

**RESPONSE TO REQUESTS BY OWN ADMISSION AUTHORITIES TO CHANGE THEIR CATCHMENT AREAS**

**To:** Children and Young People's Committee

**Meeting Date:** 10 March 2015

**From:** Adrian Loades, Executive Director: Children, Families and Adults Services

**Electoral division(s):** All

**Forward Plan ref:** N/a                      **Key decision:** No

**Purpose:** **To:**

- i) alert the Committee to the implications of governing bodies and academy trusts which have responsibility for their own admission arrangements (own admission authority schools) seeking to change their catchment areas; and
- ii) seek the Committee's endorsement of the proposal set out in Section 2.8 that the process for responding to such changes should be formally adopted as Council policy with immediate effect.

**Recommendation:** Committee is asked to support the recommendation that the Council should adopt the process set out in Section 2.8 for responding to school governing body or academy trust (own admission authority schools) proposals to change their catchment areas with immediate effect.

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## 1.0 BACKGROUND

- 1.1 In Cambridgeshire there are an increasing number of governing bodies or trusts which are responsible for the admission of children into the schools they manage and run, principally as a result of conversion to academy status and the establishment of new academies. Those responsibilities cover:
- Setting the published admission number (PAN) which determines the number of children who will be admitted to the school at the normal point of entry, i.e. reception (primary, infant and first schools), year 3 (junior schools), year 5 (middle schools) or year 7 (secondary schools);
  - the over-subscription criteria to be used when more applications are received than there are places available; and
  - the catchment area, where a catchment system is used. (Only four schools in Cambridgeshire, three church schools and the University Technical College (UTC) in the City, operate without a defined local catchment area.)
- 1.2 The categories of own admission authority schools are:
- Foundation – 1 secondary and 11 primary schools
  - Voluntary Aided – 19 primary schools
  - Academy (including Free schools and University Technical Colleges) – 31 secondary and 37 primary schools
- 1.3 The Council is the admission authority for:
- 99 Community Schools
  - 39 Voluntary Controlled Schools
- These are all primary schools.
- 1.4 With the exception of proposals to increase a school's PAN, admission authorities must consult on any changes they wish to make to their admission arrangements as part of an annual consultation process.
- 1.5 The Council has a duty and obligation to assess the potential implications of all such proposed changes for the schools and communities who would be directly affected and, specifically in the case of catchment definitions, for the use of its own resources.
- 1.6 In 2011, Sir Harry Smith Community College (Academy) Trust in Whittlesey took the decision to extend the school's catchment area to include a primary school in the neighbouring Peterborough City Council's area of responsibility. This highlighted the need for a systematic process to be established in order to assess and reach decisions in respect of this and any future such proposals given the potential implications for the Council in terms of the provision of free home to school/college transport. Senior officers approved the adoption of the process set out full in **Appendix 1** for implementation with immediate effect.

## **2.0 MAIN ISSUES**

- 2.1 The catchment areas in operation across Cambridgeshire were originally defined by the Council, and remain largely unchanged since they were adopted. The exceptions to this have been where:
- new schools have been established, requiring catchment boundaries to be re-defined;
  - the Council and the schools concerned have agreed that there was a sound case for making changes based on issues such as ease of access and travel distance for the families in the area; and
  - a school, following consultation, has decided to proceed to implement a change even where this has not been supported by the Council.
- 2.2 To date, it has only proved necessary to follow the process adopted in 2011 once. This was very recently in response to a proposal from the governing body of Barnabas Oley Church of England Aided Primary School in Great Gransden to be included within the catchment area of Comberton Village College in place of Longsands College in St Neots. When the Council was first contacted by the school in autumn 2013, they were advised that should they decide to proceed, the Council would not necessarily recognise the change in terms of its responsibilities for the provision of transport. The reason for this was that there were closer secondary schools than Comberton which families living in the Barnabas Oley Church of England Aided Primary School's catchment area could access. These are Ernulf Academy and Longsands College in St Neots, and Cambourne Village College.
- 2.3 The school chose to proceed and the proposal was included in the annual consultation on admission arrangements which took place between 3 January and 28 February 2014. The response from parents was positive and the school decided to proceed with implementation effective from September 2015 (the earliest date such a change could be effected).
- 2.4 On 16 May 2014, the Manager Admissions, Transport & Education Welfare Benefits wrote to the school to confirm that the Council would only provide transport assistance for children living within the school's catchment area where Comberton Village College was the nearest school.
- 2.5 In response, the school's governing body lodged an objection with the Office of the Schools' Adjudicator. This was dismissed as being outside the Adjudicator's remit. At this point, the school's governing body asked the Council to review their decision not to recognise the catchment change for the purposes of determining eligibility for school transport.
- 2.6 As requested by the school, the Executive Director and Director of Learning, Children, Families and Adults reviewed the case in Autumn 2014. They subsequently confirmed that they were satisfied that the appropriate process had been followed and that the decision reached should stand.
- 2.7 They also concluded that the case demonstrated the need for the Council to adopt the process established in 2011 as Council policy, updated to reflect the Council's Committee system of decision-making. They reached this

conclusion because of the significant potential resource implications of a governing body or academy trust making such a change, and the impact on community relationships of a potential dispute with the County Council.

- 2.8 It is considered that adopting the process set out below will provide the appropriate authority and transparency. It is proposed that the process should be adopted with immediate effect.
1. The Chair and Vice Chair of the Children and Young People's Committee and the ward councillor(s) are informed that a governing body or academy trust has indicated that it wishes to change the catchment area a school serves. Those Members are provided with an assessment of the implications for the Council should the proposed change be implemented together with a recommendation on whether or not the Council should support the change and recognise this for the purposes of determining eligibility for school transport. Members are asked to consider and endorse that recommendation.
  2.
    - a) Where Members endorse a recommendation that the Council **should support** the implementation of the proposed change, a letter will be sent to the governing body or trust by the relevant officer (the Manager Admissions and Transport in the 0-19 Place Planning and Organisation Service) to advise them of this. Should the proposal be subsequently implemented, all admission and transport information published by the Council will be updated to reflect this.
    - b) Where Members endorse a recommendation that the Council **should not support** the implementation of the proposed change or recognise it for the purposes of determining eligibility for school transport, the relevant officer will request a meeting with governing body or trust representatives to set out the Council's concerns and seek to secure their agreement to either modify or cease to pursue their proposals any further.
    - c) Where Members reach different conclusions in respect of the recommendation, the matter will be referred back to the CYP Committee for a final decision.
- Where the decision is to proceed with option (b):**
3. In the event that the relevant officer is unable to secure the governing body or trust's agreement to either modify or cease to pursue their proposals any further, the Director of Learning: CFA will send a formal letter of objection to the school.
  4. Should the governing body or trust choose to proceed with their proposed changes, the relevant officer will submit a formal objection to the Office of the Schools' Adjudicator.
  5. In the event that the proposed changes are subsequently implemented and result in a change to the school's catchment area which would incur additional, on-going revenue costs for the Council for the provision of free transport, the relevant officer will write to the school to confirm that the

Council would not be responsible for meeting any associated transport costs. All admission and transport information published by the Council will be updated to reflect this.

### **3.0 ALIGNMENT WITH CORPORATE PRIORITIES**

#### **3.1 Developing the local economy for the benefit of all**

3.1.1 There are no significant implications for this priority.

#### **3.2 Helping people live healthy and independent lives**

3.2.1 There are no significant implications for this priority.

#### **3.3 Supporting and protecting vulnerable people**

3.3.1 There are no significant implications for this priority.

### **4.0 SIGNIFICANT IMPLICATIONS**

#### **4.1 Resource Implications**

4.1.1 There are significant potential resource implications resulting from own admission authority schools choosing to make changes to their catchment areas if the Council were to recognise those changes for the purposes of determining eligibility for free home to school transport. In the case of the change implemented by Barnabas Oley Church of England Aided Primary School and Comberton Village College, the Council would have been required to provide free transport to one of three secondary schools: Comberton as the named catchment school for children living in the Barnabas Oley catchment area and either Cambourne Village College or one of the secondary schools in St Neots subject to which was the nearest to the pupil's address.

#### **4.2 Statutory, Risk and Legal Implications**

4.2.1 The Legal parameters relating to home to school/college transport for pupils of statutory school age are set out in Sections 508, 509 and schedule 35B of the 1996 Education Act as amended by the Education and Inspections Act 2006.

Sections 509(1) and (2) place a duty upon local authorities to provide free transport where necessary to facilitate the attendance of children and students at schools and institutions both within and outside of the further and higher education sectors.

Section 509(3) allows local authorities to pay the whole or any part of reasonable travelling expenses when not making provision under 509(2) above.

Section 509(4) requires local authorities to take certain factors into account including the child's age, the nature of possible routes and parental wishes for the provision of education at a school or institution in which the religious education is that of the religion or denomination to which his/her parent adheres.

4.2.2 Statutory walking distance is defined in Section 444(5) of the Act as either

two miles (if the child is under 8 years of age) or three miles (if the child is aged 8 to 16).

The Council has used its discretionary powers under Section 508C of the Act to lower the statutory walking distance and apply a two mile 'walking distance' for children up to age 11 (secondary school age). This is in recognition of the fact that the predominant educational model in Cambridgeshire is a two-tier arrangement with children attending primary school between the ages of 4 and 11 and then transferring to secondary school.

4.2.3 With effect from September 2007, local authorities have had to provide free transport for pupils aged between 8-11 living in low-income households who have to travel more than two miles to their designated school.

4.2.4 With effect from September 2008, local authorities have had to provide free transport for secondary pupils from low-income groups to:

- a choice of 3 schools within 2 to 6 miles of the child's home; and
- to the nearest school preferred by reason of a parent's religion or belief between 2 and 15 miles from the child's home.

4.2.5 A pupil's designated school is:

- the catchment school determined by the Council for this purpose;
- the nearest school to the home address;
- the school at which a place has been offered in those cases where the child's parents have applied for, and been refused a place at their catchment school (recognised by the Council for transport purposes), and, (where applicable) their nearest school.

4.2.6 In cases where the Council has taken the decision not to recognise a school's catchment area definition change for transport purposes, it will still be necessary to determine individual pupils' entitlement to free transport in cases where they are living in low-income households and/or the Council has found it necessary to offer places at the school in question.

### **4.3 Equality and Diversity Implications**

4.3.1 If the parents of a child, living under statutory walking distance from the designated school, have a disability as defined by section 6 Equality Act 2010, that has an adverse effect on their ability to walk their child to school, the Council has a duty to make reasonable adjustments (as defined by section 20 of the Equality Act 2010) in order to ensure they or their children do not suffer any disadvantage as a result of their disability.

4.3.2 Free transport will continue to be provided to children and young people who have a medical condition (long-term or short-term) which prevents them from walking to school or from accessing the type of free transport provided by the Council (usually a pass for a contract or service bus) if:

- they are attending their designated school; and
- objective medical opinion, confirmed by completion of a medical form by the child's/young person's consultant or GP that transport is

essential on medical grounds and the period over which this is required.

- 4.3.3 Free transport will continue to be provided to children and young people who have a statement as a special educational need, medical need or disability which ordinarily prevents them from either walking to the school named in their statement.

#### **4.4 Engagement and Consultation Implications**

- 4.4.1 Whenever the Council receives notification that a maintained school or an academy may be considering changing its catchment area, officers will arrange to discuss the proposals and the potential implications for families, other schools and the Council at the earliest opportunity.

All proposed changes to catchment areas are subject to consultation through the annual admissions consultation process co-ordinated by the Council.

#### **4.5 Public Health Implications**

- 4.5.1 The potential exists for more children to be transported to and from school by car in cases where a maintained school or academy chooses to change their catchment area and the Council takes the decision not to recognise this change for the purposes of the provision of free home to school transport.

#### **4.6 Localism and Local Member Involvement**

- 4.6.2 As set out in Section 2.8, the process proposed for adoption will ensure that local Members are notified of, and involved in consideration of all future proposals from own admission authority schools to change their catchment areas.

<b>Source Documents</b>	<b>Location</b>
Correspondence with Barnabas Oley Church of England Aided Junior School and the Office of the Schools' Adjudicator. Report to Children and Young People's Spokespersons dated 18 December 2014. Home to School/College Transport Policy.	Admissions and Transport Team, 0-19 Place Planning and Organisation Service 2 <sup>nd</sup> Floor Octagon Shire Hall Cambridge CB3 0AP

**Process Adopted in 2011**

1. The relevant Cabinet Members (Learning and Children & Young People's Services) and local councillors would be informed that a governing body wished to change its published admission arrangements. They would also be provided with an assessment of the implications for the Council should they be implemented together with a recommendation on whether or not the Council should support the proposals.
2. In cases where the recommendation was that the Council should not support the proposed changes, the relevant officer (the Manager Admissions, Transport & Education Welfare Benefits) would request a meeting with representatives of the school's governing body in order to set out the Council's concerns and seek to secure the governing body's agreement to either modify or abandon their proposed changes.
3. In the event that the Manager Admissions, Transport and Education Welfare Benefits was unable to secure the governing body's agreement to either modify or abandon their proposed changes, the Council would submit a formal objection to the governing body. The letter of objection to be signed by the Director of Children's Services.
4. In cases where, following submission of an objection by the Council, the governing body chose to proceed with their proposed changes, the Council would submit a formal objection to the Office of the Schools' Adjudicator.
5. In the event that the proposed changes were subsequently implemented and resulted in a change to the school's catchment area which would incur additional, on-going revenue costs for the Council for the provision of free transport, the Council would confirm in writing to the governing body and in all of its published admission and transport information that it did not recognise the change and, therefore, would not be responsible for meeting any associated transport costs.