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Contact Officer:
Nicola Gittins 01352 702345

4 May 2020

Dear Councillor

During the emergency situation, we have adapted our processes so that **urgent** decisions can be made. We have introduced 'Individual Cabinet Member' decision making so that such decisions are taken transparently and with due accountability.

Please find attached details of individual Cabinet Member decisions that will be taken on Tuesday, 12 May 2020 at 12.15pm. If you have any representations please send them to Robert Robins, Democratic Services Manager by no later than Thursday, 7 May 2020.

1 DECLARATIONS OF INTEREST

Purpose: To receive any declarations and advise Members accordingly.

STRATEGIC REPORT

2 REVIEW OF POST 16 SCHOOL / COLLEGE TRANSPORT CHARGING POLICY (Pages 3 - 12)

Report of Chief Officer (Education and Youth) - Leader of the Council and Cabinet Member for Education

Purpose: To review the Discretionary Transport Policy in light of legislative changes related to Public Service Vehicle Accessibility.

Yours sincerely

Robert Robins
Democratic Services Manager

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INDIVIDUAL CABINET MEMBER DECISION

Report Subject	Review of Post 16 Discretionary Transport Policy
Cabinet Member	Leader of the Council and Cabinet Member for Education
Report Author	Chief Officer (Education & Youth)
Type of Report	Strategic

INDIVIDUAL CABINET MEMBER DECISIONS

During the emergency situation, we have adapted our processes so that urgent decisions can be made. We have introduced 'Individual Cabinet Member' decision making so that such decisions are taken transparently and with due accountability.

EXECUTIVE SUMMARY

In June 2019, following a full consultation under the Learner Travel (Wales) Measure 2008, Cabinet made the decision to amend the Discretionary Transport Policy and introduce a charge for post 16 transport to come into effect from September 2020. The charge was designed to offset some of the cost pressures within the Medium Term Financial Strategy.

In August 2019, regulations for Public Service Vehicle Accessibility (PSVAR) were published and their implications on school transport provision became known. These regulations will not allow charging for places on buses and coaches which are not fully compliant for accessibility e.g. have wheelchair spaces and have ramps or lifts. They are due to come into force for the 2021/22 academic year.

As the transport fleet used locally for transporting learners does not fully meet these requirements, and unless a 'blanket exemption' for school transport is forthcoming from the Department for Transport, the Council would be in breach of these regulations at the point at which they come into force if we were operating a charging policy for post 16 discretionary transport. The same will apply to all other education authorities.

The Council has had to reconsider the earlier decision based on (1) the unsustainability of the charging policy with the onset of the Government Regulations (2) the risks of attempting to introduce a short-term policy in an

emergency situation when there is no certainty as to when schools will re-open and how and (3) options for a different transport funding model with Coleg Cambria.

RECOMMENDATIONS

1	To note the implications of the Public Service Vehicle Accessibility Regulation (PSVAR) on the Council's Post 16 Discretionary Transport Policy.
2	To reverse the Cabinet decision made in June 2019 to introduce charging for Post 16 transport from September 2020.
3	To note the financial impact of the recommended change of policy on our Medium Term Financial Strategy.

REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE PROPOSED CHANGES
1.01	<p>In June 2019, following a full consultation in line with the Learner Travel (Wales) Measure 2008, Cabinet determined to change its Discretionary Transport Policy for post 16 learners and introduce a charge from September 2020.</p> <p>The consultation was comprehensive and Cabinet took full account of the feedback from families, schools and other stakeholders where concerns were raised about affordability and the potential that some learners would choose not to progress to post 16 education because of transport costs.</p>
1.02	<p>As a result of the significant financial challenges faced by the Council in managing its Medium Term Financial Strategy, free transport for post 16 learners was considered to be unsustainable in the prevailing financial climate. Like many other Councils in Wales, charging for this discretionary service was identified as a necessary cost recovery measure.</p> <p>Cabinet reluctantly made the decision to introduce a charge for post 16 transport to come into effect from September 2020 but not at a level which would result in full cost recovery.</p>
1.03	<p>The Council transports 1950 post 16 students – 1500 to Coleg Cambria and 450 to Sixth Forms at Secondary Schools. The annual cost of providing this discretionary transport is £860k. Under a long-standing service level agreement with Coleg Cambria, the College contribute 25% towards these transport costs thereby reducing actual costs to the Council to £645k per annum. The Coleg Cambria contribution of £215k (25%) is proportionately low when taking into account that 77% of students are transported to the College.</p>

1.04	<p>In August 2019 regulations for Public Service Vehicle Accessibility (PSVAR) were published and their implications on school transport provision became known. These regulations will not allow charging for places on buses and coaches which are not fully compliant for accessibility e.g. have wheelchair spaces and have ramps or lifts. They are due to come into force for the 2021/22 academic year.</p> <p><i>The Public Service Vehicles Accessibility Regulations 2000 (PSVAR) require buses and coaches designed to carry over twenty-two passengers on local and scheduled routes to incorporate features to enable disabled people to travel on them comfortably and safely, including a wheelchair space and a ramp or lift. The Regulations have applied to vehicles progressively over the past nineteen years, including coaches manufactured from 2005 onwards. From 1st January 2020, the Regulations apply to any remaining coaches subject to them, which were manufactured before 2005.</i></p>
1.05	<p>Although this change in regulation does not affect general home to school transport services, it does impact on any such service where one or more passenger pays separate fares, whether directly to the operator or to the school or authority, whether daily, weekly, termly or annually.</p>
1.06	<p>To allow operators of home to school transport services to become compliant, Department for Transport Ministers concluded that the best solution would be to offer operators a temporary exemption from PSVAR to December 2021. However, the exemption would only be available where no more than 20% of the seats on the vehicle are sold, rather than being used by children entitled to free services, or left vacant.</p>
1.07	<p>Given that the introduction of the post 16 charge for transport will lead to all procured college transport vehicles exceeding the 20% exemption threshold, it became apparent that any charge levied for post 16 transport from September 2021 onwards would then be in contravention of the regulations.</p> <p>Transport for post 16 students to sixth forms at Flintshire secondary schools sites might not have exceeded the 20% threshold. However, it would not be reasonable or consistent for the Council to charge some students and not others i.e. to charge students attending secondary school sixth forms and not students attending Coleg Cambria.</p>
1.08	<p>The Council therefore needs to review its Discretionary Transport Policy for post 16 charging.</p> <p>It had been the Council's intention to introduce the charge from September 2020 - the regulations coming into effect from 2021 would mean that this could only be levied for one academic year.</p> <p>The Council will have to remove the charge completely by September 2021 anyway or it will be in breach of PSVAR as the vehicles used are not compliant.</p> <p>The Council also needs to consider whether it is appropriate to introduce a charge for one year only with all the administrative functions required to manage this process, for it to be ceased one year later. This consideration</p>

	is complicated by the current emergency situation and the uncertainty of when schools will reopen and how e.g. a possible phased approach.
1.09	Discussions were held with the new Chief Executive of Coleg Cambria to consider the implications of these new transport regulations. The college fully understood the reality of the financial position facing the Council that had resulted in the policy decision to charge. The Governing Body of Coleg Cambria were considering options such as reimbursing students individually from September 2020 to offset this transport charge.
1.10	<p>In the spirit of strong local partnership a creative solution jointly negotiated where Coleg Cambria agreed to pass the funding it was earmarking for reimbursing students directly to the Council. This contribution would give significant mitigation to the current open in-year risk budget risk on school transport costs.</p> <p>It was also agreed that a full review of the current Service Level Agreement (SLA) where the college only contributes 25% of the transport costs for Flintshire students to its sites will be undertaken so that recharging policies with Flintshire, Wrexham and Denbighshire councils could be made consistent over time and by agreement. This could then reduce the cost pressures on the Council.</p>
1.11	<p>Cabinet had reluctantly introduced this charge because of its strong commitment to post 16 learning and it had been a budget necessity.</p> <p>The review of this policy decision and the recommendation to reverse it has been triggered by changes in legislation. However, the effective partnership working with Coleg Cambria has developed a financial solution that should enable the Council to reverse the decision to levy a charge for post 16 transport for the academic year 20-21 and successfully mitigate in part the financial risk.</p> <p>Financial pressures in future years may result in the Council having to review its decision not to charge for post 16 travel. This could only be considered if and when the PSVAR regulations have been modified or amended and/or the local supply chain has developed their vehicle fleets to adequately meet the statutory requirement to provide fully accessible vehicles.</p>

2.00	RESOURCE IMPLICATIONS
2.01	<p>Charging for post 16 School /transport was one of the reported “open risks” at the time of setting the 2020/21 budget.</p> <p>The budget for 2020/21 provides for expected additional income of £0.449m based on the assumption that charging would be introduced from September 2020. The impact is £0.770 in a full financial year from 2021/22 onwards.</p> <p>The developing financial solution through effective partnership working with Coleg Cambria (para 1.11) will assist with mitigating the financial risk for 2020/21.</p>

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT																				
3.01	<p>The risk of not maintaining the charge for post 16 transport is that the Council could be open to challenge by way of judicial review or complaints to the Public Services Ombudsman for Wales.</p> <p>This is because the Council and the wider public sector do not have access to a sufficient number of PSVAR compliant vehicles from its procured transport operators to provide fully accessible post-16 transport arrangements.</p> <p>Ways of Working (Sustainable Development) Principles Impact</p> <table border="1" data-bbox="320 663 1385 1375"> <tr> <td data-bbox="320 663 746 965">Long-term</td> <td data-bbox="746 663 1385 965">The policy change would protect financially vulnerable learners in the short term because it facilitates access to learning regardless of individual economic circumstances. The opportunity to review the financial contribution from Coleg Cambria as a key stakeholder as a result of this process would support the Council's financial position more robustly in the longer term.</td> </tr> <tr> <td data-bbox="320 965 746 1099">Prevention</td> <td data-bbox="746 965 1385 1099">Access to further education prevents more young people becoming NEET (Not in Education, Training or Employment) and improves their life chances.</td> </tr> <tr> <td data-bbox="320 1099 746 1133">Integration</td> <td data-bbox="746 1099 1385 1133">N/A</td> </tr> <tr> <td data-bbox="320 1133 746 1339">Collaboration</td> <td data-bbox="746 1133 1385 1339">The policy review has encouraged greater collaborative working between the Council and Coleg Cambria on transport issues and supports wider access to learning and supporting those who may be in danger of becoming NEET.</td> </tr> <tr> <td data-bbox="320 1339 746 1375">Involvement</td> <td data-bbox="746 1339 1385 1375">N/A</td> </tr> </table> <p>Well-being Goals Impact</p> <table border="1" data-bbox="320 1525 1385 2060"> <tr> <td data-bbox="320 1525 746 1626">Prosperous Wales</td> <td data-bbox="746 1525 1385 1626">Removal of the charge for post 16 learners would support them and assist their families' economic circumstances.</td> </tr> <tr> <td data-bbox="320 1626 746 1760">Resilient Wales</td> <td data-bbox="746 1626 1385 1760">Access to further education will support personal and academic development of individuals which contributes to stronger resilience.</td> </tr> <tr> <td data-bbox="320 1760 746 1895">Healthier Wales</td> <td data-bbox="746 1760 1385 1895">The previous policy of a charge may have encouraged more individuals to walk or cycle to their post 16 provision which may now not occur if transport is provided free of charge.</td> </tr> <tr> <td data-bbox="320 1895 746 2029">More equal Wales</td> <td data-bbox="746 1895 1385 2029">Removal of the charge could encourage learners who may have considered not applying because of an inability to pay the proposed fee, to engage in post 16 courses.</td> </tr> <tr> <td data-bbox="320 2029 746 2060">Cohesive Wales</td> <td data-bbox="746 2029 1385 2060">N/A</td> </tr> </table>	Long-term	The policy change would protect financially vulnerable learners in the short term because it facilitates access to learning regardless of individual economic circumstances. The opportunity to review the financial contribution from Coleg Cambria as a key stakeholder as a result of this process would support the Council's financial position more robustly in the longer term.	Prevention	Access to further education prevents more young people becoming NEET (Not in Education, Training or Employment) and improves their life chances.	Integration	N/A	Collaboration	The policy review has encouraged greater collaborative working between the Council and Coleg Cambria on transport issues and supports wider access to learning and supporting those who may be in danger of becoming NEET.	Involvement	N/A	Prosperous Wales	Removal of the charge for post 16 learners would support them and assist their families' economic circumstances.	Resilient Wales	Access to further education will support personal and academic development of individuals which contributes to stronger resilience.	Healthier Wales	The previous policy of a charge may have encouraged more individuals to walk or cycle to their post 16 provision which may now not occur if transport is provided free of charge.	More equal Wales	Removal of the charge could encourage learners who may have considered not applying because of an inability to pay the proposed fee, to engage in post 16 courses.	Cohesive Wales	N/A
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	Vibrant Wales	The increased offer of post 16 learning through the medium of Welsh is equally accessible to all learners regardless of their ability to pay the transport charge
	Globally responsible Wales	N/A
<p>Equality Duty & Impact Assessments A reversal of the policy to charge will have no impact on learners including those with protected characteristics.</p>		

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	All consultation was carried out at the time of the original proposal in line with the Learner Travel (Wales) Measure 2008. Feedback from that consultation was that no charge at all would be preferable but there was an understanding of the Council's decision based on its financial circumstances. This would indicate that a removal of the charge would be welcomed by key stakeholders.

5.00	APPENDICES
5.01	Appendix 1 – Cabinet Decision Discretionary School Transport June 2019.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	N/A.

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Claire Homard - Chief Officer Education & Youth Telephone: 01352 704190 E-mail: claire.homard@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
	<p>Post 16 – non-statutory educational provision for learners over the age of 16</p> <p>PSVAR – Public Service Vehicle Accessibility Regulations – require public service vehicles to be accessible to those with disabilities. This legislation has been progressively applied to vehicles since 2001 but has only recently been identified to applying to home/school transport.</p> <p>Discretionary Transport Policy – provision is not statutory but is determined by the Council's own policy.</p>

REVIEW OF POST 16 DISCRETIONARY TRANSPORT POLICY

To be completed by Cabinet Member

1.) Please select one of the following options:

- a. **I do not have an interest under the Councillors' Code of Conduct in this report**
- b. I have a personal interest in this report because [insert details of interest]
- c. I have a personal and prejudicial interest in this report and it will need to be decided by the Leader of Council/Deputy Leader.

2.) My decision is to adopt the recommendations set out in this report as follows:

- a) **That the implications of the Public Service Vehicle Accessibility Regulation (PSVAR) on the Council's Post 16 Discretionary Transport Policy be noted;**
- b) **That the Cabinet decision made in June 2019 to introduce charging for Post 16 transport from September 2020 be reversed; and**
- c) **That the financial impact of the recommended change of policy on the Council's Medium Term Financial Strategy be noted.**

Reason for Decision:

As in the Report.

Approved by:

Councillor Ian Robert, Leader of the Council and Cabinet Member for Education



Date decision taken:

Tuesday, 12th May, 2020

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Appendix 1

Discretionary Transport Policy Review – Outcome of Consultation June 2019

Decision:

As detailed in recommendation (2). Recommendation (1) to be amended to the following:

(1) That from September 2020 the termly charge for post-16 transport should be set at a maximum of £150 per term;

All students entitled to free school meals should receive free transport to school or college. This measure should be paid for by the Council funds – not from the charge for transport – as a discretionary benefit;

That during the year between now and the introduction of the charge, the Council should examine the possibility of operating a hardship fund for supporting families where access to education is denied due to the charge through extenuating circumstances, noting the continuation of free transport entitlement under the free school meal criterion;

That during the year between now and the introduction of the charge, as suggested by the Liberal group, the Council should examine the possibility of a form of ‘Oyster’ type pre-payment card which would allow residents who cannot pay the termly charge to top up their card on a regular basis; and

That post-16 is defined to be years 12 and 13 in school year terms, and only extended in exceptional circumstances.

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