

13 March 2024		ITEM: 20 Decision: 110715
Cabinet		
Home to School Travel and Transport Policy 2024-25		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor Adam Carter, Cabinet Member for Education		
Accountable Assistant Director: Michele Lucas, Assistant Director Education and Skills		
Accountable Director: Sheila Murphy, Executive Director – Children’s Services		
This report is Public		
Version: Final / Cabinet		

Executive Summary

The Department for Education published revised Statutory Guidance in June 2023. The Travel to School for Children of Compulsory School Age statutory guidance 2023 replaces the 2014 statutory guidance.

Parents and carers are responsible for ensuring their child attends school and must take all the action necessary to enable their child to attend school. 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 the policy ensuring that it complies with the law.

As a result of the proposed changes, approval by Cabinet is required. The updated policy will be referred to as the Home to School Travel and Transport Policy “the 2024-25 Policy”. This policy replaces the Home to School Travel and Transport Policy 2021.

The proposed policy looks to introduce the following changes:

1. Publish separate policies for mainstream and SEND transport.
2. Include a Travel Assistance Budget within each policy.
3. Remove the requirement for parents to apply for the three nearest primary schools and six nearest secondary schools to the home address for mainstream pupils and replace with the ‘nearest school’ to the home address.
4. Include a parent contribution towards SEND Post 16 travel which will be detailed within the Post 16 statement published annually.

The Home to School Travel Policy was last updated in 2020 and a report was presented to Cabinet on 22nd July 2020. Cabinet approved the revised policy along with a recommendation to introduce a contribution towards SEND Post 16 transport.

Commissioner Comment:

Commissioners have been consulted on the content of this report and agree with the recommendations made.

Recommendation(s)

The proposed recommendations below to commence from 1st April 2024 for the start of the academic year 2024/25 for new families applying for travel assistance.

- 1.1 Cabinet agrees and adopts the new individual SEND and Mainstream Home to School Travel and Transport Policies 2024-2025 for statutory school age pupils aged 5 to 16 years.**
- 1.2 Cabinet agrees to implement a weekly parent contribution towards SEND Post 16 travel assistance each year of £23.69, this is reduced to £11.85 for low-income families.**

2. Introduction and Background

- 2.1 The guidance states that we must publish our policy on our website for compulsory school aged children and ensure paper copies are available if requested. The policy should be easy for parents to read and understand. The policy should be regularly reviewed to ensure it continues to meet local needs and comply with statutory requirements. Information about the policy should be included within the school's admissions booklets to enable families to be fully informed when applying for schools. We must ensure the policy includes information for parents on how to appeal decisions in relation to travel to school for their child.
- 2.2 The revised guidance states that families must apply for their nearest school to the home address measured using the Council's 'Datamap' system which measures shortest walking distance. This measurement is different to how the nearest school is measured for school admissions. If a place cannot be offered, then we would offer the next nearest school with spaces and families may become eligible for transport if the eligibility criteria is met. If a closer school becomes available later, the Council should not withdraw the child's home to school travel, because moving to the nearer school would be likely to cause significant disruption to their education. This would therefore potentially financially impact the Council. Within the current policy parents must apply to their three nearest primary school or six nearest secondary schools and remain on the waiting list for closer schools. This would be removed from the new policy based on the statutory guidance as the Council cannot expect children to move if offered a closer school.
- 2.3 The 2024 Guidance stipulates that Local authorities should consult widely on any proposed changes to their local policies on school travel arrangements with all interested stakeholders to include Parents, Schools and Local Family Forum. Consultations should last for at least 28 working days during term time. Officers organised a public engagement via Council's online 'Have my Say' portal. The consultation was run for a total of 28 term days. The consultation opened on 29th November 2023 and closed on 19th January 2024. A summary of the consultation and the responses to it have been included in Appendix 1a and 1b.

- 2.4 Officers propose that the 2021 Policy be updated in line with the revised statutory guidance. This will include creating two policies, one for mainstream eligibility and one for SEND eligibility with links to each other in both policies. This proposal is presented following feedback from the consultation where a total of 124 respondents across both consultations felt there should be separate policies for SEND and mainstream travel assistance. Across both consultations 144 respondents also felt there should be an easy read version of each policy for parents. We believe that by having separate policies it will support families to find the information relevant to them. The details within both policies will be clear and easy for parents to understand and the criteria used to assess whether a child is eligible for free transport. This will include examples of any evidence required to support the application, for example medical evidence.
- 2.5 The Council is responsible for promoting sustainable travel to school and deciding what travel arrangements to make, provided they are suitable for the needs of the children. The council propose to include along with current travel arrangement options, a travel assistance budget available to parents with their consent which provides free travel. This budget would be paid to a parent upfront. A Travel Assistance Budget gives families the freedom to make decisions and arrangements about how their child/young person will get to and from school or college each day. The travel budget is calculated by the number of miles from the home address to school x 45p (HMRC mileage rate) and is paid for a total of 4 trips per day covering school drop off and pick up. Of the 106 responses to this question, 78 respondents said this should be included.

The travel assistance budget could be used in several ways, such as:

- Pay towards the running costs of the parents own vehicle.
- Enables the parent to arrange their own locally sourced transport.
- Allows the parent to pay friends/family to take their child to school.
- Can be used to pay towards childcare for a younger sibling allowing the parent to take their other child/ren to school.

2.6 SEND Post 16 Travel Assistance proposed contribution.

- 2.7 There have been no changes to the statutory guidance published in January 2019 relating to SEND Post 16.
- 2.8 The duty placed on the Council in respect of the provision of travel assistance to post 16 students requires a transport policy statement to be prepared and published in each year, by 31 May, detailing the provision being offered to SEND Post 16 young people.
- 2.9 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 the Council can charge a contribution or full cost for the transport. There is no requirement for these discretionary arrangements to be provided for free. The council is seeking a contribution not a full cost recovery.
- 2.10 In July 2020, a report was presented to the Council's Cabinet. At that meeting Cabinet approved the introduction of a contribution towards Post 16 transport. However, given the time that has lapsed, officers felt this should be re-consulted on with stakeholders. Of the 56 responses, 43 responders felt that they should not contribute towards their child's transport costs.

2.11 Financial Support for Families – The 16-19 bursary fund

The Department for Education has made funding available to educational institutions to support the most financially disadvantaged 16 to 19 year olds and those young people who most need help with the costs of staying in education. Parents must apply directly to the academy, school, college, or other training provider. The bursary is available to help with the cost of travelling to school or college. Funding is available for low income families up to a total of £1,200 per academic year. This funding can be applied for which can be used towards the parents contribution towards transport.

2.12 Independent Travel Training

The council wants to support and encourage independence for as many SEND young people as possible, depending on their level of need and support required. We recognise that travelling independently will not be suitable for all young people and therefore every SEND Post16 young person will be assessed individually.

2.13 The Council is experiencing increased pressure on the budget available for Home to School Transport. Currently the Council has funded all SEND Post 16 transport. However, given the increase in children with Education and Health Care Plans (EHCP) and an increase in the number of eligible children requiring travel support that are of statutory school age, the Council must remain within its allocated budget and is therefore proposing parents contribute towards their young person's travel at Post 16 as the Council does not have a statutory duty to provide free travel for young people between the age of 16 to 19 years. From the age of 19 to 25, the Council has a responsibility to provide free travel if the young person has an Education and Health Care Plan and is continuing a course started before their 19th birthday.

2.14 A benchmarking exercise has been undertaken to identify how many local authorities obtain a contribution and how much parent contribute for the academic year. There are six of the ten eastern region statistical neighbours that responded to our benchmarking survey who charge a parent contribution for SEND post 16 transport. The contribution rates range between £594 and £1554 for the academic year per child.

2.15 As part of the feedback from the consultation 19 of the 56 responders said there should be a means-tested system where the contribution is based on the family's income.

2.16 The Council is proposing a weekly contribution of £23.69 per child, reduced to £11.85 for low-income families. Families will have several payment options available which will include monthly, termly or annually. For example, a parent contributing the full rate equates to £81.83 per month paid over 11 months. A parent on low income equates to £40.93 per month paid over 11 months. There are 65 days per term, 38 weeks across an academic year, a total of 190 school days in the academic year.

2.17 There are currently 101 Post 16 students that are transported to their place of education. There is a 2024/25 budget saving of £37,000 on Post 16 transport which will be implemented from September 2024. There are currently 32 families that are assessed as low income and would be required to contribute a reduced amount of £11.85 per week. There are 69 families not on low income that would be required to contribute the higher weekly amount of £23.69. The number of Post 16 students is likely to change from the current 101 once the new academic

year start in September 2024. The savings target is forecast to be achieved based on the current numbers of post 16 students receiving transport.

- 2.18 The current average cost per student each academic year is £6,631 for students attending local Post 16 provision. For students attending out of borough Post 16 provision, the average cost per student is £16,015 per academic year. This proposed change to the policy will affect all applications for travel assistance to Post 16 provision from 1st April 2024.

3. Issues, Options and Analysis of Options

- 3.1 **OPTION 1** - Do nothing. This is not an option. The revised statutory guidance means that we must update our policy. The Home to School Transport budget spend is increasing as more children of compulsory school age and those children with Education and Healthcare Plans move into Thurrock are eligible for travel assistance.
- 3.2 **OPTION 2** – Accept the proposed changes outlined in section 2.15 and introduce a contribution towards SEND Post 16 travel.
- 3.3 The council does not have a statutory duty to provide free Post 16 transport for students aged 16-19.
- 3.4 Nine of the ten eastern region statistical neighbours that responded to our benchmarking survey include a parent contribution within their SEND Post 16 policy statement. The contribution rates range between £445 and £1554 for the academic year per child. For low-income families the contribution rate is reduced.
- 3.5 Families on low income can apply for financial support, known as the 16-19 bursary fund. Families apply directly to colleges for this support.

4. Reasons for Recommendation

- 4.1 Option 2 is the recommended option. This recommendation would bring Thurrock in line with other council's that have already introduced a contribution towards SEND Post 16 transport.
- 4.2 Any contributions would support financial pressures each year as we see an increase in eligible children of compulsory school age requiring travel assistance.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 A full stakeholder engagement started on 29th October 2023 and closed on 19th January 2024.
- 5.2 There was a total of 56 responses to the consultation for SEND Post 16 travel assistance and a total of 106 response to the Home to School Travel for 5-16 years consultation. The table below shows a breakdown of positive and negative responses to the proposed policy changes:

Proposed change	Category	Number of Responses
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	Ensure policy is clear in relation to nearest school to home address	Positive	87
		Negative	18
5.3	Separate Policies for mainstream and SEN travel assistance	Positive	80
		Negative	10
		Not sure	16
	Include a travel assistance budget within the policy	Positive	78
		Negative	28
	Should families contribute towards SEND Post 16 travel	Positive	13
		Negative	43

Analysis of the comments provided show that families are mostly concerned about the financial impact this will have on them given the cost of living at the present time. Respondents also feel that there should be means testing of income. This is mitigated by including a lower contribution for families that are on low income.

5.3 A report was presented to Children’s Overview and Scrutiny on 12th March 2024.

5.4 A benchmarking exercise was undertaken with Eastern Region Local Authorities in relation to SEND Post 16 contribution towards travel to school/college.

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

6.1 This report impacts on the following corporate priorities:

- People: a place where people of all ages are proud to work and play, live and stay.
- Place: a heritage rich Borough which is ambitious for its future.
- Prosperity: a Borough which enables everyone to achieve their aspirations.

6.2 There will be a financial impact on families with SEND Post 16 children who would not have been required to contribute to their child’s travel to school/college in previous years.

6.3 The proposed contribution will impact 101 Post 16 students currently receiving transport, however this number fluctuates over the year. Of the 101 students, 32 are from a low income family.

7. Implications

7.1 Financial

Implications verified by: **Joanne Freeman**
Head of Finance

1st March 2024

Current primary pupil growth is causing 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 until they complete their primary or secondary education.

Home to school transport costs have increased from £3.8m in 2020/21 to a projected cost of £5.5m in 2023/24. The policy reflects the statutory requirements that will support the management of costs within the funding envelope available.

There is not a statutory duty on the Council to financially support post 16 SEN transport. The assumed level of income has been modelled on the current number of pupils in scope (as set out in paragraph 2.17) and adjusted to allow for pupil movement between settings at the start of the academic year. The full year effect of the expected level of income is expected to be £0.063m and will be realised across two financial years; Implement charge in September 2024 and generate £0.037m in financial year 2024/25 and remaining £0.026m in 2025/26.

This proposal has been included in the 2024/25 revenue budget, agreed at Full Council on 28th Feb 2024.

The contribution will need to reviewed each year to ensure it takes account of any inflationary changes.

7.2 Legal

Implications verified by: **Daniel Longe**
Principal Solicitor on behalf Thurrock Council

13th January 2024

This legal implication has been prepared without sight of the proposed new policies to which they relate (the 2021 policy on the LA website has been seen), owing very understandably to the urgency to which this report must be submitted and the limited time available to consider the same.

Section 508 of the Education Act 1996 sets out mandatory duties imposed on local authorities to make arrangements for home to school transport for eligible children in their area. It also allows for the local authority to make provision on a discretionary basis to children who may not otherwise be eligible for home to school transportation.

I note that the local authority plan is to prepare 2 separate policies for home to school transportation, one for SEND and one for mainstream children.

The council must provide a policy setting out in very clear and simple terms what its policies are on home to school transport and it must be easily available to access by parents on the local authority's website.

The key points that should be taken into account in respect of the legality of the policy is set out within the recent government guidance called "Travel to school for children of compulsory school age Statutory guidance for local authorities June 2023". The key points can be summarised as follows:

A child is eligible if they are:

- of compulsory school age,
- attend their nearest suitable school (i.e. suitable for the child's age, ability, aptitude and any special educational needs they may have) and:
- live more than the statutory walking distance (i.e. a child under the age of 8 is eligible for free travel to their nearest suitable school if it is more than 2 miles from their home. A child aged 8 years or over is eligible for free travel to their nearest suitable school if it is more than 3 miles from their home).

Most eligible children would fall into the above category, but there are other special circumstances where they would be eligible for free transport even if the above criteria are not met namely where the child:

- could not reasonably be expected to walk to that school because of their special educational needs, disability or mobility problem, even if they were accompanied by their parent (i.e. a child with autism and sensitivity to noise could not reasonably be expected to travel on a road without pedestrian walking, even with a parent) or
- would not be able to walk to that school in reasonable safety, even if they were accompanied by their parent (i.e. motorway route with no pedestrian walk).

There are many other factors that must be taken into account within the policy including:

- discretionary power to provide travel for ineligible children. Where the local authority decides not to exercise their discretion, they should not have a blanket policy of never providing discretionary travel and should be prepared to consider cases where the parent says there are reasons why their child needs free travel to school and make decisions on a case-by-case basis and the policy should make provision for this otherwise it becomes susceptible to challenge by way of judicial review. In this report discretionary payment is proposed in respect of post 16 SEND children and this is a very appropriate use of the local authority's discretionary power. It is of note that eligibility is based on income level of parents and once again this is also an appropriate use of the discretionary power.
- The policy must not infringe the parental right to consent to or refuse alternative travel arrangements such as travel expenses, escort or independent travel and must provide the travel arrangements to eligible children in those circumstances.
- The policy must set out a complaints and appeals procedure.

Provided the terms of the policy adhere to the statutory guidance and the matters set out above then it is right for such policy to be duly recommended for approval.

Following issue by the Council of a s114 notice, the Council must ensure that its resources are not used for non-essential spending. The contracts at issue here are all essential and the provision of them a statutory duty. In procuring the services outlined, the Council must observe the obligations upon it outlined in national legislation and in its internal procurement rules. Officers will need to ensure Legal Services are kept fully informed as they progress through the procurements referred to above to ensure compliance.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer

12th January 2024

A public consultation has been held around the changes to the proposed changes to the 2024 Policy. It enabled all stakeholders to engage in dialogue with Thurrock Council regarding a range of Education Transport issues. The consultation was held from 29th November 2023 until 19th January 2024 which met the timeframe recommended by the DfE. The consultation also provided the evidence required by Council officers to seek Cabinet approval of the proposed update of the 2024 Policy. A Community Impact and Equality Assessment has also been carried out in order to ensure that proposed changes to the 2024 policy have an overall positive equality impact as all children will be treated equally regardless of any protected characteristics as defined by the Equalities Act 2010 e.g. their religion, belief, or their ability.

7.4 Risks

- There is a risk that our policy will not be in line with statutory guidance which could lead to Local Government Ombudsman complaints.
- There is a risk that the current Home to School Travel budget envelope will be exceeded with the additional demand on transport for eligible pupils.
- The level of income realised may be affected by the financial assessment made on the families particularly if there are more families at the start of the academic year that meet the low income eligibility criteria that would pay the lower rate of contribution. There may also be more families that apply that pay the higher contribution rate, which would increase income.

7.5 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

None.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Thurrock Home to School Transport Policy 2020 and Post 16 statement (<https://www.thurrock.gov.uk/home-to-school-or-college-travel-support/policies-and-useful-information>)
- Department for Education statutory guidance January 2024 (<https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>)
- Cabinet report dated 22 July 2020 <https://democracy.thurrock.gov.uk/documents/s27926/Thurrock%20Council%20Home%20to%20School%20Travel%20and%20Transport%20Policy%20Update.pdf>

9. Appendices to the report

- Appendix 1 – Consultation responses Special Education Needs Disabilities Post 16 Travel
- Appendix 2 – Consultation responses Home to School Travel for Children aged 5 years to 16
- Appendix 3 - SEND Home to School Travel and Transport Policy 2024-2025 for statutory school age pupils aged 5 to 16 years.

- Appendix 4 – Mainstream Home to School and transport policy- 2024-2025 for statutory school age pupils aged 5 to 16 years.
- Appendix 5 - Post 16 SEND Transport Policy Statement 2024-2025.

Report Author:

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Childrens Services