

REPORT TO CABINET

Title: **HOME TO SCHOOL TRANSPORT POLICY**

Date: 23 April 2009

Member Reporting: Councillor Mrs Quick

Contact Officer(s): Rhidian Jones, Principal Education Officer, Children's Commissioning (01628 796779)

Wards affected: All

1. SUMMARY

1.1.1 This Report invites Cabinet to consider and adopt a new Home to School and Home to College Transport Policy. The Policy is in two separate but related sections:

- a general policy for young people to the age of 16, including young people to the age of 19 with statements of special educational need from 2010; and
- a specific policy for young persons aged between 16 and 19 for the academic year 2009-2010.

1.1.2 Following revision by a cross-party Members' working group, a wide consultation of the public has taken place.

1.1.3 The Education Act 1996, s.509AA, requires local authorities to consult annually upon their 16-19 transport policy and republish them annually by 31st May, in a prescribed format. This Report fulfils that requirement.

1.1.4 Appendices are attached as follows.

Appendix 1 The proposed policy

Appendix 2 Summary of comments received

Appendix 3 Introductory letter and Schedule to the public consultation

Appendix 4 Costs of home to school transport, 2008-9

2. RECOMMENDATION: That:

i) The proposed general Policy for Home to School Transport and Home to College Transport be adopted with effect from 1 September 2010; but

ii) The specific proposals for transport for young persons aged 16 to 19 contained in section 8 and Annex C of the above Policy be adopted with effect from 1 September 2009.

What will be different for residents as a result of this decision?

Residents of the Royal Borough will be apprised of the principles and guidelines by which free or subsidised home to school and home to college travel will be made available.

3. SUPPORTING INFORMATION

3.1 Background

3.1.1 The current Home to School Transport Policy has long been in need of revision and clarification, and especially in the light of guidance published in 2007 by the Department for Education and Skills. In addition, as mentioned above, s. 509AA of the Education Act 1996 requires all authorities to revise their 16-19 policy by 31st May every year. A cross-party Members' working group met between September 2008 and January 2009 to revise the existing Policy.

3.1.2 Two significant changes are proposed to previous practice.

- 'Denominational' (church school) transport is restricted to those children statutorily entitled to it. Such children are entirely from low income groups (as defined). However, certain pupils receiving transport in September 2009 will continue to receive transport until the age of 16 as a personal entitlement. (Section 4 of the Policy.)
- Previous Policy documents have been unclear as to the eligibility or otherwise of young persons aged over 19. The proposed Policy states that eligibility will in principle come to an end at the end of the academic year in which a young person becomes 19. However, certain people over that age currently (April 2009) receiving transport will continue to receive it if they wish until the end of the academic year 2009-2010 as a personal entitlement. (Paragraph 7 and footnote of Annex C, and part 3 of the 'Transport Policy Statement' forming part of Annex C.)

3.1.3 Other changes are by way of clarification and consolidation. Amounts to be contributed by young people aged over 16 are brought up to date.

3.1.4 A parent or young person may still point out any extenuating or exceptional circumstance rendering the Policy inappropriate to the particular child. Such personal circumstances must be individually considered by Officers implementing the Policy. An appeal panel of Members will continue to be available to parents.

3.1.5 The proposed Policy is appended to this Report as Appendix 1. Annex C of the report contains the 16 to 19 proposals, and the version appended here and published for the consultation shows in red type the changes from last year. The rest of the Policy has been completely rewritten.

3.1.6 Members may wish to note that the Learning and Skills Council publishes guidance to local authorities on transport for young person aged 16 to 19, in which it says that

it is good practice to extend this provision to persons with disabilities aged up to 21 and preferably to 25. However, this guidance is not statutory. The second change mentioned above in 3.1.2 rejects this guidance.

4. OPTIONS AVAILABLE AND RISK ASSESSMENT

4.1 Options

	Option	Comments	Financial Implications
1.	To adopt the Policy as presented - recommended	Will provide a current statement of policy with cross-party agreement, aiding cost-effective and equitable decision-making by officers; will comply with legislative requirements	No additional expenditure; phased removal of denominational transport will lead in time to the saving of £98,000 at current prices; removal of post-19 will lead to a saving of £30,000
2.	To adopt the Policy but to restore denominational transport and/or post-19 transport	As above, but will increase Council spending in a discretionary area	Denominational transport accounts for £98,000 of the current budget. Post-19 accounts for some £30,000. These figures may remain stable or increase
3.	To reject the Policy as presented	Will leave officers making decisions without current guidance, resulting in less cost-effective and less equitable decisions to the Council and public; will place the Council outside requirements of Education Act 1996 s.509AA (in which case the Secretary of State for Education has powers to intervene and impose his own arrangements)	Unquantifiable with regard to loss of cost-effectiveness

4.2 Risk assessment

4.2.1 Provision of transport is statutory for certain categories of children; for others, the Council is required to exercise discretion in the face of extenuating circumstances. The existence of a policy ensures that the legislative requirements are met in principle and reviewed from time to time. The operational detail contained here allows for more consistent decision-making as to the way in which transport is provided: this is more cost-effective for the Council and more equitable for the young person and his or her parents.

5. CONSULTATIONS CARRIED OUT

5.1.1 Because of the cost to the authority and the importance to users and potential users, it was felt important to consult widely on the revision.

- 5.1.2 A public consultation was carried out between 12th February and 21st March 2009. The Policy document (Appendix 1) and an introductory letter (Appendix 3) were placed on the Council's website. A press release was issued. Advertisements were placed in the local press. Letters giving a link to the website were sent to the parents and guardians of all the young people currently receiving transport. Electronic copies were sent to the persons and organisations listed in the Schedule to the introductory letter, including all schools in the Royal Borough and others whose pupils make use of RBWM transport. The two significant changes to previous practice mentioned in section 3.1.2 above were specifically mentioned in the introductory letter.
- 5.1.3 Replies were received from 23 respondents and these are summarised in Appendix 2. Five were strongly against the restriction of denominational transport. No respondents wrote specifically against the restriction of post-19 transport, but one called for no change generally, and two felt that post-16 transport should be free without specifying an end-date. The Policy has been clarified in three places as a result of this consultation: these clarifications are shown in red type on pages 10, 22 and 29 of Appendix 1.

6. COMMENTS FROM THE OVERVIEW AND SCRUTINY PANEL

6.1.1 *To follow*

7. IMPLICATIONS

7.1.1 The following implications have been addressed where indicated below.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
✓	✓	✓	N/A	✓	✓

Financial. Appendix 4 gives the current costs of transport. It is difficult to predict which pupils will require transport in the future as such predictions would need to consider unforeseen and changing special educational needs and increases or decreases in requirement for statutory provision. As mentioned above, denominational transport currently accounts for some £98,000 of spending, and it is proposed that this be gradually phased out. Post-19 spending (not separately quantified in Appendix 4) accounts for some £30,000 of spending. However, an increase in the numbers of young people aged 16 to 19 requiring transport would inevitably lead to the post-19 expenditure increasing.

Legal. The Education Act 1996, s.509AA and s.509AB (inserted by the Education Act 2002, Sch.19) deal with the provision of transport for persons of sixth form age. S.509AA provides that local authorities must prepare for each academic year a transport policy statement complying with the requirements set out in that section.

The Disability Discrimination Act 1995 as amended by the Special Educational Needs and Disability Act 2001 makes it unlawful for local authorities and governing bodies to discriminate against disabled pupils with regard to the education or associated services provided or offered by schools. Local authorities and governing bodies have a duty not to treat disabled pupils less favourably than pupils who are

not disabled, without justification. They must take reasonable steps to ensure that disabled pupils are not substantially disadvantaged with regard to the education and associated services.

Further, Sch.19 to the Education Act 2002 amends the Education Act 1996 to include provisions requiring Councils to publish by 31st May each year after consultation a post-16 transport policy. This statement must include, amongst other things, details of arrangements for facilitation the attendance of students 'of sixth form age' with disabilities and-or learning difficulties at appropriate establishments.

The basis of the requirement to provide transport for pupils living beyond walking distance from their school is in s.444 of the Education Act 1996.

The Equality Act 2006, s. 51(2)(b) allows discrimination against persons in respect of an authority's functions in relation to transport.

Human Rights Act. The relevant convention rights under this Act are Article 2 of the first protocol (the right not to be denied an education) and Article 14 (the prohibition of discrimination). None of the articles are affected by the decision proposed in this report, and this decision does not affect any victims as defined by the Act.

Sustainable development. In terms of the Sustainable Development Policy, the recommendations in the Report will have a significantly beneficial impact upon the access to education of young people in the Royal Borough, including those with special educational needs. There will however, continue to be a negative impact arising from the use of transport, both public and private. The authority's recently published *Sustainable Modes of Travel Strategy* goes some way to address these negative impacts.

Diversity & Equality. In terms of the Council's Equality Impact Assessment Policy, the recommendations in this report will have a negative impact upon potential users of home to school transport for denominational reasons. Such an impact is not unlawful by virtue of the provisions of the Equality Act 2006, s. 51(2)(b).

Background Papers:

Home to School Travel and Transport Guidance, Department for Education and Skills, 2007

Home to school travel for pupils requiring special arrangements, Department for Education and Skills, 2004

Local Authority Transport Support Guidance, 2008/9, Learning and Skills Council, 2008

Royal Borough of Windsor and Maidenhead, Children & Young People Plan / Local Transport Plan: *Sustainable Modes of Travel Strategy*, RBWM, 2009