

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Children and Young People Cabinet Board

11th February 2016

Report of the Head of Transformation – Andrew Thomas

Matter for Decision

Wards Affected: All Wards

Access arrangements - Welsh Medium Schools

Purpose of the Report

1. To confirm access arrangements to Welsh medium schools in respect of Home to School Travel.

Executive Summary

2. Following an update to Members on 4th September 2015, the Directorate sought Welsh Government advice on the obvious contradiction between the Measure and the Statutory Guidance relating to home to school transport (Appendix 1). The Directorate has recently received correspondence from the Welsh Government acknowledging an inconsistency specifically in relation to the concept of the nearest suitable school (Appendix 2).

3. In light of this letter, the Directorate will continue to apply its current interpretation of the authority's Home to School Travel Policy. In accordance with this interpretation, free transport will be provided, subject to distance criteria, for pupils who have received most of their primary education through the medium of Welsh but do not transfer to the designated secondary school, Ysgol Gyfun Ystalyfera, and choose to transfer to the nearest suitable provision according to the age, aptitude and ability of the pupil.

Background

4. In March 2013, the authority's Home to School Travel Policy was approved, following rigorous consultation and scrutiny, for implementation in September 2014.
5. The Home to School Travel Policy as approved states that it needs to be read in conjunction with current Welsh Government Learner Travel Measure Operational Guidance and other local authority policies such as the Welsh in Education Strategic Plan (WESP).
6. The Cabinet report also referenced a requirement to save £585k within the forward financial plan in respect of discretionary spend on home to school transport.
7. The policy does not detail any transport routes, but provides a broad framework under which the approved policy can be applied. For information, there are over 400 mainstream, SEN and LAC routes in operation, transporting almost 4,000 pupils.
8. In February 2014, in seeking to meet the legal requirement under the Learner Travel Measure 2008 to promote access to Welsh medium education, parents of children in years 5 and 6 of 4 Welsh medium primary schools received a letter informing them that from September 2014 it is only to Ysgol Gyfun Ystalyfera that the Council made available free secondary school transport. It should be noted that the local authority was and continues to transport large numbers of pupils at significant cost to Amman Valley Comprehensive which is categorised as a bilingual school.
9. In September 2014, a report was presented to the Children and Young People's Cabinet Scrutiny Committee entitled 'Welsh in

Education Strategic Plan (WESP) 2014-2017.' The report requested that Members approve two officer recommendations, those being:

- a) Adopt the Welsh in Education Strategic Plan (WESP) 2014-2017
- b) Affirm the access arrangements to Welsh medium schools as set out in the report.

10. Following scrutiny, the Children, Young People and Education Cabinet Board approved:

- a) The Welsh in Education Strategic Plan (WESP) 2014-2017, which was subsequently adopted by Council on 18th February 2015;
- b) That the access arrangements to Welsh Medium schools as set out in the report be not supported but it be deferred and further consideration be given and brought back for Members consideration.

11. In relation to b) above Cabinet provided a clear directive that officers needed to review current access arrangements to Welsh medium schools and fully consider all relevant issues, including local authority policy and national legislation and statutory guidance. This is a complex issue that has required deliberation across a range of service areas.

Following the decision at Cabinet Board not to approve access arrangements as proposed, the practice of classifying Ysgol Gyfun Ystalyfera as the nearest suitable school for all children who had undergone the first stage of their education through the medium of Welsh was suspended. Transport was, and continues to be provided free of charge, and reimbursements were made where applicable. Therefore, no one is presently disadvantaged.

Officers have subsequently been reviewing the local authority's practice in relation to access arrangements to Welsh medium education and have kept members updated through two reports to CYPE in May 2015 and September 2015. The time dedicated to this process reflects the complexity of this issue and the contradictory nature of the key statutory documents that apply to the provision of home to school transport.

12. An update report presented to the Children and Young People's Cabinet Board on 4th September 2015 informed Members of the Authority's intention to seek the views of Wales Government via the Welsh Local Government Association on the contradiction between the Measure and the Statutory Guidance in respect of the legal duty to promote access to education through the medium of Welsh when exercising functions under the Measure.
13. On 13th January 2016, the local authority received correspondence from the Welsh Government, via the Welsh Local Government Association, acknowledging inconsistency between the Learner Travel (Wales) Measure 2008 and the Learner Travel Statutory Provision and Operational Guidance. The acknowledged inconsistency is specifically in relation to the concept of the nearest suitable school. The letter refers to an anomaly in the Statutory Guidance under paragraph 1.74. This paragraph relates specifically to Welsh Medium / English Medium Education and states that 'when deciding which schools are most suitable for learners in their area, local authorities and Welsh Ministers have a duty under Section 10 of the Measure to 'promote access to education and training through the medium of Welsh'.
14. In accordance to a report received from the Ombudsman, the Directorate has recently settled a complaint relating to this matter, acknowledging that we could have been more timely and clearer in the way we communicated with parents. The Ombudsman's letter acknowledges the Directorate's actions in seeking Welsh Government's advice in this area.

Whilst the Directorate acknowledges that there were weaknesses in its communication, the Statutory Guidance states that ' Parents need to contact the relevant local authority to clarify which school is classified as their child's 'nearest suitable school' to inform their decision about school preference on their child's school admissions form

It is the responsibility of the parent to request this information when determining whether their child is entitled to free transport provision to access education and training.'

Financial Impact

15. The anticipated cost for financial year 2015/16 of providing transport for pupils who have received most of the primary education through the medium of Welsh, but do not transfer to the designated secondary school, Ysgol Gyfun Ystalyfera is £166k. This cost relates to transporting pupils out of county to Amman Valley Comprehensive School, if deemed to be the nearest suitable provision.
16. Whilst it is impossible to calculate with any degree of certainty what the costs of providing transport in line with the above will be in the future, what is known is that there will be a cost plus a loss of per pupil funding as pupils continue to be educated outside of the county borough. For financial year 2016/17 a budget cost for transport is £171k.

Equality Impact Assessment

17. A screening assessment has been undertaken to assist the Authority in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment, it has been determined that this function does not require an Equality Impact Assessment.

Workforce Impacts

18. Not applicable

Legal Impacts

19. The purpose of the report is to confirm the Council's statutory duties.

Risk Management

20. Not applicable

Consultation

21. There is no requirement under the Constitution for external consultation on this item.

Recommendations

22. To agree that the practice of automatically classifying Ysgol Gyfun Ystalyfera as the nearest suitable school for children who have undergone the first stage of their education through the medium of Welsh (which has already been suspended) be discontinued.

Any revised future policy shall explicitly incorporate the requirements of the Learner Travel (Wales) Measure 2008 in relation to the decision on whether a school is suitable for a child.

Any revised future policy shall take into account any fresh statutory guidance issued by the Welsh Government.

Reasons for Proposed Decision

23. In order to clarify matters relating to access arrangements to Welsh medium schools.

Implementation of Decision

24. It is proposed for the three day call in period

Appendices

25. Letter from Head of Transportation to Dr. Chris Llewelyn, Deputy Chief Executive, Director of Lifelong Learning and Leisure, WLGA.
26. Letter from Rhodri Griffiths, Department for Economy, Science and Transport to Daisy Seabourne, Lifelong Learning Policy Manager, (WLGA), 13th January 2016.

List of Background Papers

27. Learner Travel Statutory Provision and Operational Guidance (June 2014) (<http://gov.wales/docs/det/publications/140616-ltogg-en.pdf>).
28. Welsh in Education Strategy Plan (WESP) 2014-2017.
29. NPT Home to School Travel Policy.

30. Report Of Head Of Planning And Performance – Welsh In Education Strategic Plan (WESP) 2014-2017 (CYPE Cabinet Board) 22nd September 2014
31. Report Of Head Of Transformation - Home To School Transport Arrangements – Welsh Medium Schools (CYPE Cabinet Board) 28 May 2015
32. Report of Head of Transformation, Access arrangements – Welsh Medium schools (CYPE Cabinet Board) 4 September 2015

Officer Contact

33. Mr Andrew Thomas, Head of Transformation. Tel: 01639 763314
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Castell-nedd Port Talbot
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Making a difference Gwahanueth er gwell

12th November 2015
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Done Dyddiad
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Andrew Thomas

Contact Cywllt
Your Ref Eich Cyl
Our Ref Eln Cyl

ADDRES

- Dr Chris Llewellyn
Deputy Chief Executive, Director of
Lifelong Learning and Information
Welsh Local Government Association
Local Government House
Drake Walk
Cardiff CF10 4LG

Dear Chris,

Re: Home to School Transport

Thank you for taking time to meet earlier this week. As discussed Neath Port Talbot is requesting that you use your good offices to seek clarity from Welsh Government on apparent contradictions detailed within the Learner Travel Wales Measure and Learner Travel Statutory Provision and Operational Guidance.

Attached to this letter is a copy of two reports recently put before members of our Cabinet Scrutiny Committee.

Specifically the contradictions that we require further clarity on are as follows:

Learner Travel (Wales) Measure 2008

The Learner Travel (Wales) Measure 2008 states that subject to certain conditions, the local authority must make suitable transport arrangements to facilitate the attendance of a child each day at the relevant place where the child receives education.

The authority's Home to School Transport Policy states that NPT will provide free transport to the nearest *suitable* school provided that pupils meet the distance criteria.

Section 3 (6) of the Learner Travel (Wales) Measure 2008 states that 'a school is suitable for a child if the education provided there is suitable having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have.'

Education, Leisure &
Lifelong learning

**Addysg, Hamdden a
Dysgu Gydol Oes**

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The Council welcomes
correspondence in English or Welsh

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Mae'r Cyngor yn croeso i gyswlltu
yn y Gymraeg neu'r Saesneg



The **Measure** also places a *legal* duty on all authorities to promote access to education through the medium of Welsh when exercising functions under the Measure.

Learner Travel Statutory Provision and Operational Guidance, June 2014

The Learner Travel Statutory Provision and Operational Guidance, June 2014 states that local authorities need to 'consider the suitability of the school when deciding if the placement is appropriate for the learner.'

In addition the Statutory Provision and Operational Guidance, June 2014, states that 'when deciding which schools are *most suitable* for learners in their area, local authorities and Welsh Ministers have a duty under Section 10 to 'promote access to education and training through the medium of Welsh.'

Furthermore the Statutory Provision and Operational Guidance, June 2014, goes on to state that, in the context of the Learner Travel (Wales) Measure, authorities should also take into account the Welsh in Education Strategy Plan (WESP) which places a duty to set proposals on how the Council will improve the planning of the provision of education through the medium of Welsh, including '*more learners improving their Welsh skills by transferring from primary to secondary school.*' (Outcome 2)

It is the view of officers within education that having regard to the legal requirement upon the Council to promote access to Welsh medium education, as **detailed within the Measure**, it is reasonable to designate Ysgol Gyfun Ystalyfera as the nearest suitable provision for pupils who have received most of their primary education through the medium of Welsh.

Such a position would ensure that pupils transfer to a linguistically similar provision that provides continuity and progression and matches their ability and aptitude from one key stage to the next.

It is evident from the information contained within this correspondence there is a lack of coherence and consistency in certain critical components of the Learner Travel (Wales) Measure 2008 when compared with the detail contained within the Learner Travel Statutory Provision and Operational Guidance, June 2014.

Specifically the 'test' in the Measure is **not** what is the '**most suitable**' school (as indicated in one paragraph of the Guidance) but **the nearest suitable school**. A school is deemed **suitable** for a child under the Measure if the education provided there is suitable having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have. Clearly the disparity between 'most

suitable' and nearest suitable is not helpful when attempting to establish a coherent position, particularly when the Guidance is intended to assist local authorities interpret the Measure and decisions could be subject to legal challenge.

In order that we take decisions which are consistent with our statutory responsibilities under the Learner Travel (Wales) Measure 2008, we request you seek the views of Wales Government on the contradictions between the Measure and the Statutory Guidance in respect of the legal duty imposed upon us, and indeed all other local authorities in Wales, by the Measure in promoting access to education through the medium of Welsh when exercising functions under that Measure.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Thomas', written in a cursive style.

Andrew Thomas
Head of Transformation

Appendix Two

**Adran yr Economi, Gwyddoniaeth a Thrafnidiaeth
Department for Economy, Science and Transport**



**Llywodraeth Cymru
Welsh Government**

Ein cyf/Our ref TO/EH/05387/15

Daisy Seabourne

daisy.seabourne@wfga.gov.uk

13 January 2016

Dear Daisy,

Thank you for your email of 9 December 2015 to Officials regarding the Learner Travel (Wales) Measure 2008. I have been asked to reply.

The Learner Travel Statutory Provision and Operational Guidance 2014 ('the 2014 guidance') sets out that primary learners are entitled to free transport if they live 2 miles or further from the nearest suitable school whilst secondary learners are entitled to free transport if they live 3 miles or further from the nearest suitable school. The 2014 guidance aims to explain that the nearest suitable school is the closest school to the learner's home by distance that can meet the learner's needs as determined by the local authority. The local authority decides which school is the nearest suitable school in accordance with specific criteria, namely age, aptitude and ability, including any learning difficulties.

I note your point about the different terms which have been used in different sources to describe the concept of the nearest suitable school. However, this term is consistently used in the 2014 guidance (notwithstanding the exception at paragraph 1.74). The 2014 guidance is subject to ongoing review and your point has been noted. Thank you for bringing this one anomaly to our attention. The guidance will be amended as soon as practicable.

Yours sincerely

**Rhodri Griffiths
Department for Economy, Science and Transport**

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Cathays Park
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TO/EH/05387/15

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