




Report to:	Children, Family and Education Committee	Date:	14 March 2018
Report title:	Proposed changes to SEND transport in the London Borough of Sutton		
Report from:	Richard Nash Acting Strategic Director People Services Directorate		
Ward/Areas affected:	Borough Wide		
Chair of Committee/Lead Member:	Councillor Wendy Mathys		
Author(s)/Contact Number(s):	Colin Hagreen, Finance and Transport Manager, Cognus Ltd, 020 8770 6783. Kieran Holliday, Head of Pupil Based Commissioning, 0208 770 6553		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • An Open Council • A Fair Council • A Smart Council 		
Open/Exempt:	Open		
Signed:		Date:	28 February 2018

1. Summary

- 1.1 On 4 January 2018, the Children Family and Education Committee approved a number of actions for officers to take forward as set out in that report and including; (i) introducing an annual reapplication process for SEN transport, (ii) greater investment in independent travel training, (iii) reducing single occupancy journeys, (iv) a reduction in the personalisation of SEN transport patterns for post 19 pupils, (v) a reduction in the number of personal assistants provided on vehicles, (vi) offering personal travel budgets to parents and pupils and (vii) to review the current commissioning arrangements to see if greater value for money can be achieved from the existing SEN transport framework. The above actions are considered operational changes which are not subject to statutory consultation.
- 1.2 In that report, the Committee were also asked to consider a change to the policy on provision for post 19 SEN transport provision. Members asked officers to consult on ceasing non-statutory provision for students in post-19 provision in cases where this is not considered necessary under the Education Act.
- 1.3 Given that the operational changes as well as the proposed policy changes may have a potential impact on residents in the Borough, officers wrote out to all interested parties to seek their views on all of the proposed changes.

- 1.4 Details of the consultation paper (Appendix A) setting out the above proposed operational / policy changes was sent to the following interested parties on 16 January 2018 and posted on the Council's Citizen Hub (an online platform for all the Council's consultation activities):
- A letter was sent to each of the current SEN transport users (650+ pupils/parents).
 - Emails were sent to all other interested parties on 16 January 2018 including contractors / transport providers, medical passenger assistant providers, all schools and colleges both inside and outside of the Borough, neighbouring Local Authorities, Sutton Parent's Forum.
- 1.5 The deadline for all responses was 12 February 2018. A drop in session was also offered to all interested parties on 30 January 2018 should they wish to come and speak to representatives of the Council on any concerns, issues or questions that they had.
- 1.6 This report summarises the consultation responses that were received and the recommended next steps.

2. Recommendations

The Children Family and Education Committee is recommended to:

- 2.1 Agree that the the Council's post 16 SEN transport policy be amended, to cease SEND transport provision for Post 19 students from the academic year 2018/19 where it is appropriate to do so, following consideration of need on a case by case basis.
- 2.2 Following the consultation undertaken, agree to continue to take forward the actions agreed on 4 January 2018 as set out in paragraph 1.1 above and to introduce these changes for the 2018/19 academic year.

3. Background

- 3.1 Where a child is registered at a school, it is primarily the responsibility of the parent or carer to ensure that their child attends school regularly. However, the Education Act requires that SEN Transport is provided free of charge to children of statutory age (5-16) who have a Statement of SEN or an Education Health and Care Plan (EHCP) who meet criteria based on need on the basis that they cannot be reasonably expected to walk to school because of the distance to the school, their special educational needs, their disabilities, or health and safety issues related to these needs and disabilities.
- 3.2 Currently SEN Transport provides transport for 657 students on 255 routes to schools and colleges, the majority on a daily basis, together with mileage payments for a further 47 families (as at end-October 2017). In addition, the team provides transport to Sutton Pupil Referral Units "PRUs" for 45 passengers on 18 routes, and to the Travellers' Service for 24 passengers on 7 routes.
- 3.3 The numbers of pupils with an EHCP plan or statement of SEN in the Borough has increased significantly from 1,087 in March 2014 to 1,500 in March 2017 (an increase of 38%), and stood

at 1,562 at the end of October 2017. The proportion of pupils that have received transport has stayed relatively consistent at about 43%, indicating that the transport policy has been applied relatively consistently over that period. The number of passengers has increased and is expected to continue to grow in line with the increasing number of pupils with EHCPs being requested and agreed. This is putting significant pressures on already limited Council budgets.

- 3.4 The London Borough of Sutton is acutely aware of how critical it is to meet the needs of children and young people who have additional needs as set out in statutory guidance. The Council must also be mindful to ensure that we provide services in the most effective way and to prioritise those services where they are needed most. In an increasingly challenging financial context this is becoming harder and harder given the significant increases in demand. The proposals that the Council have consulted upon are an attempt to reduce expenditure in some areas, whilst investing in others to achieve a sustainable SEND transport offer in the future whilst promoting independence and independent living skills for those pupils that would benefit from it most.

4. Issues

- 4.1 As part of the consultation, respondents were asked for their views on the changes being put forward, broken down into three broad areas:
- A. Operational changes in the way the Council provides SEND Transport as well as how parents can access SEND Transport.
 - B. Ceasing some non-statutory SEND transport provision for Post 19 pupils where it is appropriate to do so.
 - C. Investing in alternative ways of supporting some pupils with SEND needs in order for them to be able to travel to their place of learning safely and independently.
- 4.2 In addition to the above question, respondents were asked a more general question:
- D. Are there any other issues or ideas you think we should be considering as part of this review?
- 4.3 The consultation was qualitative rather than quantitative in nature to try and ensure that rather than capturing 'yes' / 'no' responses a more rounded understanding of views were captured. Each respondent was given an opportunity to write their responses in an open text box in order to make their views known and each response has been logged individually. The responses are summarised in the main body of the report below with key themes highlighted where they arose together with officers comments on those themes.
- 4.4 Operational changes in the way the Council provides SEND Transport as well as how parents can access SEND Transport. Many respondents expressed the view that SEND transport was vital to children getting to school safely, was much needed in light of their disability and the absence of it would jeopardise school attendance. Officers are in general agreement with this statement, and are of the view that the changes proposed will go some way towards protecting the assistance which is offered to families. The changes will affect how the Council provides SEND Transport and how that transport will be accessed, they will not affect the numbers who

are statutorily eligible for assistance with home to school transport. They may affect the way in which that assistance is offered or the way in which it is delivered but reducing the individual costs of transport for children and young people allows the Council to continue to provide assistance to all eligible pupils.

- 4.5 A number of respondents were concerned about annual reapplication process and the associated burden this might entail. Whilst it is recognised that annual application and confirmation of eligibility for assistance with transport is a change to the current format, this change will allow the Council to ensure that scarce resource is used as effectively as possible and is prioritised. Transport needs do sometimes change over time and this should be assessed at regular intervals, however officers will seek to ensure that the process is as straightforward as possible to reduce any undue pressure on parents (particularly where it is the case that transport needs are unlikely to change year on year).
- 4.6 Some respondents were concerned about insufficient funding. Whilst this point is noted, it is a reality that Local Authorities have to find ways of reducing expenditure and therefore reducing the individual costs of transport for children and young people which will allow the Council to continue to provide assistance to all eligible pupils.
- 4.7 In addition to the above, there were a number of positive comments about using more minibuses, with the recommendation that escorts were vital. All minibus transport is provided with at least one passenger assistant, and in cases where it is necessary, further assistants are supplied on the vehicle.
- 4.8 Ceasing SEND transport provision for Post 19 pupils where it is appropriate to do so. Based on the nature of the responses there were as many parents/school staff that were in favour of this proposal as were against. The majority of respondents' did raise a concern (whether they were in favour or not) about making sure that individual circumstances and needs were considered and that a blanket approach was not applied. This is the approach the Council is proposing to take as confirmed in the consultation document circulated in January.
- 4.9 Based on the responses received, officers would recommend that the Committee proceed to implement a change to the post 16 SEND transport policy on the basis as set out in the consultation document. It should be noted here, that officers would propose that where a student has started a course prior to September 2018, the Council would honour existing agreements until the end of the course. This will bring Sutton into line with a number of other Local Authorities who have already put in place this policy.
- 4.10 Investing in independent travel training The overall response was generally positive to this proposal on the grounds that it would support young people to achieve life skills, be able to live more independently and that this preparation was important for young people as they make the transition into adulthood. The council's Smart Place project has been tasked with finding innovative solutions to key challenges faced in the borough. One of the challenges which is being worked through is around supporting vulnerable people to travel spontaneously, independently, for people to receive support along the way and for families/carers to be reassured that they are safe. The Smart Place team are in the very early stages of

understanding the challenges faced by young adults with learning disabilities to start to explore the beneficial role that innovative technological solutions could play in supporting people, where appropriate. The lessons from this work could have positive implications for people with SEND in the borough who need support to travel and will form part of the development of our work around supporting people to travel independently.

- 4.11 The majority of concerns (and these were raised by those that were generally supportive of the proposals) were with regard to looking at individual circumstances and ensuring that independent travel was right for the young person.
- 4.12 Officers would strongly support this point. There is no expectation that independent travel will be achieved by every young person, or that it would be suitable for everyone. Those for whom travel training is not considered suitable would continue to receive assistance through provision of appropriate transport and support.
- 4.13 The approach that officers intend to take, is for those who are considered able to benefit, the Council would be to agree to provide transport for a fixed period alongside a referral to the independent travel training provider. The provider would do an initial assessment in conjunction with a meeting with the young person and their family. At this point, it may be that it is not considered suitable to offer travel training to a young person, and these young people would continue to receive assistance through provision of appropriate transport and support.
- 4.14 Those who are considered suitable would be offered a number of sessions with a travel trainer, who will work with them to teach them to become a safe and competent independent traveller. This may require more or fewer sessions depending on the young person's confidence, competence and previous experience.
- 4.15 As well as these sessions with the trainer, the Council would continue to provide transport for the young person at the times when they are not being trained, until they have been signed off by the trainer, their parent and themselves as being ready to travel independently.
- 4.16 It is important to note here that in order to make the most of the investment that the Council is expecting to make (circa £150k in 2018/19 academic year) it will be expected that families will engage with the travel training team to assess whether their son or daughter is suitable for travel training, and to engage with training sessions if this is the case.
- 4.17 Other issues and ideas expressed. The following additional comments or ideas were expressed in response to this question.
- Seeking a family contribution for school transport was suggested, but this would not be legal where transport is considered necessary.
 - It was suggested that we save money from other services instead of from school transport; however all areas of Local Authority expenditure are under financial pressure, and no individual service is exempt from consideration.
 - It was stated that transport for children below statutory school age is needed as they access other therapies/services etc at school. Officers would generally agree - the consultation stated

that it is considered that to remove this provision would be unreasonable and disproportionately disruptive for the small number of families involved, and recommended no change to the current policy, while clarifying the wording and re-confirming the expectation that parents of children with SEND who are attending local provision should make their own transport arrangements.

- Concerns about considering individual needs were expressed; the consultation stated that there can be no blanket policies when it comes to pupils with SEND and SEND transport, and all cases will continue to be assessed on their own merits.
- The need to seek additional funding from Government was also expressed.

5. Options Considered

- 5.1 The options considered were set out in Appendix A of the report that went to Children, Family and Education Committee on 4 January 2018.
- 5.2 Consideration has been given to areas where the Local Authority offer goes beyond statutory minimum, looking at what changes can be made to bring London Borough of Sutton back into alignment with other Local Authorities.
- 5.3 Consideration has also been given to areas where the Local Authority offer could be implemented in a different manner which would reduce costs without seriously impacting on the service provided to children and young people.

6. Impacts and Implications

Financial

- 6.1 The SEN transport budget for 2017/18 is £4.814m, funded mainly by the general fund (£4.174m) but with a contribution from the Dedicated Schools Grant (DSG) of £640k. The latest forecast outturn position for 2017/18 is an overspend of £1.8m. There is also financial pressure on other transport provision for Travellers (£73k) and Sutton's Pupil Referral Units, Limes College (£53k) and STARS (£279k).
- 6.2 These cost pressures are expected to continue in 2018/19 and have been addressed in the short term by growth of £2m and invest to save funding of £330k to support the costs associated with the delivery of some of the savings options. However savings of £772k are also included in the 2018/19 budget with additional savings projected of £692k and £114k in 2019/20 and 2020/21 respectively. These savings are expected to be achieved by the options as detailed in Appendix B. It is therefore imperative that the savings proposals are progressed in order to address the ongoing financial position.

Legal

- 6.3 The Council has a duty under section 508B of the Education Act 1996 to make travel arrangements to secure suitable home to school travel arrangements are made and provided free of charge for eligible children. The duty applies to all children in the authority's area and not

solely pupils with SEN. Eligibility is based on whether the child can reasonably be expected to walk to school (accompanied as necessary), having regards to SEN or mobility issues, and the distance from the child's home to the nearest suitable school or alternative education placement. Children living further than the statutory walking distance to school are eligible. The availability of free travel for pupils in London through the Oyster Card system and the availability of suitable local school places means that the majority of pupils needing transport are pupils with SEN. Travel arrangements may be provision of transport or, by agreement with the child's parent, other arrangements such as provision of a travel escort, provision of travel expenses, or payment of allowances for travel. Where there is a duty to make travel arrangements, the arrangements must be suitable to enable the child's attendance at school.

- 6.4 The Council has a discretion under section 508B of the Education Act 1996 to provide travel assistance or pay or contribute to travel expenses for children who do not have a statutory eligibility for transport and a power under section 509A of the Act to provide travel assistance to children receiving early years education otherwise than at school.
- 6.5 In relation to students of sixth form age, the Council is required by section 509AA of the 1996 Act to set out in an annual policy statement the arrangements that the authority makes and that governing bodies make for travel for sixth form age students and travel concessions available for them. The statement must set out what arrangements the council considers necessary to make in particular for disabled students and students with learning difficulties and disabilities. In considering what arrangements it is necessary to make, the local authority must consider: the distance from the learner's home to establishments of education and training; the journey time to access different establishments; the cost of transport to the establishments in question; and alternative means of facilitating attendance at establishments. In considering whether it is necessary to make arrangements in relation to an individual student, the authority must have regard (amongst other things, to the nature of the route, or alternative route, he could reasonably be expected to take.
- 6.6 For adult learners, the Council has a duty under sections 508F of the Education Act to make such arrangements for the provision of transport as they consider necessary in respect of:
- (a) adults (ie those who are aged 19 or over) for the purpose of facilitating their attendance at local authority maintained or assisted further or higher education institutions or institutions within the further education sector; and
 - (b) adults aged under 25 with an EHC plan for the purpose of facilitating their attendance at institutions where they are receiving education or training outside the further and higher education sectors. For those young adults, the local authority's duty only applies where the local authority has secured the provision of education or training at that institution and the provision of boarding accommodation in connection with that education or training.
- 6.7 Where the local authority makes arrangements in pursuance of its duty under section 508F, any transport provided must be free of charge. Where the local authority decides not to provide

transport arrangements in a particular case, they still have discretion to pay all or part of the reasonable travelling expenses for the student.

- 6.8 The local authority also has a duty under section 508G to prepare a transport policy statement setting out any transport or other arrangements that it proposes to make for that academic year in respect of adults aged under 25 with EHC plans.
- 6.9 Whilst therefore there is no statutory definition of eligibility for transport for students over compulsory school age, the council must assess what arrangements for transport it considers to be necessary. The authority's decision could be challenged by an aggrieved student via an application for judicial review and in responding to such a challenge, the authority would need to be able to show that it had acted reasonably and taken account of all relevant factors, including in particular the factors set out in the legislation. Where a significant change is proposed to transport policy, appropriate consultation with service users should be carried out when proposals are at a formative stage and the consultation response considered before a decision is made.

7. Appendices and Background Documents

Appendix letter	Title
A	SEND Transport Consultation Paper
B	Financial Savings
C	Equalities Impact Assessment

Background documents
None

Audit Trail		
Version	Final	Date: 28 February 2018
Consultation with other officers		
Finance	Yes	Sue Holmes
Legal	Yes	Sarah Willis
Equality Impact Assessment required?	Yes	James Mcloughlin / Simon Breeze