

Birmingham City Council

Report to Cabinet

16th April 2019



Subject: TRAVEL ASSISTANCE POLICY FOR 0-25 YEAR OLDS IN EDUCATION

Report of: Tim O`Neill - Director of Education & Skills

Relevant Cabinet Member: Cllr Jayne Francis - Education, Skills & Culture
Cllr Kate Booth - Children’s Well-being
Cllr Paulette Hamilton - Health & Social Care
Cllr Tristan Chatfield – Finance & Resources

Relevant O &S Chair(s): Cllr Mariam Khan - Learning, Culture & Physical Activity
Cllr Mohammed Aikhlaq - Children’s Social Care
Cllr Rob Pocock - Health & Social Care
Cllr Sir Albert Bore - Resources

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| Are specific wards affected? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No – All wards affected |
| If yes, name(s) of ward(s): | | |
| Is this a key decision? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, add Forward Plan Reference: 006102/2019 | | |
| Is the decision eligible for call-in? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the report contain confidential or exempt information? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If relevant, provide exempt information paragraph number or reason if confidential : | | |

1 Executive Summary

1.1 This report provides details of the outcome of the public consultation on the proposed Travel Assistance Policy for 0-25 year olds in Education.

- 1.2 The report follows-on from earlier reports to Cabinet on the 26th June 2018 and 11th December 2018 where approval was given by Cabinet to undertake the consultation.

2 Recommendations

- 2.1 That Cabinet approval is given to; -
- Adopt the 0-25 Policy for Home to School Transport (see **Appendix A**).
 - Introduce the phased implementation as set out in this report at section 3.33 for current and new users of transport assistance to education provision.

3 Background

- 3.1 Birmingham's Travel Assist Service provides a variety of transport options to over 4,250 children on a daily basis, with an additional 1,500 receiving bus passes, and has an overall budget of £18.4m for 2018/19.
- 3.2 The majority of the children using the service have requirements related to SEND but the service also supports eligible children without SEND, including looked after children; children in temporary accommodation and other vulnerable groups. Travel Assist operates more than 600 routes and has a range of support options including: 1-to-1's; mini bus/coach transport; Travel Guides; Personal Transport Budgets; Bus Passes and Independent Travel Training. However, the take-up of other options aside from mini-bus transport and the number of young people being trained to travel independently has been relatively small, for a city the size of Birmingham.
- 3.3 The costs for Home to School Transport have continued to rise, nationally and within the city, resulting in a considerable over-spend against budget. Birmingham must balance the need to operate within a financial envelope, with the desire to improve the quality of the service, increase the range of options available to families, and the opportunity to help as many young people as possible develop the important life-skill of travelling independently in preparation for adulthood.
- 3.4 Travel Assist is part of a group of services that support families with children with SEND. These include SENAR, Early Support and Access to Education, as well as the transition into adulthood with our Adult Social Care services. The 2018 SEND Inspection report looked at the whole system of SEND support across the city, and services delivered by partners, including the Council, CCG and Children's Trust. The recommendations and action being taken through the subsequent SEND Written Statement of Action, will positively impact upon transport provision. One key proposal is to develop more local special educational provision within the city, reducing the need for children to travel long distances to a suitable education placement. Another important aspect is the need to focus on independence, working with families and young people

much earlier in the child's life to develop important skills (such as travelling independently) and preparing for adulthood.

- 3.5 It is important to remember that in addition to children and young people with SEND, the service also supports, as appropriate, children who are housed in temporary accommodation, whose families may be considered to be in crisis and children in care.
- 3.6 Over recent years in line with home to school transport services nationally, Travel Assist has been experiencing an increase in demand. Over 330 additional families successfully applied for specialist transport during the 2017/18 academic year and the numbers of children being transported across the city has grown year on year, in line with an increase in Education, Health and Care Plans and greater numbers of families housed in temporary accommodation.
- 3.7 In December 2018, Cabinet agreed to a public consultation on a new 0-25 Transport Policy.

0-25 Policy

- 3.8 At present the law is different in relation to Home to School transport based on the differing ages of children and whether they are of compulsory school age.
- 3.9 The Council has a number of legal duties and powers related to home to school travel assistance, including a duty under Section 508A Education Act 1996 to promote sustainable modes of travel. The Council also has a duty under Section 508B Education Act 1996 to make suitable home to school travel arrangements for eligible children of compulsory school age.
- 3.10 It was agreed in December 2018 that the Council would consult upon a new Policy in order to make the Council's policy clearer and more transparent for parents and others to understand; update the policy in line with changes to national guidance; enable parents to take a more active part in the process; and create the opportunity to discuss with parents the range of options provided to families.
- 3.11 The key principles proposed in the new policy are in line with the findings of the SEND Inspection June 2018 and reflect national good practice and the latest statutory guidance. The main changes from the previous policy that were consulted upon include:
- Combining the policies into a single 0-25 composite policy document.
 - Changing the Stage 2 Appeal Panel from a Members Panel to Independent Officers. This is in line with good practice nationally; retains a Stage 2 Appeals process; and will involve officers who have a related specialism but have not been involved directly in any of the cases.
 - Increasing the financial contribution requested from parents of children and young people who are not of compulsory school age.

- Clarifying the circumstances when travel assistance will be provided for children who are below compulsory school age.
- Setting out the Council's policy in relation to travel assistance for young adults over the age of 19.
- Strengthening the emphasis on independent travel training and alternative modes of transport.
- An increased emphasis on the use of Personal Transport Budgets.
- Greater clarity of the application process and eligibility for parents (what we will and won't do).
- Greater clarity concerning the rights and responsibilities of parents towards accompanying their children to school.
- Greater clarity around the factors that will be relevant to the decision whether to offer travel assistance.

The Consultation

- 3.12 A comprehensive consultation was undertaken over 28 working days during school term time. The consultation period launched on the 15th February and ended on 2nd April 2019. During this period there was also a week of school half term, commencing 18th February 2019.
- 3.13 It was important that the consultation was robust and legally sound. Extensive internal and external legal advice was therefore sought on the process to ensure that the Council complied with the requirements of public consultations and that the proposed policy itself was in line with national legal frameworks and guidance.
- 3.14 The consultation processes required the Council to contact a range of statutory stakeholders, whilst retaining a focus on understanding the experiences of and receiving feedback and suggestions from, parents, children and schools as much as possible. The aim was to have a meaningful consultation facilitated through a range of different sessions and events, using different ways of communicating, to make the consultation as accessible as possible and to capture as many differing views as possible. These included:
- A BeHeard on-line survey (402 respondents)
 - 8 events were held at Special Schools for Parents across the city (179 attended)
 - Voice of the Child sessions were undertaken to capture the views of our children who travel on transport (323 children and young people)
- 3.15 Sessions were also arranged for Councillors, which included: Two Full Council meetings; 3 separate meetings for Councillors (one with MPs invited); a briefing session with shadow lead members; and an offer from the Cabinet Member for Children's Wellbeing for individual 1-2-1 sessions for any interested Councillors.

- 3.16 More information on the consultation and individual sessions is included in **Appendix D**. All responses submitted by 2nd April were considered.
- 3.17 Responses to the consultation were reviewed weekly. This meant that analysis could be undertaken as the consultation progressed and the consultation could be adjusted in order to try to make it as meaningful as possible. For example, when it was identified that there had been limited responses by elected members, additional sessions were added to the consultation in order to try and enable more involvement from members.

Outcome of the Consultation

- 3.18 The consultation was an important opportunity to discuss the current Home to School Transport policies and delivery with parents and children. It was pleasing to note that respondents broadly agreed with the Council's proposed direction of travel for the service.
- 3.19 What became clear, throughout the consultation, was that whilst the policy changes received a good level of support, respondents had specific views on, and wanted to see changes to, the delivery of the service itself. This particularly highlighted the need to continue a dialogue with parents and stakeholders, create more transparency over decision-making and delivery and ensure there are opportunities for co-production and continued engagement. It was clear that the Council must continue to create opportunities to talk through issues with parents, listen to feedback and suggestions, and understand the experiences of individual families. The Cabinet Member for Children's Wellbeing attended most of the parent sessions, and has committed to arranging further events to talk through home to school transport and other issues that parents/carers may wish to raise. More detailed information on the outcome of the consultation are included in **Appendices E, F, and G**. All of the responses to the consultation will be made available to view on the day of Cabinet.
- 3.20 It is encouraging to note that the consultation feedback received was broadly supportive of the proposed changes to the policy. This included in particular: the opportunity for parents to attend Stage 2 appeals; having a single travel assistance policy; changing the Stage 2 Appeals process to an officer rather than member panel; and only considering applications from young adults over the age of 19 who have an EHCP or exceptional circumstances and where transport assistance is deemed to be necessary.
- 3.21 With regards to the proposed change to the Appeals process, parents wanted Stage 2 to be led by professionals, who were independent, and for appeals panels to be held more regularly, as appropriate. Whilst the views of parents were very clear, it is recognised that member involvement with this service and changes regarding the wider SEND group of services is important. It is therefore proposed that the Cabinet Member for Children's Wellbeing works with elected members and provides them with opportunities to raise issues as the transformation of the service continues.

- 3.22 The majority of respondents of the Beheard Survey agreed with all but one of the proposals. This related to increasing the contribution families are asked to make towards transport for young people Post 16 (Year 12). This is proposed to be £780 per academic year (currently £600); and £390 for low income families (currently £300). This equates to an increase of £15 per month and £7.50 respectively. 48% of BeHeard respondents disagreed with this level of contribution, feeling that it placed an additional burden on the families of children with SEND, who may already be more likely to be struggling financially. However, 32% did agree with this increase in the contribution and 16% neither agreed nor disagreed.
- 3.23 Some families felt that their travel options were limited because of where their children had to travel to, to access education provision that meets their needs. As children with SEND do not/cannot always attend local provision, the issue of transport and potentially long journeys, prevent parents from taking their own children to school and using public transport. It was also felt by some parents that, as many young people with SEND have no option but to remain in education Post 16 (as they would not be able to access employment/training/an apprenticeship suitable for them) they were being penalised in having to pay a charge for transport.
- 3.24 The average cost of transport per individual is £4,800 per academic year for the service area. The increased contributions of £780 (£390 for low income families) are considerably less than the actual cost of transport which is heavily subsidised. Some parents stated that they were willing to pay an increased charge, as they valued the service and recognised that costs would increase over time.
- 3.25 The proposed level of contribution within the policy, based on the same number of young people as currently, would amount to an additional annual income of £128,500. Travel Assist currently has a potential budget pressure of over £1.7m for 2019/20. If the contribution from families is not increased, it will place greater strain on the service to find the savings from changes to delivery. The charge for transport has not been increased since its introduction (2013), whilst costs of providing transport have continued to rise.
- 3.26 Whilst the contribution for post 16 transport was seen by some as placing an additional burden on families, for others it was an incentive to begin independent travel training. Feedback from some young people showed that the introduction of a charge had a positive impact on them in this respect. More work needs to be undertaken with families to help prepare parents, and young people for adulthood. A reliance on mini-bus transport, and taxis, can present considerable problems for families once children become young adults and no longer attend educational provision.
- 3.27 The recommendation is therefore to continue with the increased contribution and consequently the attached policy document reflects this.

- 3.28 There was less concern about introducing a parental contribution of pre-school age children, with 41% of BeHeard respondents agreeing with the change. Some parents felt that greater clarity was required concerning whether the policy relates to under 5's or 'pre-school' children. In reviewing the policy, it does clearly differentiate between Pre-schoolers (0-4) and children of compulsory school age. However, a key theme of the consultation has been the need for improved communication, and further thought will be given, working with the parent/carer forum, as to how this element of the policy can be supported through improved access and information on the Council's website. However, although the majority were in favour of introducing the parental contribution, there were concerns expressed about whether this would mean parents would delay sending their children to educational provision. This is certainly a risk and the Council takes very seriously the importance of early education and support. However, the majority of pre-school children are already taken to educational provision by their families, without support from the Council, and the charge, if transport provision was awarded, remains highly subsidised.
- 3.29 Respondents were very supportive of Independent Travel Training and recognised the potential benefits of Personal Transport Budgets. Young people who had been travel trained expressed a confidence and a feeling of being very proud that they could travel independently. They had overcome 'fear'. The ability to travel independently is a key life-skill, and it is important that the policy and practise of the service enables young people to be trained, where it is appropriate, and in a way that works for them.
- 3.30 Whilst respondents were supportive of this change in the policy, comments did reveal a lack of trust. There was concern that the council would 'force' parents to choose these options. It is clear that, alongside the policy, there is a need to continue the conversations that have begun during the consultation and tackle perceptions about how the council can work alongside schools and families moving forward.
- 3.31 There is also a need to provide greater clarity on some of the specific aspects of personal transport budgets. For example, some respondents felt that a PTB would not cover the cost of transport; some felt that the money could be misused and others were not clear what the money could be spent on. More information will be available on the city council website, alongside the policy, that will respond to the comments of parents, work with the parent/carer forum, and continue to add clarity and examples/case studies to the information about personal transport budgets as appropriate.
- 3.32 Respondents agreed that the policy was clear about the responsibilities of parents to accompany their child to school, but asked that individual circumstances always be considered. They also agreed that the draft policy was clear about how decisions are made, although they wanted more detail about the actual process and asked for greater transparency about decision making.

They also agreed that it was clear when the policy, if agreed, would be implemented. Some practical issues were raised about whether it would affect families who had applied for school places next year however, as the policy does not change the criteria for statutory school-age children, this should not affect placements or the outcome of applications for transport. Some suggestions were made that the policy could be applied only to new applicants or phased in over a longer period. This would create a 'two tier' approach to transport applications in the city and add confusion to the application and appeals process. Children already receiving transport of statutory school age, will have their applications reviewed annually (as is current policy) but unless their circumstances have changed significantly, it is unlikely that eligibility for travel assistance would be affected.

3.33 The proposal for implementation is:

- From 1 September 2019 all existing grants for travel assistance will be reviewed under the new policy at least once per year, and in all cases where there is, or may be, a significant change in circumstances.
- Any changes following a review will be implemented from the beginning of the next academic term, or sooner by mutual agreement.
- Any new applications received from 1 June 2019 will be assessed under the new policy.

3.34 Annual reviews are important because as children grow up, their needs will change. This will also help to assess when and how independent travel training skills could begin to be introduced. This will enable more children and their parents to be better equipped as children move into adulthood, and ensure that those for whom it is suitable have access to support at the appropriate time.

3.35 One of the key themes that has consistently been raised throughout the consultation was concerns about where children were being educated. Currently, children with special educational needs and disabilities can be transported across Birmingham (and outside of the city) over long distances and journey times in order to access the education provision identified within their EHCP. This is not the case for children without SEND and hinders the ability of parents, particularly those who work or have more than one school age child, to transport their own children to school. It restricts the options for independent travel training; makes journey times uncomfortably long; is a key challenge to reducing the costs of home to school transport; and enabling families to take their children to school. The city must become more inclusive in our approach to supporting children with SEND, rather than relying so heavily on Special Schools and independent providers. It is an important aspect of the written statement of action (SEND) and the need to work across the school estate and with partners, particularly with current concerns about reducing budgets, to look to best practise to create more placements for children with SEND closer to where they live.

- 3.36 Other themes to come out of the consultation were the need to ensure that decision making processes are as transparent as possible. Consequently, a new Quality Assurance Framework will be introduced, which will ensure that the decision-making process is appropriate and regularly audited. Parents also felt that information about Travel Assist and SEND services generally needs to be improved, so that it is easily found on websites and accessible. Investment in the service would be welcome. Parents were particularly keen that the service improves its use of IT, and the opportunities this could provide (for example, GPS on buses). Supporting parents prior to their children becoming adults and preparing for adulthood with the right education, or broader support was crucial.
- 3.37 The Department for Education also provided advice to ensure the policy is as clear as possible. This advice has been considered and incorporated into changes to the policy, where necessary.
- 3.38 With regards to feedback concerning transparency of the decision making process, further reviews will be made of the applications forms. If the policy is approved, Officers will work with the parent carer forum to review and amend the forms to ensure they are more clear and fit for purpose.

4 Options Considered and Recommended Proposal

- 4.1 The options considered in relation to the proposed 0-25 policy are as follows.
- 4.2 Option 1
- Retain the existing policies and adopt a post-19 policy. However, the existing policies require amendment to be brought up to date with current statutory guidance, ensuring they are lawful.
- 4.3 Option 2
- Adopt the policy without any changes following consultation. This is not recommended, as feedback from consultees has suggested that some changes to the policy should be made.
- 4.4 Recommended Proposal; Option 3
- Adopt the policy with amendments following the consultation responses.
- These changes include:
- Amendments to the Post-19 section to reflect the legal position more clearly
 - Changes to the wording related to travel concessions
 - Adding the unsafe walking route eligibility category (where it may not be considered appropriate for children to walk to school due to the nature of the walking route)
 - Clarifying the academic year for post-19 eligibility

4.5 The only proposal that was questioned by the responses on the BeHeard questionnaire, was increasing the contribution for Post 16 transport provision.

4.6 As a consequence other options have been considered but were subsequently discounted for the reasons stated:

- Not increasing the contribution and leaving it at the current rate – this would cost the council an additional £128,500 each year in lost income based on the number of current users of this service.
- Increasing the charge by inflation only, based on this financial year figures. This would only amount to an additional £18,367 towards the cost of the service.
- Reviewing the entire approach to contributions, on a means-tested basis and how this could be administered. This would be a significant amount of work which would need to be undertaken over a much longer period of time.

5 Consultation

Internal

5.1 Consultations have taken place with the following:

- The Interim Assistant Director for SEND, Education & Skills Directorate
- The Interim Assistant Director for Commissioning, Education & Skills Directorate
- The Travel Assist Manager
- Safeguarding Team, Education & Skills Directorate

5.2 This report has been drafted in consultation with officers from Legal and Governance and Finance.

5.3 Staff working in related services including Travel Assist, Access to Education and SENAR.

5.4 Adult Social Care and Health Staff.

External

5.5 Consultation has taken place with the following:

- Children and Young people who use the Service
- Parents and Guardians
- Parent Carer Forum
- Schools and Headteachers
- Colleges and FE providers
- Governors
- Transport for West Midlands
- Clinical Commissioning Group
- Children's Trust
- Community and Voluntary Groups
- Early Years settings

- Training providers
- Voluntary and Community Organisations
- Formally notified the Secretary of State (statutory requirement)
- Transport Guides
- Neighbouring local authorities and other to which Birmingham children are transported (16 Local Authorities)
- 24 Transport contractors
- SENDIASS
- General Public – Social Media; Birmingham Bulletin; Press statements
- SENCO's
- Birmingham Education Partnership
- Councillors and MPs

6 Risk Management

6.1 A risk register is attached as **Appendix I** which has been carefully considered.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The recommended decisions are consistent with the Council policies, plans and strategies;

- The Council has a statutory duty to make transport arrangements for eligible children and transport arrangements that it considers necessary for those Post 16 and Post 19.
- Having access to appropriate travel assistance ensures every child is supported to attend school. Regular reviews of travel plans will support the development of increased independence where appropriate.
- Supporting educational attainment and independence helps to tackle the causes of deprivation and inequality through improving educational performance and confidence.

7.2 Legal Implications

7.2.1 The Council has a duty under Section 508A of the Education Act 1996 to promote sustainable modes of travel.

7.2.2 The Council also has a duty under Section 508B of the Education Act 1996 to make suitable home to school travel arrangements for eligible children.

7.2.3 The Council has the power under section 509A of the Education Act 1996 to make travel arrangements for children receiving early years' education otherwise than at school.

- 7.2.4 The Education Act 1996 requires local authorities to adopt and give effect to a transport policy statement dealing with young people of sixth-form age (section 509AA) specifying the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age at their place of education or training.
- 7.2.5 The Council has a duty under section 508F of the 1996 Act to make such arrangements for the provision of transport and otherwise as the authority consider necessary for facilitating the attendance of adults at their place of further or higher education, and the Council must prepare and publish a transport policy statement dealing with young adults aged 19 and over for whom an Education, Health and Care Plan is maintained (Section 508G).
- 7.2.6 The Education Act 1996 does not expressly require the preparation of a transport policy for children of compulsory school age. However, the statutory guidance says “local authorities must publish general arrangements and policies in respect of home to school transport for children of compulsory school age. This information should be clear, easy to understand and provide full information on the travel and transport arrangements. It should explain both statutory transport provision, and that provided on a discretionary basis. It should also set out clearly how parents can hold local authorities to account through their appeals processes”.
- 7.2.7 The Council is under a duty to have regard to statutory guidance issued by the Department for Education when carrying out its duties in relation to home to school travel and transport, including when making and consulting on policy changes. The statutory guidance is attached as **Appendices I and J** to this report.
- 7.2.8 There have been a number of legal challenges recently with regards to Home to School Transport provided by other Local Authorities and the quality of consultations. The consultation undertaken reflected this learning nationally, ensuring that all statutory stakeholders were consulted; and the consultation process was robust and meaningful.
- 7.2.9 The Council has a legal duty to publish the policies related to travel assistance to education provision, before the 31 May. If the proposed policy is not approved at Cabinet in April, unless a new version can be presented to May Cabinet, the council would miss the statutory deadline.

7.3 Financial Implications

- 7.3.1 The Travel Assist Service continues to face severe financial pressures in 2018/19, which it is seeking to address.

- 7.3.2 The budget for Travel Assist in 2018/19 is £18.396m and the forecast overspend at year end is £3.167m. This is largely a result of the non-delivery of savings in previous years and increasing demand for the service.
- 7.3.3 To address the underlying issue the current budget incorporates assumptions of both pressures, funding and savings, to seek to deal with the overspend going forward. In 2019/20 pressures funding of £2.200m is included in the proposed LTFP together with assumed savings of £1.718m, based on a part year effect of changes introduced in 2019/20. Savings increase to £2.488m in 2020/21 based on the full year effect of those changes.
- 7.3.4 The proposed level of contribution within the policy, based on the same number of young people as currently, would amount to an additional annual income of £128,500, which will contribute to savings assumed.
- 7.3.5 Further changes in Travel Assist and the transport policy are expected to generate total overall savings of £700,000 in a full year, which includes the £128,500 increase from contributions.

7.4 Procurement Implications

- 7.4.1 There are no implications arising from this report, as the proposed Policy will operate within the existing framework.
- 7.4.2 The service is the subject of a Commissioning Process agreed by Cabinet in December 2018. Matters related to this will be the subject of a separate Cabinet Report in due course.

7.5 Human Resources Implications

- 7.5.1 There are no implications.

7.6 Public Sector Equality Duty

- 7.6.1 An Equality Impact Assessment is attached at **Appendix H**. The EIA has identified the potential for an adverse impact on protected groups, as any changes to transport assistance could affect children and young people with SEND.
- 7.6.2 An increase and introduction in contributions towards transport, post 16 and pre-school respectively could impact financially upon families.
- 7.6.3 Mitigating steps have been taken, which include a reduced contribution for low income families; high levels of engagement with families and improved offers concerning independent travel training and planning for transition into adulthood; information for families about other sources of

support and travel concessions; and the increase in the contribution has been kept as low as possible.

8 Background Documents

8.1 List of Appendices accompanying this Report (if any):

- **Appendix A:** Proposed 0 – 25 Policy and Appendices
- **Appendix B:** Appendices to the Policy
- **Appendix C:** Summary of changes
- **Appendix D:** Consultation Summary
- **Appendix E:** Online consultation report
- **Appendix F:** Comments received during the parent sessions
- **Appendix G:** Children's Views
- **Appendix H:** Equality Impact Assessment
- **Appendix I:** Risk Register
- **Appendix J:** Home to school travel and transport guidance – statutory guidance for local authorities – July 2014
- **Appendix K:** Post-16 transport to education and training – statutory guidance for local authorities – January 2019
- **Appendix L:** Public Sector Equality Duty

8.2 Background Documents:

- Cabinet report 26th June 2018 – Travel Assist Service (Forward Plan Ref. No. 005164/2018)
- Cabinet report 11th December 2018 – Travel Assist Service (Forward Plan Ref. No 005449/2018)