

Forward Plan reference number: Not applicable

Report title: Education Transport Contingency Fund	
Report to: Councillor Christopher Whitbread - Cabinet Member for Finance.	
Report author: Mark Carroll, Executive Director Place and Public Health	
Date: 13 th August 2020	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 This report asks Councillor Whitbread to approve the earmarking of £500,000 from the General Balance for the provision of Statutory Education Transport.
- 1.2 The earmarked £500,000 will fund Statutory Education Transport in exceptional cases where we cannot deliver the necessary level of service for children eligible for transport within existing contract costs due to the impacts of the Covid -19 pandemic and there is no better value for money alternative provision.

2. Recommendations

- 2.1 Agree a £500,000 exceptions fund for Statutory Education Transport to be earmarked in the General Balance pending any additional funding from central government. If required, this will be requested to be drawn down via quarterly finance updates to Cabinet.
- 2.2 Agree that any residual balance remaining on the earmarked exception fund at the end of 2020/21 be considered for carry forward into 2021/22 at that time, to continue to fund exceptional cases due to the impacts of Covid-19, should it be required.
- 2.3 Delegate authority to the Director for Highways and Transport in consultation with the Director for Education to agree the exceptions presented by the Integrated Passenger Transport Unit and spending of the £500,000 exceptions fund.

3. Summary of issue

Department for Education (DfE) Guidance

- 3.1 Schools and educational settings in Essex will reopen in September and welcome back all children since the Covid-19 closures began. ECC is required to provide all eligible children in Essex with transport to a school or an educational setting.

- 3.2 Transport is provided for eligible children in Essex to their form of education (mainstream schools, special schools and alternative educational settings).
- 3.3 DfE guidance has set a new framework for supporting transport to and from schools from the autumn term 2020. The guidance makes a distinction between dedicated school transport (covering mainstream and special education needs ("SEN")) and wider public transport:
 - 3.3.2 by **dedicated school transport**, the guidance means services that are used only to carry children to school. This includes Statutory Education Transport but may also include some existing or new commercial travel routes, where they carry school children only.
 - 3.3.3 by **public transport services**, the guidance means routes which are also used by the general public.
 - 3.3.4 This decision relates to dedicated transport for eligible children only.

Dedicated School Transport

- 3.4 The DfE guidance for dedicated school transport says that as these services do not mix with the general public and tend to be consistent, the advice is that social distancing on these journeys will not apply from the Autumn term. Schools and operators should consider:
 - 3.4.1 distancing within vehicles wherever possible and how children are grouped together on transport, where possible this should reflect the bubbles that are adopted within school. Bubbles will be used in schools to group children together.
 - 3.4.2 organised queuing and boarding where possible and use of hand sanitiser upon boarding and/or disembarking.
 - 3.4.3 additional cleaning of vehicles.
 - 3.4.4 the use of face coverings for children over the age of 11, in line with national guidance.

Proposed ECC Response

- 3.5 ECC proposes that Statutory Education Transport continue to be delivered within existing contracts and normal contractual costs in line with the guidance above. For most children eligible, the Statutory Education Transport Service can be provided within existing contracts and budgets and in line with DfE guidance.
- 3.6 There will be a few exceptional cases assessed on an individual basis, for example a specific medical risk linked to Covid 19, where Statutory Education Transport cannot be delivered in line with the guidance and within existing contracts and budgets. An exceptions contingency fund of £500,000 will be established to ensure children can access school if they fall within this category and changes need to be made to their usual form of transport and this will enable ECC to continue to deliver its statutory duty.

4. Options

4.1 **Do Nothing (Not Recommended)** Doing nothing would mean ECC could fail to meet our statutory obligations for school transport and could have an adverse impact on children. This would likely have a negative effect on the number of children and young people return to educational settings.

4.2 Approve an Exceptions Fund (Recommended)

4.2.1 The proposal is that Statutory Education Transport continues to be delivered within existing budgetary envelope and contractual costs in line with DfE guidance.

4.2.2 For exceptional cases, such as specific Covid 19 related medical risks, where ECC cannot deliver the necessary level of service within existing contract costs and budgetary envelope, ECC will establish an exceptions fund of £500,000. All exceptions will require the approval of the Director for Education in consultation with the Director for Highways and Transport.

5 Issues for consideration

5.1 Financial implications

5.1.1 Statutory Education Transport Service has a total 2020/21 revenue expenditure budget of £32.560m. Currently, this covers the provision of transport for eligible children.

5.1.2 Currently, operators are being asked to deliver education transport within existing contractual costs and budgetary envelope for September 2020-March 2021 (as those payment terms were varied in line with decision of 18th April 2020 to allow operators to continue with interim payments during the COVID-19 situation).

5.1.3 However, it is understood that there may be instances where this is not possible due to additional risk/needs of children eligible for transport. It is currently estimated that this additional need could cost up to £500,000 and therefore it is requested that this amount be earmarked for this purpose in the general balance and if required drawn down via quarterly financial updates to Cabinet to mitigate the risk of additional transport requirements and supplement the existing Statutory Education Transport budget. Any residual balance left on the fund at the end of the financial year will be carried forward into 2021/22 should exceptional cases continue due to the impacts of Covid-19.

Assumptions

5.1.4 Should some or all of the risk be contained within the current budgetary envelope or should ECC receive central Government funding then the General Balance will be replenished accordingly. The exceptions fund will be

used as a last resort and funding from central Government will be used in the first instance.

- 5.1.5 The £500,000 exceptions fund is calculated using actuals from September 2019-March 2020.
- 5.1.6 The exceptions fund will only be required for the provision of transport from September 2020 - March 2021. Should it be necessary to continue to provide support on the same basis post March 2021 it will be considered at the time.
- 5.1.7 No additional transport is required outside of the standard school terms.

Risk

- 5.1.8 There is a risk that the estimated £500,000 will not be sufficient to fund requests for additional transport requirements that cannot be contained within the current budgetary envelope and are considered exceptional in nature. The use of this fund will be monitored to identify whether additional funding will be required above and beyond the initial request and further authority would be sought for any additional funds.

Financial opportunities

- 5.1.9 Central Government funding is received to support the provision of Statutory Education Transport from September 2020 onwards as a result of the additional burdens placed on ECC.
- 5.1.10 ECC contractual payments reduce due to savings made under contracts during April-July 2020 creating headroom within the budget to fund additional costs associated with the above.
- 5.1.11 Should there be capacity freed up on Statutory Education Transport this could be used to mitigate the risk above by offering places to those children not eligible for education transport.

5.2 Legal implications

- 5.2.1 ECC's financial regulations state that the creation of a reserve must be approved by the Cabinet Member for Finance.
- 5.2.2 The establishment of the fund would support delivery of the transport services in the event of shortfall in already allocated funds.
- 5.2.3 Any payments made to service providers over and above existing contractual rates must be considered and made only where allowed by applicable law, including procurement regulations.

- 5.2.4 To protect the pupil and ECC, any variation to existing services must be documented via contracts or contractual amendments before the varied service delivery commences.

6 Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- 6.1.1 Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - 6.1.2 Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - 6.1.3 Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (6.1.3) or (6.1.4) although it is relevant for (6.1.2).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.
- 6.4 The proposal in this CMA will protect eligible children who are more at risk due to Covid 19 because of their age or disability.

7 List of appendices

- 7.1 EqlA

8 List of Background papers

- 8.1 None

I approve the above recommendations set out above for the reasons set out in the report.	Date 08/09/2020
Councillor Christopher Whitbread - Cabinet Member for Finance	

In consultation with:

Role	Date
Executive Director Place and Public Health	
Mark Carroll	05/09/2020

Executive Director for Finance and Technology (S151 Officer) <i>Please send to your Head of Finance/Finance Business Partner who will arrange S151 sign off.</i> Nicole Wood	27/08/2020
Director, Legal and Assurance (Monitoring Officer) Susan Moussa on behalf of Paul Turner	07/09/2020