

**Decision Maker:** EDUCATION PORTFOLIO HOLDER

**Date:** For Pre-Decision Scrutiny by the Education Policy Development and Scrutiny Committee on Wednesday 8 July 2015

**Decision Type:** Non-Urgent Executive Non-Key

**Title:** SEN TRANSPORT POLICY CHANGES FOLLOWING RECENT CONSULTATION

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**Chief Officer:** Jane Bailey, Assistant Director of Education

**Ward:** (All Wards);

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1. Reason for report

- 1.1 To report on the outcome of the stakeholder consultation on the revised Special Education Needs (SEN) Transport Assistance Policy, following report ED15085 dated 30<sup>th</sup> September 2014
  - 1.2 To seek approval from the Education Portfolio Holder to the revised SEN Transport Assistance Policy
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2. **RECOMMENDATION(S)**

2.1 **The Portfolio Holder for Education is requested to:**

- i) **Review the outcome of the consultation;**
- ii) **Endorse the proposals in the revised SEN Transport Assistance Policy; and**
- iii) **Approve the revised SEN Transport Assistance Policy for introduction with effect from September 2015.**

## Corporate Policy

1. Policy Status: Revised Policy to be adopted
  2. BBB Priority: Children and Young People Supporting Independence:
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## Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: 136 586 (SEN Transport), and 136 587 (SEN Transport schools budget)
  4. Total current budget for this head: 136586 = £3,626,950 and 136587 = £330,000.
  5. Source of funding: 136586, RSG, 136587 DSG
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## Staff

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours: N/A
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## Legal

1. Legal Requirement: Statutory Requirement: Sections 508B, 508C, 508D, 509AD and schedule 35B of the Education Act 1996 ( As amended)
  2. Call-in: Applicable:
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): SEN, 825 service users listed on database
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

### **3. COMMENTARY**

- 3.1 The SEN reforms introduction of Education Health & Care (EHC) plans to replace Statements of SEN, provided an opportunity to review the Council's SEN Transport Assistance Policy. The revised Policy aims to reflect the spirit of the reforms where developing independence and providing choice and control are central to the new vision. The Council is seeking opportunities to increase independence, and reduce reliance upon Council funded transport assistance services where it is appropriate to do so.
- 3.2 Councils have a statutory duty to provide transport assistance to eligible children and young people to access their special education provision. The key circumstances under which this duty must be fulfilled are summarised as follows:
- A child is obliged to attend the school nearest to their home where the local authority assesses that their education needs can be met. For SEN children, this may be a mainstream class, a SEN unit at a mainstream school, or a Special School.
  - Councils must provide transport assistance to children (both SEN and mainstream) if the nominated school is beyond guideline distances (2 or 3 miles, depending on age), and regardless of these distances if the child has a disability such that transport assistance is required to access their education.
- 3.3 The statutory requirements are more complex after the statutory school age of 16 years and for post 16 education. There is no duty to provide transport assistance to adults over the age of 19 unless they have a Statement of SEN / Education Health & Care plan and the Council consider that it necessary for this assistance to be provided to enable the young person to access further education.
- 3.4 Following report ED15085, dated 30/9/2014, Members reviewed the draft policy and agreed to recommendations for wider consultation.

### **4 POLICY REVISIONS**

- 4.1 The policy has been revised with reference to the proposals set out in:
- The DfE new home to school travel and transport guidance (July 2014)
  - The DfE Post -16 transport to education and training statutory guidance for local authorities (February 2014)
  - The SEN and Disability code of practice 0 – 25 years, DfE (June 2004)

And with revisions guided by the following considerations:

- A balance between support for families and increasing choice and independence.
- The Local Authority managing future expectations with Parents and Schools by working in partnership to effectively prepare young people with independence skills for employment and adulthood.
- The review of options for alternative models of service delivery in the context of independence, sustainability and best value. The revised policy provides a wider menu of transport assistance offers to meet individual assessed needs, whilst meeting the Council's statutory duties.

- The adoption of the new DfE formal appeals process

## 5. CONSULTATION

5.1 The consultation was undertaken by the Strategic and Business Support Team based in Education, Care & Health Services. It was carried out between February and March 2015 during term time in accordance with stipulated practice.

5.2 The full consultation report is attached but the key outcomes are summarised below:

5.2.1 In terms of response:

- Of the 765 families who use services and were individually contacted, 137 completed the questionnaire (representing 18% of users).
- A Bromley Schools Circular was sent to relevant stakeholders inviting responses from schools and organisations. 2 responses were received from special schools, 1 response from a mainstream primary school and 1 from a mainstream secondary school.
- Bromley Parent Voice (BPV) held its own engagement process which included 2 focus groups attended by 40 parents, and they undertook a survey. Results pertaining to the Policy consultation were included in the report.
- Responses were broadly representative of the people receiving transport in terms of age, schools attended (primary, secondary, if in or out of Borough) and users of wheelchairs.

### 5.2.2 Understanding of draft policy

The majority of parents felt informed or well informed on the draft policy. There were a number of comments about the use of plainer English and making the policy more user-friendly. These comments echo BPV's report which indicated that parents would struggle to understand the policy as presented and that it should be written in a more person centred way.

### 5.2.3 Needs of the Child

The majority of individual parents who responded (58%) were in agreement that transport assistance should be based on the needs of the child, which is in accordance with statutory guidance. There were a number of comments, including from BPV that wider family needs should also be considered such as: siblings' school attendance, parental work commitments and the stress that having a child with SEN can cause the family.

### 5.2.4 Exploration of Travel Options

Respondents were divided over whether all travel options should be explored before Council funded transport assistance is offered. People highlighted the importance of considering family needs including the impact of uncertainty and resulting stress and the abilities and safety of the child. Some respondents expressed surprise that parents would not explore options before seeking transport assistance.

### 5.2.5 Travel Training

Respondents were broadly supportive (60%) of travel training for children in Year 6 and above with only 24% being in disagreement. This was provided that risk was appropriately managed and that selection for travel training was only undertaken in circumstances where there was consensus that it was appropriate. BPV feedback was similar.

### 5.2.6 Families providing transport to school and pupils on sole transport

Families were asked if families should be encouraged to transport their children to and from school. Only 12% of respondents agreed with 56% disagreeing or strongly disagreeing. Concerns relating to people's family circumstances (sibling's school attendance and work impact) featured prominently in the comments as did the need to travel some distance due to the lack of in-Borough SEN provision.

### 5.2.7 Muster Points

People were asked whether young people should be picked up from a safe muster point. 56% of parents disagreed or strongly disagreed with this idea whilst 21% agreed with the proposal. Comments received focussed upon health and safety for vulnerable children together with concerns around the collection points, inclement weather and 'toilet facilities'. Some parents questioned the practicality of pick-up points and the impact their introduction would have on parents and families. BPV's report welcomes the use of muster points in principle although their comments mirror the issues highlighted by direct respondents.

### 5.2.8 Agreement with the Revised Policy

Opinion was split with many parents neither agreeing nor disagreeing with the revised Policy. Parental concerns have been highlighted above with suspicion that the revisions are cost saving initiatives. All respondents whose children use a wheelchair disagreed with the revisions.

Parents recognised and commented on the purpose of special education and agreed that the annual review would be the appropriate time to discuss changes to travel arrangements.

BPV's understating is that the revised policy is not compatible with DfE guidelines relating to walking distances. However this is not accepted as the home to school distance criteria is waived for all children who cannot reasonably be expected to walk to school because of associated SEN issues or disability. Best practice suggests this methodology is applied across a number if not all Council's. BPV also raised concern relating to sibling's attendance at different schools.

### 5.2.9 Feedback on potential improvement

The service welcomes feedback and many suggestions have been offered. These will be considered further where they fall within the remit of the service and maximise opportunities with service delivery. Some of the suggestions fall within the remit of other teams or schools, such as arrival and departure times and school clubs outside of school time. These will be communicated as necessary.

5.3 The revised Policy does not propose to take transport away from those eligible to receive it and the Council would be unable to do so because it has a statutory duty to comply. The revisions will enable the Council to be more flexible in meeting its duties but this will be undertaken in accordance with what it is reasonable.

5.4 The consultation has been useful in identifying areas for improvement and there has been a significant re-write of the Policy with the intention of making it easier to read and understand and to demonstrate that the Council is mindful of the pressures faced by parents and recognises the importance of the service to its users and their families. Some of the feedback suggested changes that would require the Council to provide services in excess of national guidance and that provided by other councils.

5.5 In consideration of the feedback received and the re-write of the Policy into a more understandable format the Portfolio Holder is requested to approve the revised SEN Transport Assistance Policy for introduction with effect from September 2015.

## **6. POLICY IMPLICATIONS**

6.1 In accordance with the Council's commitment to Building a Better Bromley, supporting people to live as independently as possible within the community, the proposals reflect the Council's strategic objectives for people with disabilities.

6.2 Where possible, the feedback and some suggestions for changes have been incorporated within the rewording of the policy and maintaining the statutory duty to provide transport services to eligible children residing within the boundaries of LBB

## **7. FINANCIAL IMPLICATIONS**

7.1 The policy has been revised and updated to synchronise with the introduction of the SEN reforms and the EHC plans.

7.2 The SEN Transport budget funded from RSG is £3,626,950 with £330,000 from DSG.

7.3 The revisions to the SEN Transport Policy are not expected to significantly impact the amount of expenditure on home to school transport. Savings resulting from the introduction of travel training have already been factored into budgets but it is too early to determine whether there may be financial benefits from increased flexibility in how transport assistance is provided.

## **8. LEGAL IMPLICATIONS**

8.1 Sections 508B, 508C, 508D, 509AD and schedule 35B of the Education Act 1996 (The Act), which were inserted by part 6 of the Education and Inspections Act 2006 (EIA 2006)

8.2 Regulation 5 and part 2 schedule to 2 to The School Information (England) Regulations 2008

8.3 Section 508B of the Act sets out the general duties placed on local authorities to make such school travel arrangements as they consider necessary for 'eligible children' within their area, to facilitate their attendance at the relevant educational establishment. Such arrangements must be provided free of charge.

8.4 Section 508C of the Act provides local authorities with discretionary powers to make school travel arrangements for other children not covered by section 508B but the transport does not have to be free

8.5 Section 508D of the Act places a duty on the Secretary of State to issue guidance to which local authorities have to have regard to in performance of their functions under section 508B (travel arrangements for 'eligible children') and 508C (travel arrangements for other children). The Secretary of State may revise this guidance from time to time.

8.6 Parents are responsible for ensuring their child's regular attendance at school and local authorities are under a duty to provide home to school transport, where necessary, to enable them to enforce attendance

8.7 Section 444 of the Education Act 1996 states that the child shall not be taken to have failed to attend regularly at the school if the parent proves that the local authority fails to make appropriate transport arrangements under section 508

## 9. PERSONNEL IMPLICATIONS

9.1 No staff are affected by the implementation of the transport policies.

<b>Non-Applicable Sections:</b>	None.
Background Documents: (Access via Contact Officer)	<p>Special Education Needs reforms &amp; EHC plans :  <a href="https://www.gov.uk/government/news/special-educational-needs-reform-draft-legislation-published">https://www.gov.uk/government/news/special-educational-needs-reform-draft-legislation-published</a></p> <p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306534/Implementing_a_new_0_to_25_special_needs_system_LAs_and_partners_-_April_2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306534/Implementing a new 0 to 25 special needs system LAs and partners - April 2014.pdf</a></p> <p>The Special Education Needs and disability code of practice: 0 – 25 years  DfE &amp; DoH <a href="https://www.gov.uk/government/consultations/sen-and-disability-detained-persons-regulations-and-revised-code">https://www.gov.uk/government/consultations/sen-and-disability-detained-persons-regulations-and-revised-code</a></p> <p>Reference: DFE-00205-2013</p> <p>Home to School travel and transport guidance  DfE (July 2014)  www.education.gov.uk/.....</p> <p>Post – 16 transport to education and training  Statutory guidance for local authorities , Feb 2014, DfE,  <a href="http://www.gov.uk/government/publications">www.gov.uk/government/publications</a>  Reference: DFE- 00025-2014</p>