

From: **Rory Love, Cabinet Member for Education and Skills**
Sarah Hammond, Corporate Director for Children, Young People and Education

To: Children, Young People and Education Cabinet Committee

Subject: **Implementation of Standardised School Led Home to School Transport Offer for all Home to School Transport**

Decision number: 24/00062

Classification: **Unrestricted**

Future Pathway of Paper: Cabinet Member Decision

Summary:

In line with the Council's Transport Policy for Children and Young People aged 4 to 16 and Post 16 Transport Policy Statement including Post 19, a proposed standardised approach for School Led Home to School Transport has been developed. This will facilitate direct provision of school transport to entitled pupils via their school, setting or other independent third party support agencies, at a reduced cost to the KCC arranged alternatives.

Recommendation(s):

The Children's, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Education and Skills on the proposals as set out in the PROD.

1. Introduction

- 1.1 This report updates and informs Members in regard to the delivery of Kent council tax payer funded school transport to pupils who are assessed as eligible for council support under KCC's Transport Policy for Children and Young People aged 4 to 16 (Appendix A) and Post 16 Transport Policy Statement including Post 19 (Appendix B). These policies were consulted on in January 2023 for implementation in September 2024.
- 1.2 The Transport Policy for Children and Young People aged 4 to 16 explains how KCC will identify who meets the national criteria for Kent council tax payer funded home to school transport for all mainstream and Special Educational Needs and Disabilities (SEND) pupils aged 4 to 16 and highlights KCC's commitment to provide suitable transport. It also explains what additional transport support KCC will provide and how we will do it.

- 1.3 Sections 508B and 508C of the Education Act 1996 explain how Kent council tax payer funded school transport should operate across the UK for 4 to 16 year olds.
- 1.4 Under the Act, a parent is responsible for ensuring that their child attends school regularly. However, Section 444(3B) provides that a parent will have a defence in law against a prosecution by a Local Authority (Council) for their child's non-attendance at school, where the Local Authority has a duty to make travel arrangements in relation to the Children and Young People (CYP) under Section 508B and has failed to discharge that duty.
- 1.5 Local Authorities do not have a general obligation to provide fully funded or subsidised post 16 travel support in the same way as for pupils aged 4 to 16, but do have a duty to prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport, or other support that the authority considers it necessary to make to facilitate the attendance of all persons of sixth form age receiving education or training.
- 1.6 The requirements placed on a Local Authority are defined in the Education Act 1996 (as amended), Education and Skills Act 2008, Education and Inspections Act 2006, Apprenticeships, Skills, Children and Learning Act 2009 and the Equality Act 2010.
- 1.7 Both pre and post 16 transport policies include the following statement:

The Head of Fair Access will work in conjunction with schools with a willingness and sufficient capacity, to develop bespoke arrangements to provide transport to eligible Young People on their roll. Such arrangements will be agreed in line with principles outlined in this policy, but will be managed via separate formal agreements with the school.

2. Current Position

- 2.1 KCC currently provides support to 11,755 pupils aged 4 to 16 who are eligible for Kent council tax payer funded school transport. This figure includes 5,496 pupils with Education Health and Care Plans, with around 1,100 pupils are provided a Personal Transport Budget. 1,211 families qualify for Kent council tax payer funded transport under low-income criteria (including both mainstream and SEN pupils).
- 2.2 Historic non-standardised arrangements are currently in place with three schools who provide transport support for all entitled pupils that attend their setting. This accounts for around 250 pupils of the total entitled cohort, who would otherwise be in KCC provided vehicles. These schools report that these direct arrangements allow for a more responsive transport offer, which improves not only the child's journey to and from school, but also their learning experience throughout the school day. From a Local Authority perspective, school led arrangements are more cost effective than the market equivalent and ensure that limited capacity remains available for other pupils. Two of these schools are Maintained schools and one is a Foundation school.

- 2.3 The nature of school led transport means that while market forces will play a significant part in the overall cost of transport, children's individual needs also have the potential to contribute to wide variations in the average cost of transport for each setting. A setting that supports pupils with profound needs are therefore likely to cost significantly more to transport on average than a mainstream setting. Due to these high needs, the potential to deliver more cost effective transport arrangements may also vary. This means that "successful" arrangements may vary significantly from one setting to another. However, the key principles for all settings remains the same. School led arrangements must provide an equal or greater level of quality of transport at a lower average price point to the equivalent that could be arranged by Kent County Council.
- 2.4 While current school led arrangements have been in place for many years, an analysis was completed to assess the equivalent cost should KCC be required to transport those pupils today.
- School A currently transports approximately 75 pupils at an average annual cost per pupil of £5,826. Equivalent KCC arrangements would currently cost £8,062 per pupil, representing a saving of £2,236 or 27.7% per pupil. This equates to a total saving of £167,700 per annum.
 - School B current transports approximately 125 pupils at an average annual costs per pupil of £7,400. Equivalent KCC arrangements would currently cost £7,945 per pupil, representing a saving of £545 or 7.4% per pupil. This equates to a total saving of £68,125 per annum.
 - School C currently provides transport to approximately 50 pupils. Arrangements have been historically made on the basis of a fixed grant of £50k rather than a repayment mechanism. While the school currently provides transport at approximately 50% of the equivalent cost to KCC, the school has recently flagged concerns that they can no longer cover its costs further highlighting the need to review the current arrangement.

3. The Report

- 3.1 Since both school transport policies were determined in October 2023, Officers within Transport Eligibility in Fair Access have been investigating a large-scale expansion of School Led Transport. To ensure a consistent, sustainable and legally compliant offer, a standardised approach to agreeing and securing School Led Transport arrangements has been developed with Commissioning colleagues. This will allow new Maintained schools to be onboarded quickly and efficiently, while ensuring that licencing and insurance arrangements are appropriate for the type of arrangements that will be put in place. Service Level Agreements will be used for Maintained Schools with robust reporting and monitoring requirements.
- 3.2 A separate approach is also being developed for Private Schools, Non-Maintained Schools, Academies Trusts and other providers in order to comply with Spending the Council's Money and the Public Contract Regulations. There will need to be contractual arrangements, and these will clearly define monitoring requirements, to ensure that school led implementation will continue to provide ongoing financial benefit throughout the year. To establish a

compliant approach the service will work with the Commercial and Procurement Division where the value is above the threshold for the Public Contract Regulations (£214,904 (inc. VAT) from January 2024) and to manage a process that can flexibly achieve savings, reduce the reliance on the Home to School Transport Dynamic Purchasing System Framework and not be too onerous on the setting.

- 3.3 The driving principle, as with all discretionary transport schemes, is that arrangements will only be agreed where there is a financial benefit to the Local Authority and by implication to the tax payer compared to current delivery options. To support this goal, the new approach is intended to offer sufficient flexibility to accommodate the variations in school need and resources. For example, making use of pre-existing school vehicles wherever possible, and allowing cost effective access to lease vehicles where necessary. Similarly, smaller scale arrangements where KCC and schools agree a subset of the whole entitled cohort will be available, rather than an expectation that schools will transport all pupils. This will allow schools to trial arrangements and expand their engagement as their experience grows.
- 3.4 While school led arrangements must include the potential for the use of smaller hire vehicles, these monitoring mechanisms will also ensure that school arrangements minimise any additional market pressures where schools and KCC are competing for the same vehicles. Provision of new, or use of existing school vehicles will therefore be expected to form the basis of most new agreements.
- 3.5 As outlined in Section 2, it is important to recognise that the needs of each school and their unique cohort of entitled pupils will mean that a standardised savings target will not be beneficial for the scheme. Regular monitoring will ensure that schools do not enhance the service they offer beyond the agreed specification, at the cost of efficient use of resources. However, KCC will be reliant on schools choosing to engage with this scheme. There is no legal driver to compel schools to support in this way. As such, reasonable flexibilities should be expected, such as allowing scheme vehicles to support other school activities (at each school's expense), so long as core transport delivery is maintained.
- 3.6 As the scheme expands, the volume of monitoring by the Transport Eligibility Team and Commissioners will also increase. It will therefore be vital to regularly review staffing capacity and, where necessary, re-invest some of the savings to maintain the team's ability to ensure efficacy and availability to additional schools. This is outlined further in Section 4.
- 3.7 The Fair Access Team has been engaging with schools and settings to gauge potential interest. At the writing of this paper, seven settings have expressed a strong interest in transitioning to this framework from as early as January 2025.
- 3.8 Once the new approach is formalised and in place to allow new settings to be added, a review of pre-existing arrangements will be completed and schools will be brought over to the new approach. This activity is expected to be

completed by January 2026 to ensure that any required changes can be managed in a way that is mindful of the needs of current travelling pupils.

- 3.9 In addition, Officers will continue to engage with mainstream and private schools, Post 16 providers and independent third party support agencies to expand the number of establishments that provide support to some or all of the entitled pupils within their establishment, subject to the roll out of the offer to the different provider types.
- 3.10 These arrangements are expected to be in place for as many years as they remain cost effective. As such, the potential for individual arrangement costs to exceed the Key Decision threshold of £1m remains high. It will therefore be necessary to provide the Corporate Director with the delegated authority to enter into these arrangements wherever they provide a financial benefit to the Council, in consultation with the Cabinet Member for Education and Skills. The Corporate Director for CYPE will receive the main delegations to implement this decision, covering activity such as managing and entering into the required agreements with relevant schools etc. The Corporate Director may sub-delegate any of these functions as they see fit.

4. Financial Implications

- 4.1 The total spend on SEN Home to School and College transport was £67.9m in 23-24 of which £2.4m was spent on the existing school led transport arrangements with an estimated saving in the region of £0.240m (or 10%) as outlined in section 2.4. School transport and its administration is funded by the County Council's General Fund.
- 4.2 Future savings associated with this policy will be dependent on a number of factors including the number of schools, the degree in which the schools take part in the offer, the number of students and their current travel patterns. Schools would also propose different solutions for implementing their own alternative offer which will impact of the costs involved. The Council has received a number of proposals by education providers which are being assessed. One example suggested a saving of up to 48% which further emphasised the degree of variability in savings and a need to assess opportunities on a school by school basis.
- 4.3 There will be an additional administration cost associated with the implementation of this policy to support the set up and monitoring of these arrangements. The current arrangements are being supported by the existing Fair Access team in the CYPE Directorate but it is recognised that it will not be possible to manage the expansion of the offer within existing resources. Therefore the proposal includes the requirement for additional staffing resource dedicated to supporting the schools in setting up the arrangements and organising the ongoing contract monitoring and payment cycles. This will then be reviewed after 2 years (or early if demand is significantly higher or lower) to determine the level of ongoing support required. The estimated annual cost of staffing is approximately £110K and is expected to be offset by the savings from the new agreements being secured. Depending on the circumstances of the

individual school, this level of saving is likely to be secured with 1 new agreement.

5. Equalities Implications

- 5.1 Both transport policy consultations were subject to Equality Impact Assessments (EqIAs), which can be found in Appendix C and Appendix D and remain relevant to the implementation of that policy.
- 5.2 Where necessary, individual EqIAs will be completed with schools and providers, to ensure that changes are made in line with collective equalities duties. However, Kent's experience in school led transport identifies that school provided arrangements allows for a greater level of bespoke support for individual pupils when compared to large scale implementation, so risk of detrimental impact remains very low.

6. Securing Kent's Future and Framing Kent's Future

- 6.1 This decision supports Securing Kent's Future both in terms of supporting the objective to ensure the in-year budget remains in balance (objective 1) along with identifying and delivering saving opportunities to support the setting of a sustainable budget and MTFP (objective 2) through providing alternative commissioning arrangements for Home to School Transport. This will contribute towards the delivery of the £6.8m savings attributed to Home to School Transport in 24-25 where new arrangements are entered in to during the new academic year.
- 6.2 This decision supports Framing Kent's future priority 2 – Infrastructure for Communities, in particular making use of innovative transport opportunities to ease pressures on pre-existing transport networks.

7. Legal Implications

- 7.1 Sections 508B and 508C of the Education Act 1996 explain how Council tax payer funded school transport should operate across the UK for 4 to 16 year olds.
- 7.2 Under the Act, a parent is responsible for ensuring that their child attends school regularly. However, Section 444(3B) provides that a parent will have a defence in law against a prosecution by a Local Authority (Council) for their child's non-attendance at school, where the Local Authority has a duty to make travel arrangements in relation to the Children and Young People (CYP) under Section 508B and has failed to discharge that duty.
- 7.3 Local Authorities do not have a general obligation to provide for Kent council tax payer funded or subsidised post 16 travel support in the same way as for pupils aged 4 to 16, but do have a duty to prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport, or other support that the authority considers it necessary to make to

facilitate the attendance of all persons of sixth form age receiving education or training.

- 7.4 The requirements placed on a Local Authority are defined in the Education Act 1996 (as amended), Education and Skills Act 2008, Education and Inspections Act 2006, Apprenticeships, Skills, Children and Learning Act 2009 and the Equality Act 2010.
- 7.5 There are legal implications in relation to compliance with the Public Contract Regulations 2015 in relation to Economic Operators as well as compliance to our internal policy Spending the Council's Money.

8. Data Protection Implications

- 8.1 All activities in relation to this decision will be implemented in line with pre-existing processes. As such, no new data protection implications need to be considered.

9. Recommendation(s)

The Children's, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Education and Skills on the proposals as set out in the PROD.

10. Background Documents

Appendix A - Transport Policy for Children and Young People aged 4 to 16 ([link](#))

Appendix B - Post 16 Transport Policy Statement including Post 19 ([link](#))

Appendix C – EQIA Home to School Transport Policy 4-16 ([link](#))

Appendix D - EQIA Post 16 Transport Policy Statement including Post 19 ([link](#))

11. Contact details

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