

CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting: 15 October 2012
Report of: Strategic Director – Places and Organisational Capacity
Subject/Title: Available Walking Routes to School
Portfolio Holders: Cllr Rod Menlove / Cllr Hilda Gaddum

1.0 Report Summary

- 1.1 The purpose of this report is to update members on proposed changes to and clarifications of home to school transport policy. These result from a recent Local Government Ombudsman case, where a local authority in the East Midlands was criticised for the way their policy had been drafted and implemented. This has caused most local authorities to re-examine the approach to their policies and working practices.
- 1.2 Councils are required by law to make travel arrangements to facilitate attendance at school where no suitable, available walking route to school exists. What this means in practice is that if there is no route that a child can walk along in reasonable safety, the council must provide free transport or some other suitable arrangement for the child to get to school. Transport provision should only therefore be offered where walking routes to schools are exceptionally dangerous.
- 1.3 The policy of Cheshire East since LGR is the legacy policy of Cheshire County Council. It has not been reviewed for a number of years, and – notwithstanding the need for change caused by the LGO decision – is therefore ripe for review. Should Cabinet approve a revised policy, this will trigger a process of reassessment of routes currently deemed to be unavailable on road safety grounds. The changes to the policy are relatively minor in nature; it is the reassessment of routes that will potentially have a significant impact.
- 1.4 Cabinet are asked to bear in mind that in the last 25 years, significant developments have taken place in the highway, footpath and Public Right of Way network. Some of these are improvements such as pedestrian crossing installations / pedestrian refuges, town centre bypasses etc, that may result in transport no longer being required. Other issues such as greater traffic density, housing development etc, may result in more children becoming entitled to transport. It is anticipated at this point that there will be a balance of a substantial number of children who will no longer be entitled to transport compared to those who may become newly entitled. This will likely lead to a substantial reduction in home to school transport cost.

2.0 Decision requested

- 2.1 Cabinet is asked to approve the policy for assessment of walked routes to school.
- 2.2 Cabinet is also asked to note that – should the policy be adopted – this will trigger a process of reassessment with potential impacts on entitlement to transport at taxpayer expense.

3.0 Reasons for recommendations

- 3.1 In order to ensure the council has adopted all current guidance since the last review of this policy area, a slightly revised policy has been drafted. This revised policy includes specific consideration of the issues raised by the Local Government Ombudsman in a recent case. Case law requires the council to consider the availability or otherwise of walked routes to school, and there have been minor clarifications of the law since the council last considered this policy.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including – Carbon Reduction – Health

- 6.1 The adopted criteria encourage children to walk to school wherever possible, which has a beneficial impact on health outcomes. Schools are obliged to create a school travel plan that promotes sustainable travel to each school.
- 6.2 As part of the council's wider remit to promote public health, active travel such as walking and cycling is favoured over motorised travel. Tackling obesity and associated health problems such as diabetes, heart disease and increased risk of stroke is a key aim. Promotion of active travel (particularly for young people) plays a key role in encouraging healthier lifestyles.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 There are no direct consequences from adopting the revised policy, as it is merely a restatement and clarification of the existing policy. The process of reassessment of routes may mean that some routes are now considered available, and therefore transport may potentially no longer be offered with

consequent reductions in expenditure. Conversely, some routes may no longer be available, and transport may have to be provided that is not currently offered. It is likely that the balance will be such that cost reductions will ensue, but it is not possible to estimate what the likely level may be.

8.0 Legal implications (Authorised by the Borough Solicitor)

- 8.1 The council is required by both the Education Act 1996 and the Education and Inspections Act 2006 to make suitable travel arrangements for certain students to attend school. Case law has established that local authorities are required to make arrangements where a child – living closer to school than statutory walking distance – does not have a route available that can be walked in reasonable safety.
- 8.2 For a route to be available, it must be a route to school, along which a child, accompanied as necessary, can walk with reasonable safety. An authority must therefore give regard to a policy and assessment process that determines whether a route can reasonably be classed as available.

9.0 Risk Management

- 9.1 There are no direct risk management issues. In undertaking an assessment of the availability of a particular route and its associated hazards, national road safety guidance is followed.

10.0 Background and options

- 10.1 A child is required to attend school and it is the parental responsibility to ensure this happens. However, councils are obliged to make travel arrangements on behalf of a parent – and hence at public expense – where:
- The child lives beyond statutory walking distance (2 miles for under 8s, 3 miles for over 8s)
 - The child has a physical or mental disability that means it is unreasonable for them to walk to school, even if they live closer than the above distances
 - There is no suitable available walking route.
- 10.2 The council is required to provide travel assistance where a route to school is assessed as “unavailable”. The definition of “available” has been tested in court, including at the House of Lords. For a route to be available, it must be a route to school, along which a child, accompanied as necessary, can walk with reasonable safety. The Lords held that a county council acted reasonably in not providing free transport to a 12-year-old. Her school journey was 2.94 miles from home, via an unlit country track.
- 10.3 The dangers of a route are factors to consider — but if the danger can be eliminated by accompanying the child, then the route may still be available. In this case, it is reasonable to expect the child to be accompanied to school by an appropriate person. For this reason, hazard assessment is restricted to the road safety risks faced, and risks to personal safety and security are not considered.

10.4 In order to determine whether a particular route encompasses hazards that may be sufficient to make a route unavailable, a formal assessment must be undertaken. This assessment must take into account a variety of factors, including:

- Widths of available footway, highway, bridleway etc
- Traffic flows
- Road accident records
- Crossing points
- “Step-offs” from the highway, such as roadside verges
- Street lighting, insofar as it is relevant to road safety

10.5 The assessment process that most local authorities follow is set out in guidance issued by Road Safety GB. The guidelines take into account the extant case law and legislation in this area, as well as government guidance. By following these guidelines, the council is therefore able to demonstrate that it is following nationally agreed practice, and that the latest advice from government, relevant legal issues etc are captured. The guidance contains a recommended route assessment procedure, as well as recommended approaches to detailed issues such as assessing traffic counts.

10.6 Cabinet may wish to note that more than 1,250 students are currently entitled to transport at taxpayer expense through unavailable walking route. This represents around 25% of children entitled to transport, a relatively high proportion in comparison with other local authorities, for whom around 5% of children entitled to transport is the norm. It is likely (although not inevitable) that a reassessment of currently-unavailable routes would lead to a reduction in their number, with likely withdrawals of transport resulting. In addition, the reassessment process may identify routes that could become available, subject to improvements to the footpath or highway network, so that over time more routes may become available.

10.7 Since it is impossible to say for certain in advance what routes may be classified as available and hence transport withdrawn, or conversely what routes may actually be reassessed as unavailable leading to more transport being provided, it is also difficult to establish a detailed timeline. Should Cabinet be minded to agree the proposed policy, then assessment can commence almost immediately. It is proposed that a prioritisation mechanism be adopted:

- Routes most likely to result in a straightforward reclassification
- Routes most likely to lead to elimination of health and safety risks
- Routes most likely to lead to savings
- All other routes
- Ongoing assessment

10.8 The proposed policy is attached as Appendix 1 to this report.

11.0 Background papers

11.1 The background papers relating to this report can be inspected by contacting the report writer:

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