



Report of: Head of Service, Commissioning & Market Management
Report to: Chief Officer, Partnerships & Health

Date: 10th October 2018

Subject: Pause to the phasing in of Post-16 transport changes



Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The Executive Board of July 2017 took a decision to introduce changes to the transport offer for post-16 learners who have special educational needs and disabilities (SEND).
2. The new offer included a phased introduction for new entrants to post-16 education from September 2018.
3. Although the changes were subject to rigorous consultation and an extensive communications exercise during 2016 and 2017, in early March 2018 a small number of families brought strong new views about the implications the new offer would have for them.
4. In order to take time to review new feedback a decision was taken to pause the phased introduction of the changes for new entrants scheduled for September 2018.
5. It has now been announced by the Department for Education that the statutory guidance relating to post-16 transport assistance is being reviewed and a number of local authorities, including Leeds, have been approached for feedback about this.
6. In July 2018 the Local Government Ombudsman (LGO) published an investigation into a post-16 transport complaint concerning Lewisham council highlighting a number of complex issues, including transport assistance at the transition point to post-19 / adult learning. The interpretation of the case by the LGO in this respect warrants further consideration.

- 7 Children with SEND who are currently in Year 11 at high school are undergoing reviews of their Education, Health and Care Plans (EHCP's). There is a requirement that they make their decisions imminently about which post-16 setting they wish to enter in September 2019.
- 8 In light of the items detailed above, the proposal is to further pause the phased introduction of the changes for new entrants to post-16 learning in September 2019. These students will therefore continue to be assessed and assisted under the same conditions as for children of statutory age education, and any changes will instead be phased in for new entrants from September 2020.

Recommendations

- 4 The Chief Officer, Partnerships and Health, approves a continued pause to the phased introduction of the changes for new entrants scheduled for September 2019. This is to allow time for a review of feedback from families, publication of revised post-16 statutory guidance for transport and a review of the recent LGO ruling. Any changes to be introduced will be communicated to families in advance of making post-16 choices for the start of the 2020/21 academic year so that transport arrangements can be given consideration during the Year 11 EHCP review and post-16 decision-making process.

1. Purpose of this report

- 1.1 To update the Chief Officer, Partnerships & Health, in relation to recent pause to the phasing in of policy changes affecting post-16 learners with SEND, and to request a further pause.

2. Background information

- 2.1 The Executive Board of July 2017 took a decision to introduce changes to the transport offer for post-16 learners who have special educational needs and disabilities (SEND).
- 2.2 The new offer was designed to meet the strategic aims of Children & Families Services to work restoratively with families doing things with them rather than for them and to better prepare for adulthood with more independence for themselves and from the council. This was to be achieved by offering Personal Travel Allowances to enable young people and families to make their own transport arrangements instead of continuing to provide taxis and minibuses upon entry to post-16 education.
- 2.3 The new offer included a phased introduction for new entrants to post-16 education from September 2018
- 2.4 Phasing arrangements were included in the change process, which meant that the changes would apply only to new entrants to post-16 education from September 2018, with students already in post-16 education continuing to receive transport assistance under the provisions of the November 2015 policy.
- 2.5 In addition to delivering on strategic outcomes, financial modelling indicated a long term opportunity to achieve efficiencies valued at approximately £830,000 once the changes were fully phased in. During the first year of phasing (2018/19 academic year) it was anticipated there could be implementation costs, which would have an impact on the 2018/19 and 2019/20 financial year budgets. A partial year saving would be delivered in the 2020/21 financial year and full year savings realised in 2021/22 FY.
- 2.6 Although the changes were subject to rigorous consultation and an extensive communications exercise during 2016 and 2017, in early March 2018 a small number of families began to bring strong feedback through a campaigning group about the implications the new offer would have for them. It is the practice of Children & Families directorate to continually take the views of children and their families into account, and a decision was taken to pause the phased introduction of the changes for new entrants scheduled for September 2018.
- 2.7 A decision was taken in June to pause the implementation of the September 2018 phasing in of the changes, whilst this feedback could be considered and a meeting could be scheduled with the families.

3. Main issues

- 3.1.1 A meeting is scheduled to take place with parents on 12th October to further hear the views of families that were received shortly before policy changes began to be phased in. It has taken longer than anticipated to schedule this meeting due to difficulties making direct contact with the group.

- 3.1.2 It has now been announced by the Department for Education that the statutory guidance relating to post-16 transport assistance is being reviewed and a number of local authorities, including Leeds, have been approached for feedback about challenges with discharging the transport duty for this cohort of young people. Having only been previously reviewed in October 2017, the announcement of a further review is believed to reflect the challenges being experienced nationally by local councils.
- 3.1.3 For example, it is noted that in July the Local Government Ombudsman (LGO) published an investigation into post-16 transport in Lewisham following a complaint. This highlighted a number of complex issues, particularly around the transition point to post-19 / adult learning. The interpretation of the case by the LGO in this respect warrants further consideration. It is also known there is a judicial review taking place in respect of SEND services in Surrey, which includes a focus on education transport assistance.
- 3.1.4 Children with SEND who are currently in Year 11 at high school are undergoing reviews of their Education, Health and Care Plans (EHCP's). There is a requirement that they make their decisions imminently about which post-16 setting they wish to enter in September 2019.
- 3.1.5 In light of the above developments a decision has been taken to further pause the phasing in planned changes until the start of the 2020/21 academic year.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Although the changes were subject to a rigorous consultation exercise and an extensive communications plan prior to the July 2017 Executive Board decision, Children & Families received further feedback from families during March & April 2018. Following an initial meeting it was agreed to hold a further more detailed consultation with the group that brought the initial feedback. This has been scheduled, ensuring that families' voices are fully heard. In addition, we have recently been approached by the Department Education for consultation on the post-16 education transport statutory guidance.
- 4.1.2 The Lead Member for Childrens and families with responsibility for school transport has been consulted on and agrees with this proposal.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 A full EDCI assessment was carried out to support the July 2017 Executive Board decisions. There are no EDCI considerations at this time as the decision involves a pause to the phasing-in of the arrangements.

4.3 Council policies and best council plan

- 4.3.1 Pausing the phasing in of the changes whilst exploring ways in which new feedback can be given consideration demonstrates the commitment of Children & Families to listen to children, young and families.

4.4 Resources and value for money

- 4.4.1 Following the initial pause to the phasing in of the changes, Children's Transport has been working closely with partner agencies to mitigate the impact of not delivering the intended savings to schedule. This has included Passenger Transport colleagues successfully offering Personal Travel Budgets to families on a voluntary take-up basis and efficiencies secured in the provision of mainstream school services.
- 4.4.2 The success of these initiatives has prevented any pressure on the medium term financial plan (MTFP) arising from the pause, and ensures there is time to give the necessary consideration to the items listed above. However, it remains essential that further education transport efficiencies are delivered in future.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The decision is a significant operational decision that may be delegated to the Chief Officer, Partnerships & Health and is not subject to call-in.

4.6 Risk management

- 4.6.1 As the pause represents a temporary 'no-change' arrangement, there are no risks above those described in respect of the MTFP.

5. Conclusions

- 5.1.1 Changes to the post-16 transport offer for young people with SEND were subject to rigorous consultation and an extensive communications exercise during 2016 and 2017. However, in early March 2018 a small number of families began providing new feedback about the implications the new offer would have for them. It is the practice of Children & Families to continually take the views of children and their families into account, and in light of the new feedback received a decision was taken to pause the phased introduction of the changes for new entrants scheduled to September 2019, whilst further consultation took place.
- 5.1.2 Children's Transport has recently been consulted by the department for Education regarding its decision to further review the statutory guidance related to post-16 transport.
- 5.1.3 An LGO investigation into a complaint against Lewisham Council highlighted the complexity of the post-16 transport duty and the challenges being handled by local authorities nationally.
- 5.1.4 Children with SEND currently in Year 11 are now making their September 2019 post-16 choices as part of their EHCP reviews, and it is important they make those choices with clarity about what the transport offer available to them will be.
- 5.1.5 In these circumstances the proposal is to further pause the phasing in of the post-16 transport offer until the start of the 2020/21 academic year.

6. Recommendations

- 6.1 The Chief Officer, Partnerships and Health, approves a continued pause to the phased introduction of the changes for new entrants scheduled for September 2019. This is to allow time for a review of feedback from families, publication of revised post-16 statutory guidance for transport and a review of the recent LGO ruling. Any changes to be introduced will be communicated to families in advance of making post-16 choices for the start of the 2020/21 academic year so that transport arrangements can be given consideration during the Year 11 EHCP review and post-16 decision-making process.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.