

Appendix 6

Discretionary Element: Faith School Transport

Policy Section: Section 3.2

Working Group Outcome: No Change

Reasoning: Transport provided on the basis of nearest suitable Faith school is not specifically covered under legislation. However, there has previously been successful challenge in other Welsh Local Authorities who have tried to remove Faith transport; on the basis of equality of opportunity for learners. Removal of this provision could therefore open the Authority to challenge based on previous case law.

Discretionary Element: Promoting Welsh Language in Education

Policy Section: Section 3.3

Working Group Outcome: No Change

Reasoning: Technically transport provided on the basis of Welsh preference is not discretionary. Under section 10 of the legislation, Authorities in Wales have a duty to 'Promote access to education and training through the medium of the Welsh language'. In practice all Authorities in Wales do this by providing discretionary free transport to the nearest suitable Welsh school; if this is a parental preference.

Discretionary Element: Feeder school arrangements

Policy Section: Section 3.4

Working Group Outcome: No Change

Reasoning: When Denbighshire's Transport 2018 Policy was consulted on, the Authority specifically included provision for feeder school arrangements to support the well-being of children; allowing transport to the feeder secondary school if this was not their nearest suitable school from home. There are caveats around its use and applicants must fully comply with section 3.4. This discretion allows cohorts of children to stay together rather than having to be split, where parents / carers were having to make decisions based on whether free transport was available. In practice this discretion usually means that more children are utilising existing Denbighshire's services rather than the Authority having to pay for alternate transport to other schools; some of which may be out of County.

Discretionary Element: Post-16 Transport

Policy Section: Section 3.5

Working Group Outcome: No Change

Reasoning: The Authority provides transport for post-16 pupils to be able to attend their nearest suitable sixth form or college. This promotes opportunity of education in-line with the Corporate Plan, making Denbighshire '*A place where younger people will want to live and work and have the skills to do so*'. Other Authorities in Wales have removed post 16 transport or have previously charged for these services; however, recent regulation changes in the UK have had an impact on the ability to do this (See Appendix 4). Welsh Government have also sought to review this situation (See Appendix 5). The options to make changes to existing post-16 provision are presently limited by this.

Discretionary Element: **School Reorganisation**

Policy Section: Section 3.6

Working Group Outcome: No Change

Reasoning: For changes to school sites or new school developments, having the ability to provide discretionary transport for any learners directly impacted by the change is essential to ensuring continuity of education. This discretion is applied relatively infrequently and would follow extensive consultation. There will also be specific caveats about how and to whom this discretion would apply. It would also be time limited.

Discretionary Element: **Moving Home**

Policy Section: Section 3.7

Working Group Outcome: No Change

Reasoning: The Authority has chosen to provide discretionary transport for learners if they move home whilst in a key GCSE years (years 10 & 11 only). Such transport ensures continuity of study during these key phases of education; however, the Authority does reserve the right to apply a test of reasonableness to the request having regard to distance, time of journey and proximity of other schools.

Discretionary Element: **Managed School Transfers**

Policy Section: Section 3.8

Working Group Outcome: No Change

Reasoning: There can be limited instances where the Authority is required to provide transport for certain pupils who can't attend their nearest school by virtue of their own specific circumstances. This can be for a variety of reasons, with decisions being made by relevant professionals at the school and Authority that this is the most appropriate action required.

Discretionary Element: **Other Discretionary Transport**

Policy Section: Section 3.10

Working Group Outcome: No Change

Reasoning: Section 3.10 allows the Head of Service to apply discretion. This flexibility will always be required as legislation, and indeed the Authority's own policy could not have an exhaustive list of possible reasons to provide transport. However, the Authority does record such instances of discretion to ensure consistency of decision and will consult with relevant professionals as required. Such decisions are also often time limited and regularly reviewed.