



DERBY CITY COUNCIL

COUNCIL CABINET
31 JULY 2007

Report of the Children and Young People Commission

Home to School Transport

RECOMMENDATIONS

[Reasons for each recommendation are set out under Supporting Information]

- 1.1 That Council Cabinet record that, in light of the Council's financial constraints, the Children and Young People Commission will reluctantly support a) increased charges in September 2007 and 2008 and b) the introduction of charges for faith schools transport if the conditions in the subsequent recommendations are met.
- 1.2 A higher number of Direct Debit payment instalments be considered, e.g.10 or 12, in order to spread the burden on low income families.
- 1.3 As many lower income parents may not have access to Direct Debit, consideration be given to additional methods of payment, alternatives might include: at cash desks in Council buildings and Derby Homes Local Offices, by cheque or postal order, PayPoint
- 1.4 As a) the proposed £1,000 cap is too high for many families and especially those just above the threshold for free transport and b) the amount Derby City Council proposes to charge per child is substantially higher than other councils, consideration be given to:
 - a lower maximum charge per household, and/or
 - a limit to the number of children being charged.
- 1.5 Because it is not possible to predict accurately the impact of the new policies, there should be monitoring of a) changes to the pattern of parental preferences for, and admissions to, faith schools and b) the environmental impact of the subsequent, actual modal shift: if pupils stop catching the bus do they walk, bike or get driven?
- 1.6 As there was not a clear statement to properly alert parents of the Council's intentions, the new policy must not be applied to children who start at faith schools in September 2007.
- 1.7 With regard to the consultation and its timing, Cabinet a)
 - note the high level of disquiet about it being of 28 days duration including the Easter holidays
 - agree that in future holiday periods should be deducted when calculating the duration of education-related consultation exercises and

b) ahead of the Key Decision being taken on 31 July Cabinet be strongly advised to have further legal advice about the legitimacy of the consultation.

Reasons for recommendation 1.1

The Commission share the sentiments of Cllr Bolton and Mr Flack that the proposed changes are not ones which the Council would be choosing to make were it not for the acute financial difficulties facing Derby. The policy of introducing charges for faith school transport is an increasing trend around the country, adopted with equal reluctance by councils searching for means to solve similar budgetary pressures.

Reasons for recommendation 1.2

The Commission acknowledge that the proposals have taken into account the consultation responses. The original proposal was for payment in advance in either a single annual sum or in two instalments. The revised proposal is for payment in six instalments by Direct Debit. However, it will still be a clear burden on some low income families to find £83.33 for an instalment (one sixth of £500). Commission members had presumed that the payments would be made two monthly across the year, but it was explained that they are to be collected in the six consecutive months running from July to December. The latter payments will therefore be expected at a time of high outgoings as families prepare for Christmas.

As the Council Tax is payable in ten instalments, there is no practical reason why the school transport charges should not be also; better still would be to have 12 monthly payments, as for mortgage holders and also used by many to spread utility bills.

There is a risk that some parents may default and it then take time to retrieve the travel card. However, it is preferable that the Council pursue arrears in the same way it would when owed money for many other services/activities. The Commission referred to the Council's principles of decision making when considering the evidence. It does not sit easily with the first principle, that "the action must be proportionate to the desired outcome" to create a financial burden for many parents so as to prevent misuse by a few.

Reasons for recommendation 1.3

It is generally understood that lower income families in Britain are less likely to have access to mainstream banking, a prerequisite to setting up a Direct Debit payment. This was locally borne out by the research that showed the extent of financial exclusion and led to establishment of Derby Loans and the Derby City Credit Union. There are therefore going to be parents who can 'at a pinch' afford to pay but haven't got a means to transfer the money. Consideration needs to be given to additional methods of payment and recommendation 1.3 offers some suggestions. It is worth adding that while Derby City Credit Union savers cannot have Direct Debit payments, they can have Standing Orders arranged.

Reasons for recommendation 1.4

It is acknowledged that the consultation responses also influenced the final proposals by including a) discounts for the second and subsequent children and b) an overall cap of £1,000 per household. However, the Commission see £1,000 as simply too high for many families. While families entitled to free school meals or in receipt of the maximum working tax credit will get free transport, those with even marginally higher household income will be liable for the full transport charges. There is an administrative virtue in having a flat tariff but the consequence is that a small pay increase for a working parent with two 11-15 year olds with a sibling at primary school would then have to find £1,000 and thus be worse off.

It is clear from the comparative table that Derby City Council proposes to charge substantially more than other councils, probably because the policy intention here was to fully recover the expenditure. The Commission decided against suggesting specific figures but do want Council Cabinet to give serious consideration to mitigating the impact on families by:

- a lower maximum charge per household, and/or
- a limit to the number of children being charged

Reasons for recommendation 1.5

A clear concern of the Roman Catholic Diocese is that the introduction of charges for transport to faith schools will pose a financial burden, deterring some parents who *would* have chosen a Catholic primary or St Benedict's had travel remained free. This must be true, but the actual extent of the impact cannot be measured. Equally the above-inflation rises for pupils who already pay to get to and from school will have an effect, but how many stop using the bus and their choice of alternative – walk, bike, car – determines the environmental impact.

While a number of councils have been identified that have recently adopted charging to faith schools, the decisions have yet to take effect due to the lead in time. Herefordshire, a rural unitary district, is the one identified authority to have implemented charges, in September 2006, and to have assessed the impact. Their Cabinet member for Children and Young People reported to colleagues that “the introduction of charges has had no discernable impact on the popularity nor mix of students attending the aided high schools”. Derby needs to have a methodology agreed with the Nottingham Diocese, to monitor the impact here, not only in the first year but in subsequent ones as parents become aware of the affordability of the charges.

For all schools there needs to be a robust assessment of actual modal shift and what that translates into for both ‘virtuous’ alternatives – the numbers biking and walking - and the deleterious option: using the car.

Reasons for recommendation 1.6

It is generally agreed that the greater the significance of a proposal on residents or service users, the greater is the obligation to give clear and advance notice of it. Page 2 of the spring 2007 consultation document clearly spells out that the change “.. would include those children who started at affected schools in September 2007”. However, parental expressions of preference for 2007 were being made in autumn 2006.

The justification for the new policy, operative September 2008, applying retrospectively to the September 2007 intake is that the Council's Secondary Admissions Handbook had referred to the possibility of charging. On page 13 at the end of the section headed 'Transport to voluntary aided schools' there is a note. The second sentence says: “There is currently a government review of denominational transport which is looking to means testing such transport”.

There are three reasons why this is not sufficient. First, it has not been emboldened or other formatting used to draw readers' attention to its significance. Second, the policy of charging for faith school transport is not a consequence of a 'government review' but, instead, the result of a home-grown Derby review. The consequence of central government's policy change is a) to say who should qualify for free transport on low income grounds to all schools and b) to limit faith school transport entitlement to 15 miles.

Third, an active parent who looked at the Council's web-site will find a distinct section on Home to School Transport. That includes the Council's policy on home to school transport. The definitions include:

'Faith school, voluntary-aided/voluntary-controlled school – parents may choose to send their children to voluntary-aided/voluntary-controlled schools on faith or belief grounds. We support this choice through our free transport policy –see Section 2.2...'

2.2 starts: 'We provide free travel until the end of the statutory school age for pupils who go to a maintained faith school if: [criteria follow]

Therefore the section that might be relied on to give more detail or at least re-inforce the possibility of policy change makes no mention of it.

Taken together, the absence of proper forewarning to parents means that - in the words of one of the Commission members – even if the application of charges to the 2007 intake is actually legal, it would be immoral.

Reasons for recommendation 1.7

It was suggested by the Diocese to the Cabinet Member and the Commission that the Council had failed to comply with DfES requirements for consultation. The Council's solicitor reported that the requirements referred to had gone 'live' after the Derby consultation had started, so did not bite. The Commission were told that with around 700 responses this was considered a high return and very successful compared to other exercises. It represents about 2% of eligible consultees.

Previous comments in this report show that Commission recognise that the consultation outcome did significantly influence the proposals before Cabinet. None the less there has been a high level of disquiet about the consultation period lasting only 28 days inclusive of the school Easter holidays. Cabinet should agree now that school holiday periods be deducted when calculating the duration of future education-related consultation exercises.

More pressingly the solicitor's comments suggest that the Council's position on the validity of the consultation is less than watertight. As there is a possibility of this being tested through the Office of the Schools Adjudicator or the courts, the Commission consider it would be in the Council's best interests that further legal advice be obtained by Cabinet ahead of taking this Key Decision on 31 July 2007.

Process

This issue was scrutinised at a special one-item meeting held on Tuesday 17 July. Present by invite as witnesses were the Council Cabinet Member and Director for Children and Young People, the Senior Head of Finance from that Department, the Assistant Director from the Regeneration and Community Department plus a head teacher and a parent from Roman Catholic schools and two representatives from Arriva who operate some of the local school services. Members place on record their thanks for the helpful contributions made by participants. As well as the policy desirability of the proposals, Commission members had regard to the principles of decision making in Article 13 of the Constitution. The evidence-gathering part of the meeting was web-cast and can be viewed at:

<http://clients.westminster-digital.co.uk/dcc/player.aspx?EventID=951>

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Background papers: Supplementary Documents comprising:
E1 Answers to Questions Posed By The Chair
E2 Letter from the Director of Education, Roman Catholic Diocese of Nottingham, Diocesan Education Service to Council Cabinet Members
E3 School Transport Payment Arrangements – provided by the Regeneration and Community Department [attached]
E4 Legal advice about retrospective application of the new proposed policy to the September 2007 intake
E5 Cheshire County Council Extracts from Key Decision - Legal Advice
E6 Herefordshire - impact of charges introduced in September 2006
E7 Admissions Handbook – Secondary 2007-08
E8 Derby City Council's policy on home to school transport
E9 Letter dated 2 July from Emanuel Wilamowski
E10 Letter dated 16 July also from Emanuel Wilamowski

List of appendices: Appendix 1 – Implications
Appendix 2 – Document E3 School Transport Payments Arrangements

IMPLICATIONS

Financial

1. As set out in the main report. In answer to a question at the meeting, the cost of not applying the charging policy to the 2007 intake was roughly estimated to be around £53k per annum.

Legal

- 2 Obtaining further legal advice, in advance of taking the decision, about the legitimacy of the consultation should minimise the likelihood that the new Policy could be successfully challenged by the Schools Adjudicator or in the courts.

Personnel

- 3 As set out in the main report.

Equalities impact

- 4 The current policy states that “parents may choose to send their children to voluntary-aided/voluntary controlled schools on faith or belief grounds. We support this choice through our free transport policy”. Clearly this would no longer apply and the Roman Catholic Church has stated “this places at risk the whole concept of parents being in a position to educate their children according to their beliefs and wishes”. An alternative view point is that it leads to a level playing field with other specialist schools and city academies that have developed in recent years and which also have wide catchment areas but whose pupils cannot access free transport.

Corporate Priorities

- 5 In the Council’s current financial circumstances the income from higher charges for existing users of school transport and the introduction of charges for faith school transport allows an equivalent sum of money to be used on statutory priorities like child protection and looked after children and to support the Council’s six own priorities .