

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**14<sup>th</sup> July 2016**

**REPORT OF SENIOR  
MANAGEMENT TEAM**

### **CABINET DECISION**

**Children and Young People – Councillor Ann McCoy**

#### **HOME TO SCHOOL TRANSPORT**

1. Summary

At the Cabinet Meeting on 19<sup>th</sup> May 2016 Cabinet approved a recommendation to consult on a revised, draft 'Home to School Transport Policy' with a requirement to follow the statutory guidance on the consultation period of 28 days. The Council's legal advisor is satisfied that this statutory requirement has been met. This report details the responses and outcomes of the consultation that took place between 20<sup>th</sup> May and 5<sup>th</sup> July 2016.

2. Recommendations

1. To consider the evidence presented from the formal consultation exercise and agree whether the draft policy should be formally adopted as the 'Home to School Transport Policy' of the Council from September 2017.
2. To agree that the appeals procedure set out in the Statutory Guidance be publicised and implemented from September 2016

3. Reasons for the Recommendation(s)/Decision(s)

The review of the Home to School Transport Policy has taken place in line with the statutory guidance for local authorities and now the Council has met the statutory expectation as included in the guidance of a consultation period of 28 working days, the evidence from the consultation is presented to Cabinet for consideration and a decision as to whether the policy should be adopted as that of the Council from 2017. The guidance on appeals has changed to ensure greater consistency in approach and to be clearer and more transparent for both parents and local authorities. The recommendation to adopt an appeals procedure in line with that recommended in statutory guidance from September 2016 reflects the importance of this proposal.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

#### **Disclosable Pecuniary Interests**

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

**AGENDA ITEM**

**REPORT TO CABINET**

**14<sup>th</sup> July 2016**

**REPORT OF SENIOR  
MANAGEMENT TEAM**

**CABINET DECISION**

**HOME TO SCHOOL TRANSPORT**

**SUMMARY**

At the Cabinet Meeting on 19<sup>th</sup> May 2016 Cabinet approved a recommendation to consult on a revised, draft 'Home to School Transport Policy' with a requirement to follow the statutory guidance on the consultation period of 28 days. The Council's legal advisor is satisfied that this statutory requirement has been met. This report details the responses and outcomes of the consultation that took place between 20<sup>th</sup> May and 5<sup>th</sup> July 2016.

**RECOMMENDATIONS**

1. To consider the evidence presented from the formal consultation exercise and agree whether the draft policy should be formally adopted as the 'Home to School Transport Policy' of the Council from September 2017.
2. To agree that the appeals procedure set out in the Statutory Guidance be publicised and implemented from September 2016.

**DETAIL**

1. The proposed draft policy for consultation was presented to Cabinet in May 2016 and is attached at Appendix 1. The covering report detailed the context and the content of the proposed revised policy and highlighted the changes from the existing policy. It emphasised that all admissions to school prior to September 2017 would be subject to the existing Home to School Transport Policy (2011) and that arrangements as set out in the Home to School Transport Policy (2011) would continue until those children conclude their education at the school to which they were admitted prior to September 2017. It included a description of eligible children and those with extended rights. It specifically highlighted a change from the existing policy stating that, where a parent expresses a preference for a place for a child to attend a school that is not their nearest school, transport is not the responsibility of the local authority, including parental preference for a faith school or academy (except for those children under the extended rights criteria). There was reference to the requirement for an appeals panel and process that should be in line with statutory guidance. Finally, it referred to the proposal to include in the revised policy a reference to children taken into the care of the local authority and a commitment to cover transport costs so that stability of educational placement could be maintained for these children, highlighted because it is not taken from the statutory guidance, but is included at the discretion of the local authority.

2. Following the approval of Cabinet to consult upon the draft of the revised policy, the consultation process necessarily focused upon those aspects emphasised in the Cabinet Report of May 2016 and reiterated above. The timing of implementing any changes, the clarity of the reference to eligible children and those with extended rights, the proposed removal of free transport where it is on the basis of parental preference for a place solely on the basis of faith or belief, the discretionary inclusion in the proposed policy of free home to school transport for children taken into the care of the local authority and putting in place an appeals process.

## **Methodology**

- 3 Prior to the start of the consultation discussions took place and information was shared at headteacher/principal meetings and Governor Forum as well as with Diocesan Directors of Education. The consultation formally opened on 20<sup>th</sup> May and closed on 5<sup>th</sup> July 2016, in line with the recommendation for a formal 28 working day period of consultation, excluding school holidays.
- 4 A meeting was arranged for 27<sup>th</sup> May 2016 with the professional representatives of RC and Church of England faith communities. Representatives from the Anglican Diocese of York and Durham and Newcastle and the RC Diocese of Middlesbrough and Hexham and Newcastle were invited to the meeting, Diocesan Directors, Multi Academy Trust Leads and Headteachers of affected schools attended the meeting. As well as being an opportunity for professional stakeholders to express their views, a purpose of this meeting was to agree with the professional stakeholders, the schools in which the Council should meet with parents. These meetings were arranged and have taken place within the consultation period. Professional stakeholders also requested to attend Children and Young People's Select Committee to express their views. This request was facilitated and the professional stakeholders attended the meeting of CYP Select Committee on 29<sup>th</sup> June 2016. A detailed note of this engagement is included at Appendix 2.
- 5 Meetings have also taken place with elected members, headteachers and principals and responses to the proposal have also been sought from neighbouring local authorities. Most of the local authorities in the region have introduced this change over recent years. Currently, Stockton and Northumberland are the only local authorities in the North East who continue to offer free transport on the basis of faith.
- 6 All consultees were requested to respond via 'My Views' and the link to this has been publicised via press releases, at public meetings and in all communications. There was also an opportunity to request paper copies of the consultation questions and these were available at public engagement sessions and from the School Admissions Team. A summary of the responses to the questions is included in paragraphs 8-13 of this report and further detail is included at Appendix 3 and 4. Letters received from key professional stakeholders are attached at Appendix 5. Points made through additional correspondence have been included in the drafting of this report.

## **Consultation Question Responses**

- 7 A summary of the responses to the consultation questions are set out in paragraphs 8–13 below. Paragraphs 14-19 provide demographic information about the respondents. Paragraphs 20–27 focuses upon the key issues and themes in the responses to the proposal as articulated at meetings, through on-line responses and via direct correspondence.

- 8 Question 1 sought views on the proposed phased implementation of the Policy, with a possible alternative being an immediate implementation whereby pupils currently in schools would be affected. Although 68.8% of respondents disagreed with the phased implementation, the comments provided evidenced that this was reflecting disagreement with the policy in general, rather than support for immediate implementation. As expressed by one respondent, 'I don't want to see this policy come in, phased or not'. 16.4% agreed with the proposal and 14.8% neither agreed nor disagreed. The intention behind the proposal for phased implementation was to follow good practice guidance to ensure that parents were not retrospectively penalised for decisions made under the current policy. The proposed 2017 implementation would also give parents and stakeholders time to plan and prepare, with the support of the local authority, for any change.
- 9 Question 2 sought views as to whether the proposed policy was clear on which children are eligible for free home to school transport. 36.7% of respondents strongly agreed or agreed and a further 17.2% neither agreed nor disagreed. 46.1% disagreed that the policy was clear about eligibility. As with question 1, some respondents took the opportunity to express their disaffection with the proposed policy in relation to the removal of free faith transport, except for those on extended rights or eligible by other criteria. Some respondents commented that the information could be clearer for parents. In the proposed policy, the wording used is taken from the statutory guidance. We have acknowledged that the information for parents and carers could be clearer and as a reflection of this all such information and materials will be reviewed.
- 10 Question 3 sought views on the removal of free faith transport, except for those on extended rights or eligible by other criteria. 87.5% disagreed or strongly disagreed, 10.9% agreed with the proposal and 1.6% neither agreed nor disagreed. It should be noted that the majority of the respondents identified their religion faith or belief as Christian, as outlined at paragraph 19. The comments received through the consultation were overwhelmingly on this issue and this is reflected in the themes and key issues in paragraphs 20-27.
- 11 Question 4 sought views on whether the Council should maintain stability of educational placement for children taken into the care of the local authority through paying for transport. Over 75.6% of people agreed with this proposal. 5.5% disagreed and 18.9% neither agreed nor disagreed.
- 12 Question 5 sought comment on the Home to School Transport appeal process. 73 respondents offered comment, with references to listening to parents, not adding additional stress, putting in place a system that is consistent with clear processes, robust scrutiny and the provision of named contacts throughout the process. These comments will be taken into account in the development of the appeal process which, as is recommended to Cabinet in this Report, should be implemented from September 2016.
- 13 As part of the 'My Views' questionnaire, respondents were asked for information about themselves. 132 responses were received. This information is set out in paragraphs 14-19.
- 14 Of the 132 responses 31.3% identified themselves as a resident of the Borough, 20.8% identified themselves as a parent/carer of a child currently attending a primary school in the Borough, 12.9% identified themselves as a parent/carer of a child currently attending a secondary school in the Borough. We also received responses from (listed in reducing order of representation) parents/carers of a child due to attend a secondary school in the Borough in September 2017, 'others', primary school and secondary school teachers in

the Borough, parents/carers of a child due to start primary school in the Borough in September 2017, primary school governors in the Borough and then secondary school governors in the Borough and representatives of Multi Academy Trusts operating in the Borough.

- 15 34.1% identified themselves as aged 40–49 years, 17.4% identified themselves as aged 30–39 years and 15.9% identified themselves as aged 50–59 years. We also received responses from (listed in reducing order of representation) those aged 60-64 years, those aged 65+, those aged 20–29, those aged 0–19 and those who did not wish to identify their age group.
- 16 92.4% identified their ethnicity as 'White', 4.6% preferred not to identify their ethnicity; and, in each case 1.5% identified their ethnicity as Black/Black British and Other Ethnic Group respectively.
- 17 Most respondents (65.2%) identified their gender as female. 33.3% identified their gender as male and the remaining 1.5% preferred not to identify their gender.
- 18 81.1% identified that they did not have a disability as described by the Equality Act 2010, 14.4% identified that they did have a disability as described by the Equality Act 2010 and a further 4.6% preferred not to answer this question.
- 19 86.4% identified their religion/faith/belief as Christian (including Church of England, Catholic, Protestant and all other Christian denominations), 9.1% said they had no religion at all and the remainder (4.6%) preferred not to identify their religion/faith/ belief.

### **Themes from consultation**

- 20 The responses to this consultation fall into 4 key themes. These are perceived discrimination, potential increased costs and disruption to family arrangements, confusion over definitions and process.
- 21 With regard to the perceived discrimination, strongly reflected in the consultation responses, it should be noted that whilst the provisions within the Equality Act of 2010 place a duty on local authorities not to discriminate against a person on the grounds of religion or belief, these provisions do not apply to the exercise of a local authority's functions in relation to school transport. Furthermore, the Education Act 1996 and the Secretary of State's Guidance have no requirement that a person choosing a school on the grounds of religion or belief is entitled to free school transport. Protocol 1, Article 2 of the European Convention on Human Rights does not oblige a Member State to provide free transport to faith schools.
- 22 With regard to potential increased costs and disruption to family arrangements. A number of respondents referred to the cost that would have to be borne by families if the policy were adopted, particularly by those just above the threshold for extended rights. Some respondents asked whether it would be possible for the local authority to introduce an incremental approach so that families just above the threshold would receive some support. This would be at variance with the draft policy which is based upon statutory guidance. Other respondents emphasised the potential impact upon large families where a parental preference for a faith place was exercised, both with regard to additional costs and complications in transporting children to different schools.

- 23 Confusion over definitions was reflected in a number of responses and in the main referred to suitable school, admissions processes, parental preference, zone system and partner/feeder schools and safe walking route. These are addressed in the following paragraphs and a more detailed glossary will be included in the information for parents who are applying for school places in the future.
- 24 Some of those opposed to the proposal took issue with what constituted 'a suitable school'. For clarity, the definition as provided in the statutory guidance is 'the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any special educational need that the child may have'. In Stockton, all public funded schools are suitable schools. Subject to the clause regarding suitability for a child with special educational needs, the nearest suitable school is, therefore, the school where there are places available which is nearest to the home address of the child for whom application is made.
- 25 There was also some confusion at parent consultation sessions over the process for admissions to schools and parental preference as part of that process. The right for a parent to apply preference for, and secure, a place at a faith school, is very clear in the admissions process. It is separate from the local authority exercising discretion as to whether or not to provide free home to school transport. It should be noted that these are entirely separate processes and also that voluntary aided schools, academies and free schools act as their own admission authority and set out their own admission criteria. This process is not part of this consultation and every effort was made during the consultation to reassure parents on this issue.
- 26 Reference has been made to the zone system that operates in Stockton, the role of partner schools and the feeder system which has been adopted by a number of faith schools. This, as with parental preference, is separate to the issue of the local authority exercising discretion as to whether or not to provide free home to school transport on the basis of preferences based solely on faith.
- 27 Clarity was requested in relation to what constitutes a safe walking route to school. The Network Safety Team of the Council is responsible for evaluating safe routes. However, it should be noted that the Council is only responsible for securing safe routes, or providing free transport to the nearest suitable school.
- 28 A number of parents requested through the consultation that the local authority work with parents, schools and academies to ensure that access to transport was available, in the event of the policy being adopted from 2017. This is entirely consistent with the statutory guidance which states, 'In a financial climate where spending is reduced and costs are increasing local authorities may well find that they have less funding available to support discretionary transport provision, but there may be alternative solutions. Many academies, with support from their local communities, are taking full advantage of their academy freedoms and are collaborating with other stakeholders and providers to offer discretionary transport to their schools. Local authorities can greatly assist with these initiatives by sharing their experience, expertise and influence in the procurement of transport'. There are many examples of where this approach has been adopted locally and regionally, which could support a similar approach in relation to faith transport in Stockton. We have an example of such a collaborative approach in Stockton with Northern Education Trust. If the decision is taken to adopt the draft policy from September 2017, this proposal could be progressed.
- 29 Some of the responses included a request for flexibility from the Council where children are transported on the basis of distance or safe walking route and where there is

parental preference for a faith school. In such instances, respondents have requested that the Council, where transport costs would not be more than zone or nearest suitable school, should take into account parental preference. If the decision is taken to adopt the draft policy from September 2017, a clause to this effect could be included.

- 30 The Council has carried out a consultation process as outlined in the statutory guidance. Paragraphs 3–6 outline the process and methodology. As set out in the Report to Cabinet in May 2016, the consultation has been conducted so that there is no overlap with admissions rounds and the annual determination of admissions arrangements and there has been a formal 28 working day consultation. Attention was drawn to the wording of one of the questions in the consultation that was perceived to be misleading. Legal advice was taken and this issue was remedied prior to the close of the consultation.

## **COMMUNITY IMPACT IMPLICATIONS**

31. Implementation of the draft policy prepared for consultation could have a positive impact upon the following:

- Children taken into the care of the local authority who would receive free transport to maintain continuity of school placement
- Pupils entitled to free school meals or whose parents are in receipt of the maximum Working Tax Credit because of the extended rights criteria

Children with special educational needs and/or disabilities will have individual assessments relating to transport.

Parents who wish to apply parental preference for a place at a school based upon faith or belief may do so on the understanding that they will be responsible for home to school transport. Otherwise they may apply for a place at a nearer suitable school.

It is proposed that the policy will only apply to children taking up a school place from September 2017.

Reference has been made to Equality and Human Rights legislation in paragraph 21 of this report.

Consideration has also been given to wider issues of fairness and equality in that parents who express a preference for a school, other than their local or zone school, for reasons other than faith (or for a faith school where the parent is of no faith) they are not eligible for free transport.

## **FINANCIAL IMPLICATIONS**

32. The Medium Term Financial Plan references savings from the Community Transport Budget. The removal of free transport on the basis of faith or belief would result in estimated savings of £20,000 in 2017/18 rising to an estimated total saving of £80,000 - £100,000 by 2021/22.

## **LEGAL IMPLICATIONS**

33. The statutory guidance for local authorities 'Home to school travel and transport guidance' (July 2014) refers to the following legislation (including statutory instruments):



- Sections 444,508A, 508B, 508C, 508D,509AD, and Schedule 35B of the Education Act 1996, as inserted by Part 6 of the Education and Inspections Act 2006
- Regulation 5 and Part 2 of Schedule 2 to The School Information (England) Regulations 2002
- Equality Act 2010
- School Admissions Code
- Section 48 of the School Standards and Framework Act 1998

**RISK ASSESSMENT**

34. This Home to School Transport Policy and associated consultation is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

**COUNCIL PLAN, POLICY PRINCIPLES AND PRIORITIES**

35. The relevant policy principles within the Council Plan are

- Protecting the vulnerable through targeted intervention
- Promoting equality of opportunity

**CORPORATE PARENTING IMPLICATIONS**

36. Policy Commitment to children taken into the care of the local authority.

**CONSULTATION INCLUDING WARD/COUNCILLORS**

37. See paragraphs 2-6.

**Name of Contact Officer:** Lynda Brown  
**Post Title:** Head of Education and Early Years Projects  
**Telephone No.** 01642 527041  
**Email Address:** [lynda.brown@stockton.gov.uk](mailto:lynda.brown@stockton.gov.uk)

Education related? Yes

Background Papers None

Ward(s) and Ward Councillors: Applies to parents and children in all wards

Property

There are no implications in relation to the Council’s property. This report does not impact upon the Capital Programme and Asset Management Plan.