

## Central Bedfordshire Council

**EXECUTIVE MEETING:** 14 October 2014

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### **Amendment to the Council's Home to School Transport Policy 2014 – Closing schools**

Report of Cllr Mark Versallion Executive Member for Children's Services  
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Advising Officer: Sue Harrison, Director of Children's Services  
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#### **Key Decision**

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#### **Purpose of this report**

1. The report recommends an amendment to the Council's Home to School Transport Policy to provide for circumstances where a statutory proposal to close a school has been approved.
2. The report seeks Executive approval to commence consultation on the proposed amendment to the policy and also recommends delegated authority to the Director of Children's Services, in consultation with the Executive Member for Children's Services, to determine the proposed change, in consideration of responses received through the consultation period.
3. The proposal would make permanent a temporary arrangement approved on the 8 September 2014 under delegated authority by the Director of Children's Services in consultation with the Executive Member for Children's Services which was initially time limited until the 14 October 2014 and has now been extended to 8 December 2014 to cover the period of consultation and final determination of the proposed permanent change in policy
4. The delegation provides school transport to Priory Academy in advance of an Executive approved amendment to the Council's Home to School Transport Policy for Year 5 pupils in the transport catchment area for Streetfield Middle School, a school which is subject of closure as determined by the Council's Executive on the 19 August 2014.

## **RECOMMENDATION**

- 1. That the Council's Executive considers the report and the proposed amendment to the Council's Home to School Transport Policy, in relation to entitlement to transport for pupils living in the catchment area of schools that are subject to closure.**
- 2. That the Council's Executive approve the commencement of consultation on the proposed changes, as set out within the report.**
- 3. That the Council's Executive agree to delegate authority to the Director of Children's Services, in consultation with the Executive Member of Children's Services, to determine the proposal subject to there being no significant issues or concerns raised by the consultation exercise.**

## **Background**

5. On 4 February 2014, following a public consultation and consideration by the Children's Services Overview and Scrutiny Committee, the Council's Executive approved the Home to School Transport Policy to apply from 1 September 2014. The Executive also approved delegated authority to the Deputy Chief Executive/Director of Children's Services, in consultation with the Executive Member for Children's Services, to approve any subsequent minor variations to the Home to School Transport Policy.
6. The Policy reflected the Council's commitment to fulfil its legal obligations to provide home to school transport in accordance with Section 508B of the Education Act 1996 as amended by the Education and Inspections Act 2006 s77 and also to provide an equitable, safe, efficient transport service with transparency for parents on the criteria for entitlement to free school transport. The policy was subject to an Equality Impact Assessment to ensure the Council's continued compliance with its legal duties to promote equality of opportunity.
7. As a general statement of policy the Council will provide travel assistance for pupils of compulsory school age who are registered pupils at their nearest or catchment school, bearing in mind any particular child's age and needs, who live more than the recognised statutory walking distance from it, i.e. 2 miles for children aged under 8 and 3 miles for children aged 8 and over.
8. The catchment area school is defined as the school designated by the Council for transport purposes to serve the home address of the child at the time when an application for admission could have been made at the normal age of admission for the school. Information on school

catchment areas used in assessing entitlement for transport is published on the Council's website. In September 2014 the Council's catchment school for children living in the Studham area and starting school is Studham Lower School with Streetfield Middle School for children transferring to Middle at Year 5 and Manshead School for children transferring to Upper at Year 9 or Secondary at Year 7.

9. The Council's Home to School Transport policy is clear that a child will be ineligible for travel assistance where he or she attends a school which is not designated for the home address or which is not the nearest available to the home address, where this is a result of parental preference.
10. The policy states that "When expressing a preference for a school other than the designated catchment area, or nearest school, parents and carers are strongly advised to consider their commitment to providing transport for the whole duration of a child's attendance at that school and to consider whether their ability to provide or pay for that transport is likely to continue over that period of time."
11. Advice and guidance provided through the Council's website and in School Transport and School Admissions publications is clear that a parent's preference for a non catchment school has implications for transport entitlement. Contact details are published for both teams to ensure that parents and carers have every opportunity to discuss their own specific circumstances and inform their preferences for a school place.
12. In September 2013 the Council's School Admission Service published its composite prospectus for parents who would need to consider their options and apply for places in the Starting School, Transfer to Middle and Upper/Secondary annual admissions process in September 2014. The prospectus included information for parents on age ranges and admission arrangements of schools and academies, including dates of open events for middle schools, and made no reference to any potential for closure of schools.
13. The deadline for applications for transfer to a middle school was 15 January 2014. This closing date is set nationally by the School Admissions Code. All parents and carers were able to express a preference for Middle transfer in September 2014 to Brewers Hill Community Middle School, Streetfield Community Middle School and Ashton CofE VA Middle School.
14. In the 2014/15 annual admissions process parents and carers of three children living in the Studham area submitted applications prior to the deadline. In June 2014 a late application was received seeking a place at Priory Academy from a family who had moved into the area.

15. All were successful in their preference for Middle transfer to the non catchment school of Priory Academy with whom Studham Lower School has formed an informal educational collaboration along with Dunstable Icknield Lower School and Watling Lower School. None of these children were entitled to school transport.

### **Changing pattern of school organisation in Dunstable and Houghton Regis**

16. The changing pattern of school organisation in Dunstable and Houghton Regis had resulted from proposals of individual schools and academies published since March 2011. In order to ensure that parents, carers and other stakeholders were aware of the impact of changes promoted by schools in the area the Council held a public meeting on 29 April 2013 in Dunstable in addition to other communication, advice and guidance provided through the Council's School Organisation and Admissions Service.
17. On the 4 February 2014, after the 2014/15 deadline date for transfer to Middle admissions applications, the Council's Executive received a report recommending the content of consultations regarding the future of Brewers Hill Community Middle School, Streetfield Community Middle School and Ashton CofE VA Middle School. The recommendations to commence consultation on the proposed closure of each school followed an analysis of their future viability in an area where the majority of schools and academies were already in transition towards a primary/secondary pattern of provision.
18. The Council's Executive approved commencement of statutory consultation between 24 February 2014 and 7 April 2014. Following subsequent consideration by Children's Services Overview and Scrutiny Committee and the Council's Executive of the outcome of that initial consultation, the service of statutory proposals followed with a further representation period between 9 June 2014 and 7 July 2014. The Council's Executive finally determined the closure proposals on the 19 August 2014 and Streetfield Community Middle School and Ashton CofE VA Middle School will close in August 2016 with Brewers Hill Community Middle School closing in August 2017.

### **Transport implications of the proposals to close the Middle Schools**

19. The proposed transitional arrangements for pupils attending each of the middle schools subject to closure proposals was set out clearly within the Council's consultation documents and explained in detail at public meetings held as part of the consultation.

20. As a result of the Executive determination of the proposal to close Streetfield Middle School there will be no Middle School intake to Year 5 at Streetfield Middle School in September 2015 and Priory Academy will then be the nearest school to that community with intake at Year 5 and therefore free transport will be provided from that date for new starter Year 5 pupils living in the Studham area and attending the Academy.
21. In early August 2014 the Council's Transport Commissioning and Entitlement Team wrote to each of the parents living in the Studham area who had been allocated places at Priory Academy to provide confirmation of the implications of their decisions not to apply for the Council's catchment school for the area for September 2014 which would have provided free transport entitlement.
22. On 1 September 2014 a parent living in the area who had expressed parental preference and secured a place at Priory Academy for their child in the transfer to middle round from September 2014 contacted the Council's Transport Commissioning and Entitlement Team and her Ward Councillor to express disappointment at the decision not to provide transport to Priory Academy and requested that this be reconsidered.
23. A request was made of the Transport Commissioning and Entitlement Team to reconsider entitlement to Council funded transport for all four Studham children seeking admission as new starters to Priory Academy in September 2014.
24. The request was made acknowledging the fact that admissions applications for transfer to Middle Schools had closed on 15 January 2014. Therefore, parental preferences had been expressed before the Council's Executive had decided to commence any initial consultation on closure which took place on 04 February 2014.
25. The Council's Home to School Transport Policy allows for individual or extenuating circumstances to be taken into account by the Transport Commissioning and Entitlement Team in assessing applications but only for children from vulnerable groups who do not meet the criteria set out within the policy.

#### **Delegated decision**

26. On 8 September 2014 the Director of Children's Services approved a temporary change to the Home to School Transport Policy under delegated authority with a view to the delegation being replaced by a policy change following urgent business procedures at the next possible Executive meeting in October 2014.

The urgency was the need to implement a policy change as soon as possible so as not to disadvantage children and families during this transition period of school closures. The Director agreed to sign the delegation subject to it being time limited to the point of the Executive meeting on 14 October 2014.

27. The Executive Member for Children's Services and the Council's Chief Executive were advised prior to the signing of that delegation that the amendment to the Council's policy could establish a precedent for entitlement to transport where parental preferences are expressed for admission and transfer to a non catchment school in any area that is subject to organisational change and uncertainty, not necessarily of the scale of a school closure.
28. In order to provide permanent entitlement to transport to Priory Academy for children living in the Studham area and transferring to the Academy as a new starter in Year 5 in September 2014 the current defined transport catchment for the area must be amended by adding Priory Academy which is the next nearest school with a Year 5 transfer point, together with Streetfield Middle School, with effect from the end of the period approved through the current delegation.
29. In order to amend the Council's current policy and provide clarity with regard to transport entitlement where a catchment school is subject to closure it is proposed that the policy is amended through addition of the following section.

### **Exceptional cases related to School closure**

*Statutory proposals to close a Council maintained school must be published with transitional arrangements for displaced pupils, as required by DfE guidance for decision makers. Arrangements for children already attending or expecting to be allocated a place at the school that is the subject of closure will, where necessary establish the arrangements for transfer and transport of these pupils to an alternative designated catchment area school. These proposals will determine the dates from which transferring children may become eligible for free transport to the alternative school.*

*In addition, and reflecting the need to be sensitive to the concerns of parents and carers of pupils who were due to join their catchment or nearest school at the school's point of entry, transport may be provided to the alternative designated catchment area school in the event that the Council approves a statutory proposal to close the catchment school.*

*The Council may exercise its discretion to provide Transport for parents and carers of pupils who expressed a preference in the previous school admission round for the next nearest school or proposed alternative designated catchment area school prior to the Council's approval of a statutory proposal to close the catchment school.*

*Transport to an alternative school will not be provided to pupils who are already registered at a school that the Council approves for closure, unless it is intended by the Council in its statutory proposals to be provided to implement the closure, as the move will be classified as parental preference.*

30. This would have the effect of enabling permanent transport entitlement to the four children who have transferred as new starters into Year 5 at Priory Academy in September 2014 from the Studham area. As Priory Academy accommodates children from Year 5 to Year 11 this entitlement would follow the pupils through until August 2021 at a cost pressure to the School Transport budget of approximately £10,450 per annum.
31. This entitlement would not apply to children from the Studham area who are already accommodated in Years 6 to 11 within Priory Academy.

### **Consultation on proposed change**

32. In July 2014 the Department for Education produced revised Home to School travel and transport statutory guidance for Local Authorities. The guidance is clear 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. This period should be extended to take account of any school holidays that may occur during the period of consultation.
33. It is proposed subject to Executive approval of the recommendations contained within this report that a public consultation will commence immediately and conclude on the 18 November 2014, allowing for October half term. Stakeholders to be engaged throughout the consultation process will include all schools within Central Bedfordshire and those in neighbouring council areas where large numbers of Central Bedfordshire children attend, parents and carers of children within these schools, neighbouring local authorities and the Council's Children's Services Overview and Scrutiny Committee.

34. In order to accommodate the consultation period and review of feedback, a further delegation covering the period 15 October to 8 December 2014 has been agreed by the Director of Children's Services, in consultation with the Executive Member for Children's Services to extend the existing temporary arrangements outlined above.
35. It is proposed that the Council's Executive agree to delegate authority to the Director of Children's Services, in consultation with the Executive Member of Children's Services, to determine the proposal subject to there being no significant issues or concerns raised by the consultation exercise. The consultation will conclude on the 18 November 2014, and will be subject of a report to inform the delegated decision of the Director of Children's Services on the 8 December 2014.

### **Risks**

36. If approved, this proposal will make a retrospective change to the Council's approved Home to School Transport Policy which was implemented from 1 September 2014. This may in itself suggest a precedent where other areas of the Policy are requested to be amended retrospectively.
37. There may also be as yet unidentified consequences of the proposed change in policy which are impossible to quantify, however the proposed consultation with schools and academies will mitigate this risk. The proposed change will also be considered by the Children's Services Overview and Scrutiny Committee on 11 November 2014.

### **Reasons for decision**

38. Temporary entitlement to Council funded transport has been approved for four children living in the Studham area who were new starters in Year 5 at Priory Academy in Dunstable in September 2014.
39. The entitlement criteria within the Council's Home to School Transport Policy must be amended to make this a permanent entitlement.
40. This comprises a significant change to the Council's current Home to School Transport policy, requiring Executive approval.

### **Reason for urgency**

41. This item is urgent as entitlement to transport has been provided for a temporary period under delegated authority of the Director of Children's Services, at the stated wish of the Executive Member Children's Services to implement a permanent policy change as soon as possible so as not to disadvantage children and families in the Studham area.



42. The Director has agreed to sign the delegations subject to them being time limited to the point of final determination on 8 December 2014 when the outcome of consultation will be reported.
43. This report has not been subject of Children's Services Overview and Scrutiny. The Vice Chair of the Council's Children's Services Overview and Scrutiny Committee approved this report as an urgent item on the October Executive agenda, on the 10 September 2014.

### **Council Priorities**

44. The Council's Home to School Transport Policy supports the Council's priority of improving educational attainment. The Policy also supports other priorities set out in the Children and Young People's Plan:
  - Protecting vulnerable children.
  - Early help and improving life chances.
  - Being healthy and positive.

### **Legal Implications**

45. The current Home to School Transport policy, agreed by the Executive on 4 February 2014 ensured the Council is compliant with the relevant legislation. The policy details the way in which the Council will exercise its powers and duties to provide home to school transport in accordance with Section 508C of the Education Act 1996, as amended by and the Education and Inspections Act 2006 S77(1).
46. In accordance with DfE Guidance July 2014, changes to transport policy require a consultation period of 28 working days during term time.
47. This policy should be subject to review after a year
48. Ongoing implications of this change in policy are:
  - (a) The parents of children who are attending any school currently subject to closure may claim that their children are being disadvantaged as they have not been offered free transport to the alternative school.
  - (b) There may in the future be parents who have anticipated school closure and have applied for alternative schools and whose children are attending these schools without the benefit of free transport, who may make applications for transport once the catchment school closure has been announced
  - (c) There is a risk of general parental concerns leading to claims for entitlement to transport for instance a similar sense of parental concern could be suggested as a result of falling rolls, a challenging Ofsted inspection or a fall in standards at a school.

## **Financial Implications**

49. The net cost to the Council of providing Home to School Transport in the financial year 2014/15 is forecast to be £7.4m.
50. The immediate financial impact arising from the proposed change to entitlement for children living in the Studham area is additional expenditure of £10,450 in 2014/15. Entitlement for this cohort will continue to school Year 11 at Priory Academy at a total cost of £73,150 through to 2020/21.
51. Aside from four Year 5 children from Studham there are no other pupils who could benefit in 2014/15 from this change in policy.

## **Equalities Implications**

52. The Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
53. The current Home to School Transport policy was subject to a full equality impact assessment originally undertaken in 2010 in consultation with the Equality Forum and refreshed in 2013 as part of the Policy's review and consultation process.
54. The proposed amendment set out in section 29 of this report does not in itself give rise to a risk to the Council's continued compliance with its equalities obligations although the precedent that approval of a retrospective change in policy represents may give rise to a range of equality concerns.

## **Conclusion and next Steps**

55. It is recommended that the Council's Executive consider this report and the proposals to manage any proposed amendment to the Council's Home to School Transport Policy, in light of the risks set out in this report.