

# **Neath Port Talbot County Borough Council**

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

**2 March 2017**

### **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 obtain Members' approval to implement the Neath Port Talbot Home to School Travel Policy 2017.

##### **Executive Summary**

2. This report provides the outcome of the consultation process in respect of the Neath Port Talbot Home to School Travel Policy 2017; the policy is attached under Appendix 1. This policy continues 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, the local authority can, under its discretionary powers, as outlined in Section 6 of the Learner Travel Measure provide free home to school travel for pupils attending both Voluntary Aided (Faith) education and Welsh medium education.

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

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

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 suitable 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 inconsistencies between the Learner Travel Measure 2008 and The Learner Travel Statutory Provision and Operational Guidance 2014. This is unhelpful and potentially places local authorities in Wales in positions of challenge.
8. 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 its discretionary powers the Council will consider it imperative to secure the most cost-effective means of providing transport. In applying its discretionary powers the Council will also take into account the existence of current routes and the availability of seats.
10. Under the 2017 policy the Council will provide free non-statutory travel to those pupils who meet the distance criteria, in the following instances:

- Pupils attending Welsh-medium schools which are not their nearest suitable school
  - Pupils attending Voluntary Aided (Faith) schools which are not their nearest suitable school.
11. Under discretionary arrangements, pupils aged 16-19 years who meet the distance criteria, 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.
  12. 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 Members'.

### **Background**

13. 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.
14. The policy, which was implemented in September 2014, committed the Council to a further review in autumn 2016.
15. 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.
16. These factors have allowed the Council to review its current position on the provision of home to school transport.
17. The 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. Consultation has shown that there has been a favourable response to the draft Home to School Policy 2017 by stakeholders.

### **Financial Impact**

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

20. 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.

21. 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.

22. Financial Information 2015/16 - Home to School Travel costs

<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>

23. 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 per annum. 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.
24. 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 £32k for 2016/17.
  - b) The demand for out of county special needs transport will reduce due to fewer pupils accessing out of county provision and this should result in further efficiencies. The most significant expenditure within this aspect of the budget is £153k, i.e. the cost of transporting pupils to Heronsbridge. The Council currently transports 13 pupils to this facility and four pupils are due to finish at the end of this academic year.

### **Equality Impact Assessment**

25. 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.”
26. A full Equality Impact Assessment has been carried out; so that the Council can demonstrate that it has discharged its duty under the Act.
27. The Equality Impact Assessment is attached under Appendix 2.
28. The Equality Impact assessment found that there was no evidence to indicate that the policy may result in less favourable treatment for particular groups; give rise to indirect discrimination or more likely to assist or impede in making reasonable adjustments.
29. The Equality Impact Assessment found that the policy will help to remove or minimise any disadvantage; meet the needs of different groups, and

encourage increased participation of particular groups. The policy also promotes the understanding of the needs of different groups.

### **Workforce Impacts**

30. There are no workforce impacts associated with this report. Additional administration functions resulting from the 2017 policy will be managed from within existing resources.

### **Legal Impacts**

31. 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.
32. 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.
33. 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.
34. 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.
35. 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.
36. 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 and, therefore, open to challenge. However as the proposed

policy is either as generous as or more generous than the current policy for every eligible pupil and, when compared with the current policy, does not diminish the Home to School travel entitlements for any pupil, it is considered that the likelihood of challenge is extremely small whilst the benefit to parents and pupils is significantly increased. As such, officers consider that it would be reasonable to implement the policy changes in September 2017, notwithstanding the breach of the Regulations.

### **Risk Management**

37. 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.
38. Implementing the policy in September 2017 breaches The Learner Travel Information (Wales) Regulations 2009 as this 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. However, as the 2017 policy is either as generous as or more generous than the current policy for every eligible pupil and, when compared with the current policy, does not diminish the Home to School travel entitlements for any pupil, it is considered that the likelihood of challenge is extremely small.

### **Consultation**

39. A consultation exercise took place during the period: Monday 5<sup>th</sup> December 2016 to Monday 16<sup>th</sup> January 2017 (6 weeks).
40. Consultation responses included:
  - 769 responses to the survey on the consultation portal
  - 10 individual letters and e-mails
  - 77 pupil letters from St Joseph's Comprehensive and 6<sup>th</sup> Form

Consultation meetings included:

- Neath Civic Centre on 15<sup>th</sup> December 2016 – no attendees
  - Port Talbot Civic Centre on 16<sup>th</sup> December 2016 – 2 attendees
  - Pupil consultation at various schools across Neath Port Talbot
41. Copies of responses and meeting notes, together with any officer comments on issues raised, have been included in Member packs which have been made available in the Members' Rooms at Neath and Port Talbot Civic Centres.

42. The responses received during the consultation period have been considered under the Equality Impact Assessment which is attached as Appendix 2.

43. Outcome of consultation:

- The majority of stakeholders who responded indicated that they wished to have free transport to a Voluntary Aided (Faith) school.
- The Diocese of Menevia wholeheartedly supports the proposal to extend the existing free home to school transport provision to voluntary aided schools and commends Neath Port Talbot Local Authority for the move to greater equality and inclusivity for its pupils.
- The Catholic Education Service Adviser for Wales, Rev Dr Philip Manghan wrote in support of the proposed new policy.
- Both the Head Girl and Head Boy and also the School Council at St Joseph's School and 6<sup>th</sup> Form wrote on behalf of the senior prefect team at the school to confirm their support for the proposed new policy.
- Some respondents called for Post 16 students to have access to free school transport under discretionary arrangements.
- In terms of the on-line survey responses:
  - 769 responses were received, out of these 26% were from pupils who currently utilise school transport and 21% were from pupils who were considering using school transport. 21% of the responses were from parents of children both using and considering use of school transport.
  - 93% stated that they agreed with the proposed new policy and the main reason for agreement was that the policy allows access to free home to school transport for those pupils who attend a Faith school.
  - The full survey results have been produced in the packs made available for Members in both the Members' Rooms at Neath and Port Talbot Civic Centres.

44. Officer comment on responses received:

- It is pleasing to note that overwhelmingly the respondents supported the proposed new policy.
- The new policy extends those of compulsory school age to have access to free home to school transport provided the relevant criteria is met. Those who are not of compulsory school age are entitled to



purchase a spare seat on home to school transport vehicles. For Post 16 students the cost remains at £100 per year.

- Under the new policy, eligibility for transport under statutory and discretionary arrangements for those pupils attending English-medium, Welsh-medium or Voluntary Aided (Faith) schools will apply equally and will be determined upon the relevant criteria i.e. distance, available suitable walking route, exceptional circumstances and nearest suitable school.

### **Recommendation**

45. Having given due regard to the equality impact assessment and having given consideration to the responses received during the consultation period, it is recommended that, in line with the legislative requirements of the Learner Travel (Wales) Measure 2008, Members:
  - a. approve the Home to School Travel Policy 2017 (to be known as the 2017 policy)
  - b. approve implementation of the 2017 policy on the 1<sup>st</sup> September 2017.

### **Reasons for Proposed Decision**

46. This decision is necessary to ensure Neath Port Talbot County Borough Council meets its duty to make transport and travel arrangements, including its responsibility for assessing the suitability of travel for learners between home and places of education and training.

### **Implementation of Decision**

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

### **Appendices**

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

Appendix 2. Equality Impact Assessment

### **List of Background Papers**

Cabinet Report dated 1<sup>st</sup> December 2016

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

All Wales Travel Behaviour Code

### **Officer Contact**

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