

Joint Cabinet and Cabinet (Resources) Panel

29 July 2020

Report title	Amendments to the All Age Travel Assistance Policy	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Dr Michael Hardacre Education and Skills	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Directors	Emma Bennett, Director of Children's Services David Watts, Director of Adult Services	
Originating service	Education and Skills	
Accountable employee	Sandy Lisle Tel Email	SENSTART Manager 01902 555943 Sandy.lisle@wolverhampton.gov.uk
Report to be/has been considered by	Adults Leadership Team Children and Young People Leadership Team	14 July 2020 16 July 2020

Recommendations for decision:

The Cabinet is recommended to:

1. Approve a change section 8.8 of the All Age Travel Assistance Policy as detailed in section 3, to include exceptional circumstances and ensure there is not a 'blanket approach' towards charging for post 16 transport.
2. Approve an amendment to the definition of 'low income families' in the All Age Travel Assistance Policy glossary as detailed in section 3, to ensure clarity that an individual or family is considered to be from a low income family if they are in receipt of free school meals as opposed to a list of 'qualifying benefits'.

1.0 Purpose

- 1.1 The purpose of the report is to seek Cabinet approval to make two minor amendments to the All Age Travel Assistance Policy in readiness for it to operate fully as from September 2020.

2.0 Background

- 2.1 On 18 March 2020 Cabinet approved the All Age Travel Assistance Policy and agreed the phased implementation of the All Age Travel Assistance Policy over 18 months.
- 2.2 It should be noted that charging for post 16 transport will not go live until September 2021. Please see the indicative timeline below:

Date	Activity
18 March 2020	All Age Travel Assistance Policy Cabinet sign off
April 2020	All Age Travel Assistance Policy assessment process go live date for new applicants requesting travel assistance for September 2020
May 2020	Publish post 16 Transport Policy Statement for young people of sixth form age
September 2020	All Age Travel Assistance Policy comes into effect for school age children
September 2021	Start of post 16 charging for young people entering year 12
September 2022	Start of post 16 charging for young people entering year 13
September 2023	Start of post 16 charging for young people entering year 14. Policy fully implemented.

- 2.3 It has recently come to light that Hampshire County Council is subject to ongoing judicial review proceedings in relation to the application of certain aspects of its Travel Assistance Policy. The Claimants in the case are a group of parents of disabled students who claim certain aspects of Hampshire County Council's Travel Policy is unlawful. Permission for judicial review has been granted by the High Court and it is understood there will be a full hearing in the Autumn of 2020.
- 2.4 In light of this development and notwithstanding that there is no guarantee the claim against Hampshire County Council will be successful, the Council has had cause to review its new All Age Travel Assistance Policy ("the Policy") and a recommendation has been made at the Delivering Independent Transport Board on 25 June 2020 to make minor amendments to the Policy

3.0 Options

- 3.1 Considering the Judicial Review brought against Hampshire County Council it is recommended that two minor amendments should be made to the Policy.

- 3.2 To ensure there is not a 'blanket approach' towards charging for post 16 transport it is advised that exceptional circumstances should be considered and therefore added to the Policy.
- 3.3 By allowing a case of "exceptional circumstances" to be presented by parents and considered, such information about financial circumstances and related matters could be considered, and, on a case-by-case basis, a decision could be made as to whether to charge the £300/£600 annual fee in full or at all.
- 3.4 Therefore, it is proposed that section 8.8 of the All Age Travel Assistance Policy should read:
- 3.5 *'If a student is eligible for travel assistance and it is assessed that they require a seat on a vehicle, they will be charged a contribution towards the cost of this. The level of contribution is set at £600 per academic year or £300 for students from low income families, save in exceptional circumstances. Any parents who considers there are exceptional circumstance that apply to them, with the result they should not be charged (or should not be charged in full), are encouraged to make that information known to the Council so their representations can be considered. If a parent is not satisfied with the Council's decision on the provision of travel assistance based on this policy, they can appeal (please see section 21 of this policy). The level of contribution will not vary according to what type of educational establishment they are attending e.g. mainstream, special or specialist post-16 education provisions, independent schools or further education colleges or other suitable training establishments.'*
- 3.6 It has been identified that the definition of low income families outlined in the glossary needs to be changed to ensure clarity that an individual or family is considered to be from a low income family if they are in receipt of free school meals as opposed to a list of 'qualifying benefits'. It is proposed to amend the definition of low income families in the glossary of the All Age Travel Assistance Policy to read:

'Students or families are considered to have a low income if they are eligible for free school meals or pursuant to the Government Guidance for post-16 students in education or training as may be in force from time to time would be eligible for financial assistance/free meals.'

Alternative definitions:

'Students or families are considered to have a low income if they are eligible for free school meals or, are otherwise in education and training and but for their age would be eligible for free school meals.'

Students or families are considered to have a low income if they are eligible for free school meals'

4.0 Evaluation of alternative options

- 4.1 If amendments are not made to the All Age Travel Assistance Policy, depending on the outcome of the judicial review claim against Hampshire County Council this could leave the City of Wolverhampton Council (CWC) at risk of legal challenge.

5.0 Reasons for decisions

- 5.1 Should Cabinet approve the recommendations to amend the Policy this would clarify the glossary and allow for the Council's discretion to be exercised in relation to one part of the policy. Should Cabinet resolve not to amend the Policy this leaves one aspect of the glossary confusing and does not allow for any discretion in one area of the policy which risks that aspect of the Policy being considered of "blanket" application without any scope for discretion which may be considered disproportionate in the circumstances.

6.0 Financial implications

- 6.1 A judicial review could have significant adverse financial implications for the Council, including the costs of defending an action and potentially paying Claimant costs. The amendments to the Policy proposed in this report clarify the definition of low income families and mitigate the risk of legal challenge that has arisen in the Hampshire case.

[RT/06072020/F]

7.0 Legal implications

- 7.1 The detailed legal implications and rationale behind the proposed decision are contained within a briefing paper which is subject to legal privilege and will not be disclosed.
- 7.2 As a local authority, the Council is required to adopt and conduct itself within best practices of good governance and make decisions and implement, apply and review policies in a way which is lawful, reasonable, proportionate, rationale, fair and exercising good procedural propriety. If a local authority does not do so, it is at risk of judicial review. Save in exceptional circumstances, policies which do not permit the local authority to exercise discretion as to the operation and implementation of the policy (so called "blanket policies") have been held by the courts to offend those principles. Successful judicial review actions against the Council could lead to the Policy being quashed by the Court and could be financially and reputationally damaging to the Council.

[AS/21072020/A]

8.0 Equalities implications

- 8.1 The proposed amendments to the Policy ensure that exceptional circumstances will be considered for low income families. This will result in more positive outcomes and work to help families/ individuals that may have been adversely affected by the implementation of charges.

9.0 Climate change and environmental implications

9.1 There are no climate change and environmental implications arising from this report.

10.0 Human resources implications

10.1 There are no human resource implications arising from this report.

11.0 Corporate landlord implications

11.1 There are no Corporate Landlord implications arising from this report.

12.0 Health and Wellbeing Implications

12.1 This will result in a positive health and wellbeing impact for residents in the City of Wolverhampton that have otherwise been negatively impacted by charges for post 16 transport.

13.0 Covid Implications

13.1 There are no Covid implications arising from the recommendations of this report.

14.0 Schedule of background papers

14.1 [All Age Travel Assistance Policy](#) - Cabinet 18 March 2020