Lincolnshire COUNTY COUNCIL
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Executive Councillor

Open Report on behalf of Heather Sandy,
Interim Director of Education - Children's Services

Report to:	**Councillor Mrs P A Bradwell OBE, Executive Councillor for Adult Care, Health and Children's Services**
Date:	**29 April 2019**
Subject:	**Post 16 Transport Policy Statement 2019-20**
Decision Reference:	**I017557**
Key decision?	**Yes**

Summary:

The Council provides subsidised transport for learners of sixth form age (extended to age 25 for learners with Special Educational Needs and/or Disabilities (SEND)) to a school sixth form, college of further education or other approved setting. This costs the Council c£3m per year and the Council recovers a proportion of the cost (c£1m), through a charge to parents or students which is currently £570 per annum (£579 if paid in instalments).

Transport support is provided by the Council in recognition of its duty to ensure access to further education and training opportunities.

This report sets out the Council's proposed Post 16 Transport Policy Statement 2019/20 (the Policy) as required by section 509AA of the Education Act 1996. The Council must publish the Policy every year by 31st May.

This Policy continues to offer the same provision of transport as previous years and proposes to keep the parent/student contribution at the same level as the previous 2 years.

The DfE Guidance, issued in January 2019, particularly clarified the Council's duties relating to adult learners, those being learners who begin a new programme of learning after their 19th birthday. In Lincolnshire, transport support will be offered beyond the age of 18 for learners in receipt of an EHCP where transport support may be offered until the age of 25. The Guidance states that these learners will not be asked to make a contribution towards their transport provision where the Council have determined that it is necessary to support their transport arrangements. The Policy has been updated to reflect this.

Engagement has been undertaken on the content of the Policy to obtain the views of key stakeholders. The report reflects the findings for consideration.

Recommendation(s):

That the Executive Councillor for Adult Care, Health and Children's Services:

1. Approves the adoption of the Policy attached at Appendix A as the Post 16 Transport Policy Statement for 2019/20.

2. Approves the continuation of the student/parent contribution at a rate of £570 per annum (£579 if paid in instalments).

Alternatives Considered:	
1.	To decrease or increase the parent/student contribution.

Reasons for Recommendation:

The approval and subsequent publishing and operation of the Policy attached at Appendix A, enables the Council to meet its statutory duties in relation to learners of sixth form age (25 for learners with SEND) to a school sixth form, college of further education or other approved setting.

The Policy is sustainable over the next year as described in the report and strikes a balance between continuing to be affordable to families and at the same time allows the Council to maintain its offer of support using the funds it has available.

1. Background

The Council has a statutory duty under Section 10 of the Education and Skills Act 2008 to exercise its functions so as to promote the effective participation in education or training of persons belonging to its area with a view to ensuring that those persons participate in appropriate full-time education or training, an apprenticeship or are in full-time occupation and participate in sufficient relevant training, all pursuant to Section 2 of the 2008 Act.

The Council also has a statutory duty to publish a Post 16 Transport Policy every year by 31st May, setting out the arrangements for the provision of transport or otherwise that the authority considers it necessary to make for facilitating the attendance of persons of sixth form age at:

- schools;
- any institution maintained or assisted by the authority which provides further education or higher education or both;
- any institution within the further education sector;
- any 16-19 Academy;
- any other establishment at which the authority secures the provision of education or training.

The DfE published new statutory Guidance in January 2019 that local authorities must follow and pay regard to when drawing up their Policy statements.

The Guidance states the overall intention of the 16-18 transport duty is to ensure that learners of sixth form age are able to access the education and training of their choice and ensure that if support for access is required it will be assessed and provided where necessary. The Council's duty to publish details of its transport support is also explicitly stated in the Education Act 1996, particularly with references to Sections 508 and 509.

Financial Contributions from Parents and Students

To achieve the aim of ensuring access, the Council has historically subsidised the cost of post 16 travel in Lincolnshire to support access to education and training opportunities for learners of sixth-form age. This subsidy ensures that the cost of the travel is not a barrier to accessing opportunities. Local authorities are not obliged to provide subsidised support.

This costs the Council c£3m per year and the Council recovers a proportion of the cost (c£1m), through a charge to parents or students which is currently £570 per annum (£579 if paid in instalments).

The contribution made by parents and students to the cost of post 16 transport has been maintained at a level that has not exceeded CPI inflation in recent years. The annual cost has been maintained at £570 a year for the past two years. This compares favourably with commercial fares in most cases.

Some examples of daily commercial fares are given below.

Bus/Train	Return Journey	2016/17	2017/18	2018/19	2019/20
Bus	Louth to Lincoln	£8.50	£9.00	£9.00	£9.00
Bus	7 day Mega Rider (Lincoln Area)	£11.50	£12.00	£13.00	£13.00
Train*	Metheringham to Lincoln	£4.40	£4.60	£4.70	£4.80
Bus	Skegness to Boston	£5.80	£6.40	£6.40	£6.00
Train*	Heckington to Boston	£6.10	£6.20	£6.40	£6.60
Train*	Wainfleet to Boston	£8.60	£8.70	£9.00	£9.20
Train*	Sleaford to Grantham	£6.30	£10.30	£10.60	£10.90
Bus	Sleaford to Grantham	£6.30	£9.00	£9.00	£7.00
Bus	Long Sutton to King's Lynn	£5.80	£6.20	£6.50	£6.20
Bus	Louth to Grimsby	£6.80	£8.20	£8.50	£8.50
Train*	Market Rasen to Lincoln	£8.90	£9.00	£9.30	£9.50
Bus	Market Rasen to Lincoln	£7.70	£8.30	£8.70	£8.70
Bus	Ruskington to Lincoln	£8.50	£9.00	£9.00	£9.00
Train*	Gainsborough to Lincoln	£8.40	£8.40	£8.70	£8.90
Train*	Ruskington to Lincoln	£6.80	£6.90	£7.10	£7.30

Bus/Train	Return Journey	2016/17	2017/18	2018/19	2019/20
Bus	Gainsborough to Lincoln	£7.60	£8.20	£8.50	£8.50
Bus	Welbourn to Lincoln	£6.60	£7.00	£7.20	£7.20
Bus	Navenby to Lincoln	£6.40	£6.90	£7.20	£7.20
LCC Pass	*Home to School or College*	*£2.77*	*£3.17*	*£3.17*	*£3.17*

* *Young people can get up to a third off these fares by buying a young person's railcard, but travel times are restricted to mainly off peak times.*

Consideration has been given to increasing the contribution to the cost of post 16 transport. The Council faces increasing budget pressures including the requirement to fully fund small but increasing numbers of adult learners transport and the increasing costs of commercial contracts and bus and train fares. It is, however, recommended that the contribution remains at £570 a year for 2019/20 because it is considered this subsidy level can still enable existing levels of service to be sustained and the Council's duties to be met.

The Policy continues to support families on low incomes by ensuring that the charge is affordable as set out above. The Council applies a flat rate charge regardless of location, which in a large rural county ensures that families in rural locations are not disadvantaged by the greater cost incurred by the Council in arranging transport in rural locations. For students with learning difficulties or disabilities, the transport needs are assessed on an individual basis. Whatever transport is specifically needed to meet the needs of individual learners, is provided at the same fixed rate charge.

Colleges, sixth forms and other providers of further education are given 'bursary funding' directly by the government, which funds are specifically provided to help learners with the cost of further education, including transport costs if appropriate. The control of these funds is in the hands of the providers. The Council makes reference to this funding source in the Policy, as required by Guidance.

Key Amended Areas of the Policy to Note

The Guidance provided a recommended template for use when devising the Policy. Officers feel this template allows for the Council to set its Policy out in a clearer easy to read format and so this template has been adopted. The content of the proposed draft Policy, which engagement was conducted on, has been moved into this new format. Other than the changes identified in this report below, wording has been re-formatted to be more concise where possible and greater clarity given, however, this has not at all altered the actual meaning of the Policy.

In respect of learners who are defined as 'relevant young adults' in the legislation, the Council is proposing to clarify its duties in accordance with the DfE Guidance issued in January 2019, by making a distinction between learners who are continuing a course of study begun before the age of 19, and those who began a new course after their 19th birthday. Where a student in one of the above categories has an EHCP that is determining their study, they will be treated as an adult learner if they are aged 19 at the start of their course (the operative date being assumed to be 1 September for these purposes). In cases like this, and in

accordance with the DfE Guidance, such a learner will not be charged for any necessary transport provided by the local authority.

Learners aged over 19 without an EHC plan would not normally receive transport support for an education course under the Policy; unless they are a continuing learner e.g. they needed longer to complete the course. In such cases, the parent/student contribution will apply.

The Guidance also made reference to a government initiative called Care to Learn, which is available to support young parents under the age of 20 accessing education by offering funding to support childcare costs and in some cases travel costs too. Reference to this has also been included in the Policy. This does not place any additional financial burden on the Council as this is support offered directly by the government.

Engagement

The Council undertook online engagement between 1 February and 01 March 2019. Respondents were asked to give their views on the proposed Policy and to offer any opinion on changes or amendments they would like to see. In addition, a meeting was held on 12th February 2019 with stakeholders invited from across the county, including transport providers, education and training providers, student representatives, and partner organisations. Full notes of the meeting and a full copy of the survey responses are available. A summary of the feedback received during the consultation is provided below.

The online engagement produced 24 written responses, all of which were unsupportive of the proposals. However, thousands of people impacted by the Policy didn't respond. The response is therefore of a limited number of people and should not therefore be taken as evidence that the Policy or how it works is meeting with general dissatisfaction. In fact, the Policy allows many thousands of young learners to access further education, and all indications are that the vast majority accept the Policy as fair and supportive. Very few complaints have been received about the previous Policy, and the few that have been received, are mainly about non-entitlement for specific individuals.

Response to Comments

The following main points were made by respondents in the online survey and during the partnership meeting, and Officer's comments are given:

<u>Transport should be provided free of charge</u>

The Council, in common with most other local authorities, make a charge for the provision of post 16 transport. The Council subsidises transport so as to make transport affordable and effective for young learners. The DfE Guidance is very clear that transport for sixth form learners does not have to be offered free of charge. The income generated helps to sustain the transport offer at the Post 16 phase to ensure the Council is meeting its duty of ensuring there is access to post 16 education.

The Designated Transport Areas (DTAs) should be reconsidered. Options are limited

Transport will be provided to the nearest sixth form or college as well as a DTA sixth form or college. This ensures that a choice of study destinations is available for all learners.

Access should be to a choice of colleges, if a preferred course is not available at the nearest college

The Council would be liable for greatly increased costs if it agreed to support transport to a further distant college on the basis of student choice. This financial pressure generated might threaten the viability of the support system at a time of constrained budgets. Most colleges also provide transport support to students to access their courses, since they are in competition with one another for students.

More specific college transport should be in place. It is difficult to access a bus directly from specific villages

Transport is provided from a point near the home (which may have to be walked to) to a point near or at the school or college. This ensures that the transport provision is comprehensive, and covers the whole county. Any student who could not be expected to make his/her own way to or from a pick up/drop off point would have their individual transport needs assessed, and appropriate arrangements made if necessary. This ensures that all learners can attend an appropriate course of study.

The Council's failure to provide transport could lead to the Council being put in 'special measures'

In accordance with the Policy, the Council will provide whatever transport is needed to ensure that all learners up to the age of 18, or beyond where the learner has SEND, can access full-time further education. The Council's policies on education transport ensure that this legal duty is met.

Attendees at the engagement meeting of 12 February 2019, expressed some reservations about the cost of transport, but welcomed the fact that the proposed charge is to be kept at the previous years' level. Concern was expressed at the requirement to pay in not more than three instalments, and that this could be a problem for some families. The Council's Officers confirmed that the first payment could itself be broken down to smaller payments. It was confirmed that providers use bursary funding from the DfE to help students pay their costs.

The meeting welcomed the proposal to include a statement about adult learners' rights, and the clarification that a 'relevant young adult' aged up to 25, with an EHCP would be provided with transport support free of charge, if this was needed, to access a new course of education or training, if the course had begun after the age of 19.

It should be noted that an additional cost of around £75,000 is anticipated in providing free transport for 'relevant young adults'. This amount has been anticipated in financial planning.

The Council has considered very carefully the comments made. The majority of the responses are critical of the Council's Policy of charging, as can be seen above. However, most of the critical responses also assume that full-time post 16 education and training is compulsory for young learners, and the responses are partly predicated on this. However, the duty to participate is not a duty to remain in full-time education, and therefore the Council is not under a duty to provide transport free of charge, which it would have been required to do if the duty was prescriptive on learners.

Although the online survey did not attract very many direct responses, this should be considered against a background of provision, whereby the Council's provision of transport has widespread acceptance among the community. Very little comment is made about the provision, which is widely used, and is part of a network of support for young learners.

2. Legal Issues:

Equality Act 2010

- Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

An Equality Impact Assessment (EIA) is enclosed at **Appendix B** in respect of the proposed Transport Policy Statement. The EIA concludes that there are potential impacts for certain groups in the protected characteristics. Mitigating actions are also set out in the EIA**.**

In respect of disability, in particular, the individual transport needs of students and young learners are always considered and appropriate transport arrangements made. The policy is to provide transport for students to and from home to school, college or other setting. 'Home' can be a point up to three miles from a student's actual home for the purposes of operation of the policy, however this distance is always dis-applied where the young person could not be expected to walk to a school or college, or to a transport pick up point and bespoke arrangements are made for the young person as needed.

Additionally, for young people with an EHCP who begin a new course of study after their 19th birthday, they will be classed as a relevant young adult and will therefore be provided with transport free of charge.

The potential impacts identified are based on the fact that certain groups with a protected characteristic may be more likely to be on lower incomes. This is addressed by the affordability of the Council charge and the existence of bursaries from provider institutions which take into account ability to pay. These bursaries are provided through funding issued directly by the government to provider institutions. This is money that used to be channelled through the local authority. That is no longer the case.

The Council does not itself therefore operate any kind of reductions or means tested assistance for families on low income. The flat rate charge is considered to be justifiable in a large rural county like Lincolnshire for reasons given above. Families on low incomes can apply for the bursaries referred to.

<u>Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)</u>

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The JSNA and JHWS report on the health and wellbeing needs of the people of Lincolnshire. It brings together detailed information on local health and wellbeing needs and looks ahead at emerging challenges and projected future needs. The

Lincolnshire JSNA and JHWS identify a number of needs that directly relate to young people. The policy on transport support under-pins the aims of the JSNA and JHWS in the following areas:

- improve health and social outcomes and reduce inequalities;
- achieve potential;
- improve educational attainment.

Each of the aims are specifically addressed by this policy statement, since its overriding aim is to enable young people to participate in education and training until they reach the age of 18 or beyond. For students with learning difficulties and or disabilities it is particularly important that they are allowed longer to complete this process of further education and the transport policy supports continued participation for this category until the age of 25 years where necessary.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

The Post 16 Transport Policy Statement sets out the means by which the Council supports young people to access education and training and therefore contributes to reducing the potential for crime and disorder. In particular, by offering guaranteed transport at an affordable rate the policy enables young people to engage in purposeful activity, namely education and training, leading to recognised qualifications. This takes place in recognised settings where issues such as citizenship and community cohesion are integrated into the student offer by means of curriculum input and tutorial support.

3. Conclusion

The approval and subsequent publishing and operation of the Policy attached at Appendix A, enables the Council to meet its statutory duties in relation to learners of sixth form age (25 for learners with SEND) to a school sixth form, college of further education or other approved setting.

The Policy is sustainable over the next year as described in the report and strikes a balance between continuing to be affordable to families and at the same time allows the Council to maintain its offer of support using the funds it has available.

Consideration has been given to engagement feedback, particularly the contribution towards transport. It is felt that the contribution still provides value for money and it is recommended this is not increased this year. The contribution also ensures the medium term sustainability of the Policy, to benefit learners throughout the county.

The decision maker is asked to consider the information here and approve the Policy as the Council's Post 16 Transport Statement for 2019/20.

4. Legal Comments:

The Council is required under Section 509AA of the Education Act 1996 to prepare for each academic year a transport policy statement specifying the arrangements it considers it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training at specified educational institutions. The statement is required to specify the financial assistance the Council considers it appropriate to make in fulfilling that duty. The Department for Education also publishes statutory guidance which a Local Authority must have regard to when formulating its transport statement.

This Report seeks approval to adopt and publish the post 16 transport policy statement as required by the statutory provisions attached to the Executive report which is the same as for previous years save with the amendments highlighted in the report. It would be lawful for the Executive Councillor to make a decision in accordance with the recommendation.

The proposal is consistent with the Policy Framework and within the remit of the Executive Councillor

5. Resource Comments:

In accordance with DfE Guidance issued in January 2019, this paper proposes that 'relevant young adults' are not to be charged for any necessary transport costs provided by the Local Authority. As a result the expected additional cost is estimated to be £75,000 (which represents the lost income that would have been charged to these learners). It is expected that this cost will be met from existing Home to School/College budgets and offers value for money as well as meeting learners' needs.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The report will be considered by the Children and Young People Scrutiny Committee at its meeting on 26 April 2019 and the comments of the Committee will be reported to the Executive Councillor prior to her reaching her decision.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

For all groups (not just those in groups that have protected status) there are some positive impacts of the proposals. The purpose of the statement is to ensure young people have reasonable choice of course at the post 16 phase of their education and have a means of accessing it. The purpose of the financial contribution is to ensure that the service offer is sustained and those living in rural areas are not any more disadvantaged in terms of costs than those living in urban areas.

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Post 16 Education Transport Policy Statement 2019-20
Appendix B	Post 16 Education and Transport Support Policy - Equality Impact Assessment

8. Background Papers

Document title	Where the document can be viewed
Statutory Guidance for LAs January 2019	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772913/Post16_transport_guidance.pdf

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