

15 September 2015		ITEM: 8
Children's Services Overview and Scrutiny Committee		
Denominational Transport – Service review		
Wards and communities affected: All	Key Decision: Yes	
Report of: Councillor J Kent, Portfolio Holder for Finance and Education		
Accountable Head of Service: N/A		
Accountable Directors: Roger Harris – Director of Adults, Health and Commissioning / Carmel Littleton – Director of Children's Services		
This report is public		

Executive Summary

Transport on denominational grounds (hereinafter referred to as “denominational transport”) other than for low income pupils attending secondary school, is not a statutory duty and the Council is entitled to use its discretion with respect to such transport. In 2013 Cabinet exercised its discretion and decided to continue denominational transport, but charge for places. Pupils accessing the transport prior to the implementation of the changes were offered a 50% discount to reduce the financial impact of the charging regime. However, due to an unforeseeable variance in the categories of pupils travelling to denominational schools the predicted level of savings were not achieved. Once the charging regime had been implemented it became apparent that the number of pupils from families in receipt of benefit entitled to free transport or existing pupils eligible for the 50% discount had increased. Officers had forecast the generation of a sufficient level of income from new pupils paying the full rate, but the actual number of new pupils applying for a place at the full rate was minimal. This led to a reduction in the overall savings accrued. For reasons highlighted within this report, this trend is likely to continue and the Council is unlikely to generate income or break even using the current model of service delivery. Officers even considered a model involving a gradual reduction of the subsidy (See Appendix 1). Such reductions could have the potential to trigger further withdrawals from the scheme leaving the Council in a position where it is required to pay full cost for pupils on benefit, subsidise existing pupils who opt to continue using the service while gaining a miniscule sum from the small number of new pupils paying the full cost rate. These issues are not unique to Thurrock. Local authorities across England sought to resolve the financial and administrative strain arising from the delivery of denominational transport by discontinuing it. The justification for discontinuing the service is two-fold: it is not a statutory duty and has been found to place a strain on council finances due to the increasing numbers of pupils on

benefits. It is worthy of note that a greater financial strain exists in Thurrock due to the numbers attending denominational schools on the discounted rate.

1. Recommendation(s)

- 1.1 In order to place the overall Home to School transport scheme on a trajectory that will generate income it is recommended that:
 1. The amount paid by new and existing pupils accessing denominational transport; £1,117.00 and £550.00 respectively, remain unchanged until September 2016.
 2. That officers follow the Council protocol for the review of the service including a consultation with the option of discontinuing denominational transport in September 2016, subject to Cabinet approval.

2. Introduction and Background

- 2.1 In September 2013, Cabinet approved the recommendations contained in a report providing feedback on a consultation regarding, among other issues, the review of denominational transport to denominational schools. The report made recommendations to Cabinet to introduce a charging regime that would deliver the savings in the Medium Term Financial Strategy. The consultation process considered several options including whether to withdraw all denominational transport as from September 2014 or to continue denominational transport, but introduce a charging regime as from September 2014.

Cabinet agreed to continue the transport, but charge a flat rate of £1,117.00 per pupil. Consideration was given to the financial impact upon the families of children who were already accessing the transport at the time of the change and a 50% discount (£550.00) was offered to existing pupils. New pupils paid the full amount.

Exact costs could not be provided for the purposes of the 2013 Cabinet report as it was not possible to provide a reasonable estimate at the time. This is because pupils apply for a place in the summer term, but the Cabinet report was written in September. It was, therefore, difficult to determine how many pupils would actually take up the offer with revised charges, what routes would be required and what provider's would charge for those routes and numbers of pupils. As all of these factors contribute to the overall cost the figure could not be determined when the proposal to introduce a charging regime was introduced.

The large number of pupils eligible for the 50% discount and an equally high number of pupils in receipt of benefits coupled with the small numbers of pupils paying the higher rate has led to a reduction in the amount of savings forecast when the charges were introduced.

- 2.2. The breakdown of the cost of transport within each of the categories discussed in this section is provided in Appendix 2.

- 2.3. A recent review of the potential cost of transport to denominational schools revealed that some of the charging options proposed may prove financially challenging to some families. The Council foresaw this and initiated an Exceptional Circumstances policy aimed at supporting families with children currently attending a denominational school who can evidence their inability to afford the cost of transport.
- 2.4 The Council also recognises its statutory obligation to provide free education transport for eligible children resident in the borough of Thurrock. The legislation defining the 'eligible child' is contained in Section 508B and Schedule 35B of the Education Act 1996 (See Appendix 3).

Under the Education Act 11-16 year olds in receipt of benefits are entitled to free transport to all schools including denominational schools. This entitlement is linked to the receipt of public benefit and distance and is not direct support to attend a denominational school.

3. Issues, Options and Analysis of Options

- 3.1 The consultation held in 2013 provided the following options:
- to withdraw all transport to denominational schools for all pupils in September 2014.
 - to continue transport to faith schools, but introduce a charging regime from September 2014. Within this option there were further options as to how the charging regime would work in practice i.e. charge of a flat rate for all pupils or charges set according to distance travelled.
- 3.2. The Council considered the impact of the proposed changes upon various income levels. Although some are able to afford the charge other families are on benefit. There are also families with an annual income that although considered low would not entitle them to any form of public benefit.
- 3.3. The Council considered the factors noted above and agreed to charge all pupils with the exception of those in receipt of benefits (The Council has a legal duty to provide free transport for pupils in secondary school in receipt of benefit).

In order to ease any hardship faced by existing pupils accessing transport at the time the charge was implemented the Council offered a 50% discount. Pupils in this category paid £550.00 per annum. New pupils were charged the full rate at £1,117.00 per annum. An Exceptional Circumstances policy was introduced to support families on a very low income who were not entitled to benefits, but could prove that their circumstances were exceptional and warranted financial support from the Council.

- 3.4 The numbers of pupils in receipt of benefits and the number of existing pupils paying the discounted rate is much greater than the number paying the full cost rate. The Council is, therefore, fully funding or heavily subsidising seats on denominational transport and receiving very little income to balance such

funding from those paying the full cost recovery rate. This is an anomaly that could not have been foreseen. It is worthy of note that this is discretionary transport that (with the exception of pupils on benefit at secondary school) the Council is under no legal obligation to provide it.

- 3.5 This situation poses a financial risk as the Council is likely to bear the burden of the full cost of pupils in receipt of benefit as well as the loss of 50% of the cost that would have accrued from pupils paying the discounted rate. The risk is not easily managed as the majority of the decisions affecting the reduction are made by families of new pupils who opt not to pay the full cost of denominational transport preferring to find alternative means of travelling to school or choosing not to attend a denominational school. This trend is likely to continue. There is also a risk posed by existing pupils in the early stages of education in either primary or secondary school. They could potentially remain on the subsidised rate for the duration of a key stage at a particular school. For instance, a Year 7 pupil may retain a seat until Year the end of Year 9. The risk here is managed by the fact that letters awarding transport stipulate that transport is allocated for one year and the denominational transport policy is subject to review on an annual basis.
- 3.6 In order to reduce the risk identified above, consideration should be given to the fact that the Council does not have a legal duty to provide denominational transport particularly where the provision of such transport is hindering the accrual of any savings and, in fact, may lead to increased expenditure going forward. As the rationale behind this review of Education Transport is to reduce expenditure and where possible increase savings, the recommendation is made that the Council retain the current charging regime until September 2016. After that date the Council should decommission denominational transport as it is a discretionary service that has high delivery costs and a lower than expected level of income generation. If the recommendation is agreed secondary school pupils in receipt of benefit will continue to receive free transport. Primary school pupils are not considered eligible under the Education Act.
- 3.7 Any potential risk to low-income or vulnerable families of such a decision will be mitigated as the Council will continue to provide free transport to families in receipt of benefit. Also, families experiencing hardship may apply for support via the Exceptional Circumstances policy.
- 3.8 The council will endeavour to write to all year 6 pupils in September 2015 explaining that they should not make their decision of their child's secondary school choice based upon the fact that they will receive transport as this is reviewed annually.

4. Reasons for recommendation

- 4.1 Officers seek the views of members of Children's Overview and Scrutiny prior to commencing a consultation around the future of denominational transport

and the impact of any changes to this aspect of education transport. Such views will support a recommendation to Cabinet in September 2016. The reason for this is that the current trend shows that the Council may not be in a position to generate the levels of income expected from new pupils who pay the full cost recovery rate as the number of new pupils applying for a seat has reduced drastically. Also, further financial pressure arises from the pupils in receipt of the 50% subsidy who are more likely to continue to access denominational transport for a substantial period of time (In many cases this will be until they complete their current key stage at primary or secondary school). In order to reduce the strain on the Council purse it was suggested that the Council cease the delivery of this discretionary aspect of Home to School transport.

5. Consultation (including overview and scrutiny, if applicable)

- 5.1 The details and results of a borough-wide consultation undertaken with respect to proposed changes around denominational transport are contained in the Cabinet report dated 4 September 2014.
- 5.2 In September 2015 officers will undertake a public consultation involving families, schools and a wide range of stakeholders to seek the views of interested parties on the proposed decommissioning of denominational transport in September 2016.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Families whose overall income level places them just above the threshold for qualifying benefit choose to work to support their children rather than initiate a reduction in the number of hours worked in order to qualify for benefits and consequently free transport. The discounted rate and exceptional circumstances policy support such families to remain employed and align with the Council priority aimed at encouraging and promoting job creation and economic prosperity.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
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The medium term financial strategy includes a targeted budget saving in relation to denominational travel. The detailed financial implications of the current scheme are clearly set out in the report and indicate that the targeted budget savings are not currently being met and hence it is proposed to review the scheme going forwards from September 2016.

7.2 Legal

Implications verified by: **Angela Willis, Major Projects Solicitor**
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The Education Act 1996 sets out the Council's duties relating to school transport and makes it clear that free transport only has to be provided for "eligible children" and these include disabled children and those from low income families. Transport on denominational grounds other than for low income families is not a statutory duty and the Council is entitled to make its decision as to what transport support it will offer to pupils on denominational grounds.

Local authorities have discretionary powers under Section 508C of the Education Act 1996 to make arrangements for those children not covered by Section 508B. A local authority has discretion to provide transport for children who are outside of the statutory eligibility criteria and where such transport is provided to make a charge for it. There is no requirement for these discretionary arrangements to be provided free of charge. However, if a local authority decides to levy charges this should be made clear in the school travel policy documents.

Section 509D of the Education Act 1996 places a duty on local authorities when 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 on grounds of the parent's religion or belief. Local authorities must make travel arrangements for pupils from low income families to attend the nearest school preferred on the grounds of religion or belief where such pupils live more than 2 miles, but not more than 15 miles from that School.

The Equality Act 2010 does not apply to the provision of transport on faith grounds as the discrimination provisions on the grounds of age and religion or belief do not extend to transport arrangements.

Local authorities must publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. Such documents should explain both statutory transport provision, and that provided on a discretionary basis. Local authorities should also consult widely on any proposed changes to their local policies on school travel arrangements with all interested parties. Consultations should last for at least 28 working days during term time.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
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Consultation on future options will include dialogue with stakeholders to inform a Community Impact and Equality Assessment – this will further inform the future option to be shared with Cabinet in September 2016’.

7.4 Other implications

7.4.1 Impact on pupil places

Families who are not entitled to benefits or qualified for support under the Exceptional Circumstances policy may not be able to afford the cost of transport following the reduction in subsidy. They may then opt for their nearest suitable school which may or may not be a denominational school. Also, a number of pupils enrolled in out of borough denominational schools may return to Thurrock schools and apply to their nearest school. In both cases, where the nearest suitable school is filled to capacity the Council will still be required to provide and pay for the transport.

7.4.2 Pupils in receipt of Income Support

We are statutorily obliged to offer financial support to these pupils. The amount of income used to fund such places is currently greater than the income generated from pupils paying the full-cost recovery rate. These factors have the potential to reduce the amount of savings the Council is able to generate.

7.4.3 Pupils living in rural areas

As the decision has been taken to provide transport to denominational schools, but charge for it, contracted vehicles transporting pupils who reside in rural areas to denominational schools are likely to be more expensive as taxis may be the most cost effective option for small numbers of pupils. The pupils affected may, therefore, require a higher subsidy, as opposed to the proposed reduction in subsidy.

8. Background papers used in preparing this report

There are no background papers to consider.

9. Appendices to this report:

- Appendix 1 – Denominational transport – charges for 2014/15
- Appendix 2 – The Education Act 1996 – relevant legislation
- Appendix 3 – Denominational Transport – potential subsidy rates for 2015/16

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