

Wiltshire Council

**Cabinet
13 September 2011**

**Children's Services Select Committee
22 July 2011**

Subject: Denominational Home-to-School Transport

Cabinet Member: Councillor Dick Tonge - Highways and Transport

Key Decision: Yes

Executive Summary

As a result of significant budget pressures, the Council has had to review all the services it currently provides. This has included a review of all discretionary transport provision, including denominational home-to-school transport. A letter has been sent to parents and schools informing them of the proposal to withdraw discretionary denominational transport with effect from September 2012 and giving the opportunity to respond. A significant volume of representations have been received, and these are summarised as an appendix to this report. As a result of the representations, two further options have been developed which are presented alongside the initial proposal.

Proposals

From the three options presented, Option 2 is recommended (withdraw discretionary home-to-school transport assistance for children attending a denominational school on grounds of their religion) with effect from September 2012, but with transitional funding of £409 per student made available to the schools for a period of one year only to assist with the costs of transport for students already receiving transport who will be entering year 11 (their final GCSE year) in September 2012.

Reason for Proposal

To achieve savings that will be required to balance the budget, while providing continuity of education for pupils already attending a denominational school who will be entering their final year of GCSE studies in September 2012.

**Mark Boden
Corporate Director, Neighbourhood and Planning**

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Key Decision: Yes

Purpose of Report

1. To seek approval for a change to the Council's Education Transport Policy in respect of denominational home-to-school transport in order to achieve financial savings.

Background

2. As a result of significant budget pressures, the Council has had to review all the services it currently provides. As far as is possible, it is seeking to make savings from improvements in efficiency and procurement, but these are not enough on their own and it has also been necessary to consider whether it can continue to afford to provide services that are discretionary – i.e. not required by law.
3. Currently, the Council provides subsidised home-to-school transport for children attending a denominational school on grounds of their religion; this is over and above that provided for children not attending a denominational school. This assistance is discretionary and was reviewed in 2006/7, at which time a charge was introduced. Information about the current scheme (number of pupils benefiting, the schools attended, and the cost of the transport) is attached as **Appendix 1**. It can be seen that the current charge to parents only covers a proportion (on average around half) of the cost. The law requires local authorities to provide free home-to-school transport for children attending the nearest denominational secondary school where the child receives free school meals or the parent receives the maximum level of Working Tax Credit for their case, and where the school is at least two miles, and no more than 15 miles, from home. In all three options the Council will continue to provide free transport in these circumstances.
4. A letter was sent on 5 May to all parents receiving denominational transport assistance, to the headteachers of affected schools, and to the Clifton Diocese, explaining the Council's proposals and stating that Cabinet would be asked to approve proposals at its meeting in September. In order to make it clear what channels were available for representations to be made to the Council about the proposals, a further letter was sent to the parents and headteachers on 27 May giving details of the date and venue of the Cabinet

meeting and of the rights to attend that meeting, and explaining how representations could be made.

5. At the Cabinet meeting on 24 May the Leader of the Council emphasised that no decision had been made by Cabinet, and that the decision would be made at their meeting on 13 September.
6. A meeting has also been held between Members of the Cabinet, the Head of St. Augustine's School and a representative of the Clifton Diocese to discuss the proposals.
7. A summary of the representations received, and the issues raised (together with the Council's response to these), is attached as **Appendix 2**.
8. Following consideration of the representations received, and of the financial, environmental, legal and equalities impacts outlined below, three options are now put forward for Cabinet to consider:

Option 1 – implement original proposal (withdraw all discretionary denominational transport assistance with effect from September 2012)

- From September 2012 the Council would cease to provide transport for pupils attending denominational schools on the grounds of denominational preference, except where there is a legal entitlement to free transport (i.e. for low income families in certain circumstances, as described in paragraph 3).
- During 2011/2012 Council officers would seek to support the schools to arrange their own transport, to try and ensure that, as far as possible, transport continues to be available but funded by the users or from other sources rather than by the Council.

Option 2 – withdraw discretionary denominational assistance with effect from September 2012, but with transitional provisions to assist pupils entering the final year of their GCSE course in 2012

- As Option 1, but;
- The Council would provide a fixed amount of funding direct to the schools, to assist them with the costs of providing transport for pupils who are part-way through their exam course when the new policy takes effect. The payment would be for one year only, and would be based on the number of pupils at the school already receiving transport and who would be entering their final year of GCSE studies in September 2012. It is suggested that this would be set at £409 per pupil, which is equivalent to the average overall cost per head of providing the existing transport in 2011/12, less the 2011/12 parental contribution. Transport would have to be arranged by the schools affected.

Option 3 – withdraw discretionary denominational assistance with effect from September 2012, but with transitional provisions to assist all pupils who are already receiving transport

- As Option 1, but;
- The Council would provide a fixed amount of funding direct to the schools, to assist them with the costs of providing transport for all pupils who are already attending the school, each year until they leave. The payment would be made once each year and would be for a fixed amount per pupil, for each child still attending the school who was receiving transport in the 2011/12 academic year. The overall amount paid by the Council would therefore decrease each year as successive year groups leave the school. It is suggested that the amount paid per pupil would be set at £409 per pupil, which is equivalent to the average overall cost per head of providing the existing transport in 2011/12, less the 2011/12 parental contribution. Transport would have to be arranged by the schools affected.

Main Considerations for the Council

9. The Council will need to balance the need for financial savings against the impacts identified elsewhere in this report, and in the representations received from parents and schools (summarised in **Appendix 2**). The main issues to be considered include:
 - Restricting choice – the proposals would make it more difficult for parents, especially those on lower incomes or with more than one child in the family, to send their children to a school of the faith to which they adhere.
 - Financial hardship – the proposals could cause financial hardship for parents who already have children at a denominational school, as the cost of transport would be likely to increase significantly or may not be available at all (although children from the lowest income families would continue to receive free transport). Options 2 and 3 would mitigate the impact of this to some extent.
 - Continuity of education – the proposals could oblige some parents to transfer children currently receiving transport assistance to another school if there is no alternative transport available or they are unable to afford the higher cost. Options 2 and 3 would mitigate the impact of this to some extent.
 - Impact on denominational schools – it is argued in some of the representations received that the proposals would have a detrimental impact on the viability of the denominational schools, and that their ethos would change if fewer adherents to the faith are able to apply and their places are taken by children from other backgrounds. A consideration, raised by the schools and the Diocese, is that the financial contribution to the running of the schools made by the Church benefits the Council by reducing the funding it has to provide, and that the subsidy for transport compensates for this.

Environmental and Climate Change Considerations

10. Removing the home to school transport subsidy for children at denominational educational establishments would be likely to result in pupils travelling to school using a number of different modes. If this were to happen, there would be a number of potential detrimental environmental impacts, including an increased carbon footprint (as not as many children will be using mass transport), increased volumes of road users and decreased air quality arising from more vehicular movements.
11. The extent of these detrimental impacts would depend on the extent to which alternative transport arrangements were able to be made by the schools, and the nature and cost of these arrangements. The Council has offered to support the schools to make their own transport arrangements (or take over existing contracts) so that this impact is minimised. Options 2 or 3 would also reduce the potential environmental impact to some extent during the transition period. The Council is also able to assist schools in developing a travel plan with targeted objectives and feasible projects that aim to make home to school travel more sustainable.

Equalities Impact of the Proposal

12. The equalities impact of the proposals would again depend on the extent to which alternative transport arrangements are able to be made by the schools to replace the current services that are provided under contract to the Council. The Council has offered to support the schools to make their own transport arrangements so that the impacts are minimised, as without these there would, in some areas, be no suitable transport available and parents would have to make their own individual arrangements. If alternative arrangements could be made, the impacts would be lessened, as transport would still be available, but the charging arrangement would have to be made by the school concerned. Options 2 and 3 would again mitigate the impacts to an extent, as described below.
13. The main impacts would be as follows, and would particularly affect the following groups:
 - Adherents to the Roman Catholic faith - although the denominational transport policy applies equally to all faith groups, in the Wiltshire context recipients are all from the Catholic faith.
 - Lower income families – although some children from low income families will continue to receive statutory free transport, families falling just above the qualifying income threshold may suffer financial hardship if they choose to continue attending a denominational school.
 - Families with more than one child attending a denominational school – for whom the costs of transport are multiplied if charged per seat.
 - Families living in areas where it is not possible to arrange alternative transport – this will depend on what alternative arrangements can be

agreed with the schools, but may particularly affect some rural areas where transport is currently expensive to provide (e.g. where taxis are used).

Impact 1 - restriction of ability to choose a school of the faith to which the family adheres

14. This is identified as a major concern in the majority of the representations received. The Council continues to recognise and support faith schools as providers of education. However, it also has to take into account the financial cost to council tax payers in general of providing transport. It is also noted that although the Council supports the right of all parents to send their children to a preferred school for other reasons, (e.g. educational preference) it has a policy that it is not able to provide financial assistance for transport. Although it can be argued that the ability to choose a school that allows a child to grow up with the values of the faith to which the family adheres is not the same as choosing a preferred school on educational grounds, there are others who would argue that it is not fair that some groups receive funding to support their choice of school, while others do not.

Impact 2 – financial hardship

15. This is another of the main concerns raised in the representations received. Transport is expensive to provide – this is why the Council is unable to fund transport for parents who choose to send their child to a more distant school on grounds of parental preference, and is why it is now proposing to withdraw assistance for denominational transport. The average cost to the Council of providing the existing transport is £781 per pupil per year, to which parents currently contribute between £302 and £400, depending on distance and age (2010/11 charges). In some cases (e.g. in some rural areas where taxis are used) the cost to the Council is very much higher – although the charge to parent remains the same. If parents have to pay a higher proportion of the costs, or make their own transport arrangements if the schools are unable to provide transport that meets their needs, then this could be a significant burden for families who are on a relatively low income but are above the threshold for statutory free transport, and particularly those who have more than one child at school. However, this would depend on the charging arrangement made by the school concerned.
16. Option 2 would mitigate the financial impact for pupils who will be in their final GCSE year in 2012/13, and Option 3 would mitigate the impact for all pupils who are already at a denominational school and receiving transport. The extent of the mitigation would depend on how the schools were able to use the transitional funding allocated to them and, in particular, whether they were able to make cost-effective arrangements for (for example) transport from the more isolated rural areas, and what charges they would make to parents.

Impact 3 – continuity of education

17. If the availability of transport is reduced, or the cost to parents increased significantly, it is possible that some parents with children already at a denominational school would be obliged to move them to another school. This would cause disruption to the child's education and be unsettling.

18. Several of the representations received have expressed particular concern about the impact on GCSE students who may have to transfer part-way through their course. Option 2 is proposed as a way of mitigating the impact on this particular group of students (the year group who will be starting their GCSE studies in year 10 in September 2011, and will take their exams in the year beginning September 2012). Option 3 extends this mitigation to all students who are already at a denominational school and receiving transport.
19. In both cases, the extent of the mitigation would again depend on how the schools were able to use the transitional funding allocated to them and, in particular, whether they were able to make cost-effective arrangements for (for example) transport from the more isolated rural areas, and what charges they would make to parents.

Risk Assessment

20. There is a risk that if a large number of children transfer to other schools as a result of the implementation of the proposals, there might not be the capacity to accommodate them in their nearest local school. If this were the case, the Council would be obliged to provide transport to the next nearest suitable school, and this would erode the savings achieved.
21. The Admissions Team have analysed the data for children attending the schools by year group and have concluded that, should denominational transport be withdrawn, there will be places at the pupils' designated local school for any applications made in the normal admissions round, e.g. admission into reception or year 7. However, if parents of pupils already attending denominational schools decide to withdraw their children, and then seek a space at their local designated school, it may not be possible to secure a school place as the year group may already be full. The schools where this has been identified as a potential issue are as follows:
 - St. Laurence Secondary School, Bradford-on-Avon
 - Corsham Secondary School, Corsham
 - Devizes Secondary School, Devizes
 - Lavington Secondary School, Market Lavington
 - Broughton Gifford Primary School, Broughton Gifford
22. The extent to which this will result in extra cost to the Council is hard to assess, as it will depend on the number of children who seek to change school, the number of spare places available in the relevant year group, and whether transport to the next nearest school is already being provided for other children. It has been assumed that most parents will want their children to remain at the current school, and that the schools will be able to make alternative arrangements that will enable most to do this; however, the savings estimates shown below include an allowance for a limited amount of extra transport to alternative schools. The risk would be significantly reduced with Option 3, and this is also taken into account in the financial calculations.

23. It has been assumed that, if the proposals are approved, the denominational schools will be able and willing (with support from Council officers) to make alternative transport arrangements, such that transport will continue to be available for most of those who need it. If this is not the case, the impacts on pupils and their families will be much greater as other existing transport services are not sufficiently extensive, or do not have sufficient capacity to cater for the numbers of children currently travelling in some areas.
24. There is a risk that if a decision on the proposals is deferred, the period of notice given to parents and schools will be insufficient to allow them to make alternative arrangements. It is recognised as 'good practice' (though not a statutory requirement) to give 12 months notice of major changes to transport policy such as this.

Financial Implications

25. The current denominational transport policy, under which the Council provides transport and levies a charge for its use, was introduced in September 2007 and was phased in such that it only applied to new pupils starting at the school. There are still some children (those currently in years 11 and above) who are receiving transport assistance under the pre-2007 policy and do not pay a charge. Under the existing policy there will therefore be additional income (estimated at £30,000) that will accrue to the Council over the next two years (2011/12 and 2012/13).
26. The additional savings from implementing the options outlined in this report, on top of those being achieved under the existing policy, are estimated as follows. All figures are best estimates at the time of writing and are liable to change:

Option 1

2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
£153,000	£159,000	£160,000	£161,000	£162,000	£162,000	£162,000

(Savings achieved from withdrawing transport contracts (net of income from charges), less an estimated cost for continuing to provide free transport to meet statutory requirements; and for providing transport to alternative schools where children transferring cannot be accommodated in their local school; and for the cost of continuing to provide transport for sixth form students who will continue to be entitled to transport assistance under the 'same cost' provisions of the Council's Post 16 Education Transport Policy.)

Option 2

2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
£132,000	£159,000	£160,000	£161,000	£162,000	£162,000	£162,000

(As for Option 1, less an estimated one-off payment to the schools in 2012/13)

Option 3

2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
£38,000	£69,000	£100,000	£134,000	£158,000	£160,000	£162,000

(As for Option 1, less an estimated payment to the schools each year up to and including 2017/18; 2018/19 would be the first year in which the full savings would be achieved, although the bulk - £158,000 – would be achieved by 2016/17). Also with a reduced estimate for the cost of providing transport to alternative schools, where children transferring cannot be accommodated in their local school)

Legal Framework

27. Section 509AD of the Education Act 1996 places a duty on local authorities in fulfilling their duties and exercising their powers relating to travel, to have regard to, among other things, any wish of a parent for their child to be provided with education or training at a particular school or institution on grounds of their parent's religion or belief. There is, however, no general duty to provide transport.
28. The exception to this is for children of parents on low incomes who attend the nearest suitable school preferred on grounds of religion or belief, where they live more than two miles but not more than 15 miles from that school. These are defined as 'eligible children' by the Education Act 1996, and the authority has a duty to provide free transport in these circumstances. The proposals take this into account.
29. The authority has a duty under the Equalities Act 2010 to consider the equalities impacts of its actions, and to demonstrate that these have been taken into consideration when decisions are made, and that the decision is proportionate with its Public Sector Equality Duties. Religion or belief is defined as a 'protected characteristic' by the Act, which must be taken into consideration. This process has been followed in drawing up the current report, and relevant equalities issues are considered in paragraphs 12-19.
30. DfE guidance states that local authorities "should consult widely on any changes to their local policies and that such consultations should last for at least 28 working days during term time". It is considered that the letter sent to parents and schools on 5 May, and the subsequent letter of 27 May, has provided ample opportunity for those affected to make representations. The issues raised in the representations are reported in **Appendix 2**, and reflected in the body of the report and in the three options that are put forward for Cabinet to consider.
31. The same Guidance also says that "as much notice as is reasonably possible should be given of any changes to support given to parents, so that they can make alternative arrangements". By bringing the report to Cabinet in September 2011, it is intended to give parents and schools adequate notice so that there will be ample time to make new arrangements, both for pupils already at the school and for those who are considering applying to a denominational school to start in September 2012.

32. The Guidance also says that it is good practice that any such changes should be phased in and come into effect as pupils start school. The Council is required to have regard to DfES guidance, but (particularly in the case of suggested “good practice”) can depart from it if there are sound reasons for doing so. Financial considerations are relevant in this context, and are the reason why the option to phase in the proposal was rejected (see paragraph 34 below). However, Option 3 does provide an alternative ‘phased’ option, although still with a major impact on the timescale over which the financial savings would be achieved.

Options Considered

33. The Council’s Business Plan for 2011-15 identifies the need to make significant reductions in spending, and puts forward a strategy for achieving these through reductions in management costs, improved procurement and commissioning, workplace transformation, systems thinking reviews, raising income, and reshaping services to improve efficiency and focus on priorities. The preferred option has been to make savings that will not impact on service users, and transport has played its part in these, with major savings identified or achieved from procurement and efficiencies. However, due to the scale of the reductions in spending needed, it has also been necessary to review all discretionary (i.e. non-statutory) transport and consider all options in respect of these. In addition to the current proposals in respect of denominational transport, savings of £600,000 are being made in 2011/12 from changes to public bus services. It was considered that the other major area of discretionary education transport spending, the Post16 Transport Scheme, that provides assistance for students attending sixth forms and FE colleges, should be retained owing to its importance in providing access to further education for young people.
34. At the stage of considering what changes might be made to achieve savings from denominational transport, the following options were considered in addition to the current proposal:

Option A – increase charges by up to 20%; rejected as the savings achieved would be much lower (less than £20,000).

Option B – increase charges to the point where the service became self-funding (this would require a charge of at least £800 per annum per pupil); rejected as savings are uncertain, and would depend on parental reaction to a significantly increased charge.

Option C – phased withdrawal; the Council would continue to provide transport for pupils already attending the schools as at September 2011, but not for new starters in subsequent years. Rejected as the Council would still have to meet the cost of the transport until numbers had declined to the point where transport contracts could be combined or withdrawn, so the bulk of the savings would not be realised until much later. If there was an ongoing demand for transport at this stage it would also then be necessary to find a way of providing this without Council funding.

35. The current report puts forward three options for Cabinet to consider, as described above. Option 1 is the initial proposal as detailed in the letter to parents and schools; Options 2 and 3 have been developed subsequently to address some of the concerns raised by those who have responded.

Conclusions

36. Taking into account the representations that have been received, and the assessment of impacts above, it is recommended that Option 2 is approved. Option 3 is also put forward for consideration; this would further mitigate some of the impacts of the initial proposal, but would defer the timescale over which the savings would be achieved. This would require compensating savings to be made from elsewhere in the Council.

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The following unpublished documents have been relied on in the preparation of this Report:

Passenger Transport Policy Review (internal report)

Denominational Transport Review Summary (internal working document)

Appendices:

Appendix 1 – Current arrangements

Appendix 2 – Summary of responses received