

**Meeting:** Executive  
**Date:** 9<sup>th</sup> March 2010  
**Subject:** Home to School Transport Policy  
**Report of:** Cllr Mrs Anita Lewis , Portfolio Holder for Children's Services  
**Summary:** The report proposes that the Executive agrees to adopt the Home to School Transport Policy for Central Bedfordshire (Appendix A).

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**Advising Officer:** Edwina Grant, Deputy Chief Executive and Director for Children, Families and Learning  
**Contact Officer:** Sylvia Gibson, Assistant Director Policy, Planning and Commissioning  
**Public/Exempt:** Public  
**Wards Affected:** All  
**Function of:** Executive  
**Key Decision** Yes  
**Reason for urgency/ exemption from call-in (if appropriate)** Not applicable

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

The Home to School Transport Policy relates to the second of the Council's key priorities:

- Educating, protecting and providing opportunities for children and young people.

The Policy also supports the priorities set out in the Children and Young People's Plan and the Local Area Agreement to ensure that children, young people and families:

- enjoy and achieve at school and meet their full potential;
- are supported in families with a low income;
- receive appropriate services if they have special educational needs or are identified as vulnerable.

The proposals also have an impact on National Indicator 198 (Mode of travel to school), which is a priority in the Local Area Agreement and a mandatory indicator in the Local Transport Plan. This target aims to reduce car use for journeys to school and to increase the number of children travelling by sustainable modes of transport.

### **Financial:**

The current costs of providing home to school transport are £8.1m. The 2009/10 Home to School Transport budget is overspent by £0.6m. By making the proposed changes to the Policy below to start in September 2010, it is possible that savings of approximately £0.6m can be made in the 2010/11 financial year and a further £0.4m in 2011/12. Financial Information is included in Appendix B. All budget figures are projections and should be viewed as indicative savings. These projections do not take account of any costs which might be necessary to mitigate the effects of increased car use at schools.

**Legal:**

The Education and Inspections Act 2006 introduced some changes to the statutory arrangements for school travel, including the duty to promote sustainable modes of travel and in defining pupils who are eligible children and for whom the local authority must therefore secure that suitable home to school travel arrangements are provided.

Central Bedfordshire Council adopted the former Bedfordshire County Council Home to School Transport policy for the academic year 2009-2010. The Bedfordshire County Council policy was last reviewed in September 2005; it is therefore important that the Council undertakes a review before the academic year 2010/11 begins to ensure that its policies reflect current statutory requirements.

This is a difficult area and one that is open to legal challenge. There is the potential for an adverse reaction from parents of children where policy changes result in the provision of previously free home to school transport being removed. Therefore, it is important that the Council conducts effective consultation on any proposed changes to the current policy and takes careful note of the outcome of the consultation before reaching decisions.

**Risk Management:**

Any changes to the policy will meet current legislative requirements and ensure that the assessment of eligibility for free home to school transport is fair and equitable for all families.

There is the potential for adverse reaction from parents of children where previous entitlement transport would be removed.

If the proposed changes are implemented, any potential road safety issues arising from increased car use would need to be assessed and might need to be mitigated.

**Staffing (including Trades Unions):**

The removal of transport for certain children attending special schools could have an impact on the numbers of fleet drivers and escorts employed by the Council. However, if there is an increase in concessionary passes then this impact will be minimised.

**Equalities/Human Rights:**

Central Bedfordshire Council has a statutory duty to promote race, gender and disability equality and to tackle discrimination experienced by other vulnerable groups. An Equality Impact Assessment has been undertaken as part of the development of the policy and is attached at Appendix D.

The Central Bedfordshire Equality Forum considered the draft policy and Equality Impact Assessment at its meeting on 25 February 2010.

**Community Safety:**

In providing home to school transport on road safety grounds, the proposals support the protection of vulnerable children.

Central Bedfordshire Council is developing a Sustainable Modes of Travel Strategy for educational establishments, which is a statutory requirement for the Authority under the Education and Inspections Act (2006). The provision of safer walking routes to school forms a part of this strategy and supports the Council's agenda to provide safer and stronger communities.

### **Sustainability:**

Central Bedfordshire Council is developing a Sustainable Modes of Travel Strategy for educational establishments, which is a statutory requirement for the Authority under the Education and Inspections Act (2006). Any changes to the Home to School Transport Policy, and their impact, will be considered as part of the development of this Strategy. All schools are expected to have a Sustainable Travel Plan.

### **Summary of Overview and Scrutiny Comments:**

- The Overview and Scrutiny Committee considered the proposed changes to the current Policy at its meeting on 2 February 2010. At that meeting the Committee resolved (Minute CFL/09/78) “that prior to the proposals being presented to the Executive, a Special meeting of the Children, Families and Learning Overview and Scrutiny Committee be scheduled after the consultation closing date and before the Executive meeting on 9 March 2010 to hold a further discussion in light of the consultation results.”
- At its Special meeting on 24 February 2010 the Children, Families and Learning Overview and Scrutiny Committee received a follow up report on the Home to School Transport Policy following previous consideration of a report on 2 February 2010. The Committee received the results of the public consultation on the Home to School Transport policy and additional information in light of requests made on 2 February. The Committee resolved the following:
- **Noted** that suggestions that they had made for clarification and amendment to the draft policy at their previous meeting of 2nd February had been changed in the draft policy as it related to their own agenda papers in paragraphs 1, 3, 4, 5, 6, 7 and 8. These changes have been incorporated in the report to be put before Executive.
- The outstanding issue of denominational transport was subject to a recommendation to Executive and is as set out below.
- **Recommended** to the Executive that the proposal regarding denominational transport be amended to read that the Council end the provision of transport to denominational schools in a phased manner with the exception of those on the Council’s low income policy.

### **RECOMMENDATION:**

- 1. That the Executive agrees to adopt the Home to School Transport Policy**

<i>Reason for Recommendation(s):</i>	<i>To ensure that Central Bedfordshire Council meets its statutory obligations and offers a fair and equitable home to school transport service</i>
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## **Executive Summary**

A local authority has a statutory responsibility to provide free home to school transport for certain children of statutory school age. These responsibilities are set out in the Education Act 1996 and the Education and Inspections Act 2006.

There are currently 31,032<sup>1</sup> statutory aged children, aged 5 to 15, attending Central Bedfordshire Schools. Transport is provided daily for approximately 6,200 of these children to both mainstream (lower, middle and upper) schools and special schools. Transport is also provided for children who, due to their special educational need, attend a residential school.

For the academic year 2009/10 Central Bedfordshire Council adopted the Home to School Transport Policy previously in place in Bedfordshire County Council. The draft Policy reflects the new requirements of the Education and Inspections Act 2006 and the principles of equity and fairness. The draft Policy clarifies the eligibility criteria, ensuring that those in most need can access the service, or are able to purchase concessionary passes, and ensures that as corporate parents the Council supports the needs of its looked after children. The draft Policy also meets the Council's overall aim to make the most effective use of its resources, and to target those resources where they are most needed.

A public consultation on the proposed changes to the Policy took place between 4<sup>th</sup> January 2010 and 19<sup>th</sup> February 2010. The consultation period was extended by one week beyond the statutory minimum to allow further time for the diocesan authorities to respond and to provide a further opportunity for members of the public to give their views. The statutory period for consultation was therefore met. The results of the consultation are attached as Appendix C. Information on the consultation was made available through schools, local media and on the Central Bedfordshire website. All parents of children with Special Educational Needs and those attending faith schools were individually contacted.

An Equality Impact Assessment was undertaken and this is attached at Appendix D.

## **Introduction**

1. The draft Home to School Transport Policy strengthens the existing policy by clarifying the eligibility criteria, ensuring that those in most need can access the service, or are able to purchase concessionary passes, and by ensuring that as corporate parents the Council supports the needs of its looked after children.
2. The Policy follows the DCFS Statutory Guidance: "Home to School Transport and Travel Guidance". This is derived from the Education Act 1996 as subsequently amended by the Education and Inspections Act 2006. References to this guidance are made at various points in this report.
3. The key components of the Policy are set out below, together with an indication of whether this is a change from the current policy.

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<sup>1</sup> Census 2009, pupils aged 5 – 15 as at 31<sup>st</sup> August 2009, in mainstream and special schools

## **Entitlement to Transport**

4. Entitlement to transport based on distance, nearest school policy and extended rights to free travel meet the specific duties on a local authority as set out in the Education Act 1996 and the Education and Inspections Act 2006.
5. Free transport is provided for all statutory age children who live in Central Bedfordshire and who attend their catchment area or nearest school, where the distance from home to school is over the statutory walking distance:
  - More than 2 miles from home for children aged under 8;
  - More than 3 miles from home for children aged 8 and over;
6. In addition, where children are in a family with a low income there is additional entitlement<sup>2</sup>:
  - Children aged 8 but under 11 must have travel arrangements made where they live more than 2 miles from the nearest or catchment school;
  - For children aged 11 and over free transport is provided in one of two ways – to a choice of 3 schools within 6 miles of the child’s home and also to the nearest school preferred by reason of a parent’s, or those with legal responsibilities, religion or belief up to a maximum of 15 miles from home.
7. Families with a low income are defined as those children entitled to free school meals or whose family is in receipt of maximum working tax credit. In addition the following benefits are considered when calculating entitlement under low income grounds:
  - Income Support;
  - Income based job seekers allowance;
  - Child Tax Credit, if not entitled to Working Tax Credit and annual income does not exceed £16,040;
  - Support under S6 of Immigration and Asylum Act 1999;
  - Guaranteed element of State Pension credit.There is currently additional Government funding to meet the cost of transport for these children.
8. The draft Policy is not proposing any changes for children who are provided with transport on this basis.

## **Additional Transport**

9. In addition to the specific duties under the Education Act 1996 and the Education and Inspections Act 2006 there is a general duty for local authorities to provide any transport it considers necessary, free of charge.
10. A review of the policy for providing such transport, taking account of the responsibility on parents to make arrangements for their child to get to school where the distances are less than the statutory distances, takes account of this requirement.

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<sup>2</sup> The Education and Inspections Act 2006 extended entitlement to transport, over and above the distance criteria set out in the Education Act 1996. Children living in “low income families” defined as entitled to free school meals or whose parents are in receipt of maximum level of Working Tax Credit are now entitled to transport where previously they would not have been.

## **Road Safety Transport**

11. Where children live within the statutory walking distance of their catchment or nearest school, the local authority has to ensure that it is possible for them to walk to school, accompanied by a responsible adult if necessary. Where this is not possible, because the route to school is not safe, the local authority has to make arrangements for free transport.
12. The current criteria used to assess routes are based on guidance from the late 1990's. To ensure that the Council is complying with current guidance it is intended that any assessments from 1<sup>st</sup> April 2010 are based on the national guidance of the Road Safety Officer Association "Identification of Hazards and the Assessment of Risk of Walked Routes to School".
13. It is proposed that the re-assessment of routes on road safety grounds is started from 1 April 2010. These re-assessments may result in changes to current entitlement to free transport on road safety grounds. Parents would receive full and timely information of any proposed changes.

## **Denominational Transport**

14. In considering entitlement to free transport, a council has to take into account any wish of a parent for their child to be provided with education or training at a particular school or institution on grounds of the parents' religion or belief. There is no statutory entitlement to such transport, as attendance at a denominational school is through parental choice.
15. Section 132 of the "Home to School Transport and Travel Guidance" makes it clear that, whilst the Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical beliefs, there is no statutory basis for this and the provisions of the Equality Act do not apply to the exercise of an authority's functions in relation to transport under human rights legislation.
16. Under the current Home to School Transport Policy, transport is provided for just under 300 statutory aged children to attend their nearest school of the relevant denomination where the 2 or 3 mile distance criteria are met. The average cost of providing this transport is £2,000 per pupil, per year, compared with the average cost of transport to a mainstream school in the region of £775 per year. There is clearly a disproportionate cost in providing such transport compared with the cost of other mainstream school transport.
17. It is proposed that the provision of automatic eligibility to free transport to denominational schools is ended with effect from 1 September 2010. This proposal does not affect the entitlement to transport for families with a low income who will still be eligible under the eligibility criteria.

### **Permanently Excluded Pupils**

18. Where a pupil has been permanently excluded from school, the pupil is first allocated a place in the Pupil Referral Unit and is then allocated a new school place through a process called the In Year Fair Access Protocol. Where a new school is allocated in this way, a child will be entitled to transport to the new school as long as the 2 or 3 mile distance criteria or road safety criteria are met. Currently some pupils receive transport inside this statutory distance.
19. The draft Policy proposes that permanently excluded pupils are provided with transport based on distance criteria, with all requests for transport inside the distance criteria referred for decision to the Director of Children, Families & Learning Services or nominee against criteria that will be agreed with the Schools Forum on an annual basis.

### **Medical Needs**

20. Where a child attends their catchment area or nearest school, transport is currently considered on medical grounds, irrespective of distance between home and school. The medical condition can be temporary or long term and each application is considered on an individual basis. An application for transport has to be supported by a GP or consultant.
21. The draft Policy proposes that we continue with existing arrangements where transport is requested on medical grounds for a child to attend their catchment or nearest school where that need is endorsed by a child's GP or Consultant.

### **Pupils in Years 10 and 11**

22. Sometimes families and children, through no choice of their own, experience disruption in their home circumstances. This can cause particular difficulty for a child in their GCSE examination year if they have to move address and are not able to remain at their previous school where they have started a course of study.
23. The draft Policy proposes that where a child attending school in Central Bedfordshire in Years 10 and 11 has to move in exceptional circumstances to a new address in Central Bedfordshire, they will be provided with transport from their new address to their previous school as long as they have completed at least one term in year 10 at their previous school.

### **Looked After Children and Unaccompanied Refugees and Asylum Seeking Children**

24. Whilst representing only a very small number of the total school population, Looked After Children and Unaccompanied Refugees and Asylum Seeking Children can be some of the most vulnerable children in need of support. School places are identified that can best meet a child's individual needs. The school will not always be the nearest school to their home address.

25. The draft Policy proposes that we continue to support Looked After Children, Refugees and Unaccompanied Asylum Seeking Children with transport, if required, to attend schools that best meet their needs.

### **Transport for children with Special Educational Needs**

26. Under the current home to school transport policy all pupils who have a place in a special school or specialist provision in a mainstream school are provided with free transport. This means that in some cases transport is provided for children who live a very short distance from the school they attend.
27. The population of children with Special Educational Needs are those who fall within the legal definition of special educational needs according to the 1981 Act as amended by subsequent legislation. To avoid doubt, this is a different definition from those classified as Children Looked After or Children in Need, who are referred to in social care legislation under the broader term Safeguarding.
28. The Council recognises that some children with special educational needs may not be able to walk even relatively short distances to school. However others may, with appropriate support, be able to walk or use alternative ways of getting to school.
29. The draft Policy proposes that from September 2010 the need for transport for a child with special educational needs is assessed as part of the Statutory Assessment process, and is reviewed at subsequent reviews. Where it is recommended as part of the Statutory Assessment, the child will receive the most appropriate mode of travel.
30. For those children who live within the statutory distance the Assessment would include consideration of whether, with appropriate support, a child could reasonably be expected to walk to school.
31. To support this change, it is proposed that with effect from April 2010, a supported travel training is introduced for children in special schools and specialist provisions in mainstream schools. This programme would support young people in making travel choices whilst at school but also when they move on to more independent living.

### **Concessionary Places on School Contract Vehicles**

32. Where children are not entitled to free transport, parents can buy a pass for any spare seats on a school contract vehicle once those entitled have been allocated a place. Passes can be bought for one term at a time and are allocated on a first come first served basis. This does not apply to routes that are public registered services where children pay the bus company direct. The charge for a concessionary place will be £133.95 from April 2010. Some families with a low income can be allocated seats free of charge.



33. The draft Policy ensures consistency when assessing whether a pass is to be issued free of charge on grounds of low income. This will mean that certain families in receipt of working tax credit, but not at the maximum rate, will no longer be allocated a free pass.

### **Consultation Process**

34. Central Bedfordshire Council has consulted widely on the proposed changes to the Home to School Transport Policy.
35. The Consultation period began on 6<sup>th</sup> January 2010 and concluded on the 19<sup>th</sup> February 2010. The original consultation period was extended by one week beyond the statutory minimum to allow further time for the diocesan authorities to respond, and to provide additional time for members of the public to give their views. The statutory period for consultation was therefore met in line with the DfES Guidance.<sup>3</sup>
36. A Communication Plan was agreed with the Council's Corporate Communications Team, to include dissemination of the consultation and questionnaire, and press and radio coverage.
37. The Consultation guidance and Questionnaire were available through the following options:
- Council website and online submission;
  - Paper copies available from Council Contact Team and School Transport Team;
  - All Central Bedfordshire schools received information and were asked to inform parents of the Consultation. Schools could have copies of the consultation to send to parents, and these were sent to all schools that requested them.
38. The Council was aware that the proposals would potentially affect some parents and children very directly. To ensure that these families were aware of the consultation, individual letters were sent to all families with children in denominational schools and to all families with children with Statements of Special Educational Need.
39. Representatives from the Diocese of St Albans and a representative from the Catholic Diocese of Northampton were consulted at a meeting with the Local Authority on 26 January 2010. A written submission was received from both representatives and their views were also put to the Overview and Scrutiny Committee at its meeting on 2 February 2010.
40. Directors of Children's Services in neighbouring authorities were informed of the proposals and of the number of Central Bedfordshire children currently receiving education in denominational schools in their authority.

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<sup>3</sup> Home to School Travel and Transport Guidance 2007. DfES. "Consultation should last at least 28 working days."

41. Central Bedfordshire members of Parliament were informed of the proposals.
42. The consultation closed on the 19<sup>th</sup> February 2010 and the results of the consultation are attached at Appendix C.

### **Conclusion and Next Steps**

43. The draft Home to School Transport Policy and the proposed changes to the previous Bedfordshire County Council Policy comply with the statutory requirements for home to school transport and support the priorities set out in the Children and Young People's Plan and the Local Area Agreement.
44. All changes to the policy meet current legislative requirements and ensure that the assessment of eligibility for free home to school transport is fair and equitable for all families.
45. Whilst the proposed Policy meets statutory guidance, the legal position is complex and the Executive is asked to note the legal comments included in the section above under Corporate Implications.
46. The Executive is recommended to agree to adopt the Home to School Transport Policy attached at Appendix A. However, in order not to fetter the decision of the Executive, and to allow the Executive to consider the recommendation of the Overview and Scrutiny Committee to phase out the provision of denominational transport, and to allow the Executive to consider the consultation responses, the Executive is asked to make a decision either to accept the recommendation as set out above (Option A below), or to approve one of the other two options below: (Option B or C):

Option A            To adopt the draft Policy attached at Appendix A (including ending the provision of free transport to denominational schools with effect from 1 September 2010).

Option B            To adopt the draft Policy subject to the following amendment to paragraph 26 of the Home to School Transport Policy: "Those children currently entitled to free transport to denominational schools will continue to receive free transport until the child moves to the next phase of their education or completes statutory education. The phasing out of this entitlement will commence in September 2010."

Option C            To adopt the draft Policy subject to the following amendment to paragraph 26 of the Home to School Transport Policy: "Those children currently entitled to free transport to denominational schools will continue to receive free transport until the child moves to the next phase of their education or completes statutory education. The phasing out of this entitlement will commence in September 2011."

47. Should the Executive opt for a phasing model different from the above, then this would require further modelling work to be carried out by officers.

**Appendices:**

Appendix A: Home to School Transport Policy

Appendix B: Financial implications

Appendix C: Home to School Transport Consultation and results

Appendix D: Equality Impact Assessment

**Background Papers:** (open to public inspection)

“Home to School Transport and Travel Guidance” – Statutory Guidance issued by the DCSF in May 2007

Consultation Guidance and Questionnaire

**Location of papers:** Priory House, Chicksands