

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

23 JULY 2019

REPORT BY THE CORPORATE DIRECTOR OF EDUCATION AND FAMILY SUPPORT

LEARNER TRAVEL EFFICIENCIES

1. Purpose of report

- 1.1 The purpose of this report is to seek Cabinet approval to begin a public consultation on proposed changes to the local authority's Home to School/College Transport Policy.

2. Connection to Corporate Improvement Objectives/other corporate priorities

- 2.1 The report links to the following improvement priorities in the Corporate Plan:

- **Supporting a successful economy** - we will take steps to make the county a good place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions of all people in the county.
- **Helping people to be more self-reliant** – we will take early steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services.
- **Smarter use of resources** – ensuring that all its resources (financial, physical, human and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.

3. Background

- 3.1 The local authority has a statutory duty under the Learner Travel (Wales) Measure 2008 to make suitable transport arrangements to facilitate the attendance of children each day at the relevant places where they receive their education or training. This is primarily achieved via the contracting of transport services from the private sector. Eligibility for pupils to be in receipt of free home-to-school transport is governed by the local authority's Home to School/College Transport Policy.
- 3.2 In September 2015 Cabinet determined changes to the local authority's Home to School/College Transport Policy in order to meet the Medium-Term Financial Strategy (MTFS) savings identified from 2016-2017 to 2019-2020. The policy change was implemented in September 2016. However, initial savings were predicated on a full implementation of a change to statutory distances of 2 miles for primary school-age children from the current 1.5 miles and 3 miles for secondary school-age children (including post-16 learners) from the current 2 miles. No change was proposed to nursery-age children eligibility of 1.5 miles. On implementing the

policy change, Cabinet determined to protect the entitlement of all pupils currently benefitting from home-to-school transport at the former distances until they moved schools or moved from one phase of education to another. Furthermore, protection was provided for siblings of children already in receipt at the former distances.

- 3.3 Cabinet was not minded to remove the discretionary arrangements for post-16 learners, who would therefore continue to benefit from home-to-school/college transport at the three mile distance.
- 3.4 The 'in-receipt' and the 'sibling rule' entitlement has meant that, year-on-year, the number of pupils the policy change applies to, is relatively small. However, parents have challenged this inequity and have been critical of its intention, especially as children without siblings would be disadvantaged.
- 3.5 At the same time as the Cabinet decision in September 2015, the local authority was assessing the impact of the newly released Learner Travel Statutory Provision and Operational Guidance June 2014. The guidance identifies that 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 two 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 three miles or further from their nearest suitable school;
 - assess and meet the needs of 'looked after' children in their authority area;
 - promote access to Welsh-medium education; and
 - promote sustainable modes of travel.
- 3.6 The new Statutory Provision and Operational Guidance included two additional areas for consideration:
 - the need to fully engage/consult with learners when considering the safety of routes; and
 - the need to consider the opinion of learners in relation to social danger.
- 3.7 Following the publication of this guidance, it became clear that the changes to the local authority's new Home to School/College Transport Policy approved by Cabinet in September 2015 were being challenged. On the loss of entitlement, many parents challenged the availability of walked routes to school on the basis of their safety.
- 3.8 Many parents contested the inequity in the new policy's sibling rule, primarily the impact on pupils beginning reception year and year seven, who did not have a sibling in the school and who would be impacted more than any other child. The default position from these parents was to challenge the safety of the walked route their child would have to take to school.
- 3.9 Without adequate assurances that routes considered as available by the local authority had followed the procedure outlined in the aforementioned statutory guidance, the local authority would not be able to implement its policy decision made in September 2015.

- 3.10 Therefore, in August 2017, the local authority agreed to progress assessments of walking routes in accordance with the Learner Travel Operational Guidance to identify all safe walking routes to schools.
- 3.11 The physical assessments have been progressed by an independent consultant. Physical assessments were undertaken before routes were deemed available, taken into consideration the statutory provisions contained within the Learner Travel Statutory Provision and Operational Guidance June 2014. An officer of the local authority was appointed to progress statutory consultations with schools, learners and parents.
- 3.12 As the policy change approved by Cabinet in September 2015 has not been fully implemented due to the challenges over available walking routes, this has limited the local authority's ability to make any meaningful financial savings associated with the new policy. It is important to now consider addressing the inequity in the current Home to School/College Transport Policy through consideration of further policy changes.
- 3.13 With this in mind, it is important that Cabinet consider the impact of a further potential change of policy on the delivery of transport services by independent providers.

4. Current situation/proposal

- 4.1 Table 1 below, identifies the MTFs savings and budget growth made against the learner transport budget since 2014-2015.

Table 1 MTFs savings and budget growth 2014-2015 to 2019-2020

MTFS savings	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	TOTAL
Retender learner transport contracts	250	400	100				750
Rationalise Special Education Needs transport	200	100	150				450
School transport route efficiencies		200	200	40			440
Phased implementation of Learner Transport Policy regarding statutory distances for free travel				20	67	67	154

TOTAL	450	700	450	60	67	67	1,794
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MTFS growth	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	TOTAL
Increasing costs associated with home-to-school transport, including demand for pupils with additional learning needs and demographic growth						427	427
Transport costs for the Welsh Government Junior Apprenticeship Programme						42	42
Increase in costs of learner transport due to re-tender exercise that took place in 2017-2018					81		81
TOTAL					81	469	550

- 4.2 Although there have been significant savings without fully implementing the policy change approved by Cabinet in September 2015, changes in demographics and demand have meant that additional budget growth has been necessary to support the learner transport budget. However, the budget growth confirmed for 2019-2020 does not fully address the 2018-2019 overspend budget position of £1.1m. In order to achieve a balanced budget moving forward, it is recommended that consideration be given to the implementation of additional savings associated with the learner transport budget via a policy change.
- 4.3 Cabinet previously approved a full 12-week public consultation on proposed amendments to the local authority's Home to School/College Transport Policy in September 2014 (background document refers). The outcome of this consultation reported in September 2015.
- 4.4 It is therefore proposed that a new full 12-week consultation for further amendments to the local authority's Home to School/College Transport Policy be considered by

Cabinet to commence in September 2019. Such a consultation should take into consideration the following legislative context.

Statutory responsibility to consult

- 4.5 Section 6 of the Learner Travel (Wales) Measure 2008 gives local authorities the power to make any arrangement they think fit to facilitate the travel of learners to and from a place where they receive education or training. The power applies in relation to a learner living or studying in the authority's area.
- 4.6 If a local authority chooses to make use of the section 6 power to provide discretionary transport arrangements, the local authority also has the power to remove this provision at a later date. In doing this, the authority should follow the correct procedures for withdrawal of transport provision in line with relevant policies and protocols.

Conformity with national and local guidance

- 4.7 In January 2014, the Children's Commissioner for Wales wrote to Bridgend County Borough Council to encourage pupil engagement on policy proposals, so that they are fully able to exercise their Article 12 right as outlined in The United Nations Convention on the Rights of the Child (UNCRC).
- 4.8 Article 12 identifies that children have the right to say what they think should happen and have their opinions taken into account. The convention encourages adults to listen to the opinions of children and involve them in decision-making process. However, the convention recognises that the level of a child's participation in decisions must be appropriate to the child's level of maturity. Children's ability to form and express their opinions develops with age and therefore it is considered important that support from schools is important, to articulate the proposals to pupils in a way that they would understand.

Conformity with Bridgend County Borough Council's consultation and engagement guidelines

- 4.9 The local authority's own consultation and engagement toolkit which was adopted in August 2014 provided a framework from which we developed our approach to consultation. An opportunity to respond to the survey and engage with the Council on how the public could share their views, is only delivered within the reasonable usage of the resources available. Community engagement events that will need to be arranged to support the consultation will need to be attended by senior managers, giving the opportunity for all interested parties the opportunity to engage. All documentation will need to be written in clear English, with Welsh language versions available together with other alternatives available on request including large print, braille. A letter outlining the consultation and inviting views on the proposals will be sent to every parent of every child attending all schools in Bridgend. A survey will be made available electronically, will be available at libraries, and the survey will also receive promotional support via the use of local newspapers and social media (ie Facebook and Twitter).

Conformity with the National Principles for Public Engagement in Wales

- 4.10 The views of parents since changes to the local authority's Home to School/College Transport Policy were approved in September 2015, have presented opportunities for the public to influence policy in providing feedback on the current policy.
- 4.11 There will be opportunity for the public to engage with officers at the planned public engagement sessions. Pupils will be encouraged to respond to the consultation with support from schools explaining how important their contribution will be to the consultation exercise, and that they could influence any decision in respect of the policy.
- 4.12 There will be engagement with a number of organisations including all Bridgend schools, including school councils, Bridgend College, councillors, regional AMs, local MPs, the First Minister, town and community councils, neighbouring councils, Estyn, school governing bodies, headteachers and all Public Service Board members, including South Wales Police. Furthermore, there will be engagement with Parents for Welsh Medium Education (RhAG), the Archdiocese of Cardiff, the Diocese of Llandaff, the Church in Wales and Roman Catholic Church.
- 4.13 The consultation will be jargon free, appropriate and understandable across a wide range of audiences. Information will be made available in a variety of formats and bilingually. Irrelevant information will not be presented, merely that pertinent to the proposals.
- 4.14 There will be a full range of opportunities to engage, in particular the public engagement events.
- 4.15 It is not proposed that prescriptive public meetings be held as these are often unhelpful as they do not allow for parity of engagement. The open format of the proposed engagement events is planned to help participating members of the public to understand our proposals. This proposal is based on experience, given that many attendees at public meetings do not always have an opportunity to engage fully or feel able to ask questions.
- 4.16 These engagement events will focus on obtaining the views of the public on specific issues, but on improving the general understanding of our proposals and their possible impact for individuals and communities.

Conformity with the National Children and Young People's Participation Standards for Wales

- 4.17 There are seven national standards that organisations working with children and young people should aim to meet so that children and young people have a good experience of participation. These standards promote the participation of children and young people in making decisions, planning and reviewing any action that will affect them.
- 4.18 The seven standards and how we meet the requirements of each one in respect of consultation approach are as follows:

Information - which is easy for children and young people to understand

We will ask children and young people to take part in the consultation and we will make the information presented easy for them to understand. We will send out

information in a variety of forms as identified earlier. We will talk to children and young people from school councils and Bridgend Youth Forum.

It's Your Choice - enough information and time to make an informed choice

We will ensure that through the consultation children and young people know what they are being asked to engage in.

No Discrimination - every child and young person has the same chance to participate

We will ensure that all young people from all backgrounds will be able to access relevant information and that it will be appropriately presented. We will treat children and young people with equal status as adults, especially in this particular scenario as the policy proposal impacts upon them as individuals.

Respect - Your opinion will be taken seriously

We will request children and young people's views on what is proposed. We will record what children and young people say and we will ensure that there are a variety of channels of communication and opportunities available, so that children and young people can provide their views on the proposals.

You get something out of it - You will enjoy the experience

In our consultation meetings we will welcome, value and respect the attendance and engagement by children and young people and respond to each question and query independently.

Feedback - You will find out what difference your opinion has made

The consultation report will be published following the consultation.

Improving how we work - Adults will ask you how they can improve how they work

We will incorporate lessons learned from our engagement with young people to ensure there are opportunities for the voices of our young people continue to be heard in respect of future proposals.

Conformity with Bridgend County Children and Young Person's Charter

4.19 The Charter is based on the United Nations Convention on the Rights of the Child (UNCRC) to promote and safeguard the rights and interests of all children and young people within Bridgend County. A full Equalities Impact Assessment (EIA) will accompany the consultation report that will be provided to Cabinet following any proposed consultation exercise. This will contain a summary of all 42 articles in the UNCRC although some are more relevant than others. There is no expectation in respect of the Charter that the entire convention and its relevance to the policy under review are fully understood.

4.20 The Council through consideration of this charter, works to the principle of 'Best interest'. However, this does not mean that any negative decision would

automatically be overridden, although it does require the local authority to examine how a decision has been justified and how the local authority would mitigate against the impact (in the same way as any other protected group).

Conformity with Paragraph 12 of the Children and Families (Wales) Measure 2010

4.21 Paragraph 12 of the Children and Families (Wales) Measure 2010 states that a local authority must make such arrangements as it considers suitable to promote and facilitate participation by children in decisions of the authority which might affect them.

4.22 There will be a number of opportunities, in particular through community engagement, to ensure participation by pupils.

Considering the effects of the policy proposal on the Welsh language

4.23 The Welsh Language (Wales) Measure 2011 makes provision about promoting and facilitating the use of the Welsh language and treating the Welsh language no less favourably than the English language.

4.24 The Welsh Language Measure also makes provision about standards relating to the Welsh language.

4.25 The Measure provides that the local authority, in its proposals to change a policy, considers one or more of the following:

- (a) What effects, if any, (whether positive or adverse) the policy decision would have on opportunities for other persons to use the Welsh language, or treating the Welsh language no less favourably than the English language;
- (b) How the decision could be made so that the decision has positive effects, or increased positive effects, on opportunities for other persons to use the Welsh language, or treating the Welsh language no less favourably than the English language; and
- (c) How the decision could be made so that the decision does not have adverse effects, or has decreased adverse effects, on opportunities for other persons to use the Welsh language, or treating the Welsh language no less favourably than the English language.

4.26 The local authority will consider and identify all the possible effects the policy proposal may have on opportunities for persons to use the Welsh language, or treating the Welsh language no less favourably than the English language.

4.27 Therefore, the local authority will consider relevant evidence, in order to understand the likely or actual effect of the policy decision on the Welsh language

Proposals

4.28 The local authority's current Home to School/College Transport Policy includes significant discretionary arrangements. These discretionary arrangements are unsustainable and due to the significant number of potential variations as a result of the previous Cabinet decision, the administration and legal challenge over eligibility has meant that there is significant inequity inherent in the policy and much of the

intention behind the original policy change ie to reduce the overall cost of learner transport, could not be implemented. Many of these variations were identified for Cabinet following the outcome of the consultation on the local authority's Home to School/College Transport Policy reported to Cabinet on 5 September 2015.

- 4.29 Although significant budget reduction of £1.794m have been applied to the learner transport budget to support the MTFs, the change of policy approved by Cabinet in September 2015 has not delivered significant enough savings to support this large budget reduction. Therefore, it is now recommended that Cabinet consider revisiting the following discretionary elements of the local authority's Home to School/College Transport Policy to both support the current projected over spend of £761,000 as at Quarter 1 2019-2020, to support the ongoing MTFs process and to help address the ongoing pressure against the learner transport budget from increasing statutory eligibility.
- 4.30 In proposing a new public consultation, the main aim will be public engagement, in particular, pupils and their immediate families, to attempt to ascertain their views and what might be the impact on them if the proposed changes to the local authority's Home to School/College Transport Policy were implemented.
- 4.31 Table 2 below identifies the proposals being put forward for consideration that demonstrate a potential savings.

Table 2 Approximate savings for learner transport

Proposal	Potential Saving
Removal of escorts from all taxis and minibuses (excluding those transporting pupils with special education need) of less than eight passengers	£35k
Withdrawal of transport for all learners benefitting from an identified and available (safe) routes to school in line with statutory distances of 2 miles for primary age pupils and 3 miles for secondary age pupils.	£200k
Removal of all transport for nursery pupils	£40k
Removal of all post-16 transport	£500k
Total	£775k

Removal of escorts from vehicles less than eight passengers

- 4.32 There is no statutory responsibility for the local authority to provide escorts on its school transport services. Escorts are employed by transport operators to ensure children board and alight vehicles safely and to inform the driver of any inappropriate behaviour. They are unable to intervene in any behavioural issue. On smaller vehicles, their role is considered limited, as the driver of the vehicle has generally, good overall awareness and control.

Withdrawal of transport for all learners benefitting from an identified and available (safe) routes to school in line with statutory distances of two miles for primary school-age pupils and three miles for secondary school-age pupils.

- 4.33 Following the completion of the assessments of the physical environment and consultation with schools, pupils, parents and statutory consultees (eg South Wales Police), the Authority is now satisfied that it has identified all the safe walking routes to schools in accordance with the code'. The local authority's current Home to School/College Transport Policy states that, "As routes are reviewed, provision may be withdrawn where for example, identified hazards have been mitigated against. This will then be classed as an identified and available safe walking route. Parents will be given at least one term advance notice of the withdrawal of transport and any withdrawal will normally be implemented to coincide with the start of an academic year."
- 4.34 This policy proposal will allow the local authority to withdraw routes for any pupils under two miles for primary pupils and under three miles for secondary pupils regardless of prior eligibility or the aforementioned 'sibling protection' or 'in receipt' rules.
- 4.35 For pupils attending English-medium schools, free home-to-school transport would be provided to the nearest suitable (catchment) school. For pupils wishing to benefit from Welsh-medium education, free home-to-school transport would apply to the nearest Welsh-medium school within Bridgend County Borough. Similarly, for pupils wishing to benefit from a faith-based education, free home-to-school transport would be provided to the nearest faith school within the county borough of Bridgend.

Removal of 'sibling' and 'in-receipt' protection for pupils

- 4.36 This policy proposal will remove the inequity caused by the implementation of both the 'in-receipt' and 'sibling protection' elements of the current policy, (as detailed in paragraph 3.2).

Removal of reference to specific examples of discretionary transport

- 4.37 As well as the duty to provide transport to some pupils, a local authority has discretionary powers to provide home to school transport for other learners. A local authority does not have to use their discretionary powers to provide free or assisted travel. The current policy gives specific examples of the circumstances where discretionary transport might be considered. It has been found that by giving specific examples this has become a ground for challenge by parents who believe that they are automatically entitled to discretionary transport if they fall within any of the grounds. This proposal will mean that specific examples of the special circumstances where the local authority will provide discretionary transport provided to pupils, will be removed from the local authority's Home to School/College Transport Policy. Typically, applications are received for a range of medical conditions, anxiety-related issues, emergency situations where a family may be fleeing domestic violence or living in hostels.
- 4.38 Although the local authority does not maintain a list of circumstances which support the provision of discretionary transport, it has been found that by giving examples provided in the current policy, limits the local authority's ability to consider applications in these categories.

Removal of all transport for nursery pupils

4.39 Home-to-school transport for nursery pupils is non-statutory. The local authority provides this by discretion. Observations by officers of nursery pupils travelling on buses has identified significant health and safety risks principally associated with the age of the pupils.

Removal of all post-16 transport

4.40 There is no statutory duty to provide free transport for post-16 learners to school or college. Pupils attending sixth forms in secondary schools benefit from transport from home-to-school under the same distance criteria as pupils of statutory school age ie those living more than three miles from home to the nearest suitable (catchment) school receive free home-to-school transport. Similarly, those attending further education colleges receive free home-to-college transport to the closest college offering the course of their choice, if they live over three miles from home-to-college. Sixth form pupils utilise the school buses provided for eligible pupils of statutory school age, while college learners are provided with free bus passes to make use of the public service vehicles provided by First Cymru.

5. Effect upon policy framework and procedure rules

5.1 There is no impact on the local authority's policy framework or procedure rules.

6. Equality Impact Assessment

6.1 An initial Equality Impact Assessment (EIA) screening has been undertaken and a full EIA will be provided when the outcomes of the proposed consultation are reported to Cabinet.

7. Well-being of Future Generations (Wales) Act 2015 Assessment

7.1 A Well-being of Future Generations (Wales) Act 2015 assessment has been completed. A summary of the implications from the assessment relating to the five ways of working is as follows:

Long-term	Ongoing reliance on the local authority to provide free home-to-school transport where this is not supported by national policy will have a significant impact on the ability of the local authority to support and sustain other critical services long-term. National government policy supports active travel and the reduction in the reliance on private and public transport. Benefits include the reduction in emissions, less dependence on fossil fuels and improvements to health and wellbeing.
Prevention	The proposal to remove discretionary transport is not taken lightly. However, there are current tensions in respect of the inequity in the current policy. The proposal, therefore, is for a public consultation to address the inequity in the local authority's Home to School/College Transport Policy and to ensure that further budget efficiencies.

- Integration** The local authority has a strategic role in facilitating the attendance of pupils to school where they are eligible for free home-to-school transport or where it is provided under the discretion of the local authority.
- Collaboration** The local authority works closely with schools and pupils to ensure that the needs of learners are taken into consideration in the identification and delivery of transport services.
- Involvement** The local authority intends to involve all sectors of society in consulting on its proposals. This will involve sufficient time and resources to fully identify, understand and respond to the issues identified for individuals and their communities.

8. Financial implications

- 8.1 Table 3 below summarises the financial implications associated with the recommendations contained in this report.

Table 3 Financial implications of the proposals

Financial Summary	2018-2019	2019-2020	2020-2021
Budget overspend	-£1.1m		
Budget growth		£469k	
Removal of escorts from all taxis and minibuses (excluding those transporting pupils with special education need) of less than eight passengers			£35k
Withdrawal of transport for all learners benefitting from an identified and available (safe) routes to school in line with statutory distances of 2 miles for primary age pupils and 3 miles for secondary age pupils.			£200k
Removal of all transport for nursery pupils			£40k
Removal of all post-16 transport			£500k
Total	-£1.1m	£469k	£775k

9. Recommendations

- 9.1 Cabinet is recommended to approve a 12-week consultation on the following proposals:

- removal of escorts from all taxis and minibuses (excluding those transporting pupils with special education need) of less than 8 passengers;
- withdrawal of transport for all learners benefitting from an identified and available (safe) routes to school in line with statutory distances of 2 miles for primary school-age pupils and 3 miles for secondary school-age pupils;
- removal of 'sibling' and 'in receipt' protection for pupils;

- removal from the local authority's Home to School/College Transport Policy of specific examples of the special circumstances where the local authority will provide discretionary transport;
- removal of all transport for nursery pupils; and
- removal of all post-16 transport.

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Background documents

Report to Cabinet, 5 September 2015, Learner Travel Policy