

REPORT TO CABINET

28 August 2019

Subject:	Education Transport Policy
Presenting Cabinet Member:	Councillor Joyce Underhill – Cabinet Member for Best Start in Life
Director:	Chris Ward, Director – Education, Skills and Employment
Contribution towards Vision 2030:	 
Key Decision:	Yes SMBC02/07/2019
Cabinet Member Approval and Date:	Councillor Joyce Underhill – Cabinet Member for Best Start in Life:
Director Approval:	Chris Ward, Director – Education, Skills and Employment: 25/07/2019
Reason for Urgency:	Urgency provisions do not apply
Exempt Information Ref:	Exemption provisions do not apply
Ward Councillor (s) Consulted (if applicable):	Ward councillors have not been consulted
Scrutiny Consultation Considered?	Scrutiny has not been consulted
Contact Officer(s):	Melanie Barnett, Group Head, Inclusive Learning, Education, Skills and Employment melanie_barnett@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Consider the outcome of the consultation and the subsequently revised Council's education transport policy.
2. Recommend that the updated Home to School/College and Adult Learner Transport Policy 2019/2020 is implemented from 2 September 2019.

1 PURPOSE OF THE REPORT

- 1.1 To consider the outcome of the statutory consultation exercise and the key changes to the proposed transport policy. The key changes will ensure that the new policy is consistent and compliant with current statutory guidance. The Home to School/College and Adult Learner Transport Policy 2019-2020 is attached as Appendix 2.

2 IMPLICATION FOR VISION 2030

- 2.1 **Ambition 3:** Our workforce and young people are skilled and talented, geared up to respond to changing business needs and to win rewarding jobs in a growing economy.
- 2.2 **Ambition 4:** Our children benefit from the best start in life and a high-quality education throughout their school careers with outstanding support from their teachers and families.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The four key drivers that underpinned our approach to the review of the transport policy are detailed below:

Statutory Compliance - Sandwell Council has a legislative duty to make arrangements for home to school travel assistance for eligible children, young people and adult learners as set out in legislation and statutory guidance. The statutory entitlements for travel assistance differ depending on the age and circumstances of the child or young person. The current policy requires amendments to ensure it is statutorily compliant.

Promoting Independence – Sandwell Council is committed to fulfilling its statutory duties towards children as detailed in the Children and Families Act 2014, and disabled and vulnerable adults who have eligible care and support needs, as defined under the Care Act 2014. Our most vulnerable must be supported and we want to be sure that they are adequately prepared for adulthood by encouraging and enabling them to access education and develop their independence.

Financial Sustainability - The policy is likely to result in an increase in the numbers of young people able to access transport assistance who have a special educational need or Education Health and Care Plan and are over the age of 16 years. This will increase budget pressures even with changes in practice but will ensure Sandwell's policy is compliant. Future financial planning is currently in development as part of the Medium Term Financial Plan process.

Environment – Sandwell Council is committed to encouraging sustainable travel to and from school and college as detailed in the Sustainable Modes of Travel Strategy in Sandwell which was updated in 2018. The proposed policy has an emphasis on the use of sustainable travel modes.

3.2 The main considerations and key changes to the policy are detailed below:

- Emphasis on developing independent travel skills and use of sustainable travel modes
- Includes provision for exceptional circumstances
- SEN transport is now consistent for those in school and in college aged 16+.
- Includes reference to denominational schools/academy schools as for other pupils. Clarifies parental responsibility for transport if attending preferred school
- Policy for SEND aged 19-25 is now consistent and allows for Sandwell to assess whether transport is necessary having considered other transport options
- Consistent appeals process
- Annual reapplication process to ensure that assistance is reviewed, and most appropriate assistance is provided whilst considering the need to promote independence.

4 THE CURRENT POSITION

4.1 Currently there are two operational transport policies in use in Sandwell i.e. Home to School Transport Policy and SEN Transport Policy however the proposal is for one policy which will cover Home to School /College and Adult Learner Transport Policy. Having one policy will ensure that all children and young people are equally considered in terms of eligibility of assistance in Sandwell.

4.2 The main considerations and key changes to the policy are detailed above. The current position and the current implications for the local authority are as follows:

- (i) **Emphasis on developing independent travel skills and use of sustainable travel modes**
Developing independent travel skills is currently in place however the proposed policy details more specifically the requirements for this to be considered at the transition from year 6 to year 7 (transition year to secondary school). All children will be expected to undertake travel independence training unless they are assessed by professional advisors, as being unlikely to benefit from such training. The travel training programme will only be offered to those pupils who have been assessed as suitable to take part. This will ensure that the local authority is actively promoting and supporting independence.
- (ii) **Includes provision for exceptional circumstances**
In the current policy this is not specific in terms of what would be classed as exceptional circumstances. This has been rectified within the new proposed policy which will ensure clarity for families as well as decision makers.
- (iii) **SEN transport is now consistent for those in school and in college aged 16+**
The current policy is not consistent in terms of this area and, as such, could have been open to challenge.
- (iv) **Includes reference to denominational schools/academy schools as for other pupils**
The current policy is not consistent in terms of this area and, as such, could have been open to challenge.
- (v) **Clarifies parental responsibility for transport if attending preferred school**
The current policy does not succinctly clarify the parental responsibility in this area. The new policy provides that clarity.
- (vi) **Policy for SEND aged 19-25 is now consistent and allows for Sandwell to assess whether transport is necessary having considered other transport options**
Sandwell Council has a duty to encourage, enable and assist the participation of young people/adult learners with special educational needs and disability up to the age of 25 in education and training. The proposed policy clearly documents how the local authority will determine if assistance is necessary and the considerations it will make in informing that decision.

(vii) **Consistent appeals process**

The appeals process within the current two operational policies are not aligned. Creating one policy will ensure consistency in terms of the process of appeal dependent on whether the child or young person has a special educational need or Education, Health and Care Plan.

(viii) **Annual reapplication process to ensure that assistance is reviewed, and most appropriate assistance is provided whilst considering the need to promote independence**

Currently the requirement to review the assistance provided is not detailed within the current policy. The new policy should provide a more appropriate and cost-effective level of assistance which can be reviewed on a regular basis.

5 **CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

5.1 The consultation ran from 12 June 2019 until 22 July 2019 which is in line with the 2014 Statutory Guidance on home to school travel and transport. Individuals and organisations directly affected, relevant stakeholders and other interested parties were notified of the proposed changes to the Home to School Transport Policy by letter or email and were encouraged to take part in the consultation. This included:

- Parents / carers of pupils who are currently provided with travel assistance. All parents received an individualised letter to their home address. A total of 667 letters were sent
- Headteachers of all schools in Sandwell
- Elected Members of Sandwell Council
- Members of the SEND partnership board.

Details of the consultation were also publicised on the Sandwell Local Offer.

5.2 Consultees were asked to respond to the consultation via the Council's website. In addition, the option was also provided for a paper copy of the consultation. In total there were 46 responses via the online consultation however not all respondents answered all the questions. The full detail from the responses can be found at appendix 1. As a result of the consultation a number of actions/amendments have been identified:

- Amendments have been made to the policy document to provide clarity that any review of transport assistance would be part of the annual review for children with an EHCP and for children with SEN (without and EHCP) every 12 months – the first review being 12 months after transport commences.
- A leaflet will be developed to inform parents of personal transport budgets which will also be available on the Sandwell Local Offer.
- Clarity will be included in the policy regarding personal budgets i.e. they will only be offered as a form of assistance with parental consent.
- The appeals section of the policy will stipulate that any officers dealing with the appeal would not have been involved in the original decision-making process.
- A child friendly document related to travel assistance will be produced.

6 ALTERNATIVE OPTIONS

- 6.1 Do nothing. This was disregarded on the basis that the current policy is not compliant with latest statutory guidance and fit for purpose in terms of reviewing changing needs.
- 6.2 Charge for transport assistance or request a financial contribution from parents/carers. However, this would require a much longer consultation period and a full engagement process due to the potential financial impact that this would have on families. This option was disregarded at this stage. However, this will be considered as part of a further review which will be undertaken in 2020.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The Council has a statutory duty to provide transport assistance to eligible pupils with SEND. The existing budget has seen significant pressures since the enactment of the SEND Reforms, which is covered by Section 3 of the Children and Families Act 2014 and the SEND Code of Practice 2015. These pressures are being reported through the regular budget monitoring reports to Cabinet and will be managed through the budget planning process.
- 7.2 This revised policy is likely to result in an increase in demand for assistance being provided to young people who have a special educational need or Education Health and Care Plan who are over the age of 16 years but the financial impact cannot be estimated at this stage. This situation will be closely monitored and will be reported back to Cabinet through the regular budget monitoring reports.

- 7.3 The revised policy will enable the council to be as cost efficient as possible, increasing the numbers of young people who may be able to travel independently, seeking to maximise the use of resources through personal budgets and clarifying what constitutes a 'special circumstance' for exceptional expenditure.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 There is statutory guidance from the Department for Education which local authorities are under a duty to have regard to it when carrying out their duties in relation to home to school travel and transport, and sustainable travel. The guidance is issued under duties placed on the Secretary of State by sections 508A and 508D of the Education Act 1996 (the Act). It deals with sections 508A, 508B, 508C, 509AD, and Schedule 35B of the Act which were inserted by Part 6 of the Education and Inspections Act 2006 (the EIA 2006). Legal advice was sought from the Sandwell Council legal department who reviewed the policy to ensure legal compliance. The Council must have due regard to the relevant Statutory Guidance when carrying out its duties in relation to home to school travel and transport, and sustainable travel. Under the Statutory Guidance, Local authorities are required to consult widely on any proposed changes to their local policies on school travel arrangements with all interested parties. Consultations should last for at least 28 working days during term time. The Council's consultation complies with the requirements of the Statutory Guidance. Section 509AD of the Education Act 1996 requires the Council to have regard to, amongst other things, a parent's wish for their child to be provided with education or training at a school/institution on grounds of the parent's religion or belief when carrying out their duties/exercising their powers relating to travel. Paragraph 39 of the Guidance referred to above sets out the basis for compliance with these duties/powers, requiring the Council to have due regard to the provisions of the Equalities Act 2010 and the European Convention on Human Rights.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 An Equality Impact Assessment initial screening has been undertaken and the outcome is that full Equality Impact Assessment is not required.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 There are no data protection implications arising from the proposal.

11 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 There are no crime and disorder implications arising from the proposal.
- 11.2 The Corporate Risk Management Strategy (CRMS) has been complied with – to identify and assess the significant risks associated with this decision/project. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks.
- 11.3 The key risk associated with not implementing the proposed change in policy, is failing to comply with statutory guidance.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 As highlighted throughout this report Sandwell Council has a legislative duty to make arrangements for home to school travel assistance for eligible children, young people and adult learners as set out in legislation and statutory guidance. It is recognised that some parts of the current system for arranging transport are not as effective and efficient as they should be. As a result of this and a realignment of teams a Transport Officer post has been created within the Special Educational Needs team. Alongside the work that has been undertaken in writing the policy an operational group has also been in place who have been developing/revising forms and processes. Subject to the approval of the new policy there will be additional training provided for staff and regular monitoring and audit of the effect the new policy and processes are having.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The Council supports independent travel wherever possible to increase young people's independence and develop life skills required in adulthood as set out in the SEND Code of Practice. As the young person develops their skills they will travel more and more of the journey on their own, until they are travelling and completely independently. It is important for children and young people to develop these skills to develop confidence, preparation for further education or employment and the development and maintaining of new friendships.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 There is no impact on council managed property or land.

15 **CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 The local authority has a duty to provide assistance. An updated transport policy is required in order to ensure that Sandwell is statutorily compliant and also to ensure that the Council continues to promote independence for children and young people in preparation for adult life. The proposed annual review process will also ensure that the right assistance is provided in the most cost-effective way. The new policy highlights more clearly what that assistance looks like and how this will be assessed and reviewed.

16 **BACKGROUND PAPERS**

16.1 Sustainable Modes of Travel to School Strategy

http://www.sandwell.gov.uk/downloads/file/28553/smbc_sustainable_modes_of_travel_to_school_strategy_-_2018_interim_update

http://www.sandwell.gov.uk/downloads/file/28654/send_transport_policy_consultation_document

17 **APPENDICES:**

Appendix 1: Outcomes of public consultation

Appendix 2: Home to School/College and Adult Learner Transport Policy 2019-2020

Chris Ward
Director – Education, Skills and Employment