

CABINET

16 March 2021

Title: SEND Home to School and Post-16 Travel Assistance Policies 2021/22	
Report of the Cabinet Member for Social Care and Health Integration	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Director: Chris Bush, Commissioning Director for Care and Support	
Accountable Strategic Leadership Director: Elaine Allegretti, Director of People and Resilience	
Summary <p>Every local authority has a duty to publish its policies that set out how it will provide support to some of its most vulnerable families and individuals with travel to and from school each day. More specifically this requirement extends to the publication of two distinct policies, as follows:</p> <ol style="list-style-type: none">1. The Council policy for providing home to school travel assistance for children and young people with special educational needs and/or disabilities (SEND); and2. The Council policy for providing travel assistance and/or support for young people aged over 16 when travelling to or from further education. <p>Both policies are written in accordance with Department for Education statutory guidance and are underpinned by requirements as set out in the Education Act. This report introduces the current iterations of these policies, as we are required to do so on an annual basis. The home to school travel assistance policy for children and young people with SEND remains unchanged for families following review; the post-16 travel assistance policy has been updated and details of the updates are explained in this report.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ol style="list-style-type: none">(i) Approve the 'Home to School Travel Assistance Policy 2021/22' for children and young people with special educational needs and/or disabilities (SEND), as set out at Appendix 1 to the report; and(ii) Approve the updated 'Post-16 Travel Assistance Policy 2021/22', as set out at Appendix 2 to the report.	

Reason(s)

To ensure that the Council is compliant with relevant statutory guidance and legislation by reviewing and approving the policies each year and assist in achieving its priority of “Prevention, Independence and Resilience”.

1. Introduction and Background

- 1.1 Every authority has a duty to review, update and publish the Home to School Travel Assistance Policy, including the post 16 transport policy each year. The policy is written in line with the DfE Statutory Guidance. This guidance states that the Local Authority must develop and publish their transport policy statement for young people of sixth form age and adults over 19 in education and training.
- 1.2 The legislation for home to school transport/ has not changed since the last review came to cabinet in 2016 following a full public consultation. Whilst the policy available was reviewed and republished in 2019, no changes were required as the policy was in line with the DfE guidance relating to Home to School Travel Assistance. This policy has again been reviewed, and in light of the changes required to the services to ensure they are Covid-19 Safe there is not a requirement to make any changes to the Home to School Transport Policy that will impact on residents.

Local Authority Responsibility for Young People Under 16

- 1.3 The Education Act 1996 contains the law on school transport. The government has also issued statutory guidance underpinning this and setting out in greater detail the precise associated duties. Local Authorities must have regard to this when carrying out their duties on home to school travel and transport and sustainable travel.
- 1.4 In short, to qualify as an “eligible child”, the child must be of compulsory school age (5—16) attending a qualifying school and must fulfil one of the following criteria:
 - The child is living outside of the statutory walking distance of the nearest suitable maintained school.
 - For children aged over 5 but under the age of 8 the statutory walking distance is 2 miles.
 - For children aged over the age of 8 and under 16 the statutory walking distance is 3 miles.
 - The statutory distance is measured by the shortest route along which a child, accompanied if necessary, may walk safely.
 - A suitable school is defined as the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child and considering any SEN the child may have.
 - A child’s home is defined as the place where he/she is habitually and normally resident.

The child cannot reasonably be expected to walk to school because of their mobility problems or other health and safety concerns related to their SEN or disability.

- This will be assessed on a case-by-case basis.

- The local authority will consider whether the child could reasonably be expected to walk if accompanied and whether the child's parent can reasonably be expected to accompany the child.

Local Authority Responsibility for Young People Post 16

- 1.5 The statutory responsibility for travel assistance for 16–19-year-olds (who have started a course before their 19th birthday) rests with local authorities. Local authorities have a duty to prepare and publish an annual travel 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.
- 1.6 Legislation gives local authorities the discretion to determine what transport and financial support are necessary to facilitate young people's attendance. The local authority must exercise reasonable assessment of need against the post 16 policy to determine a young people's eligibility.
- 1.7 The sixth form age duty applies to young people of sixth form age and young people with Education, Health and Care Plans (EHC plans) up to the age of 25 where they are continuing a course they started before their 19th birthday.
- 1.8 The overall intention of the sixth form age transport duty is to ensure that:
 - Learners of sixth form age can access the education and training of their choice; and
 - If support for access is requested, this will be assessed and provided where necessary.
- 1.9 The local authority also has a duty under The Education Act 1996 section 508G to prepare a transport policy statement setting out any transport or other arrangements that it proposes to make for that academic year in respect of adults aged under 25 with EHC plans. This must be published on or before 31 May each year. The statement must include the details of transport arrangements and the details of financial support in respect of reasonable travelling expenses that the local authority considers it necessary to facilitate access to education or training for learners of sixth form age for the following academic year. These arrangements could include:
 - The availability of a concessionary fare schemes.
 - A bus pass or Direct Payment equivalent.
 - A bus pass or Direct Payment equivalent plus a companion pass or Direct Payment equivalent.
 - Independent travel training.
 - A fixed mileage allowance.
 - Provision of actual transport.
- 1.10 This policy is reviewed by operational and legal colleagues on a yearly basis and the policy is published in line with the guidance. The Home School Transport Policy was last presented to Cabinet in 2016 and continues to be compliant with the law.

1.11 In developing the updated post-16 Policy, all relevant legislation was reviewed and incorporated into the Councils' policy.

2 Current Home-to-School Transport Policy (SEND)

2.1 The Home to School Transport Policy was extensively reviewed in 2016 and a full public consultation was undertaken. The final policy statement was agreed at Cabinet in 2016.

2.2 The policy was reviewed again in 2019 following a further issuing of guidance from the DFE. However, on review of the policy there were no requirements to make any changes to meet the requirements of the new guidance that will impact on residents. There has been an amendment recommended by Commissioners which explicitly states that we cannot provide travel assistance for a Looked After Child for whom another LA is responsible unless they agree to fund the costs, even if they are placed in Barking and Dagenham. This will bring us in line with other local authorities.

2.3 The policy clearly states how the authority will determine the eligibility and the travel models that will be considered for those children of statutory school age who are eligible for travel assistance.

2.4 As the policy continues to meet the requirements of the DFE guidance there is no requirements to make any amendments to the policy that will impact local families and children.

2.5 Commissioners have amended the policy, explicitly stating that we cannot provide travel assistance for a Looked After Child for whom another LA is responsible unless they agree to fund the costs, even if they are placed in Barking and Dagenham. This will bring us in line with other local authorities.

The post-16 Travel Policy

2.6 Since June 2013 young people are required to stay in education or training for a further year after compulsory school leaving age, and this extends to the age of 18 from June 2015. The government has issued statutory guidance on Post-16 transport to education and training 2014 which local authorities must have regard to when carrying out their responsibilities. Local authorities have discretion to determine transport and financial support in their area and must publish their policies on this. Local authorities must have regard to:

- The needs of those who could not otherwise access education or training and those not in education, employment, or training (NEET) and young parents.
- The young person having reasonable choice between education options.
- The distance between home and the education establishment.
- The journey time.
- The journey costs
- The needs of learners with learning difficulties and/or disabilities.

2.7 Similarly to the Home School Travel Policy, the Post 16 Transport Policy is a document that must be reviewed yearly to ensure it meets the requirements of the DFE Guidance.

- 2.8 The guidance provided by the DFE was last update in January 2019 and whilst there were no changes to the guidance there were clarifications, where legislation was ambiguous.
- Further clarify the sixth form age and adult duties, including clearer explanation of when each applies.
 - Includes good practice suggestions.
 - Provides additional annexes containing an example Local Authority policy template, information on compliance checks conducted by the department and FAQs
- 2.9 With the options available to young people leaving their secondary educational setting there has been an increase in demand where young people are choosing to change placement rather than remain in their secondary provision to complete their FE placement. Coupled with some secondary setting not having a Further Education offer there are more 16-19yr old students that are in need to travel assistance to access their FE placement.
- 2.10 The post 16 policy links to the Home School transport Policy and the eligibility that is applied in these cases is that moving to a placement that is not the local suitable placement would be deemed as a preferred placement and therefore the young person would not be eligible for travel assistance.
- 2.11 For young people to have choice of where they wish to undertake their FE studies the eligibility criteria must be relaxed to ensure these young people can access the support they need to ensure they can access their educational place of choice.
- 2.12 Under the current policy many applications were declined, with alternative arrangements offered to support families to facilitate young people getting to a college placement. Where a family was not offered a transport option, they requested a Direct Payment from children's social care via the Heathway Resource Centre to cover the cost. This simply moves the pressure to Children's Social Care and masks the true cost of Transport for the borough.

	2018/2019	2019/2020	2020-2021
Applications	12	6	16
Declined	9	5	16
DP Awarded	3	2	3
Mileage	1	1	1
Travel Training			3
Direct Transport		5	5
Stage 1 appeals	7	4	5
Stage 2 appeals	1	2	2
Members enquiries	3	0	0

3 Revisions to the Post 16 Travel Policy

- 3.1 While the current policy meets our statutory obligations, it does not reflect the changing profile and needs of young people moving to Further Education in the borough. The 16 declined applications for post 16 transport came from Riverside Bridge Special School, who do not have a Further Education offer; it is inequitable

that young people at Trinity, with similar levels of need, are offered transport assistance due to their post 16 education offer.

3.2 As a consequence, two key revisions are proposed to the Post 16 Transport policy as follows:

1. To ensure that Transport is considered as part of the transitions process for all SEND children, so that options can be discussed and applications for travel assistance can be considered early in the transition process, which will negate the number of appeals we currently have. We recognise that transitions are tricky for families and young people, the change will streamline the process in a pragmatic and transparent way, focusing on positive outcome for the young person.
2. That Independent Travel Training (ITT) will be considered for all young people transitioning to FE colleges, so that we can maximise independence in line with the Care Act. If an ITT place is offered and a parent refuses to consent to their child attending independent travel training, their child's eligibility for transport may be reviewed and future travel arrangements may be offered on the condition that their child attends the training in the future. Continued refusal may lead to withdrawal of travel assistance.

4. Demand and Costs

4.1 The number of applications for Home School Travel Assistance, is rising as is complexity of need. The revisions to the Post 16 Policy seeks to maximise independence and reduce demand on Home School Transport in the longer term.

	2018/2019	2019/2020	2020-2021
Applications	549	656	693
Declined	3	39	41
DP Awarded	45	69	84
Mileage	13	22	35
Travel Training	3	16	5
Direct Transport	461	510	528
Stage 1 appeals	12	18	8
Stage 2 appeals	1	5	2
Members enquiries	1	0	1

4.2 Additional demand

Due to COVID-19, we are running substantially more routes than in previous years. which has had a significant impact on the budget in 20 /21. The expectation is that in September the routes will return to pre COVID-19 rate, which will have a positive impact on the budget.

Resources required	2018/2019	2019/2020	2020-2021
Number of PTS routes	23	19	33
Number of Taxis	44	45	46
Total	67	64	80

4.3 The costs of the provision of each service are:

	2018/2019	2019/2020	2020-2021 (forecast)
PTS recharge	£1,388,200	£1,688,200	£1,688,200
Direct Transport	£1,173,175	£1,210,365	£2,440,792
Total	£2,561,375	£2,898,565	£4,128,992

4.4 The cost of providing travel assistance for FE Students has started to increase. The post-16 Policy seeks to mitigate some of this cost by improving young people's independence and the use of public transport, where appropriate.

	2018/2019	2019/2020	2020/2021 (forecast)
DP	£4000	£4500	£9,000
Mileage	£500	£500	£500
ITT			£15,000
Direct Travel		£15,000 (from Sept)	£30,500
Total	£4,500	£20,000	£55,000

4.5 On analysis of this trend, the needs of young people leaving our special schools and Alternative Resourced Provisions (ARPs) at 16 have significantly increased over recent years making them eligible for discretionary awards; proposed changes to the post-16 Transport policy will allow the Transport Coordinator to manage those transitioning at an early stage of planning, which will negate the number of appeals at Stage One and Two. It is worth noting that the authority has not had any Local Government and Social Care Ombudsman appeals, which reflects that our appeals process is well managed and seeks to problem solve pragmatically with families to a positive outcome.

4.6 During the pandemic the council took a proactive stance to reduce the number of children on buses, aligned to school bubbles, to ensure that the risk of Covid was minimised. This has meant that there have been more buses, coaches, and taxi's than we would normally have commissioned. This has led to significant cost pressures on this budget line. We are anticipating that home to school transport will return to pre-Covid capacity in September 2021, which will have a positive part-year effect on the budget. The post-16 Transport policy will improve forecasting of the budget, as young people's transport needs will be considered as part of their overall plan.

5. Options Considered as part of the post-16 Policy Review

5.1 The table below details the various options that have been considered in the development of the Post 16 Transport Policy.

Considered	Rationale	Outcome
Charging for 16-18 transport was considered (and is undertaken by other Local Authorities)	It was felt that this would be inequitable compared to those non-SEND students who are able to travel for free through the Transport for London Concessionary Fare scheme.	Rejected
A means-based approach based on household income	Rejected since this did not consider the needs of the individual students	Rejected
A blanket approach to making Direct Payments the default position for all 16-18 transport	Rejected on the basis that would be financially unviable	Rejected

We develop a bespoke offer for Young People moving to college post 16 applying for transport	That individual circumstances are considered and appropriately responded to, that we ensure that we are maximising independence where indicated and supporting families holistically.	Recommended
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5.2 The proposed change to the policy would make the Council's preferred option for 16–18-year-olds Independent Travel Training; where this is not appropriate families could apply for a Direct Payment (DP) to support the cost of transport, where they meet the conditions of the policy. The exception would be for students with severe learning difficulties or complex physical/medical needs, where we would continue to meet their needs within the Home School Transport contract.

5.3 The proposed changes to the post-16 Travel assistance policy are intended to:

- Promote the choice and independence of young people in relation to travel and transport.
- Empower families to find their own lasting travel solutions.
- Remove reliance on council provided transport and promote increased use of public transport.

6. Equality Impact Assessment (EIA)

6.1 An equality impact assessment is not required as the recommendations contained within this report do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010, rather the changes clarify the Council's existing position and ensures that the policies are applied transparently.

7. Consultation

7.1 The proposals in this report were considered and endorsed at the Portfolio meeting on 16 February and by the Corporate Strategy Group at its meeting on 18 February 2021.

8. Financial Implications

Implications completed by Philippa Farrell, Head of Service Finance

8.1 This report seeks approval for the updated Home to School Transport policy. The local authority has a duty under The Education Act 1996 section 508G to prepare a transport policy statement setting out any transport or other arrangements that it proposes to make for that academic year in respect of adults aged under 25 with EHC plans. This must be published on or before the 31 May each year.

8.2 With the increase in Additional Resourced provisions, the migration of children in need of travel assistance and the increased capacity in our special schools, and the opening of the Riverside School, the demand for travel assistance continues to rise. Providing Covid secure travel has placed further pressure on the budget.

8.3 In the current year the service has overspent quite significantly against the original budget of £2.9m by £1.3m – however £730k is driven by Covid and we are

expecting much of this to be met from the Covid grant. Then in 2021/22 there is MTFS growth of £730k.

- 8.4 Delivering the optimal option outlined in the above paper will result in a financial requirement of £2.9m (Pre-COVID level) this proposed option can be met within the existing financial envelop of £2.9m which includes £700k growth from the previous year. The In year additional pressure of £730k in 2020/21 is being met in the main from Covid grant, it is anticipated these costs would recede once normal operation resumes, however current arrangements are expected to continue at least into the first quarter of the new financial year.

9. Legal Implications

Implications completed by Lindsey Marks, Deputy Head of Law

- 9.1 Local authorities have a statutory responsibility for transport for 16–19-year-olds (who have started a course before their 19th birthday) rests with local authorities. Local authorities are required 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.
- 9.2 Section 509AA Education Act 1996 places a duty on all duty applies to all local authorities in England in respect of arrangements for young people (over compulsory school age) aged 16-18 and those continuing learners up to age 25 with EHC plans, who started their programme of learning before their 19th birthday. The legislation recognises that a local response to transport arrangements is important in enabling young people's participation in education and training and as such the flexibility of the extent of an individual policy lies with individual local authorities. A local approach allows local circumstances to be considered. The legislation therefore gives local authorities the discretion to determine what transport and financial support are necessary to facilitate young people's attendance. The local authority must exercise its power to provide transport or financial support reasonably, considering all relevant matters.
- 9.3 The sections 509F and 508G Education Act 1996 place duties apply to all local authorities in England in respect of arrangements for adults aged 19 and over, who started their programme of learning after their 19th birthday. The legislation recognises that a local response to transport arrangements is important and whether local authority arranged transport for this age group is necessary, sits at a local level and, and as such the flexibility of the extent of an individual policy lies with individual local authorities. Where local authorities do decide that it is necessary for them to provide transport, this must be provided free of charge, however, the legislation also gives local authorities the flexibility to contribute to, fund or charge for other transport solutions where it wishes.
- 9.4 Section 508A Education Act 1996 requires local authorities to promote the use of sustainable travel and transport for all children and young people of compulsory school age who travel to receive education in the local authority's area. Section 508B and Schedule 35B Education Act 1996 places local authorities under a duty to provide free school transport to "eligible children".

- 9.5 Local authorities are required to prepare and publish a transport policy statement on or before 31 May each year. The statement must include the details of the transport arrangements and the details of the financial support in respect of reasonable travelling expenses that the local authority considers it necessary to make to facilitate access to education or training for young people of sixth form age. The transport policy statement should set out any transport or other arrangements that it proposes to make for that academic year in respect of adults aged under 25 with Educational Health and Care (EHC) plans.

Public Background Papers Used in the Preparation of the Report:

- Department for Education - Home to School Travel and Transport Statutory Guidance: <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>
- Department for Education - Transport to education and training for people aged 16 and over: <https://www.gov.uk/government/publications/post-16-transport-to-education-and-training>

List of Appendices:

- **Appendix 1:** LBBB Home-to-School Travel Assistance Policy 2021/22
- **Appendix 2:** LBBB Post-16 Travel Assistance Policy 2021/22