

# **Neath Port Talbot County Borough Council**

## **Children, Young People and Education Cabinet Board**

**1 December 2016**

### **Report of the Head of Participation – Chris Millis**

**Matter for:** Decision

**Wards Affected:** All Wards

#### **Home to School Travel Policy Review and Consultation**

#### **Purpose of the Report**

1. To seek members approval to consult on the review of the Neath Port Talbot Home School Travel Policy.

#### **Executive Summary**

2. It is proposed to undertake a consultation exercise to review the Home to School Travel Policy 2014 on the basis that the current policy is amended to provide free home to school travel for those pupils who are eligible under statutory requirements. For those pupils who do not meet the criteria for free school transport, it is proposed that the local authority exercises its discretionary powers as outlined in Section 6 of the Learner Travel Measure to provide free home to school travel for pupils attending both Voluntary Aided (Faith) education and Welsh medium education as outlined in the revised policy.

#### **Home to School Transport provided under statutory duty.**

3. There is no change to the arrangements as stated below in 4,5 and 6 under this proposal.

4. Those children of compulsory school age who attend their nearest suitable school and who meet the distance criteria will continue to be eligible for free home to school travel.
5. Those children who attend their nearest suitable school but where there is no safe walking route, regardless of distance, will continue to be eligible for free home to school travel.
6. The Council decides which school is a learner's nearest suitable school on the basis of the education or training provided being suitable with regard to the age, ability and aptitudes of the learner and any learning difficulties he or she may have.

### **Home to School Transport provided under statutory discretion**

7. The local authority remains committed to delivering home to school transport arrangements in an effective and efficient way, respecting parents' preferences to seek Voluntary Aided (Faith) education or Welsh medium education for their children. The local authority has been in regular correspondence with Welsh Government as regards its interpretation of the legislation and guidance in relation to home to school transport, specifically in relation to accessing Welsh medium and Voluntary Aided (Faith) provision. There is general agreement on apparent inaccuracies between the Learner Travel Measure 2008 and The Learner Travel Statutory Provision and Operational Guidance 2014. This is extremely unhelpful and places all local authorities in Wales in positions of potential challenge.
8. However, the Council is aware of its discretionary powers under the Learner Travel Measure 2008 and, where appropriate, wishes to exercise these powers in order to deliver access to a diverse and relevant learning offer. Section 10 of the Learner Travel Measure 2008 states that each local authority must promote access to education through the medium of the Welsh language when exercising functions under the Measure. The obligation to promote access to Welsh medium education will be relevant and important when considering the power to provide discretionary travel arrangements to other pupils under section 6 of the Measure.
9. In exercising our discretionary powers we will consider the imperative to secure the most cost-effective means of providing transport. We will also take into account the existence of current routes and the availability of seats.
10. It is proposed to provide free non-statutory travel in the following instances:
11. Pupils attending Voluntary Aided (Faith) schools which are not their nearest suitable school.

12. Pupils attending Welsh-medium schools which are not their nearest suitable school.
13. Under discretionary arrangements, pupils aged 16-19 years may purchase a seat on existing home to school travel routes. These seats may be purchased for the cost of £100. However, the Council will assess whether an establishment provides a reasonable range of courses suitable to the abilities, aptitudes and requirements of an individual learner. Transport will only be provided to an educational establishment which is not the nearest if, in the judgement of the Council, there is a considerable variation between the learner's course and the course on offer at the nearest establishment.
14. It is proposed that a further review of SEN post 16 transport is undertaken during the next 9 months to understand in greater detail the local authority's responsibilities when placements are decided by third parties and to report back to Council in Summer 2017.

### **Background**

15. Neath Port Talbot's current Home to School Travel Policy was last amended in 2013 and was compliant with the requirements of the Education Act 1996.
16. The 2014 policy (implemented in September 2014) committed the council to a review in autumn 2016
17. The draft Home to School Travel Policy 2017 reflects the home-to-school travel duties and requirements that fall to the Council by virtue of the Education Act 1996; The Learner Travel (Wales) Measure 2008; The Learner Travel Statutory Provision and Operational Guidance 2014; The Learner Travel Information (Wales) Regulations 2009; The Safety on Learner Transport (Wales) Measure 2011: and the All Wales Travel Behaviour Code.
18. As stated in the report to Cabinet on 27th March 2013, the decision to rationalise home to school travel provision was based on a need to deliver transport within budget guidelines. Since this decision has been taken the local authority has undertaken a re-tendering exercise that has resulted in efficiencies being secured within this budget area. Also the provisional settlement from Welsh Government has provided additional funding of £46k for home to school transport in the authority's budget for 2017/18.
19. These factors have allowed the Council to review its current position on the provision of home to school transport.

### **Financial Impact**

20. The Financial implications of the proposals are shown below.

21. The Council's home to school travel arrangements affects many pupils and their families who reside within the county borough. The 2015/16 net cost of this provision amounts to around £5.8m. The Council must ensure that it provides best value for money for all of its services and provisions. In so doing, the Council must take into account the efficient and effective use its financial resources. Members should note that the budget provision for 190 days travel for 2016/17 totals £5.635m.
22. The Council currently provides home to school travel arrangements for approximately 3,270 mainstream pupils each day through the provision of more than 133 routes and the issuing of public transport season tickets. In addition, the service provides transport for approximately 625 pupils with additional learning needs/special educational needs daily on 212 contracted vehicles.
23. Financial Information 2015/16

<b>2015-16</b>	<b>Actual Expenditure</b>
Primary Education - In County	£ 698,381.09
Primary Education - Out of County	£ 64,853.09
Secondary Education - In County	£1,863,815.12
Secondary Education - Out of County	£ 322,854.43
Special Educational Needs - In County	£2,190,668.80
Special Educational Needs - Out of County	£ 255,886.61
Special Educational Needs Post 16 - In County	£ 165,200.99
Special Educational Needs Post 16 - Out of County	£ 64,358.24
Post 16 - Out of County	£ 15,471.50
Transport Delivery	£ 116,217.22
<b>TOTAL COST</b>	<b>£5,757,707.09</b>

24. The cost of transport to the faith sector prior to the decision taken in March 2013 was £472k. During 2015/16 the net costs were £378k (i.e. costs were £396k with income of £18k); 2016/17 projected net costs are £329k. The assumed costs of reinstating faith transport are £200k. However, whilst it is difficult to project future costs with complete accuracy, it is fair to make a

number of informed assumptions that will impact positively on the home to school transport budget.

25. These assumptions are as follows:

- a) Any tendering of new routes and increased passenger numbers is based on current tendering practices. The home to school transport budget is currently predicted to underspend by £25k for 2016/17.
- b) The demand for out of county special needs transport will reduce due to the number of pupils accessing out of county provision and should result in further efficiencies. The most significant expenditure within this aspect of the budget is £153k to transport pupils to Heronsbridge. We currently transfer 13 pupils to this facility and 4 pupils are due to finish at the end of this academic year.

### **Equality Impact Assessment**

26. The Equality Act 2010 requires public bodies to “pay due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share relevant protected characteristics and persons who do not share it.”

27. An Equality Impact Assessment has been carried out; so that the Council can demonstrate that it has discharged its duty under the Act.

28. The Screening exercise has provided an opportunity for consideration of any potential impact in relation to the protected characteristics as laid out in the Equality Act 2010 using existing and relevant national and local data currently available.

29. The screening has identified a mostly high and/or medium impact in relation to the following Protected Characteristics: age, race, religion or belief, Welsh language. High impact is defined by the Screening Form Guidance as developed by the local authority as: the group is likely to be highly affected by the initiative; medium impact is defined as: the initiative is likely to affect the group in some way.

30. Using the formula as detailed in the Screening Form and the associated Guidance the outcome of the Screening exercise using the data and

evidence has identified that the proposal/review of the policy is a High Priority in relation to the potential and as such there is a need to undertake a full equality impact assessment in relation to the proposed review of the Home to School Travel Policy to establish the actual impact so that the local authority is in a position to pay due regard to the General Duty of the Equality Act 2010. The consultation will feed into the Equality Impact Assessment

### **Workforce Impacts**

31. There are no workforce impacts associated with this report

### **Legal Impacts**

32. Section 3 of the Learner Travel (Wales) Measure 2008 imposes a duty on local authorities to provide free home to school transport for learners of compulsory school age to their nearest suitable school provided the distance criteria are met.
33. Section 3(6) of the Measure says that a school... "is suitable for a child if the education or training provided there is suitable, having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have". The Operational Guidance issued by the Welsh Government makes it clear that whilst parents and learners may express a preference for a particular type or language provision or faith school, the Measure does not confer on those parents and learners any rights to free transport to their preferred school unless that school is determined by the local authority to be their nearest suitable school and the distance criteria is met.
34. Section 10 of the Measure requires that each local authority must promote access to education and training through the medium of the Welsh language when exercising its functions under the measure.
35. Section 6 of the Measure provides local authorities with the power to provide discretionary transport arrangements for learners who are not attending their nearest suitable school because of language or faith preference.
36. The Welsh Government in its Guidance suggests that if the linguistic preference of a parent or learner is for a school which is not the nearest suitable school then the local authority might use the power available in section 6 of the Measure to provide home to school transport.
37. Any change to the Council's current Home to School Travel Policy should be subject to the statutory consultation and implementation timetable. The Learner Travel Information (Wales) Regulations 2009 requires that any change to the policy must be published before the 1<sup>st</sup> October of the year preceding the academic year to which the information relates. The

implementation in September 2017 would technically be in breach of the Regulations however as the proposed policy is either as generous or more generous than the current policy for every pupil it is considered that it would be reasonable to introduce the policy changes in September 2017 notwithstanding the breach of the Regulations.

### **Risk Management**

38. To review the Council's Home to School Travel Policy in line with legislation and the commitment to review the existing Policy in the Autumn of 2016.

### **Consultation**

39. This report proposes consultation to commence in relation to the Council's draft Home to School Travel Policy 2017.
40. Consultation will take place during the period: Monday 5<sup>th</sup> December 2016 to Monday 16<sup>th</sup> January 2017 (6 weeks)

### **Recommendation**

41. It is recommended that Members grant permission to consult on the draft Home to School Travel Policy 2017 which will take place between the 5th December 2016 and the 16th January 2017.

### **Reasons for Proposed Decision**

42. To ensure Neath Port Talbot County Borough Council, meets its responsibility for assessing the suitability of travel for learners between home and places of education and training by both reviewing and consulting on a revised policy to be implemented at the start of the 2017 academic year.

### **Implementation of Decision**

43. The decision is proposed for implementation after the three-day call in period.

### **Appendices**

Appendix 1. Draft Neath Port Talbot Home to School Travel Policy 2017.

Appendix 2. Home to School Travel Review Consultation Document 2016

## **List of Background Papers**

The Learner Travel (Wales) Measure 2008

The Learner Travel Statutory Provision and Operational Guidance 2014

The Learner Travel Information (Wales) Regulations 2009

The Safety on Learner Transport (Wales) Measure 2011

All Wales Travel Behaviour Code.

EIA Screening

## **Officer Contact**

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