

<b>Report to</b>	<b>Performance Scrutiny Committee</b>
<b>Date of meeting</b>	<b>28<sup>th</sup> January 2021</b>
<b>Lead Member / Officer</b>	<b>Huw Hilditch-Roberts / Geraint Davies (Head of Education)</b>
<b>Report author</b>	<b>Geraint Davies (Head of Education) / Ian Land (Education Planning and Resources Manager)</b>
<b>Title</b>	<b>Learner Transport: Provision for Welsh Medium Education and the Definition of Category 1 Schools in the County</b>

## **1. What is the report about?**

- 1.1 To provide an overview of school transport requirements as they apply to Welsh Language Schools under the Learner Travel (Wales) Measure 2008; which is incorporated in the Authority's own Learner Transport Policy 2018.
- 1.2 To provide an overview of the Welsh Language Categorisation of schools and how this applies to School Transport.

## **2. What is the reason for making this report?**

- 2.1 At the request of Members, to provide Performance Scrutiny Committee with details of the Council's Learner Transport Policy as it applies to Category 1 & 2 Secondary Schools; and the definition of 'suitable school' in relation to Category 1 & 2 if parental preference opts for Category 1.

## **3. What are the Recommendations?**

- 3.1 That the Committee discusses the contents of the report and confirms that no change is required to the Authority's Policy due to:

- The Learner Transport Policy 2018 fully meeting the current statutory requirements under Learner Travel (Wales) Measure 2008; which has been tested legally prior to being adopted in 2018.
- Currently changing how Category 1 & 2 Welsh Language Secondary Schools are dealt with in terms of transport would undermine the provision of Education in Denbighshire's Category 2 Welsh Schools.
- It would also open up the Authority to challenge in regard to decisions previously made, or future decisions made if these contradict the Legislation, Policy and Guidance.
- Welsh Government have consulted on potential future changes to The Learner Travel (Wales) Measure 2008 in January 2021, and the outcome of the process could again change future requirements across a number of areas, including for Welsh medium schools.
- Welsh Government are presently consulting on '*School categories according to Welsh-medium provision*' and the outcome of this process may also change the current categorisation for all Welsh medium schools and any linked Legislation.

## 4. Report details

- 4.1 In the context of The Learner Travel (Wales) Measure 2008, Section 10 of the Legislation covers '*Promoting Access to Welsh Medium Education*'. This states:
- Each local authority and the Welsh Ministers must promote access to education and training through the medium of the Welsh language when exercising functions under this Measure.*
- 4.2 In practical terms, the way all Authorities in Wales meet this requirement is to provide free transport to the nearest suitable Welsh medium school from home; if this is a parental / carer choice. This therefore permits families to either get free transport to their nearest suitable English or Welsh medium school. However, this provision is still dependent upon meeting the distance criteria stipulated in the Measure:
- Free transport is only provided for those who live over 2 miles from their nearest suitable primary schools; and
  - Free transport is only provided for those who live over 3 miles from their nearest suitable secondary school.

For those who live below these distances there is an expectation that learners should walk to school if it is safe do so.

- 4.3 In regard to the duty placed on the Local Authority relating to 'nearest suitable school' Section 2 (3) of the Measure states:

*(3) For the purposes of subsection (2), the "learner travel needs" of a local authority's area are the needs of learners who are ordinarily resident in the authority's area for suitable travel arrangements each day to and from the relevant places where they receive education or training.*

In relation to the Measure's definition of 'relevant place' Section 4 (7b) firstly states:

*(7) In considering whether travel arrangements are necessary for the purposes of this section a local authority —*

*(b) may have regard in particular to whether or not the child is attending the nearest suitable relevant place to the child's place of ordinary residence.*

Furthermore, the Measure provides a definition of 'Relevant Place' in Section 4 (9):

*(9) For the purposes of this section, a relevant place is suitable for a child if the education or training provided there is suitable, having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have.*

- 4.4 This aspect of the Measure is incorporated in Section 2.3 of Denbighshire's Learner Transport Policy 2018:

**2.3 Nearest Suitable School**

*The nearest suitable school is a school that provides education appropriate to the age, ability, aptitude of the learner, and any learning needs that they may have. It will normally be a school in the area the learner resides, or another school (e.g. out of county) if this is closer to home.*

*(The full version of Denbighshire's Learner Transport Policy 2018 is shown in Appendix 1)*

- 4.5 When assessing eligibility against the Policy, Education Support must therefore consider which school is the nearest from the learners' home location. Facilities on Denbighshire's website under 'My Property' assist families to assess which school is their nearest before they make an application for a school place and/or transport. Education Support staff are also available to advise which is the nearest on request.

4.6 In Denbighshire's Learner Transport Policy 2018, if transport is requested on the basis of Welsh Language, the Education Support team must follow Section 3.3 of our Policy:

### **3.3 Welsh or English Medium Education**

*In accordance with section 10 of the Learner Travel (Wales) Measure 2008, the Authority promotes access to Welsh medium education by providing discretionary transport to the nearest suitable Welsh or English medium education, if this is parental / carer preference. This will apply even if the school is not their nearest suitable school.*

*For Welsh Medium education it would be a school which is categorised as either 1 or 2 within the Welsh Government guidelines on Welsh Medium Provision. For category 2 it would be a school where at least 80% of subjects (excluding Welsh and English) are taught through the medium of Welsh, but are also taught through the medium of English. The table in Appendix 1 shows Denbighshire's Welsh Medium School categories.*

*If the nearest Welsh or English medium school is outside of County then transport would still be provided by the Authority. Preference will only be considered against Welsh Medium or English Medium schools. The distance criteria in section 2.2 will still apply.*

4.7 For requests of free transport to a Welsh Medium Primary or Secondary School, Education Support calculates individual distances from a learner's home location to their requested school. If the Welsh medium school is not the nearest suitable and the provisions in Section 3.3 and 2.2 of our Policy are not met, then transport will be refused. In any method which uses learners' home locations to calculate distance to school, there will always be a percentage of learners who don't get free transport. However, this is how the Legislation is designed to be used and Authorities are not expected to provide transport for every learner, only for those where there is a duty.

#### **4.8 Welsh School Categorisation**

Welsh Government provides a definition for Welsh medium school categorisation in their document '*Defining schools according to Welsh medium provision*'. This is shown in the Appendix 2. Categorisation as it relates Category 1 and 2 in Secondary Education is shown on pages 11 and 12 of that document.

4.9 Welsh Government are presently consulting on '*School categories according to Welsh-medium provision*'. This consultation is looking at how Primary and Secondary school are categorised. The Authority will be responding to this consultation; which will be concluded on 26<sup>th</sup> March 2021. The outcome of this consultation may hold implications for any associated policies which Authorities have regarding Welsh in Education, including transport. Welsh Government may also seek to align other Legislation, such as the Learner Travel (Wales) Measure 2008, and the Authority will have to await the conclusion of both consultations.

4.10 Section 3.3 of the Authority's Policy highlights that schools which are categorised as either 1 or 2 (*where at least 80% of subjects (excluding Welsh and English) are taught through the medium of Welsh*) should be treated as the same. This is also the same in the Authority's Welsh in Education Strategic Plan (WESP), shown in Appendix 3.

#### **4.11 Welsh Government Consultation on Learner Travel**

Welsh Government issued a consultation to Local Authorities in January 2021 asking for data and views on potential changes regarding The Learner Travel (Wales) Measure 2008. Denbighshire has responded to this consultation.

### **5. How does the decision contribute to the Corporate Priorities?**

5.1 The services described herein are all in support of the priority of improving Education, in-line with the priority on Young People, and Denbighshire being a place where younger people will want to live and work and have the skills to do so.

### **6. What will it cost and how will it affect other services?**

6.1. This report is for discussion purposes. No changes to the process or Policy have been requested. However, any changes to School Transport can only come into

effect following an appropriate consultation which must be concluded and approved a full school year in advance. This is governed under Statute. Any changes will also have an impact on the associated School Transport budget and changes to Policy would also need to be tested legally before implementation.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

7.1 A Well-being Impact assessment is not required since this report is providing information only relating to existing Legislation and Denbighshire's Learner Transport Policy; which itself was Impact Assessed when developed and approved in 2017.

## **8. What consultations have been carried out with Scrutiny and others?**

8.1 This report is for discussion; however, a linked report was provided to the Communities Scrutiny Committee in March 2018 which considered 'School Cluster Changes' following a member led Working Group. The report from March 2018 was provided in light of a linked request from a Denbighshire Welsh Medium School to reconsider cluster arrangements due to perceived School Transport issues.

## **9. Chief Finance Officer Statement**

There are no direct financial implications of this report. However it is important to note that the financial consequences of any proposed changes to school transport are considered at the earliest possible opportunity. Significant investment has gone into School Transport in recent years and it is likely to remain an area of financial pressure when schools return to some form of normality.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1 This report is a discussion paper and no proposed changes have been put forward; however, see Section 3 on Recommendations which outlines possible risks.

## **11. Power to make the decision**

11.1 The Learner Travel (Wales) Measure 2008

11.2 Section 21 of the Local Government Act 2000

11.3 Section 7.4.1 of the Council's Constitution sets out Scrutiny's powers with respect of policy development and review.