

Agenda Item	13
Report No	HC/32/23

The Highland Council

Committee: Highland Council

Date: 14 September 2023

Report Title: Home to School Transport Entitlement Review

Report By: Executive Chief Officer Infrastructure, Environment & Economy

1 Purpose/Executive Summary

- 1.1 The Redesign Board has considered a review of the process for appeals made on the grounds of safety under the Council's Home to School Transport Policy and has supported changes to the Scheme of Delegation. The criteria for assessing route safety and the appeal process itself are not always well understood by parents, and a need to review the mechanism for considering appeals had been recognised. These changes are intended to promote equality of transport provision throughout the Highlands and consistent and transparent assessment in line with the latest national guidance and the Home to School Transport Policy. The Redesign Board agreed to recommend Option 1 for the membership of the Education Transport Entitlement Review Sub-Committee to Council for approval.
- 1.2 The Board also considered and supported an update to the eligibility criteria for Gaelic Medium and denominational education.

2. Recommendations

- 2.1 Members are asked to Agree that the following is included within the next update of the Scheme of Delegation:-
- i. an updated remit for any review of school transport provision process as outlined in this report;
 - ii. replacement of the Education Transport Entitlement Review Sub-Committee with a panel of senior officers (Option 1);
 - iii. an update to the Home to School Transport Policy to reflect these changes, and to include reference to external complaints processes.
- 2.2 Members are also asked to Agree:
- i. an update to the eligibility criteria for transport to Gaelic Medium education where catchment boundaries have been defined; and
 - ii. An update to the eligibility for transport to denominational education in line with the approach recommended for Gaelic Medium.

3 Implications

3.1 **Resource** - The recommendations can be accommodated within existing resources.

3.2 **Legal** – Councils have a duty under the Education (Scotland) Act 1980 to consider safety of pupils when deciding whether to make arrangements for their transport to and from school. This applies where pupils attend their catchment area school. In effect, this means that where the distance to school is less than the statutory walking distance of 2 miles for pupils under age 8, or 3 miles for age 8 and over, provision of transport may be required if the route is assessed as unsuitable for walking.

There is no duty on councils to have an appeals process for such assessments, but most do so.

3.3 **Community (Equality, Poverty, Rural and Island)** - Appeals for children with Additional Support Needs (ASN) are considered individually, and separately from the mainstream Home-to-School Transport Policy in consultation with ASN Managers. There is thus no equality impact in this regard.

While a large proportion of safety appeals are rural, these changes are expected to bring about greater equality of provision, transparency and consistency.

3.4 **Climate Change / Carbon Clever** - There are no implications arising directly from the recommendations made in this report.

3.5 **Risk** – These amendments will ensure a more robust and transparent appeals process, reducing the risk of challenge from parents, and aiding consistency in decision making.

3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** - There are no specific Health and Safety risks from the recommendations made.

3.7 **Gaelic** - The changes made to the eligibility for Gaelic Medium education will promote an equitable service of transport provision, consistent with government guidance.

4 Transport Entitlement Review Process

Current Position

4.1 Provision of home to school transport is one of the Council's statutory functions. All primary and secondary school pupils are entitled to transport if they attend their catchment area school and live more than 2 miles from it (if aged under 8 years) or more than 3 miles from it (aged 8 years or over), measured by the shortest available route.

4.2 Parents or guardians may request a review of any decision to refuse entitlement to school transport over the whole or part of a route. Reviews are carried out in the first instance by staff of the Passenger and School Transport team. Route reviews are assessed using a risk assessment template based on Road Safety GB guidelines. The guidelines consider potential risk created by road, traffic and topographical conditions. Criteria are given for a route to be classed as non-hazardous. Staff of the Road Safety team are involved where appropriate. The template results in a Red, Amber or Green assessment of the route.

- 4.3 Walking routes are assessed on the basis that the child will be accompanied by a parent or other responsible adult if the parent feels necessary. If parents are unable to do this, it is their responsibility to make other arrangements for someone to accompany their child.
- 4.4 If the outcome of the risk assessment is red, transport entitlement is granted. If amber, mitigation measures may be introduced, or the Road Safety team may be asked to do a more detailed assessment. If green, entitlement is refused.
- 4.5 Although the Council is under a legal duty with regard to safety (not only road safety) in deciding whether to provide transport, in the great majority of cases, but concerns about personal security would also be addressed by having the child accompanied by a responsible adult. Therefore, on most routes it is necessary for the assessment to be undertaken only from a road safety perspective.
- 4.6 If the parent or guardian is still not satisfied with the decision, the route is referred to the Council's Education Transport Entitlement Review Sub-Committee, comprising 5 Members.
- 4.7 The current remit of the Sub-Committee is "*To determine appeals in respect of the provision of school transport.*"
- 4.8 The Sub-Committee are asked to review the route and make a decision on its safety. The decision of the Education Transport Entitlement Review Sub-Committee is final within the Council, unless there is a material change in the nature of the route or other circumstances after the decision has been made.

Following a decision by the Education Committee in 2009, the assessment is of the route and not of individual circumstances. For example, a child's Additional Support Needs would be considered separately from this process.

5. Other Councils' Policies

- 5.1 It should be noted that while there is a large variation in appeal processes for Home to School Transport across all Scottish Local Authorities, Road Safety GB Guidance is the common assessment criteria in road safety assessments.
- 5.2 All other Scottish local authorities have been surveyed, to compare their practices with those of Highland. Of those who responded, only two others have a Sub-Committee review panel; the majority have a panel of senior officers, typically from Education or Transport. A number of Authorities have no formal review process, with any challenges from parents or guardians being directed to the Authority's generic complaints procedure.

6. Review of Process

- 6.1 A review process is recommended if a parent or guardian appeals against a decision, and this has not been resolved internally by Passenger and School Transport or Road Safety staff, two options are presented in this report: a panel of senior officers or a reconstituted Sub-Committee of Members.

6.2 **Remit** – In either option, it is proposed that the remit for reviewing appeals should be made more specific, amending it to the following:-

- to review appeals made on the grounds of road safety in relation to the Council's School Transport Policy and the route risk assessment carried out by Passenger and School Transport and Road Safety staff;
- to determine if the appropriate assessment procedure was followed and Road Safety GB Guidance used adequately to inform the decision made by staff; and
- to determine whether the decision made by staff should be upheld having considered compliance with the assessment procedure and Road Safety GB guidance.

6.3 The remit would remain to decide in relation to a route, and not individual circumstances.

6.4 While the decision, following review, would remain final within the Council, unless there is a material change in the nature of the route or other circumstances after the decision has been made, the policy will be updated to reflect the external bodies that are available for the concern to be escalated externally (Resolver Service, Ombudsman).

6.5 **Option One - Composition and Qualification**

The recommended option, which is in line with the practice in most Councils, is that a Review Panel be made up of senior officers with a level of responsibility, experience or interest in the service (i.e. education/transport), and who have a level of understanding of the policy and practice of Home to School transport provision. Members of the Sub-Committee will be given a briefing on the remit of the panel and details of the route under review.

To maintain impartiality, the Panel will not include Infrastructure, Environment and Economy or Education and Learning staff involved in the original decision. The appellant will not be permitted to attend the review but may submit a supporting statement in writing. Only matters relating to the safety of the route will be taken into consideration by the Panel.

It is proposed that the Panel is made up of:-

- one senior officer from Infrastructure, Economy and Environment (i.e. Executive Chief Officer or Head of Service);
- one senior officer from Education and Learning (i.e. Executive Chief Officer or Head of Service); and
- one Senior Officer independent to both Services.

6.6 Option Two - Composition and Qualification

If Members wish an Entitlement Review Sub-Committee to continue, it is recommended that its composition be revised as follows, to ensure that the Council's responsibilities are reflected in it:-

- two members of Infrastructure, Environment & Economy Committee, one of whom should be Committee Chair or Vice-Chair, and who will chair the Sub-Committee;
- one member of Education Committee;
- one member of Audit & Scrutiny Committee; and
- one other member from any of the above Committees.

As at present, Ward Members for the locality of the route under review would be invited to attend and state their views but will not have a vote.

- 6.7 If a Review Sub-Committee is convened, the Road Safety Team will present the case and any supporting evidence to the Sub-Committee, who will review the route and come to a conclusion on its safety following the outlined remit.

7 Home to School Transport Entitlement

- 7.1 **Gaelic Medium Entitlement** - The current policy defines eligibility for free transport for pupils receiving Gaelic Medium education as within a 'reasonable distance.' Where catchments are not defined, this is generally taken to be around 15 miles from the home address, although it can be stretched to cover remote areas. Standard distance and walking route safety eligibility criteria still applies to GME.

- 7.2 It is recommended that the Policy be updated to state:-

"Where catchment areas have been defined, entitlement to travel support for pupils attending Gaelic Medium Education will generally follow the catchment area, except remote parts of the catchment may be excluded if this would make journeys excessively long."

The Policy already states that the minimum distance criteria apply to these schools, as with mainstream English Medium education, and this would be unchanged.

- 7.3 **Denomination Entitlement** - There are only three denominational schools in Highland; St Joseph's RC Primary and Bishop Eden Primary in Inverness, and St Columba's RC Primary in Caol.

- 7.4 The current policy defines eligibility for free transport for pupils receiving denomination education as within 10 miles of their home address. This was logical when it was established, but it is recommended that this should be brought in line with GME eligibility criteria to ensure provision of a fair and equitable service. As there are no defined denominational catchment areas, it is recommended that travel entitlement areas for these schools should be the same as for the Gaelic Medium schools in the same areas. While this entails some increase in entitlement, it is generally the case that the same transport contracts are able to provide for both GME and denominational pupils.

7.5 It is recommended that the Policy be updated to state:

“Entitlement to travel support for pupils attending denominational education, where it exists, will match the entitlement area for pupils attending Gaelic Medium Education in the same locality.”

As with Gaelic Medium education, the standard minimum distance criteria apply.

Designation: Executive Chief Officer Infrastructure, Environment
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