



Name of meeting: Cabinet
Date: 23rd January 2018
Title of report: Proposals for changes to Home to School transport policy for children attending mainstream school.

Purpose of report:

To update Cabinet on the results of the consultation with service users and the wider public on potential changes to a number of services affecting children attending mainstream schools and, following the consultation, to seek approval for proposals for changes to Home to School transport for eligible children attending mainstream schools.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes – the proposals in this report would have a significant effect across Kirklees and result in significant financial savings.
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Key Decision – Yes Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Steve Walker (Jo-Anne Sanders) – Director for Children’s Services – 15 January 2018 Naz Parkar (Joanne Bartholomew) – Director for Economy and Infrastructure – 15 January 2018
Is it also signed off by the Assistant Service Director for Financial Management, IT, Risk and Performance?	Debbie Hogg – 15 January 2018
Is it also signed off by the Assistant Service Director (Legal Governance and Commissioning)?	Julie Muscroft – 15 January 2018
Cabinet member portfolio	Cllr Masood Ahmed – Children’s Cllr Viv Kendrick - Adults Cllr Graham Turner – Corporate

Electoral wards affected: All
Ward councillors consulted: All
Public or private: Public

1. Summary

On 22nd August 2017 Cabinet approved a proposal to run simultaneous consultation exercises on four service areas so that residents and users could have an opportunity to understand and pass comment on the services they receive and any potential changes to those services. The four areas were:

- Access Fund which provides support in the Early Years for children with Special Educational Needs (SEN) and disabilities (Note – not including Portage or Childcare Inclusion);
- Home to School Transport – the policy and approach for Home to School Transport for compulsory school aged children (i.e. 5-16 years);
- Social Care funded transport – the policy and approach to social care funded transport for disabled children, young people, working age adults and older people to access services within their communities;
- Short Breaks offer for children and young people with a disability (as part of the Council's statutory duty to conduct an annual review of its Short Breaks offer).

It should be noted that the Home to School Transport policy covers two elements of provision:

- Home to School transport for eligible pupils of statutory school age (5-16) attending mainstream schools;
- Home to School transport for eligible children with Special Educational Needs or a disability.

This report relates to the provision of Home to School Transport for eligible pupils attending mainstream schools and primarily deals with the issue of eligibility for train / bus passes / boarding cards. The report looks at what we consulted on, outlines the consultation process, analyses the feedback received during the consultation period and makes a number of Officer Recommendations regarding how Home to School Transport for mainstream provision could be amended for consideration by Cabinet.

Provision of Home to School transport for eligible children with Special Educational Needs or a disability will be dealt with as part of the All Age Disability report, which will be considered separately at Cabinet.

2. Information required to take a decision

(a) The Consultation process

The consultation was carried out between 4 September and 22 October 2017. There was a separate questionnaire for Home to School Transport and for All Age Disability though both consultations were promoted together as some families could

be affected by proposals in each consultation. The Home to School Transport questionnaires can be found at www.kirklees.gov.uk/SchoolTransportSurvey

The consultations were widely promoted to the following key groups of people / users:

- Parents / carers of school age children and schools;
- Parents / carers of children and young people with a disability and provider services (early years);
- Children, young people and adults with a disability, their parents / carers and provider services (social care);
- Members of the public;
- Council staff and networks;
- Councillors.

In total, there were 543 responses to the Home to School Transport questionnaire. A detailed analysis of the responses to the consultation can be found at www.kirklees.gov.uk/SchoolTransportSurvey . The online report summarises who responded to the questionnaire, where do they live in Kirklees and what did they say in relation to the questions asked.

Members should note that there was a small difficulty with the printed Home to School Transport questionnaire as, due to an administrative error, there were two less questions compared to the on-line version. However, as the Council only received 28 paper questionnaires this represents just 5% of the total responses received on Home to School Transport and therefore there is only a low to very low risk that this error had any impact on the outcomes of the consultation.

Overall, the consultation revealed that the Home to School Transport arrangements currently provided for eligible children to attend mainstream schools are highly valued by users who receive bus passes / train passes / bus boarding cards and there is only limited support for change, primarily from people who do not use the service. A number of respondents have told us about the negative impact changes would have on them and their families.

Having reflected on the outcomes of the consultation and the challenging financial situation that the Council is facing, Officers' have reached a number of conclusions which are outlined further in this report. As a consequence, a number of recommendations have been made for Members' consideration.

(b) Proposals relating to Home to School transport for compulsory school aged children (i.e. 5-16 years)

Background and context

1) Relevant Legislation

The Education Act 1996 Section 508B places a statutory duty on local authorities to ensure that suitable travel arrangements are made, where necessary, to facilitate an eligible child's attendance at school. These provisions apply to home to school travel arrangements and vice versa but do not cover travel between educational institutions during the school day.

Section 508B of the Act places a duty on local authorities to make such travel arrangements as they consider necessary to facilitate attendance at school for

eligible children as defined by Schedule 35B of the Act (which was inserted by Part 6 of the Education and Inspections Act 2006). Eligible children are those categories of children of compulsory school age (5-16) in the authority's area for whom free travel arrangements will be required.

Local authorities are required to:

- Provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school (which means nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child and any Special Educational Needs (SEN) that the child may have) is beyond two miles (if below the age of 8) or beyond 3 miles (if aged between 8 and 16);
- 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. Usual transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to SEN and/or disability;
- make transport arrangements for all children who cannot reasonably be expected to walk to the nearest suitable school because the nature of the route is deemed unsafe to walk;
- 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);
 - 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).

Note * - From 1st November 2017 Universal Tax Credit has been introduced in Kirklees. Guidance is being sought as to how this impacts on the wording of this clause.

In addition Section 508C provides a discretionary power to make travel arrangements for any other child.

Section 508D requires the Council to have regard to guidance issued by the Secretary of State from time to time; and to publish a home to school transport policy.

Parents are responsible for ensuring that their children attend school regularly. However, section 444(3B) of the Act provides that a parent will have a defence in law against a prosecution by a local authority for their child's non-attendance at school where the local authority has a duty to make travel arrangements in relation to the child under section 508B and has failed to discharge that duty.

(2) Purpose of the consultation

The current Kirklees Home to School Transport policy can be found at <https://www.kirklees.gov.uk/beta/schools/pdf/home-to-school-transport.pdf>.

Custom and practise within Kirklees has meant a number of deviations from the policy have been introduced over the years which have meant that we currently go beyond the stated level of provision within our own policy and the national statutory guidance. This has meant that some children who would not be eligible as defined by the relevant legislation have been receiving free transport provision.

In recent years the Home to School Transport revenue budget has overspent on average by £1.3m per annum. A budget proposal to reduce this overspend by £600K per annum has proven to be undeliverable. This overspend is due to a combination of volumes (and therefore realistically cannot be reduced) and the provision of free transport arrangements that go beyond our statutory duties, though the percentage split between the two has not yet been determined.

The current interpretation of the policy has encouraged a default position where by, in relation to mainstream provision, the Council has been providing a train / bus pass or boarding card in circumstances that go beyond our legal duties.

The consultation proposed to take the Council back to a statutory only provision based around the definitions of eligible children contained within the relevant legislation. This would enable the Council to set a Home to School Transport revenue budget based on its statutory duties. If a decision to go beyond statutory provision was then subsequently taken, this would be fully evidenced and appropriate funds identified outside of the Home to School Transport budget.

(3) Consultations outcomes and impact on proposals

There were 543 survey responses, of which 306 (57%) were from a person who either received free home to school transport or had a family member that did – this could have been either mainstream or SEN provision. Of the 518 valid postcodes logged, the majority (60%) were from the Kirklees Rural District Committee areas, with 22% from Huddersfield, 8% from Batley and Spen and 8% from Dewsbury and Mirfield. By far the largest hotspot of responses was Meltham, with other significant hotspots being Marsden, Holmfirth/New Mill, Honley and Kirkheaton.

51% (276) of all responses were from young people without SEN or a disability or parents / carers of a child without SEN or a disability, whilst 29% (160) were from young people with SEN or a disability or a parent / carer with a child with SEN or a disability or a parent / carer with a disability that impacted on them taking their child to school.

52% (269) of all responses were against the proposal to provide home to school transport arrangements only in accordance with the law, seeing it either as a bad idea (21%) or a very bad idea (31%). 18% (96) were neutral on the proposal and 30% (152) were in favour of the change. This approval rating dropped to just 22% amongst those respondents that had a family member who benefitted from a train or bus pass / boarding card or equivalent funding.

Unsurprisingly, those respondents who do not benefit from the current free service were more likely to support a return to statutory only provision, whilst families that

receive free home to school transport and education professionals were less positive about the proposed change.

Of the respondents who have a family member that currently receives a bus or train pass / boarding card or equivalent funding, 52% felt that the move to a statutory only provision would have a negative impact on them and their family, 43% felt it would have no impact and only 5% supported the proposal as being positive. The number of people indicating that it would have no impact on their family is surprising, though an analysis of the comments supplied with the surveys indicates that a significant number of people assumed that the consultation would not change the current free transport arrangements that they receive, which may not be correct.

With responses excluded from those who do not use the Home to School Transport service, it was found that 69% (219) of users of bus/train passes issued for public transport and boarding cards for contracted buses found the service extremely valuable with nearly 92% (290) overall finding it valuable or better.

Many respondents chose to provide comments to support their responses and an analysis of the comments indicates a number of recurring themes. These can be summarised as follows:

- the impact that the additional cost of paying for school transport (the annual cost of a bus pass is in the region of £310 per annum) would have on monthly household budgets;
- the danger from pupils walking to school instead of getting the bus. Many comments related to narrow rural roads with no paths, children walking long distances and road safety during the dark winter nights;
- the impact on attendance, the mix of pupils in a school if people were restricted to nearest school and the knock on impact on attainment;
- parents would make school choices based on transport considerations rather than educational outcomes for pupils;
- potential environmental impact if pupil transport switched from buses to cars.

As a counterbalance, a number of comments were received which indicated that providing statutory only provision would be sensible when the Council is faced by declining budgets and limited resources.

(4) Officer Mainstream provision proposals

Department for Education statutory guidance and the Kirklees Home to School Transport policy both refer to the concept of a nearest suitable school with places available when deciding whether a child qualifies for free transport arrangements. However, custom and practise within the Council's Customer and Exchequer Service / Home to School Transport team has interpreted this to mean the catchment area school, which is a concept used in the Kirklees Admissions and School Place Planning processes.

This interpretation means that in certain geographical areas, parents have been directed to a school that is not their geographically nearest suitable school – for

example, parents in Kirkheaton are directed to King James's when their actual nearest school is Nether Hall Learning Campus High. In the Meltham area, parents have been directed to Honley High, when often the nearest geographical school is Colne Valley High.

In addition, in the Meltham area parents have been provided with a bus pass regardless of whether they choose Holmfirth or Honley High, when really under our own custom and practise we should have only provided a pass to the nearest catchment school – so, for example, if the nearest school was Honley High but a parent subsequently chose Holmfirth High then we had no requirement to provide a free bus pass but we usually did, when the distance to both schools met the qualifying distance criteria.

Officers have considered a number of proposals relating to the provision of boarding cards / bus / train passes for mainstream provision as follows:

Proposal 1

No change to the current operation of the mainstream boarding card / bus / train pass provision. i.e. continue with current custom and practise – this would mean that the Council continues to interpret catchment area school as the nearest suitable school and we continue to provide free travel arrangements in geographically unique areas such as Meltham, including to both Honley High and Holmfirth High, even where one is not the nearest catchment school.

This policy currently costs £447K per annum and around 1450 pupils benefit overall.

Proposal 2

The Council continues to interpret catchment area school as the nearest suitable school but we only provide a train / bus pass / boarding card to the catchment school with available places that is nearest to the pupils' home. This would mean that the provision of train / bus passes / boarding cards in geographically unique circumstances such as the Honley High / Holmfirth High example illustrated in section 4 and proposal 1 above would change, with assistance only provided to the nearest catchment school. It is estimated that this would involve around 257 pupils losing their current free entitlement, which equates to a saving of around £79K.

This could be phased in for all new applicants for a train / bus pass / boarding card and for applications relating to school transition points (e.g. infant to junior school, first to middle school etc.) or a change of address from September 2019 (which is the first academic year that this change can be phased in from) and would primarily affect schools such as Honley High, King James's School, Kirkburton Middle and Holmfirth High.

An alternative option would be to apply this to all new applicants and existing pupils in receipt of a train / bus pass / boarding card from September 2019 – this could potentially lead to a significant number of appeals that would be challenging to process for officer and members (who currently form the appeals panel).

Proposal 3

Under this proposal the Council would use the concept of nearest geographical school with places rather than catchment school when considering applications for

boarding cards / bus / train passes i.e. a child would be expected to attend the nearest school to their home, which might not be their catchment school.

If this was applied immediately this would impact on around 371 pupils and particularly affect Meltham (Catchment School – Honley High, nearest geographical school – Colne Valley High) and Kirkheaton (Catchment School – King James’s, nearest geographical school – Nether Hall Learning Campus High).

It would also create operational complications, though these are not insurmountable, within the three tier Middle School system in South Kirklees, particularly in areas such Farnley Tyas, Flockton and Thurstonland and also where there is a two tier primary provision within a reasonable distance. The impact of this proposal will need carefully modelling in relation to the three tier system and clear guidance would need to be provided for parents when choosing the three tier system regarding their eligibility for free Home to School Transport provision.

This would provide a saving of around £114K assuming that pupils stayed at their current school rather than tried to move to their nearest school (assuming that it had places available) but It could have an impact on the pattern of school places in these areas. It may also lead to some of the proposed savings being eroded if the nearest school has an unsafe walking route – this will need to be modelled.

This could be phased in for all new applicants for a train / bus pass / boarding card and for applications relating to school transition points (e.g. infant to junior school, first to middle school etc.) or a change of address from September 2019 (which is the first academic year that this change can be introduced). This would mean that the new system would be phased in over a period of four years.

An alternative option would be to apply it to all new applicants and all existing pupils in receipt of a train / bus pass / boarding card from September 2019 i.e. the new system would apply to everyone from September 2019 and would not be phased in – this could potentially lead to a significant number of appeals that would be challenging to process for officer and members (who form the appeals panel).

Additional proposal (1)

Regardless of the proposal adopted, it may be financially beneficial to move away from a system based on the provision of a train / bus pass / boarding card for a full academic year to a system based on reimbursing parents / carers retrospectively (possibly monthly or termly) for the cost of a train / bus pass for journeys to and from school brought by them for their child / children. Currently, train / bus passes / boarding cards are provided and paid for by the Council upfront with no reference made to the actual usage of the pass / boarding card during the course of the financial year.

An analysis of usage data for 899 school bus / train passes for the period September – November 2017, shows that very few passes were used for the maximum number of potential journeys to and from school during this period. Around 28% of all passes were used less than 50% of the time, with around 44% used for between 50-75% of the time. Clearly this indicates that there may be financial benefits from moving from a system of upfront provision of bus / train passes / boarding cards to a retrospective reimbursement system.

Additional proposal (2)

As part of the Council's drive to promote health and wellbeing, encourage the independence of children and young people and improve the environment, it is proposed that a cycling scheme is introduced that provides a bicycle, helmet and cycling training in lieu of a boarding card / bus / train pass in circumstances where an individual / family decides that this would be the most appropriate provision for their circumstances. The details of this proposal would be worked up if the principle is approved by Members.

(5) Officer Recommendations

It is clear from the consultation that the provision of boarding cards / bus / train passes is highly valued by those in receipt of this service and there has been a significant response from those areas of the district that currently benefit from this provision indicating that they would not wish this level of benefit to change. However, there is a significant financial cost to providing this service, which often goes beyond the Council's statutory requirements.

Given the financial pressures being faced by the Council it is recommended by Officers that **proposal 3** should be adopted as this would take us back to statutory only provision and have the greatest financial impact for the Authority.

Low income families that qualify for Free Schools Meals or maximum Working Tax Credits would not be impacted but families that are above this threshold would be as they would need to budget for the cost of bus or train pass / fares.

This proposal should be adopted as a minimum for all new applicants for a train / bus pass / boarding card and for applications relating to school transition points (e.g. infant to junior school, first to middle school etc.) or a change of address from September 2019.

In addition, it is the Officer recommendation that the proposal is applied to all existing train / bus pass / boarding card holders and all new applicants from September 2019 as this will provide the greatest financial benefit quickest.

It is also recommended that Officers be given authority to investigate the possibility of moving from a system of train / bus pass / boarding card provision upfront to a system based on reimbursement of bus / train pass / boarding card costs to parents / carers retrospectively. Should this prove to be feasible and deliver savings that outweigh the cost of delivery, authority is requested to implement this system from September 2019 onwards.

A further Officer recommendation is that a cycling scheme is set up to provide a bicycle, helmet and safety training in lieu of a boarding card / bus / train pass in circumstances where it is appropriate.

Finally, Members should note that the existing Home to School Transport policy covers both mainstream and SEN provision. The policy relating to SEN provision is currently being reviewed by the Government and is likely to change in the future months.

It is therefore recommended that a separate mainstream policy is drafted based on the decisions made by Members as part of this report and the new policy will be brought forward for Cabinet consideration in Spring 2018.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

It is not envisaged that there will be an impact on Early Intervention and Prevention.

3.2 Economic Resilience (ER)

Moving to a system based around nearest geographical school could potentially impact on public transport provision if services need to change / increase / reduce depending on the impact on pupil movement in the short, medium and long term. This will need to be modelled and closely monitored with the West Yorkshire Combined Authority.

Some parents who do not qualify for low income assistance may not be able to afford a bus / train pass upfront, particularly if they have more than one school age child, which would impact on their family circumstances and economic wellbeing.

3.3 Improving outcomes for Children

The introduction of a bicycle provision system will potentially have a beneficial impact on the health and wellbeing of the children using the new service. More children may walk to school if attending their nearest geographical school rather than their catchment school.

3.4 Reducing demand of services

If proposal 3 is introduced as recommended, this will have the impact of reducing demand for services as less train / bus passes / boarding cards will be issued, with a resultant financial saving depending on the implementation period. Initially, there would be a spike in officer time as the new system is introduced and bedded down, with the potential for increased appeals for a period after introduction. However, overtime this would decrease as parents / carers became accustomed to the new system.

3.5 Equalities Impact Assessments

The Equality Act 2010 creates the Public Sector Equality Duty (PSED). Under section 149 of the Act:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

In order to fulfil the PSED the Council is required to assess the impact of any proposed action on the equality objectives set out above. The way in which the Council approaches this task is to conduct Equality Impact Assessments (EIA).

The Council has therefore carried out an EIA in relation to mainstream Home to School Transport, which can be found at the PLACE Directorate section of the Council's website using <https://www.kirklees.gov.uk/you-kmc/deliveringServices/impactAssessments/impactassessments.asp> , to help it take due regard of its public sector equality duties and to aid Members in their consideration of the proposals and recommendation contained in this report.

The Stage 1 EIA has shown that there will be a negative "Impact" and a positive "Risk" score for the mainstream Home to School Transport proposals. In particular, the assessment demonstrates a negative impact for Age and Disability in terms of the Protected Characteristic Groups; the changes were also deemed to be negative in terms of impact for existing service users and all residents across Kirklees. For all other Protected Characteristic Groups the assessment of impact was neutral.

A Stage 2 EIA has been completed which outlines the results of consultations that have been undertaken covering the following areas:

- Adults with a disability;
- Carers and families of adults with a disability;
- Children and young people with special educational needs or a disability;
- Children and young people of school age;
- Parents of children and young people with special educational needs or a disability;
- Parents of school age children;
- Parents of pre-school age children;
- General public;
- Key partners and agencies.

The Stage 2 EIA highlights actions that will allow service users to shape future provision and access to services. The consultation has informed the proposals and recommendations to be presented to Cabinet on 23 January 2018.

These actions will help to mitigate the identified adverse impacts for particular protected characteristic groups.

4. Consultees and their opinions

Sections 2 and 3 of this report provide details of the consultation process and the feedback received and further details can be found at the links contained within those sections.

5. Next steps

If the recommendations are approved by Members, Officers will begin preparations for introducing the proposals for September 2019, which would include detailed modelling of the financial and practical implications of the new policy.

6. Officer recommendations

Officers propose the following recommendations in relation to the Home to School Transport mainstream provision offer as follows:

- The adoption of **proposal 3** as outlined in this report in relation to mainstream provision i.e. the Council would use the concept of nearest geographical school rather than catchment school when considering applications for boarding cards / bus / train passes thereby returning to a statutory only policy;
- That this proposal should be applied as a minimum to all new applicants for a train / bus pass / boarding card and for applications relating to school transition points (e.g. infant to junior school, first to middle school etc.) or a change of address from September 2019;
- That this proposal should also apply to all existing boarding card / bus / train pass holders from September 2019;
- That the Service Director for Commercial, Regulatory and Operational Services be authorised to investigate the possibility of moving from a system of bus / train pass / boarding card provision upfront to a system based on retrospective reimbursement of the cost of a bus / train pass / boarding card brought by parents / carers for their child / children for journeys to and from school. Should this prove to be feasible and deliver savings that outweigh the cost of delivery, authority is requested to implement this system from September 2019 onwards;
- That the Service Director for Commercial, Regulatory and Operational Services be authorised to investigate the feasibility of setting up a cycling scheme that would provide a bicycle, helmet and cycling safety training in lieu of a boarding card / bus / train pass in circumstances where an individual / family decides that this would be the most appropriate provision for their circumstances and delegate authority to the Service Director for Commercial, Regulatory and Operational Services to implement the detail of the scheme;
- That the existing Home to School Transport policy should be split into two separate policies -. One covering mainstream provision and one covering SEN provision;
- A new mainstream transport policy should be prepared and brought back for Member consideration in early 2018.

7. Cabinet portfolio holder's recommendations

It is recommended that this report moves forward to Cabinet for consideration and decision.

8. Contact officer

David Martin – Head of Service for Capital Delivery and Facilities Management –
Email david.martin@kirklees.gov.uk Telephone – 01484 221000

9. Background Papers and History of Decisions

This matter was considered at Cabinet on Tuesday 22nd August 2017. Please see
<http://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=139&MId=5267&Ver=4>

10. Service Directors responsible

Joanne Bartholomew – Service Director for Commercial, Regulatory and
Operational Services – Email joanne.bartholomew@kirklees.gov.uk Telephone –
01484 221000

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