

**SURREY COUNTY COUNCIL**

**CABINET MEMBER FOR ALL-AGE LEARNING**

**DATE: 5 December 2019**

**LEAD OFFICER: LIZ MILLS, DIRECTOR FOR EDUCATION, LIFELONG  
LEARNING & CULTURE**



**SURREY**

**SUBJECT: PROPOSED CHANGE TO THE REVIEW PROCESS IN  
SURREY'S HOME TO SCHOOL TRAVEL AND TRANSPORT  
POLICIES**

**COMMUNITY VISION OUTCOME: People**

**SUMMARY OF ISSUE:**

Following a decision of the Local Government and Social Care Ombudsman, it is proposed to amend the transport case review process that applies to Surrey's mainstream and Special Educational Needs and Disabilities (SEND) home to school travel and transport policies to provide for parents to make verbal representation at stage two case reviews. It is also proposed for stage one case reviews to be considered by a senior officer. These amendments will bring Surrey's policies in to line with the Department for Education's (DfE) statutory home to school travel and transport guidance.

**RECOMMENDATIONS:**

It is recommended that Surrey's home to school transport case review process that applies to both mainstream and SEND pupils/students is finalised as per Annex 1.

**REASON FOR RECOMMENDATIONS:**

This proposal:

- ensures that the local authority complies with the recommendation of the Ombudsman in relation to complaint reference 18 017 681 (Annex 2).
- ensures that Surrey's policies meet the requirements of the DfE's statutory home to school travel and transport guidance to provide for a senior officer to consider stage one case reviews and for parents to make verbal representation at stage two transport case reviews.
- will enable parents to attend stage two transport case reviews to present their cases verbally.

**DETAILS:**

1. Annex 2 of the DfE's statutory home to school travel and transport guidance sets out a recommended review/appeals process for local authorities to adopt. This provides for a senior officer to consider stage one case reviews and includes provision for the independent panel at stage two case reviews to consider 'written and verbal representations from both the parent and officers involved in the case'.

2. Surrey has not to date adopted these aspects of the DfE's recommended review/appeals process. Stage one case reviews are currently considered by a panel of at least two senior officers making the process resource heavy, which can lead to delays, and parents have never been invited to present their case verbally at stage two case reviews.
3. On 8 October 2019 the Ombudsman issued a final decision in relation to a complaint from a parent regarding a request for home to school transport (Annex 2). In his report the Ombudsman found fault with the local authority because:
  - it had not allowed the parent to put their case verbally to the Member panel at stage two of their transport case review; and
  - its policies in this respect did not comply with the DfE's home to school travel and transport guidance.
4. The Ombudsman recommended that the local authority amended its home to school transport policies to allow parents to present their case to the panel verbally, so that they would comply with the DfE guidance.
5. The amended home to school transport case review process set out in Annex 1 has been updated to ensure it complies with the recommended review process set out in the DfE's home to school travel and transport guidance. This includes provision for one senior officer to consider stage one case reviews and parents to be allowed to present their cases verbally at stage two case reviews.
6. It is proposed that the amended home to school transport case review process will be implemented from the beginning of January 2020. This is consistent with the timeframe put forward to the Ombudsman following his provisional outcome to the complaint.

<b>CONSULTATION:</b>
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7. As this proposal complies with the recommendation of the Ombudsman and brings the transport case review process in to line with the DfE's statutory guidance, no external consultation has taken place with regard to this proposed change to the review process.
8. Whilst there is a separate consultation on potential changes to Surrey's Home to School/College Travel and Transport policy that ends on 15 December 2019, that consultation relates to potential changes that might be introduced from September 2020 (with transitional arrangements as appropriate). However this change to the review process needs to be implemented straight away in order to comply with the recommendation of the Ombudsman.
9. Colleagues in Surrey's Legal Services and the School Appeals team have been consulted on the process to be followed for verbal representation.
10. Training sessions are being arranged for Members and clerks to familiarise them with the changes to stages one and two of the home to school transport case review process.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

11. The risk of implementing this recommendation is low as it complies with the decision of the Ombudsman and ensures that Surrey's policies comply with the DfE's statutory guidance.
12. There would be a greater risk if this change was not implemented as it would be likely that the local authority would receive further challenge on this matter and potential public scrutiny by the office of the Local Government and Social Care Ombudsman.

#### **Financial and value for money implications:**

13. Allowing parents to represent themselves verbally at stage two transport case reviews may reduce the number of applicants who challenge the decision or the transport case review process.
14. This will have a resource implication in that an officer will also need to attend these meetings. It is anticipated that this requirement will be met from existing resources.

#### **Section 151 Officer commentary:**

15. Although significant progress has been made over the last twelve months to improve the Council's financial position, the medium term financial outlook is uncertain as it is heavily dependent on decisions made by Central Government. With no clarity on these beyond 2020/21, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term. The Section 151 Officer supports the proposal to revise the review process for home to school transport. This is unlikely to have any direct financial impact on the Council but the wider consultation referenced in paragraph 8 will need to be considered separately.

#### **Legal implications – Monitoring Officer:**

16. This proposal will ensure that Surrey's home to school transport case review process meets the requirements of the DfE's statutory home to school travel and transport guidance.
17. The public sector equality duty (Section 149 of the Equality Act 2010) applies to the decision to be made by the Cabinet Member in this report. There is a requirement when deciding upon the recommendations to have due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups and eliminate any unlawful discrimination. These matters are dealt with in the equalities paragraphs of the report and in the attached equalities impact assessment (EIA).

#### **Equalities and diversity:**

18. An Equality Impact Assessment (EIA) is attached as ANNEX 3.

19. The service does not monitor protected status amongst applicants for home to school/college travel and transport but it is likely that some applicants will fall within the protected groups. For most, belonging to a protected group will not lead to this proposal having either a negative or positive affect. However three groups may be either negatively or positively affected as a result of this proposal:

- parent/carers with a disability may be affected because they may have difficulty in taking up the opportunity to represent themselves verbally at the Stage 2 review
- parent/carers with full time contract types may be affected because they may be limited in the times that they can attend a review
- parent/carers with social identity characteristics relating to their education and skills may prefer to present their case verbally rather than in writing

20. No changes have been made to this proposal as a result of the EIA. The Stage 2 review process will be kept under review to ensure that any other negative impacts that might be identified to a person with a protected characteristic are addressed.

**Other implications:**

21. The potential implications for the following Council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

<b>Area assessed:</b>	<b>Direct Implications:</b>
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Environmental sustainability	No significant implications arising from this report
Public Health	No significant implications arising from this report

**WHAT HAPPENS NEXT:**

- If this proposal is approved, the amended home to school transport case review process will be published on Surrey’s website and existing transport policies will be updated to refer to it.
- The proposal will be implemented from the beginning of January 2020.
- Schools will be notified of the change to the transport case review process in the termly newsletter issued by the Admissions & Transport team at the start of the spring term.
- Surrey’s website and home to school transport policies will be updated to alert parents to the fact that the transport case review process has changed.
- Surrey’s School Appeals team will endeavour to schedule stage two transport case review dates for the remainder of the academic year so parents can be advised in advance of the dates of the stage two transport case reviews.

**Contact Officer:**

Claire Potier – Service Manager Admissions and Transport – 01483 517689.

**Consulted:**

Legal Services – Rachel Hickman

School Appeals team – Vicky Hibbert and Angela Bridgeman

**Annexes:**

Annex 1 Amended transport case review process

Annex 2 Local Government and Social Care Ombudsman final decision 18 017 681

Annex 3 Equality Impact Assessment

**Sources/background papers:**

- DfE Home to school travel and transport guidance – July 2014
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