

OFFICER DECISION RECORD 1 FORM

This form should be used to record Officer Decisions in Excess of £100k (but below the key decision threshold), or where required by Financial, Contract or other Procedure Rules or following formal delegation from Cabinet or a Cabinet Member or a Council Committee.

Decision Reference No: 1920019

BOX 1

DIRECTORATE: Learning &
Opportunities: Children & Young People

DATE: 23rd July 2019

Contact Name: Anita Linsdell

Tel. No.: 01302 734522

Subject Matter: Strategic Travel Assistance Review – Travel Assistance Policy – Formal Consultation Period

BOX 2**DECISION TAKEN**

Approval given to initiate formal consultation period, to consult on the Travel Assistance Policy as part of the Strategic Travel Assistance Review (STAR).

BOX 3**REASON FOR THE DECISION**

Due to the rising pupil population, individual need and complexity, there has been a rapid growth in demand for the request and provision of passenger transport by Doncaster Council.

Therefore, there is a need to provide a strategic approach to travel assistance policy and processes to deliver effective, efficient and value for money passenger transport services for the children and people of Doncaster.

The Strategic Travel Assistance Review (STAR) Group established in September 2018 to review and assess all aspects of transport to initiate an overall platform and strategic approach to underpin specific areas of the Transport Strategy where:

- real change needs to take place over the duration of the programme
- savings need to be made as a part of the programme and how this will be achieved and,
- the STAR is aligned with wider Council and Directorate priorities

A review of the Home to School Travel Assistance Policy is currently in progress and will impact on communities across the borough. An essential part of this approach to deliver this policy is to commence a formal consultation lasting 12 weeks. This will ensure the policy reflects the needs of residents, provides opportunities to share views and allow further engagement with local

communities. Pre-Consultation events with families, carers and professionals are currently being delivered which provide a firm foundation to support the development of the policy (including engagement with Doncaster's Youth Council on 24 July 2019) and ensures a robust approach to commence formal consultation. This provides a clear and transparent policy to present to Cabinet where a decision will be made. It is expected the new Travel Assistance Policy will be available and delivered on time by May 2020.

BOX 4

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Option 1: Agreement to commence formal consultation

Option 2: Formal Consultation not agreed. This is clearly not the preferred option and will severely impact on the development of the Travel Assistance Policy, the timescales to deliver the changes required and reduce the impact on the strategic approach for STAR.

Option 1 is the recommended option This will ensure the policy reflects the needs of Doncaster residents and provides opportunities for all stakeholders to share views / consult and allow further engagement with local communities which will form a firm foundation to support the development of the policy. This consultation will provide a robust policy to present to Cabinet where a decision will be made

BOX 5

LEGAL IMPLICATIONS

There are a number of statutory duties with regard to school transport. Section 508A of the Education Act 1996 places a general duty on local authorities to promote the use of sustainable travel and transport. Sections 508B and 508C of the Act make provision for local authorities to ensure that suitable travel arrangements are made, where necessary, to facilitate a child's attendance at school. Section 508C of the Act provides local authorities with discretionary powers to go beyond their statutory duties and provide transport for children who are not entitled to free transport and charges can be made. [Section 509AA](#) of the EA 1996 obliges Local Authorities to prepare, for each academic year, a transport policy statement specifying the arrangements for the provision of transport or otherwise that it considers necessary to make for facilitating the attendance of persons of sixth form age receiving education or training. [Section 508F](#) of the Education Act 1996 requires Local Authorities to make such arrangements for the provision of free transport as they consider necessary (or as the Secretary of State may direct) for the purpose of facilitating the attendance of:

- adults receiving education at an institution maintained or assisted by the LA and providing further or higher education or within the FE sector;
- relevant young adults (adults aged under 25 with learning difficulties) receiving education or training at institutions outside both the further education and higher education sectors where the LA has secured the education or training and boarding accommodation under section 514A.

Any change to our transport policies may be challenged by Judicial Review. The High Court recently ruled in the case of [Drexler, R \(on the application of\) v Leicestershire County Council](#) [2019] EWHC 1934 in favour of Leicestershire County Council in a challenge by a 17-year-old, severely disabled girl over proposed changes to its school transport policies. The case confirms

the importance of ensuring we comply with the processes before implementing changes, including consultation.

In the circumstances, consultation is necessary due to the duty to act fairly to those who may be impacted by the changes and the public sector equality duty. Consultation must be done properly and the following should be taken into account.

1. Consultation is undertaken when the relevant proposal is still at a formative stage
The views of the decision maker must be tentative and remain provisional upon the outcome of the consultation process and when the decision maker is prepared to change course if it is persuaded to do so. Some level of predisposition is legitimate. Where there is a provisional view that a particular proposal should be implemented the decision maker must communicate this to the consultees – i.e. they should be aware what the preference is.
2. A decision maker does not have to consult on options that it does not favour however a decision maker should not close its mind to other options and it must not preclude consultees from expressing views on them. An important alternative option from the material to consultees; incorrect or misleading references to an alternative; or failure to afford consultees the opportunity to express a view on an alternative could render the consultation process unlawful.
3. Adequate information is provided to consultees to permit intelligent consideration and enable them to properly respond. What information fairness requires the consultees to be given to understand the proposals and express meaningful views on it includes:
 - i) the nature of the proposal,
 - ii) the reasons why the decision maker is putting forward the proposal including the evidential base and any assumptions made
 - iii) any advice received in relation to the proposal
 - iv) details of the approach the decision maker propose to adopt when deciding whether to implement
 - v) any realistic alternatives options to the proposals if fairness requires it.
4. Information provided must be accurate and in a comprehensive form
5. Positive steps must be made to make consultees aware of the opportunity to express their views.
6. Individual contact may sometimes be required
7. Where the identities of consultees are unknown adequate steps must be taken with regard to publicity of the consultation.
8. Consultees are afforded adequate time in which to respond
It does depend on the circumstances but 12 weeks is often seen as appropriate for a written consultation exercise (and no less)
9. The decision maker gives conscientious consideration to consultees responses.
However, there is no general rule as to what is required. A mechanistic approach to the requirements must be avoided. Courts take a holistic view as to whether the consultation exercise viewed in its totality satisfies the decision makers' obligation to consult.

The decision maker must be aware of their obligations under section 149 Equality Act 2010, the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions, to have 'due regard' to the need to:

- a. Eliminate discrimination, harassment and victimization and other conduct which the Act prohibits;
- b. Advance equality of opportunity; and
- c. Foster good relations between people who share relevant protected characteristics and those who do not.

The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination. The decision maker must ensure that they have seen the due regard statement.

The duty must be exercised in substance, with rigour, and with an open mind and is not a question of ticking boxes. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself. The duty is a continuing one and there should be a record/audit trail of how due regard has been shown. It is not sufficient for due regard to be a “rear-guard action” following a concluded decision. The decision maker must also pay regard to any countervailing factors and decide the weight to be given to these, which it is proper and reasonable to consider; budgetary pressures, economics and practical factors will often be important.

Name: H Potts

Signature: [REDACTED]

Date: 24.7.19

Signature of Assistant Director of Legal and Democratic Services (or representative)

BOX 6

FINANCIAL IMPLICATIONS:

There are no direct cost implications arising from the consultation on the Travel Assistance Policy. However, travel assistance was identified as an area for review in terms of practice and savings. A strategic travel assistance review strategy group was established with four associate working groups to look across the whole portfolio. An initial options paper to reduce a £320k over spend to nil in 2019/20 and deliver savings of (£171k) in 2020/21 was agreed at Joint Leadership Team and identified savings linked to the introduction of a decision making panel and a new officer post to support families in transporting their children. In addition to these, further savings proposals for travel assistance have been identified as part of the medium term financial plan, with an additional (£550k) general fund savings to be made over the next two financial years (2020/21 and 2021/22). The Travel Assistance Policy will identify and put strategies in place to help deliver these saving targets.

Name: Laura Sudbury

Signature: [REDACTED]

Date: 29/07/2019

Signature of Chief Financial Officer and Assistant Director of Finance (or representative)

BOX 7

OTHER RELEVANT IMPLICATIONS

Name: _____ **Signature:** _____ **Date:** _____

Signature of Assistant Director (or representative)

ANY IMPLICATIONS SENT TO DEPARTMENTS SHOULD GENERALLY BE SUBMITTED AT LEAST 5 WORKING DAYS IN ADVANCE TO ENSURE THESE CAN BE GIVEN THE RELEVANT CONSIDERATION.

BOX 8**EQUALITY IMPLICATIONS:**

In taking this decision, the decision maker must be aware of their obligations under section 149 Equality Act 2010. This section contains the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions, to have 'due regard' to the need to:

- a) Eliminate discrimination, harassment and victimization and other conduct which the Act prohibits;
- b) Advance equality of opportunity; and
- c) Foster good relations between people who share relevant protected characteristics and those who do not.

The provision of travel assistance for children and young people accessing schools and colleges across the borough and beyond contributes towards the Council's Equality Objectives by providing travel assistance where a need is identified.

BOX 9**RISK IMPLICATIONS:**

The consequence of not making a decision to proceed urgently with formal consultation in support of the review of the Travel Assistance Policy, will severely impact on the delivery of the policy and greatly reduce the strategic approach to provide an effective, efficient and value for money passenger travel assistance services for the children and people of Doncaster. If formal consultation does not progress in September 2019, this will reduce timescales to deliver the changes and reduce the impact on the Strategic Travel Assistance Review. The new Travel Assistance Policy will not be in place for May 2020.

The Council has a duty to publish a Post 16 Travel Policy by 31 May each year. If this policy is not in place by May 2020, this means elements of the policy may not be implemented until May 2021.

BOX 10**CONSULTATION**

Pre-Consultation events with families, carers and professionals are currently being delivered to support the development of the policy (including engagement with Doncaster's Youth Council on 24 July 2019). This ensures a robust approach to commence formal consultation in September 2019

BOX 11**INFORMATION NOT FOR PUBLICATION**

It is in the public's interest to be aware of this decision record under the Freedom of Information Act 2000, therefore this decision will be published in full redacting signatures only.

Name: Kim Holdridge **Signature** [REDACTED] **Date: 30/07/19**
Signature of FOI Lead Officer for service area where ODR originates

BOX 12
BACKGROUND PAPERS

Please confirm if any Background Papers are included with this ODR: **NO**

Briefing Paper and draft Travel Assistance Policy will be prepared for ELG / SLT.

BOX 13
AUTHORISATION

Name: Riana Nelson **Signature:** [REDACTED] **Date: 07/08/2019**

Director of Learning, Opportunities and Skills

Does this decision require authorisation by the Chief Financial Officer or other Officer

NO

If yes please authorise below:

Name: _____ **Signature:** _____ **Date:** _____

Chief Executive/Director/Assistant Director of _____

Consultation with Relevant Member(s)

Name: _____ **Signature:** _____ **Date:** _____

Designation _____

(e.g. Mayor, Cabinet Member or Committee Chair/Vice-Chair)

Declaration of Interest **NO**

If YES please give details below:

PLEASE NOTE THIS FORM WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE IN FULL UNLESS IT CONTAINS EXEMPT OR CONFIDENTIAL INFORMATION.

Once completed a PDF copy of this form and any relevant background papers should be forwarded to Governance Services at Democratic.Services@doncaster.gov.uk who will arrange publication.

It is the responsibility of the decision taker to clearly identify any information that is confidential or exempt and should be redacted before publication.