

**Open Report on behalf of Heather Sandy, Executive Director -
Children's Services**

Report to:	Executive
Date:	05 May 2020
Subject:	Post-16 Transport Policy Statement 2020-21
Decision Reference:	I019546
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 2020/21 (the Policy) as required by section 509AA of the Education Act 1996. The Council must publish the Policy every year by 31 May. The Policy has also been developed in accordance with the statutory Guidance issued by the Department for Education (DfE) in January 2019.

It is proposed that there are no changes to the Policy for 2020/21 and that the parent/student contribution remains at the same level as the previous three years.

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:

- (1) Approves the adoption of the Policy attached at Appendix A as the Post-16 Transport Policy Statement for 2020/21.
- (2) Approves the continuation of the student/parent contribution at a rate of £570 per annum (£579 if paid in instalments).

Alternatives Considered:

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| 1. | To decrease or increase the parent/student contribution. |
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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 the transport of learners of sixth form age (25 years for learners with SEND) to a school sixth form, college of further education or other approved setting.

The Policy is sustainable as described in the report and strikes a balance between continuing to be affordable to families and at the same time allowing 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 promote the effective participation in education or training of persons, belonging to its area with a view to ensuring that they can 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 (the Policy) every year by 31 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 years Academy;
- any other establishment at which the authority secures the provision of education or training.

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

The Guidance states the overall intention of the 16-18 years 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.

It is proposed that no changes are made to the Policy Statement this year.

Financial Contributions from Parents and Students

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, as is required in the Guidance issued to local authorities by the Department for Education. Local authorities are not obliged to provide subsidised support.

Currently, the Council spends c. £3m per financial year on transport for post-16 learners and requires parents/students to make a contribution which generates c. £1m of income to offset this (net expenditure of £2m).

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 [Consumer Price Index] inflation in recent years. The annual cost has been maintained at £570 a year for the past three years. This compares favourably with commercial fares in most cases. Some examples of daily commercial fares are given below.

Bus/Train	Return Journey	2017/18	2018/19	2019/20	2020/21
Bus	Louth to Lincoln	£9.00	£9.00	£9.00	£9.30
Bus	7 day Mega Rider (Lincoln Area)	£12.00	£13.00	£13.00	£14.00
Train*	Metheringham to Lincoln	£4.60	£4.70	£4.80	£4.90
Bus	Skegness to Boston	£6.40	£6.40	£6.00	£6.20
Train*	Heckington to Boston	£6.20	£6.40	£6.60	£6.80
Train*	Wainfleet to Boston	£8.70	£9.00	£9.20	£9.50
Train*	Sleaford to Grantham	£10.30	£10.60	£10.90	£11.20
Bus	Sleaford to Grantham	£9.00	£9.00	£7.00	£9.30
Bus	Long Sutton to King's Lynn	£6.20	£6.50	£6.20	£7.00
Bus	Louth to Grimsby	£8.20	£8.50	£8.50	£9.00
Train*	Market Rasen to Lincoln	£9.00	£9.30	£9.50	£9.80
Bus	Market Rasen to Lincoln	£8.30	£8.70	£8.70	£9.20
Bus	Ruskington to Lincoln	£9.00	£9.00	£9.00	£7.80

Bus/Train	Return Journey	2017/18	2018/19	2019/20	2020/21
Train*	Gainsborough to Lincoln	£8.40	£8.70	£8.90	£9.10
Train*	Ruskington to Lincoln	£6.90	£7.10	£7.30	£7.50
Bus	Gainsborough to Lincoln	£8.20	£8.50	£8.50	£6.70
Bus	Welbourn to Lincoln	£7.00	£7.20	£7.20	£7.60
Bus	Navenby to Lincoln	£6.90	£7.20	£7.20	£7.60
<i>LCC Pass</i>	<i>Home to School or College</i>	<i>£3.17</i>	<i>£3.17</i>	<i>£3.17</i>	<i>£3.17</i>

*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.

The Executive is asked to note increasing cost pressures including the requirement to fully fund small but increasing numbers of adult learners transport, the increasing costs of commercial contracts and bus and train fares, a rise in the number of pupils being entitled to transport as well as increasing costs emerging to fulfil the Public Service Vehicle Accessibility Regulations (PSVAR).

Consideration has been given to increasing the contribution to the cost of post-16 transport. It is recommended that the contribution remains at £570 a year for 2020/21 because it is considered this subsidy level can still enable existing levels of service to be sustained.

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 Special Educational Needs and/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 they can give to a learner to help them with the cost of further education, including transport costs if appropriate. The use of these funds is at the discretion of the education providers. The Council makes reference to this funding source in the Policy, as required by Guidance.

Engagement

The Council has previously undertaken annual consultation on the Policy but recent advice from the DfE and legal representatives is that in future years there will be no requirement to complete a consultation process on the Post-16 Transport Policy if the Council does not plan to make any amendments to the transport offer for that academic year.

Online consultation has taken place this year between 30 January and 1 March 2020 even though no changes are proposed to the Policy because the advice had not been issued at this time. 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. Full copies of the survey responses are available at the request of the Executive. A summary of the feedback received during the consultation is provided below.

The online consultation/engagement produced 88 written responses, most of which were unsupportive of the policy. The consultation details were sent to approximately 2,970 email accounts, including current entitled year 11 and post-16 students/parents, all approved transport providers and 13 colleges. Additionally, the details were advertised more widely through SchoolNews which is available to 386 Lincolnshire schools and to the wider general public periodically during the consultation period through social media networks. The response rate is therefore representative of 3% of those people directly contacted and should not therefore be taken as evidence that the Policy or how it works is meeting with general dissatisfaction. 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 survey and the Council's comments are given:

Transport should be provided free of charge.

Council comment. 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 post-16 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.

Council comment. 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.

Council comment. 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.

Better transport links. It is difficult to access a bus directly from specific villages due to rural nature of the county.

Council comment. 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.

Students have to stay in education until they are 18 years old so they should not have to pay for transport.

Council comment. The majority of the responses are critical of the Council's Policy of charging, as can be seen above. Most of the critical responses also assume that full-time post-16 education and training is compulsory for young learners until the age of 18. However, the duty to participate is not a duty to remain in full-time education and can include part-time learning, apprenticeships, on the job training and in work qualifications, 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. The statutory school leaving age has not changed, only the need for young people to participate in some form of learning until the age of 18.

Although the online survey/questionnaire did not attract very many direct responses, this should be considered against a background of provision, whereby the Council's facilitation 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 Education, Health and Care Plan (EHCP) who begin a new course of study after their nineteenth 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.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing 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 underpins the aims of the JSNA and JHWS in the following areas:

- improve health and social outcomes and reduce inequalities;
- achieve potential; and
- 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 transport for 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 as described in the report and strikes a balance between continuing to be affordable to families and at the same time allowing the Council to maintain its offer of support using the funds it has available.

Consideration has been given to consultation 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 Executive is asked to consider the information here and approve the Policy as the Council's Post-16 Transport Statement for 2020/21.

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. It would be lawful for the Executive to make a decision in accordance with the recommendation.

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

5. Resource Comments:

The recommendation in the report to approve the adoption of the Post-16 Transport Policy for 2020/21 will enable the Local Authority to meet its statutory duties to provide access in relation to learners of sixth form age (25 years for learners with SEND) to a school sixth form, college of further education or other approved setting. The recommendation is no changes to the Policy for 2020/21 and that the parent / student contribution remains at the same level. The Council applies a flat rate charge regardless of location to ensure that families in rural locations are not disadvantaged by the greater cost incurred.

The service has considered the contribution rates in supporting the cost of post-16 transport through its subsidised offer. The conclusion is that the contribution rate is affordable to families, and the planned income from parents / students enables the Council to continue funding the delivery of the activity. A base budget exists to meet the cost of the post-16 transport delivery less the planned income from parents / students. It should be noted that the home to school transport delivery is a demand-led budget with a number of external factors that impact on its overall cost. The position will be kept under careful consideration going forward to ensure it remains sustainable within the funds determined by the Council.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This report is due to be considered by a virtual meeting of the Overview and Scrutiny Management Board scheduled to be held on 30 April 2020. In usual circumstances, this report would have been considered by the Children and Young People Scrutiny Committee, but on this occasion the Committee will be invited to comment on this report by email. Any comments of the Board and the Children and Young People Scrutiny Committee will be presented to the Executive.

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 2020-21
Appendix B	Post 16 Transport Policy Statement 2019-20 – Equality Impact Analysis

8. Background Papers

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

This report was written by Teri Marshall, who can be contacted on 01522 553440 or teri.marshall@lincolnshire.gov.uk.

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