

Meeting of:	Cabinet
Date of Meeting:	Monday, 23 March 2020
Relevant Scrutiny Committee:	Environment and Regeneration
Report Title:	Withdrawal of Discretionary Funding for Fare Paying School Transport Services (which do not cater for pupils who qualify for free school transport)
Purpose of Report:	To seek agreement for the withdrawal of funding for fare paying school transport services from September 2020 following the results of a Consultation on the proposal and consideration by the relevant Scrutiny Committees.
Report Owner:	Cabinet Member for Neighbourhood Services and Transport
Responsible Officer:	Miles Punter - Director of Environment and Housing Services
Elected Member and Officer Consultation:	Accountant - Environment and Housing Services Legal - Committee reports Director of Learning and Skills Equality Coordinator
Policy Framework:	The report is a matter for Executive decision by Cabinet
<p>Executive Summary:</p> <ul style="list-style-type: none"> • This Report seeks agreement from Cabinet for the withdrawal of funding for Council supported fare paying school transport services with effect from 1st September 2020 following the results of a consultation on the proposal and consideration by the relevant Scrutiny Committees. • Consultation was undertaken on Fare Paying School Transport services between 2nd April 2019 and 28th May 2019. The consultation outlined the proposed withdrawal of funding for fare paying school bus services, which are currently provided at the discretion of the Council. • The Environment and Regeneration and Corporate Performance and Resource Scrutiny Committees reviewed this proposal at their meetings on 21st January 2020 and 5th February 2020 respectively. • This withdrawal of fare paying school transport funding will assist in meeting the reshaping services savings that the Neighbourhood Services and Transport Department is expected to make and help to support the Council in funding statutory free school transport for pupils who qualify by virtue of distance from school and availability of walking routes. 	

- The Report has no implications with regard to the provision of free home to school transport for entitled children, which will be maintained as existing.

Recommendations

1. That Cabinet agrees the proposal to withdraw funding for Council supported fare paying school bus services with effect from 1st September 2020, following on from the review by the relevant scrutiny committees.

Reasons for Recommendations

1. To ensure that Cabinet has considered the details of the proposals taking into account the views of the relevant Scrutiny Committees in order to take a final decision on the proposals.

1. Background

- 1.1 Cabinet is reminded of the background information on this matter and points for consideration that were detailed in the initial Cabinet Report on this matter of 18th February 2019, (Minute C589 refers), proposals which were further considered by the Environment and Regeneration Scrutiny Committee on the 21st January 2020, the Corporate Performance and Resources Scrutiny Committee on 5th February 2020 and the reference to Cabinet of 24th February 2020 (Minute C229 refers).

2. Key Issues for Consideration

- 2.1 The Environment and Regeneration Scrutiny Committee recommended a task and finish review into school bus services across the Vale of Glamorgan and opportunities to work with commercial operators and community groups.
- 2.2 This work is already undertaken by officers and schools who encourage the use of school transport. Officers work with commercial operators to encourage uptake of their commercial bus services and assist with the planning of certain commercial school fare paying services. In addition, the Council's own community transport service, Greenlinks, has provided transport for pupils to and from school. The withdrawal of funding for fare paying school bus services would provide bus operators with better commercial opportunities as demand for certain services would remain. Officers will ensure this information is captured and continue to work with operators either suggesting new services or enhancements to existing.
- 2.3 The Corporate Performance and Resources Scrutiny Committee recommended the following, which have mitigation measures noted against each:

- 2.4** The position regarding the anticipated savings to be made by the proposal and this year's revenue budget could have been made clearer within the report. The savings from this proposal, based on 2020/21 budget, is £162,000 per school year.
- 2.5** The proposal risked discriminating against pupils from rural areas and those attending Welsh medium schools, due to their need to often travel further outside their local communities to attend school. Those pupils who live in the rural Vale, who do not have an available walking route to their catchment school will continue to receive free school transport.
- 2.6** A second assessment of the safety of the Active Travel route between Ystradowen and Llansannor Primary School be undertaken. Those pupils living in Ystradowen are receiving free school transport to Llansannor Primary, as of September 2019, following on from an assessment of the walking route which is deemed unavailable.
- 2.7** Committee Members had concerns regarding the proposal's impact on climate change due to the potential of an increase in the number of cars on the road following the withdrawal of bus services, although acknowledged that the proposal did aim to encourage Active Travel between home and school. The withdrawal of this funding does not mean all the fare paying school bus services will cease. As per the report presented to Cabinet on 18th February 2019 a number of services may continue to be run on a commercial basis, if operators consider those services to be viable.
- 2.8** Information regarding the safe Active Travel routes between home and school should be more widely publicised. Officers in the Transport Services team have been working with Sustrans, the charitable organisation who promote walking and cycling, on a number of school engagement sessions, which have been used to inform the production of Active Travel maps in the areas of Penarth, Barry and Llantwit Major. This will be provided to pupils after the Easter break.
- 2.9** The criteria applied in instances wherein parents wished to apply for free home to school transport due to a perceived lack of safety of identified Active Travel routes be more widely publicised. The Council's website gives full details on how to query if a child qualifies for free school transport and parents are provided with a map of the walking route on request. Any challenges to the walking route on the grounds of safety will be risk assessed by a member of the Passenger Transport team.

https://www.valeofglamorgan.gov.uk/en/living/transportation/school_transport/School-Transport.aspx

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** The Well-being of Future Generations (Wales) Act 2015 ('the 2015 Act') sets out new ways of working – of planning and making decisions – for local authorities and other public bodies it lists. The aim is that, by improving these things, the overall well-being of Wales will be better improved by the things public bodies collectively do. The 2015 Act and the statutory guidance makes it clear that local authorities must, in the course of their corporate planning and their delivery against those plans:
- balance short term needs against the ability to meet long term needs; think about the impact their objectives have on other organisations' objectives, and on the well-being of Wales, in an integrated way; involve in those processes people who reflect the diversity of the population they serve;
 - work together collaboratively with other organisations to better meet each other's objectives; and
 - deploy their resources to prevent problems from getting worse or from occurring in the first place.
- 3.2** The Vale of Glamorgan's Corporate Plan seeks to encourage an Active and Healthy Vale which seeks to encourage active travel for all residents long term.
- 3.3** Encouraging Active Travel with less reliance on regular transport will improve health and well-being and lessen the burden on medical services.
- 3.4** By undertaking the public consultation on this proposal, it has enabled involvement from all interested parties including service providers with regard to potential opportunities for collaboration on potential solutions (i.e. use of commercial bus services to cater for the potential loss of support for stand-alone fare paying school bus services).
- 3.5** This proposal fits in with the following Council Well-being objectives:
- 3.6** Well-being Outcome 2: An Environmentally Responsible and Prosperous Vale
- Objective 4: Promoting sustainable development and protecting our environment.
- 3.7** Well-being Outcome 4: An Active and Healthy Vale
- Objective 7: Encouraging and promoting active and healthy lifestyles.

4. Resources and Legal Considerations

Financial

- 4.1** Based on the 2020/21 budget, the Council can make an overall saving of approximately £162,000 per school year with this proposal.
- 4.2** The 2020/21 budget for this service is £242,000. Introducing this proposal would require budget of £80,000 to be transferred from the fare paying budget to the schools budget to provide transport for pupils who qualify for free school transport. Some of the buses are currently run with both fare paying pupils and those that receive free school transport on the same vehicle. If the fare paying service is withdrawn it may be possible to procure a smaller vehicle however the majority of cost will remain, therefore this would need to be funded from the Education School Transport budget, although, it could be reduced if operators run some of these services on a commercial basis.
- 4.3** The remaining £162,000 saved through the implementation of this proposal will go towards the £2m shortfall in the 2019/20 budget for the Council's Neighbourhood Services and Transport service area. Therefore, these savings make a contribution to the Neighbourhood Services and Transport shortfall and are required in order to assist in the reduction of the service area's current spending commitments.

Employment

- 4.4** There are no employment implications in this report.

Legal (Including Equalities)

- 4.5** In order to notify parents/carers/pupils that the funding for these services may be withdrawn information has already been published on the Council school transport webpage and included on the timetables for the affected services. As there is no change in the School Transport policy but the timetables are published, the Council has fulfilled its duty of informing parents/carers the funding for these services may be withdrawn after July 2020, notifying by October (2019) before the following September (2020) to ensure any new school admissions are aware of this when making choices of where to send their children.
- 4.6** 'The Education Act 1996 (as amended) sets out the law in Wales for the attendance of pupils at school. The Learner Travel (Wales) Measure 2008 (as amended) ('the Measure') sets out the legal framework specifically related to travel and transport provision for learners travelling from home to school in Wales. The Statutory guidance published by Welsh Ministers pursuant to section 15 of the Learner Travel (Wales) Measure 2008 ('the Guidance') can be found via the following link;

<https://beta.gov.wales/learner-travel-statutory-provision-and-operationalguidance>

- 4.7** The statutory guidance recommends that in assessing the travel needs of learners, a local authority should consider; who the learners are in their area, where learners currently attend or are due to attend school, which learners they are under a duty to provide with transport under section 3 and 4 of 'the Measure', which learners they want to provide with travel on a discretionary basis under section 6 of 'the Measure', what other arrangements already exist/ will exist for those for whom they do not provide transport.
- 4.8** A Local Authority is also required to have regard to the needs of disabled learners and learners with learning difficulties, any particular needs learners who are 'looked after' or formerly 'looked after' by the local authority, the age of the learner, the nature of the route that the learner is expected to take between home and the places where they receive education or training. In assessing the travel needs of learners a local authority must take into account the fact that the travel arrangements they make in light of the assessment must not cause unreasonable levels of stress, take an unreasonable amount of time or be unsafe.
- 4.9** Section 2 of 'the Measure' places a duty on a local authority to assess the travel needs of learners under the age of 19. This includes those learners who have reached 19 but started a course before 19 and continue to attend that course who receive education or training and who are ordinarily resident in the local authority area.
- 4.10** Section 3 of 'the Measure' places a legal duty on a local authority to assess the travel needs of its learners. In addition a Local Authority must; provide free home to school transport for learners of compulsory school age who attend primary school who live 2 miles or further from their nearest suitable maintained school, pupil referral unit, or non-maintained special school; provide free home to school transport for learners of compulsory school age who attend secondary school who live 3 miles or further from their nearest school; learners of compulsory school age and who are in receipt of a statement of special education needs, which names an independent school, then should that school be 2 or more miles from the learners home in the case of a primary school learner, or 3 or more miles in the case of a secondary school learner, a local authority will have to provide free transport; assess and meet the needs of 'looked after' children; promote access to welsh medium education and promote sustainable modes of transport.
- 4.11** Section 4 of the Measure sets out the circumstances in which a Local Authority has a duty to make other travel arrangements for those pupils who do not qualify for free school transport. Section 4(1)(c) of 'the Measure' places a duty on a Local Authority to make other travel arrangements for children of compulsory school

age if; "the Local Authority consider that travel arrangements are necessary to facilitate the attendance of the child each day at the relevant place where the child receives education or training".

- 4.12** Assessing the travel needs of learners does not mean providing free transport. Learners will only qualify for free transport provision if they meet the entitlement criteria outlined above.
- 4.13** Where learners are not entitled to free transport, a local authority has a power to provide school transport on a discretionary basis under section 6 of 'the Measure'.
- 4.14** Section 6(3) of the Measure states that a local authority may charge pupils of compulsory school age for travel arrangements made under Section 6, but any charge must be in accordance with Sections 455 and 456 of the Education Act 1996 ("the 1996 Act").
- 4.15** A number of the fare paying school services serve pupils attending Welsh medium schools. The Council has a duty under Section 10 of the Learner Travel (Wales) Measure 2008 ('the Measure') to 'Promote access to education and training through the medium of the Welsh language'. Powers exist under section 6 of 'the Measure' to provide discretionary transport arrangements for learners not attending their nearest suitable school because of language preference.
- 4.16** The Council must comply with the public sector equality duty (section 149 of the Equality Act 2010) when coming to a decision on the proposal to withdraw funding for non-statutory fare paying school transport services. Section 149 requires the Council to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act S149 (s1).
- 4.17** The relevant protected characteristics are: age, disability, gender assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation: section 149 (7) of the Equality Act.
- 4.18** Section 149 (3) of the Equality Act states that having due regard to the need to advance equality of opportunity involves due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low;
- The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

4.19 Section 149 (5) of the Equality Act states that having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding. Compliance with the duties in this section may involve treating some persons more favourably than others.

4.20 To discharge the public sector equality duty the decision-maker must analyse all the relevant material with the specific statutory consideration in mind. This includes considering whether the proposed decision is capable of having adverse impact on persons who have any of the relevant protected characteristics. If it is, consideration should be given to whether there are any steps that could be taken (by way of modification of the proposed decision) to avoid or mitigate that impact. If there are such steps, consideration must be given to whether or not to adopt any of them as part of the final decision.

4.21 In reaching their decision on the withdrawal of funding for non-statutory fare paying school transport services, Cabinet members must satisfy themselves:

(a) that they understand the proposed decisions are capable of adversely affecting persons who have any protected characteristics (and have sufficient information before them to reach a decision on this, one way or the other); and

(b) that they have conscientiously and rigorously addressed whether there are steps that could be taken to remove or mitigate any such disadvantages identified for particular equality groups. Cabinet members should then consider whether or not to modify the proposed decision to incorporate such steps (if there are any). In addition, Cabinet members should scrutinise the decision against the other public sector equality duty criteria (i.e. advancing equality of opportunity and fostering good relations). Here too if the proposed decision provides the opportunity to serve either of these objectives (in its proposed form, or if any modification were made to it), this should be considered.

- 4.22** An Equality Impact Assessment on the proposal to withdraw funding for non-statutory fare paying school transport was attached to the Cabinet report dated 16th December, 2019 at Appendix B.
- 4.23** The previous Equalities Impact Assessment (EIA) that was undertaken for this proposal has been updated following the public consultation. The original EIA noted a number of protected characteristics that would be affected by this proposal which were backed up by feedback from the consultation. A number of mitigating measures have been put in place which have the intention of reducing the impact on those affected and are listed below:
- Age – the withdrawal of funding for these services will have an impact on school aged children (5 to 18 years old). The affected pupils will live in what Welsh Government state an acceptable distance from their school to actively travel to and from school. This is 2 miles or under for primary aged pupils and 3 miles or under for secondary aged pupils. It should also be noted that the Council is undertaking the rationalisation of a number of services within the Directorate for Environment and Housing that affect all age groups, in order to achieve financial savings.
 - Disability – potential with some pupils who have obtained a concessionary bus pass due to disability unable to access a bus service to and from school. Parents/carers of pupils with disabilities can apply to the Council’s ALN and Wellbeing Department in order to be assessed for free home to school transport. Dependent on the needs of the pupils the aforementioned distance limits (2 and 3 miles) can be waived and transport provided. However, it should be acknowledged that a number of schools in the Vale of Glamorgan do not currently have fare paying school services and thus have been unable to access this provision. It should also be noted that dependant on meeting specific criteria with regard to disability, the pupil can also apply for a concessionary bus pass that would entitle them to use any local bus service in Wales.
 - Religion and belief – there is a noted reduction in fare paying school services to St Richard Gwyn Roman Catholic High School. However, these services are provided at the discretion of the Council and other schools have not been afforded the same services. It should also be noted that these pupils will live within the 3 mile walking distance that means they do not qualify for free school transport and they have the potential to actively travel to school. Since the proposal was put forward a number of requests were put to the Passenger Transport team to reassess the walking route from Dinas Powys to St Richard Gwyn. This was undertaken and the walking route was deemed unavailable. The pupils who live in Dinas Powys now get free transport to school. This has negated the impact this proposal will have on St Richard Gwyn with pupils living in mid and West end Barry are now the only pupils attending the school affected by this proposal.
 - Welsh language – some of the services that are funded operate to Welsh medium primary schools and as such their withdrawal could affect access. However, it should be noted that these pupils will live with the 2 and 3 mile walking distance

that means they do not qualify for free school transport and they have the potential to actively travel to school. The affected pupils will live, in what Welsh Government state is, an acceptable distance from their school to actively travel to and from school. This is 2 miles or under for primary aged pupils and 3 miles or under for secondary aged pupils. It should also be noted that the Council is undertaking the rationalisation of a number of services within the Directorate for Environment and Housing that affect all age groups, in order to achieve financial savings. It should also be acknowledged that a number of schools in the Vale of Glamorgan do not currently have fare paying school services and thus have been unable to access this provision.

- 4.24** The impact on all other protected characteristics are either unknown or considered to be neutral with this proposal.

5. Background Papers

Withdrawal of Discretionary Funding for Fare Paying School Transport Services (Which do not Cater for Pupils who Qualify for Free School Transport) – Cabinet Report: 16th December, 2019.

[https://www.valeofglamorgan.gov.uk/Documents/ Committee%20Reports/Cabinet/2019/19-12-16/Withdrawal-of-Discretionary-Funding.pdf](https://www.valeofglamorgan.gov.uk/Documents/Committee%20Reports/Cabinet/2019/19-12-16/Withdrawal-of-Discretionary-Funding.pdf)

Withdrawal of Discretionary Funding for Fare Paying School Transport Services (Which do not Cater for Pupils who Qualify for Free School Transport) – Environment and Regeneration Scrutiny Committee: 21st January, 2020

[https://www.valeofglamorgan.gov.uk/Documents/ Committee%20Reports/Scrutiny-ER/2020/20-01-21/Ref-Withdrawal-of-Discretionary-Funding-for-Fare-Paying-School-Transport-Services.pdf](https://www.valeofglamorgan.gov.uk/Documents/Committee%20Reports/Scrutiny-ER/2020/20-01-21/Ref-Withdrawal-of-Discretionary-Funding-for-Fare-Paying-School-Transport-Services.pdf)

Withdrawal of Discretionary Funding for Fare Paying School Transport Services (Which do not Cater for Pupils who Qualify for Free School Transport) – Corporate Performance and Resources Scrutiny Committee: 05th February, 2020

[https://www.valeofglamorgan.gov.uk/Documents/ Committee%20Reports/Scrutiny-CRP/2020/20-02-05/Ref-Withdrawal-of-Discretionary-Funding-for-Fare-Paying-School-Transport-Services.pdf](https://www.valeofglamorgan.gov.uk/Documents/Committee%20Reports/Scrutiny-CRP/2020/20-02-05/Ref-Withdrawal-of-Discretionary-Funding-for-Fare-Paying-School-Transport-Services.pdf)

Withdrawal of Discretionary Funding for Fare Paying School Transport Services (Which do not Cater for Pupils who Qualify for Free School Transport) – Reference to Cabinet Report: 24th February, 2020.

[https://www.valeofglamorgan.gov.uk/Documents/ Committee%20Reports/Cabinet/2020/20-02-24/Ref-from-CPR-Withdrawal-of-Discretionary-Funding-School-Transport.pdf](https://www.valeofglamorgan.gov.uk/Documents/Committee%20Reports/Cabinet/2020/20-02-24/Ref-from-CPR-Withdrawal-of-Discretionary-Funding-School-Transport.pdf)