

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Education, Skills and Culture Cabinet Board

20 July 2017

Joint Report of the Head of Engineering and Transport and Head of Participation

Matter for Decision

Wards Affected: All

The Assessment of Walking Routes to comply with the Learner Travel Statutory Provision and Operational Guidance 2014 - and to approve a Risk Assessment Matrix

Purpose of Report

To approve a risk assessment matrix for determining the availability of walking routes for learners travelling from home to school, in accordance with the requirements of the statutory measure.

To seek delegated authority for Director of Environment, Head of Engineering and Transport and their delegated Officer to determine the conclusion of assessed walking routes.

The appointment of a Learner Travel Wales Officer be supported in principle.

Executive Summary

- 1 The Education Act 1990 (as amended) sets out the law in Wales and England for the attendance of pupils at school and the Learner Travel (Wales) Measure 2008 (as amended) sets out the legal framework specifically related to travel and transport provisions for learners travelling from home to school in Wales.
- 2 Under Section 15 of the Learner Travel (Wales) Measure 2008, Welsh Ministers have the power to issue statutory guidance.

Where guidance is statutory, local authorities are required to have regard to the guidance and will only be able to depart from such guidance where they can prove justification for doing so. Where there appears to be differences between the Measure and the Guidance, the Measure always takes precedence.

- 3 This report seeks to ensure that our statutory duty in relation to the Learner Travel Wales Measure 2008 and subsequent Learner Travel Statutory Provision and Operational Guidance 2014 is adhered to.

Background

- 4 In June 2014 Welsh Government issued statutory guidance entitled Learner Travel Statutory Provision and Operational Guidance.
- 5 Embedded within the Guidance are the statutory provisions, specific duties and key responsibilities for local authorities in relation to home to school transport in Wales.
- 6 For home to school transport provision local authorities must:
 - Assess the travel needs of learners in their authority area
 - Provide free home to school transport for learners of compulsory school age attending primary school who live 2 miles or further from their nearest suitable school
 - Provide free home to school transport for learners of compulsory school age attending secondary school who live 3 miles or further from their nearest suitable school.
- 7 Distances below these thresholds are referred to as 'walking distances'.
- 8 The Council has aligned its transport provision to the statutory requirements as outlined in paragraph 11 above. Under Section 3 (7) of the Measure the walking distance should be measured by the shortest available route.

- 9 A route is considered to be available if it is safe (as far as reasonably practicable) for a learner without a disability or learning difficulty to walk the route alone or with an accompanying adult if the learners age and understanding requires this.
- 10 If a route is not available and there is no alternative available walking route within the respective distance threshold applicable to the learners age, which can be used instead, the learner cannot be expected to walk to their nearest suitable school. This will apply even though the distance from home to school is less than the distance limit that applies to the learner's age. (2miles Primary / 3 miles Secondary)
- 11 In such cases the local authority has a duty to provide the learner with free transport to and from their nearest suitable school.
- 12 Within the 2014 guidance there is reference to a risk assessment procedure for local authorities to follow to assess walking distances and to determine whether a route is available to school.
- 13 Part 1 of the guidance covers Risk Assessment Procedure in relation to Physical/Traffic Risks, with Part 2 covering Risk Assessment Procedures in relation to Social Danger.
- 14 A working group including colleagues from Education, Legal, Transport and Road Safety has been formed to ensure assessments of key walking routes can be undertaken.
- 15 Since the guidance is silent on the methodology to determine the availability of a route the working group has produced a risk assessment matrix to address Physical/Traffic Risks (Appendix A), this is based on the Guidance and a matrix utilised by other authorities across Wales. Narrative explaining how the risk assessment matrix is to be utilised is contained within Appendix B.
- 16 It is proposed that any risk assessment score of 15 or below on a route will indicate that the risk is acceptable and the route deemed available.
- 17 For Social Hazards the Public Protection Unit of South Wales Police will be consulted.

- 18 Routes will be prioritised for assessment by the Working Group in the first instance with any identified learner concerns prioritised.
- 19 In order to ensure compliance it is proposed to appoint a Learner Travel Wales Officer to facilitate delivery of this statutory duty. The appointee will work concurrently on the working Group prioritised list whilst actively engaging with schools in relation to pupil/parent/community concerns.
- 20 The appointee will be responsible for carrying out prioritised route evaluation/risk assessments. Subsequent advisory reports will be produced and forwarded to the delegated officer for final decision on whether a route is available or not.
- 21 Where an assessed route is deemed available and historically transport has been provided, the Council's School transport team will issue termination contract notices of 42 days to the bus companies in line with their contract terms and conditions. The LEA will simultaneously issue notice of the intention to discontinue the transport provision with a school-terms notice (approximately 12 weeks) to all affected parents/carers and pupils, via letter.

Financial Impact

- 22 An initial budget for the provision of a Learner Travel Wales Officer within the Road Safety Team has been identified as part of the Council's budget 2017/18.
- 23 Determining the availability of routes may result in costs to ensure that a route is available. For example a pavement may need to be constructed or restored. This will be the subject of future Capital programme allocation should the need arise.
- 24 It should be noted that where routes are not available the local authority has a duty to provide the learner with free transport to and from their nearest suitable school.

Equality Impact Assessment

- 25 A Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this proposal does not require an Equalities Impact Assessment. (Appendix C)

Workforce Impact

- 26 No negative impact

Legal Impact

- 27 The Statutory Duty will be discharged by adoption of the proposed procedure/matrix this will ensure that our statutory duty in relation to the Learner Travel Wales Measure 2008 and subsequent Learner Travel Statutory Provision and Operational Guidance 2014 is adhered to.

Risk Management

- 28 For Social Hazards the Public Protection Unit of South Wales Police will be consulted including providing a copy of the route and a request made for any concerns they may have on a particular route.
- 29 Where issues are raised by the Police the severity and likelihood of the risk will be discussed with the Police with a view to assessing the likely impact. This will be taken into account in the Risk Assessment Matrix in determining the overall route availability.

Consultation

- 30 There is no requirement under the Constitution for external consultation on this item

Recommendation(s)

31

- (1) The Risk Assessment Matrix contained in Appendix A and guidance in Appendix B be adopted by the Authority as a means of assessing the availability of routes in accordance with the Learner Travel Wales Measure.
- (2) That a risk assessment score of 15 or below on a route will indicate that the risk is acceptable and the route will be deemed available.
- (3) Delegated authority be given to Director of Environment to determine the final outcome of the risk assessments.
- (4) That the appointment of a Learner Travel Wales Officer be supported in principle and that a formal report be commended to Personnel Committee for consideration.

Reason for Proposed Decision(s)

32 To ensure the Council delivers its statutory duty in relation to Learner Travel Wales Measure (2008)

Implementation of Decision

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

Appendices

34 Risk Assessment Matrix – Appendix A

35 Risk Assessment Explanatory notes – Appendix B

36 Equalities Impact Screening Assessment – Appendix C

List of Background Papers

37 Learner Travel (Wales) Measure 2008

http://www.legislation.gov.uk/mwa/2008/2/pdfs/mwa_20080002_en.pdf

Learner Travel Statutory Provision and Operational Guidance 2014

<http://gov.wales/docs/dcells/publications/140616-ltog-en-v2.pdf>

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