



Report subject	<b>Home to School Transport</b>
Meeting date	7 June 2022
Status	Public Report
Executive summary	<p>BCP Council is legally required to have a single home to school transport policy. A BCP Council Policy has been drafted to replace the three existing policies. The draft policy has been developed to ensure consistency across the conurbation. It will provide a single point of reference for families and officers regarding eligibility and how it is assessed.</p> <p>Permission to determine the policy is being sought from cabinet following a public consultation held January-February 2022. The consultation was held in accordance with the requirements of the Department for Education's statutory guidance. Key stakeholders were targeted during the consultation period.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <ul style="list-style-type: none"> <li><b>(a) Cabinet agrees to determine the Home to School Transport policy.</b></li> <li><b>(b) Delegates authority to the Director of Education, Children's Services to implement the policy for eligibility requests from 2022/23 academic year.</b></li> </ul>
Reason for recommendations	The Council is legally required to have a home to school transport policy. A single policy will provide one point of reference for families and officers when requesting and agreeing transport assistance.

Portfolio Holder(s):	Cllr Nicola Greene, Portfolio Holder for Council Priorities and Delivery
Corporate Director	Cathi Hadley, Corporate Director, Children's Services
Report Authors	Sarah Rempel, Director of Education, Children's Services
Wards	Council-wide
Classification	For Decision

## Background

1. BCP Council has a statutory duty to make home to school transport arrangements for all eligible children.
2. Currently there are three policies that are referred to when making decisions regarding eligibility – one for each of the three predecessor local authorities. Approximately 1800 children and young people are in receipt of home to school transport assistance.
3. To simplify the process for BCP Council residents and ensure that all decisions are made with consistency across the conurbation, a single home to school transport policy has been drafted and publicly consulted upon. The draft policy is attached at appendix one.
4. Home to school transport assistance is normally made available for eligible children and young people who attend a qualifying school in the following circumstances:
  - a. they live beyond the statutory walking distance,
  - b. or cannot walk to school because of their special educational needs, disability or mobility difficulties;
  - c. or are on a route that is within the statutory walking distance (where a child/young person is accompanied by an adult as necessary) that is considered to be unsafe;
  - d. or receive free school meals, or whose parents/carers receive the maximum working tax credit. Normally assistance will only be provided if the family live beyond the statutory walking distance.
5. The nearest qualifying publicly funded school is the nearest or catchment school with places available that provides education suitable for the age, ability and aptitude of the child/young person, and any special educational needs or disability the child/young person may have. This means that when seeking transport assistance, a qualifying school is typically the nearest or the catchment school with vacancies unless a low income family is seeking transport assistance for attendance at their nearest secondary faith school for evidenced religious reasons.
6. A reasonable distance is legally defined as:
  - a. Up to two miles walking distance from home to school for statutory school age children under eight years old

- b. Up to two miles walking distance from home to school for statutory school age children and young people aged eight-16 years old and receiving the maximum working tax credit or the child/young person is eligible for free school meals
  - c. Up to three miles walking distance from home to school for all other statutory school age children and young people aged eight-16 years old
- 7. There are some exceptions where home to school transport assistance may be provided and details are included in the policy.
- 8. BCP Council decides the most appropriate means of supporting children and young people to travel to and from school linked to the aims of promoting independence and sustainability, while ensuring cost efficiency. The following types of travel assistance are provided:
  - a. Issue of a travel pass for use on bus and/or train networks, supported by independent travel training, if needed.
  - b. Personal travel budgets for children and young people with an education, health and care plan (EHCP).
  - c. Minibus
  - d. Taxi
  - e. Fuel, wear and tear contribution if it is shown to be a cost-effective solution and/or there are no suitable or appropriate alternative arrangements available.
- 9. The opportunity to appeal the decision of the eligibility assessment and the form of travel assistance offered is available to families.
- 10. On 15 December 2022, Cabinet delegated authority to the Director of Education, Children's Services, to commission a public consultation of the draft policy.
- 11. A public consultation ran from Tuesday 4 January to Friday 18 February 2022. A copy of the findings from the consultation is attached at appendix three.

### **Consolidation of existing policies**

- 12. Eligibility for home to school transport assistance in all three existing policies is assessed using the statutory minimum requirements for most applications. The statutory minimum requirements are prescribed in the Department for Education's [Home to School Travel and Transport Guidance: Statutory Guidance for Local Authorities \(July 2014\)](#).
- 13. A single policy for BCP Council has been developed to ensure statutory minimum requirements are met whilst providing a single document that all families and officers can reference. It is anticipated that the determined policy will be implemented for all applications for the 2022/23 academic year onwards.
- 14. Differences in the existing policies have been reviewed during development of the draft policy. Changes and additions to the policy are highlighted in the draft. In summary, the changes are:
  - a. Transport assistance for year 10 and year 11: removal of discretionary eligibility
  - b. Transport assistance for 16–19-year-olds: updated eligibility criteria including provision to charge for travel assistance and removal of reference to distance considerations in line with legal advice

- c. Transport assistance for 19–25-year-olds: updated eligibility criteria including removal of the proposal to charge for travel assistance and removal of reference to distance considerations in line with legal advice.
- d. Stage one appeals: Comprising arrangements for School Transport Appeal Review (STAR) panel of officers to review decisions
- e. Temporary housing: Some limited assistance as an interim measure for children in temporary housing
- f. Children in Care (CiC): a principle of eligibility where the Council admits a Child in Care to BCP Council to a local school on the recommendation of the BCP Council CiC Virtual School (subject to the age/distance criteria) irrespective of the location of and space availability at other schools in the area.
- g. Fuel, wear and tear rate: introduce HMRC expected rates.

### **Transport assistance for year 11**

- 15. The Bournemouth Borough Council policy provided transport assistance for families with children and young people in year 10 and year 11 if families moved home and their new address was over three miles away from the school. The Dorset County Council policy provided transport assistance for families in exceptional circumstances (an unavoidable move or where a new school would not be appropriate). The Borough of Poole policy did not provide transport assistance due to moves in year 11 and parents/carers were expected to request an appeal to consider exceptional support.
- 16. The draft policy expects parents/carers to consider the location and distance of their child or young person's school from their new home when deciding to move. Parents/carers can submit an appeal detailing the circumstances of their move and reasons for requesting transport assistance. Stage one and stage two appeals will have authority to agree transport assistance if appropriate.
- 17. During the consultation, twenty-one respondents answered questions regarding assistance for year 10 and year 11. Of those that expressed an opinion, nine agreed with the proposal, seven disagreed and three gave a neutral response.
- 18. Some respondents were concerned that removing entitlement to transport assistance would impact on families who have no choice but to move home. All families who apply for transport assistance have the right to request a review of their application and a further right to request an appeal. Specific circumstances surrounding moving home during year 10 and 11 can be considered at review and appeal and therefore may result in transport assistance being granted if appropriate.

### **Transport assistance for 16–18 year-olds**

- 19. All three existing policies provide information on transport assistance for 16–18-year-olds. The draft policy adopts the eligibility criteria defined in the Poole policy.
- 20. In line with the law on home to school transport, young people with an EHCP are entitled to assistance with travel based on an assessment of need and this is not limited by qualifying distance considerations which are removed.
- 21. Importantly, the draft policy has adopted the existing charge for transport that was in place for Poole residents. The charge will only apply to families who do not qualify for maximum working tax credit or free school meals. Families will have the option of paying in full or in three instalments.

22. Respondents to the consultation were concerned with the introduction of a charge and the affordability of the charge for families not in receipt of the maximum working tax credit or free school meals.
23. Given the home to school transport budget deficit, BCP Council is not in a position to withdraw the proposed charge. The charge of £525 for the 2022/23 academic year will provide income that will continue to support the provision of transport for 16-18-year-olds as we are not statutorily required to provide assistance.

### **Transport assistance for 19–25 year-olds**

24. All three existing policies provide information on transport assistance for 19–25 year-olds. The draft policy adopts the eligibility criteria defined in the Poole policy.
25. In line with the law on home to school transport, young people with an EHCP are entitled to receive free assistance with travel based on an assessment of need and this is not limited by qualifying distance considerations which are removed. Nonetheless, the Council encourages attendance to local college provisions and has a duty to promote sustainable travel options.
26. The draft policy proposed an annual charge for transport. Clarification of legislation has resulted in the charge being removed for 19-25 year-olds.

### **Stage one appeals**

27. The Department for Education's (DfE) [Home to School Travel and Transport Guidance: Statutory Guidance for Local Authorities \(July 2014\)](#) requires local authorities to provide a two stage appeal process for families to access if they are dissatisfied with the outcome of their transport application.
28. The DfE recommends a senior officer undertake the review, the draft policy proposes that a senior officer undertakes the review in the following circumstances:
  - a. Appeals for children and young people with EHCPs; and
  - b. Appeals regarding the distance measurement or safety of the route.
29. It has been identified that senior officer(s) involved in the development of an EHCP will have the knowledge and expertise regarding the needs of the child or young person in relation to their special educational needs or disability (SEND) to appropriately assess the stage one appeal submitted.
30. For appeals regarding distance measurement or safety of the route, a senior Children's Services officer who has knowledge and understanding of the home to school transport policy and supported by relevant transport officer(s) when required, will be able to appropriately assess the stage one appeal submitted.
31. When families submit stage one appeals requesting review due to their circumstances or other needs, the draft policy proposes referral of the appeal to the school transport appeal review (STAR) panel.
32. The STAR panel will comprise of three senior officers from Children's Services. The STAR panel will have discretion to make a range of decisions including upholding the family's appeal, providing temporary transport assistance and signposting/referral to appropriate support.

33. Following both senior officer or STAR panel review, the family will receive a detailed decision letter and the opportunity to request a stage two appeal. The stage two appeal will be heard by a panel of council members.

### **Temporary Housing**

34. Occasionally, families need to move from their established home address against their will to alternative accommodation on a temporary basis. The proposed policy sets out the we may consider transport support to a child/young person's existing school when a family has had to be temporarily re housed by BCP and subject to distance and circumstances. These applications will be considered on a case by case basis.
35. Participants who answered questions regarding provision of transport assistance for families in temporary housing gave mixed responses. There were eleven responses to this question including one 'don't know' and one 'not applicable'. Of the nine that responded, four were in favour of the proposal and four were against, with one neutral response.
36. All families who apply for transport assistance have the right to request a review of their application and a further right to request an appeal. Specific circumstances surrounding temporary housing can be considered at review and appeal and therefore may result in transport assistance or extended transport assistance being granted if appropriate.
37. Providing transport assistance for families in temporary housing where appropriate will support education continuity for vulnerable children and young people.

### **Children in Care (CiC)**

38. In respect of in year admissions, the proposed policy sets out a principle of eligibility where the Council admits a child in care to BCP Council on the recommendation of the BCP Council CiC Virtual School (subject to the age/distance criteria) irrespective of the location of and space availability at other schools.
39. Respondents to questions in the consultation regarding Children in Care were positive regarding the proposed addition to the policy.
40. Providing transport assistance for Children in Care to BCP Council where appropriate will support education continuity for vulnerable children and young people.

### **Fuel, wear and tear**

41. The fuel, wear and tear rate has been recommended at 45 pence per mile in line with the HMRC expected rate for employee travel claims. It will only be agreed where other assistance options are unable to be commissioned and it is best value to the Council. Cost effective and sustainable options including bus/train passes, minibuses and shared taxis will be explored in the first instance.
42. Most of the consultation responses were positive regarding the recommended rate. Sixteen respondents answered the questions in this section. Thirteen respondents agreed with the proposal, two disagreed and one replied 'don't know'. Upon reviewing the comments made, those who disagreed are currently receiving a higher rate as provided by the former Borough of Poole policy (54 pence per mile).

43. Given the home to school transport budget deficit, BCP Council is not in a position to increase the proposed pence per mile.

### **Options Appraisal**

44. The existing legacy policies cannot continue as the council has a statutory requirement to ensure policies and processes are in place for BCP Council. Taking no action is therefore not an option.
45. Adoption of one of the three existing policies would require public consultation because there are differences in each of the policies that would affect residents assessed using either of the discarded policies.
46. The draft policy has been co-produced with colleagues from the SEND team and the passenger transport team. It has been developed with advice and support from the communications and legal teams. The advice from the Council's legal team emphasises the importance of exercising Council discretion on a case by case basis as circumstances allow.
47. It is recommended that the council determine the draft policy.

### **Summary of financial implications**

48. The SEND home to school transport budget for 2021/22 is £6,485,200 with a projected overspend of £845,500. This reflects the home to school transport needs resulting from the placement of increased numbers of children and young people with EHCPs in specialist provision. Work is underway to identify opportunities for savings by reviewing and improving systems and processes and ensuring effective demand management is established.
49. The mainstream school home to school transport budget for 2021/22 is £853,800 with a projected overspend of £19,163.
50. Transport assistance is demand-led by its statutory obligations and forecasting of expenditure is impacted by factors that are difficult to control or predict including location of appropriate school setting, location of home, behavioural needs, medical needs requirement for a passenger assistant and more recently pressure on the supply market leading to price inflation. Nationally there is a trend of home to school transport costs increasing in large part due to the rise in identification of children requiring EHCPs.
51. There remains continued financial risk to the budget due to the unpredictability of the transport needs. The draft policy is not anticipated to impact on the council's home to school transport expenditure because overall it provides for the minimum statutory requirements.

### **Summary of legal implications**

52. If a policy were not in place, the council would not meet its legal duty and would be at risk of legal challenge from families regarding how eligibility and transport mode decisions are made.
53. A single home to school transport policy will resolve existing differences in the three current policies. This will prevent legal challenge from families citing differences in decision-making, policy and outcomes.
54. The Council has a legal duty to consider all requests for transport and must exercise discretion based on the individual circumstances of applications. The policy provides

examples of how this discretion is exercised though it is important to emphasise that this in no way represents a list of conditions or parameters that must be satisfied in making decisions on eligibility or entitlement.

### **Summary of human resources implications**

55. There are no anticipated changes to human resources from introducing the policy.

### **Summary of sustainability impact**

56. BCP Council is committed to encouraging children and young people to walk, cycle or scoot to school. The conurbation has an extensive network of safe walking routes (where accompanied by an adult if necessary) using footpaths and shared use paths that are included when assessing eligibility based on home to school distance.

57. The draft policy supports the council's climate change emergency and officers will continue to promote and support sustainable travel to school including on foot, cycling, scooting and public transport in line with the [Transforming Travel](#) agenda.

### **Summary of public health implications**

58. Providing home to school transport assistance for eligible children and young people supports their health and wellbeing by enabling them to regularly attend school.

59. Transport assistance in itself can improve the health and wellbeing of eligible children and young people by removing obstacles to attending school and, where appropriate, developing independent travel skills.

### **Summary of equality implications**

60. An equality impact assessment screening tool was completed and considered at the equality impact assessment panel on 3 March 2022. It is attached at appendix two.

61. A single policy will be accessible online for all BCP Council residents and paper copies will be provided on request.

62. Transport requests will be assessed using the policy criteria. Where the child/young person and/or their family have additional needs or requirements these will be considered during the assessment.

63. Transport for eligible children and young people will be provided based on the individual needs of the child/young person and/or their family using the criteria in the policy.

64. Families will have the opportunity to access a two stage appeal process if they are unhappy with either the decision or the transport offer.

65. For eligible young people who are 16-18-years-old, the charge for transport can be waived if the young person and/or their family are in receipt of maximum working tax credit or eligible for free school meals.

### **Summary of risk assessment**

66. The council cannot continue to operate using the existing policies and could be subject to challenge by discrepancies between the three policies. A single policy will help prevent legal challenge from families and meet the council's legal obligations.

## **Background papers**

[Bournemouth Residents Home to School Transport Policy and associated advice and guidance](#) (published works)

[Christchurch Residents Home to School Transport Policy and associated advice and guidance](#) (published works)

[Poole Residents Home to School Transport Policy and associated advice and guidance](#) (published works)

The Department for Education's [Home to School Travel and Transport Guidance: Statutory Guidance for Local Authorities \(July 2014\)](#) (published works)

The Department for Education's [Post-16 Transport and Travel To Education and Training Guidance \(January 2019\)](#) (published works)

[The Education Act 1996 sections 508A, 508B, 508C, 508D, 509AD](#) (published works)

[The Education Act 1996 Schedule 35B](#) (published works)

## **Appendices**

Appendix one – Draft home to school transport policy

Appendix two – Equality impact assessment conversation screening tool

Appendix three – Home to school transport consultation report