

CABINET

Date of Meeting	Tuesday, 18 th June 2019
Report Subject	Discretionary Transport Policy Review – Outcome of Consultation
Cabinet Member	Leader of the Council and Cabinet Member for Education
Report Author	Chief Officer (Education & Youth)
Type of Report	Strategic

EXECUTIVE SUMMARY

Cabinet agreed a range of options for formal consultation on the discretionary school and college transport policy areas of post 16 provision and benefits entitlement in December. Consultation was carried out between 18 February and 5 April 2019. This report summarises the outcome of the consultation and invites decisions. This report has also been considered by the Environment and the Education and Youth Overview and Scrutiny Committees in a joint meeting and the feedback from the meeting is included within this report.

RECOMMENDATIONS

1	That Cabinet make decisions on the transport policy issues which are the subject of this review, taking into account the outcomes of the consultation.
2	That negotiations be re-opened with Coleg Cambria on the level of recharged cost for the discretionary transport service.

REPORT DETAILS

1.00	THE BACKGROUND TO THE PROPOSED CHANGES
1.01	<p>Post-16 transport to college and schools and provision of free transport under the benefits criterion is a discretionary service. The Council continues to face significant reductions in revenue and has to consider different ways in which services are provided. The provision of discretionary transport is not considered to be sustainable in the current financial climate, and is an area where budget savings might be possible.</p>
1.02	<p>The current transport policy, attached as Appendix 1, says that free transport will be provided for post 16 students living in Flintshire attending a first course of full time study at a school or college subject to (1) meeting the three mile distance criteria and (2) providing the student is attending the nearest educational establishment offering the courses they wish to study. Free transport will be provided to specified sites only. These sites are:</p> <ul style="list-style-type: none">• all Secondary School sites within Flintshire offering post-16 courses• Coleg Cambria sites at Connah's Quay, Northop, Wrexham and Llysfasi (for land based courses only)• Chester Catholic High School, Prestatyn High School, Rhyl 6, St Brigid's School and Ysgol Glan Clwyd, St. Asaph <p>Transport is only provided to an educational establishment which is not the nearest if there is a considerable variation between the student's course and the course on offer at the nearer institution. The courses should be at a higher level than the previous one e.g. GCSE resits would not normally qualify for assistance.</p>
1.03	<p>The discretionary entitlement to free transport under the benefits criterion has been included in Flintshire's home to school transport policy since 1996. Flintshire remains the only Welsh local authority to retain this particular discretionary entitlement which reduces the distance criteria from 3 miles to 2.5 miles to the nearest appropriate school/education establishment.</p> <p>Under the policy, free transport is provided for pupils of statutory school age whose parents are in receipt of Income Support or Working Tax Credit. If Cabinet decide to retain this entitlement, it is proposed that it is updated to make Free School Meal (FSM) the sole benefit criterion to qualify for free transport. Benefits entitlements which trigger an entitlement for FSM are currently Universal Credit, Income Support, Income based Job Seeker's Allowance, Income related Employment & Support Allowance, Guarantee Pension Credit and Child Tax Credit with an annual income of £16,190 or less.</p> <p>As FSM has not been used previously to determine eligibility for this age group, the figures noted in later the report are estimated.</p>
1.04	<p>The Learner Travel (Wales) Measure 2008 sets out the legal framework relating to travel and home to school transport provisions for learners in Wales. The Measure requires local authorities to assess the travel needs of</p>

	<p>learners up to the age of 19. Although there is no statutory duty to provide free transport to post 16 learners who continue in further education, the Measure provides local authorities with the power to provide discretionary arrangements. If a local authority uses this power, the policy must be applied to all learners in similar circumstances living in the local authority's area, and the policy must be fair, reasonable and comply with relevant equality legislation to ensure that it does not unlawfully discriminate between learners. In other words, the policy must be applied equally to learners in all types of maintained schools and to those attending other educational and training establishments such as colleges.</p>
1.05	<p>Prior to changing a school transport policy, consultation must be carried out with all stakeholders including those likely to be affected by the proposed change. In accordance with the Learner Travel Information (Wales) Regulations 2009, the school transport policy must be published before 1st October of the year preceding the academic year in which it applies. Therefore, in order that parents and learners are aware of transport implications when deciding on which school or college to attend, the earliest any changes could come in to effect, following consultation, is September 2020.</p>
1.06	<p>The Council currently transports a total of 1950 post 16 students: 1500 to Coleg Cambria sites and 450 to Sixth Forms at Secondary Schools. The annual total cost of college transport to Coleg Cambria has reduced recently following re-tendering and is now £860k. Under a Service Level Agreement with Coleg Cambria, the college contribute 25% towards their transport costs, reducing the actual costs to the Council to £645k. The cost of transporting the pupils attending Sixth Forms at Secondary Schools is included within the total school transport budget, as the pupils travel on buses carrying both Sixth Form and Secondary School passengers.</p> <p>If it was agreed to introduce a fare that would result in full cost recovery, under the Council Policy for Fees and Charges, this recharge to the College would discontinue. If a charge is set below the level of full cost recovery then Cabinet would expect the recharge to be maintained and possibly negotiated to make the transport service more sustainable.</p>
1.07	<p>Consultation was carried out using an online consultation tool, between 18 February and 5 April. The consultation was published on the Council's website and communications were sent to stakeholders including all Flintshire schools, Coleg Cambria, all Councillors and Community Councils, Diocesan authorities, Youth Council, neighbouring authorities and schools, AM's, MP's and the local press.</p>
1.08	<p>The options included in the consultation, as agreed by Cabinet on 18 December 2018, are attached in full as Appendix 2, along with a summary of the responses received.</p>
1.09	<p><u>Options 1 to 6: Post 16 transport</u> Option 1 proposes maintaining the status quo while Options 2 and 3 relate to proposals to introduce a charge at varying levels. Option 4 proposes discontinuing post 16 transport, and Options 5 and 6 cover excluding Welsh Medium and/or denominational schools from proposals to introduce a</p>

	<p>charge. The majority of responses favoured maintaining the status quo (87%) and not discontinuing free post 16 transport (92%).</p> <p>In summary:</p> <ul style="list-style-type: none"> • 650 responses • 566 in favour of retaining current policy (Option 1) • 545 against introducing a charge (Option 2) • 69 indicated £50 per term would be reasonable (out of 93) • 521 against introducing a charge and exempting students eligible for free school meals (Option 3) • 560 against discontinuing free post 16 transport (Option 4) • 436 against excluding Welsh Medium schools from a charge (Option 5) • 464 against excluding Welsh Medium and denominational schools from introducing a charge (Option 6).
1.10	<p><u>Options 7 to 9 - Benefits Criterion</u></p> <p>Option 7 proposes maintaining the status quo while Options 8 and 9 propose removing the entitlement. The majority of responses favoured retaining the benefits criterion (93%) and not phasing it out (91%).</p> <p>In summary:</p> <ul style="list-style-type: none"> • 436 in favour of retaining the “benefits” policy (Option 7) • 555 against removing it completely (Option 8) • 544 against phasing it out (Option 9).
1.11	<p><u>Recommendations from Environment and Education Overview and Scrutiny Committees</u></p> <p>At a joint meeting of the Environment and Education Overview and Scrutiny Committee held on May 20th 2019, the outcome of the consultation on the discretionary transport policy was discussed at length. The Committee also received direct representation from the Flintshire Secondary Headteacher Federation and from Coleg Cambria representing both the college and the Deeside 6th Hub who had been invited by the Chair to attend.</p> <p>It was widely acknowledged that retaining the status quo and continuing to provide free post 16 transport in the current financial climate was not a feasible option because of the cost burden to the authority. However, many members expressed concern about the introduction of a charge potentially discouraging learners from more challenging economic circumstances from accessing post 16 provision. This was echoed by the Headteacher and Coleg Cambria representatives.</p> <p>The Joint Committee recommended:-</p> <ul style="list-style-type: none"> • That the Cabinet support Option 3 as outlined within the report i.e. that a charge be introduced for all post 16 transport to the educational establishments referred to in the current Transport Policy but that the charge be waived for learners who are entitled to free school meals. The committee did not resolve to recommend a charging level.

- That the discretionary policy for statutory aged pupils (11-16) be retained i.e. those in receipt of benefits* receive free transport if they live 2.5 miles from their nearest school rather than 3 miles.
- That Cabinet consider concessions for sibling groups in Post 16 education.

*The benefits which generate an entitlement to free school meals are Universal Credit, Income Support, Income based Job Seeker's Allowance, Income related Employment & Support Allowance, Guarantee Pension Credit, Child Tax Credit with an annual income of £16,190 or less.

1.12 Option 3

Option 3 would result in all learners travelling to post 16 approved establishments that are three miles or more from their home address being charged, with the exception of those pupils in receipt of free school meals and those students/pupils assessed with learning difficulties and/or disabilities under the current policy.

This provides some mitigation against the risk of learners from low income households being deterred from accessing post 16 education.

This is also the most equitable option as it treats all post 16 learners the same i.e. there is no separate provision for those accessing their education in a faith or welsh medium based establishment as outlined in Options 6 and 7. Any positive discrimination in favour of these two groups could have resulted in a legal challenge.

1.13 Charging Levels for Option 3

The original consultation included the following table to seek views on the levels of charging that could be considered by the Council should a determination be made to levy a charge. These tables have now been reviewed to reflect full cost recovery options. The cost calculations were based on an average of 15% of all pupils being in receipt of a free school meal entitlement.

Table 1

Financial Impact - Coleg Cambria Transport (Budget £860,500)

Charge to Parent per term (£)	Charge to Parent Annually (£)	Gross income (£)	Remaining cost pressure (£)
50.00	150.00	191,000	669,500
80.00	240.00	306,000	554,500
100.00*	300.00	382,000	478,500
150.00	450.00	574,000	286,500
225.00	675.00	860,500	Nil

Table 2

Financial Impact – Secondary Sixth Form Transport – based on similar pupil journey costs.

Charge to Parent per term (£)	Charge to Parent Annually (£)	Gross income (£)	Remaining cost pressure (£)
50.00	150.00	57,000	201,000
80.00	240.00	92,000	166,000
100.00*	300.00	115,000	143,000
150.00	450.00	172,000	86,000
225.00	675.00	258,000	Nil

*Same charge as the charge levied for concessionary seats. However since the consultation closed Cabinet has determined to increase the cost of a concessionary seat to £150 per term/£450 per year with effect from September 2019. This level of charge is regarded as a benchmark charge and one which should be applied consistently in the interests of fairness and equity.

If Cabinet should determine to levy a charge and implement Option 3, then setting the charge at £150 per term would match the rate for a concessionary seat for the academic year 2019-20. The level of any charging for post-16 transport should therefore be kept under review in accordance with targets set for cost recovery for services under the Medium Term Financial Strategy and the policy for Fees and Charges.

Charging at this rate would not recover the full cost of the transport service and would still leave the Council with a cost pressure. Charging any less would reduce the financial contribution and add to the cost burden. Charging more e.g. to achieve full cost recovery could have a detrimental impact on the numbers of learners accessing post 16 provision, particularly for those whose family income is just above the threshold for free school meals and might experience in-work poverty.

It is anticipated that if a charge is introduced, parents will be able to make payment via the Integrated Transport Unit (ITU) Contact Centre as they do currently for concessionary fares. As the implementation date for any change of policy is September 2020 there is sufficient time if improvements to online payments is made through the roll out of the Council's Digital Strategy.

1.14 Concessions for Siblings at post 16

The school transport policy for statutory aged learners does not make any provision for siblings. Some committee members raised concerns about the cost pressure on families where there may be siblings in post 16 provision should a charge be introduced. Those eligible for free school meals would automatically be supported should Option 3 be adopted but the concern was for those families who are above the threshold for free school meals but do experience in-work poverty.

The Joint Committee asked Cabinet to consider whether some provision could be made within the post 16 transport policy for this issue as follows:

	<p>a) Setting a fixed rate of reduction for a sibling in post 16 provision. (This would result in a small reduction in income for the Council, noting that the numbers of siblings in years 12 and 13 would not be high).</p> <p>b) Making provision for such a request to be considered on an individual basis based on financial need. (This approach would need clear guidelines on how financial need would be assessed so that the process is robust, transparent and has the appropriate measures to protect the confidential financial circumstances of families applying).</p> <p>Cabinet has already determined that for statutory transport policy there is no provision for siblings, due to the difficulty in administering the arrangement particularly where siblings do not share the same address or surname.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	<p>The Council has adopted a policy under which it will seek to recover the full cost of providing a service, where possible, through the level of charges it sets. Should the Council not opt to fully recover the cost of discretionary transport services then a funding pressure will remain to be met. If a termly charge of £100 were set, for example, then a sizeable funding pressure of £355,000 would remain as the opportunity cost of continuing with a subsidised service.</p> <p>A cost pressure of £621,000 would equate to a 0.9% Council Tax increase in the absence of any other available resource to fund the continuing service subsidy.</p>
2.02	<p>If a charge is agreed, an additional resource will be required in the Integrated Transport Unit to administer and manage the process, including liaising with parents and students, collecting income and chasing any arrears. If a discretionary arrangement was introduced to provide concessions for siblings at post 16, this would potentially increase the administrative workload to undertake financial assessments.</p>

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	<p>Consultation has been carried out with all stakeholders in accordance with the requirements of the Learner Travel Measure.</p>
3.02	<p>Consultation was conducted over 6 weeks from 18 February to 5 April 2019. Adequate notice of any changes to the policy must be given in order that parents/learners have sufficient information about travel arrangements prior to expressing a preference for a school/college. In order to publish the policy in time for the 2020/21 academic year, approval to any changes must be agreed by July 2019 at the latest.</p>

3.03	Any new options put forward as part of decision-making would to be subject to a new consultation exercise.
3.04	The Education & Youth Overview and Scrutiny Committee considered the outcome of the consultation at their meeting on 20 th May 2019. Their observations will be reported verbally.

4.00	RISK MANAGEMENT
4.01	A local authority could be at risk of challenge by way of judicial review or complaints to the Public Services Ombudsman for Wales if adequate consultation is not carried out or the school transport policy is not applied consistently and fairly in all cases. This risk can be evaluated by completing an Integrated Impact Assessment (IIA). An IIA has been completed in respect of the options and is on the Council's web site.

5.00	APPENDICES
5.01	Appendix 1 – Current Home to School Transport Policy Appendix 2 – Consultation Responses

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Integrated Impact Assessment: https://www.flintshire.gov.uk/en/PDFFiles/LifelongLearning/Schools/School-Transport/Integrated-Impact-Assessment.pdf</p> <p>Contact Officer: Gill Yates, Admissions Manager Telephone: 01352 704187 E-mail: gill.yates@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>Concessionary Seat – where a pupil does not qualify for free school transport but can be placed on an existing transport route which has empty seats. Current charge is £150 per term.</p> <p>Integrated Impact Assessment - a systematic method of analysing a policy to identify how it affects people from different backgrounds, as required under the Equality Act 2010.</p> <p>Digital Strategy – a Council Strategy to develop Digital Information and Technology to support the Council's Improvement Priorities and strategic plans over the next five years.</p>