



meeting	COUNTY COUNCIL	
date	20 July 2006	agenda item number

REPORT OF THE ACTING DIRECTOR OF EDUCATION

Denominational Home to School Transport

Purpose of report

1. The purpose of this report is to enable future arrangements for the provision of denominational home to school transport to be determined.
2. The report outlines the following:
 - the context for the review of the denominational home to school transport policy including the statutory framework which is currently under review
 - the scope of and responses to the county-wide consultation
 - recommendations regarding the policy with effect from September 2007.

Information and advice

Background

3. In 2005, a study of the provision of denominational home to school transport was conducted on behalf of Nottinghamshire County Council by consultants Halcrow Group. The findings and recommendations within the report in relation to the relative costs of discretionary provision were considered further by the County Council during the spring of 2006 as part of its budget review for 2006/2007 and 2007/2008.
4. A number of representations were received as a result of these budget considerations. Of the 146 letters and six petitions received at that time, 97% of the letters and all 2745 signatories to the petitions expressed concern about the possible withdrawal of free school transport in the cases of children attending faith schools on denominational grounds. There was particular concern that a change may be introduced with effect from September 2006.
5. Following the setting of the budget for 2006/2007, Cabinet agreed at its meeting on 29 March 2006, that it would still be appropriate for consultation to take place regarding the future policy and provision of denominational home to school transport (Report to Cabinet March 29 2006 on Denominational Transport). Responses received prior to this were collated and retained and are noted within this report alongside those submitted as part of the formal consultation.
6. As a consequence of financial pressures nationally, a number of other local authorities have considered or are in the process of considering the provision of denominational transport in their area. Amongst those authorities which have withdrawn free transport

are Norfolk, Essex, East Riding and Northamptonshire. Other local authorities including Lancashire and Hertfordshire are currently recommending its withdrawal.

Statutory and Legal Framework for Home to School Transport

7. In considering any amendments to transport policy, local authorities must observe the statutory and legal framework in place. The provision of home to school transport in Nottinghamshire complies with the requirements of the Education Act 1996, through which the local authority meets its statutory duty to support school attendance complementary to admission arrangements (Section 444). This section of the Act also places a duty on parents to ensure that their children attend school regularly. Non-compliance with the Act is an offence unless it can be demonstrated that the school is not within walking distance (as prescribed in law) and that the local authority has not made suitable arrangements for transport to and from school.
8. Section 509 (1) and (2) of the Education Act 1996 sets out the duty placed upon local authorities to consider whether or not transport is necessary to facilitate attendance at school. If so it must be free of charge.
9. In accordance with this legislation, the policy in Nottinghamshire states that pupils attending the catchment area school for their home address where the travelling distance is in excess of 2 miles for a child under 8, or over 3 miles for a child of 8 or above, transport will be provided free of charge. However, if pupils attend a preferred school, free transport will only be provided if the school is closer than the catchment area school and both schools are beyond the walking distance (Home to School Transport Policy 2006).
10. Section 509(3) gives local authorities discretionary powers to provide transport for those not entitled under Sections (1) and (2), and that such transport can be free or contributions towards the costs can be sought. Section 509(4)(b) of the Act relates to pupils attending faith schools on denominational grounds and requires local authorities to have regard to the wish of any parent for his/her child to be provided with education at a school in which the religious education provided is that of the religion or denomination to which the parent adheres.
11. The policy in Nottinghamshire for pupils attending a faith school on denominational grounds states that if this preferred school is the appropriate denominational school serving their home address, and the travelling distance is beyond the walking distance, transport will be provided free of charge. This remains the case even if the non-denominational catchment school for their home address may be within walking distance.
12. Over 9,000 pupils attending mainstream schools in Nottinghamshire are transported free of charge every school day at a cost to the local authority of over £6 million per annum. Of this number, the local authority currently spends approximately £1.2m per annum transporting between 1900 and 2000 pupils to denominational schools under its discretionary powers. This amounts to approximately 20% of the total home to school transport budget. These transport arrangements and costs have wider implications in relation to other policies and objectives.
13. In determining any changes to policy which could lead to a reduced entitlement for children to transport, case law has determined that local authorities must consult the parents of the children affected before policy is altered. Once the transport policy is determined, the local authority is obliged to publish it at least six weeks before the deadlines set for parents to lodge applications for school places in the normal admissions process. The "Education (School Information) (England) Regulations 2002" require the

local authority to provide a prospectus each year and include in the prospectus information about home to school transport. This means that any changes must be determined and published over a year before they are due to take effect. Should the Council decide to amend current policy at this time, the new policy will be published in August 2006 and implemented with effect from September 2007.

Consultation process and responses

14. The consultation on the policy for the future provision of denominational school transport was undertaken from the week beginning 24 April to 2 June 2006 in accordance with Nottinghamshire County Council's Public Engagement Policy, December 2005.
15. Briefings were arranged for head teachers of all Nottinghamshire schools and faith schools in neighbouring areas with Nottinghamshire pupils on roll.
16. The consultation document (**Appendix 1**) was distributed to all relevant stakeholders including:-
 - the parents of all pupils attending Nottinghamshire schools
 - chairs of governors and head teachers of all Nottinghamshire schools
 - the Diocesan Education Authorities within Nottinghamshire and neighbouring LAs
 - chairs of governors and head teachers of out of county denominational schools with pupils resident in Nottinghamshire on roll
 - the parents of Nottinghamshire children attending out of county denominational schools
 - neighbouring local authorities
 - Confederation of Passenger Transport

Consultees were able to disseminate the document to others as they saw fit.

17. Over 100,000 documents were distributed to be returned by post or on-line via the County Council website and County Contact Call Centre. Details of the consultation were published on the Council's website together with the original Halcrow Group review document produced in July 2005 regarding the provision of denominational transport.
18. The consultation document sought views on four options on the policy for the future provision of denominational school transport:

A = Retain current policy and apply the eligibility criteria more rigorously
B = Introduce a maximum travelling distance
C = Introduce charging
D = Withdraw the provision.
19. Respondents identified themselves as:
 - school representative
 - school governor
 - parent of a pupil currently receiving travel assistance to a denominational school
 - parent of a pupil not receiving assistance
 - other.

20. 1,693 individual responses were received plus a single batch of 981 response forms from pupils attending All Saints Roman Catholic School, Mansfield. One reply was received from a neighbouring authority, Leicestershire, but included no comment. One Freedom of Information Act enquiry was received requesting information about costs and numbers of pupils transported.

21. The responses can be summarised as follows:-

i)

TOTAL RESPONSES		
OPTION	Number	%
A	2160	81
B	164	6
C	259	10
D	91	3
TOTAL	2674	100

ii)

SCHOOL REPRESENTATIVES		
OPTION	Number	%
A	66	92
B	0	0
C	3	4
D	3	4
TOTAL	72	100

iii)

SCHOOL GOVERNORS		
OPTION	Number	%
A	90	58
B	14	9
C	34	22
D	17	11
TOTAL	155	100

iv)

PARENTS WITH PUPILS IN RECEIPT OF TRAVEL ASSISTANCE		
OPTION	Number	%
A	541	89
B	49	8
C	16	3
D	2	0

TOTAL	608	100
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v)

PARENTS NOT RECEIVING TRAVEL ASSISTANCE		
OPTION	Number	%
A	382	51
B	90	12
C	204	27
D	74	10
TOTAL	750	100

vi)

OTHER (ALL SAINTS PUPILS)		
OPTION	Number	%
A	981	100
B	0	0
C	0	0
D	0	0
TOTAL	981	100

22. Petitions received prior to the formal consultation were as follows:

- Holy Spirit and Our Lady of Grace Churches - 352
- St. Joseph's Catholic Primary School, Boughton - 109 and 140 (two petitions)
- Holy Cross Catholic Primary School, Hucknall - 42
- The Good Shepherd Church Woodthorpe - 285
- On behalf of All Saints RC School, Mansfield - 777
- On behalf of the parishes in Nottinghamshire (Diocese of Nottingham) – 1,040

23. Of the 146 letters received prior to consultation, the majority expressed concern about the possible withdrawal of support from September 2006.

The main points raised were:-

- loss of choice and discrimination against the churches
- affordability
- Catholic Parents already fund some of the capital costs of RC schools
- walking and safety
- environmental issues
- continuity of education, family of schools
- possible contravention of the European Convention on Human Rights.

24. 81% of the respondents to the formal consultation expressed a wish to retain the current policy. The results are heavily weighted from the north of the county reflecting the location and pattern of travel to faith schools serving the wider area and the distances involved. A significant number of responses were from within the catchment area of All Saints Roman Catholic School Mansfield, which accounted for 1,791 of the total number of replies (66.9%). A key issue raised by respondents in this area recalled the reorganisation of Roman Catholic Schools in north Nottinghamshire in September 1984 (see paragraph 25b).

25. The proposal to consider changing current policy for transport to denominational schools has proved to be a highly emotive issue for respondents directly affected. Comments range from the legality of options c – d; perceived discrimination against Church Schools; perceived inequity of the policy in favour of pupils who express a preference for a faith school as opposed to pupils expressing a preference for a school on other grounds, and the impact on community cohesion as pupils travel significant distances to preferred schools. **Appendix 2** gives a snapshot of the main comments received. However below are presented the main themes and concerns expressed by respondents together with a clarifying response from the local authority.

a) **Comment:** The proposals to change policy are discriminatory and breach human rights legislation.

Response: Current legislation does not place a duty on the local authority to provide transport to help children attend denominational schools where that school is not the nearest school, or the local authority determines that suitable education can be provided at a nearer school. The LA has discretionary powers under which it may provide transport assistance having considered all the circumstances.

Parents have the right to express a preference for a place at a particular school and admission authorities must comply with that expression wherever possible. However, the allocation of a school place does not carry with it an entitlement to transport. Human Rights legislation also gives parents the right to make sure that their religious beliefs are considered in the provision of education. However, the legislation does not guarantee parents a place for their child at a specific school and allows local authorities to make decisions about achieving a right and justifiable balance between the provision of education and reasonable public expenditure.

Given the make-up of the population of the county and the access to denominational schools, the largest single group for whom there would be an impact in the event of any change in policy is that of Roman Catholic children. Consequently, the majority of objections to any change came from members of this denomination. However any decision to change policy would be applied equally in relation to all religions and faiths. All pupils attending a faith school on denominational grounds in the school year 2006/2007 and in receipt of free transport would continue to do so until such time that they leave statutory education, or change school.

b) **Comment:** The Local Authority is going back on historical agreements made with the Church schools.

Response: The local authority and the diocesan authorities have traditionally worked well in partnership on all issues regarding the provision of education. In 1984 following lengthy discussion between the local authority and the relevant Catholic diocesan authorities, it was proposed that the existing three tier school system in place in the north of the county be replaced by a two tier system. This reorganisation included the closure of Roman Catholic middle school provision in North Nottinghamshire and developed education for 11-18 year olds at the All Saints RC School Mansfield, resulting in more children travelling to Mansfield. At the time it was agreed that existing transport policies would continue to operate to the reorganised schools. The local authority has for many years fully supported and funded transport to denominational schools using its discretionary powers, however such provision from time to time should be reviewed and consulted upon, especially during times of financial constraints. By consulting on the options available the local authority is seeking the views of stakeholders before reaching a decision.

- c) **Comment:** Standards and sustainability of local schools could be affected and there would be an impact on school places.

Response : Many respondents argued that they have a right to express a preference for a school (Education Act 1980) and that denominational schools provided a much better standard of education than their local schools. The local authority is reviewing the provision of discretionary denominational transport in the light of budget constraints, and not as a disincentive to parents to exercise parental preference for any reason. The review is specifically in relation to pupils attending faith schools on denominational grounds, as currently these pupils receive free transport in circumstances where other children attending preferred schools do not.

It is the case that in addition to facilitating school attendance, home to school transport can have an effect on school children subjected to long, uncomfortable journeys, who may not arrive in the best frame of mind for the start of the school day.

Any change in policy may have an effect on parental preference, however the local authority will continue to discharge its duty to provide places for all Nottinghamshire residents of statutory school age. Changes may occur to the pattern of demand which could lead to surplus places at some schools and an increase in demand at others, however this will be managed through the normal admissions round. Parents will know of any policy change before making a final decision on a place for their child. These factors need to be considered when determining future policy in accordance with Section 509 of the Education Act 1996.

- d) **Comment:** The withdrawal of transport (option D) or charging (option C) would cause hardship and is an additional tax.

Response: The local authority has firstly to fund its statutory services and then consider allocations to discretionary areas of service. The introduction of a charging policy could require arrangements to be put in place to ensure that pupils currently in receipt of free travel continue to receive support until they leave statutory education or their current school. If charging were to be introduced, pupils from families on low income may continue to receive free travel to their appropriate school. The policy could also waive or reduce any charge for siblings in a family between the ages of 5-16. Post 16 transport is provided and funded under a separate policy.

- e) **Comment:** Any change in policy would have environmental impacts and the bus services should be maintained.

Response: Some correspondents felt that a charging policy or withdrawing services would lead to more parents taking their children to school by car, increasing congestion and pollution, contrary to the aims of our Local Transport Plan.

Journeys to and from schools are a significant generator of travel demand and contribute towards high traffic flows, particularly at peak times. Nationally 41% of primary and 22% of secondary pupils are driven to school by car.

The Traffic Management Act 2004 (Network Management) requires local authorities to have a whole authority approach when considering changes to policy which may affect the co-ordination or flow of traffic.

The degree to which car use would increase is hard to assess and is dependent on the actions of parents, their preference of school and the availability of services. If charging

were to be introduced the local authority would continue to plan and provide transport services based on demand and assessed through its bus performance framework. This would ensure that services continue to be co-ordinated within an integrated network and provide value for money. If 10% of the number of current users affected opt to use their car or car share it would have minimal effect on the road network. Budget constraints and the primary aim of ensuring attendance means that the scope to address environmental concerns through the statutory school transport policy is limited.

Amongst other objectives, the authority's Local Transport Plans for Greater Nottingham and North Nottinghamshire (2006/7-2010/11) aim to enhance access to services (including education) from improved cycling and pedestrian conditions, and contribute towards a healthier population through encouragement of walking and cycling as regular exercise. School Travel Plans can work towards these goals and are of most benefit to students living within walking or cycling distance of their school. As discussed in paragraphs 26 - 29 of this report, the Education and Inspections Bill 2006, if enacted, would place a duty on local authorities to promote the use of sustainable travel and transport.

School Travel Plans (STPs) launched by the Department for Education and Skills (DfES) and the Department for Transport (DfT) in September 2003 aim to support and encourage every school in England to tackle rising car use on the 'school run' and encourage more children to walk, bike or use public transport. STPs aim to bring about a step change in travel habits and assist the Local Transport Plan objectives of reducing congestion and pollution and improving safety. Every school in England must have in place a STP by 2010 following consultation with parents, pupils and the wider community. In 2007 mode of transport to school will become a mandatory indicator for LTP (2) and Local Area Agreements.

- f) **Comment:** Why not ensure current policy is adhered to, undertake eligibility checks and reduce costs elsewhere.

Response: Checks are in place for September 2006 to ensure that pupils attending schools on denominational grounds are clearly identified for travel assistance to be awarded. In relation to the wider management of budget pressures across the County Council, reductions of £21m over two years are in chain and include significant reductions in administration and management costs, thus reducing the impact on direct services.

- g) **Comment:** We are prepared to pay if the bus services are retained and improved.

Response: Bus services will continue to be provided to meet demand but this cannot always be guaranteed. The County Council is continually reviewing the services, quality and standards and is working with the Bus Operators to enhance provision.

- h) **Comment:** Why provide assistance to denominational schools and not to other preferred schools. It is clear that the current policy does not treat all parents equally, some parents get support for their preferred school and others not. Parents who want a denominational education for their child can get help with transport when those who want a school for a particular specialism do not.

Response: Parents who chose to send their children to a preferred school, other than a voluntary aided church school, only receive transport assistance if the preferred school is nearer than the catchment school and both meet the walking distance criteria. The Education and Inspections Bill 2006 contains some proposed changes to this area of provision for families on low income and further advice is awaited. The local authority has for many years contributed towards the cost of transport to denominational schools

recognising parents' wishes for their children to be educated at a school which adheres to their religion or faith. The introduction of charging would go some way to aligning denominational transport support with that of the policy for all other schools.

- i) **Comment:** Why provide transport to denominational schools which undermines community cohesion.

Response: These points referred to the potential negative effects arising from transporting children resident in the same locality to different schools. It could be argued that members of a particular faith or religion form a distinct community although dispersed over a wide geographical area. There are indeed many definitions of community. Proposals regarding policy review in this area are specifically driven by budget issues. Nottinghamshire is a diverse county and education provision will continue to reflect and support that diversity whilst encouraging community engagement and cohesion.

Education and Inspections Bill 2006

26. The Education and Inspections Bill currently making its way through Parliament, if enacted, inserts a new Section 508A in the Education Act 1996. This would place a general duty on local authorities to promote the use of sustainable travel and transport. It has three main strands:
- Overarching duty on Councils to assess travel/transport needs and promote sustainable travel from September 2007
 - Extends rights to free transport for low income groups
 - Allows for Pathfinder Councils to test innovative transport solutions.
27. Accessibility of transport and its associated costs can act as a barrier to children and young people from low income families, limiting parental preference. The Bill therefore seeks to address the transport inequalities that exist.
28. The DfES has published draft guidance on the changes enshrined within the Bill. Parts 4 and 5 deal with discretionary powers, religion or belief (**Appendix 3**). This guidance may be subject to change following formal DfES Consultation.
29. Recommendations within this report are compatible with provisions outlined in the Bill and within the draft guidance.

Conclusions in the light of responses to the consultation

30. The intention throughout the consultation and expressed in the literature has been to balance carefully the impact of any change for schools, parents, pupils and the local authority. The consultation around this review of transport policy has been extensive and has generated much comment in relation to the four options. Responses to the proposals reflect very specific issues and circumstances prevailing in particular school communities.
31. Parents have a right to express a preference for a place for their child at any school. If possible Admissions Authorities must comply with the parents' expressed preference. However, as stated in the report there is currently no requirement for the local authority to provide transport to support the preference. The Education and Inspections Bill 2006 may change this requirement in relation to low income families, if so policy will be reviewed and amended as necessary at the time.

32. The circumstances in which home to school transport must be provided are clearly set out in current legislation as are the circumstances in which discretionary powers may be exercised. In making any changes to existing policy, the local authority must demonstrate it has taken account of views expressed. Any decision on the provision of free or discretionary transport must be made without discrimination on grounds of religion or belief. The local authority also has a duty to ensure a right and justifiable balance between the provision of education and reasonable public expenditure.

Option A

33. In relation to the feedback from the consultation around Option A, a significant majority of respondents expressed a preference for no change in policy, reflecting the strength of feeling particularly amongst faith communities directly affected by the alternative proposals. Of the many issues raised, the current arrangements were felt necessary to protect low income families, support parental preference, reduce car use on the school run and preserve long standing relationships between the LA, the Dioceses, faith schools and parents. Concern was expressed that any change would have a negative impact upon some children and young people currently in receipt of free denominational transport. A change was perceived by some to be unfair and discriminatory on faith grounds. In contrast, it was argued by some respondents that the current arrangements are inequitable, favouring parental preference on denominational grounds over and above other preferences on grounds of other philosophy or principle. Some concern was expressed that checking eligibility more carefully would constitute an invasion of privacy.
34. Alongside these concerns, it is the case that costs currently incurred by the local authority by providing transport to denominational schools are significantly higher than costs associated with travel to other mainstream schools. In general, transport costs are rising in excess of the rate of inflation. Over the last two years costs have risen between 7% and 9% per annum which brings into question the sustainability of the status quo. The implementation of some change to existing arrangements could reduce LA expenditure in order to redirect funds to support County Council priorities.
35. On balance it is not recommended that the current policy remains unchanged. However in the light of comments received, it is important to make specific safeguards, i.e. that:
- the determination of eligibility remains the responsibility of the governors of the school and the head teacher, and that verification of this eligibility by the LA admissions section will not be invasive, but will be by reference to the head teacher for confirmation, following the allocation of places at the school
 - children and young people in receipt of free transport in the school year 2006/2007 would continue to receive that level of assistance until leaving statutory education or changing school
 - some groups be exempted in the event of a charging policy being introduced
 - the LA continues to exercise discretionary powers in consideration of exceptional circumstances

Option B

36. Comments received in response to the proposal to introduce a maximum travelling distance (Option B) expressed concern that a maximum travel time and distance would not fairly reflect the demography of the county or recognise the location of faith schools in relation to members of faith communities. Some comments suggested that adoption of

this option would undermine opportunities for pupils to attend schools on denominational grounds. On the other hand unreasonably long journeys can be detrimental to pupils, impacting on their ability to learn effectively. On balance and taking responses into account, it is recommended that a maximum travelling distance of 20 miles per journey for a primary pupil, 25 miles for a secondary school pupil, and a maximum journey time of 45 minutes for a primary pupil and 75 minutes for a secondary pupil would be realistic and would not disadvantage pupils in the east and north of the county. This proposal is significantly more generous than the maximum distance of 10 miles and 20 miles suggested in the Halcrow report. In line with this recommendation, it would also be prudent to place a limit on any grants-in-lieu to ensure that journey length and travel time is reasonable, in order for pupils to arrive at school fresh and ready to study.

Option C

37. Responses from the consultation regarding charging for denominational transport (Option C) echoed many comments offered in relation to Option A. There was concern about affordability for low income families and larger families and anxiety about the impact on pupils currently receiving free travel on faith grounds. Some respondents considered that the consequences of this approach would be increased car usage, oversubscription of other schools and an infringement of parental preference. Some respondents felt a reasonable charge would be appropriate, and that parity of charging in relation to denominational transport and transport to schools on other grounds would be reasonable. Feedback strongly suggested that safeguards would need to be in place in the form of exemptions from charges.

38. Taking all these issues into account it is recommended that pupils travelling to school on denominational grounds make a contribution towards the cost of travel. Some key principles are recommended and the following would be exempted from charges:

- pupils in receipt of free travel on denominational grounds for the school year 2006/07 and until they leave statutory education or change school
- pupils entitled to free school meals
- pupils whose parents are entitled to their maximum level of Working Tax Credit
- where a family has 3 or more siblings attending schools on denominational grounds (up to age 16) only the two youngest children will be subject to a charge
- the LA continues to exercise discretionary powers in consideration of exceptional circumstances

39. Several charging options have been scoped for consideration in relation to charging from September 2007 (**Appendix 5**). Option 1 shows the charge currently made to non-denominational pupils attending their appropriate catchment school and not entitled to free travel, e.g. secondary age pupils living within 3 miles of the school. This is a flat rate standard charge. As on average there are higher costs associated with the provision of transport to denominational schools due to the greater distances involved, the other options range from a slightly higher charge than Option 1 through to Option 7, which quantifies full cost recovery.

40. The estimated income in **Appendix 5** is shown for each of the 7 options over a five year period from 2007 to 2012. Figures illustrate how income will increase over time as pupils with protected free transport under the scheme leave the system and the number of pupils eligible for charges increases. The illustration is based on the current number of

pupils in each year group receiving free transport on denominational grounds and anticipates the proportion of these pupils who will be subject to charges.

41. It is recognised that the introduction of charging may deter some families from using the service. The table in **Appendix 5** illustrates a best estimate of the income which may be accrued according to the number of pupils who will pay for transport under each of the options. For Options 1 to 5, it is estimated that of all the eligible pupils, the 80% likely to pay charges would generate the income shown. The remaining 20% of pupils may travel by other means or be exempted from charges. Option 6 illustrates the possible impact of higher charging on primary age pupils, showing anticipated income if 75% paid for transport. Option 7 which proposes charging an unsubsidised rate, shows the income if the best estimate of 50% of eligible pupils were to travel at the charges shown.

42. From the 7 options, it is recommended that Option 5 be adopted. This model reflects a flat rate charge of £250 for primary school pupils and £300 for secondary school pupils per annum. The differential charge to primary and secondary school pupils is to reflect the generally shorter journeys required to primary schools. The introduction of a subsidised flat rate charge is recommended in order to recognise the importance of this provision for children and families. The proposed formula reflects an overall subsidy of 50% of the full cost. In addition, it is estimated that this charging formula will keep administrative costs to a minimum. The estimated income generated by 2011/2012 shown in

Appendix 5 is subject to estimated administrative costs of £30,000 (paragraph 48). The anticipated income will therefore assist in addressing some budgetary pressures on the local authority.

43. Of those local authorities which have withdrawn or are proposing to withdraw free denominational transport, all have introduced or are proposing to introduce a flat rate charge.

Option D

44. Option D was the least favoured of the options overall. Withdrawal of transport would create difficulties for many families, may have some environmental impact as more pupils were transported by car and could reduce the bus network, therefore creating difficulties for other bus users. Whilst this option would appear to carry with it the greatest potential for financial savings for the LA, it is concluded that the social and environmental disadvantages outweigh the greater financial benefit this would achieve, and so this is not recommended.

45. The availability of affordable transport for pupils has been an important theme throughout the consultation, with ramifications including and beyond the specific issue of denominational transport. It should be noted that arrangements are already in chain to establish a Cabinet committee to consider the wide range of transport needs of all children and young people. This recognises the need for further and continuing involvement of young service users in planning and provision in the future.

Statutory and policy implications

46. This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder and those using the service. Where such implications are material, they have been described in the text of the report. Attention is however drawn to the following:-

Personnel implications

47. The change to policy will have minor additional staff implications for collecting the additional income.

Financial implications

48. The change in policy could result in additional income as shown in **Appendix 5**. If take up of passes does not meet the anticipated level of income then a review of services would be necessary. Additional administration costs of £30,000 are estimated by 2011, which would be funded from the income. The scheme will be administered and managed by the Passenger Transport Unit.

Equal opportunity implications

49. A service diversity review has been completed for this report.

Implications for service users

50. The implications for service users are discussed throughout the report. The policy change will have significant implications for those children, young people and families directly affected by the proposals. However, continuing to provide some support and protecting children from low income families will ensure that parents and children may attend schools of their religion or belief.

Human Rights Act implications

51. Article 2 of the First Protocol of the ECHR provides that:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the rights of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

52. When ratifying the First Protocol, the UK entered the following reservation:

In view of certain provisions of the Education Act enforced in the United Kingdom, the principle affirmed in the second sentence of Article 2 is accepted by the United Kingdom only so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.

It is therefore permissible for the current policy to be amended in order to avoid 'unreasonable public expenditure'.

RECOMMENDATION

53. It is recommended that:

- (1) a reasonable charge for transport to denominational schools be introduced with effect from the school year 2007/08 and that specified groups are exempted as detailed in paragraph 38 of the report and shown again in **Appendix 4**.
- (2) the level of charges for the school year 2007/08 as shown in option 5 (**Appendix 5**) be adopted, and that thereafter this decision be delegated to the Cabinet Member for Children and Young People's Services.
- (3) the addendum (**Appendix 4**) to replace / amend paragraphs 2.2, 3.2 and 4.4 in the Nottinghamshire County Council statement of Home to School Transport Policy be adopted.

DAVID WILSON

Acting Director of Education

Reasons for recommendation

54. The reasons are shown in the conclusions to this report (paragraphs 32 -45).

Other options considered

55. All four options which appeared in the consultation document have been carefully considered:

A = Retain current policy and apply the eligibility criteria more rigorously. To leave current policy unchanged would be increasingly unaffordable in the light of financial savings which need to be made and against a tide of rising costs and demand.

B = Introduce a maximum travelling distance. This proposal is incorporated into the recommendation

C = Introduce charging. A number of models regarding this option were considered and appear in **Appendix 5**

D = Withdraw the provision. This would create difficulties for many families, may have some environmental impact and could reduce the bus network, therefore creating difficulties for other bus users.

Legal Services' comments (JF/4.7.2006)

56. Full Council is required to make decisions in regard to the policy framework of the Authority. The legal position as regards the provision of school transport is as set out in the report. It is a matter for the decision maker body to decide whether in relation to the Human Rights Act they are of the view that the policy amendments avoid 'unreasonable public expenditure' based upon the evidence available to them or requested by them.

Director of Resource's financial comments (NDR)

57. The financial implications are set out in the report and its appendices.

Background papers available for inspection

Report to Education Policy and Standards Sub-Committee 14 June 1983
North Nottinghamshire Roman Catholic Provision

Report to Education Committee - Section 12 Notices 17th May 1984

Traffic Management Act 2004 2004

Duty Advice – Road Network Approach

Report to Cabinet – Home to School Transport Policy *	Dec 2004
Halcrow Report: Review of Denominational Home to School Transport*	July 2005
Case: R (Re others) v Leeds City Council	11 Nov 2005
Advice from Legal Counsel	Jan 2006
Advice offered to Bath and NE Somerset Local Authority from Legal Counsel re consultation on denominational transport	Spring 2006
Letter to Headteachers of Voluntary Aided Schools in the County	6 Feb 2006
Letter from Director of Education: Church of England Diocese of Southwell and Nottingham	9 Feb 2006
146 letters and 6 petitions responding to the County Council's budget consultation	Jan/Feb 2006
Reply to the Diocesan Director of Education	9 Mar 2006
Cabinet report seeking approval to consult *	29 Mar 2006
LTP (2) - Accessibility and Bus Strategies *	Mar 2006
Education and Inspections Bill Draft Guidance Home to School Travel and Transport +	May 2006
Responses to the formal consultation	April to June 2006

* Available at www.nottinghamshire.gov.uk

+ Available at www.dfes.gov.uk

Electoral division(s) affected

Nottinghamshire

M19C1590



**Nottinghamshire
County Council**

1. Your school transport – your views

The County Council has a policy on home to school transport which sets out the circumstances under which it will provide free or subsidised transport to help young people get to school. The current policy can be seen on the council's website (www.nottinghamshire.gov.uk) or you can get a copy from the contact point given at section 8 of this document.

This document provides information about a consultation exercise concerning options to change the Council's current policy for denominational transport from September 2007. Your views will help us in shaping future policy.

We are seeking the views and opinions of parents, schools, governors, transport operators and anyone else who has an interest in how future denominational transport should be provided.

The consultation will last for six weeks. Please return your response by **2 June 2006**.

Full details of how to let us know your comments are set out at the end of this document. If you need any further advice or information on this consultation process, please telephone us on: 0845 330 4256.

8.00 am to 8.00 pm Monday to Friday
8.00 am to 12 noon Saturday

2. Background

The main reason the Council provides school transport is to support school attendance. However, apart from this, school transport can have an effect on achievement, standards, social behaviour and the environment. The provision of transport to denominational schools is made at the Council's discretion. The Council's current policy is that the full cost of home-to-school transport is provided for pupils attending denominational schools on denominational grounds and whose home is more than the statutory walking distance from the nearest appropriate denominational school.

During 2005, external consultants reviewed the Council's provision of denominational transport. The study identified that we spend approximately £1.2m a year transporting about 1900 young people who currently receive free transport to denominational schools. This amounts to approximately 25% of the total home to school transport budget. The review took place within the context that the cost of transport to denominational schools is significantly higher than that to other mainstream schools. In addition transport costs are rising above the rate of inflation and in recent years a number of other Councils have either changed or are actively considering amending their policies. The study identified a number of options for future denominational transport policy which are explained later in this document. A copy of the consultant's report can be seen on the County Council's website – www.nottinghamshire.gov.uk

The earliest date any changes to policy could be implemented would be September 2007. Only young people who start at a school transfer between schools or move into Nottinghamshire from the start of the 2007/08 school year would be affected by any policy change.

3. Why changes to the denominational transport policy may be necessary

The possibility of amending the current denominational transport policy was highlighted in consultation undertaken earlier this year regarding the Council's budget for 2006/07 and future years.

- The Council has to make substantial budgetary savings over the next two years and it is reviewing all areas of discretionary service provision. One of the areas identified for a possible reduction in expenditure, or increase in income, is denominational transport.
- Costs in the transport sector are currently increasing by more than 9% per year, significantly above the rate of inflation. This makes it increasingly difficult to sustain the current level of discretionary provision against other competing services which we have a statutory duty to provide. If the policy is changed any potential budgetary savings will be reallocated to other key priorities of the Council.
- The Council understands that parents may wish to send their children to faith schools and therefore we need to find a solution which is fair to all and is sustainable.
- The impact of transport as a barrier to parents, especially from low income groups, exercising their choice of school is currently being addressed in the Government's Education and Inspections Bill 2006. (The Bill can be viewed at www.dfes.gov.uk). It is important that the Council's future transport policy is consistent with any arrangements that might be implemented by the Government arising from the Bill. This consultation exercise will take this into account.

4. Possible options for policy change

This section explains how denominational transport could be provided in the future. There are a number of possible options for change.

(a) Do nothing – retain current policy and apply the eligibility criteria rigorously

The advantage of retaining current policy is that this avoids disruption in this area of provision. There is however a need to ensure that the current eligibility criteria are rigorously applied. In some cases admission to a denominational school is based on parental preference, rather than denominational grounds. It is important to ensure that only those pupils who are admitted on denominational grounds benefit from the current policy. This could be achieved by requiring proof of baptism and checking regular church attendance. The main implications of such a change in policy are:-

- Ensuring that only eligible pupils receive assistance
- A possible reduction in pupils receiving assistance
- A possible reduction in expenditure.

(b) Introducing a maximum travelling distance

Many councils currently impose a maximum distance for young people travelling to denominational schools. The main reason for this is to deter unreasonably long journeys so that children get the maximum benefit from their education, for example they arrive at school bright and alert. The main implications of this change are:-

- Reduced expenditure
- A reasonable limit would be 10 miles for Primary and 15 miles for Secondary aged pupils (i.e. a daily return journey of up to 30 miles for secondary pupils).
- The disadvantages of changing to this policy would be that it could significantly affect Roman Catholic Secondary Schools and increase administrative costs.

(c) Charging for denominational transport

Several councils have introduced charges for denominational transport. The introduction of charges has usually been met with resistance. The income has however eased budget pressures and ensured the continued provision of bus services that otherwise would have been withdrawn. The average cost of providing denominational transport in Nottinghamshire is £627 per year for each child. The external consultants indicate that a reasonable charge may be between £200 and £300 per year per child with safeguards for families on low incomes.

The main advantages of this approach are:

- It would achieve financial savings
- The bus network would be maintained

The main risks for such a policy change are:

- There may be resistance to charging which may encourage more car use
- Increased traffic congestion on the school journey

(d) Withdrawing transport on denominational grounds

The final option is to completely withdraw all the transport on denominational grounds whilst retaining our duty to consider special circumstances.

The main benefit of adopting such a policy is that it would create maximum cost reductions which could be reinvested in other services. However, this option has several disadvantages.

- It would be very difficult for some pupils to be able to travel to school without the availability of the current buses. This could result in additional pressure on places at other schools closer to where the pupils live.
- Potential significant increase in car usage for school journeys, resulting in increased congestion and pollution.
- Detrimental impact on the bus network.

5. What happens next?

The consultation exercise will continue until 2 June 2006.

We would like you to give us your views on the policy options discussed in Section 4 and any other comments which you may feel will be helpful when making a decision on the future provision of denominational transport.

You can give your views by completing the form attached to this document or by e-mailing a response to the address at the end of the document.

This document is available at www.nottinghamshire.gov.uk.

Once the consultation period has ended, responses will be collated, summarised and considered by the full County Council on 20 July 2006. At this meeting elected members will decide what, if any, changes should be made to the denominational school transport policy.

Consultees will receive feedback from the consultation exercise. Should the Council decide to amend the current policy, it will be published in September 2006 and implemented from September 2007.

6. Who are we consulting

- Parents of all pupils attending Nottinghamshire Schools
- Parents of Nottinghamshire children attending out of county denominational schools.
- Chairs of Governors and Head Teachers of all Nottinghamshire schools and neighbouring denominational schools.
- The diocesan education authorities within Nottinghamshire
- Neighbouring Local Authorities
- Confederation of Passenger Transport.

7. How to make your view known

If you wish to comment on the proposed policy options, you should complete the attached form and send it to Denominational Transport Consultation, Education Department, Nottinghamshire County Council, County Hall, West Bridgford, Nottingham NG2 7QP. Alternatively e-mail using the consultation document which can be found on the internet at www.nottinghamshire.gov.uk.

A version of the document is available in other languages. The document is also available in Braille and large print. Please call 0845 330 4256 for a copy. Minicom service is available.

8. Advice and further information

If you need any further advice or information, please contact us on telephone number 0845 330 4256.

8.00 am to 8.00 pm, Monday to Friday
8.00 am to 12 noon, Saturday

**Response to the consultation on the policy for the
future provision of
denominational school transport April – June 2006**

Question: What is your preferred option in SECTION 4?

Please circle: a b c d

I/We would like also to make the following comments on the consultation.

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Continue on a separate sheet if necessary.

Name:

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Address:

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Post code:

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Telephone number:

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E-mail:

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I am:

A school representative

A school governor

A parent of a pupil currently receiving travel assistant to a denominational school

A parent of a pupil not receiving assistance

Other (please state)

The information we collect is only used to inform the analysis of responses to be included in the final report. By providing your personal details we are able to assess the responses from various groups. We will not pass your personal details/information to any other agency and your personal details will not be used in the final report. This information will be used for statistical purposes only. All data is confidential. For further details regarding your privacy please see our Privacy Statement:

<http://www.nottinghamshire.gov.uk/home/privacystatement.htm>

Thank you for taking the time to respond to this consultation exercise.

RETURN THIS FORM TO:

**Denominational Transport Consultation
Education Department
Nottinghamshire County Council
County Hall
West Bridgford
Nottingham NG2 7QP**

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APPENDIX 2

Of the 2674 responses to the Consultation 444 made no additional comment other than their choice of option.

A snapshot of most recurrent comments made under each option follows.

Option A

- The Catholic community has a real concern that no Catholic child should be denied the opportunity of a Catholic education solely because his or her parents are unable to afford the transport costs involved in choosing such education. This is a view shared by many members of other Christian faiths who choose to send their children to Church of England schools.
- Section 76 of the 1944 Education Act (replicated in Section 9 of the 1996 Education Act), Principle 7 of the UN Declaration on the Rights of the Child and Article 2 of the First Protocol of the European Convention of Human Rights reinforce the principle that no child shall be denied the right to education in accordance with the wishes of the parents, especially with regard to their own religious and philosophical conventions.
- The proposal would destroy the partnership between the Church and the Local Authority set up as part of the provision to serve a particular community.
- There is current assumption that Catholic children in Catholic primary schools will move to the appropriate Catholic secondary school. Since this could be some distance away, the removal of this support for travel will affect both the Diocese and local provision and penalise parents who are not able to fund the transport costs especially if they have more than one child at the school.
- Catholic parents currently have to fund 10% of the capital costs of Catholic schools. If denominational transport were to be removed, they would have to make additional contribution towards the provision of an education enshrined in the 1994 Education Act and supported by an existing partnership between the Local Authority and the Dioceses.
- Implementation of such a proposal would undoubtedly lead to increased car usage in order to transport children to and from school resulting in an undesirable environmental and safety impact.
- There is strong evidence from OFSTED and other sources that Church schools and Catholic schools in particular build their

success on the prevailing ethos which is shared by members of the community it serves. If the nature of the community changes, then so will the nature of the ethos and there may well be a subsequent effect on performance and achievement.

- To renege on a decision made in 1984 when local Catholic Schools were closed. (Worksop – Robert Ludlam, Newark – Cardinal Hinsley) and transport was made available to Mansfield as a persuasive weapon is not acceptable.
- The overall savings to the budget are likely to take a long time to take effect compared to the short term disturbance that will be on-going.
- The authority's draft strategic plan and draft community strategy include commitments to social inclusion and improving accessibility to services. For Catholics from deprived areas seeking access to education for their children, the proposed withdrawal of service seems to run right against this commitment. CPA assessments will look now at how well service delivery matches stated priorities, and increasingly will seek the community's opinion. It could therefore impact on our corporate assessment on 2008.
- An important issue is the impact it has on equalities. The Authority is striving to achieve great things against the local government equalities standards. Could I suggest that it is a real possibility that the authority's aspirations will be seriously compromised by the proposal.
- The onus is on the LA to source the bus service cheaper!
- The LA should be developing parental choice not limiting it.
- Unfair on children moving from 2007 onwards especially if older siblings are receiving assistance.
- Parents have made decisions based on existing transport policy.
- School bus service currently provides a generally safe and secure way of transporting pupils to and from school.
- Issues about those who, whilst not being sufficiently hard up to warrant assistance, may struggle to find a bus pass for the year.
- Cost is measured in monetary value rather than environment impact.
- Already travel on bus and pay, but if I have to pay £200 - £300 per child I would drive them to school.

- Transport should be provided free of charge to every child, at the point of need, and for attendance at whatever school is their choice within a reasonable distance.
- By withdrawing transport to Church Schools by seeking payment, schools with excellent reputations will end up being undersubscribed due to size of catchment areas.
- Can the LA guarantee places at the Local School (own admission arrangements)?
- Criteria enforcement would ensure that parents send their children to school because of religious reasons.
- I feel it would be unfair to check regular church attendance as its an invasion of privacy.
- Trust the integrity of governing bodies to ensure that children admitted are entitled to benefit from the transport policy.
- Church attendance should be checked every year before renewing bus pass.
- Many people want the beliefs without the participation.
- A practising Catholic objects to the large number of children who make use of the Catholic Faith to get into Catholic schools.
- Pupils attend because of excellent exam results.
- Impact on travel would be enormous – solving the current transport issues should be an absolute priority.
- Inconceivable that LA is considering a change which will only increase the volume of traffic, pollution and endanger children.
- School buses help choice and ability of parents to work.
- We should not bear the brunt of unfortunate geography.
- Catholic School catchment area is so vast the withdrawal of transport or charging for use would bring serious complications to choice.
- Ask the schools to contribute to the service rather than parents.
- Conscious of the continuing constraints (re) the County Council budget and the Catholic community's wish to work in partnership Option C deserves some further exploration. A guarantee that free meals = free transport, other eligible Catholics £150 per year.

- Partnership agreed in 1944 Education Act should be honoured but willing to pay a contribution.
- Have a standard allowance for all pupils – parents to pay over and above.
- Although we have ticked option a) we think a mix between a) and c) is better. Have strict guidelines for those that are eligible to receive assistance and apply charges for those that are not eligible so that they still have the option of using the service. It could reduce expenditure yet still offer transport to all children that require it.
- We looked at moving our child to a faith school which was further away and were fully prepared to accept the possibility of paying travel expenses. We felt that it was the least we could do as we were making the decision to move our child to a school other than the one in our area (i.e.; why should taxpayers have to 'foot the bill' because we were choosing to move school).
- Due to the financial situation I have to travel for at least an hour and 10 minutes, both to and from school, everyday, for a journey that need not take more than 40 minutes. I leave the house at 7.45 in a morning, and very often do not get home until 5.10, my day being much longer than most of my peers...I wanted to write to the council because I'm not sure if you realise that many people attending 'denominational schools' make significant sacrifices already, which to me shows how committed they are towards a faith education
- The cost per capita doesn't make any of those services more or less worthwhile.

Option B

- Limiting distance travelled is appropriate – will enable people still to have choice, but will also be a pragmatic response due to the inevitable limits to the budget.
- Children travelling distances take places of local children.
- Unfair to ask within 15 mile radius, but above a contribution as it is parental choice.
- Consideration to children who live in rural areas.
- Concerned that the administration costs might outweigh any saving.
- Criticism that denominational schools are elitist could only become more justified if payments become involved.

- School transport should be free for all children.
- Choice is at a cost.
- A standard allowance per child should be fixed – additional costs over this met by parents – for all pupils.

Option C

- Most children going to denominational schools don't ever attend church so it does make sense to withdraw funding on denominational grounds.
- Reasonable charge which will not make them opt to use their own cars.
- Convenience of a school bus would be maintained at a cost less than public transport.
- Free for everyone or payment from everyone.
- As parents who choose to send their children to out of catchment schools are charged bus fares, then ... parents who choose a denominational school should also pay. Fairness to all.
- Parental choice incurs responsibility to bear some or all of the cost.
- It is clear some change is required to enable the council to manage the budget and it would help if all users contributed to the transport to assist with this.
- Responsibility of parents and the religious group to foot the bill.
- Parity is the most important – charged if you choose to send your child to a school more than 3 miles away when the catchment school is within the 3 mile radius.
- Not fair that parents already paying extra transport costs are indirectly contributing towards free transport.
- Need to maintain the bus network for environmental and efficiency reason.
- Religion should not be singled out over any other personal belief, moral ... or other modes of conscience.
- All parents who send their child to a non designated school should pay (sliding scale for 2nd/3rd child).

- Churches charged for entire transport and then they could decide whether or not to pass these costs on!
- Parents pay £370 in year to send child to attend choice school – why should denominational choices pay nothing.
- People should be prepared to make sacrifices if they want their child to go to their school of choice.
- This option maintains maximum parental choice and the cost is reasonable and has safeguards for low incomes.
- Option C should be adopted with a caveat to withdraw the service (option d) in six years time. This gives parents and students currently attending or who are due to start, time to make alternative arrangements.
- If those that choose different schooling for academic reasons do receive funding they also should not. Finally I do agree that those on low incomes or especially disadvantaged should continue to receive assistance.
- I assumed that everybody paid for the school bus as I do. The cost of the bus pass I find to be reasonable as I worked out how much it would cost for us to use public transport. Everybody should pay something!

Option D

- Parents will have enough time to make their decision and arrange car sharing to ease congestion.
- Parents should support their local school and support it raise its standards.
- Support to Church Schools discriminates against children who attend other schools out of catchment through parental choice without free transport.
- Any choice may incur a cost as this does – parental decision.
- If a child's education is important you find a way to get there.
- All transport assistance should be judged on equal terms as all school choices made by parents are because of a preference, be it religious, proximity or educational needs.
- Many parents choose to send their children to faith schools for academic achievement rather than religious reasons and so should not receive subsidy on the grounds of faith.

- Travel assistance to their local school, parental funding for journey beyond this.
- Taxpayers money should not be spent on encouraging segregated education.
- There are far more pressing issues for Notts LA to be funding £630 per pupil is outrageous.
- School should have a travel plan that ensures no increase in traffic around the school.

Open Comments

- Whatever final decision Nottinghamshire takes – it should be applied without prejudice against pupils and families who are non-religious and who wish to avoid church schools. If the council believes it is right to offer subsidised transport to the religious to enable them to choose schools, then it is right and proper that this option should also be open to the non-religious. If parents/guardians' nearest school is a church school, and for reasons of belief they would strongly prefer their child to attend a non-church community school – then they should have equal access to the school transport service.

Any failure to do so would open up Nottinghamshire to challenge under the Human Rights Act. (The HRA in Article 9 – freedom of thought, conscience and religion – couples religion with belief in a way that the courts have firmly established includes Humanism and other non-religious beliefs).

- There is no mention in the consultation document as to why the subsidy is in place.

Presumably it is the schools who benefit the most in general from the current policy therefore they should be approached to see if they would be willing to subsidise the service themselves. This should represent a fifth option in the above list.

M19C1590b

Extract from DfES Draft Guidance
Education and Inspections Bill 2006

Part 4 – local authority powers relating to travel arrangements for other children

1. Section 508C provides local authorities with discretionary powers to make arrangements for those children not covered by Section 508B (above).
2. It provides a general power for local authorities to make travel arrangements to facilitate attendance for any child or groups of children not meeting the definition of ‘eligible children’ in Schedule 35B. For example, many local authorities make travel arrangements for children attending schools preferred on strong religious or philosophical grounds. Others consider it a priority to provide primary aged children with transport at a lower limit than the statutory walking distance (for example one and a half miles from school, rather than two miles). A smaller number of authorities make travel arrangements for children below compulsory school age.
3. Local authorities may wish to use this power to continue to exercise such discretion and provide discretionary support according to local priorities. Such policies may be an important part of the local authority’s strategy to promote sustainable travel, and should be clearly outlined in documents prepared for parents. Where arrangements are made, any alterations should if at all possible be made only at the end of the school year. 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.
4. There is no requirement for these discretionary arrangements to be provided free of charge. However, if local authorities decide to levy charges, they should make this clear in their school travel policy documents. Good practice suggests that, where charges are levied, children from low income groups should be exempt.
5. Subsection (4) of 508C provides a power for local authorities to pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the statutory duty placed on local authorities, or under their discretionary powers to make travel arrangements. This is a replication of the existing power under 509(3) of the 1996 Act.

Part 5 – ‘Religion or belief’

6. Clause 71 of the Education and Inspections Bill 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.
7. The definition of ‘religion or belief’ follows that of the Equality Act 2006. Under this Act, ‘religion’ means any religion, and ‘belief’ means any belief. References to ‘religion or belief’ include references to a lack of religion or belief. It therefore follows that this duty covers all religions and denominations, as well as philosophical beliefs.
8. This guidance deals with the implications of this duty in relation to the duty to promote sustainable travel, and the duties and powers relating to the provision of travel arrangements to schools and other places.

‘Religion or belief’ and the duty to promote sustainable travel

9. The duty to promote sustainable travel includes assessments of the travel needs of children and young people, and of the infrastructure supporting those needs. Travel needs include travel to and from school, further education institutions, and other places where education or training might be delivered, and travel between schools, and between schools and other educational institutions (including further education institutions and all other places where education or training may be delivered).

10. In fulfilling this duty, local authorities must consider the travel needs of pupils whose parents express a wish, based on religion or belief, for their children to attend a particular institution, and how the existing sustainable travel infrastructure might support travel to such schools and institutions. They must also consider how the infrastructure might be improved so it better meets the needs of children and young people, and how to promote sustainable travel on such journeys.

‘Religion or belief’ and the provision of school travel arrangements

11. Many parents will choose to send their children to a school as near as possible to their home. However, some parents choose to send their children to a school with a particular ethos because they adhere to a particular faith, or philosophy. In many cases these schools may be more distant, and many local authorities will adopt home to school travel policies that facilitate attendance at such schools.

12. Whilst under the European Convention on Human Rights (ECHR), parents do not enjoy any right to have their children educated at a faith or a secular school, or to have transport arrangements made by their local authority to and from any such school, the Secretary of State hopes that local authorities will continue to think it right not to disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools.

13. The Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical convictions, and believes that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express.

14. Although the provisions of the Equality Act 2006 (which places a duty on local authorities not to discriminate against a person on the grounds of their religion or belief), do not apply to the exercise of an authority’s functions in relation to transport¹, local authorities will need to be aware of their obligations under human rights legislation.

15. In exercising their functions, local authorities will therefore need to respect parents’ religious and philosophical convictions as to the education to be provided for their children² in so far as this is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure. It may be incompatible, for example, on grounds of excessive journey length, or where the journey may have a detrimental impact on the child’s education. Local authorities should also ensure that they do not discriminate contrary to Article 14 ECHR. For example, where transport arrangements are made for pupils travelling to denominational schools to facilitate parents’ wishes for their child to attend on religious grounds, travel arrangements should also be made for pupils travelling to non-denominational schools, where attendance at those schools enables the

¹ s 51(2)(b) Equality Act 2006

² Article 2 of the First Protocol

children to be educated in accordance with their parents' philosophical convictions, and vice versa.

16. Where local authorities make arrangements for such children under their discretionary powers (section 508C), and have policies of levying charges for such transport, the Secretary of State believes that local authorities should pay careful attention to the potential impact of any charges on low income families whose parents adhere to a particular faith or philosophy, and who have expressed a preference for a particular school as a result of their religious or their philosophical beliefs. In the Secretary of State's opinion, where local authorities make travel arrangements for such children, these should be provided free of charge in the case of pupils from low income families (pupils entitled to free school meals or whose parents are entitled to their maximum level of Working Tax Credit).

17. Local authorities should give careful consideration to discrimination issues, and seek legal opinion if they are unsure about the effect of their policies, before publishing them each year.

M19C1590c

APPENDIX 4

ADDENDUM: HOME TO SCHOOL TRANSPORT POLICY STATEMENT – SEPTEMBER 2006

The following addendum replaces or amends paragraph 2.2, 3.2, 4.1 and adds new paragraph 4.4(d)

Delete first paragraph in 2.2 and replace with:

2.2 Transport assistance for pupils attending a school on grounds of the parent's religion or belief

Pupils attending their appropriate school on grounds of the parent's religion or belief may be provided with transport assistance if each of the following apply

- A parent or pupil adheres to the religion or belief
- The transport application is counter-signed by the Headteacher confirming that the admission was on the grounds of religion or belief
- The pupil lives over the qualifying walking distance stated in 2.1
- The pupil lives within an area defined by a radius (measured from school to home in a straight line) of 20 miles for Primary pupils and 25 miles for Secondary pupils.
- The pupil can travel within the maximum travelling time criteria, using the available transport services of 45 minutes for Primary pupils and 75 minutes for Secondary pupils. Journey time is assessed by calculating the door-to-door time by use of public transport or the equivalent time it would have taken where no public transport exists and includes any journey time to a pick up point, waiting time for connections and walking time from set down point to school.

3.2 *Replace* "Denominational Schools" *with* "Schools attended on the grounds of Religion or Belief".

4.1 *Amend to read:* A travel pass will be issued where pupils qualify for free travel in Sections 2 and 3.

4.4(d) *Add:* Travel Assistance and Grants for travel to schools on the grounds of religion or belief.

- Assistance with transport will be a travel pass for the nearest available school bus or local bus, tram or train service on payment of the appropriate contribution from parents.
- Travel passes will only be issued for the transport arrangements considered by the County Council to provide best value for money.
- The transport services provided operate from defined points or as a

'main road' type of service. Parents are responsible for making and paying for any transport arrangements to and from the nearest boarding point.

Exemptions from charges:

- Pupils in receipt of free travel for the school year 2006/07 and until they leave statutory education or change school
- Pupils entitled to free school meals
- Pupils whose parents are entitled to their maximum level of Working Tax Credit
(documentary evidence will be required with the application)
- Where a family has 3 or more siblings attending schools on denominational grounds (up to age 16) only the two youngest children will be subject to a charge

The above exemptions will be reviewed annually and before the start of each school year.

Travel Grants are only available in very exceptional circumstances and will not be made where the County Council has transport facilities available or additional costs would be incurred.

Grants are limited to a maximum of 20 miles per journey for Primary pupils and 25 miles for Secondary pupils per day, less the parental contribution (normal exemptions apply). A grant in lieu of a travel pass will only be given to one family member. The grant is based on the distance of two return trips, using the shortest vehicle route available, using the 'public transport rate' as the basis of calculation.

A grant in lieu is only available from the start of the school year in which the application is made and will not be backdated.

Appendix 5 Charging Options for Denominational Transport

The illustration is based on the current number of pupils in each year group receiving free transport on denominational grounds and anticipates the proportion of these pupils who will be subject to charges. Level of charge shown is per annum.

For Options 1 to 5, it is estimated that of all the eligible pupils, the 80% likely to pay charges would generate the income shown. Option 1 shows the flat rate charge currently made to any pupil travelling to their catchment school if not eligible for free transport. Option 6 illustrates the possible impact of higher charging on primary age pupils, showing anticipated income if 75% paid for transport. Option 7 which proposes charging an unsubsidised rate, shows the income if the best estimate of 50% of eligible pupils travel at the charges shown.

Level of charge		2007/08	2008 /09	2009/10	2010/11	2011/12
Option 1	Pri £ 180	13,248	22,032	32,256	41,328	50,400
	Sec £ 300	55,272	113,232	167,328	216,552	264,600
Full Yr Income		68,520	135,264	199,584	257,880	315,000
2 Terms Income		45,680				
Option 2	Pri £210	15,456	25,704	37,632	48,216	58,800
	Sec £210	55,272	113,232	167,328	216,552	264,600
Full Yr Income		70,728	138,936	204,960	264,768	323,400
2 Terms Income		47,147				
Option 3	Pri £220	16,192	26,928	39,424	50,512	61,600
	Sec £250	65,800	134,800	199,200	257,800	315,000
Full Yr Income		81,992	161,728	238,624	308,312	376,600
2 Terms Income		54,656				
Option 4	Pri £250	18,400	30,600	44,800	57,400	70,000
	Sec £250	65,800	134,800	199,200	257,800	315,000
Full Yr Income		84,200	165,400	244,000	315,200	385,000
2 Terms Income		56,128				
Option 5	Pri £250	18,400	30,600	44,800	57,400	70,000
	Sec £ 300	78,960	161,760	239,040	309,360	378,000
Full Yr Income		97,360	192,360	283,840	366,760	448,000
2 Terms Income		64,900				
Option 6	Pri £ 300	20,700	34,425	50,400	64,575	78,750
	Sec £300	78,960	161,760	239,040	309,360	378,000
Full Yr Income		99,660	196,185	289,440	373,935	456,750

2 Terms Income		66,440				
Option 7	Pri £600	27,600	45,900	67,200	86,100	105,000
	Sec £ 600	98,700	202,200	298,800	386,700	472,500
Full Yr Income		126,300	248,100	366,000	472,800	577,500
2 Terms Income		84,200				