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| <b>7 July 2020</b>   |                             | <b>ITEM: 11</b> |
| <b>Children’s Services Overview and Scrutiny Committee</b>                                       |                             |                 |
| <b>Thurrock Council Home to School Travel and Transport Policy – Update</b>                      |                             |                 |
| <b>Wards and communities affected:</b><br>All  | <b>Key Decision:</b><br>N/A |                 |
| <b>Report of:</b> Temi Fawehinmi, Contract and Performance Manager                               |                             |                 |
| <b>Accountable Assistant Director:</b> Michele Lucas, Assistant Director of Education and Skills |                             |                 |
| <b>Accountable Director:</b> Sheila Murphy, Corporate Director of Children's Services            |                             |                 |
| <b>This report is public</b>   |                             |                 |

### **Executive Summary**

School travel is primarily the responsibility of parents. However, the Council has a statutory duty to make home to school travel arrangements, free of charge, for eligible children. The Council is responsible for the design and adoption of a policy setting out the guiding principles around such home to school travel.

The Department for Education’s Home to School Travel and Transport Guidance, 2014 (“the 2014 Guidance”) states that local authorities must publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age (ages 5-16). Such policies must provide full information on the travel and transport arrangements and explain both statutory and discretionary transport provision.

In order to deliver a cost effective service within statutory requirements the Council adopted the Education Transport Policy in 2016. Hereinafter referred to as “the 2016 Policy”. In line with the 2014 guidance the policy should be reviewed on an annual basis and where necessary undergo minimal adjustments that will ensure the policy meets the changing needs of children and families within the borough, recognises the impact of improved highways and paths and implements amendments to legislation.

Due to the borough-wide impact of certain proposed changes, Cabinet approval is required. The updated policy will be referred to as the Home to School Travel and Transport Policy “the 2020 Policy”. The change in title indicates one of the principle requirements for change as the arrangements made by local authorities are no longer focused on the historical forms of transport (buses and taxis) alone, but involve more sustainable council-led arrangements for travel such as assistance to

walk to school, the provision of bus passes or bicycle vouchers. This report outlines the areas of the 2016 Policy that have been reviewed, the reasons for these and the proposed changes.

## **1. Recommendations**

**That O&S recommend to Cabinet the proposed policy refresh to the 2016 policy. That O&S recommend that Cabinet agrees and adopts the proposed refresh of the policy with specific reference to the three areas listed below:**

- 1.1 That families in Temporary Accommodation for more than three months be asked to transfer their children to a school with a place that is nearest to the home in which the family has been placed.**
- 1.2 The implementation of a charging regime in respect of for transport to Post 16 facilities for pupils aged 16-25 with SEND. Pupils will be required to pay the full cost or make a contribution towards the cost of transport. This service is discretionary and the Council may charge for the delivery of such transport.**
- 1.3 That transport be delivered, in accordance with legislation, only when there is no suitable school with a place available within the maximum walking distance from the child's home (two miles for pupils under the age of 8 and 3 miles for pupils over the age of 8)**

## **2. Introduction and Background**

- 2.1 Local authorities are required by law to publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. The 2014 Guidance stipulates that such travel and transport information should be clear, easy to understand and provide full information on 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. Local authorities should ideally integrate their Sustainable Modes of School Travel strategies into these policy statements, and publish them together.
- 2.2 In July 2016, Cabinet granted approval for the 2016 policy to be added to the Council's policy framework by virtue of Article 4 of the Council's Constitution.
- 2.3 Officers propose that the 2016 Policy be refreshed. This will involve a refresh of the language to ensure it reflects current terminology and practice, a reconfiguration of certain sections with a view to creating a more user-friendly document and the inclusion of new clauses that reflect changes to legislation. The new clauses facilitate the delivery of a safer, more efficient and cost effective Children's Transport service.

2.4 The 2014 Guidance stipulates that Local authorities should 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. Officers organised a public consultation across 33 days via the Council portal in line with the 2014 Guidance. A summary of the consultation and the responses to it have been included in Appendix 1.

The areas officers propose to update and the relevant consultation questions are listed below.

| Proposed change and purpose  | Question   |
|--|--|
| <p><b>Temporary Accommodation</b></p> <p>To support children to enrol in local schools when they are housed in an area for over three months and that area is above the maximum walking distance (2 miles for ages under 8 and 3 miles for ages 8 and above). Children are enabled to avoid lengthy journeys and also to develop local social networks.</p>  | <p>Do you think the Council should make families living in temporary accommodation for more than 3 months apply to a school near the place they have been given temporarily in order to avoid long journeys to school?</p>   |
| <p><b>Charging post sixteen students with special needs:</b></p> <p>To provide transport to a Post 16 facility for either the full cost or the payment of a contribution towards the cost of transport. This applies to pupils aged 16 - 25 with SEND. The Council has no statutory duty to provide Post 16 transport and where it exercises its discretionary power it may charge for services rendered. This facilitates effective management of public funds while supporting pupils with SEND.</p> | <p>Do you think that Thurrock Council should charge the families of students aged 16 - 18 with SEND for transport to and from college or other post 16 facilities?</p>   |
| <p><b>Applying for a school place</b></p> <p>To ensure the Council delivers Home to School Transport equitably across all economic classes, academic levels and protected characteristics offering families support in accordance with legislation only when there is no suitable school with a</p>  | <p><u>Part A:</u><br/>Do you think that the Council should make it very clear to parents that in order to receive support with transport they must apply to:</p> <ul style="list-style-type: none"> <li>- the three nearest schools to their home address in the case of applications for a primary school place.</li> </ul> |

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| <p>place available within the maximum walking distance from the child's home.</p> | <ul style="list-style-type: none"> <li>- the six nearest schools from their home address in the case of applications for a secondary school place.</li> </ul> <p><b>Part B:</b><br/>Sometimes we have to place a child at a school because there are no places at their nearest suitable school. The distance to the next suitable school available is such that the child is entitled to transport. If a place later becomes available at a suitable school near their home address, should the Council stop paying for the transport and expect the child to move back to their neighbourhood school?</p> |
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### **3. Issues, Options and Analysis of Options**

- 3.1 Local authorities are advised by the Department for Education ("the DfE") to consult widely on any proposed changes to their local policies on school travel arrangements with all interested parties. Thurrock Council has embarked on a full consultation between 11 February and 26 March 2020, with a focus on proposed changes to the 2016 policy. The time span for the consultation exceeded the period of 28 working days recommended by the DfE.
- 3.2 Good practice suggests that where possible, parents should be supported when any changes are introduced as such changes might have an adverse effect on individual family budgets. Thurrock Council consistently addresses this issue by exercising discretion under its Exceptional Circumstances scheme, which supports families who may be adversely impacted by changes implemented during their child's current stage of education. Officers have also conducted a Community Equality Impact Assessment to ensure particular groups within the community have not been marginalised by a particular change in policy.

### **4. Reasons for Recommendation**

- 4.1 The 2014 Guidance states that Local authorities are required by law to publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. The proposed update of the information regarding education transport and travel within the Policy will provide parents, officers and interested parties with a legally compliant, user friendly document and a swift means of sourcing information around home to school transport.

However, three specific areas require an update to ensure the Council delivers services efficiently, cost-effectively and most importantly, in

accordance with current legislation and DfE Guidance. The areas and the purpose for recommending that the areas be subject to an update are included in the table above.

## **5. Consultation analysis**

- 5.1 In January 2020, the Director of Children’s Services granted approval for officers to undertake a public consultation involving families, schools and a wide range of stakeholders to seek the views of interested parties on the proposed changes to the 2016 Policy. This can be found at Appendix 1.

## **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 The 2020 Policy caters for a wide range of issues and consideration was given throughout to ensure that the content of the policy aligned with legislation and corporate policy. The impact on direct users and the community at large was also considered. Where possible any tendency towards adverse impact was either eradicated completely or mitigated. Families receiving certain state benefits have extended rights to free transport under the 2014 Guidance. Also, families whose overall income level places them just above the threshold for qualifying benefit who may struggle to pay for transport may be supported via the Exceptional Circumstances scheme. This enables such families to remain employed and aligns with the Council’s priority aimed at encouraging and promoting job creation and economic prosperity.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **David May**  
**Strategic Lead, Finance**

Current primary pupil growth is causing significant pressure on the statutory element of the Home to School Transport budget. This is due to the fact that the Council is at times unable to place a pupil in a school within a three mile radius. In such cases, the Council has a statutory duty to transport the pupils involved and to bear the cost of the transport.

### **7.2 Legal**

Implications verified by: **Lucinda Bell**  
**Education Lawyer**

The Education Act 1996 in Section 508B, sets out the Council’s duties relating to school transport and makes it clear that free transport only has to be

provided for “eligible children” and these include disabled children and those from low income families entitled to benefits.

Local authorities have discretionary powers under Section 508C of the Education Act 1996 to make arrangements for those children not covered by Section 508B. A local authority has discretion to provide transport for children who are outside of the statutory eligibility criteria and where such transport is provided to make a charge for it. There is no requirement for these discretionary arrangements to be provided free of charge. However, if a local authority decides to levy charges this should be made clear in the school travel policy documents.

The Equality Act 2010 imposes a duty under s149 on the Council to have “due regard” to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act. S149 also requires that the Council have “due regard” to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

This involves having due regard to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(4)); and
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Section 149(6) makes it clear that compliance with the PSED in section 149(1) may involve treating some people more favourably than others. However, that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Equality Act 2010, (this includes breach of an equality clause or rule or breach of an non-discrimination rule (section 149(3) and section 149(8), Equality Act 2010)

The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it (section 149(1) (c)). This includes having due regard to the need to tackle prejudice and to promote understanding (section 149(5), Equality Act 2010).

Local authorities should also 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 Authority must have regard to the DfE’s Home to School Travel and Transport Guidance, 2014. Legal services have worked closely with officers

in consulting on the proposed changes to policy and the proposal to update the 2016 Policy. They have also advised on the consultation and duties under the Equality Act 2010.

### **7.3 Diversity and Equality**

Implications verified by: **Natalie Smith**  
**Strategic Lead, Community Development and Equalities**

A public consultation has been held around the changes to the proposed changes to the 2016 Policy. It enabled all stakeholders to engage in dialogue with Thurrock Council regarding a range of Education Transport issues. The consultation was held over a period of time that met the timeframe recommended by the DfE. The consultation also provided the empirical evidence required by Council officers to seek Cabinet approval of the proposed update of the 2016 Policy. A Community Impact and Equality Assessment has also been carried out in order to ensure that proposed changes to the 2016 policy have an overall positive equality impact as all children will be treated equally regardless of their religion, belief, or their ability.

### **7.4 Other implications**

#### **7.4.1 Impact of local population growth on school places and transport policy**

The growth of the population within Thurrock has led to an increasing demand for school places. This population growth and changing need within the borough may require us to review the policy more often than the annual review. Any changes will be subject to approval via the Council's governance process.

### **8. Background papers used in preparing this report**

Cabinet Report dated 13 July 2016– The report sought (and was granted) approval of the original policy entitled the Education Transport Policy, 2016

### **9. Appendices to this report:**

- Home to School Transport Consultation Summary (Appendix 1).

#### **Report Author:**

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