

REPORT FOR DECISION

Agenda Item	
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DECISION MAKER:	Cabinet Member, Children and Young People
DATE:	Monday 11 October 2010
SUBJECT:	Home to School Transport Policy
REPORT FROM:	Head of School Organisation
CONTACT OFFICER:	Paul Cooke, Head of School Organisation
TYPE OF DECISION:	NON KEY DECISION
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>This report seeks approval to consult on proposed changes to the Council’s home to school transport policy as it applies to all pupils, but with a specific focus on changes to the eligibility criteria in respect of attendance at a denominational school.</p> <p>The current policy makes discretionary provision for the Council to provide financial assistance to parents of pupils attending a denominational school because of their faith, regardless of whether there is a nearer non-denominational school with places available.</p> <p>The majority of pupils in receipt of free transport on the basis of their attendance at a denominational school are of secondary school age. The Council cannot afford to maintain the current policy and, whilst aware of statutory obligations to have regard to parents’ wishes for the child to be educated at a denominational school, proposes to change that policy to have the effect of removing this discretionary element in respect of secondary school age pupils, resulting in a single set of eligibility criterion applicable to all such pupils.</p> <p>It is proposed to retain the current policy in respect of primary school pupils.</p>

TRACKING/PROCESS**DIRECTOR:**

Chief Executive/ Management Board	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 The Council has two home to school transport policies in place, one setting out the eligibility criteria for all pupils, the second looking at more specific eligibility criteria and provision for pupils with a statement of special educational needs. The latter policy has been the subject of a Best Value Review, and the Council will shortly be consulting on a revised policy.
- 1.2 This report considers changes to the home to school transport policy as it applies to all pupils, but with a specific focus on eligibility criteria in respect of attendance at a denominational school.

2.0 ISSUES

- 2.1 Bury Council currently provides free transport to pupils who live over the statutory walking distance from their nearest school. In addition, the Council provides free transport on a discretionary basis to pupils attending a denominational school, where they live over the statutory walking distance, even if a place was available at a closer school.
- 2.2 The home to school transport policy must reflect the legal framework. It is the parent/carer's responsibility to ensure their child attends school regularly. Where a parent/carer has been successful in gaining a school place which is not their nearest qualifying¹ school, free transport would not normally be provided. There are however, some exceptions where a parent/carer may have a defence in law if their child does not attend school regularly. One of these exceptions relates to the provision of free home to school transport.
- 2.3 Section 444 of the Education Act 1996 describes the circumstances under which a parent/carer may have a defence in law if their child does not attend school regularly.

If the parent/carer can prove that:

- the school at which the child is a registered pupil is not within walking distance of the child's home, and

¹ A qualifying school is defined as a community, foundation or voluntary schools; community or foundation special schools; non-maintained special schools; pupil referral units; maintained nursery schools; or city technology colleges (CTC), city colleges for the technology of the arts (CCTA) or Academies with places available that provides education appropriate to the age, ability and aptitude of the child, and any special educational needs that the child may have. In addition, in relation to a child with SEN, an independent school (other than a CTC, CCTA, or Academy) will be a "qualifying school" if it is the only school named in the child's statement, or it is the nearest of two or more schools named in the statement.

- that no suitable arrangements have been made for any of the following
 - (i) his/her transport to and from the school
 - (ii) boarding accommodation for him/her at or near the school
 - (iii) enabling him/her to become a registered pupil at a school nearer to his home.

Walking distance is defined as 2 miles for pupils under the age of 8 and 3 miles for pupils aged 8 and over and must be measured using the nearest available route.

2.4 Schedule 35 B of the Education Act 1996 (inserted by the Education and Inspections Act 2006) describes the meaning of an 'eligible child' and a 'qualifying school'. This schedule extends the duty on Local Authorities to provide free home to school transport for 'low income' families, defined as those parents/carers in receipt of maximum working tax credit, or their child is in receipt of free school meals, where:

- the child is aged 8 or over, but under the age of 11 and is attending their nearest qualifying school over 2 miles
- the child is aged 11 or over, in statutory education, and is attending one of their 3 nearest qualifying schools between 2 and 6 miles from their home
- the child is aged 11 or over, in statutory education, and attending their nearest qualifying school, between 2 and 15 miles, in line with their parent/carer's religion or belief.

2.5 Section 508 B of the Education Act 1996 (inserted by the Education and Inspections Act 2006) describes the Local Authority's duty in providing free travel arrangements for eligible pupils.

2.6 Section 509AD of the Act places a duty on the Local Authority in fulfilling its duties and exercising its powers in relation to travel, to have regard to, amongst other things, any wish of the parent for their child to be provided with education at a particular school on grounds of the parent's religion or belief.

2.7 The Council currently provides free transport for pupils attending the nearest denominational school, where this has been selected in accordance with their parent/carer's beliefs, and where the school is over the statutory walking distance, irrespective as to whether a place is available at a nearer non-denominational school, and regardless of whether the low income test is met.

2.8 Whilst the local authority has a duty to have regard to the wishes of a parent/carer for a child to be educated at a school of a denomination to which the child's parents/carers adheres, it is not a statutory duty to provide free home to school transport. The local authority may adopt a policy by which, whilst having regard for the wishes of the parent/carer in respect of their child's attendance at a denominational school, it does not normally provide free transport.

Whilst the local authority is aware of its statutory obligations to have regard to parents' wishes for their child to be educated at a denominational school, the costs of meeting this discretionary provision of free transport are no longer affordable. The current policy of allowing all children who live beyond the statutory limits free transport cannot be maintained; instead we propose to

maintain the policy for primary school pupils, but can no longer extend it for secondary school pupils

- 2.9 Therefore, for secondary age pupils, where a denominational school is the nearest 'qualifying school', and it is over the statutory walking distance from the home address, the child would continue to receive free transport. However, where there is a nearer 'qualifying school' with places available, free transport would not be provided.
- 2.10 The Council would need to continue to exercise its duty with regard to Schedule 35 B in respect of low income families but, it may decide on balance, to adopt a policy that does not generally provide free transport on denominational grounds other than where schedule 35B applies.
- 2.10 The Council would need to consider any phasing arrangements for the introduction of any new policy.
- 2.11 With regard to any phasing out arrangements, Schedule 35 B of the Education Act 1996 says that transport must be provided if no suitable arrangements have been made by the Local Authority for enabling the child to become a registered pupil at a nearer qualifying school.
- 2.12 If a child was no longer eligible to receive free home to school transport under any new policy, the Council must demonstrate that it has enabled the child to become a registered pupil at a nearer qualifying school. If the Local Authority is not able to demonstrate this, then the child should continue to receive free home to school transport. If free transport was stopped, without any phasing out arrangements, this may cause operational difficulties in applying the policy.
- 2.13 It is therefore proposed, that if adopted, the new policy be introduced from September 2011, to apply to all pupils being admitted to a new school on or after that date, but that those pupils already in school, and in receipt of free transport, will continue to receive free transport so long as they continue to attend the same school. The affect of this will be to phase the introduction of the new policy over five years for secondary age pupils.
- 2.14 The table below shows that the significant majority of pupils in receipt of free transport on denominational grounds attend secondary schools.

School	Number of Pupils
Our Lady of Grace RC Primary School	2
St Joseph's RC Primary School	3
Bury Church of England High School	187
St Gabriel's RC High School	184
St Monica's RC High School	289
Canon Slade High School	77
King David High School	104
King David Primary School	1
Mount St Joseph RC	1
Thornleigh	4
Trinity High School	2
Our Lady's RC	1
Bolton Muslim School	1
Chets	1

Total	857
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- 2.15 In the 2007/08 academic year, 870 pupils, representing 87% of applications for free transport, were approved at a total cost of £214,000. In 2008/09, 857 or 81% of applications were approved at a cost of £192,000.
- 2.16 It is estimated that up to 20% of applicants would continue to be eligible for free transport as a result of low income. However, an 80% reduction in eligibility would result in full year effect savings of around £150,000 to be achieved through cumulative annual savings of £30k over 5 years.
- 2.17 Before a new policy is introduced it is important that the Council consults all those parties that may be affected by the change. Additionally, it is important that any change in policy, or proposed change in policy is brought to the attention of parents of children seeking admission to secondary schools in September 2011, as their eligibility or otherwise for free transport, may have a bearing on their choice of school.
- 2.18 It is proposed that consultation on the proposed policy takes place early in the autumn term 2010, in parallel to consultation on changes to the policy relating to pupils with a statement of special educational needs.

Risk Management

- 2.19 The key risks associated with the proposed change in policy are of legal challenge and reputational damage to the Council.
- 2.20 The proposed changes to the policy seek to remove the discretionary element whilst ensuring that the policy remains statutorily compliant. However, there remains a risk that the Council may be challenged over its proposals. In mitigation, Council Officers have reviewed policies in other local authorities and noted that similar changes to policy have been successfully implemented.
- 2.21 Any change in policy that removes an entitlement to a particular group carries the risk of adversely affecting the Council's reputation amongst members of that group, or the wider community. In mitigation, it is proposed to consult with all affected stakeholders, setting out clearly, the reason for the proposed change.

Equality and Diversity

- 2.22 An equality, cohesion and impact initial screening assessment has been completed and this has identified a negative impact in that the proposed changes will impact specifically on the parents/carers of pupils attending a religious school of a denomination to which the child's parents/carers adheres, although the intended outcome is to ensure that the policy on eligibility for home to school transport is applied consistently to all families regardless of religion.
- 2.23 This report seeks approval to consult with all affected stakeholders about the proposed changes, in order to inform further recommendations which will be supported by a full equality, cohesion and equality impact assessment.

3.0 CONCLUSION

- 3.1** The proposed change will ensure that a single set of eligibility criterion in respect of financial assistance towards home to school transport is applied to all pupils, removing the differentiation for pupils attending schools on denominational grounds.
- 3.2** At a time when all aspects of public sector funding must be critically reviewed, the proposed changes will enable financial savings of up to £150,000 per annum to be achieved when fully implemented.
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List of Background Papers:-

Contact Details:-

Paul Cooke, Head of School Organisation.

0161 253 5674

p.cooke@bury.gov.uk