

<b>Classification:</b> Open	<b>Decision Type:</b> <a href="#">Click to select.</a>
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<b>Report to:</b>	Cabinet	<b>Date:</b> 13 December 2023
<b>Subject:</b>	Home to school and college transport policy – Proposal to consult on changes to the policy	
<b>Report of</b>	Deputy Leader and Cabinet Member for Children and Young People	

## 1.0 Summary

- 1.1 The Council has a statutory duty by virtue of the Education Act 1996 to make necessary travel arrangements for all 'eligible children and young people'.
- 1.2 The Council must have a policy setting out how it will meet this duty. That policy must be co-produced with stakeholders, and be subject of consultation, prior to being adopted by the Council.
- 1.3 The policy was last subject to review in 2015, following the publication of the Children & Families Act 2014, which introduced significant reforms in respect of Special Educational Needs and Disabilities. The DfE has recently published updated guidance in respect of transport and the Bury policy needs to be reviewed and refreshed to reflect this guidance.
- 1.4 Following an investigation into current arrangements by the Council is amending it's policy to make clear that, where the Council decides transport is necessary to enable young adults with an EHC Plan to maintain their placement, they will not be charged, in line with the Council's statutory duty.
- 1.5 Therefore, alongside the review of the policy as it applies to children and young people of statutory school age (5-16), there is also a need to review the travel assistance policy for adult learners with Special Educational Needs and Disabilities between the age of 19 and 25 to ensure that it is statutorily compliant and clearly understood by services users.
- 1.6 In respect of travel assistance for post 16 students (16-19 year olds), the Council is required to publish a transport policy statement on an annual basis, sitting alongside the mainstream policy. This policy statement will also be subject to review.
- 1.7 The proposed timescale within which matters should be addressed following the investigation is by 1<sup>st</sup> May 2024.
- 1.8 A draft policy has been written that meets the Council's statutory obligations. This was signed-off by the Education & Skills leadership Team

at its meeting on the 20<sup>th</sup> November 2023. But, given the Council's commitment to co-production, the Council would want to engage its parent carer forum in genuine co-production before producing a draft for wider consultation.

- 1.9 The Council is engaged in an extensive transformation programme in relation to SEND, in part driven by the Council's involvement in Project Safety Valve, but in also responding to significant demand pressures and increasing parental expectations. The Transport policy is a key part of the Council's SEND Local Offer and it is essential if parental confidence in the transformation agenda is to be maintained, that we demonstrate an absolute commitment to co-production.
- 1.10 Whilst the Council can meet the timeline for implementation, it believes that to present a revised policy to Cabinet at this time undermines the principle of co-production, and that the Council needs to work with its parents, children and young people to further develop the draft policy.
- 1.11 In recognition that the Council has failed to meet previously agreed timescales for adopting a revised policy, the Council is currently reviewing its organisational structures in Children's Services to strengthen its governance arrangements.
- 1.12 It is proposed to work with Bury2gether, the parents forum to co-produce a policy that is statutorily compliant; responds to the revised guidance issued by the Department for Education; and that continues to meet the needs of eligible children and young people within the available resources. This will be done in January 2024.
- 1.13 The co-produced draft policy will then be subject to consultation with stakeholders during February, following which a further report setting out the outcomes of the consultation, and recommendations in respect of a new policy will be brought back to Cabinet in March 2024.
- 1.14 The new policy will be implemented with effect 1<sup>st</sup> May 2024. It is anticipated that any changes will apply to all new assessments for travel assistance after that date. Subject to the outcome of the consultation, and Cabinet approval, it is expected that families already in receipt of travel assistance under the current policy will be protected, and will continue to receive that assistance until their circumstances change.

### **Recommendation(s)**

Cabinet is requested to -

Note the intention to co-produce a home to school transport policy for consideration for wider consultation and to receive a report in April 2024 with recommendations having regard to the outcome of the consultation.

## Reasons for recommendation(s)

The proposed changes respond to revised guidance from the DfE in respect of home to school transport and also responds to complaints in respect of post 19 provision (adult learners).

## Alternative options considered and rejected

The changes are required to ensure that the policy is reflects updated Government guidance and remains statutorily compliant.

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## 2 Background

2.1 In accordance with the Education Act 1996 the Council has a statutory duty to make necessary travel arrangements for all 'eligible children and young people'.

2.2 This applies to Children with Special Educational Needs, disabilities or mobility difficulties. It largely relates to but is not exclusive to those children and young people with an Education, Health and Care Plan.

2.3 A child is eligible if they are of compulsory school age, attend their nearest suitable school and:

- They live more than the statutory walking distance from the school or
- Could not reasonably be expected to walk to school because of their special educational needs, disability or mobility problem or
- They would not be able to walk to school in reasonable safety even if they were accompanied by their parent.

Section 35B of the Education Act defines eligible children as those of compulsory school age, 5 to 16 years.

2.4 Section 509F and 508G of the Education Act places a statutory duty on the Council to consider Post 19 travel assistance. This applies to students aged 19 and over who commenced their programme of learning after their 19<sup>th</sup> birthday.

- 2.5 The DfE has recently published revised guidance to local authorities in respect of home to school transport. The Council's current policy, last adopted in 2015 needs to be reviewed to ensure it meets current expectations.

In addition, an investigation in to a complaint into the Council's application of its transport policy as it applied to a student aged over 19 attending full-time education, found that the Council's policy and process was not compliant.

## 2.6 **Inclusion of post 19 (Adult Duty)**

- 2.7 Section 509F and 508G of the Education Act places a statutory duty on the Council to consider Post 19 travel assistance. This applies to students aged 19 and over who commenced their programme of learning after their 19<sup>th</sup> birthday and continue to be in receipt of an EHC plan.

- 2.8 The Council must make arrangements for the provision of transport or travel assistance in respect of:

- Adults who are aged 19 or over, to facilitate their attendance at further or higher educational institutions (FE and HE, where they are maintained or assisted by the local authority) or institutions within the further education sector (FE).
- Relevant young adults (i.e. those with an Education Health and Care plan that can be maintained up to the age of 25) receiving education or training at institutions outside both the further and higher education sectors. For these young adults, support is only provided where the local authority has secured the provision of education or training at those institutions and the provision of boarding accommodation that is linked to that education or training.

- 2.9 The council must take account of all relevant circumstances, including the age of the adult, the nature of the route which the adult could reasonably be expected to take and their ability to travel independently.

- 2.10 It is not possible to forecast the level of support required for post 19 travel assistance, however based on the 2023/2024 academic year a total of 4 students are in receipt of post 19 travel assistance at a cost of £47,946.

## 2.11 **Proposal**

- 2.12 Officers will work with Parents and young people to consider the recently published DfE Local Authority guidance on home to school transport, and to then develop a fully co-produced local home to school transport policy, with the aim of implementing that revised policy on 1<sup>st</sup> May 2024. Bury2gether, and the parents they represent are already aware of the intention to review the policy.

- 2.13 A series of parent and young people co production events will be delivered in January 2024. These will take place at different time of the day to ensure that parents have opportunity to contribute.
- 2.14 Following these events, a draft policy will be produced and this will be subject to consultation with all stakeholders.
- 2.15 The draft policy will be presented to Cabinet at its meeting on the 17<sup>th</sup> March, together with a summary of the outcome of the consultation.
- 2.16 Staff training on the new policy will take place throughout April, together with testing of systems and processes to ensure that the new policy is implemented effectively.
- 2.17 The new policy will be implemented with effect from 1<sup>st</sup> May 2024.

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### **Links with the Corporate Priorities:**

Elements of the proposal will support key ambitions of the Let's do it strategy:

- Improved quality of life
- Improved educational attainment
- Increased adult skill levels and employability

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### **Equality Impact and Considerations:**

At this stage, approval is sought to co-produce a policy which will then be subject to consultation before recommendations are brought back to Cabinet.

### **Environmental Impact and Considerations:**

Environmental impact will be assessed alongside the drafting on the new policy to reflect the effect of any policy changes.

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### **Assessment and Mitigation of Risk:**

<b>Risk / opportunity</b>	<b>Mitigation</b>
<p>The key risks associated with the proposed change in policy are of legal challenge and reputational damage to the Council.</p> <p>There is potential for significant negative impact for some of our most vulnerable children and young people who currently receive travel assistance under the existing</p>	<p>In co-producing a draft policy with the parents forum, the Council can seek to respond to some of the concerns, and ensure that the policy, whilst remaining statutorily compliant, also continues to meet the needs of parents, children and young people.</p>

policy as any changes to eligibility in the new policy may result in those families no longer being eligible	If any changes to eligibility are proposed, there is scope to ensure that any families in receipt of travel assistance under the current policy, continue to be eligible until their circumstances change. Those families would therefore not see an immediate withdrawal of travel assistance.
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### **Legal Implications:**

In accordance with s.509AA of the Education Act 1996, local authorities have a duty to prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport, or otherwise that the authority considers necessary, to make to facilitate the attendance of all persons of sixth form age receiving education or training.

Legal advice will be provided during the consultation and in finalising the policy pursuant to that consultation.

### **Financial Implications:**

The budget for post-16 transport is significantly overspending. The budget for next financial year will address the historical underfunding of statutory provision. However, the ZBB approach cannot sustain funding levels sufficient to meet non-statutory provision.

### **Appendices:**

### **Background papers:**

*Please list any background documents to this report and include a hyperlink where possible.*

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning