

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

20TH NOVEMBER 2023

REVIEW OF THE COUNCIL'S HOME TO SCHOOL TRANSPORT POLICY

REPORT OF THE DIRECTOR OF HIGHWAYS, STREETCARE AND TRANSPORTATION SERVICES IN DISCUSSION WITH THE LEADER OF THE COUNCIL, COUNCILLOR ANDREW MORGAN OBE AND THE CABINET MEMBER FOR ENVIRONMENT & LEISURE (COUNCILLOR ANN CRIMMINGS)

1. PURPOSE OF THE REPORT

- 1.1 To seek Cabinet's approval to initiate a consultation with interested parties and relevant stakeholders in respect of a proposed new Home to School Transport Policy as detailed in the report.

2. RECOMMENDATIONS

It is recommended that Cabinet: -

- 2.1 Considers the information in the report in respect of the Council's current Home to School Transport Policy and a proposal to introduce a revised policy, together with the associated impact assessments appended to the report;
- 2.2 Initiates a consultation with interested parties and relevant stakeholders in respect of a proposed new Home to School Transport Policy, namely providing mainstream English, Welsh and Faith primary school, secondary school and college transport in line with relevant statutory distance criteria, which would be implemented from the start of the 2025/2026 academic year;
- 2.3 Notes that under the proposed Home to School Transport Policy the discretionary elements of:
- 2.3.1 allowing a learner to select their nearest suitable school in accordance with choice of English or Welsh Medium language or preferred religious denomination would continue; and
- 2.3.2 providing pre-compulsory school age transport and post-16 transport would continue;

- 2.4 Notes that under the proposed Home to School Transport Policy the discretionary elements of Additional Learning Needs transport would not change; and
- 2.5 Subject to paragraph 2.2 above, agrees to receive a further report detailing the results and feedback from the consultation process, updated Equality and Welsh Language Impact Assessments and any necessary further information in order for Cabinet to determine whether and, if so, how it wishes to progress with the proposed new Home to School Transport Policy.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The Council is facing significant financial challenges into the medium term and is considering a range of options to contribute to addressing the shortfall in funding.
- 3.2 To set out a proposal for consultation in respect of a new Home to School Transport Policy, that primarily maintains the current beneficent discretionary transport and providing mainstream English, Welsh and Faith primary school, secondary school and college transport in line with relevant statutory distance criteria, which would be implemented from the start of the 2025/2026 academic year.
- 3.3 Should the proposed new Home to School Transport Policy be implemented the Council would continue to provide discretionary Home to School Transport provision beyond statutory requirements in a number of areas as outlined in the report.
- 3.4 To ensure that the process for progressing any proposal is undertaken efficiently and effectively and in accordance with the Council's policies and procedures.

4. BACKGROUND

- 4.1 At its meeting on 18th September 2023 the Cabinet received an update on the Council's Medium Term Financial Plan 2023/24 to 2026/27. This reported an estimated budget gap of £35.005M for 2024/25 financial year, rising to £85.4M (cumulatively) across the next 3 years. This follows the Council having balanced its largest ever budget gap for the current year, 2023/24.
- 4.2 Given the size of the budget gap and with a focus across the medium term, this report sets out an option to reduce the cost base with regard to the provision of Home to School transport.
- 4.3 The Council operates a very generous Home to School Transport policy which means it delivers the largest operation of its kind in Wales. The

Council currently provides Home to School transport for approximately 9,000 mainstream pupils, 960 Additional Learning Needs ('ALN') learners, and 2,300 College students each day, with approximately 9,000+ of these learners transported on a discretionary basis. This transport is provided through the provision of contracted coaches, minibuses, taxis, and public transport season tickets.

- 4.4 Many Councils have already modified their eligibility criteria. The Council now provides discretionary transport for more learners than almost every other Council's entire Home to School transport operations.
- 4.5 Since the Covid-19 pandemic and conflict in Ukraine bus operators have experienced significant increases in operational costs e.g. fuel, parts, wages etc. These costs have naturally impacted the viability of school bus routes and the affordability to operate them at pre-pandemic rates. As a result, the Council has uplifted its current contract rates significantly to match industry demand and continues to receive tender bids for new/replacement routes far above those received prior to March 2020.
- 4.6 In 2015 the Council reviewed its Home to School Transport Policy consulting widely on a proposal to amend it but ultimately determining in early 2016 not to proceed with its implementation. Whilst much has changed since that point in terms of the transport market generally, and availability of supply, the provisions of the Learner Travel (Wales) Measure 2008 and associated Operational Guidance remain unchanged and this Council continues to provide well in excess of the statutory minimum requirements.
- 4.7 Indeed, the Council's Home to School Transport costs have increased from £8M in 2015 to over £15M for the 2023/24 financial year.
- 4.8 Factoring in the increasing costs this report provides details of a service change proposal for Cabinet's consideration.

5. **LEGISLATIVE FRAMEWORK**

- 5.1 The Council has a number of statutory duties which are relevant to this policy which Members are reminded of, and have in their minds, prior to initiating any consultation and before taking any final decision(s) in respect of the implementation of any new Home to School Transport Policy. These are set out in detail below.

THE COUNCIL'S DUTIES UNDER THE LEARNER TRAVEL (WALES) MEASURE 2008

- 5.2 The Welsh Government's Learner Travel (Wales) Measure 2008 (the 'Measure') sets out the current statutory duties of Local Authorities with regard to the provision of home to school transport. Statutory guidance is also provided by the Welsh Government in the Learner Travel

Statutory Provision and Operational Guidance – June 2014 (the ‘Guidance’). The Measure and the Guidance can be accessed by clicking on the following links: [Measure](#) / [Guidance](#).

- 5.3 Under the Measure the Council **must**:-
- Assess the travel needs of learners in its area
 - Provide free home to school transport for learners of compulsory school age attending primary school who live 2 miles or further from their nearest suitable school
 - Provide free home to school transport for learners of compulsory school age attending secondary school who live 3 miles or further from their nearest suitable school
 - Assess and meet the needs of “looked after” children in its area
 - Promote access to Welsh medium education
 - Promote sustainable modes of travel
- 5.4 The Council must therefore continue to meet these responsibilities in any future policy it adopts.
- 5.5 The Measure requires the Council to provide learners with free transport to their nearest suitable school if they ordinarily reside beyond a ‘safe’ walking distance to that school. The term “suitable school” applies to the catchment area English, Welsh or dual-language mainstream school or special school/class as appropriate. Where learners are not entitled to free transport the Council has the power to provide transport on a discretionary basis.
- 5.6 The definition of nearest “suitable school” is where the “education or training provided is suitable having regard for the age, ability and aptitudes of the learner and any learning difficulties he or she may have”.
- 5.7 The walking distance is measured by the shortest available route. The Guidance states that, “a route is considered to be ‘available’ if it is safe (as far as reasonably practicable) for a learner without a disability or learning difficulty to walk the route alone or with an accompanying adult if the learner’s age and levels of understanding requires this.” If a route is not ‘available’ then a learner is entitled to free transport to their nearest suitable school even though the distance from home to school is less than the distance limit that applies to his/her age.
- 5.8 Assessing the travel needs of learners does not mean providing free transport. Learners will only qualify for free transport provision if they meet the entitlement criteria. Whilst the Council is required to assess the travel needs of all learners under the age of 19 there is currently no legal duty to provide free or assisted transport arrangements for non-compulsory school age children (up to the term in which a child turns 5 or post 16 learners).
- 5.9 Parents and learners may express a preference for a particular school/ a particular type of language provision or Faith school, but the Measure

does not confer on those parents and learners any rights to free transport to their preferred school and or location, unless that school is determined by the Council to be the learner's nearest suitable school and the learner meets the distance criteria. Members should note particularly however the position in relation to Welsh medium education as outlined in paragraphs 5.17 – 5.20 below.

- 5.10 The Council is also required to have regard to:-
- The needs of disabled learners and learners with learning difficulties
 - Any particular needs of learners who are 'looked after' or formerly looked after by the Council
 - The age of a learner
 - The nature of the route that the learner is expected to take between home and the places where they receive education or training.
- 5.11 In assessing the travel needs of learners the Council must take into account the fact that the travel arrangements they make in light of the assessment must not cause unreasonable levels of stress, take an unreasonable amount of time or be unsafe.
- 5.12 When exercising functions under the Measure the Council is **not** required to take account of extra-curricular activities, breakfast or after-school clubs when assessing learner travel needs.
- 5.13 If a learner cannot be admitted to their nearest suitable school which results in the learner having to attend the next available nearest suitable school, the Council has the same duty to provide free transport as long as they meet the agreed distance criteria.
- 5.14 Free transport for learners who attend special schools, pupil referral units and learning support classes is provided in accordance with the Council's agreed policy on walking distance and safe routes (as set out above) and must be supported by appropriate evidence and be confirmed by the Council's Access and Inclusion ALN Panel. Learners with disabilities (as defined by the Equality Act 2010) may be entitled to assistance with transport from home to an appropriate school/college even though the Council's agreed criteria on safe walking distance (as set out above) are not met.
- 5.15 There is no statutory duty for the Council to provide free transport to post 16 learners who continue their studies in mainstream further education or training. There is no statutory duty to provide free transport to a learner with a disability or learning difficulty in post-16 further education or training. Although in assessing learner travel needs the Council "must have regard in particular" to the needs of learners who are disabled or with learning difficulties.

Power To Provide Discretionary Provision

- 5.16 The Measure provides the Council with the power to provide discretionary transport arrangements for non-compulsory school age children.
- 5.17 When deciding which schools are most suitable for learners in its area, the Council and Welsh Ministers have a duty under the Measure to 'promote access to education and training through the medium of Welsh'.
- 5.18 The Council has the power to provide discretionary transport arrangements for learners who are not attending their nearest suitable school because of language preference.
- 5.19 The Council has to make it clear in its Home to School Transport Policy (which is contained in the annual Starting School Booklet) its arrangements for providing free or assisted travel to schools teaching through the medium of Welsh or English.
- 5.20 Preference for either language should be treated equally. The Council must also take into account its [Welsh Language Promotion Strategy and Action Plan 2022-2027](#) and [Welsh in Education Strategic Plan 2022 – 2032 \(WESP\)](#). The WESP sets out the ten-year plan for the planning and improvement of provision of Welsh Medium and Welsh Language education.
- 5.21 A learner is entitled to free transport to a denominational/Faith school if that school is considered by the Council to be the learners nearest suitable school. However, the Measure also provides the Council with the power to provide discretionary transport arrangements for learners who are not attending their nearest suitable school because of denominational preference.
- 5.22 The Council is also required to make clear in its Home to School Transport Policy its arrangements for providing free or assisted travel to denominational schools.
- 5.23 If the Council does make use of its discretionary powers, it must ensure that the policy applies to all learners in similar circumstances living in that Council's area. The Council should ensure that any policy is fair, reasonable and complies with relevant equality legislation to ensure it does not discriminate unlawfully between learners when using their discretionary powers.

Charging for Transport

- 5.24 The Council may not charge for transport arrangements that it is *required* to make for learners of compulsory school age (i.e. the statutory requirement to provide free home to school transport), except in relation

to looked after children where the Council makes travel arrangements for a child who is looked after by another authority (where a charge may be made to another authority).

- 5.25 However when the Council uses its Section 6 powers under the Measure to provide discretionary travel arrangements for learners not entitled to free transport provision, a charge can currently be made for these arrangements.
- 5.26 In 2015 the Council consulted on a proposal to continue to provide transport at current discretionary distances but introduce a means tested charge for all pupils living beyond the statutory distances and who choose to travel on Council funded school transport to their catchment or nearest suitable school or college. The Council ultimately decided not to amend its Home to School Transport Policy at that time.
- 5.27 The Public Service Vehicle Accessibility Regulations (PSVAR) of 2000 and 2005 apply to all new public service vehicles (buses or coaches) that:
- Have been introduced since 31 December 2000
 - Have a capacity exceeding 22 passengers; and
 - Are used to provide a local or scheduled service.
- 5.28 PSVAR applies in England, Scotland and Wales and are the responsibility of the UK Government Department for Transport. Requirements under the regulations have been introduced in phases. The final requirement from the PSVAR was implemented on 1 January 2020. This requirement means that any coach used on a scheduled service from that date must provide wheelchair access. The PSVAR apply only to public service vehicles. A vehicle that is not a public service vehicle (that is, one that is not operated on a commercial basis for hire and reward) is outside the scope of the PSVAR.
- 5.29 The PSVAR apply to transport for learners provided by Local Authorities on a discretionary basis where the Local Authorities collect a fee from the learner (i.e make a charge or sell surplus seats). The regulations do not include transport that Local Authorities provides. In some areas, as a consequence of PSVAR, some fare paying schools buses have been withdrawn.
- 5.30 Medium-term exemptions to the PSVAR have been introduced by the UK Government in respect of in-scope home-to-school services. Those exemptions came into force on 1 July 2023 but expire on 31 July 2026. The grant of such exemptions will require the operator concerned to progressively increase the compliance rate among its vehicles that are available for in-scope home to school transport services. All must be what the UK Government describes as “either fully or partially compliant with PSVAR” by 1 August 2025.

- 5.31 There is currently a significant shortfall in the number of buses that meet the PSVAR requirements within the marketplace. Due to the additional time required to operate scheduled school bus routes, and the geographical restrictions along these routes e.g. a bus with wheelchair lift requires a road to be flat without incline, it is also not practical to operate such vehicles on school contract routes.
- 5.32 As a result of the above the option of charging for transport under the statutory distance has not been proposed as a viable option.

Education Act 1996

- 5.33 Section 444 of the Education Act 1996 creates the offence on the part of a parent of failing to secure the regular attendance at school of a registered pupil. Section 20 of the Measure amends Section 444 to provide that a parent will have a defence to a prosecution if a local authority has failed to discharge, where required, their statutory duties under the Measure to make travel arrangements to facilitate the attendance of their child at school.

Active Travel

- 5.34 The Council needs to have due regard to the Welsh Government's Active Travel Action Plan for Wales and the Active Travel (Wales) Act 2013. The action plan aims to address congestion and encourage people to walk and cycle more often. The Welsh Government estimates that one in five cars on the road at 8:50am on a weekday is doing the school run. Congestion in towns is therefore a serious issue. The Action Plan sets out the actions that the Welsh Government and its partners will take to encourage more people to walk and cycle for more journeys. It is hoped that this will not only improve the health of our young people, but also improve the health and well-being of those who live and work in the area.

6. CURRENT POLICY

- 6.1 The Council currently provides Home to School transport for approximately 9,000 mainstream pupils and 2,300 College students¹ each day through the provision of more than 193 routes. This transport is provided through the provision of contracted coaches, minibuses, and public transport season tickets.
- 6.2 The following table demonstrates how the Council schedules its contracted mainstream/college bus transport provision to ensure the most efficient use of available resources.

¹ As at September 2023

Number of learners carried by contracted bus	9,528
Number of school/college bus routes	193
Number of buses in operation	168
Average number of learners per route	49
Overall % of vehicle capacity utilised	81%
Number of learners carried by public transport	1,750

- 6.3 The Home to School transport budget for 2023/24 is £15m.
- 6.4 The Council's Learner Travel Policy is contained in its annual Starting School Booklet.
- 6.5 The Council is currently exercising its discretionary powers (referred to in paragraphs 5.16 - 5.23 above) under the provisions of the Measure to make a more generous provision to learners. The comparison to the statutory requirements is shown below: -

Age during Academic Year	User	Statutory Requirement to Provide Free Transport	RCT Provision (as at November 2023)
3 – End of term in which child turns 5	Non-compulsory school age	No statutory provision (although duty to assess needs)	Free transport for pupils attending full time in line with the Council's admission arrangements if reside 1.5 miles or further safe walking distance to their catchment or nearest suitable school
Term following 5 th Birthday – 11	Learner receiving compulsory primary education (English or Welsh Medium & SEN)	Reside 2 miles or further safe walking distance to their nearest suitable school	Free transport if reside 1.5 miles or further safe walking distance to their catchment or nearest suitable school
12 – 16	Learner receiving compulsory secondary education (English or Welsh Medium & SEN)	Reside 3 miles or further safe walking distance to their nearest suitable school	Free transport if reside 2 miles or further safe walking distance to their catchment or nearest suitable school
16+	Post-16 learners	No statutory provision (although duty to assess needs)	Free transport if reside 2 miles or further safe walking distance to their nearest suitable school or college at which the approved course of study they wish to follow is offered (full time attendance) – for 2 years after the end of compulsory education (or 3

Age during Academic Year	User	Statutory Requirement to Provide Transport	RCT Provision (as at November 2023)
			years for those who have reached 19 but started a course when under 19 and continue to attend that course).
3 – 19	Learners selecting a school in accordance with their preferred religious denomination	No statutory provision – Measure does not require provision where learner selects a school that is not the nearest ‘suitable school’ (as the definition does not include voluntary aided (Faith) mainstream schools).	Allows learner to select their nearest ‘suitable school’ in accordance with their preferred religious denomination Therefore distance provisions above apply
3 – 19	Learners selecting a Welsh Medium School	Statutory provision is an issue of interpretation – Measure does not require provision where learner selects a school that is not the nearest ‘suitable school’.	Allows learner to select their nearest ‘suitable school’ in accordance with choice of English or Welsh Medium language. Therefore distance provisions above apply.

6.6 Based on a review of all Welsh local authorities, the provision at Rhondda Cynon Taf compares favorably, and is in many cases, more generous than in other parts of Wales. The table in Appendix 1 to the report summarises an analysis of Home to School Transport provision using available information contained in each authority's starting school booklets for 2023/24 (note policies may have been subsequently updated and relevant information has been provided in this regard where possible). It is noted that 18 councils in Wales currently provide Home to School Transport in line with the statutory distance requirements.

7. REVIEW OF SERVICE PROVISION - OPTIONS CONSIDERED

7.1 Three options have been considered as part of this review².

A. **Status Quo** i.e. Retain the current level of provision resulting in £nil savings.

² Savings figures based on pupil numbers and service usage as at September 2023

B. Provide mainstream English, Welsh and Faith primary and secondary school and college transport in line with statutory distance criteria.

Transport for all primary school pupils living between current discretionary distance of 1.5 miles and statutory distance of 2 miles would no longer be provided. Free transport for pupils living further than 2 miles away would continue, including where pupils attend Welsh or Faith schools because of parental/carer/learner preference.

Transport for all secondary school pupils living between current discretionary distance of 2 miles and statutory distance of 3 miles would no longer be provided. Free transport for pupils living further than 3 miles away would continue, including where pupils attend Welsh or Faith schools because of parental/carer/learner preference.

This option has the potential to deliver savings of approximately £2.5m in a full year.

C. Removal of all discretionary provision.

In this option transport would no longer be provided for:

- i. Primary school pupils of compulsory school age attending an English medium school living between current discretionary distance of 1.5 miles and statutory distance of 2 miles;
- ii. Secondary school pupils of compulsory school age attending an English medium school living between current discretionary distance of 2 miles and statutory distance of 3 miles;
- iii. Pupils below compulsory school age;
- iv. Post 16 pupils;
- v. All Primary and Secondary school pupils attending a Welsh Medium or Faith school, except where it is the nearest suitable school and is more than the statutory safe walking distance away.

This option has the potential to deliver savings of approximately £6.9m in a full year.

7.2 An analysis of the advantages and disadvantages of each option, including the impact on pupil numbers as at September 2023, is shown at Appendix 2 to this report.

7.3 The proposed preferred option is B – Provide mainstream English, Welsh and Faith primary and secondary school and college transport in

line with statutory distance criteria. It is proposed that this policy would be implemented from the start of the 2025/2026 academic year.

- 7.4 Option B would deliver a financial saving whilst maintaining all other elements of discretionary provision. It would also assist in addressing increasing concerns about market stability in respect of Home to School transport provision. It is anticipated that it would also encourage more pupils onto public transport which would help sustain public transport services, albeit it is acknowledged that for younger pupils there may be safeguarding concerns. Furthermore, with the electrification of valley lines and improved frequency of services via the South Wales Metro, pupils will have access to improved rail services and integrated public transport network. Clearly however it will mean approximately 2,750 pupils no longer receiving access to free Home to School transport. From an educational perspective, this raises potential issues in respect of pupil attendance and learner engagement in education should the Council's policy be amended in this way. This is a potential risk given the strong correlation between learner attendance and outcomes, and the continued impact of the pandemic on attendance rates at a local, regional, and national level.
- 7.5 Option B would mean the Council continuing to meet the requirements of the Learner Travel (Wales) Measure 2008, with 18 of the 22 Council's in Wales already adopting the statutory distance requirements.
- 7.6 If implemented this option would deliver savings of £2.5m per year, which would be fully realised in the 2026/27 financial year. The part-year savings for 2025/26 would be £1.4m.

8. PROPOSED NEW HOME TO SCHOOL TRANSPORT POLICY

- 8.1 Whilst the Council has chosen to make use of its powers to provide discretionary transport arrangements, it also has the power to remove this provision at a later date.
- 8.2 In doing so the Council should follow the correct procedures in line with its relevant policy protocols.
- 8.3 If the Council does decide to change or remove the discretionary transport provision it provides, it must publish the information before 1 October of the year preceding the academic year in which the changes will come into force.
- 8.4 Therefore, subject to the proposed consultation and thereafter Cabinet determining how it wishes to progress with the proposed new Home to School Transport Policy, it is proposed that the new policy would be implemented from the start of the 2025 - 2026 academic year and published prior to 1st October 2024.

8.5 Should Cabinet determine to progress with the proposed new Home to School Transport Policy, it would be proposed that the Council's current discretionary distance eligibility criteria for Home to School transport, as set out in the table at paragraph 6.5 above, be amended in line with the Welsh Government statutory distance eligibility criteria. The overall provision would be as set out in the table below:

Age during Academic Year	User	Statutory Requirement to Provide Transport	Proposed changes to RCT Mainstream Transport Provision from September 2025
3 – End of term in which child turns 5	Non-compulsory school age, learner selecting education through English or Welsh medium.	No statutory provision (although duty to assess needs)	Continue to provide transport for pupils that reside 2 miles safe walking distance to their catchment or nearest suitable school, at the beginning and end of the normal school day and not at lunchtimes
Term following 5 th Birthday – 11	Learner receiving compulsory primary education, learner selecting education through English or Welsh medium.	Reside 2 miles or further safe walking distance to their nearest suitable school	Reside 2 miles or further safe walking distance to their nearest suitable school
12 – 16	Learner receiving compulsory secondary education, learner selecting education through English or Welsh medium.	Reside 3 miles or further safe walking distance to their nearest suitable school	Reside 3 miles or further safe walking distance to their nearest suitable school
16+	Post-16 learners, learner selecting education through English or Welsh medium.	No statutory provision (although duty to assess needs)	Continue to provide transport for pupils that reside 3 miles or further safe walking distance to their nearest suitable school or college.
3 - 19	Learners selecting a school in accordance with their preferred religious denomination	No statutory provision – Measure does not require provision where learner selects a school that is not the nearest 'suitable school' (as the definition does not include voluntary aided (Faith) mainstream schools).	Continue to provide transport for pupils that: <ul style="list-style-type: none"> • Reside 2 miles or further safe walking distance to their nearest suitable school for 3-11 year olds (primary) attending full time in line with the Council's admission arrangements. • Reside 3 miles or further safe walking distance to their nearest suitable

Age during Academic Year	User	Statutory Requirement to Provide Transport to Free	Proposed changes to RCT Mainstream Transport Provision from September 2025
			school for 11-19 year olds (secondary).

8.6 The Council would continue to provide all other areas of its discretionary transport provision in excess of the current minimum Welsh Government statutory requirement, as demonstrated in the table below:

Service Provision	WG Statutory Policy	RCTCBC Proposed Policy
Primary School Distance > 2 miles	✓	✓
Secondary School Distance > 3 miles	✓	✓
Pre-compulsory School Age < 5 years	✗	✓
Transport to nearest suitable Faith School (Primary and Secondary)	✗	✓
Transport to nearest suitable Welsh Medium School (Primary and Secondary)	✗	✓
Post 16 Education Transport (6 th form or College)	✗	✓

8.7 Learners will continue to be able to select their nearest 'suitable school' in accordance with choice of English or Welsh Medium language or preferred religious denomination.

8.8 The same age and distance criteria apply to children looked after as to children who are not looked after. If the Council determines that a child looked after should attend a school other than the nearest suitable school, then transport will be provided upon request by the child's social worker in accordance with the Council's agreed policy on walking distance and safe routes.

- 8.9 Pupils living beyond statutory distances attending their nearest or catchment school by choice of language would continue to have the benefit of free transport.
- 8.10 Whilst pupils with additional learning needs/disabilities receiving education at their catchment or nearest special school, pupil referral unit or learning support are assessed by distance criteria, in practice these pupils would not be affected by this proposed policy change as their transport is based upon their individual need.
- 8.11 The Council is aware that Welsh Government are in the process of reviewing the Guidance, however it is unclear what, if any, changes will be made. The Council will review any revisions to the Guidance, as and when issued, and consider accordingly.

9. THE COUNCIL'S DUTY IN RESPECT OF CHILDREN IN NEED

- 9.1 It is the duty of the Council under Section 17 of the Children Act 1989 ('the 1989 Act') to (a) safeguard and promote the welfare of children within their area who are in need; and (b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.
- 9.2 For the purposes of the 1989 Act "children in need" are defined as follows:
- "A child shall be taken to be in need if-
- (a) He/She is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him/her of services by a local Council;
 - (b) His/Her health or development is likely to be significantly impaired, or further impaired, without the provision for him/her of such services, or
 - (c) He/She is disabled."
- 9.3 The care needs of individual families with children in need will inevitably be affected by their particular circumstances at any given point in time and by the particular local services available to them at that point. The Council works with these individual families to identify the specific needs of any child determined to be in need at that point in time.
- 9.4 If Cabinet decides to initiate a consultation on the proposal, officers would identify any particular requirements of children in need, so that they can be taken into account prior to any final decision being taken.

10. CONSULTATION AND INVOLVEMENT

- 10.1 Section 9 of the Education Act 1996 places a general duty on local authorities to have regard to the general principle that pupils are to be educated in accordance with the wishes of their parent, however this is 'in so far as that is compatible with the provision of efficient instruction and training and with the avoidance of unreasonable public expenditure'.
- 10.2 Due to the financial pressures the Council is currently facing it is considered that changes to its current Home to School Transport Policy, to align transport provision more closely with Welsh Government statutory transport requirements are necessary for the Council to: -
- maintain affordability within future financial constraints;
 - continue to be able to meet its statutory requirements; and
 - maintain discretionary transport for its most vulnerable users (e.g., ALN pupils).
- 10.3 A proposed new Home to School Transport Policy has been developed and the proposed changes to existing policy are outlined in paragraph 8 of this report.
- 10.4 The proposed new policy has taken into account current budget pressures. The Council is not alone in facing these challenges, nor in having to consider such reviews of discretionary areas of current provision.
- 10.5 Subject to the agreement of the recommendation in paragraph 2.2 above, there is a duty on the Council to consult with pupils, parents/carers, transport providers, key stakeholders and interested parties who are likely to be affected by the proposal. The consultation must take place whilst the proposals are at their formative stage. The Council's Overview and Scrutiny Committee would also be a consultee in respect of the proposal.
- 10.6 The Council must provide the consultees with sufficient information to enable them properly to understand the proposal being consulted upon and to express a view in relation to it. The information must be accurate, clear and concise.
- 10.7 Consultees must be given adequate time to consider the proposal and to respond. It is proposed that consultation would run for a period of 6 weeks. Subject to Cabinet approval, it would commence on 27th November 2023 (subject to the Council's call-in provisions) and end on the 8th of January 2024.
- 10.8 The results of any consultation (together with appropriate impact assessments and any necessary further information) would be reported back to Cabinet in order for it to determine whether, and if so, how it wishes to progress with implementation of the proposed new policy.

11. EQUALITY AND DIVERSITY IMPLICATIONS (INCLUDING SOCIO-ECONOMIC DUTY)

11.1 Cabinet Members will be fully aware and mindful of the general equality duty introduced by the Equality Act 2010 and the specific public sector equality duties applicable to the Council as a local authority in Wales.

11.2 Section 149 of the Equality Act 2010 (Public Sector Single Equality Duty) requires public authorities to demonstrate in decision making that they have paid 'due regard' to the need to:

- eliminate unlawful discrimination, harassment and victimisation
- advance equality of opportunity between people who share a protected characteristic and people who do not share it
- foster good relations between people who share a protected characteristic and those who do not

The relevant protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. The Council must have due regard to the impact of any of the proposals on those with a protected characteristic. The Council has a specific duty to publish information to demonstrate how they have paid due regard to the aims above as part of their decision making. Undertaking an Equality Impact Assessment ('EqIA') would be evidence that the Council has considered its legal obligations in making the decision on the recommendations in this report.

11.3 An EqIA has been prepared and is attached in Appendix 3 to the report. Subject to paragraph 2.2 above, the EqIA would be published on the Council's website, together with a consultation document that outlines the proposal in further detail and in accordance with the requirements of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and Socio-economic Duty – Sections 1 to 3 of the Equality Act 2010. The EqIA would then be updated post any consultation utilising the feedback received and any additional data to assist Cabinet in reaching any final decisions on the proposal.

11.4 The initial EqIA exercise has found that there is one negative and eight neutral equality and diversity implications associated with this report. These risks could be mitigated by a range of actions as detailed in the impact assessment.

11.5 Under the Children and Families (Wales) Measure 2010 the Council must: -

- (a) prepare and publish a strategy for contributing to the eradication of child poverty which the Council has done through the adoption of the [Cwm Taf Morgannwg Well-being Plan 2023-2028](#); and

- (b) take all reasonable steps to perform the actions and functions set out in the strategy for the eradication of child poverty. The actions and functions, and the steps the Council has taken and will take to perform them, are again set out in the Well-being Plan.
- 11.6 It is a priority of the Council, and its partner organisations of the Cwm Taf Morgannwg Public Services Board, to engage with families who have any additional needs as early as possible to support them to make the most of family life and reach their full potential. If Cabinet decides to initiate a consultation on the proposal, further consideration of the effect of the proposal for issues of child poverty and social deprivation will be considered (whether as part of the Council's EqIA, or otherwise).
- 11.7 The Council has also used as a basis for developing its priority of ensuring that the future generations of Rhondda Cynon Taf live in a safe, healthy and prosperous County Borough the shared set of rights for children and young people set out in the United Nations Convention on the Rights of a Child. A link to a summary of these rights is provided below: -

[Summary of United Nations Convention on the Rights of a Child](#)

12. WELSH LANGUAGE IMPLICATIONS

- 12.1 Members will be aware that the Welsh language has official status in Wales which means that the Welsh language should not be treated less favourably than the English language in Wales.
- 12.2 The Council must also promote access to education and training through the medium of the Welsh language when exercising the functions under the Measure.
- 12.3 The Council must also take into account its [Welsh Language Promotion Strategy and Action Plan 2022-2027](#) and [Welsh in Education Strategic Plan 2022 – 2032](#) (WESP). The WESP sets out the ten-year plan for the planning and improvement of provision of Welsh Medium and Welsh Language education.
- 12.4 Under the Measure, when deciding which schools are most suitable for learners in its area, the Council has a duty to promote access to education and training through the medium of Welsh.
- 12.5 A Welsh Language Impact Assessment has been prepared and is attached at Appendix 4 to the report. This will be published on the Council's website together with a consultation document that outlines the proposal in further detail and in accordance with the requirements of the Welsh Language (Wales) Measure 2011.
- 12.6 The initial WLIA exercise has identified that there is a possibility of impacts on the Welsh language in respect of this proposal. There is a

potential that the additional walking distance from home to school may discourage parents from putting their children into Welsh medium schools, in favour of nearer English medium catchment schools, with a greater risk at the primary school level. It should be noted however that under the proposal the Council would, as part of its discretionary provision, still allow a learner to select their nearest 'suitable school' in accordance with choice of language. On this basis there might be potential for growth in Welsh Medium demand where pupils live over 2 miles (in the case of primary school pupils) or 3 miles (in the case of secondary school pupils) from their nearest suitable Welsh Medium school who would be entitled to free transport.

- 12.7 Should Cabinet agree to initiate a consultation in respect of the proposal the WLIA would be updated using the feedback received together with any additional data/information to further assess the impact on the Welsh language and assist Cabinet in reaching any final decisions on the proposal.

13. FINANCIAL IMPLICATIONS

- 13.1 The cost to the Council of delivering its current Home to School Transport Policy amounts to £15M per year. Of this, the cost of delivering the discretionary provision, that is, at levels above that required by the Measure amounts to £6.9M.
- 13.2 The proposed option to be consulted on maintains all other elements of discretionary provision other than the statutory distance requirements. It would deliver savings amounting to £2.5M in a full year, meaning the Council would continue to provide discretionary provision amounting to £4.4M per year.
- 13.3 Subject to consultation, and the consequent decision of Cabinet, the proposal would be implemented from September 2025, with £1.4M being realised in financial year 2025/26, with the full year saving of £2.5M then being realised from financial year 2026/27.
- 13.4 This is within the context of the Council's Medium Term Financial Plan, currently forecasting a budget gap of £85.4M to financial year 2026/27.

14. LEGAL IMPLICATIONS & LEGISLATION CONSIDERED

- 14.1 The legal implications and relevant legislation in respect of the proposal are set out in the main body of the report.

15. LINKS TO THE COUNCIL'S CORPORATE PLAN, NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

15.1 The delivery of Home to School transport services support and promote the Council's Corporate Plan priorities for People – are independent, healthy, and successful; Places – where people are proud to live, work and play; and Prosperity – creating the opportunity for people and businesses to be entrepreneurial and fulfil their potential and prosper.

15.2 The Well-being of Future Generations (Wales) Act 2015 requires the Council to think about the long-term impact of their decisions, to work better with people, communities and each other and to prevent persistent problems such as poverty, health inequalities and climate change. To make sure we are all working towards the same purpose, the Act puts in place seven well-being goals on the Council:

- A prosperous Wales;
- A resilient Wales;
- A healthier Wales;
- A more equal Wales;
- A Wales of cohesive communities;
- A Wales of vibrant culture and Welsh Language;
- A globally responsible Wales.

15.3 The Act imposes a duty on all public bodies in Wales to carry out "sustainable development", defined as being "the process of improving the economic, social, environmental and cultural wellbeing of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the wellbeing goals."

15.4 The Act sets out five ways of working needed for the Council to achieve the seven well-being goals, these being:

- The importance of balancing short term needs with the needs to safeguard the ability to also meet long-term needs;
- Considering how the Council's objectives impact upon each of the well-being goals listed above;
- The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the Council services;
- Acting in collaboration with other persons and organisations that could help the Council meet its well-being objectives; and
- Acting to prevent problems occurring or getting worse.

15.5 The potential health and environmental implications associated with implementing the recommendations set out in this report support the Well-being Plan of the Cwm Taf Morgannwg Public Services Board, the declaration by the Welsh Government of a Climate Emergency and the Council's own Corporate and Air Quality Action Plans. One of the

objectives of the Corporate Plan is to “encourage our residents to be more active and healthy”.

- 15.6 The Air Quality Action Plan is aimed at tackling pollution at locations within the County Borough which currently exceed national guidelines. School transport bus fleets are contracted from operators, mainly local SMEs based in Rhondda Cynon Taf. Fleet profiles are generally older than public transport fleets and they are typically in their final stage of usage – i.e., their primary purpose has ceased and they have been converted for schools use.
- 15.7 Their daily mileage is low, they all have diesel engines, and therefore they represent a huge challenge for carbon reduction. The Council has worked with the Cardiff Capital Region Transport Authority (CCRTA) to commission a study on decarbonising school transport. It shows that there is no business case to replace these vehicles with new ultra-low emission coaches and it will be some time before the market generates second hand vehicles. Retrofitting options may evolve in the short-medium term.
- 15.8 Reducing the number of school buses in operation each day would assist with the implementation of the Council’s Corporate and Air Quality Action Plans. However, by extension, the use of private vehicles by parents / grandparents to transport pupils to school due to the reduction in number of school buses, may lead to additional cars on the network, which in turn, may off-set some of the associated air quality gains.
- 15.9 One of the objectives in the Well-being Plan is to “help people live long and healthy lives and overcome any challenges”. A recent Cwm Taf Morgannwg University Health Board report on childhood obesity has found that the combined Rhondda Cynon Taf and Merthyr Tydfil area has the highest rate in Wales at 14.6%. It is possible that the policy change proposal would have an impact on obesity in a positive way, as it would lead to more pupils walking to school.

16. CONCLUSION

- 16.1 Section 9 of the Education Act 1996 places a duty on local authorities to have regard to the general principle that pupils are to be educated in accordance with the wishes of their parent, however this is ‘in so far as that is compatible with the provision of efficient instruction and training and with the avoidance of unreasonable public expenditure’.
- 16.2 Due to the financial pressures the Council is currently facing it is considered that changes to current Home to School Transport Policy to align transport provision more closely with Welsh Government statutory transport requirements are necessary for the Council to: -
- maintain affordability within future financial constraints;

- continue to be able to meet its statutory requirements; and
 - maintain discretionary transport for its most vulnerable users (i.e. ALN pupils).
- 16.3 A proposed new Home to School Transport Policy has been developed. The proposed changes to existing policy are outlined in this report.
- 16.4 The proposed new policy has taken into account current budget pressures. The Council is not alone in facing these challenges, nor in having to consider such reviews of discretionary areas of current provision.
- 16.5 Cabinet is requested to consider the information presented in this report, together with the associated impact assessments, and determine whether or not to initiate a consultation on the preferred option as detailed herein.
- 16.6 If Cabinet does initiate a consultation on any proposal to amend its current Home to School Transport Policy, a further report would be presented to Cabinet setting out the results of the consultation exercise, updated impact assessments and any other relevant information relating to the proposal in order for Cabinet to determine whether or not, and if so how, it wishes to proceed with implementation of any new Home to School Transport Policy.

Other Information:-
Relevant Scrutiny Committee-

Overview and Scrutiny Committee (Cross-cutting themes)

APPENDIX 1
HOME TO SCHOOL TRANSPORT PROVISION - ALL WALES PICTURE

Analysis of Home to School Provision in Other Welsh Local Authorities						
Authority	Nursery/ Reception (Age 3 - 5)	Primary Provision (Age 5 – 11)	Secondary Provision (Age 11– 16)	Post-16 (Age 16+)	Faith School Provision (Age 3 – 19)	Welsh Medium Provision (Age 3 – 19)
RCT – Current Provision	>1.5 miles to catchment area school or the nearest school.	>1.5 miles to catchment area school or the nearest school.	>2 miles to catchment area school or the nearest school.	>2 Miles to catchment school / college or nearest place providing course.	Same as Primary & Secondary	Same as Primary & Secondary
Blaenau Gwent	>1.5 miles to catchment area school or the nearest school. No provision for Nursery	>1.5 miles for Infants to catchment area school or the nearest school. >2 miles for Primary to catchment area school or the nearest school.	>2 miles to catchment area school or the nearest school.	No direct provision but £150 grant provided. College subsidises local bus route for pupils at £2 per day (plus £150)	Same as Primary & Secondary. Post 16 allowed to travel at no cost if continuing education at same school	Same as Primary & Secondary. Post 16 allowed to travel at no cost if continuing education at same school

Bridgend	>2 miles to local catchment area school. (Nursery provision remains 1.5 miles)	>2 miles to local catchment area school.	>3 miles to local catchment area school.	>3 Miles to catchment school / college or nearest place providing course.	Same distances as Primary & Secondary.	Same distances as Primary & Secondary (in County schools only).
Caerphilly	No Provision	>1.5 miles to catchment area school or the nearest school.	>2 miles to catchment area school or the nearest school.	>2 Miles to catchment school / college or nearest place providing course.	Same distances as Primary & Secondary.	Same distances as Primary & Secondary.
Cardiff	No Provision	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	No Provision.	Same distances as Primary & Secondary.	Same distances as Primary & Secondary.
Carmarthenshire	No Provision	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 Miles to catchment school / college or nearest place providing course.	Same as Primary & Secondary	Same as Primary & Secondary

Ceredigion	No Provision	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 Miles to catchment school / college or nearest place providing course.	Same as Primary & Secondary	Same as Primary & Secondary
Conwy	No Provision	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 Miles to catchment school / college or nearest place providing course.	Same as Primary & Secondary	Same as Primary & Secondary
Denbighshire	No Provision	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 Miles to catchment school / college or nearest place providing course.	Same as Primary & Secondary	Same as Primary & Secondary
Flintshire	>2 miles No provision for Nursery	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 miles Only to nearest named place of education	Same as Primary & Secondary. Must prove faith to qualify	Same as Primary & Secondary

Gwynedd	>2 miles No provision for Nursery.	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 miles Only to nearest named place of education.	Same as Primary & Secondary.	Same as Primary & Secondary.
Merthyr Tydfil	>2 miles to nearest or designated catchment area school.	>2 miles to nearest or designated catchment area school.	>3 miles to nearest or designated catchment area school.	>3 miles to nearest or designated catchment area school.	Same distances as Primary & Secondary.	Same distances as Primary & Secondary.
Monmouthshire	>1.5 miles to nearest suitable or designated school. No provision for Nursery	>1.5 miles to nearest suitable or designated school.	>2 miles to nearest suitable or designated school.	No Provision	Same as Primary & Secondary.	Same as Primary & Secondary.
Neath Port Talbot	No Provision	>2 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school.	Provided for students >3 miles at a charge of £100 pa.	Same distances as Primary & Secondary.	Same distances as Primary & Secondary.
Newport	No provision	>2 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school.	No transport provided but £150 grant provided.	Same as Primary & Secondary.	Same as Primary & Secondary.

Pembrokeshire	No Provision	>2 miles to nearest appropriate catchment area school.	>3 miles to nearest appropriate catchment area school.	>3 Miles to catchment school / college or nearest place providing course.	Same as Primary & Secondary	Same as Primary & Secondary
Powys	>2 miles to nearest suitable or designated school.	>2 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school / college.	Same as Primary & Secondary.	Same as Primary & Secondary.
Swansea	No provision	>2 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school / college.	Same as Primary & Secondary.	Same as Primary & Secondary.
Torfaen	>2 miles to nearest suitable or designated school.	>2 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school.	>3 miles to nearest suitable or designated school. Provision will either be in the form of a Travel Grant (currently £48.00 per term) or a bus pass.	Same as Primary & Secondary if child adheres to faith of school in question.	Same as Primary & Secondary.

Vale of Glamorgan	No Provision.	>2 miles to nearest or designated catchment area school.	>3 miles to nearest or designated catchment area school.	>3 miles to nearest or designated catchment area school.	Same as Primary & Secondary.	Same as Primary & Secondary.
Wrexham	No provision	>2 miles to nearest or designated catchment area school.	>3 miles to nearest or designated catchment area school.	No Provision.	Same as Primary & Secondary.	Same as Primary & Secondary.
Ynys Mon	No provision	>2 miles to nearest or designated catchment area school.	>3 miles to nearest or designated catchment area school.	No Provision.	Same as Primary & Secondary.	Same as Primary & Secondary.
Current provision information taken from the 'Starting School Booklet' for each Authority for the 2023/24 academic year or their current Home to School Transport policies.						

APPENDIX 2

ANALYSIS OF ADVANTAGES AND DISADVANTAGES OF OPTIONS

Option		Advantages	Disadvantages	Recommended Option?
A	Status Quo i.e. retain existing service provision	<ul style="list-style-type: none"> ○ Would retain provision for approximately 11,300 pupils. ○ Meets the requirements of the Learner Travel (Wales) measure 2008 in relation to promotion of access to Welsh medium education. 	<ul style="list-style-type: none"> ○ The total level of discretionary transport costs the Authority £6.9M per year. 	<p>Not proposed as the costs of discretionary provision as currently provided are considered to be unaffordable.</p> <p>Current provision is in excess of statutory requirements.</p>

Option	Advantages	Disadvantages	Recommended Option?
<p>B Provide mainstream English, Welsh and Faith primary and secondary school and college transport above statutory distance only.</p>	<ul style="list-style-type: none"> ○ Could encourage pupils/parents to walk to school – Health and environmental benefits. ○ Meets the requirements of the Learner Travel (Wales) measure 2008 in relation to promotion of access to Welsh medium education. ○ Policy applies to all students above the statutory distances. ○ Potential to deliver a saving of approximately £2.5m in a full year. ○ Policy would continue to offer transport on a discretionary basis to 6,000+ learners. 	<ul style="list-style-type: none"> ○ Increased congestion on roads if pupils transported by car. ○ Potential impact on local bus companies. ○ Potential challenges on “available” routes. ○ Will affect 336 primary school pupils and 2,362 secondary school and college pupils. ○ Potential negative impact on school attendance, learner engagement in education and outcomes. ○ Potential impact on low income families who would not have the financial means to transport their children to school. ○ Potential impact on the number of learners accessing Faith and Welsh medium education. 	<p>Yes, Proposed Preferred Option</p> <p>This option would continue to offer transport in excess of the statutory minimum and provides an equitable service for learners in English, Welsh, and Faith School education.</p> <p>It meets the requirements of the Learner Travel (Wales) measure 2008 including in relation to the promotion of access to Welsh medium education.</p> <p>18 of the 22 Council’s in Wales already adopting the statutory distance walking policy.</p> <p>If implemented this option would deliver savings of £2.5m per year, which would be fully realised in the 2026/27 financial year. The part-year savings for 2025/26 would be £1.4m.</p>

Option	Advantages	Disadvantages	Recommended Option?	
<p>C</p>	<p>Removal of all discretionary provision.</p>	<ul style="list-style-type: none"> ○ Equality of provision to all pupils, in line with statutory requirements. ○ Could encourage pupils/parents to walk to school – Health and environmental benefits. ○ Delivers an estimated £6.9m saving per year ○ As this option removes discretionary provision there would be no subsidy 	<ul style="list-style-type: none"> ○ Increased congestion on roads if pupils transported by car. ○ Impact on capacity of schools. ○ Potential impact on local bus companies. ○ Risk of not meeting requirements of the Learner Travel (Wales) measure 2008 in relation to promotion of access to Welsh medium education. ○ Potential impact on school attendance, learner engagement in education and outcomes. ○ Potential impact on low income families who would not have the financial means to transport their children to school. ○ Potential impact on the numbers of learners accessing Faith and Welsh medium education. ○ Potential challenges on “available” routes. ○ Will affect 9,000+ pupils. ○ May impact on viability of some schools. 	<p>Not proposed as this option would result in the complete removal of transport provision for 9,000+ pupils. Some journeys will not be on direct commercial routes, reducing the number of alternative travel options for pupils. This could have a negative impact on school attendance.</p> <p>There is a risk of not meeting the requirements of the Learner Travel (Wales) measure 2008 in relation to promotion of access to Welsh medium education.</p>

Notes:

The number of pupils included in the table above are as at September 2023.