

The Highland Council
Education, Children and Adult Services Committee
18 May 2016

Agenda Item	16.
Report No	ECAS 43/16

Review of School Transport Policy

Report by Director of Care and Learning

Summary

This report describes proposed changes to the Council's school transport policy and recommends adoption of an updated policy document.

1. Background

- 1.1. Members noted at the meeting of the Education, Children and Adult Services Committee on 11 February 2015 that a review of the Council's school transport policy was to be carried out. This review would take account of a Counsel's Opinion received in response to challenges to existing policy, Internal Audit report recommendations and good practice in other authorities.
- 1.2. A draft revised policy document, taking account of these factors, has been produced and is attached at **Appendix 1**.

2. Key issues

- 2.1. Key issues raised by parents concern the Council's policy around duty of care of pupils while on transport and current policy presumption on adult supervision on walking routes (to school or to meet school transport).
- 2.2. The Internal Audit report on school transport found a lack of clarity in the existing policy on entitlement for transport to Gaelic Medium education. A review of transport entitlement to both Gaelic Medium and denominational education is in progress.
- 2.3. Members have previously raised concerns about provision of transport to more than one address, where pupils' parents have separated.
- 2.4. This policy revision also recommends that availability of concessionary places should be restricted to contracts which are procured solely for school transport, and would not be provided on public transport contracts.

3. Duty of care while on transport

- 3.1. There is no clear legislation or case law on the duty of care for pupils on school transport. However, the Counsel's Opinion advised that "the Education Authority *may* be held liable for a failure to take reasonable care for the safety of the child from the minute the child leaves his carer's custody until the minute he/she is returned to that carer". This clearly includes the journey, waiting time at school (before and after the school day), and after alighting from the bus if the parent is not present.

- 3.2. Counsel advised that depending on the age of the child and the nature of the transport, the duty of care while on transport could be fulfilled by contractual agreements with the transport operator, supervision by senior pupils acting as bus prefects, and/or a code of conduct signed by the pupils and parents. Further measures such as CCTV cameras or provision of an escort might be necessary in specific circumstances but would not usually be required. The revised policy has been drafted to reflect this, and it is proposed that further detail be provided in guidance to pupils and parents, and to contractors.
- 3.3. Currently a code of conduct is issued to all pupils but it does not require acceptance by pupils or parents. A pilot project has been completed in Millburn Academy involving staff, pupils, the Council's Transport Co-ordination Unit and Stagecoach to test revised arrangements in relation to the code of conduct and to ensure that all pupils travelling are entitled to do so (or if not, that they pay a fare). This pilot involved a review of the Code of Conduct through consultation with Pilot Working Group. Conclusions from the Pilot include a recommendation that the Code of Conduct document is included in the enrolment process for the school including acceptance by both pupils and parents. It is intended that the findings will be applied to all schools. A primary school pilot may also be conducted.

4. Safety of pupils while walking

- 4.1. Another key issue addressed in the Counsel's Opinion was the safety of pupils while walking, either to school or to transport. At this stage of the journey, their parents are responsible for them, and not the Council. Following Road Safety GB recommendations, and in common with most authorities, the Council's practice is to assess the safety of walking routes on the basis that pupils are accompanied by an adult if necessary. In effect, this removes the age of the child from consideration when doing a safety assessment.
- 4.2. Having taken account of legal advice, the revised policy recognises that in many cases, older children would not need to be accompanied by an adult. Consideration of individual cases, where required, would take account of circumstances including the age and development of the child, which should be assessed by a teacher or possibly a social worker.
- 4.3. Also following legal advice, the revised policy allows for transport to be provided in exceptional cases where it is considered that a child would require to be accompanied while walking but no parent or other adult is able to do so. The policy wording is focused on medical exemption, rather than other circumstances such as parental working hours, which would not be considered as legitimate grounds for seeking an assessment based on unaccompanied walking.

5. Gaelic Medium and denominational school catchment areas

- 5.1. The current criteria for providing transport to Gaelic Medium education are not particularly well defined, and have evolved over time. The minimum distance and road safety criteria are the same as for English Medium education. However, GM schools do not have defined catchment areas, and current policy is to provide transport "within reasonable travelling distance". This is

often interpreted as meaning up to 15 miles, but there are variations and distances travelled are often longer.

- 5.2. Some children live within 15 miles of two GM schools (for example Bun-sgoil Ghaidhlig Inbhir Nis and Dingwall, or Portree and Dunvegan) and there are instances where pupils living in the same locality are provided with travel to both schools. This would not be accepted for English Medium education.
- 5.3. Work is therefore being undertaken to define travel entitlement areas for GM schools and departments, based on groupings of existing primary school catchments generally within each ASG area, in order to introduce arrangements which can improve clarity and consistency. A further report will be brought to Committee on this topic later in the year.
- 5.4. Similar work is being carried out with regard to the Council's three denominational schools.
- 5.5. Until this work on travel entitlement areas is complete, and reported back to this Committee, current policy with regard to Gaelic Medium and Denominational school transport will remain in force.

6. Transport to more than one address

- 6.1. The Council's policy, and the legal requirement, is to provide transport from/to one address only. However, where a pupil's parents have separated, there is a case for providing transport entitlement from/to both parental addresses, provided that this can reasonably be done.
- 6.2. On some routes, this provision could affect the seating capacity that is required or the length of the route. Therefore, a defined pattern of travel is desirable, rather than freely allowing travel on either route on any day.
- 6.3. It is proposed that transport would be permitted from/to both parents' addresses (or to one address if the pupil's usual address is within the statutory walking distance of the school), provided that
 - Both addresses are in the same Associated School Group area, or transport is available from an address outwith the ASG area at no additional cost to the Council;
 - Days of travel from/to each address are agreed in advance.

7. Privilege (concessionary) places

- 7.1. Where vacant seats are available on school transport, they are made available to pupils who are not entitled to transport. These are known as "concessionary places" and are charged at the rate of £190 per year (equivalent to £1 per school day).
- 7.2. The Internal Audit report recommended that the criteria for offering concessionary places should be detailed in the policy, and this has been done.
- 7.3. It is proposed to change the terminology to "privilege places" in common with most other authorities, and to avoid confusion with the concessionary bus travel scheme for older and disabled people.

- 7.4. It is recommended that for travel below the entitled distance, the current £190 charge should be increased by 10% from August 2016, in line with the Council's budget decision of February 2016, and thereafter be subject to annual inflationary increase, in line with budget decisions. It is also recommended that a family discount be introduced, so that the maximum charge for all children living at the same address would be 2.5 times the single pupil rate. For pupils who have been granted placing requests, it is recommended that distance-related charges should be introduced, and that these should follow the Council's maximum fare scale for public transport contracts.
- 7.5. These revised charges, along with improved income collection arising from recommendations arising from the Millburn pilot (paragraph 3.3), are designed to allow the Council to meet agreed financial saving targets associated with this activity.
- 7.6. It is also proposed to restrict the provision of privilege places to contracts which are tendered purely for school transport purposes. At present these are offered on some public service routes, for historical reasons. On public routes, seats not required for entitled pupils are not necessarily vacant, as they could be taken by other fare-paying passengers, so there is no legal obligation to offer them to school pupils. Also, on these routes, pupils could pay fares on a daily basis if they wish to do so.

8. Clarification of existing policies and procedures

- 8.1. Several current policies and practices are not explicit in the existing policy document. It is proposed to incorporate the following:
- A statement that in determining eligibility, distance will be measured electronically, using engineering design software, from the boundary of the pupil's home (e.g. the garden gate, or end of the path leading from the front door of the building) to either the entrance to the school grounds or the bus drop-off point at school, whichever is farther;
 - Provisions regarding the timing of school transport at either end of the school day;
 - A statement that the Council's policy is to use existing public transport or combined public/school transport contracts wherever practicable;
 - A fuller description of the entitlement review procedure, agreed by Committee on 11 March 2010.

9. Other changes

- 9.1. In accordance with legal advice, the draft policy includes "exceptional circumstances" as a situation where the Council may provide transport.
- 9.2. The current policy document includes information on procedures (e.g. how to apply for transport) in addition to policies. It is proposed that the revised document should be restricted to defining the policy, but be supported by:
- Guidance for parents and pupils;
 - Guidance for contractors and drivers;
 - A Service Level Agreement to define expectations for schools, the Care and Learning Service and the Transport Co-ordination Unit.

10. Implications

10.1. Resource:

- (a) There may be some additional demand on staff time to carry assessments of route safety and individual needs.
- (b) Provision of transport to two addresses is likely to lead to a small increase in cost due to the need for larger vehicles or additional mileage.

10.2. **Legal:** The recommendations are based on legal advice received and reduce the risk of legal action or challenges being taken against the Council.

10.3. **Equalities:** The policy takes account of pupils with additional support needs. An Equality Impact Assessment has been carried out, which shows positive impacts with regard to provision of transport to two parental addresses, and a positive impact with regard to disability due to the provision of transport where a parent is medically unable to accompany a child while walking.

10.4. **Climate Change/Carbon Clever:** There are no significant climate change/Carbon Clever implications. Any effect on overall mileage operated will be slight.

10.5. **Risk:** By clarifying and amending the policy, the recommendations reduce the risk of complaints and legal challenges.

10.6. **Gaelic:** The working being undertaken, to come back to Committee later this year, is intended to have a better defined and more consistent approach to Gaelic Medium transport provision.

10.7. **Rural:** The proposed policy will not alter the predominantly rural nature of school transport.

11. Recommendations

11.1 Members are invited to:

1. Approve the school transport policy document attached;
2. Approve the changes to charges for privilege places;
3. Note the intention to introduce defined travel entitlement areas for Gaelic Medium and denominational education, with a further report to come back to this Committee;
4. Note the work done with Millburn Academy on a code of conduct.

Designation: Director of Care and Learning

Date: 6 May 2016

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THE HIGHLAND COUNCIL

DRAFT Home-to-School Transport Policy

1. Introduction

- 1.1. This document sets out the Council's policy for provision of home to school transport. Separate documents provide:
- Guidance to pupils and parents (including details of how to apply for transport, and conduct expected);
 - Guidance to transport contractors and drivers.
- 1.2. The legal basis for school transport provision is found in the Education (Scotland) Act 1980, Sections 42(4) and 51(1), as amended by the Education (Scotland) Act 1981, Section 2, the Education (Scotland) Act 1996, Schedule 5 and the Standards in Scotland's Schools etc Act 2000, Section 37.
- 1.3. This document does not cover school trips or excursions.

2. Provision of transport

- 2.1. Transport may be provided only to:-
- (i) Pupils living in the catchment area of the school attended; or
 - (ii) Pupils allocated by the Council to an alternative school, if there are no places available in the catchment area school; or
 - (iii) Pupils allocated to an alternative school by the Council, for educational reasons; or
 - (iv) A special school appropriate to ASN or authority placement to such a school; or
 - (v) A Gaelic Medium school or department, if the distance is reasonable; or
 - (vi) A denominational school, within 10 miles of the pupil's home; or .
 - (vii) A pupil's existing school, following a change of address to outwith that school's catchment area, where transport can reasonably be provided, but only for pupils in S4, S5 or S6 and only for the remainder of the school year in which they change address.
- 2.2. For pupils attending a school as described in 2.1 above, the Council will provide transport, free of charge:-
- (a) if the walking distance to or from school for pupils aged under 8 years would be more than 2 miles each way (by the shortest safe walking route);
 - (b) if the walking distance to or from school for pupils aged 8 years or over would be more than 3 miles each way (by the shortest safe walking route);
 - (c) if all walking routes below the eligible distance (2 or 3 miles, according to the pupil's age) have been assessed by the Council as unsafe for children to walk, accompanied if necessary by an adult;
 - (d) if a pupil has a medical condition which the Council has accepted as making him or her unfit or unable to walk to school;
 - (e) if a pupil has been assessed as having additional support needs which include a need for transport;
 - (f) in exceptional situations on their individual merits, if the Council considers that transport provision is necessary.

- 2.3. The Council is not legally required to provide transport in categories 2.1 (iv), (v), (vi) and (vii) above but does so on a discretionary basis.
- 2.4. Transport will not necessarily be provided door-to-door. Routes are designed as far as practicable to avoid excessive journey times for the furthest pupils and to be cost-effective. Pupils may be required to travel up to the statutory walking distances (2 miles under age 8; 3 miles for age 8 and over) to/from a pick-up/drop-off point. Transport will not be provided on private roads unless required for ASN or medical reasons, or if the length of the private road exceeds the statutory walking distance. Drop-off/pick-up points at the school end of the journey will be as close as practicable to the school, but in some cases may involve a short walk between the drop-off/pick-up point and the school gate.
- 2.5. Distances are measured electronically to determine entitlement, using engineering design software to determine the distance as accurately as possible and to ensure consistency in measurement. The distance measured will be from the boundary of the pupil's home (e.g. the garden gate, or end of the path leading from the front door of the building) to either the entrance to the school grounds or the bus drop-off point at school, whichever is farther. Distance from the pupil's home to a bus pick-up/drop-off point will be measured by the same method.
- 2.6. Transport entitlement is normally provided from/to **one** home address only, which will be the pupil's address as recorded by the school. However, in cases where parents live apart, free transport may be provided from/to both parents' addresses, or from/to one parent's address if the pupil's usual address is within the statutory walking distance of the school, subject to:
- Both addresses being in the same Associated School Group area, or transport being available from an address outwith the ASG area at no additional cost to the Council;
 - Days of travel from/to each address being agreed in advance.
- In all other respects, the normal entitlement criteria would apply.
- 2.7. Transport is not provided to nurseries or pre-school education.
- 2.8. Pupils who have been granted placing requests do not have entitlement to transport.
- 2.9. However, transport may be provided to pupils on a privilege (non-entitled) basis to pupils who do not qualify for transport entitlement, if spaces are available on existing transport (see section 9 below). There is a charge for privilege transport provision.
- 2.10. Provision for transport home from after-school activities is not provided as part of the school transport policy. Schools may arrange or fund transport for after-school activities at their own discretion.
- 2.11. The Council will issue a pass to each pupil as proof of entitlement.

3. Safety of Walking Routes

- 3.1. Walking routes (to/from school or to/from the transport pick-up/drop-off point) are assessed following guidelines published by Road Safety GB. Assessment is done on the basis of children being accompanied by a responsible adult if necessary, although it is recognised that in many cases older children will not need to be accompanied by an adult.
- 3.2. In general it is expected that children aged 12 or over will be able to walk unaccompanied, although the nature of the route and the development of the child will be taken into account in individual cases.
- 3.3. In assessing whether transport is required, it is generally assumed that a responsible adult (not necessarily a parent) is available to accompany children on the route if necessary, Exceptional circumstances, such as a parent being unable to accompany a child for medical reasons, may be considered by the Area Education Manager.
- 3.4. Further detail of assessment methods is given in the "Information for Parents".

4. Types of Transport

- 4.1. Most school transport is contracted out to local transport providers. The type of transport depends on the requirements of the route and the tenders received. The transport supplied could be any of the following:
 - dedicated school contract bus (service solely for pupils)
 - bus contracted for both school and public transport needs
 - bus pass on commercially operated local service bus
 - taxi or private hire car
 - car hired exclusively by the Council and not available for other hires on any school day (not licensed as a taxi or PHC)
 - Council-owned vehicle
 - train
 - ferry.
- 4.2. The Council's policy is to make use of existing public transport, or combine school and public transport contracts, wherever practicable. Where this is not feasible, separate school transport will be provided.
- 4.3. In remote locations, parents or guardians may be paid mileage or boat cost expenses to transport their own children, if this is more economic than awarding a contract for the route.

5. Timing of transport

- 5.1. Transport is provided for the start and end of the normal school day. Normally transport will arrive between 20 and 5 minutes before the start of the day, and leave between 5 and 20 minutes after the end of the day. However, the Council may allow a gap of more than 20 minutes at either end of the day, at their discretion.
- 5.2. No additional provision is made for Primary 1 children who may have a shorter day for the first days or weeks of the school year or for Primary 1-3 children who attend for a shorter day than pupils in the upper stages.

- 5.3. Some pupils who live a long distance from school stay in school residences during the week. Free transport is provided for these pupils on the first morning and last afternoon of each school week. (For Mallaig High School pupils living in the Small Isles, transport is generally provided fortnightly.)

6. Reviews of Entitlement

- 6.1. Parents or guardians may request a review of any decision to refuse entitlement to school transport under any of the criteria listed in 2.2 above. If the request is on the grounds of safety, the review will be of the suitability of the walking route, and pick-up / drop-off points if applicable, and will apply to all pupils using that route. Any individual circumstances (e.g. medical conditions) will be considered separately from the review of the route.
- 6.2. Reviews will be carried out in the first instance by a member of the Transport Co-ordination Unit staff. If the reason for the review includes individual circumstances such as additional support needs or medical needs, Care and Learning staff will be involved. If the parent or guardian is still not satisfied with the decision, the route will be considered by the Council's Education Transport Entitlement Review Sub-Committee.
- 6.3. The decision of the Education Transport Entitlement Review Sub-Committee will be final within the Council, unless there is a material change in the nature of the route or other circumstances after the decision has been made.

7. Responsibilities of Parents/Guardians

- 7.1. Ultimately, whether transport is provided or not, parents or guardians are responsible for ensuring that their children attend school. Where transport is provided, parents or guardians are responsible for ensuring that their children have the necessary bus pass (or fare, if they do not have a pass), get on the transport in the morning, and that they are able to get home safely from the drop-off point in the afternoon.
- 7.2. Parents or guardians are responsible for the behaviour of their children while on school transport. Parents, and children aged in Primary 4 or older, will be required to sign a code of conduct agreeing to appropriate behaviour. Transport will not be provided until this code has been signed.
- 7.3. Head Teachers may apply disciplinary sanctions against any pupil misbehaving on school transport in the same way as they would for misbehaviour on school premises. Also, the Council may withdraw transport entitlement in cases of misbehaviour on transport.
- 7.4. If transport is withdrawn, parents or guardians remain responsible for getting their children to school, unless the child has also been suspended from school.

8. Safety and Supervision on Transport

- 8.1. All drivers of school transport contracts are required to have passed an Enhanced Disclosure check, or to be members of the PVG (Protection of Vulnerable Groups) scheme.

- 8.2. Drivers are responsible for:
- Checking when pupils board the transport that they are entitled to travel
 - Driving safely
 - Deciding when it is not safe to drive, e.g. in bad weather
 - Opening and closing doors at stops
 - Reporting misbehaviour to the school, if it is serious enough to cause a distraction from driving or a danger to pupils
 - Supervising the pupils in an emergency (if possible).
- 8.3. Seat belts are provided for all pupils on all Council-owned or contracted vehicles. Sideways facing seats may exist on large buses but these are not counted in the vehicle capacity for the contract and should be signed as not for the use of pupils. Passengers should not have to stand during the journey. These conditions may not apply on commercially operated bus services or on other modes of transport.
- 8.4. Drivers of vehicles of up to 16 seats are responsible for ensuring that pupils wear seat belts.
- 8.5. Contractors must provide child seats or booster cushions where required by law. There is no requirement for these to be provided in buses, licensed taxis or licensed private hire cars. Therefore they are required only in cars which are not licensed as taxis or private hire cars.
- 8.6. Supervision, other than by the driver as described in 8.2 above, is not normally provided. Where required, additional supervision may be provided by:-
- Senior pupils appointed as bus monitors;
 - Escorts, where necessary for pupils with Additional Support Needs;
 - Other supervision if specific issues have been reported.
- 8.7. CCTV is used on many school buses, and may be used to identify pupils involved in misbehaviour. Images collected by CCTV will be managed in accordance with the Data Protection Act and the Council's Data Protection policy.

9. Privilege Places

- 9.1. On a "dedicated" school transport contract (i.e. provided for school pupils only), seats not required for children who are entitled to free school transport may be allocated to other pupils, provided that this does not result in additional cost to the Council. These are known as "privilege" seats.
- 9.2. A charge will be made for this provision, except that pupils entitled to clothing grants will not be charged.
- 9.3. If there is more demand for privilege places than seats available, places will be offered as follows:
- Siblings of entitled pupils will have first priority, provided that they are travelling to the same school.
 - Points will then be allocated according to age and distance:
 - a. *Primary School routes:*

- 1 point for each year of age below 12 (to minimum of 4 yrs)
- 1 point for each half mile of distance from school (up to 3 miles)

b. Secondary School routes:

- 1 point for each year of age below 16 (to minimum of 11 yrs)
- 1 point for each half mile of distance from school (up to 3 miles)

Pupils who have been granted placing requests will be treated for this purpose as though they live 3 miles from school.

9.4. Privilege places may be withdrawn, at a minimum of 2 weeks' notice, if a seat is no longer available. The most likely reasons for withdrawal are:

- the seat is required for an additional entitled pupil;
- the size of the vehicle is reduced;
- the route is to be withdrawn as there are no longer any entitled pupils.

Privilege places will not be withdrawn in favour of another non-entitled pupil.

9.5. If a privilege place is withdrawn, the same priorities will be used as in 9.3 above, except that preference will be given to pupils travelling from outwith the catchment, in order to minimise the risk of disruption to their schooling. Payment will be refunded from the date of withdrawal.

9.6. Privilege places will not be available on combined school/public transport contracts or on any other mode of transport.

10. Contract management and administration

10.1. The policy on school transport is defined by the Council's Care & Learning Service. The Council's Transport Co-ordination Unit in Community Services is responsible for all planning, administration and day-to-day operation of transport routes, including allocation of pupils to routes.

10.2. The Transport Co-ordination Unit is responsible for informing parents of the transport arrangements made, the timetable for the route, and any changes in arrangements. These duties may be delegated to the contractor. Where practicable, this information may be given to schools for distribution.

10.3. In the case of pupils with Additional Support Needs, assessment of the pupil's need for transport will be carried out by Care & Learning, using a process agreed between the two Services.

10.4. Inquiries and complaints about school transport provision, if not resolved by the contractor, should be made to the relevant Local Transport Office or to public.transport@highland.gov.uk.