

HAMPSHIRE COUNTY COUNCIL

Report

Committee:	Children and Young People Select Committee
Date:	25 May 2018
Title:	Proposed Changes to the Home to School Transport Policy and Post 16 Transport Policy Statement - Consideration of Request to Exercise Call-in Powers
Report From:	Director of Transformation and Governance

Contact name: Barbara Beardwell – Head of Law and Governance and Monitoring Officer

Tel: 01962 845157

Email: Barbara.beardwell@hants.gov.uk

1. Recommendation

1.1. That Members of the Children and Young People Select (Overview and Scrutiny) Committee (C&YP Committee) determine whether or not they consider that the Executive Lead Member for Children’s Services (Executive Lead Member) should re-consider his decisions as set out in the Decision Record attached at Annex A.

2. Purpose of Report

2.1. The purpose of the meeting to which this Report relates is for the C&YP Committee to consider whether or not it should exercise its powers under Section 9F of Part 1A of the Local Government Act 2000 (‘the 2000 Act’), referred to in the County Council’s Constitution as ‘Call-in’.

3. Contextual information

3.1. It is the responsibility of a local authority to provide free home to school transport for children of compulsory school age in certain circumstances prescribed in legislation.

3.2. Whilst most parts of the current service are statutory, some of the eligibility criteria employed in Hampshire’s Home to School Transport (HtST) policy are discretionary. The proposals consulted on apply only to the discretionary criteria. Changes to the HtST policy require statutory consultation, details of which are attached to the Executive Lead Member report at Annex B. The HtST Policy and the Post 16-Transport Policy Statement recommended to the

Executive Lead Member as set out in the report attached at Annex B ensure the County Council will continue to meet its statutory requirements.

- 3.3. On 16 October 2017, as part of the Transformation to 2019 programme, Cabinet approved a consultation on proposals to changes to the County Council's HtST and Post 16 Transport Policies. The proposal was to consult on proposed reductions to the policy to the statutory minimum and apply that with few exceptions.
- 3.4. On 9 May 2018 the C&YP Committee met at 10am and as part of their agenda pre-scrutinised the 'Proposed Changes to the Home to School Transport Policy and Post 16 Transport Policy Statement' report prior to its consideration by the Executive Lead Member at his Decision Day that afternoon. The Executive Lead Member report that was considered by the C&YP Committee is attached at Annex B.
- 3.5 At the C&YP Committee, a number of additional recommendations to the Executive Lead Member were proposed and considered and a vote was held on each as set out below:

- a. Proposed by Councillor Jackie Porter and seconded by Councillor Michael Westbrook as set out below.
'Re-consider the options for pre-school and rising 5's school transport particularly to encourage rising 5's the opportunity to attend school'.

For: 8
Against: 10
Abstained: None

- b. Proposed by Councillor Malcolm Wade and seconded by Councillor Gavin James as set out below.
'Offer a continuing place to 8 year olds (Year 3) on the school bus, even if they have to pay'.

For: 8
Against: 9
Abstained: 1

- c. Proposed by Councillor Gavin James and seconded by Councillor Jackie Porter as set out below.
'To reinstate the councillor panel to determine appeals'.

Following legal advice, this was withdrawn.

- d. Proposed by Councillor Michael Westbrook and seconded by Councillor Wayne Irish as set out below.
'To carry out impact assessments on schools with rural catchments to deal with any extra traffic'.

For: 5
Against: 13
Abstained: None

3.6 Subsequently it was proposed ‘that the C&YP Committee support the recommendations being proposed to the Executive Lead Member for Children’s Services in the attached report’ (attached at Annex B). A vote was held, with the outcome:

For: 10
Against: 8
Abstained: None

This recommendation therefore formed the resolution of the C&YP Committee.

3.7 On 9 May 2018 at 2pm the Executive Lead Member received the report presented to the C&YP Committee and approved the recommendations as set out in the report attached at Annex B. The Executive Lead Member added additional recommendations (d and e) at his Decision Day on the basis of deputations received and the discussion that had been held at the C&YP Committee and further deputations and information received at his Decision Day. The decision record dated 9 May 2018 is attached at Annex A. In relation to the additional recommendation (e) referred to above, an updated HtST policy incorporating minor amendments outlined at the Executive Lead Member’s Decision Day is attached at Annex C.

3.8 Following the decision of the Executive Lead Member on 9 May 2018, a valid call-in request was made by a quorum of Members of the C&YP Committee on 15 May 2018 for a meeting of the Committee to be held in order for it to consider whether or not it should exercise its Call-in powers. The reasons given for the Call-in request are attached at Annex D.

4 Legal and Constitutional Position

4.1 Legal provisions in respect of Call-in are set out at Section 9F of Part 1A of the 2000 Act and reflected at Part 3, Chapter 3, Paragraph 1.17 of the County Council’s Constitution. A copy of Part 3, Chapter 3, Paragraph 1.17 of the Constitution is attached at Annex E for ease of reference. It should be noted however that discussion of the Executive decision subject of the Call-in request is not limited to the points raised in the request.

4.2 When a Scrutiny Committee meets in order to consider whether or not it should exercise its Call-in powers in respect of an Executive Decision, a Select Committee is required to consider whether or not to recommend:

- a) that the decision be reconsidered by the relevant decision maker; or
- b) that its function in respect of review or scrutiny of the decision should be exercised by the County Council.

4.3 It should however be noted that the recommendation as referred to at 4.2 b) is not available where the Executive decision in question is in line with the Budget or Policy Framework. Neither does the exercise of Call-in powers prevent implementation of a decision within the Budget and Policy Framework. As indicated at Section 3 of this Report, the decision of the Executive Lead Member relates to proposals regarding implementation of the County Council's Decision in respect of savings option proposals approved by the County Council in respect to Home to School Transport Remodelling, following the outcome of the 'Serving Hampshire – Balancing The Budget' consultation exercise on the Transformation to 2019 Programme, agreed by the Executive Lead Member on 20 September 2017, prior to consideration by the County Council at its meeting on 2 November 2017. Therefore, should the C&YP Committee determine it appropriate to exercise its Call-in powers, the recommendation open to the Committee is as set out in paragraph 4.2 a).

5 Scrutiny

- 5.1 The role of a Scrutiny Committee includes both developing and reviewing policy and holding the Executive to account. A Scrutiny Committee may not however discharge any functions other than those conferred on it, and whilst it is perfectly proper for a Scrutiny Committee to offer advice and recommendations to an Executive decision maker, in law responsibility for an Executive decision is that of the Executive.
- 5.2 Statutory Guidance confirms that pre-scrutiny of a proposed Executive decision might consist of (inter-alia) seeking the views of local stakeholders and interested parties, and advises that the Executive should take into account any views expressed by an Overview and Scrutiny Committee when determining their final decision. The Executive is not however limited to consideration only of the views of a Scrutiny Committee, and may take into account other factors in its decision making process and make other determinations as it thinks fit.
- 5.3 It should be noted that after a vote of the C&YP Committee on the 9 May 2018, the Committee voted to support the recommendations in the report. The outcome of the vote is available in the published minute.
- 5.4 Statutory guidance advises that when operated effectively, call-in provisions should ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are recommended, and allowing effective and efficient decision making by the

Executive within the policy framework and budget agreed by the full Council. Whilst neither the law nor the County Council's Constitution prevent call-in of an Executive Decision, it is clear in the statutory guidance that a decision maker should only be asked to reconsider a decision once. As indicated above in this Report, the decision of the Executive Lead Member of 9 May 2018 was pre-scrutinised by the C&YP Committee prior to the Executive Member decision, when the decision of the C&YP Committee was to support the decision.

CORPORATE OR LEGAL INFORMATION:**Links to the Strategic Plan**

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	no
People in Hampshire enjoy being part of strong, inclusive communities	yes

Other Significant Links

Links to previous Member decisions:	
Title	
<u>Executive Lead Member for Children's Services - Transformation to 2019 - Revenue Savings Proposals</u>	20/09/2017
<u>Cabinet - Medium Term Financial Strategy Update and Transformation to 2019 Savings Proposals</u>	16/10/2017
<u>County Council - Medium Term Financial Strategy Update and Transformation to 2019</u>	2/11/2017
<u>Executive Lead Member for Children's Services - Proposed Changes to the Home to School Transport Policy and Post 16 Transport Policy Statement</u>	9/5/2018

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

IMPACT ASSESSMENTS:

Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

Equalities Impact Assessment:

An Equalities Impact Assessment has been completed. A summary statement is available at Integral Appendix B of the decision report, attached at Annex B. The full assessment is available at: www.hants.gov.uk/childrens-services/about-cs/cs-equality-diversity.htm.

Impact on Crime and Disorder and Climate Change:

Details relating to impact on crime and disorder and climate change are available at Integral Appendix B of the decision report, attached at Annex B.