

Decision maker: Cabinet Member for Education

Subject: Transport for Post-16 Learners with Special Educational Needs and Disabilities (SEND)

Date: 21 March 2018

Report from: Alison Jeffery, Director of Children, Families and Education

Report by: Julia Katherine, Head of Inclusion

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 The purpose of the report is to seek approval for a revised Transport Policy Statement for Post-16 Learners with SEND for publication by 31st May 2018 and implementation from September 2018 along with the Home to School Transport Assistance Policy.

2. Recommendations

- 2.1 **It is recommended that the Cabinet Member for Education agree to the revised Transport Policy Statement for Post-16 Learners with SEND being consulted on with stakeholders between 16th April and 11th May 2018.**
- 2.2 **It is recommended that delegated authority is given to the Director of Children, Families and Education to agree the final version of the policy following this consultation period so that it can be published, as required, by 31st May and implemented from September 2018.**

3. Background

- 3.1 Local Authorities have a statutory duty to provide transport to students as detailed in the Department for Education [Home to School Travel and Transport Guidance](#) and [Post 16 Transport to Education and Training](#). In addition, Portsmouth City Council has an agreed Home to School Transport Assistance Policy and Transport Statement for Post-16 Learners with SEND in respect of local transport arrangements for assisted travel to school or college.

- 3.2 In 2014 Portsmouth City Council undertook a consultation with stakeholders on all non-statutory travel assistance. The purpose of the consultation was to ensure effective use of funding and reduce the overspend on the transport budget, which was previously overspent by £365,000. The revised policy was published in May 2014 and resulted in spending reductions of £200,000 by September 2015/16.
- 3.3 In February 2017 a further consultation was undertaken to help reduce expenditure further. The following changes were agreed by the Cabinet Member in July 2017:
- (i) That the age range is lowered for eligible post 16 students (those with significant and exceptional needs) from 16-25 years to 16-19 years, in line with other Local Authorities, as from 1st September 2018. For those in Year 14 who meet the exceptional circumstances criteria and who start their college course in September 2017, the council will continue to provide transport assistance until July 2019.
 - (ii) That the council ceases to provide transport for new placements of nursery age students who attend specialist nursery schools as from 1st September 2018. All those children who currently receive transport assistance and who continue to meet the criteria will continue to be able to make an application for each year that they attend specialist nursery provision. Applications are made on an annual basis.
 - (iii) That the cost of privilege places on a minibus or taxi is increased from £495 per annum to £750 per annum as from 1st September 2018.
 - (iv) That a two tier financial contribution of £495 per annum for low income families of post-16 students and £600 per annum for families of post-16 students who do not meet the criteria for low income, is introduced as from 1st September 2018.
 - (v) That the points threshold for automatic entitlement to home to school/college transport is raised from 60 points to 70 points as from 1st September 2018. For those who are currently in receipt of this entitlement, this will continue until the end of their Key Stage or end of post-16 education.

4. Current position

- 4.1 The Council must publish its Home to School Transport Assistance Policy and Transport Statement for Post-16 Learners with SEND each year by 31st May. No changes are being proposed to the Home to School Transport Assistance Policy since the consultation in 2017.

4.2 The council must consult with stakeholders in revising these policies, including:

- Other local authorities
- Governing bodies
- Schools and academies
- Young people and their parents
- The Secretary of State

4.3 In October 2017, further statutory guidance regarding Post-16 transport to education and training was published for local authorities. The revised Portsmouth policy statement for post-16 learners with SEND has been prepared taking into consideration the guidance contained within this document.

4.4 The key implication of this guidance is that the previously agreed proposal to only provide transport assistance to education or training for young people up to the age of 19 has been amended to the following:

'Home to school or college transport will usually be provided up to the age of 19, where a young person has significant and exceptional special educational needs and disabilities (and beyond the age of 19, for example if they are continuing on a particular course started before the age of 19) and it is considered necessary for transport to be provided to enable access to this.'

'Where transport assistance is considered necessary, we will always seek to provide this in the most cost-effective way.'

4.5 The Guidance sets out the duties of local authorities for learners aged up to 25 with SEND:

'Local authorities also have a duty under the Education and Skills Act 2008 to encourage, enable and assist the participation of young people with special educational needs and disabilities up to the age of 25 in education and training. It therefore follows that it is good practice for local authorities to include information about what transport arrangements are available and whether they are adequate to enable these young people to participate.'

'Local authorities will want to be aware of the adult transport duty in carrying out their responsibilities for this group. Under section 508F, the local authority is required to make such arrangements for the provision of transport as they consider necessary in respect of:

(a) Adults (ie those who are aged 19 or over) for the purpose of facilitating their attendance at local authority maintained or assisted further or

higher education institutions or institutions within the further education sector; and

(b) Adults aged under 25 with an EHC plan for the purpose of facilitating their attendance at institutions where they are receiving education or training outside the further and higher education sectors. For those young adults, the local authority's duty only applies where the local authority has secured the provision of boarding accommodation in connection with that education or training.'

4.6 No further changes to the Home to School Transport Assistance Policy are being proposed in addition to those agreed by the Cabinet Member in July 2017.

5. Reasons for Recommendations

5.1 The revised Transport Statement for Post-16 Learners with SEND will ensure that the council continues to meet its statutory duties to provide home to school or college transport assistance, as set out in the Education Act 1996, in a cost effective manner.

6. Equality impact assessment

6.1 A full equality impact assessment was completed when significant changes to the policy were subject to consultation in 2017. This document has been updated to reflect the further change outlined in this report and is attached at [Appendix 3](#).

7. Legal Services' comments

7.1 The Education Act 1996 sets out the provisions for young persons (aged 16 - 18) and those continuing learners who started their programme of learning before their 19th birthday. These persons are defined as "persons of sixth form age". Under s.509AA LAs must prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport or otherwise that the authority considers necessary for facilitating the attendance of persons of sixth form age receiving education or training at schools, FE institutions and higher education institutions maintained or assisted by the LA. This statement must include the arrangements the LA consider necessary for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training. The LA must publish the statement on or before 31st May in the year in which the academic year begins.

7.2 In considering what arrangements it is necessary to make for persons of sixth form age, Local Authorities must have regard to: the needs of those for whom it would not be reasonably practicable to attend education/training if no arrangements were made; the need to secure reasonable choice; distances, journey times, cost of transport; and the

Local Authorities duty to provide enough suitable education/training for persons of sixth form age, having particular regard to a person's age, ability, aptitudes and any learning difficulties they may have.

- 7.3 Section 509AB (further provision about transport policy statements for persons of sixth form age) requires the policy statement prepared under section 509AA to state to what extent transport arrangements include arrangements for facilitating the attendance at these establishments of disabled persons and persons with learning difficulties. Local Authorities may ask learners and their parents for a contribution towards the transport costs.
- 7.4 In preparing the post-16 policy statement, the LA must have regard to the statutory guidance from the DfE of 2017 "Post-16 transport to education and training."
- 7.5 In addition to persons of sixth form age, the LA is required by s.508F to "make such arrangements for the provision of transport and otherwise as they consider necessary in relation to adults and relevant young adults" to (a) facilitate the attendance of adults receiving education at LA maintained FE or HE institutions or those within the FE sector and (b) to facilitate the attendance of relevant young adults (those with an EHCP) receiving education or training at institutions outside the FE and HE sectors where the LA has secured for that adult the provision of education or training at that institution and the provision of boarding accommodation. In the event that transport is provided under either of these, it must be free of charge. Where the local authority decides not to provide transport arrangements in a particular case, they still have a discretion to pay all or part of the reasonable travelling expenses for the student.
- 7.6 Section 508G requires local authorities 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.
- 7.7 In considering whether it is necessary to make such arrangements, the Local Authority must exercise their responsibilities judiciously and in good faith.
- 7.8 When considering the outcome of any decision, the decision maker must ensure stakeholders likely to be affected by the proposals have been adequately consulted, at a time when the proposals are still at their formative stage and have been provided with sufficient information to enable them to properly understand the proposals being consulted upon and given adequate time to consider and respond. The responses must be given genuine and conscientious consideration before a final decision is made.

- 7.9 As part of its decision making process, the Council must have “due regard” to its equalities duties. Under Section 149 Equality Act 2010, the Council in exercise of its school and further education transport functions, must have “due regard” to the need to eliminate unlawful discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and foster good relations between persons who share a relevant protected characteristic and persons who do not share it .The relevant protected characteristics are age, gender reassignment, disability, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The decision maker is required to give serious and substantive consideration to the adverse impact (if any) the proposals would have on the protected groups and, if there would be such adverse impact, to what mitigating factors can be put in place. This exercise must be carried out with rigour and an open mind.
- 7.10 It is within the powers of the Cabinet Member to agree the recommendations proposed and delegate authority to the Director of Children, Families and Education as set out.

8. Finance comments

- 8.1 Home to School/College expenditure continues to exceed budget allocation and the proposed changes seek to reduce spending and increase income levels as identified in the July report.

Signed by: Alison Jeffery - Director of Children, Families and Education

Appendices:

Appendix 1: Draft revised Transport Statement for Post-16 Learners with SEND
Appendix 2: Equality Impact Assessment (EIA)

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
DfE Home to School Travel and Transport Guidance	https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance
Post-16 Transport for Education and Training	https://www.gov.uk/government/publications/post-16-transport-to-education-and-training

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: