

BRECKLAND COUNCIL

Report of the Lynda Turner, Executive Member for Localism, Community and Environmental Services to the CABINET – 26 JULY 2011

Community Car Schemes

1. Purpose of Report

- 1.1 To update Members on progress with introducing new governance arrangements for the community car schemes in Breckland, and to obtain direction from Members regarding the completion of this process.

2. Recommendations

It is recommended that the Council/Committee:

- 2.1 Set a deadline of 1st October 2011 for the car schemes operating in the Breckland area to sign the funding agreement, after which time Breckland Council funding will be suspended - This will allow each car scheme sufficient time to discuss and reach a decision whether to sign up or not.

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options

3.1 Background

- 3.1.1 Governance and legal aspects of continuing to fund the community car schemes in Breckland were first raised by officers via a report to Overview and Scrutiny Committee on 4th September 2008. That report informed members that the car schemes have been operating in Breckland for approximately 25 years and that no governance arrangements were in place to regulate them, thus making Breckland Council and the community car schemes themselves both extremely vulnerable.
- 3.1.2 Following Overview & Scrutiny a report went to Cabinet on 9th September 2008. The following was recommended:
- Robust governance arrangements and legal agreements between Breckland Council and all car scheme operators and volunteer drivers be put in place as a requirement to qualify for funding
 - The principal of substantial funding for new and existing community car schemes to include meeting costs of required CRB and medical checks be supported; and
 - A further report be submitted to Council to establish full costs and clear reasoning for greater investment in this scheme
- 3.1.3 Following Cabinet, a report went to Council on 25th September 2008 where the above recommendations were agreed upon, including an extra £27,041 per annum to support new and existing community car schemes.
- 3.1.4 As set out in the report that went to the above committees, Members agreed to put in place legal agreements between Breckland Council and the car scheme operators setting out a number of standard vehicle and driver checks, including among others:
- CRB checks on each individual driver
 - Medical check on each individual driver (*originally suggested annually but*

reduced to 3 yearly)

- 3.1.5 A roll out programme was developed in order to introduce these changes. The first (new) scheme to use the new governance arrangements (which was effectively a pilot and demonstrated the viability of the new governance procedures) was Bawdeswell who proved that there are volunteers willing to participate and undergo standard safety checks and procedures.
- 3.1.6 The officer has been successful in getting a number of car schemes signed up to the new governance arrangements.

| Car schemes Signed up | Car schemes pending sign up | Consulted with but agreement not yet reached |
|-----------------------|-----------------------------|--|
| Bawdeswell | Dereham | Beetley |
| Mundford | Attleborough | Brisley |
| Gressenhall | Banham | Kenninghall |
| Saham Toney | Great Hockham | Swanton Morley |
| Whissonsett | | Watton |
| Old Buckenham | | Sporle |
| Mattishall | | Elsing |
| | | Longham |
| | | New Buckenham |
| | | Besthorpe |
| | | Mileham |
| | | Lyng |

- 3.1.7 All of the car scheme operators have been met with, either on a one-to-one basis or at an open meeting held on 18th May 2011.
- 3.1.8 Due to the resistance from a number of the car scheme operators and volunteer drivers to sign up to the new funding agreement an open meeting was held (18th May 2011) to discuss these issues and reinforce the necessity for change to the car schemes. Please see appendix 1 for a detailed breakdown of the issues raised at the open meeting and during the whole process of implementing the new governance.

4.3 Options

- 4.3.1 All of the issues raised throughout this process have been looked at in detail. Officers believe that the funding agreement offered to each car scheme gives all parties (i.e Breckland Council, the community car schemes, and the drivers themselves) clarity and protection that is expected. The new governance provides an audit trail showing best practice procedures which safeguard passengers, volunteer drivers, coordinators, car scheme operators and funders. The recent internal audit highlighted the importance of getting these funding agreements in place in order to reduce the risk to Breckland Council. *“Until all the schemes’ operators have been visited, and have signed the new Funding Agreements, there is an increased risk of exposing the Council to reputational damage and or legal challenge if scheme operators who have not signed the new funding agreements were involved in an accident whilst operating under the old arrangements”* Internal Audit Report – Breckland District Council – Partnerships 2011/12.
- 4.3.2 **Option 1** – To continue to discuss the issues with each car scheme individually without a time constraint – This will cause further delays and continue to expose Breckland Council. This option is not recommended as all the community car schemes have had more than enough time to reach agreement as to whether or not to accept Breckland Council’s funding under the new conditions.
- 4.3.3 **Option 2** – Keep the funding agreement as originally formatted and set a deadline of 1st October to sign the agreement, after which time Breckland Council funding will be suspended. This option is recommended.

5.4 Reasons for Recommendation(s)

- 5.4.1 There has been sufficient time spent debating the issues around the car schemes. The new governance procedures demonstrate best practice, and implementation should be a matter of priority to protect all parties.

6. Risk and Financial Implications

6.1 Risk

- 6.1.1 As highlighted in the Internal Audit Report – Partnerships 2011/12 *“there is an increased risk of exposing the Council to reputational damage and or legal challenge if scheme operators who have not signed the new funding agreements were involved in an accident whilst operating under the old arrangements”*.

At present, without the funding agreements being signed, in the event of an incident there is a real risk that Breckland Council will be found liable for the actions of the community car scheme driver and/or the community car scheme coordinator. The benefit of a funding agreement is that it clearly sets out the roles and responsibilities of all parties. The other benefit of the funding agreement is that it sets out what the community car scheme must deliver to the community to qualify for funding from Breckland Council.

7.2 Financial

- 7.2.1 Not required for this report – refer to previous report

8. Legal Implications

- 8.1 The legal implications are as set out in this report. To minimise the risk to the Council it is important to regularise/put in place proper governance arrangements between Breckland Council and the community car schemes. To operate without governance arrangements is to open Breckland Council to legal challenge. Serious incidents have occurred elsewhere in the county and it is proper to protect Breckland Council from such incidents, unless Breckland Council takes the decision to operate the community car scheme itself, and hence take full responsibility for them and the actions of the community car scheme drivers.

9. Other Implications

- a) Equalities: [Insert statement as appropriate from new equalities guidance and eqia.doc for Decision Makers – Author to draft but must clear report with Equality Officer] Not required for this report
- b) Section 17, Crime & Disorder Act 1998: None
- c) Section 40, Natural Environment & Rural Communities Act 2006: None
- d) Human Resources: None
- e) Human Rights: None
- f) Other: [e.g. Children’s Act 2004] None

10. Alignment to Council Priorities

- 10.1 As stated in previous report

11. Ward/Community Affected

- 11.1 Dereham, Swanton Morley, Eynsford, Hermitage, Launditch, Nar valley, Springvale & Scarning, Two Rivers, Haggard De Toni, Wissey, Conifer, Wayland, Watton, Queens, Buckenham, West Guiltcross.

Background Papers

Breckland Community Car Schemes – Discussion Paper – Overview and Scrutiny Committee 4th September 2008

Breckland Community Car Schemes - Cabinet Meeting 9th September 2008

Breckland Community Car Schemes – Full Council 25th September 2008

Lead Contact Officer:

Name/Post: Laura Apps-Green – Community Development Officer

Telephone: 01362 656 261

Email: laura.apps-green@breckland.gov.uk

Key Decision Status (Executive Decisions only):

This is on Forward Plan

Appendices attached to this report:

Issues & Answers raised at the Community Car Scheme Meeting 18th May 2011

Appendix 1

Issues & Answers raised at the Community Car Scheme Meeting 18th May 2011

During the roll out process there has been strong resistance to a number of points regarding the new governance for the community car schemes. Therefore an open meeting was held 18th May 2011 to discuss these issues. From that meeting the officer was tasked with looking again at the issues around medical checks and to coordinate a consensus regarding how to meet the 5p increase in the mileage rate to volunteers. Please see a list of the common issues raised below at the open meeting and responses:

CRB checks – These have not been a requirement before, why change now?

Not all organisations need to obtain CRB checks for volunteers, it depends on whether or not the volunteers will be working with clients or service users who are legally defined as vulnerable and if the contact will be a regular part of the volunteers role. A vulnerable person is described in the Police Act 1997 as a person “aged 18 or over who has a condition of the following type:

- i) a learning or physical disability
- ii) a physical or mental illness, chronic or otherwise, including an addition to alcohol or drugs; or
- iii) a reduction in physical or mental capacity

It is likely that while volunteering for the car schemes, volunteers at some point or other will be in contact, perhaps on a regular basis, with a service user that is termed vulnerable.

CRB checks are not fail safe and we understand that they are not a perfect solution but they are a recognised practice through the country and from our research we know that it is common practice to ask all volunteer car scheme drivers to undergo a CRB check.

We ask that the checks are conducted by Norfolk County Council and Breckland Council have budgeted for the cost of these. Per CRB check the cost is £20.

Medical checks – Is there a basis in law to ask for such a check? The DVLA requires people who drive to self declare any illnesses or reasons why they should not drive, why is this not enough for the car schemes? A suggested solution could be for each driver to sign a disclaimer stating that they are fit to drive and take any responsibly should there be any problems?

It is in the best interests of the passengers themselves, the car schemes, and Breckland Council that the drivers are fit and able.

A self certifications system was closely examined, however, in considering what is in the best interests of all parties concerned; officers recommend that all drivers should be medically checked. Self certification places responsibility on the driver to declare any medical issues, however, it does not provide evidence that constitutes a proactive medical check.

A medical check once every 3 years is not unduly onerous – and is considered a minimum level of protection.

From the research we have conducted with other car schemes in Norfolk we have found that some require more stringent checks, including:

- CRB check
- Eyesight check
- Blood and urine analysis
- Self assessment health check - to be completed with your doctor

Why can't the Coordinators conduct the checks on the volunteer drivers?

The issue of data protection came up at the beginning of the process of rolling out the new governance arrangements. Coordinators raised concerns about processing or holding

personal data on each volunteer. Please note that looking at data is classed as processing data.

Each Parish and Town Council should be Data Protection Registered and are therefore qualified to process personal data. It is therefore appropriate for the Clerk of the respective Parish or Town Council to undertake these checks.

As raised at the meeting, a Clerk to a Parish or Town Council is insured and qualified to make these kinds of checks whereas an individual is not.

We have also produced a helpful check sheet that can be used to carry out these checks and then kept as a audit trail confirming that the checks have taken place.

Mileage Rate – Volunteer drivers are entitled to receive 45p per mile as announced in the recent government budget. What is happening about this mileage increase? Should this extra cost be passed to the passengers?

A vote is currently taking place on how best to meet this increased mileage rate. Breckland Council has made an offer of contributing 2.5p of the additional 5p. Voting slips have been sent to each car scheme and a deadline date of 11th July set for returning votes.

The question of back dating the increased mileage rate to 6th April has been raised. This would be an administrative nightmare to implement and would not be recommended. It should also be noted that car schemes do not have to pay volunteer drivers the maximum allowed. Some car schemes in Norfolk have chosen not to increase payments to their volunteer drivers due to budget implications. Some volunteer drivers for Transport Plus in Norfolk are paid 39p per mile.

It was mentioned that there is a Pension Credit that enables people to claim back the cost of a journey to the hospital for those that are eligible.

How do the checks protect the coordinators?

CRB checks provide information as to whether a particular individual has a criminal history that may influence their suitability to volunteer as a driver. The burden is taken off the coordinator so that they can concentrate on the day to day operation of the car scheme.

Worried about loss of drivers

We are aware that some volunteer drivers have chosen not to continue assisting the community car schemes. We are also aware that there have been new volunteer drivers recruited since the new governance has been introduced.

Breckland Council will run a generic recruitment campaign for volunteer drivers and support car schemes locally with recruitment material.

Cost to tax payers

There is a specific budget set aside to implement these improvements to the car schemes.

There will be an increased work load. The new requirements will be time consuming.

There are only 2 new checks (CRB and Medical). All the other checks should have been made as part of the older procedure. The Coordinators role has been eased as the Clerk is to carry out the checks (with the exception of Ashill Village Aid). The checks should be made annually and recorded on the check sheet Breckland Council has supplied. We believe that the process has been streamlined, is easier to follow and provide all parties with the all important audit trail showing best practice.

Insurance – people at the meeting claimed that they are insured to drive for the car scheme so if anything happens they will be covered.

Insurance policies could be invalid if it was found that appropriate checks to ensure the safety of passengers were not being made.

What about driver protection?

The new governance does not alter the position of the volunteer driver.

Are these central government requirements or is this just BC?

These measures have not been imposed nationally; however car schemes all over the country are implementing this type of governance to provide protection for passengers and all involved in car schemes. These measures are widely recognised as best practice.

Risks associated with the lack of governance have been raised following internal audit at Breckland Council.

Car schemes will cease if these changes go ahead and the press have been contacted and are interested in this story

This has not be proved to be the case with the car schemes that have already entered into the funding agreement.

What do other car schemes do?

From the research we have conducted with other car schemes in Norfolk we have found that some require more stringent checks, including:

- CRB check
- Eyesight check
- Blood and urine analysis
- Self assessment health check - to be completed with your doctor

Time scales are needed

Members have set 1st October 2011 as a deadline to sign up to the car scheme funding agreement. After this time the funding will be suspended until an agreement has been reached.