

Appeals Sub-Committee Agenda

Date: Monday, 1st October, 2012
Time: 2.15 pm
Venue: Committee Suite 1 & 2, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Apologies for Absence**

To receive any apologies for absence.

3. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

4. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

For any apologies or requests for further information, or to give notice of a question to be asked by a member of the public

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5. Exclusion of the Press and Public

The reports relating to the remaining items on the agenda have been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matters may be determined with the press and public excluded.

The Committee may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

PART 2 - MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT

6. School Transport Appeals (Pages 1 - 40)

The Committee is asked to determine the following appeals against the decision of the Council not to offer assisted school transport.

Enclosed are:

- A copy of the 'Under-16 Transport Policy'
- An extract from the minutes of a meeting of Cabinet relating to changes to the Policy which were implemented on 1 September 2012

The revised Policy has been applied in each case.

The Cases will be heard at the following times:

Case 1: 2.15pm (pages 13 - 26)

Case 2: 3.00pm (pages 27 – 40)

**EXTRACT FROM THE MINUTES OF A MEETING OF CABINET HELD ON
30 APRIL 2012**

**147 KEY DECISION - HOME TO SCHOOL TRANSPORT - RESPONSE
TO SCRUTINY REVIEW**

In accordance with rule 13.1 of the Scrutiny Procedure Rules, the Chairman of the Children and Families Scrutiny Committee has been consulted and has agreed to waive the call-in provisions in relation to this decision on the grounds that any delay, caused by the call-in process, would be likely to seriously prejudice the Council's or the public's interest in this matter.

The Call In process would also significantly limit the Council's ability to support schools and colleges to find suitable alternatives for September 2012. Secondly, it would significantly prejudice the public's ability to seek alternatives in terms of transport and alternative schools should they wish to change schools. Thirdly, taking into consideration that the savings resulting from the withdrawal of entitlement on the grounds of religion/fait in 2012/13 are being redirected to provide one-off funding to the affected educational establishments, any delay would prejudice the ability of those establishments to make the necessary alternative arrangements for September 2012.

Consideration was given the recommendations of the joint scrutiny Task and Finish Group, and to the recommendations of the minority report, following a review of the home to school transport policy. Following initial consideration of the matter by the Cabinet in July 2011 a joint Task and Finish Group had been established to review the potential impacts of changes on children with special educational needs, and for children currently entitled to support under the Council's denominational and post 16 transport policies.

The Portfolio Holder for Children and Family Services gave a detailed resume of the position leading to the recommendations now being considered, including reference to the scrutiny review, the need to act equitably to the parents of pupils at both faith and non faith schools, and of the measures being put in place to provide support for young people wishing to remain in education beyond the statutory school age.

Cabinet was informed that since the report had been circulated recommendation (2) had been amended to include the wording "*this money is to be ringfenced accordingly*" at the end of the first sentence.

A number of visiting Councillors spoke on the matter and there was a wide ranging debate during which the points covered included welcoming the arrangements to be made for post 16 transport, concern that the finance available for post 16 transport would not be enough to cover their costs for a whole year; concern at the introduction of the revised policy with effect from September 2012 and the effect this could have on any parents who had made a decision regarding their child's school based on the terms of the existing transport policy, the reliability of the figures on which the calculations had

been based, and that alternative money saving measures had not been fully investigated.

In considering the recommendations now made it was requested that the additional wording regarding ringfencing should be added to recommendation (3) as well as to (2); the Portfolio Holder agreed that this could be done.

The Chairman thanked all those members who had been involved with the scrutiny review for their work and effort in carrying out an excellent review, and also all those members of the public who had attended meetings to speak on the matter. Having taken full account of the recommendations of the task group, consultation responses and of the overall the financial position it was

RESOLVED

1. That free transport will no longer be provided for children attending denominational schools through parental choice on the grounds of a parent's religion/faith; withdrawal of which to take place for all students – whether current recipients or future applicants – from September 2012. Exceptions are to be provided for secondary-school age children from low income families attending a choice of their 3 nearest qualifying schools between 2 and 6 miles from home, or up to a maximum of 15 miles to the nearest school preferred by reason of a parent's religion or belief, in accordance with statutory responsibilities.
2. That the savings resulting from the withdrawal of entitlement on grounds of religion/faith in 2012/13 be redirected to provide one-off funding to the affected educational establishments; this money is to be ringfenced accordingly. Each establishment will have freedom over how it uses this one-off funding to support alternative travel options to students. It is estimated that such savings will be of the order of £150,000, which will be distributed on an equitable basis to relevant establishments.
3. That a reduced devolved grant – £375,000 a year (equating to approximately 50% of current net expenditure) - be offered to all Sixth Forms and Further Education Colleges accepting Cheshire East resident students for post 16 mainstream transport subsidies and for this money is to be ringfenced accordingly. Each Sixth Form or College will determine the basis of support to each student taking account both the needs of the students and the establishments themselves. The respective grants to be awarded on the basis of the 2011/12 data and the efficacy of this to be reviewed yearly.
4. That the Council, in full partnership and consultation with parents, carers and special schools, look at alternatives around SEN transport to improve outcomes by promoting a positive culture of independence for children, young people and families. In addition, the Council will undertake further reviews of provision such as where transport is

provided by way of the Education and Inspections Act (2006) and social care transport needs.

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Under 16 School Transport Policy

Section 1

SCHOOL TRANSPORT POLICY FOR CHILDREN OF STATUTORY SCHOOL AGE (Effective from September 2008)

General Statement of Policy

Criteria of eligibility for free home to school transport

- Children who attend their local school
- Parental choice of an alternative school
- Children who attend denominational schools
- Children in special education
- Children affected by school closures
- Children whose families move home
- Children in temporary residential circumstances
- Children with medical problems
- Children outside the 5-16 age range
- Criteria of eligibility for assisted home to school transport to denominational schools for children not 'eligible' for free transport
- 'Ineligible' children and spare seats on contract services
- General conditions
- Parental responsibilities
- Assessment of the walking route from home to school
- The nature of the transport arrangements
- Children's behaviour
- Correcting errors
- The appeals system

Definitions

1 General Statement of Policy

This statement of policy sets out the way in which the Council has decided to exercise its powers and duties to provide home to school transport in accordance with Section 509 of the Education Act 1996 and the Education and Inspections Act 2006. Generally the Council will provide transport for pupils who are registered pupils at their local school and live more than the recognised (statutory) walking distance from it, ie 2 miles for children of primary school age and 3 miles for older children. For most children this transport is free, but there are charges for those who make use of the Council's school transport services but are not themselves entitled to free transport. The Council makes no general transport provision for children under the age of compulsory education, or those of any age who attend private schools or colleges. Generally the Council will not meet the cost of children's travel to schools or colleges other than those which are intended to serve the particular

area in which they live, eg normally the Council's zoned or catchment school. If a parent sends his/her child to another school, s/he cannot claim from the Council the money the school transport service would otherwise have been prepared to spend on transporting the child to his/her local school.

The above general statements are intended as a general guide and are without prejudice to the full policy set out below. Parents may appeal against a transport decision through the Council's formal appeals process.

2 Criteria of eligibility for free home to school transport

2.1 Children who attend their local school

(Pupils attending the local school in whose catchment zone they live)

- (a) Arrangements for free transport will be made in accordance with the provisions of paragraph 5.3 of this statement, where:
 - (i) the child is a registered pupil at the 'zoned' primary school and lives more than 2 miles from the school, as measured by the nearest available walking route; or
 - (ii) the child is a registered pupil at the 'zoned' secondary school and lives more than 3 miles from the school, as measured by the nearest available walking route; or
 - (iii) the child is from a low income family (see definition 6.3 below), is a registered pupil at an appropriate 'qualifying' secondary school between 2 and 6 miles of the home address (or 2-15 miles for a denominational secondary school); or
 - (iv) the child is a registered pupil at the nearest suitable school to the home address and lives more than 2 miles (primary) or 3 miles (secondary) from the school, as measured by the nearest available walking route.
- (b) Arrangements for free transport will also be made for children registered at their nearest suitable school who live less than the walking distances between home and school referred to in (i) and (ii) above respectively, where, having regard in particular to the age of the child and the nature of the route, or any possible alternative route which the child could reasonably be expected to take, free transport is considered necessary for the purpose of facilitating the child's attendance at school.

2.2 Parental choice of a school other than the nearest suitable school

The Council has no general duty to provide assistance with transport for pupils other than those who attend the "nearest suitable school" (defined in paragraph 6.1).

Except where specifically provided for elsewhere in this policy statement (such as at paragraphs 2.1a (iv) or 2.3) therefore, in all other circumstances the Council will not usually provide free transport or contribute towards the cost of transport.

2.3 Children who attend denominational secondary schools*(Pupils attending Voluntary Aided schools on religious grounds)*

Where a pupil attends for reasons of religious belief, a denominational secondary school between 2 and 15 miles of the home address, the Council will consider the designated Voluntary Aided school of the relevant denomination (as defined in paragraph 6.2) as the appropriate school for the purposes of 2.1a (iii) above, provided that the pupil is 'eligible' for free transport under the low income definitions at paragraph 6.3 of this policy, and the travelling time to or from school does not exceed one and one quarter hours.

2.4 Children in special education*(Children with complex special needs)*

Arrangements for the provision of transport for pupils with special needs are set out in a separate policy statement 'CSN Transport Policy'. Briefly the position is that children with special educational needs may qualify for free transport either on grounds of distance or on the basis of their needs.

The school or unit at which the child is placed by the Council will be deemed the 'nearest suitable school' for school transport purposes irrespective of the Council's normal zoning arrangements.

2.5 Children in the care of the local authority (Looked After Children)

The school at which a child is placed by the Council will be deemed the 'nearest suitable school' for school transport purposes irrespective of the Council's normal zoning arrangements in order to provide continuity of educational provision for such children. The allocation of school will be reviewed as part of the child's regular Care Plan review.

2.6 Children affected by school closures and re-organisations*(Travel arrangements for pupils displaced from their zoned school by its closure or re-organisation of schools in the area)*

- (a) Pupils displaced by school reorganisation or closure who are resident in the catchment area of their former school may be awarded assistance with transport to the new designated school, irrespective of the normal distance criteria, when this is considered appropriate to aid a managed transition and has been agreed under the closure/reorganisation plan;
- (b) There will be an individual review for each pupil with special educational needs to determine appropriate educational provision and associated transport.
- (c) Such arrangements are time-limited, and requests for assisted transport on behalf of pupils subsequently admitted to the designated school will be determined in accordance with 2.1 above.

2.7 Children whose families move home

An existing entitlement to assistance with transport does not continue regardless of a change in a pupil's place of residence. Upon a change of address a pupil's transport entitlement will be reviewed under the policy in existence at that time.

2.8 Children in temporary residential circumstances

(Arrangements for determining the entitlement to free transport on a short-term basis where families are forced to re-locate temporarily to alternative accommodation owing to circumstances outside their control)

- (a) The Council is prepared under the school transport policy to consider on their merits applications in respect of children accommodated under a temporary/emergency arrangement otherwise than where responsibility is accepted by Children's Social Care in (b) below, having regard to the usual distance criteria (though this requirement may be waived in the case of a child accommodated in a refuge, whose safety would otherwise be at risk). Any such temporary arrangements made to provide transport will be subject to review as necessary and at least on a termly basis.
- (b) Where school transport becomes necessary on social grounds as a result of the intervention of Children's Services, the cost of providing transport as requested should, where appropriate, be considered the responsibility of and re-charged to the requesting service (excluding the provisions of paragraph 2.5 above).

2.9 Children with medical problems

Parents of pupils who live within the normal walking distance of their zoned school, but are unable to walk to it because of a medical condition, may apply for assisted transport there. Any such applications should be made to: The Manager, Medical Needs Service, County Offices at Ellesmere Port and will be determined in the light of the recommendation of the School Medical Officer.

3 Criteria of eligibility for assisted home to school transport to denominational schools for children not 'eligible' for free transport

(The policy for providing assisted transport to faith schools (Voluntary Aided) for pupils not 'eligible' for free transport under the Education and Inspections Act 2006)

- 3.1 Pupils will be eligible for assisted (but not free) transport to the designated (see definition 6.2) local denominational school, where they attend for reasons of religious belief and they live beyond the statutory walking distance but less than 15 miles from of the school. Transport assistance will be offered subject to payment of a parental contribution to the cost of transport at a charge to be decided annually and reflecting the cost of provision. The following clauses will apply:

- (i) Assisted transport will be provided subject to the statutory walking distance criteria and the maximum travelling distances (15 miles) and time (one and a quarter hours); and
- (ii) Only two statutory school age children per household (see definition 6.4 for what constitutes a household under this policy) will be subject to a charge; and
- (iii) A pupil attending a school prior to September 2008 and in receipt of free transport under the local authority's Home to School Transport Policy for 2007, and continuing in statutory education at the same school beyond September 2008, will remain entitled to free transport under the 2007 policy, until such time as a change of school takes place.

4 'Ineligible' children and spare seats on contract services

(Arrangements for determining the allocation of spare seats to pupils not entitled to free transport under this policy)

4.1 Parents/carers of pupils not eligible for free transport under the other provisions of this policy may apply for a spare place on an available school contract vehicle, providing that there is no suitable public transport service. Where unallocated seats are available on school contract vehicles, they will be offered for existing routes and stops only, and at a charge to be decided annually and reflecting the cost of provision.

5 General conditions

Free transport is provided to and from school for children who qualify under this policy on the basis that parents, children, schools, Council and transport operators have a shared responsibility for its safe and secure operation in the interests of all the parties. A number of considerations are set out below:

5.1 Children's behaviour

The Council may withdraw its provision of transport facilities or employ other sanctions, as it considers appropriate, in the case of any pupil or student whose behaviour during the journey to or from school/college is not of an acceptable standard, this includes smoking on buses as of 1 July 2007. In addition, schools can employ a number of sanctions ranging from detention to exclusion in order to deal with persistent misbehaviour on school transport. *(There is a Code of Practice, which schools are encouraged to invoke in appropriate circumstances).*

5.2 Parental responsibilities

- a) It is the obligation of parents under Education law to secure their children's safe travel to and from school/college. Parents are responsible for their children until they are received onto school/college premises and after they leave.
- b) Transport assistance is only provided on the basis of a formal application submitted by or on behalf of the parent. If the application is successful, assistance is effective from date of receipt of the application by the Intergrated

Under-16 School Transport Policy

Transport Service or as soon thereafter as practicable – assistance will not normally be provided retrospectively. The Integrated Transport Service *will aim to process your application within 14 days, but this may be longer during busy periods. If arrangements take longer than 14 days, it may be possible to claim a refund from the 15th day and until such time as transport is provided. All refunds will be based on the cheapest fare available at the time of travel and tickets should be retained as proof of purchase.*

- c) Assessments regarding the safety of a particular walking route assume in each case that children are accompanied and, where necessary, therefore, it is incumbent on parents to make arrangements for their child to be accompanied to and from school by another responsible person, if they themselves cannot be available. Where accompaniment by a responsible person is not possible, such cases may be considered under the appeals procedure (see paragraph 5.6 below).

5.3 The nature of the transport arrangements

- a) The arrangements for assisted travel which may be made under this policy will be at the Council's discretion and are made on the most cost-effective basis. These arrangements may take the form of:-
 - travel pass for use on public transport
 - travel pass or other authorisation for use on private contract services (including taxis, where appropriate)
 - cash grant
 - mileage allowance payable to parents
 - cycle maintenance grant
- b) Cash grants and mileage allowances will normally only be paid where no suitable public transport service exists; in certain circumstances the parent of an infant pupil may be paid a cash grant on request. Cycle maintenance grants are available, if requested by parents, as an alternative to other forms of free transport provision.
- c) Where arrangements are made for transport assistance, this will be for one return journey each day at the beginning and end of the normal school day. It is the responsibility of the parent to make any necessary arrangements for his/her child to be transported at any other time.
- d) The Council will not sanction arrangements under this policy, other than to the zoned or designated establishment appropriate to the place of residence, which involve pupils or students undertaking a journey which, by public transport, would require a travelling time each way in excess of one and a quarter hours (secondary): or three quarters of an hour (primary).
- e) Section 508A of the Education and Inspections Act places a duty on local authorities to promote the use of sustainable travel and transport. See the Council's Sustainable School Transport Strategy for further information.

5.4 Assessment of the walking route from home to school

The distance between home and school is measured, using digital mapping, from the pupil's home gate or drive nearest to the school to the nearest available gate/entrance of the school grounds, by way of the nearest available walking route.

An assessment of the route will be made, if necessary, on the basis of appropriate professional advice on all of the relevant factors relating to distance and safety. *(The Council's guidelines for the assessment of the safety of walking routes are included in Section 6)*

5.5 Correcting errors

Where, for any reason, transport facilities have been approved in error, the Council reserves the right to withdraw that provision at any time convenient to the Council, and will normally do so, after giving due notice of its intention to do so.

5.6 The appeals procedure

Notwithstanding the general provisions of this policy, applications for free or assisted school/college transport are considered on an individual basis. In the case of a dispute over eligibility for free/assisted transport a parent/student may bring an appeal against the Council's decision via the appeals process.

5.7 Exceptions to policy

Occasionally cases arise which are outside the policy but where the Council will take the view that transport should be provided and that it would be inappropriate or unnecessary to bring a case to appeal. For this reason the Lead Member for Children's Services decided in November 2006 that "appropriate transport may be approved by Director of Children's Services in relation to children for whom there are very exceptional personal or domestic circumstances".

6 Definitions

6.1 'Nearest suitable school'

- a) For the purposes of this policy the 'nearest suitable school' is defined as the local zoned or catchment school; or, if closer than the zoned school, the nearest maintained school that is deemed by the Council as suitable to a particular child's age and needs.
- b) A school designated by the Council as the appropriate school for a particular pupil (e.g. a permanently excluded pupil, a statemented pupil, a child in the care of the local authority and placed at a particular school or a child placed at a particular school under the Hard to Place Pupil Protocol, where normal admissions procedures have failed) will normally be deemed to be the nearest suitable school for the purposes of this policy.

6.2 'Designated' school

In relation to faith schools, the 'designated' school is the appropriate school as agreed between the Council and the appropriate diocesan authority. This may not always be the nearest faith school.

6.3 'Eligibility' for free transport for 'disadvantaged' children

(How does the Council determine 'eligible' in relation to pupils from low income families and their entitlement to free transport under the Education and Inspections Act 2006).

The Education and Inspections Act 2006 requires local authorities to adopt the following criteria for assessing a family as low income or 'disadvantaged':

"The Act will place a new duty on local authorities to provide free transport for some of the most disadvantaged pupils (those eligible for free school meals or whose parents are in receipt of the maximum level of Working Tax Credit)..."

6.4 'Household'

The term 'household' is intended to cover siblings – ie pupils with brothers or sisters including half-brothers and sisters, and unrelated children living together at the same address as part of one household.

6.5 Distances

Distance referred to in this policy include:

- a) Statutory Walking Distances: principally 2 miles for primary pupils and 3 miles for secondary pupils, except where otherwise stated;
- b) Distances within which 'disadvantaged' pupils are entitled to free transport (2-6 miles for secondary schools, or 2-15 miles for denominational secondary schools);
- c) The lower 2 mile distance referred to in paragraph 6.5b is the distance as measured by the nearest available walking route, whereas the upper 6 and 15 mile distances are not walking routes and should be measured along road routes suitable for a vehicle.

6.6 Definition of 'Qualifying' Schools (secondary schools only):

• 'Qualifying Schools' are the three nearest to the child's home address (and within 2-6 miles) from:

- Community, Controlled, Foundation or Voluntary Aided 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, or Academies.

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 2 or more schools named in the statement.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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