

REPORT TO DIRECTOR OF PEOPLE - CHILDREN AND ADULTS SERVICES

10 OCTOBER 2020

EDUCATION TRAVEL ASSISTANCE POLICY

Portfolio Holder: Councillor Mrs Josie Iles, Children's Services (Lead Member)
Councillor Martin Potter, Education and Schools

Report from: Ian Sutherland, Director of People, Children and Adult Services

Author: Paul Clarke, Head of School Services

Summary

This report is to request the Director of People – Children and Adults Services, in consultation with the Lead Member for Children's Services and the Portfolio Holder for Education and Schools, to determine whether to approve amendments to the Education Travel Assistance Policy in line with the LGO's recommendations

1. Budget and policy framework

1.1. The amending of the Education Travel Assistance Policy and any budgetary decisions are a matter for Cabinet.

1.2. In the meeting of 25 August 2020 (decision number 95/2020) Cabinet delegated authority to the Director of People – Children and Adults Services, in consultation with the Portfolio Holders for Children's Services (Lead Member) and Education and Schools, to amend the Education Travel Assistance Policy taking into account the recommendations of the Local Government Ombudsman (LGO) and to approve the Policy.

2. Background

2.1. In December 2016, a complaint was made through the LGO to a case where a pupil had been deemed as not eligible for travel assistance under the Council's policy and had not been successful through the appeal process. The LGO took the view that travel assistance should have been granted.

2.2. Between then and April 2018 various correspondence with the LGO and DfE took place on this matter but an agreed position could not be found.

- 2.3. In May 2019, the LGO issued its report on the matter outlining where it believed the council had not complied with the guidance and its recommendations.
- 2.4. The view of the LGO was that the Council's policy is not compliant with the statutory guidance and should be amended to take account of the availability of places where the applicant applied for the nearest school at the time of the original admission application **regardless of preference rank**.
- 2.5. The Council maintained that the Education Travel Assistance Policy was compliant with all the legislation and the statutory 'Home to school travel and transport guidance'.
- 2.6. In September 2018 the pupil's eligibility for travel assistance was reviewed and due to the fact that a footpath had been brought back into use since the initial assessment they were now eligible and a bus pass was issued. A further review showed that the footpath came back into use in 2017 and therefore the offer of payment for the cost of a bus pass for the academic year 2017/18 was made.
- 2.7. Despite this the LGO recommended that the Council should also pay for the cost of a bus pass for 2016/17 and continued to contest that the policy was not compliant with the DfE guidance. In June 2019 the Cabinet, taking the LGO recommendations into account as well as external legal advice, confirmed the continued use of the Education Travel Assistance Policy in its present form and no amendments were to be made.
- 2.8. In response to the Cabinet decision in June, in August 2019 a further report was issued by the LGO finding fault against the council and again recommending that the LGO's recommendations should be complied with.
- 2.9. In September 2019, the Cabinet again, in response to the LGO's August report determined that the policy should continue to be used in its current form.
- 2.10. Also in September 2019 financial remedy was made to the family of £752.45 being the cost of a bus pass for 2017/18 plus interest and £100 to remedy any injustice caused by the time taken to provide settlement.
- 2.11. Further to the LGO report, the Cabinet decisions and internal discussions between senior officers and members, re-consideration has been given to the remaining LGO recommendations.

3. Options

- 3.1. The options remain for the Council to continue to refute the LGO recommendations or to reconsider the recommendations and revise the policy.

- 3.2. The remaining recommendations from the LGO are to;
- Reimburse the parent for the actual home to school travel assistance cost incurred for the academic year 2016/17 together with interest based upon the increase in the Retail Price Index from September 2017; and
 - Amend the Education Travel Assistance Policy to take into consideration the availability of places where the applicant applied for the nearest school at the time of the original admission application regardless of preference rank.
- 3.3. Senior officers have taken account of the Ombudsman's final report and following further detailed consideration recommend compliance with the recommendations above.
4. Advice and analysis
- 4.1. Approving the recommendations to revise the Education Travel Assistance Policy would result in the following proposed changes to the policy.
- 4.2. Currently the Education Travel Assistance Policy states at section 1.5 entitled 'Expression of school preferences'
- 4.3. *"When the school being attended is not the nearest qualifying school, education travel assistance can only be considered if;*
- a) *The nearest qualifying school has been applied for as a highest named preference but not offered*
 - b) *The nearest qualifying school has been applied for as a higher preference than the school being attended*
 - c) *Schools have been applied for in qualifying distance order (i.e. nearest qualifying school has been applied for as the first/highest preference, the next nearest qualifying school as the second preference and so on. This principle and minimum eligible distances apply for all preferences*
- If the nearest qualifying school has not been applied for or has been applied for as a lower preference than the school attended, the pupil will not be eligible for home to school transport even if over the eligible distance."*
- 4.4. It is proposed to amend the wording to the following;
- 4.5. *The nearest suitable qualifying school will be determined to be a maintained school or academy at which the child would have been offered a place, had the parent applied for the school on the admission application regardless of preference rank.*
- 4.6. *Unless the low income criteria is met, transport will not be provided to a school if:*

- 4.7. *There is a nearer suitable qualifying school to the home at which a place would have been secured, when the application was assessed.*
- 4.8. *There is a nearer qualifying school which was not applied for*
- 4.9 *The parent has rejected an offer of a place at any nearer suitable qualifying school*
- 4.10 It is also proposed to remove from the policy 1.9 d) which stated that ..*"if the parent carer chooses for their child to attend a school that is not deemed the nearest qualifying"*. Not removing this section when amending the previous sections would cause confusion and contradict the revised wording.
- 4.11 Appendix 1 provides a version of the Policy with the proposed amendments included.
- 4.12 Although this is a policy change, no diversity impact assessment will be completed as the changes to the policy are proposed upon recommendation from the LGO, and with no consultation required, would be deemed to be a positive change for pupils and parents.
- 4.13 The compensatory payment to the parent for the 2016/17 academic year of £775.00, has been paid from the Mainstream home to school transport budget.

5. Risk management

- 5.1. This section considers the main risks arising from approving the recommendation in the report or not.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Additional financial pressures on the home to school transport budget	There could be financial pressure placed on the council from additional requests for reviews for previously deemed non-eligible children.	Additional resources need to be allocated to fund the decision and associated additional administration and transport costs.	C2
Reputational Risk	There could be detrimental reputational risk for the council in not amending the policy to reflect the LGO recommendations, resulting in a finding against the council of maladministration.	Amend the policy to reflect the recommendations.	C2

6. Consultation

- 6.1. No consultation is required for the recommendations within this report. The original Education Travel Assistance Policy was consulted upon and approved by Cabinet, and the only amendments are to ensure the policy complies with the LGO recommendations and therefore further consultation will not be necessary.
- 6.2. Consultation will be required when the policy is updated in the future.

7. Financial implications

- 7.1. There are potentially significant additional ongoing costs if the amendments to the travel assistance policy as recommend by the LGO are implemented.
- 7.2. Financial analysis indicates that an additional 15-20% of pupils could now be eligible for assistance costing approximately £70,000 per year.

8. Legal implications

- 8.1. All local authorities have a statutory duty to have in place arrangements for the provision of home to school transport travel assistance and transport for children and young people with Special Educational Needs and Disabilities (SEND) who meet the published eligibility criteria.
- 8.2. Under Section 7 of the Education Act 1996, it is the responsibility of the parent of every child of compulsory school age, to ensure their child receives efficient full time education either by regular attendance at school or otherwise. The duties and powers of local authorities to provide home to schools travel assistance are covered in other sections of the act and its amendments. The provision of travel assistance support incorporates consideration for children from low-income families.
- 8.3. Sections 508b and 508c of the education Act 1996 (as amended) set out the local authority duties and powers respectively, to make such suitable travel arrangements as the local authority considers necessary, to facilitate a child's attendance at school. This applies to home to school transport.

9. Recommendations

- 9.1. The Director of People – Children and Adult Services is asked to make the decision to approve the amendments to the Education Travel Assistance Policy, as set out in sections 3.2, 4, and Appendix 1 of this report, in consultation with the Portfolio Holder for Children's Services and the Portfolio Holder for Education and Schools.

10. Suggested reasons for decisions

10.1. The decision will ensure that the policy is compliant with the LGO recommendations and the DfE guidance.

11. **Director of People – Children and Adult Services**

11.1. I hereby approve the proposal the amendments to the Education Travel Assistance Policy as set out in sections 3.2, 4 and Appendix 1 of this report.

Signed: Date:

Ian Sutherland

Director of People - Children and Adult Services

Portfolio Holder statement

I confirm that, in accordance with the decision of Cabinet on 25 August 2020, the Director of Children and Adult Services has consulted me in relation to the above decision

Signed:..... Date:.....

Cllr Josie Iles

Portfolio Holder (Children’s Services Lead Member)

Signed:..... Date:.....

Cllr Martin Potter

Portfolio Holder (Education and Schools)

Lead officer contact

Paul Clarke; Head of School Services. Ext 1031 paul.clarke@medway.gov.uk

Appendices

Appendix 1 – Revised Education Travel Assistance Policy

Background papers

[LGO report May 2019](#)

[LGO further report November 2019](#)

[Cabinet Report June 2019](#)