

CABINET

16 APRIL 2013

SPECIAL EDUCATIONAL NEEDS TRANSPORT POLICY

Portfolio Holder: Councillor Wicks, Portfolio Holder for Children's Services (Lead Member)

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Summary

Following the publication of revised guidance on home to school travel and transport by the Department for Education (DfE) in March 2013 and a review of Medway's new Special Educational Needs (SEN) Transport Policy, ahead of member training in April, this report asks for approval to three amendments to the current Medway SEN Transport Policy to align the Policy with legislative requirements and advises the Cabinet of new provisions relating to appeals.

1. Budget and Policy Framework

- 1.1 The changes recommended within this report will align the Council's SEN Transport policy with current legislation and are consistent with the provisions made in the Children and Young People's Plan.
- 1.2 The Cabinet is asked to accept this report as urgent to enable the SEN Transport Policy to be compliant with legislative requirements at the earliest opportunity.

2. Background

- 2.1 The current Special Educational Needs (SEN) Transport Policy was agreed by the Cabinet on 4 September 2012.
- 2.2 Officers have carried out a six- month review of the policy ahead of member training on appeals in April and have identified three areas that need amendment to align with current legislation and these are detailed in section four.
- 2.3 In addition the Department for Education published new guidance on home to school transport in March 2013 which is far more prescriptive about the appeals process than previous guidance. The Council will need to ensure that the appeals process for home to school transport appeals (including SEN home to school transport appeals) complies with the statutory guidance.

3. Appeals

3.1 Previous DfE guidance required local authorities to have in place a robust appeals procedure for parents to follow should they have cause for complaint or disagreement concerning the eligibility of their child for travel support. The guidance required the details of the appeals procedure to be published alongside travel policy statements. The School Transport and Curriculum Appeals Committee, a politically balanced Committee of the Council, has dealt with school transport appeals up until now and will shortly be taking on SEN school transport appeals. There is a stage one review before appeals reach the Committee.

4. Amendments required to SEN Home to school transport policy

4.1 Section 3.4 of the policy.

4.1.1. Section 3.4 (b) of the current SEN Transport Policy states that “transport support will be provided to children in receipt of free school meals/working tax credit if they go to a suitable school between **3** and 6 miles away from their home address, as long as there are not 3 more suitable schools nearer to home”.

4.1.2 Schedule 35B (meaning of “Eligible Child” for Purposes of Section 508B) of the Education Act 1996 (the Act) states that the distance for low income families should be 2 and 6 miles from their home address. Therefore the bold 3 needs to be amended to 2, as demonstrated at Appendix 1.

4.2 Section 3.5 of the policy

4.2.1 Following on from the required amendment at 3.4, this also requires an amendment at 3.5 which refers to a child attending its nearest appropriate special school, resource centre or Pupil Referral Unit (PRU) to their home. The following sentence should be added to the end of this section, "or where the child is in receipt of free school meals/working tax credit and the school is more than 2 miles from their home address", as demonstrated at Appendix 1.

4.3 Denominational preference

4.3.1 The current policy also does not have a section relating to eligibility of transport assistance when choosing a school on denominational grounds.

4.3.2 Section 509AD of the Act places a duty on local authorities in fulfilling their duties and exercising their powers relating to travel, to have regard to, amongst 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 the parent’s religion or belief. The minimum distances still apply.

4.3.3 In addition, Section 12 of Schedule 35B of the Act also stipulates that Home to school transport will be provided to children in receipt of free school meals/working tax credit if they go to the nearest school chosen on the grounds of religion or belief, and the school is between 2 and 15 miles away from their home address.

4.3.4 To qualify a child must be a regularly practising member of a church of the same denomination as the school concerned. If applying for travel assistance on denominational grounds, a vicar or priest should be asked to sign an appropriate section of the transport application form.

4.3.5 Denominational/selective preferences – The current practice for transport to selective and denominational schools for non-special educational needs transport will also apply to special educational needs transport. These practices are discretionary and not statutory. This ensures that the treatment of children with special educational needs is comparable in respect of any denominational/selective preference.

4.3.6 An additional section covering this information is detailed at Appendix 1.

5. Advice and analysis

5.1 The amendments set out at section 3 of this report are recommended to align the current policy with current legislation.

5.2 All applications assessed under the current SEN Transport Policy have been dealt with properly and in accordance with the provisions in the Act.

6. Risk management

Risk	Description	Action to avoid or mitigate risk
The Councils Policy of home to school transport is inconsistent with legislation and statutory guidance	The policy must be consistent with provisions in relevant legislation and guidance, otherwise decisions taken by the Council on applications for assistance with home to school transport will open to challenge.	Changes to align the SEN Home to School Transport Policy with current legislation are set out in this report

7. Financial and legal implications

7.1 The changes proposed in this report are required to align the Council's SEN Home to School Transport Policy with statutory requirements, as set out in the Education Act 1996.

7.2 The financial impact of these changes cannot be quantified exactly but it is likely to be small. Based on current data around 25 additional children may qualify for free transport at a cost of around £15,000 per year.

7.3 Local Authorities are required to consult widely on any changes to home to school transport policies and guidance says consultations should run for at least 28 days during term time. In this case, as the Council has no option other than to agree the changes set out in this report in order to align the policy with legislative provisions there is no proposal to undertake consultation.

8. Recommendations

- 8.1 The Cabinet agree the changes to sections 3.4 and 3.5 of the SEN Transport Policy, as set out with tracked changes at Appendix 1.
- 8.2 The Cabinet agree the addition to section 3 relating to denominational preference, as detailed at Appendix 1.

9. Suggested reasons for decision(s)

- 9.1 The suggested amendments will align the current SEN Transport Policy with current legislation and current Medway practices for non-Special Educational Needs transport.

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Background papers

Education Act 1996 – <http://www.legislation.gov.uk/ukpga/1996/56/contents>

Home to School Travel and Transport Guidance -

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00023-2013>

REQUIRED CHANGES TO THE CURRENT SEN TRANSPORT POLICY

The following tracked changes demonstrate the required amendments to the policy.

Paragraph 3.4 – Secondary Schools (children in Key Stage 3 and Key Stage 4)

- b. Transport support will be provided to children in receipt of free school meals/working tax credit if they go to a suitable school between 2 and 6 miles away from their home address, as long as there are not 3 or more suitable schools nearer to home.
- c. The following paragraph needs to be included as 3.4 (c) to reflect the statutory minimum requirement:

“Transport support will be provided to children in receipt of free school meals/working tax credit if they go to the nearest school chosen on the grounds of religion or belief, and the school is between 2 and 15 miles away from their home address”.

Paragraph 3.5 – Special Schools, Resource Centres and Pupil Referral Units (PRUs)

- b. Transport support will be provided to children in Key Stage 2, 3 and 4 (aged 8 years or over) when attending the nearest appropriate special school, resource centre or PRU to their home where the distance between their home and the school is more than 3 miles or where the child is in receipt of free school meals/working tax credit and the school is more than 2 miles from their home address.

Denominational preference – to be inserted into section 3 of the policy.

If your child attends a primary or secondary school chosen on denominational grounds, the council will count this as your nearest appropriate school. To qualify, your child must be a regularly practising member of a church of the same denomination as the school concerned. If you apply for travel assistance on denominational grounds you will need your vicar or priest to sign the appropriate section of the travel form. The minimum distances still apply.

Selective preference – to be inserted into section 3 of the policy

If a child has been assessed as selective under the Medway Test processes then a Medway grammar school can be considered as their nearest appropriate school for transport purposes. Only one Medway grammar school will be considered nearest appropriate for any address (obviously taking account of the gender of the child). The minimum distances still apply.