

From: Mr Rory Love - Cabinet Member for Education and Skills

Subject: Formal Statement of reconsideration of Decision 23/00069 –
Reconsideration of Post 16 Transport Policy Statement including Post 19
for 2024/25

Formal Statement: Decision 23/00069, following review and reconsideration, is confirmed and will progress to implementation with immediate effect.

Summary: This statement sets out the reasoning for confirming Decision 23/00069 for implementation, following consideration by the Scrutiny Committee on 13 September 2023 and review by Cabinet on 5 October 2023. The decision to confirm and progress to implementation of the decision has been taken with due consideration of comments made by both the Scrutiny Committee and Cabinet.

Introduction

- 1.1. Scrutiny Committee sat on Wednesday 13th September to consider the call-in of Decision 23/00069; the decision to agree the Post 16 Transport Policy Statement including Post 19 for 2024/25.
- 1.2. Following a resolution by the Scrutiny Committee to refer the decision to the decision-maker for reconsideration, the Cabinet meeting held on [Thursday, 5th October, 2023](#) first considered the decision and the comments made by Scrutiny.
- 1.3. Cabinet explored the points raised by members of the Scrutiny Committee and considered the explanations provided by Officers and me as the relevant Cabinet Member. Cabinet resolved to confirm the decision and request that I issue a formal written statement to that effect.
- 1.4. The following information is provided to clarify the reasoning for the confirmation of the decision and evidence appropriate consideration of the comments and issues raised by the Scrutiny Committee. The effect of this written statement is that authority is granted for KCC to progress with implementation of the decision, as originally taken on 14th August 2023.
- 1.5. Local authorities do not have a general obligation to provide post 16 travel arrangements that are supported in whole or in part by the council taxpayer. A local authority does 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 necessary 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. The policy statement provides information about the travel provision put in place for young adult learners aged 19 – 25 with an Education, Health and Care (EHCP)
- 1.8. KCC consulted with current and future service users between 25 January and 21 March 2023 on a Post 16 Transport Policy Statement including Post 19 for 2024/25. As changes were being proposed for the 2024/25 academic year, the consultation was held a year earlier than usual to ensure that pupils that would be affected by the potential changes had sufficient opportunity to consider the implications before future educational decisions were made. This timetable was approved by me so that details of transport support would be available to learners during August 2023.
- 1.9. **It was necessary to consider changes to Kent's Post 16 offer for 2024/25 for the following reasons:**
 - 1.9.1 **Parity** – The proposed changes will align the Post 16 offer to ensure it is the same for both SEND and mainstream learners. Consideration will still be given to each learner's individual need and reasonable adjustments will be made, including for families of learners from low-income backgrounds.
 - 1.9.2 **Need** - Kent has seen over an 80% increase in the number of children aged 16 and above with an EHCP since 2018. The provision of transport for this group can be more complex. Based on this, we need to ensure that our policy and transport services are both appropriate to meet the specific travel needs of learners and are sustainable to meet predicted levels of need in the future.
 - 1.9.3 **Promoting independence** - Priority 2 of the SEND Strategy sets out Kent's ambition to 'Ensure children, young people, and their families have positive experiences at each stage of their journey including a well-planned and smooth transition to adulthood.' Developing independence is a key outcome of a young person's education journey and young people need to be adequately prepared for adulthood by encouraging and enabling them to access education. The proposed policy ensures that transport remains available to all pupils that require direct support, but in a way that mirrors the growing responsibility that all students will experience with age.
 - 1.9.4 **Financial sustainability** - The cost of providing Post 16 transport has more than doubled since 2018 and continues to increase. The government does not provide any dedicated funding to support our Post 16 Transport Policy Statement. Even with changes to practice and improving how we use transport resources, if we carry on as we are then we will continue to exceed the available finances owing to increasing demand and pressures against the current policy provision.

1.10 Changes associated with the consultation and that can be found within the [Post 16 Transport Policy Statement and Post 19 Transport Policy 2024-25](#) are as follows:

1.10.1 Removal of the discretionary provision of wholly council taxpayer-funded Post 16 transport for learners with Special Educational Needs and/or a disability and/or mobility problems.

1.10.2 Introduction of an initial contribution equivalent to the corresponding annual price of the Kent 16+ Travel Saver (currently £500) or half equivalent price for parents qualifying under low income criteria. A termly instalment option will also be developed.

1.10.3 Introduction of qualifying criteria for learners seeking transport support for new education courses started after their 19th birthday

1.10.4 Automatic approval of transport to alternative addresses where there is zero cost to the council

1.10.5 Formalisation of KCC's Personal Transport Budget pilot scheme, which provides parents of eligible learners with a fund to make their own transport arrangements

2. Reasoning for the confirmation of the decision and evidence of appropriate consideration of the comments and concerns raised by the Scrutiny Committee:

2.1. The following information is provided to clarify the reasoning for the confirmation of the decision and to evidence appropriate consideration of the comments and issues raised by the Scrutiny Committee.

2.2. For clarity and ease of reference, the following responses provided by me as Cabinet Member are set out under the summary headings provided by Democratic Services for the Scrutiny Officer Report to Cabinet on 5th October.

2.2.1. Concerns that no risk analysis had been undertaken to fully understand the impacts that removing free transport would have on young people with SEND who wished to access further education and training

An Equality Impact Assessment was completed as part of the consultation and identified the potential negative impact that would be felt by those affected families. The proposed changes had been included within the early consultation and mitigations had been introduced as part of the proposed revised Policy due to take effect from September 2024. The timespan between the taking of the decision and implementing the decision provided sufficient time for families to consider their travel options prior to finalising plans for education. A higher subsidy option would be made available to families who qualified for low-income support and an instalment plan option would also be provided. Member-led appeal panels would also be held for exceptional circumstances.

2.2.2. Concerns were raised about the lack of financial detail available to outline what support would be provided to those families on low incomes, other than those who qualify for the reduced price KTS16+ offered to those in receipt of free school meals (FSM), who currently utilised the free transport;

The information was available via the consultation material and Cabinet Committee papers. The Policy would also clearly set out the discretionary support available and ensure parents, carers and young people had the necessary information required to make an informed decision on their education choices.

A comparison was drawn between KCC and what other Councils offered, thus demonstrating the substantial support package offered by our proposed Post-16 Transport Policy. Analysis has shown that the proposed KCC scheme (at a maximum charge of £500) remains one of the lowest cost transport support schemes offered by local authorities. Average contributions are at £782 per annum, with individual local authorities charging as much as £990 where distance was not considered, and £1736 per annum where distance is a factor and the distance travelled is over 15 miles.

2.2.3. Concerns were raised that the decision was not in line with the Council's Policy Framework document Framing Kent's Future. Framing Kent's Future pledged to 'work with our partners including schools and with the families of children with SEND to find sustainable solution that provide the tailored support that these children need to access appropriate education and opportunities that will help them lead a good life'. It was considered that this decision went against this pledge.

In line with Securing Kent's Future, this Policy supports the Council's objective in finding a sustainable solution. KCC will continue to provide a subsidy of 94% (on average) of the total cost of transport for all affected pupils and 97% for families from low-income backgrounds.

On the need to achieve sustainability, a helpful comparison is Birmingham City Council's 16-18 Travel Assistance Policy which acknowledges that: "The vast majority of young people do not receive or require travel support from the Council". Those who do qualify are required to pay 56% more towards the cost of their support than KCC have proposed for Kent pupils from September 2024.

2.2.4. Members wanted to further understand the implications of the decision, as well as explore what consideration the Executive had given to any alternative proposals, including alternative methods of commissioning home to school transport such as an in-house KCC bus service, as part of the decision-making process;

Home to School Transport remained one of most scrutinised elements of the Council's spend. There have been numerous examples of internal and

commissioned investigations into more cost-effective ways to fulfil KCC's legal duties, including detailed proposals for KCC to run its own fleet service. However, early analysis has shown that the alternative options are no more cost effective than the systems that KCC currently have in place.

An Internal Short Focused Inquiry on Home to School Transport had also failed to find alternative methods of sustainable transport options.

KCC continues to examine measures such as school led transport, for which an initial trial and early investigation has been carried out, to identify potential improvements of some services and reduce the costs of others.

2.2.5. Concerns around the cost of transport for parents and Members requested additional figures outlining the potential cost;

The additional financial information sought by Members did not exist beyond what was already available and reported in the Committee papers. No council can have sufficient understanding of the wider financial and personal decisions that inform an individual's financial situation.

2.2.6. Concerns were raised around the social impact of removing free transport for young people with SEND, the impact on their social development and independence and Members requested a social impact study of this decision;

Local authorities do not have a general obligation to provide post 16 travel arrangements that are supported in whole or in part by the council taxpayer. A local authority does 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 necessary to facilitate the attendance of all persons of sixth form age receiving education or training

Taking into account KCC's obligations under Securing Kent's Future and thus securing the future of local services and democratically controlled services in Kent, KCC must remain mindful of its legal responsibilities as well as the discretionary support it would like to be able to provide.

KCC will continue to provide discretionary support under the proposed Policy.

2.2.7. Concerns that this decision could increase costs for low-income families and have a knock-on effect for young people with SEND who might no longer be able to access after school provisions.

It was recognised that the decision will increase the cost. However, I believe we are striking the correct balance between a.) the cost we are asking families and young people to pay, against b.) the cost we are asking the Council Tax payer to pay, who are facing their own transport challenges. The mitigations outlined within the Policy achieve that balance.

2.2.8. The potential cost to parents

The concern around the cost to parents was recognised. However, the parity across all Post-16 transport was considered a fair and sustainable option

2.2.9. A social impact study of this decision

It was not feasible to justify the amount of officer time that would be consumed in undertaking an exercise for a discretionary service and for which a majority of information would not be available to complete a detailed analysis.

2.2.10. An assessment of the financial risk and knock-on costs if young people with SEND needs dropped out of further education due to transport costs – costs to Adult Social Care and an increase in benefit payments by central government – modelling of these costs;

The additional financial information sought by Members did not exist beyond what was already available and reported in the Committee papers.

2.2.11. The cost of the home to school transport budget and further work on how this was being managed.

The additional financial information sought by Members did not exist beyond what was already available and reported in the Committee papers.

3. Conclusion

3.1. KCC continues to provide a significantly more generous offer to its residents than most other local authority equivalents. These adjustments are necessary to ensure the ongoing sustainability of the whole scheme, and have been designed to ensure that negative impacts are mitigated as far as reasonably possible. It is therefore necessary to implement these changes from September 2024.

3.2. In view of the above clear responses to the issues raised by the Scrutiny Committee, and taking account of the determination by Cabinet on 5th October 2023 that the decision be confirmed, I am satisfied that my original decision taken on 14th August 2023 was appropriate, lawful, and proportionate and therefore I am content formally to confirm the decision for implementation.

Formal Statement: Decision 23/00069, following review and reconsideration, is CONFIRMED and will progress to implementation with immediate effect.

Signed:



Date: 12th October 2023

Rory Love – Cabinet Member for Education and Skills