service. Under section 508B Education Act 1996 the Council must provide free transport arrangements to and from school for 'eligible' children for whom no (or no suitable) free travel arrangements are provided.

Whilst this statutory duty has been fulfilled by the authority, in many cases a number of informal arrangements have been adopted and created a culture for deviating from the guidance. This level of additional support is unmanageable.

The current Home to School transport budget is £21.7 million with a current expenditure of £24.9 million. This is resulting in a £3.2 million overspend. Last year policy change has resulted in a reduction of anticipated growth of £618K, without those policy changes the expenditure would have been £25.5million. The alignment of policy still has a further 2 years to reach full realisation, due to the protection of students who have started a course of education prior to the policy change.

3.0 Policy Implications

The results of the public consultation will inform the content of a new Home to School Transport Policy.

The Policy will require publication before July 31st 2019 to be permitted as the adopted policy in the September 2019 opening for a school place for 2020 in accordance with the School Information (England) Regulations 2008.

4.0 Proposals

Proposal 1: Mainstream transport provision will only be given to eligible children and young people attending the catchment school or the nearest school to the permanent home address

Description:

- Catchment schools are the agreed geographical area in which the residents are given a higher priority on admission to the associated school for that area. This is not always the closest school, and not all school offer a catchment area.

- Currently transport is offered to the catchment school and any school which is closer than the catchment school to the home address, but above the statutory walking distance.
- This policy change will only apply to mainstream schools as Special schools do not have catchment areas.
- If the nearest school to home has no available space, the next school with an available space will become the “nearest” for the purpose transport.
- For Children and young people applying under the grounds of Special educational needs or disability, transport is already based on the nearest school which can meet the aptitude, age and ability of the child, with an available space at the point of admission as per statutory guidance.

Statutory Duty:

- To provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school is:
 - beyond 2 miles (if below the age of 8); or
 - beyond 3 miles (if aged between 8 and 16)
- The option of statutory minimum only would require a full investigation and review of local provision. The result of which may result in over-subscription to a number schools whilst other smaller schools sustainability would be compromised.
- A number of authorities had removed catchment areas, and due to an increase in demand, and detrimental impact have resorted to reinstate catchment zones.

Efficiencies:

- Current students would be protected as would the cohort of 2019 as the transport offer is based on the policy declared at the point of application for a school place.
- 2017 expenditure in this area was:

Exclusive Transport (Buses)	£226,470.50
Parental Allowances	£42,294.00
Company Passes (Public Transport	£23,951.20
Total Expenditure:	£292,715.70

Benefits:

- The reduction in cost of administrating and providing transport to multiple school.
- Reduction in demand for transport as less schools would be recognised as qualifying schools.

- Managing long term growth and demand in all aspects of home to school transport provision.
- Clearer direction to parents as which schools will be qualifying for transport and potential for an automated eligibility checker prior to application of school.

Risks:

- Potential for an increase in admission and transport appeals due to parental preference of school, no longer accepted within the transport policy.
- Smaller schools may see reduction in pupil applications due to transport concerns.
- More transport required for the nearest school as the parents selection is influenced by the transport policy.

Implementation:

- This proposal will only be applied at the application for Primary or Secondary provision.
- As the requirement to apply for a school place is made almost 12 months before the place start, Children and young people starting Primary or Secondary in September 2019 would have made the school place request in September 2018 based on the existing policy.
- The first intake of children and young people impacted by this proposal will be in 2020.
- As all current arrangements must be honoured under the existing policy – this policy will not reach full implementation until 2026.

Proposal 2: Remove free arrangement for second home address or introduce full cost recovery of a second transport assistance

Description:

- Our current policy provides travel assistance when a family can demonstrate a 50/50 split during the school week (this does not include weekends or school holidays) and whilst this can be easily monitored in small scale arrangements, such as taxi provision, for large scale arrangements, such as multiple capacity coaches the LA have no method to monitor or enforce.
- The result of this arrangement is that the policy is resulting in the authority paying for 2 seats in which 1 will always be empty.

Statutory Duty:

- The statutory guidance point 14, footnote 6 states. "A child's 'home' is the place where he/she is habitually and normally resident." and this is where the transport assistance should be provided from.
- Statutory Guidance does not place any duty on local authorities to provide assistance to a second home address, any departure from this guidance is viewed as a discretionary offer made by the authority.

Efficiencies:

- Due to this area not been scrutinised previously, the authority does not hold data on how many pupils have a second permit or transport arrangement.
- More in-depth analysis of the existing pupil's dynamics will be required to estimate current expenditure in this additional offer.

Benefits:

- This option would have a positive impact on the long term budget as no alternative will be funded by the authority, resulting in instant termination of growth. However existing arrangements will need to be honoured unless a change of provision, address or circumstance warrants a review of eligibility for Home to School transport provision.

Risks:

- Unfortunately no accurate or meaningful data currently exist to determine the number of existing pupils this proposal may impact.
- Increase in the number of appeals for transport to other than the home address.
- Fraudulent application to obtain transport to addresses other than the registered home.
- Discretionary options will need to be a factor for families whom mitigation circumstances have been directed through the court.
- Current software, PARIS, is unable to extract the number of pupils who have a second permit or transport arrangement due to other transport commitments from Social Care.

Implementation:

- As stated, arrangements which currently are in place will need to be honoured, all new applications from the date of the policy adoption will be either refused or charged at full cost recovery depending on the outcome of the consultation.
- The only exemption will be those starting Primary or Secondary school in September 2019 as they are requesting on the policy which was adopted at the point of admission in September 2018.
- All existing arrangements are expected to be dissolved by 2026 as all Children and Young People will have entered an new admission point and re-assessed eligibility based on the policy at that time.

Proposal 3: The Local authority will collect from the curtilage of any highway or road which consists of or comprises a made-up carriageway* unless a SEND, Medical or Mobility need requires a direct door to door collection

Description:

- Currently the authority will use a combination of pick up points and door to door provision. This is not consistent and subject to elevated parental expectation and challenges.
- The Authority receive reports from operators that the transport not been able to access the narrow private roads to the property or that the route is poorly maintained and not suitable for the provision available, resulting in damage to the vehicle.

Statutory Duty

- The statutory guidance does not state home to school transport is a door to door service – point 35 states: With regards to pick up points, local authorities may at their discretion use appropriate pick up points when making travel arrangements.

Efficiencies:

- It would be difficult to model this proposal as implementation would occur at local area review stage, which factors demographic of eligible pupils against a route management matrix.
- This proposal is a re-information of the statutory duty.

Benefits:

- More direct transport routes resulting in less miles travelled.
- Improved environmental impact.
- Can be changed when local area reviews are conducted.
- Small scale traveling to pick up points will increase independence for young people who are embarking on a preparation for adulthood agenda.
- More compliance in respect of sustainable transport requirements as stipulated within the statutory guidance.
- Improved guidance and safety in poor weather condition in which unmaintained roads are impassable and dangerous.

Risks

- Unfortunately no accurate or meaningful data currently exist to determine the number of existing pupils this proposal may impact, without scrutinising all current arrangements.
- Cultural change and parent's expectation of a door to door service which may result in increased challengers.
- Infrastructure costs for additional pick up points, where none currently exist.

Implementation:

- This proposal will take 4 years to reach its full potential as local area review run on 4 year cycle for mainstream provisions and 2 year cycles for Special Schools.
- Full implementation will be achieved by 2023.

**made-up carriageway - which is defined in Section 329(1) of the Highways Act 1980 as "a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles".*

Proposal 4: Removal of the current Rising 5 arrangement and confirm transport eligibility to commence from the September start of reception year

Description:

- Rising 5 is the current term used to manage the logistics of a child not been fully eligible for transport until their 5th Birthday.

- In North Yorkshire we currently offer any child whose 5th birthday is between September and December 31st, Transport from the start of the school year. Those born between 1st January and Easter receive transport in the January. Finally those born between Easter and the end of the school year will be eligible from the start of term after the Easter break.
- The current Home to School Transport Policy states Free transport will be provided to pupils from the term in which they are five to the catchment school or the nearest school to their home address, resulting in these 3 transport points per year.
- North Yorkshire is the only Local Authority in the North which does not apply a single transport point in the September term only.
- Schools no longer offer admission points for reception year – all school place offers are from September.
- Largest area of appeals in Mainstream Transport and applications for discretionary arrangements in SEN when an Education Health Care Plan names a school not in the child's local area.
- This change will not affect existing children as it applies to reception year only.

Statutory Duty

- Statutory education is from the 5th Birthday to the end of year 11.

Efficiencies:

- Reduction in requirement to re-commission transport 3 times a year which will eliminate additional cost associated with adding additional pupils during the contracted period.
- Saving in officer time across the admission, commissioning and complaints directorates.
- Reduction in additional solo transport at January and April where the extra capacity is not factored when arranging SEND transport via taxi, in September.

Benefits:

- Reduction in appeals and complaints in particular at the September entry point.
- Reduction administration with 2 additional intake points.
- Consistence with neighbouring authorities.
- Reducing additional transport when capacity is not calculated at the main admission point for September.

- This proposal will encourage families to take up the offer of education for their child at the earliest opportunity.
- Increase benefits for the child in developing peer relationships.
- A transport policy which reflect the rural nature of the authority assisting families to manage their personal commitments.

Risks:

- Possible increase in offset budget costs.

Implementation:

- This proposal can be implemented in full with immediate effect for September 2019.

Proposal 5: To adopt a single charge for all Discretionary Transport

Description

- Discretionary transport is an additional provision the local authority can use to assist pupils who are not eligible under the home to school transport policy.
- Currently children who are not entitled to home to school transport are able to purchase/occupy spare places on educational transport service vehicles. The current cost is £390.00 per annum which equivalent to £2.05 per day. The cost of paid permits has not been reviewed for 3 years and the last increase was £380 to £390 per annum.
- Paid permits for 2018 is estimated to generate £162,000, for statutory aged pupils.
- Post 16 transport provision is also regarded as Discretionary transport, for which we charge, therefore consideration will need to be made to ensure there is reduced discrepancy between the 2 areas of discretionary arrangements.
- Current average cost of a return child's journey on public transport is £3.00 per day
- Average cost of contributions charges nationally is £600 per annum.
- Therefore the yearly contribution for Discretionary Transport is proposed to be £570 per annum, with an introduction of a 50% reduction for low income families, in the same arrangement which is available in the Post 16 Transport Policy Statement.

Statutory Duty

- Statutory guidance point 36 states: Section 508C of the Act provides local authorities with discretionary powers to go beyond their statutory duties and provide transport for children who are not entitled to free transport. Charges can be made, or, as stated in Subsection (5) of 508C local authorities may also pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the statutory duty placed on local authorities, or under their discretionary powers to make travel arrangements.

Efficiencies;

- To bring all discretionary transport to a single rate, reducing conflict between statutory school and post 16 where the pupil is attending the same provision.
- To ensure that the contribution is fair and equal.
- Increasing the paid permit to £570 per annum will generate an additional £75,000 paid permits provision based on current uptake and additional £35,000 on post 16 provision based on 2018 actual.

Benefits:

- More children may access the public transport network which might improve demand with the network and encourage sustainability and long term independence.
- Recuperation of costs for the authority against empty seats, where demand from eligible children and young people is lower than capacity of the type of vehicle provided.
- Supporting the viability of public transport for all users.
- Support for low income families purchasing seats of statutory aged children.

Risks:

- Reduced uptake of provision which results in empty seats within existing capacity.
- Increase in fraudulent application for transport to obtain eligibility.
- Increase in appeals for transport to obtain eligibility.
- Declaration of the post 16 discretionary offer will require publication prior to these proposals and sequential consultation.

- Any further increases to post 16, will impact on all chargeable arrangements for spare seats.

Implementation:

- As travel permits are only offered on a yearly basis, this proposal can be implemented in full for the 2019/20 academic year starting September 2019.

Proposal 6: Introduce a £30 fee for Replacement school transport Bus Passes

Description

- The local authority currently replace school transport passes free of charge. This is available on mainstream buses only.
- This method of consistently replacing passes is open to abuse and places no value on the worth of the pass to the holder.
- Each replacement pass costs the authority a notional amount in administration and postage.
- Between November 2017 and November 2018 a total of 515 replacement passes were re-issued.

Statutory Duty

- There is no statutory guidance on charging for replacement bus passes.

Efficiencies:

- To introduce a replacement pass fee to deter misuse and cover costs of administering the replacements outside of the programmed school transport intake of September.
- This proposal would be to introduce as a set rate.

Benefits:

- Based on the current figures this may produce £15,000 per annum.
- The fee may instil a value to the holder for the transport the authority is providing.

Risks:

- A process will need to be developed which will provide an exemption from the charge in exceptional circumstances.

Implementation:

- This proposal can be implemented with immediate effect.

Proposal 7: Introduction an application process for Home to School Transport

Description:

- Currently the assessment for Home to School transport takes place at the Normal point of entry or when a child moves into area.
- The current assumption is that transport is required for all eligible children and therefore transport is commissioned accordingly.
- The current Home to School Transport policy does not accommodate after school activities, collection from an alternative other than the allocated home collection point, such as a child minder or breakfast club. Therefore this results in a number of seats being commissioned and not used as families do not require the transport as it does not fit with their personal circumstances.

Statutory duty:

- The statutory guidance does not impose on authorities on how they administrate home to school transport other than the timing of assessment for eligibility – which for the majority will be at the point of admission to the school, either during the admission round for reception year and secondary placement, or upon requesting a school place such as specialist provision or moving into a new area.

Efficiencies:

- We are not able to forecast actual savings as once the transport is commissioned there is no appropriate monitoring system, such as smart ticketing, to judge uptake of the provision.

Benefits:

- Improved customer experience.
- The ability to improve the current process by using an electronic application system which will reduce human error and capture accurate information to commission to the needs of the child or young person.
- Improved internal processing and communications.
- Opportunity to automate elements of the process to improve efficiencies.

- Commissioning based on actual demand.
- Improved customer experience.
- Opportunity to further integrate smart ticketing to monitor actual usage.

Risks:

- Technology not available to support the current systems in respect of applications
- Possible additional administration and some training requirements for staff.
- Possible additional staff require to administrate any new systems or adaptation to current system.
- Communication plan to ensure that the requirement to apply for transport is clearly understood and a robust method of cross checking will need to be developed.

Implementation:

- The application process will still need to be developed, and linked into the existing systems to ensure effective and efficient procurement of transport.
- If this can be achieved within the existing framework then the first application will be in the September 2020 admissions opening with first year effect realised in 2021.
- We would then contact all families with primary aged pupils to re-apply in 2022, and all Secondary aged in 2023.
- Therefore full implementation will be September 2023.

5.0 Financial Implications

Whilst these proposals are to highlight areas of Home to School transport which are greater than statutory guidance, the Authority will not be able to remove existing provision until the Child or young person reaches a reassessment of eligibility stage.

Therefore these proposals will not reduce the current expenditure, however will ensure moving forward that the Authority is only providing its legal requirements.

The table below shows the potential impact on the Home to School Transport Budget created by each proposal.

Proposal	Description	Potential Efficiencies
1	Mainstream transport provision will only be given to eligible children and young people attending the catchment school or the nearest school to the permanent home address	Approx. £300,000 per year when fully implemented based on 2017 figures
2	Remove free arrangement for second home address or introduce full cost recovery of a second transport assistance	Termination of growth in this area Potential reduction as offer is phased out
3	The Local authority will collect from the curtilage of any highway or road which consists of or comprises a made-up carriageway* unless a SEND, Medical or Mobility need requires a direct door to door collection	Unable to measure until Local Area Reviews take place
4	Removal of the current Rising 5 arrangement and confirm transport eligibility to commence from the September start of reception year	Administration, legal and officers time
5	To adopt a single charge for all Discretionary Transport in line with market value set at £570 per annum	£75,000 - £110,000 additional recovery based on current figures
6	Introduce a fee for Replacement school transport Bus Passes £10 - £30	£15,000 based on current figures
7	Introduction an application process for Home to School Transport	Unable to measure until the process has been developed and implemented

6.0 Legal Implications

All above proposals which have been developed enable the Local Authority to meet its statutory duties to provide travel assistance for eligible children and young people.

Statutory Responsibility:

Local Authorities have a duty under Section 508B of the Education Act 2014 to make such travel arrangements as they consider necessary to facilitate attendance at school for 'eligible' children.

Schedule 35B of the Education Act defines eligible children as those categories of children of compulsory school age (5-16) in an authority's area for whom free travel arrangements will be required. These are:

- Statutory walking distances eligibility:
To provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school is:
 - Beyond 2 miles (if below the age of 8 years); or
 - Beyond 3 miles (if aged between 8 years and 16 years)
 - Outside walking distance where no suitable alternative arrangements made

- Special educational needs, a disability or mobility problems eligibility:
To make transport arrangements for all children who cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety issues related to their special educational needs (SEN) or disability. Eligibility, for such children should be assessed on an individual basis to identify their particular transport requirements.

- Unsafe route eligibility:
To make transport arrangements for all children who cannot reasonably be expected to walk to nearest suitable school because the nature of the route is deemed unsafe to walk.

- Extended rights eligibility:

To provide free transport where pupils are entitled to free school meals or their parents are in receipt of maximum Working Tax Credit if:

- The nearest suitable school is beyond 2 miles (for children over the age of 8 and under 11 years of age);
- The school is between 2 and 6 miles (if aged 11-16 and there are not three or more suitable nearer schools);
- The school is between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief (aged 11-16)

For Students over the statutory school age (end of Year 11.):

Transport requirements are covered by the Post 16 Statutory Guidance 2017, which advises that local authorities do not have to provide free or subsidised transport, when making their assessment of what is required. However local authorities must act reasonably, taking into account all relevant matters, such as the needs of their population, the local transport infrastructure and the resources available. The Council must have regard to this Statutory Guidance when carrying out its duties.

Adults (aged 18 years or over)

Under section 508F the Council must make such arrangements for the provision of transport as necessary for adult learners as they consider necessary, and if this is provided it must be free of charge. The Care Act 2014 section 13 sets out eligibility criteria that the local authority must consider when assessing an adult for care and support or whether a carer has needs for support. Care and Support (Eligibility Criteria) Regulations 2015 includes making use of ...public transport. The Care and Support Statutory guidance states:

'Local authorities should consider the adult's ability to get around in the community safely and consider their ability to use such facilities as public transport, shops or recreational facilities when considering the impact on their wellbeing'. Local authorities should also consider the adult's ability to access and engage in work, training, education and volunteering.

Non-eligible children

The Council have a discretion to make such school travel arrangements to non-eligible children in accordance with section 508C as they consider necessary for the purpose of facilitating the child's attendance at school. Section 509A have a discretion to

provide a child with assistance with school transport for the purposes of early year education provided the Council is satisfied that without such assistance the child would be prevented from attending that education.

There is no statutory provision or case law regarding a duty to make travel arrangements for a child where they split their time between two homes.

The case of R (M, W) v London Borough of Hounslow 2013 before the High Court found that the phrase 'home to school travel arrangements' in section 508B does not require provision of transport between the child's home and school in every case. It also found that section 508F permits the Council in an appropriate case to designate pick-up points (other than the child's home) which are imposed as opposed to consented to by the child's parents.

The Statutory Guidance paragraph 52 states the Council should consult widely upon any proposed policy changes with all interested parties, and should last for 28 working days during term time. Paragraph 53 states that the any changes to policy should be phased in so that children starting under one set of travel arrangements continue to benefit from them until they conclude their education at that school.

7.0 Consultation Undertaken and Responses

A public consultation is required with a Key Decision from Full Council due to the change in policy and political sensitivity around this decision. The public consultation will follow the standard NYCC process.

The public consultation is scheduled to take place from 25th March 2019 until the 16th June 2019 a minimum of 60 days subject to approval. There will be an online survey available on the NYCC website and Local Offer with paper copies made available for those who require this. Easy Read and Plain English versions can also be made available. Public engagement events in localities will also be held from March 2019 onwards during the day and evening.

Existing communication methods will also be utilised such as promoting the consultation through the Red Bag to schools, Local Offer, NYPACT, NYCC website, corporate

Facebook and Twitter accounts. Other Local Authorities and transport providers will be consulted.

Consideration and engagement with developing a survey created by our children and young people for this group of consultees will be required.

8.0 Impact on Other Services/Organisations

The LA should pay due regard to other priorities within the Authority on which the outcomes of these proposals may have an impact or influence. This includes:

The implementation of the Strategic plan for SEND education provision 0-25, 2018 to 2023 will have with significant impact on SEN transport costs as it will ensure that longer term the right provision is in the right price. This will mean that a child's need will be met more locally.

9.0 Risk Management Implications

Key Risks:

All risks outlined below are high level and are subject to implementation following the public consultation. Depending on how the Home to School Transport policy is updated, following the public consultation, a more detailed risk analysis will be carried out with mitigating actions developed for each risk within the Implementation Plan.

<u>Risks:</u>	<u>Proposal</u>
Potential for an increase in admission and transport appeals due to parental preference of school, no longer accepted within the transport policy.	Proposal 1.
Potential damage to the Council's reputation, and challengers from families who require transport to alternative address to fulfil childcare arrangement, and access arrangements.	Proposal 2.
Technology not available to support the currents systems in respect of applications	Proposal 7.

10.0 Equalities Implications

The Authority has identified the proposals if implemented may have a negative impact to families in rural areas who may be required to ensure their child is brought to a collection point as opposed to a door collection.

The authority recognises that the increase in discretionary charges may bring some financial difficulties to families, however have proposed to introduce a 50% levy for low income families to mitigate this measure will bring the fee to lower than the current year, in which no reduction is available.

The Authority anticipates that some changes if implemented may bring positive impacts to the young people and their families particularly in respect of proposal 4 and providing provision from the start of the reception year, as opposed to the term the child turns 5

Due to the potential for some adverse impact, which will be closely monitored and mitigations identified if necessary the proposed Home to School Transport Policy and EIA will be revised following the consultation dependent on the responses received and prior to the new Policy being implemented.

A full EIA is attached separately.

11.0 Reasons for Recommendations:

The reasons for the below recommendations are as follows:

- To ensure the least amount of negative impact on children, young people and their families.
- To take corrective action to manage the expenditure whilst still providing transport to fulfil our statutory obligations.
- To ensure the Council is legally compliant
- To reduce the damage to the Council's reputation

12.0 Recommendation(s) –

The recommended options to consult on in relation to updating the Home to School Transport Policy are:

- **Proposal 1: Mainstream transport provision will only be given to eligible children and young people attending the catchment school or the nearest school to the permanent home address**
- **Proposal 2: Remove free arrangement for second home address or introduce full cost recovery of a second transport assistance**
- **Proposal 3: The Local authority will collect from the curtilage of any highway or road which consists of or comprises a made-up carriageway* unless a SEND, Medical or Mobility need requires a direct door to door collection**
- **Proposal 4: Removal of the current Rising 5 arrangement and confirm transport eligibility to commence from the September start of reception year**
- **Proposal 5: To adopt a single charge for all Discretionary Transport**
- **Proposal 6: Introduce a £30 fee for Replacement school transport Bus Passes**
- **Proposal 7: Introduction an application process for Home to School Transport**

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12th March 2019

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Background Documents:

Equality Impact Assessment

DfE Home to School Transport Statutory Guidance 2014

Home to School Transport Policy 2018