

TORBAY COUNCIL

Report No: **LCS/28/04**

Title: Changes to School and College Transport Policy

To: Executive Committee on 14th September 2004

1. Purpose

- 1.1 To report on consultation concerning changes to home to school transport policy
- 1.2 To recommend changes in policy leading to a reduction in net expenditure.

2. Relationship to Corporate Priorities

- 2.1 Reducing expenditure on school and college transport will enable savings to be re-invested in Education, thereby contributing to corporate priority "Education – Placing Learning at the Heart of Our Community."

3. Recommendation

- 3.1 That the position of pupils currently in receipt of free transport to denominational and grammar schools be protected until such time as they transfer to a new phase of education at the end of Year 6 or Year 11 on or after 1 September 2005.
- 3.2 That for pupils joining or transferring to selective and denominational schools after 1 September 2005, the existing policy to decide entitlement to assistance with transport to denominational and selective schools be amended. The new policy will offer assistance only where the school is designated to serve the home address and the school is beyond the statutory walking distance from the home address.
- 3.3 Where pupils in paragraph 3.2 are eligible for assistance with transport to selective and denominational schools through the exercise of discretionary powers, a parental contribution be required after 1 September 2005.
- 3.4 That in the 2005-2006 school year, the contribution will be £200 per pupil and that the Council will subsequently review the level of contribution on an annual basis.
- 3.5 That the contribution will be remitted from pupils who meet the eligibility criteria for free school meals. An entitlement to remission will last for the whole of the school year in which it is established and eligibility for continued remission be reviewed annually before the start of each academic year. The Council will subsequently review the remission policy on an annual basis.
- 3.6 That no change is made to the policy on eligibility for assistance with post 16 transport, but the Council will, from 1 September 2005, seek a financial contribution from all post 16 students, ending its scheme of remission for students from low-income families.

4. Reason for Recommendation

- 4.1 In the context of the current financial climate, the Council should take action to reduce areas of discretionary spending.

5. Background

- 5.1 The Executive Committee considered a report on 30 March, which set out the current position with regard to home to school transport. The report noted that the Council spends over £1.4 million on

transport. Torbay is a high spending Council on school and college transport. In 2002/2003, Torbay was the third highest spender among its family of 11 statistical neighbours and 16th highest among over 80 unitary authorities.

- 5.2 The report explained that some transport is provided to meet statutory duties and some in the exercise of discretionary powers. The Council faces unavoidable expenditure on meeting statutory duties, but this area of spend is not being ignored and officers in both the Learning and Culture and Environment Directorates continue to seek efficiency savings.
- 5.3 Inevitably, however, the focus must be on the significant proportion of the expenditure (around £450,000 net) that is used to provide transport at the discretion of the Council (i.e. over and above statutory duties). Details of Expenditure are to be found in Appendix A. Discretionary transport is provided chiefly to those attending selective and denominational schools, where the school is not the “nearest suitable school” as defined in law. This means the policy is supporting parental choice in particular areas.
- 5.4 A further report to Executive on 18 May explained that the options for the Council are
 - (a) to cease to exercise discretion
 - (b) to continue to exercise discretion, but to introduce a charge for such transport
 - (c) to maintain the status quo and exercise discretion to provide free transport
- 5.5 The Executive noted that, in theory the Council could provide no discretionary transport and meet only its statutory duties. This would mean the withdrawal of all transport to denominational schools, selective schools and for all post 16 students.
- 5.6 There is some precedent for this locally in that Devon County Council does not exercise discretion to provide any transport to the Torbay selective schools and a very few LEAs do not provide any post 16 transport. There is no such precedent in the case of denominational transport, since complete withdrawal would lay the Council open to challenge that it is fettering its discretion in this area, a discretion which is specifically mentioned in the relevant legislation.
- 5.7 The Executive noted that if the Council ceased to exercise discretion leading to the withdrawal of organised school transport it could have an environmental impact. The risk is that commercial services may not fill the gap and a larger number of school journeys would be made by parental car leading to increased congestion at school times.
- 5.8 Consequently, the Council decided to consult on options that would enable it to continue the support of parental choice by maintaining the existing transport network, but share costs with parents. The consultation suggested that the Council would introduce modest charges, have regard to the circumstances of low income families, take into account the effect that policy changes might have on existing parental arrangements for securing attendance and be implemented after a reasonable period of notice.
- 5.9 The report on consultation is attached as Appendix B.
- 5.10 In view of the financial difficulties faced by the Council it is recommended that it reduces its net expenditure on school transport through the introduction of charges for transport to denominational and selective schools and a change in the charging regime for post 16 students.
- 5.11 The policy recommendation takes account of several issues.
- 5.12 In the case of pupils already attending denominational selective schools, it is recommended that free transport should continue until these pupils change school, or enter a new phase of education (i.e. at end of Year 6, or at end of Year 11). If instead, changes in policy affected those currently receiving free transport, there is a risk that parents would seek to transfer their children to different schools and the Council would not be in a position to cope with pupil migration on this scale. There is also some case law in this area, which suggests the Council would be unwise to withdraw of free transport from those already in receipt.

- 5.13 The Council should not withdraw completely from offering an organised transport network, since this would encourage parental escorted journeys by car and this would add to school run congestion. Instead, the Council should seek to retain a viable transport network serving denominational and selective schools and post 16 students.
- 5.14 Contributions should be set at a level that will retain a viable transport network so as to avoid the problems identified in the preceding paragraph. Contributions should be set at a reasonable level and it is recommended that, in the case of denominational and selective school transport this should be £200 per year for the initial year. In the case of post 16 students, it is recommended that the current level of contributions (£255 per year) be retained but this charge be extended to cover all post 16 students.
- 5.15 The Council should have regard to the position of low-income families and remit contributions from those who meet the eligibility criteria for free school meals.
- 5.16 There must be adequate notice of a change in policy. The Secretary of State's expectation is that policy changes are introduced only at the start of a school year and so this new policy would apply from 1 September 2005.
- 5.17 In the case of post 16 students, the Council should take account of the introduction of Education Maintenance Allowances (EMA). These allowances are being phased in from September 2004, so by September 2005, the majority of post 16 students in local settings will be eligible for an EMA if they come from a family with an income of less than £30,000 per annum. Currently, the Council operates a generous transport network for post 16 students that meets basic need and facilitates a high degree of student choice. If the Council does not seek to increase its income from post 16 students, then it would need to consider a contraction of its network and adopt a less generous policy. It is recommended, therefore, that the Council should end its policy to remit contributions from students from low-income families and instead move to a position where all students pay a flat rate charge. This change in policy would generate additional income to offset against rising costs, so that the Council would not need to raise the level of contribution and it is recommended the current contribution of £255 remain for 2005/2006.
- 5.18 From September 2005 onwards, the Council should review its school transport charging and remission policy on an annual basis.
- 5.19 In adopting charging and remission policies, it is recommended that the Council should aim for simplicity, rather than adopt complex multi-layered charging regimes that will be difficult and costly to administer. Adopting complex remission policies would require an increase in the transport charges to pay for administrative costs incurred by a complex remission system.
- 5.20 The Council should take this opportunity to simplify its eligibility policy with regard to the "nearest school rule". The Council is required to provide free transport when a child attends the nearest school suitable to age, aptitude and ability, where the school is beyond the statutory walking distance. The Council currently operates a more generous "nearest school" policy in that it provides transport to the nearest selective school. From September 2005, it should provide transport only to the designated selective school. The selective schools in Torbay have long-standing, clearly defined designated transport areas.
- 5.21 At present, the Council should not change its policy of eligibility for transport for post 16 students, but with the impending move of South Devon College to Whiterock, this issue may need to be revisited at a later date.
- 5.22 The current checks and balances on the operation of the eligibility policy will remain in operation. Parents who feel they have special circumstances that merit deviation from the normal policy can ask for their case to be reviewed by a panel of officers who are at a remove from the original decision. If parents are dissatisfied with this review they can appeal to a Committee of elected members.
- 5.23 The introduction of charging regimes as outlined above would in the first financial year (2005/06) yield income of around £52,500, rising to £177,500 when the policy would be fully phased in by

financial year 2010/11. These sums could be re-invested in Education.

6. **Key Risks associated with the Recommendation(s)**

- 6.1 The risk associated with adopting the policy recommendations have been assessed as "high" with regard to very significant likelihood of a serious loss of service to a group of stakeholders. Clearly, there are stakeholders who have gained an expectation from the current policy that the Council will exercise discretion to provide free transport to denominational and grammar schools and remit charges from post 16 students from low income families.
- 6.2 The policy recommendation has been framed in such a way as to reduce other potential risks, which could have been significant. Any new policy must still enable the Council to meet legal expectations with regard to the exercise of discretion and both the consultation and subsequent phasing in the new policy has had due regard to relevant case law, so as to minimise the risk of challenge. The potential impact on the environment is also significant, if it resulted in increased incidence of parental escorted school journeys by car. The recommendation is to amend the policy in such a way to minimise the risk by retaining an affordable school bus network. There is a risk of an adverse effect on the Council reputation, but again, the policy recommendation seeks to manage this risk by proposing a change that is a reasonable and proportional response by the Council to its financial difficulties.
- 6.3 The financial and strategic risks are associated with not adopting the recommended policy given the consequence would be that the Council would need to maintain a high level of discretionary spending, thereby restricting its capacity to deliver other strategic priorities and reducing the ability to fund other services.

Likelihood	6	6	12	18	24
	5	5	10	X	20
	4	4	8	12	16
	3	3	6	9	12
	2	2	4	6	8
	1	1	2	3	4
		1	2	3	4
		Impact			

Low risk
 Intermediate risk
 High risk

6 **Alternative Options (if any)**

- 6.1 There are a number of alternative options.
- 6.2 The Council could decide not to change policy. However, the Council will also continue to face budgetary pressures, but will not have made reductions in this area of significant discretionary spend.
- 6.3 The Council could decide to change its policy for existing passengers and not to have a phased introduction of the new policy as recommended. This would increase the risk of pupils changing schools. Consultation did not take place with existing passengers and so there is an increased risk of judicial challenge. A fresh consultation with parents of existing riders would be required.
- 6.4 The Council could decide to operate a different remission policy that that recommended. The Council could be more generous and offer remission to other groups beyond those eligible for free school meals. This might include those in receipt of tax credits, or be a scheme based on a parental means test. The Council could also be more generous by making some allowance for large families with more than one child subject to the contribution. A more generous policy is likely to be more costly to

operate and will inevitably reduce the income collected from contributions. The Council could also decide to offer a less generous policy than recommended, but there is a risk that this would significantly affect the position of children from very low-income families.

- 6.5 The Council could decide on a level of contribution that varies from that recommended. The scope for the level of charge ranges from a token charge of, say, £10, right up to the recovery of the full cost of travel which would, by September 2005, be in the region of £450 per year. Contributions set at the lower end of this spectrum would have reduced impact on service users, but would also reduce the amount of income for the Council. Setting the level of contribution at the higher end of the spectrum would increase the potential income for the Council (by around £8000 in full effect for every £10 increase in contributions for all types of passenger). However, it would also increase the risk that the number of passengers on the network would reduce and a greater number of pupils will travel to school by parental car.
- 6.6 The policy recommendations and the alternative options above all bring risks. The options with the highest risk would be to make a policy change that affects existing passengers and/or to make no arrangements to remit contributions from low-income families. Arguably, the lowest risk option is for the Council not to change its policy. However, whilst this might appear low risk, the fact is that other services will be placed at greater risk given the need for the Council to address its financial difficulties. The option where there is most room for manoeuvre is in the area of setting the level of contribution. Here the Council can sensibly balance its need to reduce net expenditure with the effect on stakeholders, patterns of school attendance and traffic congestion.

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IMPLICATIONS, CONSULTATION AND OTHER INFORMATION

Part 1

These sections may be completed by the Report author but must be agreed by named officers in the Legal, Finance, Human Resources and Property Divisions. If these are not completed and agreed the Report will not be included on the agenda.

Does the proposal have implications for the following issues?

Insert name of
Responsible officer

Legal (including Human Rights)	The Council's policy on school transport must meet statutory duties and meet expectation with regard to the exercise of discretion in the area of denominational transport. Before changing policy, the Council must have undertaken proper consultation.	Bill Norman
Financial – Revenue	A potential decrease in net expenditure on school and college transport. From 2005/06 a potential net saving on home and college transport of £52k increasing to £177k in future years	Lisa Finn
Financial – Capital Plan	No	Lynette Royce
Human resources (including equal opportunities)	No	Anthony Goble
Property	No	Sam Partridge

Part 2

These sections must be completed by the author of the Report.

Does the proposal have implications for the following issues?		
Please give details as appropriate		
Sustainability	Yes or No	Yes. The Council should not change policy in such a way that it could lead to a diminution of the school transport network and an increase in school run congestion.
Crime and Disorder	Yes or No	No
*OfSTED Post Inspection Action Plan	Yes or No	No
*Social Services Action Plan	Yes or No	No
*Change Management Plan	Yes or No	No

** not applicable to reports to Licensing, Development Control and Area Development Committees*

Part 3

These sections must be completed by the author of the Report.

Does the proposal have implications for the following Directorates? If so, please inform the relevant Director.		
Please give details as appropriate		
Chief Executive/Corporate Services	Yes or No	Yes. The new policy must comply with the law.
Education Services	Yes or No	Yes
Environment Services	Yes or No	Yes. Change to revenue collection arrangements via Transport Co-ordination Centre.
Social Services	Yes or No	No
Strategic Services	Yes or No	Yes. Some implication for Local Transport Plan

Part 4

Is the proposal contrary to or does it propose amendment to the Policy Framework or contrary to (or not wholly in accordance with) the Council's budget?	Yes	Fill in Box 1	No	✓	Fill in Box 2
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1. Details of the nature and extent of consultation with stakeholders and relevant select committees.

Consultations were held with groups that would most likely be affected by a change in policy. These are the parents of pupils who will be moving into secondary education and post 16 education in the next few years, assuming the policy was to change with effect from 1 September 2005.

A leaflet explaining the reasons for consultations and the options under consideration was sent to the parents of all pupils in Years 4 and 5 (due to move to secondary school in September 2005 and 2006) and in Years 10 and 11 (who could be in post 16 education on 1 September 2005). The leaflet included a questionnaire inviting parents to express views in a systematic way, but also allowing for some "free" comment.

The consultation document was also sent to all Torbay schools, the chairs of governors at all Torbay schools, the DfES, the C of E and RC Diocesan authorities and Devon LEA.

It is clear that some of those consulted broadened the consultation to include other groups through photocopying and distributing the consultation documents to a wider audience.

A public meeting was held on 7 July 2004 at Paignton College and Sports College. The meeting was divided into three sessions, the first concerning transport for selective schools, the second for transport to denominational schools and the third for post 16 transport.

A number of letters were received from individuals about the suggested policy change.

2. Details and outcome of consultation, as appropriate.

A full report on consultation is attached as an Appendix..

Part 5

Is the proposal a Key Decision in relation to an Executive function?	Yes	Reference Number	No
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Part 6

Wards

All

Appendices

Summary of Council expenditure on school transport
Report on Consultation

Documents available in Members' Room

Letters received in response to consultation.

Background Papers:

The following documents/files were used to compile this report:

Home to School/College Transport Funding Issues. Report to Council Executive Committee 30 March 2004
Consultation on changes to School and College Transport Policy 18 May 2004.

Discretionary Transport

Reason for Discretion	Number of passengers	Cost (gross)	Cost per pupil, per day
Denominational: 5–11 years	8	£9,573	£6.30
Denominational: 11-16 years	224	£88,958	£2.09
Selective: 11-16 years	433	£189,364	£2.30
All Post 16	308	£169,419	£2.89
Totals	973	£457,314	£2.47

Statutory Transport

Sector	Number of passengers	Cost (gross)	Cost per pupil, per day
Primary	64	£152,644	£12.50
Secondary	317	£206,249	£3.42
Special Schools and PRU	255	£601,558	£12.41
Totals	636	£960,451	£7.95

Passenger Totals

Discretionary Passengers	973	60%
Statutory Passengers	636	40%
Total	1609	100%

Gross Expenditure Totals

Discretionary Spending	£457,314	32%
Statutory Spending	£960,451	68%
Total	£1,417,765	100%

Notes

Based on 2002/2003 financial year outturn figures.

Where sectors and/or age groups share transport, costs have been apportioned

Based on academic year of 190 days, though FE Colleges have slightly shorter year

Net cost is lower due to income from post 16 charges of around £21,150

The number of passengers in receipt of free transport varies during the year. The above figures are indicative.