

<b>8 March 2016</b>		<b>ITEM: 10</b>
<b>Children's Services Overview and Scrutiny Committee</b>		
<b>Proposal to deliver Denominational Transport within the Statutory minimum</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Yes	
<b>Report of:</b> Councillor J Kent, Portfolio Holder for Finance and Education		
<b>Accountable Head of Service:</b> N/A		
<b>Accountable Directors:</b> Roger Harris – Director of Adults, Housing, and Health, David Archibald - Interim Corporate Director of Children's Services		
<b>This report is public</b>		

### **Executive Summary**

Transport on denominational grounds (hereinafter referred to as “denominational transport”) other than for pupils on benefit attending a faith secondary school, is not a statutory duty and Thurrock Council is entitled to use its discretion with respect to such transport. In order to comply with their statutory duties local authorities must:

- Promote the use of sustainable travel and transport
- Make transport arrangements for all eligible children (Schedule 35B of the Education Act defines the term "eligible children")

This report will identify the means by which Thurrock Council will deliver denominational transport in accordance with its statutory duty. In 2013, following an extensive consultation exercise, Cabinet exercised its discretion and decided to continue denominational transport, but charge for places. Although some savings have been made, the service is still heavily subsidised by the Council. The most recent review of 2015/16 costs revealed that of the 185 pupils using the service only 25 pay the full cost. 91 pupils were existing users of the service at the time the charging regime was introduced. In recognition of the impact that the changes might have on their families, the existing users were subsidised by the Council and paid only 50% of the full cost of transport. 69 pupils access the service free of charge as they are in receipt of benefits. Thus, the Council receives an income of £82,654 against its total spend of £332,262. In light of the Council's financial position, on 14 October 2015, Cabinet agreed to go out to further consultation on the future of the service including the possibility of aligning the service with the statutory requirements of the Education Act at the end of the 2015/16 academic year. The purpose of this paper is to consider the results of the consultation, the impact of the proposal to

decommission the service on Thurrock families and to determine the most financially viable way forward for the Council.

## **1. Recommendation(s)**

**1.1. That the comments of the Children's Services Overview and Scrutiny Committee regarding the proposal being referred to Cabinet to deliver denominational transport within the statutory minimum and discontinue all services outside of its legal duty at the end of the 2015/16 academic be noted.**

**1.2 That it be recognised that Thurrock Council will continue to transport pupils in receipt of benefit who meet the criteria stipulated within the Education Act. An Exceptional Circumstances policy is also in place to support families whose income level is low, yet above the benefits threshold.**

## **2. Introduction and Background**

2.1 The full history and background around the delivery of education transport up until October 2015 can be found in the Cabinet report presented on 14 October 2015.

2.2 Since approval to consult was granted in October, a consultation document was prepared and placed on the Council's online portal. The consultation went live on 7 December 2015 and closed on 29 January 2016.

2.3 The consultation ran for eight weeks. This was above the required 28 days as the Council gave consideration to the school holidays which fell during that period. The consultation provided a range of opportunities for parents, schools, colleges, professionals and the public to comment on the proposed changes. Opportunities were provided across the borough and information was provided to key groups to share with interested parties to encourage a wide response. A summary of the consultation and those with whom the Council consulted is available for review.

2.4 In addition to the consultation exercise, an analysis was carried out of the data gathered from the consultation around age, gender, ethnicity and disability. Also, a full Equality Impact Analysis has been undertaken dated 10 December 2015.

## **3. Issues, Options and Analysis of Options**

3.1 A total of 74 responses were received with respect to the Denominational Transport consultation. 39 (52.70%) were parents. This is a reasonable response rate and compares favourably to consultations within the local authority. A full breakdown of the consultation responses is available on request.

- 3.2 Officers were proactive in ensuring that the information was disseminated to relevant individuals and organisations particularly parents of children currently accessing denominational transport, primary pupils who may be considering the use of denominational transport, schools and affiliated bodies. Parents were informed of recent developments around denominational transport particularly the fact that the Council was responsive to their comments in a previous consultation when it introduced charges instead of decommissioning the service.

A generic external email address was created for respondents wishing to send comments or questions and a desk within the Civic Offices *Face 2 Face* area was available and utilised by some respondents who requested to meet directly with officers dealing with the consultation.

- 3.3 The result of the consultation on denominational transport show that 34 (45.9%) of those who responded were of the opinion that it should be withdrawn. 29 (39.2%) were of the view that the service should continue. 11(14.9%) did not leave a comment.

3.4 **Respondent's comments:**

The principal point to note is that 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, the Council considered decommissioning this form of transport. However, Thurrock Council is genuinely responsive to the results of consultations and continued to deliver denominational transport following family's expression of a willingness to pay for places on vehicles if the Council would continue to supply the vehicles.

- 3.5 Cabinet exercised its discretion and decided to continue denominational transport, but charge for places. The charge was intended to generate funds in order to relieve the financial pressure on the Council. However, there were a number of factors which could not have been anticipated at the time the changes were implemented; factors such as the number of new applicants willing to pay the full cost (predicted to be the greatest source of income), the number of existing pupils willing to pay the subsidised rate and finally, the number of pupils in receipt of benefits.
- 3.6 The service has not achieved the expected level of savings. Officers have prepared a five-year forecast of the cost of delivering this service. It shows limited potential to generate income. This is due to a paradox brought about by the fact that the overall cost of delivery going forward is increasing due to gradually rising running costs and rapidly decreasing numbers of pupils opting to use the service as a result of the cost. In 2014, 236 pupils accessed denominational transport whereas the number was reduced to 185 during the 2015/16 academic year. As stated earlier, consideration must be given to the fact that this figure includes 69 pupils who are in receipt of benefit and 91 who

pay just 50% of the full cost in the current academic year and this also adds to the financial pressure placed upon the Council budget.

It should be noted that only 32 of the 69 pupils referred to above meet the statutory requirement for transport. The remaining 37 were transported under the Council's discretionary power as they are either primary school pupils or occupying a spare seat. Spare seats are sold after all eligible pupils have been offered a place on a vehicle. See Appendix 1 for a table depicting the number of pupils attending the various denominational schools within Thurrock.

Also, officers are able to confirm that each of the 69 pupils transported (including any pupils on income support who fall within the Council's statutory obligation to offer transport in future) would have had a place available in a non-denominational school at the time they selected their school of choice. No child is attending a denominational school because there was no alternative offer. It is not the Council's policy to place a child in a denominational school without parental consent. Parents are informed of the place in the nearest suitable school and given the opportunity to accept or reject the offer.

- 3.7 A decision to discontinue the service should not hinge on financial issues alone. Although issues such as the implications of using public funds for the benefit of a segment of the community were raised the consultation results also shed light on a number of issues (See paragraph 3.8 below) raised by Thurrock residents which must be considered. It should be noted, that parents made up 52.70% of the respondents.
- 3.8 A detailed list of the issues raised within the consultation can be provided upon request. In the majority of cases respondents in favour of retaining the service were of the view that the Council should retain the service for one of four main reasons.

The most predominant issues raised by parents, and taken directly from the consultation, can be summarised within four categories as shown below:

- The cost to parents of transporting their children and the resultant congestion
  - Disruption to parents work travel plans if they have to transport children themselves
  - The lack of a Catholic option for male pupils in Thurrock
  - The lack of a suitable alternative route to some denominational schools via public transport
- 3.9 The Council's delivery of education transport aligns with the Education Act. We are mindful of the fact that the Secretary of State attaches importance to the opportunity that parents should have to choose a school in accordance with their religious or philosophical beliefs, and that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express. Thurrock Council may consider

possible action in the future. For instance, encouraging denominational schools and faith organisations to consider developing an alternative denominational school for boys. However, it must be noted that there are children within Thurrock who attend denominational schools that are neither Catholic nor Church of England. The Council is keen to ensure that all services have an overall positive equality impact and that all children are treated equally regardless of their religion, belief, or their ability. Transporting children to schools of a particular faith may put the Council at risk if this is interpreted as being by design, whereas it is in fact by chance that pupils from other faiths do not have local denominational schools to attend and have not applied for transport.

The Council is also working to establish an 11-16 bus pass that will provide school-friendly routes at a reduced cost to support pupils opting to travel by public transport. However, other issues raised within the consultation fall under parental responsibility as the parent has a right to choose a school for their child, but the local authority will not be responsible for transporting a child where a parent exercised parental preference.

### **3.10 Income Support**

Irrespective of the option adopted at the end of this review of Denominational Transport the Council shall continue to support pupils from families in receipt of income support. The Education Act places a duty on local authorities to make arrangements for secondary pupils from low income backgrounds to attend the nearest school preferred on grounds of "religion or belief", where that school is between 2 and 15 miles from their home.

#### **Cost effective transport options for pupils on income support**

During the current academic year Thurrock Council paid for the transport of 69 pupils on income support. As this duty will continue, officers have outlined a range of cost effective transport options that align with guidance from the Department for Education. These options will enable the Council carry out its statutory duty to pupils on income support travelling to denominational schools with the least impact upon the Council budget.

The methods include the procurement of the most appropriate sized vehicles for the number of pupils on a route and placing central pick up points along such routes (as opposed to several bus stops nearer home addresses), The Champion School, Upminster and St Edwards Secondary School, Romford would require such transport as it is unlikely eligible pupils will be able to travel to these schools from within the borough by public transport in the recommended time frame of 75 minutes with a single transfer between vehicles.

However, bus passes would provide a suitable and cost effective solution for pupils travelling to De La Salle Secondary School, Basildon or the Convent Girls Secondary School in Grays as suitable transport links exist to these

schools. In order to support this option, officers have conducted research on an 11-16 bus pass similar to the Transport for London bus pass for school children. Meetings have been held with local public transport providers to discuss the possibility of a discounted bus pass available outside of school hours and at weekends.

The table below shows the predicted cost to the Council should the decision be taken to restrict transport to the statutory minimum. This academic year 69 children were transported by Thurrock Council under its discretionary power because their families are in receipt of benefit. 54% (37) of those children were ineligible under the Education Act, either because they are primary school pupils or they hold a concessionary place (spare seats sold once eligible pupils have been awarded seats).

#### **Eligible pupils – due to receipt of income support**

<b>Routes requiring Council-contracted vehicles (£1,648 per annum per pupil - TOTAL COST £24,720 Per annum)</b>	<b>No. of pupils</b>
Campion	14
St Edwards	1
<b>Routes suitable for public transport with Council bus passes (£242 per annum per pupil – TOTAL COST £4,114 per annum)</b>	<b>No. of pupils</b>
De La Salle	5
Grays Convent	12

There are 6 Non Entitled Pupils (Concessionary) travelling on denominational transport this academic year. They occupy spare seats. Should the Council decide to transport pupils in accordance with its statutory duty vehicle sizes will be reduced to suit the number of eligible pupils and Concessionary seats are less likely to be available.

Also, officers plan to arrange a meeting to inform the current providers of denominational transport of the changes and see whether they would be interested in dealing directly with the families of pupils who may no longer be eligible for such transport. Providers could replicate the current Council–contracted routes to denominational schools externally. The Council might then consider purchasing seats on those privately funded vehicles for the pupils on income support.

Implementation of any of the options suggested above require the relevant parental consent (annually or, if a child moves school, at that point) by the local authority. Also, it should be noted that for children with SEN and/or disabilities, journeys may be more complex and a shorter journey time, although desirable, may not always be possible. In such cases referral may be made to the SEND panel or the Exceptional Circumstances panel.

### **Additional Transport Options**

Other options examined include, mileage allowance paid to a parent driving their eligible child to school in lieu of the local authority making arrangements for a taxi to transport the child; a cycling allowance paid by the local authority where the parent agreed for their child to cycle to and from school instead of catching a bus for a three mile journey; or local authority provision of a suitable escort to enable an eligible child with a disability to walk a short distance to school in safety, instead of making arrangements for a taxi to take them to and from school. In view of the economic issues facing families on income support the suitability of the additional options suggested below for the delivery of the statutory aspect of denominational school transport will need to be considered on a 'case by case' basis.

Also, families on low income, but above the benefits threshold may face financial hardship; particularly those who were using the service prior to the implementation of the changes. Such families may apply for support via the Exceptional Circumstances policy. 104 families applied for support with home to school transport under the Exceptional Circumstances policy during the 2015/16 academic year. 68 of those applications were successful and were offered support in line with the transport options discussed above, ranging from a taxi for one term, to a bus ticket for public transport or reimbursement of petrol costs.

#### **3.11 Engaging partners in the process**

Officers wrote to transport providers in January 2016, giving them notice of the current review of Denominational Transport and proposing a meeting later on in the year to discuss the Cabinet decision and the future delivery of the service. There are 15 Council commissioned contracts for the provision of denominational transport. Of the 15 contracts 2 expire in 2016 and the other 13 expire in 2018. A 56 day notice period is required.

### **4. Reasons for Recommendation**

- 4.1 Consultation on proposals agreed by Cabinet in October 2015 has taken place with a good response. The results are available for review and summarised within this report.

Officers recommend that the Children's Overview and Scrutiny Committee comment upon the proposal being made to Cabinet to deliver denominational transport within the statutory minimum and discontinue all services outside of its legal duty at the end of the 2015/16 academic year due to the financial pressures outlined in this report and the fact that this is a discretionary service. Thurrock Council will continue to transport pupils in receipt of benefit who meet the criteria stipulated within the Education Act.

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 seats has reduced drastically and

based upon predicted charges year on year it is likely to continue to decrease. Also, further financial pressure arises from the pupils in receipt of the 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). Added to these budgetary implications is the fact that the Council has a duty to transport secondary school pupils on benefit who attend a denominational school and meet certain criteria.

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

- 5.1 The details and results of the previous public 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, the recommendations being made were considered by Children's Overview and Scrutiny and given their full support.
- 5.3 In October 2015, Cabinet granted approval for officers to undertake a public consultation involving families, schools and a wide range of stakeholders to seek the views of interested parties on denominational transport after the current arrangements end after the summer term of 2016.
- 5.4 Between 7 December 2015 and 29 January 2016, officers led a public consultation. The results of the consultation are analysed within this report and a copy of the data collated at the end of the consultation is attached to this report.

## **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 often 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: **Kay Goodacre**  
**Finance Manager**

Current primary pupil growth is causing significant pressure on the statutory element of the School Transport budget. This is due to the fact that the Council

is at times unable to place a pupil in a school within a three mile radius. In such cases, the Council has a statutory duty to transport the pupils involved and to bear the cost of the transport. Targeted budget savings around discretionary transport are not being met and the costs involved are steadily increasing. Therefore, unless spend on discretionary transport is reset to the statutory minimum an increased budget would be required to cover these costs.

## 7.2 Legal

Implications verified by: **Lucinda Bell**  
**Education Lawyer**

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 use its discretion 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. However, Thurrock Council does have a Public Sector Equality duty under the Equality Act 2010. The Council has, therefore, had due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when proposing and or carrying out any changes to Denominational Transport

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**  
**Community Development and Equalities**  
**Manager**

A public consultation enabling all stakeholders to engage in dialogue with Thurrock Council regarding Denominational school Transport has taken place. The result of the consultation, which was held over a period exceeding that recommended by the Department for Education, provides the empirical evidence required by Council officers to make a recommendation to Cabinet.

A Community Impact and Equality Assessment has also been carried out in order to ensure that any proposed changes to Denominational school Transport will have an overall positive equality impact as all children will be treated equally regardless of their religion, belief, or their ability.

### **7.4 Other implications**

#### **7.4.1 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. At present, these factors have led to a reduction in the amount of savings the Council is able to generate. However, if the Council reduces the denominational transport service to the statutory minimum the number of pupils to whom the Council owes a duty to transport will be reduced by over 50% as more than half (37 out of 69) of those children accessing transport this academic year were primary school pupils or pupils granted concessionary seats transported within the Council's discretionary power.

#### **7.4.2 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**

- Cabinet Report dated 14 October 2015.

**9. Appendices to this report:**

- Appendix 1 –Table depicting the number of children using Denominational school transport and the schools they are transported to
- Appendix 2 – Example letter sent to parents

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