

**REPORT OF THE CHAIRMAN OF THE CHILDREN AND YOUNG PEOPLE'S
COMMITTEE**

DISCRETIONARY TRAVEL TO PREFERRED SCHOOLS

Purpose of the Report

1. The purpose of this report is to recommend that the Discretionary Travel Scheme for children travelling to preferred schools in Nottinghamshire is stopped with effect from September 2014. Qualifying children and young people currently within the scheme or due to enter it in September 2013 will continue to benefit from free travel until they reach statutory school leaving age in year 11.

Information and Advice

2. The Discretionary School Travel Scheme was launched in September 2011 as '*an innovative enhancement in relation to young people's school travel*' (Cabinet Report 14 July 2010). The scheme was a wholly discretionary measure but not an entitlement, and whilst offering a benefit to some secondary school age service users, it had no impact on other home to school transport arrangements across the county.
3. The scheme was introduced under legislative powers of the Transport Act 1985, entirely separate from the Council's Home to School Transport Policy. As such, it complemented the menu of other statutory and non statutory provision described in the Policy. It offered an opportunity for free travel to some year 7 pupils who would not qualify for free transport by law and under the policy. It used only the existing school bus services, local bus services and special transport services for pupils with special educational needs or disabilities.
4. At the outset, prospective take up and costs of the scheme were understood to be difficult to predict. A review of the first year of operation resulted in a decision by the previous administration to continue to rollout the programme to further cohorts of year 7 pupils in the following years 2012 and 2013 with a view eventually to it being accessed by qualifying pupils aged 11 to 16 years.
5. From September 2013 the three year groups involved each yield an average of 425 pupils who access the scheme. This is in the region of only 5.05% of the total number of pupils in each of those years. It should be noted that over 70% of applicants for a school place express a preference to attend their catchment, designated school and so in relation to their transport options the

scheme has no relevance to them. In line with relevant statutory guidance, the scheme considers any school attended over the statutory walking distance of 3 miles, and which is not the child's catchment or designated school to be a 'preferred' school.

6. The approximate cost of the scheme in 2013 / 2014 is £505,170. Were the scheme to be fully implemented with all five secondary school year groups included, costs would be in the region of £860,000 to £906,000 every year.
7. In this period of austerity local authorities face significant financial challenges. In Nottinghamshire difficult budgetary decisions need to be made in order to protect frontline services and support those most in need. As a consequence a report to Policy Committee on 17 July 2013 sought approval to undertake a public consultation regarding the proposal to stop the rollout of the Discretionary Travel Scheme.

Consultation process and responses

8. The consultation was carried out before the start of the new academic year 2013 and in time for consideration by this Policy Committee, in order to give sufficient notice to parents and transport operators in the event of any changes. Parents and carers of pupils in year 6 are currently applying for secondary school places with effect from September 2014, and must submit their preferences by the closing date of 31 October 2013.
9. Information about the proposal was available on the County Council website and forwarded directly to the following:
 - all Nottinghamshire maintained schools and academies
 - the two faith schools outside the County boundary which have pupils currently on roll who benefit from the scheme
 - Children's Centres
 - Diocesan Authorities in the County
 - public libraries
 - Clinical Commissioning Groups in relation to surgeries and health centres
 - District Councils
 - NCC elected members
 - Members of Parliament with Nottinghamshire constituencies
 - parents and carers of all children who currently benefit from the scheme.
10. The review of the scheme was signposted in the 'Admissions to Schools Guidance' for parents and carers currently applying for secondary school places with effect from September 2014.
11. The consultation commenced on 18 July 2013 and closed on 23 August 2013 using an online survey. Correspondence was also received and acknowledged as part of the consultation.
12. The consultation sought views on a single proposal:

“The rollout of the Discretionary Travel Scheme for children travelling to preferred schools in Nottinghamshire be discontinued with effect from September 2014. Qualifying children and young people currently within the scheme or due to enter it in September 2013 will continue to benefit from free travel until they reach statutory school leaving age in year 11”.

13. Respondents were invited to give their postcode and district of residence and identify themselves as:
 - parent / carer
 - pupil
 - teacher
 - school governor
 - responding on behalf of another organisation
 - other
14. A summary of the responses collected through the online survey is attached as an **Appendix**. There were 336 responses via the survey. 73.4% of those who identified themselves were parents or carers. 39 letters and emails were received and one petition containing 70 signatures from Holy Trinity Catholic Primary and Nursery School, Newark. Predominantly respondents who commented were parents of children who currently benefit from the scheme, or with children who may have done so in future.
15. Of the comments in the online survey and in the correspondence received, concerns raised were largely in relation to the following issues:
 - travel to faith schools including on grounds of faith, and questions about discrimination in contravention of the Human Rights Act
 - free access, the right to choose a school and the comparative performance of schools
 - impact on siblings who would not be able to access the scheme alongside their older brothers or sisters
 - financial impact
 - other: including environmental reasons and safety.
16. A number of respondents and a petition received expressed concern that the availability of wider transport assistance and entitlement was under threat as part of this proposal; for example, that school buses were to be withdrawn, or that transport to catchment schools or schools over three miles was under threat. In fact many of these provisions stand outside the scheme; some are legal entitlements and are included in the Home to School Transport Policy which is not affected by this proposal. Where these concerns were raised in correspondence, clarification was given by return with sign posting to accurate information about the scheme and the proposal.
17. 91.3% of respondents to the online survey stated that they wanted the scheme to continue. From comments provided, a very significant majority of them benefit directly from the scheme, as parents of children who can now travel

free of charge. 7.5% agreed with the proposal to stop the scheme. 1.2% did not know.

18. Over 34.8% of responses were from the Newark and Sherwood district; 18.6% from Bassetlaw and 14% from the Mansfield area. This reflects particular local and personal concerns regarding access to schools and parental preference, for example, most notably the uptake of the scheme by children travelling to their preferred Catholic faith school. Between 25% and 30% of the children who travel under the scheme attend a faith school.

Summary of key issues raised

Travel to faith schools including on grounds of faith and questions about discrimination in contravention of the Human Rights Act:

19. A significant number of responses specifically articulated the concerns of Catholic families, staff at Catholic schools and members of the clergy regarding the impact on children attending schools on grounds of faith. Numerous issues were raised e.g. that attendance of and free transport to faith schools was a legal and / or moral entitlement; that the proposal was in breach of Human Rights legislation; that the Council was going back on an historical agreement in relation to travel to the All Saints Roman Catholic School: that there would be an impact on admissions to the RC schools creating difficulties regarding the availability of places in other schools.
20. These comments mirrored those received in 2006 in the course of a previous extensive consultation regarding the provision of free travel to faith schools under the then Home to School Transport Policy, and were responded to in the County Council Report of 20 July 2006: 'Denominational Home to School Transport'.
21. From 2007 free travel ceased to be available for children travelling to faith schools on faith grounds. This position is reflected in many other local authorities across England, although in Nottinghamshire transport has continued to be provided at a subsidised flat rate. The Discretionary School Travel Scheme was introduced four years after that policy change, and as an enabling opportunity rather than an entitlement. The scheme did not signal a reinstatement of automatic free travel to faith schools under the Home to School Transport Policy. Arrangements in Nottinghamshire in relation to transport to faith schools comply fully with the law including the provisions of the European Convention on Human Rights (ECHR). The Home to School Transport Guidance issued by the DfES (now the DfE) states:
22. Section 5, paragraph 134: *"In exercising their functions, local authorities will need to respect parents' religious and philosophical convictions as to the education to be provided for their children, in so far as this is compatible with the provision of efficient instruction and training, and the avoidance of unnecessary expenditure"*.

Free access, the right to choose a school and the comparative performance of schools:

23. Example comments:

“it would be unfair to future pupils who live out of catchment areas to have to pay for school travel to attend their preferred school. ...Parents should not be financially penalised for choosing the best school for their child”

“Government strategy is centred around parental choice. This proposal would seriously affect the right of a parent to send their child to a school of their choice”.

24. The Schools Policy of the County Council supports the principle of parental choice and the rights of parents and carers to information to help them to make informed decisions. This includes their right to express a preference in relation to a school place. However, the Local Authority is not required to provide free travel in support of that preference other than in the case of low income families where specific regulations apply. There is no automatic entry to a school be it a catchment or preferred school; faith or non faith school. Legislation regarding school admissions and home to school transport entitlement remains unchanged as does the Home to School Transport Policy, irrespective of the availability of the Discretionary School Travel Scheme. The excellent progress of Nottinghamshire schools is also recognised in the Schools Policy together with the commitment of the Council to work in partnership with schools in the continuing programme of school improvement. The year on year improvement in achievement at GCSE level has continued into 2013.

Impact on siblings who would not be able to access the scheme alongside their older brothers or sisters:

25. Example comments:

“Our son is going into year 5 this Sept. but when the time comes we would like him to attend the same secondary school as his sister and to benefit from having the free travel to his chosen school like his sister.”

“I live in a very rural area and with 1 child starting year 7 Sept 2013 and 1 child starting Sept 2015 obviously this will affect my youngest child. I would be very disappointed as we would incur this cost when there is no chance my child could walk to school.”

26. These family concerns are appreciated. However parents and carers are clearly advised to consider carefully how their child will get to school when they are applying for a school place and that they should refer to the Home to School Transport Policy which sets out transport entitlement. Availability of this discretionary scheme has at no stage been a guarantee. Applicants for free travel are only considered in terms of eligibility for the scheme when they do not qualify for any other travel assistance available. Where the nearest school

is over the three mile statutory walking distance, free travel must be provided by law, irrespective of the scheme.

27. Although a helpful enabling measure for some children in a position to access an existing bus route, this scheme is not a statutory entitlement. The disappointment of families in the situations described above is regrettable. However it can be argued that whilst the scheme has been a welcome advantage for those able to access it, there is insufficient justification to continue this discretionary expenditure when the resources available to the Council are so much reduced.

Financial impact:

28. Example comment:

“Discontinuing this service will mean that many including my son would not be able to attend their chosen school due to financial difficulties in funding the bus.”

29. The Council understands the pressures upon families in the current financial climate. This proposal includes provision for those children currently accessing the scheme to continue to do so until they reach statutory school leaving age at 16 years. It is the case however that there would be no new entrants to the scheme after the cohort of year 7 pupils in September 2013.
30. In 2008 legislation extended the arrangements regarding the right to free travel for low income families. The Council has a legal duty to ensure that children over 11 years of age from low income families can travel free of charge to one of the nearest three schools between 2 and 6 miles from home. Free travel is also currently available to low income families where a child is attending their nearest suitable faith school on faith grounds and is travelling between 2 and 25 miles to school. These reflect more favourable terms than the minimum travelling distances prescribed in law. These arrangements are unaffected by the scheme and sit as part of the Home to School Transport Policy. In addition, currently a range of subsidised travel options including commercial bus services are available around the county.
31. Whilst it is recognised that families across the county are facing difficult financial challenges, the Council also has difficult decisions to make and must ensure a right and justifiable balance between provision of education and reasonable public expenditure.

Other comments: including environmental reasons and safety:

32. Example comments:

“It is a much 'greener' option rather than each parent getting into their own vehicles to transport their children to school.”

“what about increase in traffic in and around school areas? ...so many families depend on that service to ensure their child / children’s safety.”

33. The scheme was devised with the proviso that additional routes would not be provided, and that transport would be on existing buses. In two cases additional seating capacity has been made by using a double deck coach rather than single deck. In one area of the county, the Council has purchased seats on bus transport provision commissioned by the school itself.
34. Although a small minority of parents wrote that the scheme had been a factor in their expression of preference for a school place, there is no evidence to suggest that it had had a wider significant impact on parental preference. There is no evidence to show a reduction in the number of private vehicles on the road as a result of the scheme. In many cases, pupils were able to take advantage of the scheme by travelling on the same bus to school that they would have used anyway, but without the scheme they would have been required to pay a subsidised fare. In some areas of the county where bus transport is unavailable, the scheme made no impact as families were not in a position to take advantage of it. On average, only 5.05% of children in the year group take advantage of the scheme. Others use a range of travel options to get to school, for example walking or by paying for a seat on a bus. If the free scheme stops, it will not change the existing duty of care of either the Council or parents themselves to ensure that children travel safely to and from school.

Other Options Considered

35. Consideration has been given to the continued roll out of the scheme. Over time this would incur annual costs to Nottinghamshire County Council in the region of £860,000 to £906,000 and possibly more subject to the variables and uptake of the scheme. Costs of the scheme in 2013/2014 alone will be in the region of £505,170.
36. The impact upon families with children who already qualify for the scheme and travel without charge has been carefully considered. It is recommended that existing commitments to those children and for new entrants to the scheme in September 2013 be honoured. In view of the financial pressures which the Council must address, and concerns about equitable use of resources, it is not considered viable to accept younger siblings into the scheme beyond that date. It would also be a concern that to do so would exacerbate inequity between those who travel free and those who do not.
37. Discontinuation of the scheme as described in the proposal would lead to accumulated savings in the region of £1,695,995 by 2017/2018 when there will be no further costs, as opposed to the accrual of continuing costs into the future. As a consequence, this option is seen to be the most responsible in relation to the sustainable use of public money.

Reason/s for Recommendation/s

38. The current financial climate makes it necessary for the County Council to consider carefully how to target its squeezed resources. Nottinghamshire is the only local authority in England to operate a discretionary free travel scheme for children and young people to travel to schools of their preference. An increasing number of authorities have reduced their transport offer to the statutory minimum in order to maintain essential services. Unfortunately the benefits of the scheme for a minority of children and families are outweighed by its wider disadvantages:
- the costs of the scheme from the public purse are unsustainable in the current financial climate
 - the scheme is only available to a minority of pupils and is taken up by relatively few in relation to the costs incurred. It does not provide an equitable offer across the county and can only be accessed where there are existing transport routes.
39. The County Council is required to protect the statutory entitlements of children and young people to home to school transport. This recommendation recognises that the scheme has no impact on those existing arrangements and duties. The Home to School Transport Policy secures the provision of free travel to catchment or designated schools over three miles for secondary school age pupils. Children from low income families qualify for free travel to preferred schools between two and six miles from home or to preferred faith schools between 2 and 25 miles.
40. The feedback from the consultation is noted. It is recognised that the scheme has been welcomed by the relatively small number of families able to take advantage of it and that there will be disappointment for some who hoped to do so in future years. The proposal seeks to protect current beneficiaries. Applicants for school places in year 7 from September 2014 will have notice of the decision before the closing date for applications in order for them to take this into account.

Statutory and Policy Implications

41. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

42. There would be no new entrants to the scheme with effect from September 2014. However, existing qualifying beneficiaries of the Discretionary Travel Scheme would continue to receive free travel to preferred schools until they reach statutory school leaving age in year 11. Information about the discontinuation of the scheme and signposting to the Home to School

Transport Policy will be available for parents, carers and schools following a decision by Policy Committee, in order that parents applying for secondary school places in September 2014 are fully aware.

Financial Implications

43. Discontinuation of the scheme on a phased basis as described will result in a budget saving of around £1.7m over four years, which will contribute to alleviating the budget pressures facing the Authority between 2014 and 2018.

Equalities Implications

44. The travel scheme has been operating in parallel to the Home to School Transport Policy through which the statutory entitlements of children and young people are protected. An Equality Impact Assessment has been conducted and noted the impact of the scheme in relation to age, as the scheme is specific to secondary aged pupils. The impact on children travelling to faith schools has been considered in the context of 'religion and belief' and in the context of all children who attend a preferred school in accordance with their parent's philosophical convictions.

Human Rights Implications

45. Cessation of the scheme will have no impact in relation to Human Rights legislation.

RECOMMENDATION/S

That:

- 1) the Discretionary Travel Scheme for children travelling to preferred schools in Nottinghamshire is stopped with effect from September 2014
- 2) qualifying children and young people currently within the scheme or due to enter it in September 2013 continue to benefit from free travel until they reach statutory school leaving age in year 11.

Councillor John Peck

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Constitutional Comments (NAB 04/09/13)

46. Policy Committee has authority to approve the recommendations set out in this report by virtue of its terms of reference.

Financial Comments (KLA 09/09/13)

47. The financial implications of the report are set out in paragraph 43 above.

Background Papers and Published Documents

Denominational Home to School Transport: report to County Council 20 July 2006

Free Travel Scheme for Children Travelling to Preferred Secondary Schools: report to Cabinet on 14 July 2010

Discretionary Travel Scheme for children attending preferred secondary schools in Nottinghamshire - report to Cabinet Members for Children and Young People's Services and for Transport and Highways on 18 April 2012

Discretionary Travel to Preferred Schools: report to Policy Committee 17 July 2013

Public Consultation document: Discretionary Travel to Preferred Schools, 18 July – 23 August 2013

Online Survey – Compiled Responses

Equality Impact Assessment: Discretionary Travel Scheme Preferred Schools, August 2013

Nottinghamshire County Council Home to School Transport Policy
<http://www.nottinghamshire.gov.uk/learning/schools/schooltravel/>

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Electoral Division(s) and Member(s) Affected

All.

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