

Decision Maker: **EXECUTIVE with scrutiny by the Children, Education and Families PDS Committee**

Date: **29 June 2022**

Decision Type: Non-Urgent Executive Key

Title: **TRANSFORMING SEN TRANSPORT - SUPPORTING CHILDREN AND FAMILIES IN INNOVATIVE AND COST-EFFECTIVE WAYS**

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Chief Officer: Jared Nehra, Director of Education

Ward: All wards

1. REASON FOR REPORT & DECISIONS

- 1.1 Following a review of SEN Transport operations in Bromley, officers propose that the Council introduce changes to transport policy to enable a broader offer of support for families giving greater access to preferred schools, improved transport options and better flexibility in the service offer.
- 1.2 The report highlights the potential benefits to children and families accessing SEN transport support whilst developing a culture of supported self-help, placing children and families at the centre of policy developments and helping young adults to develop independence.
- 1.3 It seeks agreement to introduce demand management initiatives, including personal transport budgets, independent travel training and maximise flexible approaches to procurement and transport delivery options that will improve the lives of young people accessing services, introduce efficiencies and improve consistency of service offers.
- 1.4 The Executive is invited to support amendments to existing transport support measures, where this may deliver cost reductions or where existing arrangements may inhibit access to proposed initiatives.
- 1.5 The report introduces a rationale for the necessary updating of Transport Policies last reviewed in 2014 and introduces revised policy proposals that align with the latest legislative changes and Government guidance.
- 1.6 The report seeks agreement to a public consultation on the proposed Transport Policies to be undertaken in the coming weeks and seeks delegated authority for a decision to be taken by the Director of Education in consultation with the Portfolio Holder pending the outcome of the consultation due to run until September 2022.

2. RECOMMENDATION(S)

2.1 The Executive is recommended to:

- 2.1.1 Agree the draft transport policy for public consultation and endorse the proposed transport initiatives recommended for progression in the report.
- 2.1.2 Agree the introduction of Personal Transport Budgets and revisions to the mileage payment scheme.
- 2.1.3 Endorse the development of the Independent Travel Training Service.
- 2.1.4 Agree to the retention of existing discretionary transport support for children under statutory school age.
- 2.1.5 Agree to the introduction of a vacant seat payment scheme where families who are not entitled to transport, may purchase the use of available seats on a vehicle accessing their school where appropriate.
- 2.1.6 Note the transformation efficiency gains outlined in this report, required to deliver the medium-term financial plan for the council.
- 2.1.7 Agree delegated authority for the Director of Education to take a decision to implement the proposed policy changes in consultation with the Children, Education and Families Portfolio Holder following formal consultation and feedback relating to the proposed Transport Policy changes.

2.2 The Children, Education and Families PDS Committee is recommended to note and endorse the proposed policy amendments and outlined procedure for implementation ahead of consideration by the Executive.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Introducing the identified projects has the potential to significantly improve the long term prospects for Children and Young people with SEN in the borough whilst at the same time supporting families and driving efficiencies and flexibilities to the delivery of transport services.
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Transformation Policy.

1. Policy Status: Existing Home to School Transport Policy : This paper introduces revisions to 2014 policy to introduce greater flexibility in the travel offer available to families and align policy to current legislative requirements and guidance.
 2. BBB Priority: Children and Young People / Supporting Independence helping children thrive
 3. Promoting greener travel
 4. Managing our resources well, providing value for money, and efficient and effective services for Bromley's residents
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Financial

1. Cost of proposal: £2.4m in 2022/23
 2. Ongoing costs: Rising to £3.4m in 2025/26
 3. Budget head/performance centre: R15004 & R14304
 4. Total current budget for this head: ££9m
 5. Source of funding: Core funding and Dedicated Schools Grant (DSG)
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Personnel

1. Number of staff (current and additional): Two existing staff are currently engaged specifically in the preparation for delivery of this activity and there is scope to amend working practices with the team to achieve the required aims. It would require a minimum of one administrator with financial experience to deliver the Personal Transport Budget work with the post funded out of the generated savings.
 2. An Independent Travel Trainer has been recruited from within existing resources for the previously commissioned Travel Training Services.
 3. Management of the new activity can be met within existing resources following the recent recruitment of the Admissions and Transport Lead – Contracts & Operations
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Legal

1. Legal Requirement: SEN transport is a Statutory Requirement under provisions within the Education Act 1996. There is also supplementary Government guidance.
 2. Call-in: Applicable
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Procurement

1. This report identifies that future procurement activity may be required to support the SEN transport service going forward. Specific procurement proposals may be subject to specific decision making processes in due course unless covered under existing delegated authority.

2. Any future actions that are identified must be authorised and undertaken in accordance with the Public Contracts Regulations 2015 and with the Council's Contract Procedure Rules.
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Property

1. Summary of Property Implications: N/A
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications:
 2. Reduction in vehicles on the road,
 3. Promoting use of public transport,
 4. Incentivising the use of greener vehicles through duration of contracts
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Customer Impact

1. There are more than 1,100 learners transported daily on hired transport that are resident in the borough of Bromley.
 2. An Equalities Impact Assessment Stage 1 screening has been undertaken indicating there is no detrimental impact on groups with protected characteristics.
 3. A positive impact is anticipated for the protected characteristic age and disability through the provision of additional services to promote independence of children and young people with SEND.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? NO
2. Summary of Ward Councillors comments:

3. COMMENTARY

3.1 Demand Pressures

3.1.1 The Borough has seen a significant 55% growth in ECHP in the last five years [SEN2 2016 January (1,846 EHCP) to (2,879 EHCP) January 2021 published data]. We have developed a forecasting model, which anticipates a further 41% growth by 2026 if nothing changes. These demand pressures inform our MTFs and growth migration actions.

The age breakdown of this forecast is as follows.

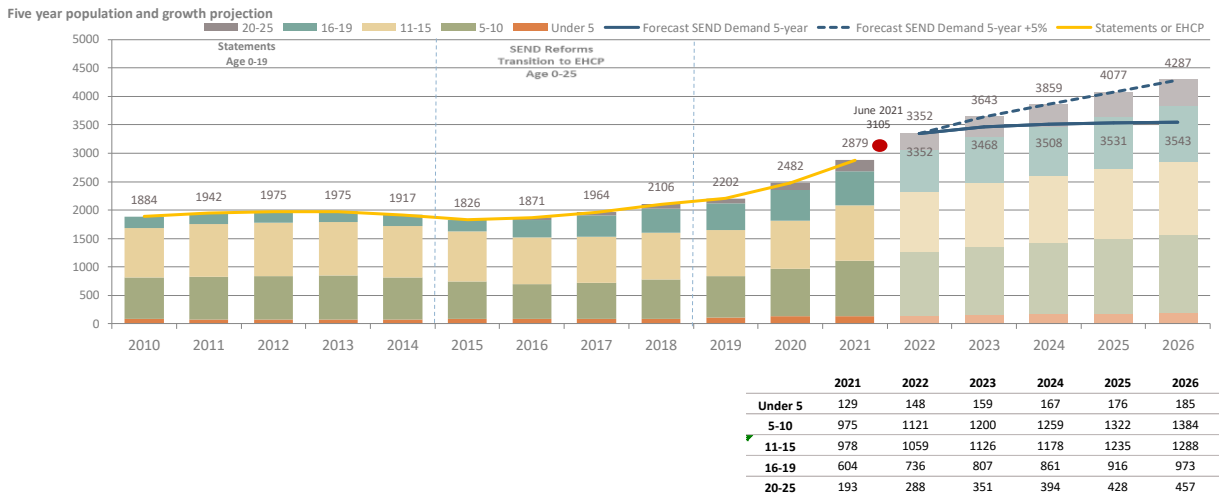


Chart 2 ECHP Age distribution trend and forecast

3.1.3 It is reasonable to assert that changes (increases or decreases) in the general population would be mirrored in the EHCP population. There are two reasonable exceptions – points of transition when a disproportional level of needs is identified, namely when children start school aged 5 and when children transition to secondary school aged 12.

3.1.4 Analysis demonstrates a significant growth in 5 to 10-year-old EHC plans (354 plans between 2016 and 2021.) Bromley saw a 0.4% 5 to 10-year population growth but at 57% 5 to 10-year-old EHCP growth. Although some of this extraordinary growth should be attributed to improvements in known birth survival rates and greater identification of needs. The Children and Families Act 2014 implementation has also born new demand pressures, additional duties have led to a growth of 16 to 19 year-olds (an additional 294 children from 2016 to 2021) and 20 to 25-year-olds (an additional 152 young people from 2016 to 2021).

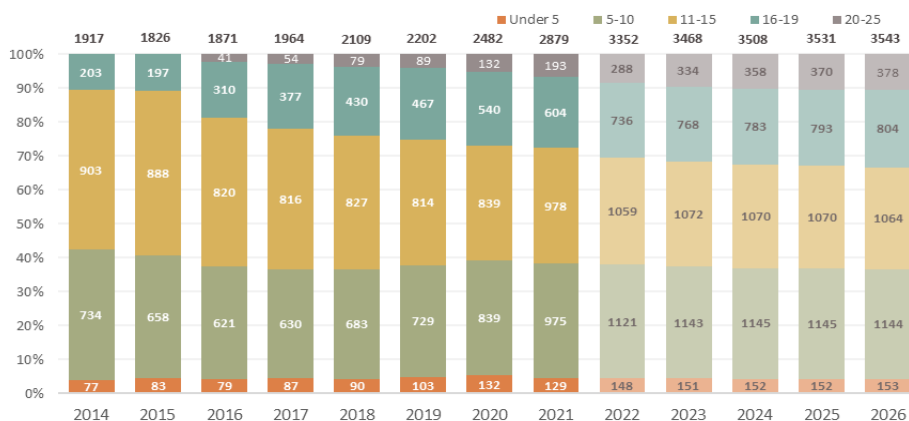


Chart 3 ECHP Growth pressures by Age.

3.1.5 The forecast growth in ECHP will have a direct and real cost implication to SEND transport pressures.

3.2 Impact on SEND transport (5- to 19-year-olds only)

3.2.1 Our current understanding for planning purposes is that 36% of all those on an EHCP on average require SEND transport – this means for example of the 2,879 with an EHCP plan in 2021, an estimated 1,036 CYP (36%) would be in receipt of a transport package (costs attributed to RSG). There are two separate but considerable pressures on the transport budget, firstly an increase in the unit cost of commissioning transport – for all (e.g., 1,036 in 2021) children in receipt of transport (this is a commissioning challenge which requires a reduction to the unit cost). The second cost pressure is attributed to the anticipated growth of children with an EHCP during the medium term financial period, of which a proportion will require transport.

3.2.2 Through a number of initiatives, the department aims to reduce the proportions of children and young people utilising SEND transport from 36% to 30%. It is accepted that implementing this percentage reduction through alternative policy and practice will be a challenge. A 27% stretch target is also exemplified below for comparative purposes.

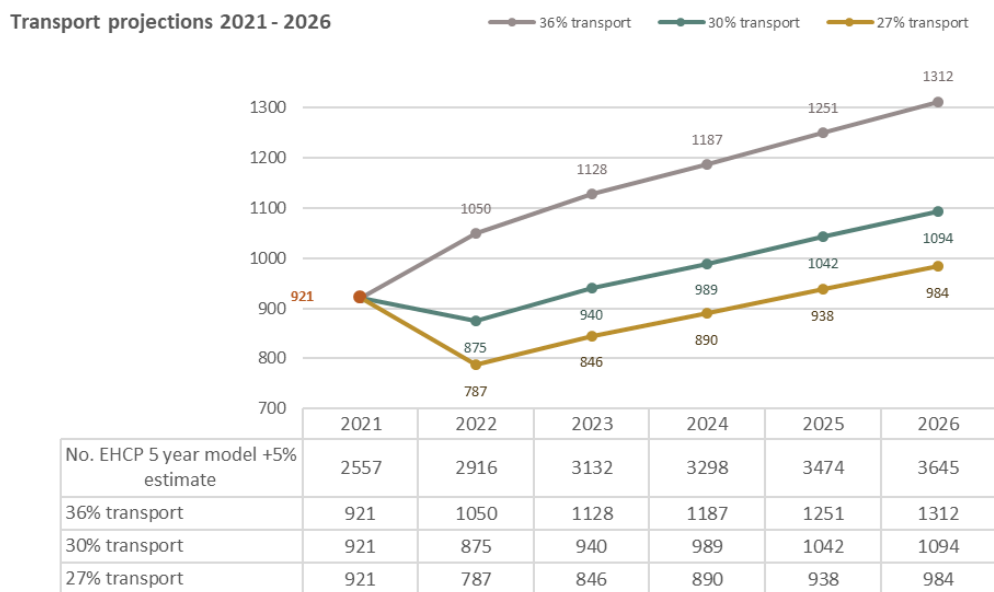


Chart 4 ECHP Forecast Transport Demand

3.2.3 Statutory Guidance on Home to School Transport was last introduced in 2014, however the Government held a consultation between July and October 2019 which indicated a number of changes may be coming into effect and new guidance is awaited, however it is appropriate that Bromley Council review its current policy and plan for the introduction of some of the proposed changes ahead.

3.2.4 An initial desktop exercise as part of the Transformation Programme has shown that a number of other Councils have successfully developed schemes in support of their learners which have both promoted independence and learning whilst at the same time driven efficiency gains to the services concerned.

3.3 Government is keen to see that learners are appropriately supported to reach their full potential both academically but also in the development of the necessary life skills enabling them to successfully engage in society as a whole.

3.4 Officers consider that similar opportunities could be explored through the introduction of schemes in the borough concentrating on initiatives which reduce demand for commissioned

transport whilst providing affordable improvements to both process and provision to better serve the people of Bromley. The options set out within this paper have been developed through the Council's Transformation Programme and are presented for Member consideration below:

3.5 Initiative 1 - Use of collection points

3.5.1 This option is not recommended as the potential for financial savings is limited and the negative impact on families already in very challenging circumstances makes it hard to justify. The Children, Education and Families PDS Committee has previously considered this option and supported the officer recommendation not to proceed as any marginal financial benefits do not outweigh the significant disruption to working families and the incredibly challenging circumstances they often already face.

3.5.2 Existing policy allows for the use of collection points but it is not widely employed. It can be helpful in specific circumstances so whilst it should not form part of a strategic approach to transport delivery, it is recommended it is retained as an option to use in exceptional circumstances where it is appropriate to do so at officer discretion.

3.6 Initiative 2 –Introduce Personal Transport Budgets, where financially advantageous to the Council and favourable with families.

3.6.1 This scheme differs from 'personal budgets' awarded through social care, it is specifically a transport initiative aimed at those learners eligible for transport assistance for whom the Council has a duty to transport to school. Parents are offered a fixed payment based on distance from school for them to make their own arrangements to take their child to school on the understanding that they will be transported in a safe and legal way and children will arrive on time, in a fit state to learn.

3.6.2 This initiative would only be offered where it is financially advantageous to the Council, therefore if a seat is available on an existing vehicle and is more cost effective, the payments will not be offered. The initiative has the potential to drive significant savings as an alternative to commissioning hired transport, with no restriction on how the money is spent by parents provided it is used to facilitate the family enabling their child to access school. (e.g. it may be used to pay for childcare for a younger sibling, if this then provides an opportunity for the parent to accompany their older child to school)

3.6.3 It is proposed that a pricing structure of between £2,000 and £6,000 p.a. be set which seeks to incentivise families to take up the offer, yet maintains the maximum annual payment at less than the average cost of a hired contract per pupil.

3.6.4 The introduction of this scheme would require amendments to the existing mileage payment scheme set out in the present Transport Policy. This is currently paid at 50p per mile and is an uncapped scheme which covers journeys both to and from school twice per day. This is beyond the HMRC mileage rate after which it becomes a taxable benefit. Payments at the 50p per mile level risk inadvertently causing a tax liability to families in receipt of this payment. It is proposed that the rate is therefore reduced to the 45p per mile in accordance with HMRC guidance and future rates align with HMRC limits as and when they change. The mileage payment should also be capped at a maximum of £2,000 unless agreed otherwise (if in the financial interest of the council a bespoke arrangement is necessary). This will encourage the shift to use of the Personal Transport Budgets for those travelling greater distances which will again reduce the burden on families to provide petrol receipts and associated processing.

3.6.5 It is proposed that through the shift in approach by those currently in receipt of transport assistance it would be possible not only to reduce expenditure on commissioned transport, but also to reduce demand on the private hire network.

3.7 Initiative 3 – Develop Independent Travel Training

3.7.1 The Children, Education and Families PDS Committee has previously indicated its support for a proposal to implement independent travel training as a direct service to schools and learners in the borough. A travel trainer has recently been recruited with a view to developing a comprehensive in-house training offer available to schools and learners with a view to realising the associated benefits.

3.7.2 This scheme introduces important life skills for learners who will go on to benefit from improved independence for the rest of their lives. It is important that families can have confidence in the practice and support of trainers and that young people are able to learn at their own pace until such time as they are safe to travel independently using public transport.

3.7.3 The cost of delivering this initiative ordinarily outweighs the levels of savings that might be achieved from the provision of transport in year 1 as it requires significant 1:1 contact time. The significant benefits, though hard to quantify financially, will come in later years delivering compound savings to both education and adult social care as these children develop essential life skills for the future.

3.7.4 The Council previously held a contract with Bexley Community Transport for the provision of travel training primarily working in one school in the borough. The Covid pandemic and lockdown which ensued, meant the contract could not remain viable. Developing an in-house travel training team will introduce flexibility to the provision of training, so it can be both school based in addition to the delivery of 1:1 support until learners are able to make the shift from hired transport to the use of public transport vehicles. Members are asked to support a revision to current transport policy developed which encourages engagement with Independent Travel Training through it becoming a condition of assistance where it appears learners are at a stage in their development that would indicate this would be appropriate for them.

3.8 Initiative 4 - Removal of non-statutory school age transport support for under 5s

3.8.1 Children become statutory school age either on the 31st December, the 31st March, or the 31st August following their 5th Birthday. Most children begin primary school in the September after their 4th Birthday, starting in reception class. This group are typically treated as the cohort for that school's year group and expected to attend school regardless of whether they have actually reached statutory school age. This change was brought in to assist working parents in being able to return to the workplace sooner and therefore children who would meet the transport policy are ordinarily supported with transport assistance from age four where they are attending primary school and are technically below statutory school age. Being below statutory school age means that this is a discretionary policy.

3.8.2 Transport support is ordinarily only extended to the most vulnerable children being assessed for complex needs in nursery settings. Currently only 5 children are accessing this support. The removal of this provision would be likely to have a disproportionate impact on children with complex needs and/or disabilities and likely not achieve a significant financial saving. This option is not recommended for implementation.

3.9 Initiative 5 - Route Optimisation

3.9.1 Officers have extensively reviewed the existing transport routes, with the aim to reduce the number of vehicles and drivers where additional pupils can be accommodated. Wherever possible officers have sought to comply with best practice guidance on the length of journey for each pupil (45 minutes for primary and 75 minutes for secondary).

3.9.2 Through specialist transport software, it has been possible to consolidate the number of routes into the 5 key special school sites, generating significant savings and easing pressure on sourcing transport operators for the growing demand. Projected savings are set out in finance section of the report.

3.9.3 The removal of routes is anticipated to deliver a reduction in expenditure, however the increased need for SEN transport, aligned to the increase in EHCPs, will offset some of the potential gains. The current and anticipated future shortage of vehicles and drivers is anticipated, means this is an essential element of work if future demand is to be met by the limited resources in the market. The changes will deliver increased flexibility enabling the market to better meet changes to requirements which occur from time to time and are difficult to accommodate in the current climate.

3.10 Initiative 6 - Vacant Seat Payment Scheme (VSPS)

3.10.1 Introducing this initiative will provide for greater flexibility for families in accessing their schools of choice where transport might otherwise be a barrier.

3.10.2 Transport duties placed on the local authorities require the provision of transport to the nearest suitable school. Families may prefer a school further away and seek to challenge the suitability of closest school when they are capable of meeting need.

3.10.3 Access to a VSPS scheme, will enable officers to support families to access a preference place, whilst bringing in some additional income to offset transport costs.

3.11 Initiative 7 - Consideration of In-House Transport provision

3.11.1 As part of the project development two options were considered to provide an In House Transport Provision. Both options considered involved leasing a suitable mix of specialist vehicles and prices for these were obtained from a recent procurement exercise undertaken by a County Council. In addition, a staffing structure was developed to provide drivers and passenger assistants for the vehicles aligned with a management structure to support the delivery of the service based on (i) existing in borough routes and (ii) and an optimised range of in borough routes.

3.11.2 In both cases the costs for providing the fleet with associated staffing costs far exceeded that of the current range of service providers. A number of additional issues were identified, particularly the overnight and weekend storage of a significant fleet of vehicles as well as the utilisation of a large workforce where there would likely be large periods of down time given the specific service needs.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 Progressing the recommended identified initiatives, has the potential to improve the life experiences of vulnerable children and adults in Bromley and ease the pressures on families supporting vulnerable learners. We will work with families and providers to support the introduction of these proposals which will build life skills and independence for our vulnerable children and young people.

5. TRANSFORMATION/POLICY IMPLICATIONS

5.1 The Borough's Transport Policies have not been formally updated since 2014. It is appropriate to update them in line with current government thinking and at the same time to introduce sufficient flexibility to ensure processes align with the proposals in this report. The proposed 2022 Transport Policies are available in Appendices 1-3.

6. FINANCIAL IMPLICATIONS

6.1 Please see table below which breaks down anticipated financial mitigations and efficiency gains anticipated if the proposed initiatives are adopted.

| | <u>2022/23</u> | <u>2023/24</u> | <u>2024/25</u> | <u>2025/26</u> |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| SEN Transport additional demand and retender costs | 3,119 | 3,644 | 4,170 | 4,680 |
| Route planning reduction (new system arrangements) | -281 | -482 | -482 | -482 |
| Personal Travel Budgets (2%/4%/6% of cohort) | -34 | -91 | -149 | -173 |
| Travel Training 15 in first year and then 30 a year | -26 | -98 | -161 | -180 |
| VSPS @ £400 | -2 | -4 | -6 | -6 |
| Increased in borough provision | 0 | -51 | -139 | -343 |
| Net Growth | 2,776 | 2,918 | 3,233 | 3,496 |
| Original Net Growth in the Medium Term Financial Strategy | 3,000 | 3,033 | 3,143 | 3,425 |
| Difference between original and revised | -224 | -115 | 90 | 71 |

6.2 The original net Growth, set out in the Medium Term Financial Strategy, was £3,000k in 2022/23 rising to £3.4m in 2025/26. It can be seen from the table above that the revised proposals result in a lower growth figure in the first two years with a slightly increased growth in the latter two years.

6.3 The growth assumes that the EHCP/Transport levels remain at the predicted levels. Any increases will result in further growth pressures. Moreover any extraordinary price increases due to fuel costs, etc will also be a potential risk but will not emerge until price negotiations take place for the September routes. Any further growth pressures will have to be dealt with through the budget monitoring process or further reports through the Executive

7. PERSONNEL IMPLICATIONS

7.1 1 FTE to administrate the financial elements of the Personal Transport Budgets.

7.2 Operational efficiency gains can deliver the other aspects of the initiatives, within the existing staffing cohort by implementing adjustments to current working practices.

- 7.3 Options and costs for independent travel training to be reviewed during 2022/23. One travel trainer is in place and the service will evaluate the relative merits of expanding the offer following an analysis of the 2022/23 academic year.

8. LEGAL IMPLICATIONS

- 8.1 As travel trainers will be working with vulnerable young people they will need to be subject to an enhanced DBS check. Normal HR and employment law considerations will apply.
- 8.2 The statutory guidance on home to school travel and transport, paras 1.2 and 1.3 summarises the legal position re school transport. In short, Sections 508B and 508C of the Act (meaning Education Act 1996) make provision for local authorities to ensure that suitable travel arrangements are made, where necessary, to facilitate a child's attendance at school. These provisions apply to home to school travel arrangements, and vice versa. They do not relate to travel between educational institutions during the school day.
- 8.3 Parents are responsible for ensuring that their children attend school regularly. However, section 444(3B) of the Act provides that a parent will have a defence in law against a prosecution by a local authority for their child's non-attendance at school where the local authority has a duty to make travel arrangements in relation to the child under section 508B and has failed to discharge that duty.
- 8.4 Section 508B of the Act deals with the duty on local authorities to make such travel arrangements as they consider necessary to facilitate attendance at school for eligible children. Schedule 35B of the Act defines eligible children – those categories of children of compulsory school age (5-16) in an authority's area for whom free travel arrangements will be required. Most relevant for this report is that the definition means that local authorities are required to make transport arrangements for all children who cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety issues related to their special educational needs (SEN) or disability. Eligibility, for such children should be assessed on an individual basis to identify their particular transport requirements. Usual transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to SEN and/or disability.
- 8.5 The SEND code of practice para 4.49 sets out that: Section 508C of the Act (Education Act 1996) gives local authorities discretionary powers to make school travel arrangements for other children not covered by section 508B. Such transport does not have to be provided free of charge.
- 8.6 Local authorities must publish a transport policy statement each year setting out the travel arrangements they will make to support young people aged 16-19 and learners with learning difficulties and/or disabilities (LDD) aged up to 25, to access further education. This should include any arrangements for free or subsidised transport.
- 8.7 A public consultation and an equalities impact assessment should be undertaken to inform the final decision on whether to adopt the proposed policy changes.
- 8.8 In respect of the proposal re personal transport budgets, an agreement may need to be in place on allocation to ensure that the budgets are used to facilitate school transport.

9. PROCUREMENT IMPLICATIONS

- 9.1 The Council has a framework contract for Passenger Transport in place which allows the service to call off passenger transport services from the framework either as direct award

based on set rates for types of route or by undergoing further competition for specific routes as required.

- 9.2 This report does not identify any specific procurement decisions at this time arising from the proposed changes in policy. It does indicate in 3.9 the potential to explore route optimisation in the allocation of routes but this is allowed for within the current contract arrangements.
- 9.3 On 1 April 2020, Executive granted delegated authority to the Directors of Children's and Adult Services to secure additional capacity, as required, for transport provision through suitable compliant procurement routes subject to Agreement with the relevant Portfolio Holders and relevant Officers as determined by the Contract Procedure Rules.
- 9.4 Should new procurement proposals to secure additional capacity be required, these will be the subject of a Gateway review process to identify a suitable compliant procurement route with decisions to be implemented either through the existing delegated authority arrangements or to be referred back for Member decision, depending on the nature, scope and value of the proposals.

10. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

- 10.1 The initiatives proposed in the report that will be delivered through the updating of policy will lead to a greater use of public transport. Additionally, it is anticipated that it will reduce the number of vehicles on the road during the school run
- 10.2 By extending the duration of contracts it will enable operators to invest in greener vehicles.
- 10.3 It will develop independence for young people in our community and improve the social wellbeing for children and young adults but helping them develop life skills.

11. CUSTOMER IMPACT

- 11.1 Proposed policy changes will serve to increase the flexibility of offer to families to enable them to work with us creatively in enabling their children to access school. The transport assistance on offer will introduce a flexibility to arrangements that will enable engagement with families to find the most suitable and beneficial ways in which their children can access learning.
- 11.2 Transport provision will be reviewed as it is each year ahead of the new academic year, but for some families additional offers will be made relating to access to personal transport budgets which in turn may free up space on vehicles. Any parents accessing an existing mileage payment arrangement will retain this until such time as they request a re-assessment under the new policy or there is a material change in circumstances. Decisions made under the old policy will stand, but for any new transport requests coming through these will be assessed under the revised policy which means there may be circumstances where a younger sibling will not be able to access the same levels of support as an older sibling assessed under an earlier policy.
- 11.3 There are currently 1187 learners accessing transport services and a further 63 in receipt of mileage payments. If a 6% shift from commissioned transport to bespoke family led arrangements can be achieved, it would realise real benefits to those families and learners whilst driving significant efficiency gains for the Council. The introduction of Personal Travel Budgets will provide an opportunity for some families to have the financial means and flexibility to support their child with accessing school where previously this may have been untenable. This not only helps families but invariably improves the likelihood of the child arriving at school with reduced anxiety and ready to learn.
- 11.4 Transport can sometimes be a barrier to accessing a child's preferred school. Where the council is operating vehicles that have spare capacity it is possible to offer those seats to

families for a fixed price of contribution unless they are needed for legally entitled pupils. This has the potential to open up opportunities to pupils who might not otherwise be able to access their preferred schools.

- 11.5 Introducing flexibility to the commissioning arrangements will allow the extension of contract durations, improve the consistency of suppliers and improve customer relationships. (This will address a key concern consistently raised by parents about the anxiety caused each year by the re-tendering of contracts)
- 11.6 Independent travel training provides genuine life skills to learners giving confidence and independence far beyond home to school travel. It is a key element to helping young people grow into independent adults able to function successfully in society.