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Guidance to Local Authorities in Preparing their Transport Policy Statement for Learners of Sixth Form Age

April 2009

Of interest to Local Authorities, local Learning and Skills Councils, Further Education Colleges (FECs), Schools with sixth forms, Higher Education Institutes (HEIs) offering Further Education provision, Transport Authorities, any organisation providing guidance to existing or prospective learners and any other interested party.

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Guidance to Local Authorities in Preparing their Transport Policy Statement for Learners of Sixth Form Age

1 The purpose of this guidance is to assist and enable Local Authorities to produce their Transport Policy Statements for 2009/10. Local Authorities must have regard to this guidance when preparing and publishing their Transport Policy Statements.

2 The Local Authority has a duty to prepare and publish an annual Transport Policy Statement specifying the arrangements for the provision of transport or otherwise that the Authority considers it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training at schools, colleges or any establishment funded by the Learning and Skills Council (LSC). (Section 509AA). The duty applies to all Local Authorities in England.

The relevant legislative provisions are set out in **Appendix 1** to this guidance.

3 The intention of the legislation is to ensure learners of sixth form age are able to access provision, and if support for access is required, then this will be assessed and provided. This provision will be set out in the Transport Policy Statement which will address the transport arrangements available for the coming academic year.

4 The Government has legislated through the Education and Skills Act 2008 to raise the participation age so that from 2013, young people will be required to stay in education or training until they are 17 and from 2015 until their 18th birthday. It is important that transport provision supports young people's participation in education and training both now and in the future. The planning of transport provision at a local level should also take into account the changes to the delivery of the 14-19 curriculum. Diploma delivery began in

2008/09, with institutions collaborating in Consortia to make available the first 5 Diploma lines to young people. By 2013, young people will have an entitlement to study Diplomas¹. Young people, aged 14-19, studying Diplomas will not always access their learning at their home institution and transport provision will need to enable young people of sixth form age studying Diplomas, to access their learning.

Extent and Coverage of the Duty

5 The duty applies to all Local Authorities in England in respect of arrangements for young people aged 16-18 and those continuing learners who started their programme of learning before their 19th birthday.

6 The statement must detail the provision and support the Local Authority considers necessary to ensure access to education or learning for full-time learners of sixth form age. (Section 509AA)

7 It is important that the Local Authority does not differentiate between providers or institutions in its arrangements. The arrangements must be provided for learners of sixth form age who are engaged in learning or training at:

- a school;
- a further education institution;
- an Authority maintained or assisted institution providing higher or further education; or
- an establishment supported by the Learning and Skills Council i.e. providers including Independent Specialist Providers and private training providers delivering LSC-funded provision.

(Section 509AA(2))

8 The statement must also specify the arrangements proposed to be made by the governing bodies of schools and further education colleges which may include support with transport costs or transport provision. The Local Authority should only include arrangements that are actually going to be made and not make assumptions about what arrangements it thinks schools and colleges should make.

9 **Each Local Authority is advised to take their own legal advice when preparing the Transport Policy Statement and devising a local response to transport needs, to ensure they are exercising their duties and powers in a manner which complies with the legislation and public law.**

Funding

10 The Local Authority is required to deliver the arrangements it has detailed in the Transport Policy Statement and this will incur costs.

11 The arrangements Local Authorities choose to make are generally funded through the formula grant from central Government to Local Authorities, and through locally raised revenue including council tax. Local Authorities and their partners may use other sources of funding to support these costs where appropriate.

¹ From 2013, all 14-16 year olds will have an entitlement to study the first 14 Diplomas and 16-18 year olds will have an entitlement to study all 17 Diplomas.

Assessment of Arrangements

12

In assessing what arrangements may be required, the Local Authority must have regard to:

- the needs of those who could not access education or training provision if no arrangements were made.

Local Authorities need to satisfy themselves that they have made the transport arrangements or arrangements for financial assistance necessary to facilitate learners' participation in education or training. In doing so, they should consider the needs of the most vulnerable or socially excluded learners. The needs of learners with learning difficulties or disabilities should be specifically considered. Local Authorities should also consider the needs of:

- Those who are vulnerable to becoming NEET (not in education, employment or training) at the age of 16 or 17 or have already become NEET; and
 - Those who live in particularly rural areas where the transport infrastructure is limited.
- the need to ensure that learners have reasonable opportunities to choose between different establishments at which education and training is provided.

13

Young people should have genuine choice in the courses available to them at 16 (and increasingly at 14 with the 14-19 reforms) and be supported to access their choices. Local Authority transport policies must be supportive of reasonable choice. In defining what is 'reasonable' Local Authorities will want to take into account any complaints in respect of local Transport Policy Statements. We would expect reasonable choice to include enabling learners to choose courses outside their home Local Authority

boundaries if it makes sense for them to do so. In this case, Local Authorities would want to consider with neighbouring Local Authorities how their transport policy can support learner movement across Local Authority boundaries, to ensure that the learner is no worse off than if they had chosen to attend an establishment within their home Local Authority. We would also expect reasonable choice to include enabling learners to choose an establishment of education or training that was not the closest to where they lived if it made sense to do so. We would expect the Local Authority to use their discretion in responding to learner choice.

Good Practice Example

Torbay & Dorset: Ensuring transport is not a major barrier to participation and choice.

In Torbay post-16 learners may attend an education provider outside the Local Authority if they can demonstrate it is required for their future studies and if they cannot study the same course within Torbay. In Dorset, transport is dealt with on a sub-regional basis. The travel to learn patterns for the sub-region, with the bordering Unitary Authorities of Poole and Bath, and importance of colleges in Somerset and Wiltshire, mean there is significant cross-border movement. A sub-regional approach has therefore been important to take account of the differing arrangements depending on where the learners are travelling from and to.

Source: SQW, good practice interviews²

- the distance from the learner's home to establishments of education and training and the journey time to access different establishments.

14

Distance should be a factor that Local Authorities consider in determining eligibility for support with transport. Young people in rural areas should not be worse off financially because they may need to travel further to access education and training provision than their peers in urban areas. The statutory walking distance of 3 miles (along the nearest available route) for those over the age of 8, is set out under Section 444(5) of the Act of the home to school transport duty for children of compulsory school age. This can be used as a benchmark by Local Authorities in defining the distance a young person might reasonably be expected to walk to access education or training. Some young people, for example, as a result of their learning difficulty or disability, may not be able to walk this distance. In addition, routes may not always be safe for a young person to walk. Such exceptions will need to be taken into account when considering what transport arrangements are necessary to facilitate attendance of learners at establishments of education or training. Local Authorities must take into account the nature of the route, or alternative routes, which a young person could be expected to take in determining whether transport arrangements are necessary.

² SQW completed an evaluation for the LSC in January 2009, entitled Transport Provision and Partnership Review. Further good practice examples from this are available in Section 3 of this guidance.

15

Journey time will also need to be taken into account (as introduced by the Education and Skills Act 2008). Consistent with the home to school transport duty for children of compulsory school age, we would expect young people to reach their establishment of education or training without incurring such stress, strain, or difficulty that they would be prevented from benefiting from the education provided. For example, we would not expect a young person to have to make several changes of public service bus (or other mode of transport) to get to their establishment of education or training, resulting in an unreasonably long journey time. In this context, Local Authorities will want to consider which mode of transport will best meet the need to ensure a reasonable journey time. Best practice suggests that a child of secondary school age may reasonably be expected to travel 75 minutes each way to access learning. Local Authorities should apply similar expectations to learners of sixth form age.

- the cost of transport to the establishments in question and of any alternate means of facilitating attendance there.

16

Local Authorities may ask learners and their parents to contribute to the costs of transport to education and training provision but in exercising their discretion they should:

- Ensure that any contribution is affordable for learners and their parents;
- Ensure that there are arrangements in place to support those families on low income. 'Low income' groups will always include those on the maximum level of working tax credit;
- Take into account the likely duration of learning and ensure that transport policies do not adversely impact particular groups. For example, learners with learning difficulties or disabilities are more likely to remain in education or training longer

than their peers and therefore, any contribution sought from the families of learners with learning difficulties or disabilities would need to allow for the fact they may have to make a contribution over a longer period than the families of those with children who do not have a LDD.

17

Alternative means of facilitating attendance at establishments of education or training should be considered by Local Authorities. Alternatives may include transport solutions, for example:

- Cycle schemes – which can support independence but also offer a sustainable form of transport provision;
- Moped schemes – which can support individual learners (over the age of 17) to travel to education and training from rural areas where there is no critical mass of learners meaning that, for example, a bus service, is not viable;
- Independent travel training to enable young people (often with LDD) to travel on public transport independently. These schemes have not only enabled young people to gain skills which can be used for travelling to education or training but have also led Local Authorities to make cost savings.

18

Local Authorities will also want to consider whether non-transport solutions could facilitate learner access to education or training. For example, peripatetic teachers, mobile provision and e-learning options are already in use in some areas or, particularly through the 14-19 reforms, are currently being explored.

19

In addition, as a result of the Education and Skills Act 2008, Local Authorities also have to have regard to:

- Any preference the individual, or parents, may have for a particular institution based on their religious belief.

This factor was introduced into the sixth form transport duty to mirror similar legislation included in the home to school transport duty for children of compulsory school age. Local Authorities should obtain their own legal advice in relation to the scope of this requirement.

(Section 509AB)

Financial Assistance and Charges to Young Learners

20

When determining what financial assistance to make available and charges for learners, the Local Authority should take into account the needs of learners living in rural areas where transport costs are likely to be higher and services are sparse.

21

The Local Authority should also take into account the diversity of learner situations in their area and be innovative in making arrangements for provision that will ensure consideration of the most needy and disadvantaged learners.

22

Whilst Local Authorities may take receipt of Education Maintenance Allowance (EMA) into account in assessing individual need for financial help with transport, they cannot direct that young people should use EMA for transport costs. As the purpose of EMA is to act as an incentive to encourage participation and progression in post-compulsory education, it would be counter to that purpose if the costs of transport to learning were such that it required a young person to use a significant proportion of their EMA. EMA is not intended to meet a young person's transport costs.

23

The LSC makes available to FE-funded providers an annual allocation of discretionary funding, formerly referred to as Learner Support or Hardship Funds. The purpose of discretionary funding is to provide exceptional support to individual learners who are experiencing financial hardship. The LSC does not provide discretionary funding to colleges to be used for the general provision of transport and Local Authorities should not take into account the fact that the LSC provides this funding to colleges when determining what arrangements it needs to make.

Learners with Learning Difficulties and/or Disabilities

24

The Transport Policy Statement should clearly set out what arrangements will be made for learners with learning difficulties or disabilities of sixth form age.

25

The Local Authority's duty is for learners of sixth form age, including learners with learning difficulties and/or disabilities.

26

Section 509AB(1) imposes a requirement that the statement should state to what extent the arrangements specified in the statement include arrangements for facilitating the attendance at schools and colleges etc, of disabled persons and persons with learning difficulties.

27

Transport needs should be considered in assessments of learning difficulties or disabilities under Section 139A of the Learning and Skills Act 2000. The Local Authority may assess learner needs in more detail beyond the Section 139A assessment. Arrangements cannot be limited to those

learners who have been previously assessed as having a statement of SEN. Learner transport needs will change throughout their educational career and equally their disability status may change. The Local Authority can take into account any mobility support that the learner already benefits from when making an assessment for support.

28

The duty in Transport Policy Statements in relation to learners with learning difficulties and/or disabilities only covers persons of sixth form age. However, Local Authorities have a duty **under the Education and Skills Act 2008 to encourage, enable and assist the participation of learners with LDD up to the age of 25 in education and training. It follows, therefore, that it is good practice for Local Authorities to make available information about transport arrangements in order to enable these learners to participate.** The LSC's duties in relation to securing residential placements for such learners extends to the age of 25. This offers another way that learners can be assisted in accessing and participating in learning.

29

A learner with learning difficulties or disabilities may take longer to complete a programme of learning or training, and therefore it will be good practice for the Local Authority to extend the arrangements for the provision of transport until a learner has completed their programme even if that is after they have attained the age of 19.

If the Local Authority and/or providers operate a travel training scheme it is good practice to include such initiatives in the Transport Policy Statement, including the process for the learner or carer to access the scheme.

Good Practice Example

Essex: Supporting the travel training agenda

The Independent Travel Training (ITT) scheme in Essex has been recognised by the Department for Transport as one of the most successful in the country. The scheme employs thirteen travel trainers and is operated by the Local Authority and expanded into adult social care in 2007. The Local Authority also works to promote and support the national agenda for travel training, including presenting at national conferences. Essex has worked in partnership with neighbouring Local Authorities, including helping to establish travel training services and leveraging funding for travel trainers in Southend and Suffolk.

Source: SQW, good practice interviews

Transport Policy Statement

30

The Transport Policy Statement must be published by the Local Authority by 31st May. The statement must describe the arrangements that the Local Authority will make to enable full-time learners of sixth form age to receive education or training which is suitable to the learner's needs. These arrangements will include transport provision and financial assistance for transport where appropriate.

31

The legislation recognises that a local response to transport arrangements is important in enabling young people's participation in education and training. A local approach allows local circumstances to be taken into account. Therefore the legislation gives Local Authorities the discretion to determine what transport and financial support are necessary to facilitate young people's attendance. The Local Authority must exercise its power to provide transport or financial support reasonably, taking into account all relevant matters and a failure to make arrangements would amount to a failure to meet the duty.

Good Practice Example

Sunderland: Working in partnership to support learners with learning difficulties and disabilities

In Tyne and Wear, the five local Transport Partnerships came together to unite as one partnership to improve transport support for LLDD. Sunderland and the other partnerships saw partnership working as the best way to improve services and achieve value for money. Partnership funding is now pooled and expenditure is focused on the development of a sustainable Independent Travel Training Scheme (PITT) that helps achieve the Every Child Matters outcomes. The PITT scheme currently employs a manager, area co-ordinator and three travel trainers. All staff members are supported by intensive training programmes, booklets and a DVD that is also being extended for parental use. A dedicated travel training area is located within schools and is used by travel trainers to train on Static Bus Stops; Pelican, Puffin and Zebra crossings; Belicia Beacons; pavement settings and shortly to a Metro Platform and Ticket Machine (Tyne and Wear's Light railway system). Enhancements to the scheme currently in progress are a website (to be available shortly) and new/updated DVD and,

finance permitting, a second travel training area may be established.

Given the potential for funding cuts in the future, the partnership has developed a consultancy package to support the sustainability of the scheme. Travel advisers charge to undertake audits of transport provision in other Local Authorities and identify suitability for independent travel training schemes. This consultancy has been taken up by an individual school and a Local Authority area.

The sustainability of the scheme was considered early on and the individual Authorities ring fenced any savings made from young people travelling independently back into the partnership and scheme. Since neither the scheme nor the partnership could be deemed a legal entity in their own right, at this stage the lead Local Authority of Tyneside has entered into a Memorandum of Understanding with a school that is able to support the scheme. Funding is predominantly sourced from the Post-16 Transport Partnership Fund although NEXUS (the local PTE) does contribute some funding and together with consultancy revenues, works to ensure that the scheme operates on the 'not for profit' margins.

Source: SQW, good practice interviews

Content and Presentation

32

The Transport Policy Statement is intended to inform learners and parents about what transport arrangements are available locally. As such, it should be clear and provide sufficient detail to enable learners and parents to understand the provision available. The statement must set out what the Local Authority's overall transport policy is in regard to learners, what the main objectives are, and the rationale behind the policy.

33

The Transport Policy Statement should be published by 31st May. Ideally, it should be posted on the Local Authority website to make it accessible to others. National LSC will then contact the Local Authorities in order to make a link between the Local Authority website and the 'Directgov' website

<http://www.direct.gov.uk/en/index.htm> which is the main source of government web-based information for the general public.

34

The statement should provide sufficient information about transport arrangements to inform learners' choice of where to study. It should clearly identify transport provision and costs, or signpost the learner to the information. It should provide information on any financial help the learner may receive for transport costs, and should simply outline the process for accessing support. Where appropriate, local transport initiatives should be included.

Good Practice Example

Leicester: Providing a comprehensive description of education and training providers

Websites with weblinks to education and transport providers are an effective way of providing up-to-date information and this practice is much in evidence. Leicester, for example, has developed a Student Travel Website. This has the added advantage of accessibility for a wider audience, including learners living in other areas. The website includes information on training programmes, various videos and recordings. During the design of the website, teachers, parents and learners were all consulted to ensure the information available on the website was appropriate and helpful.

Source: SQW, good practice interviews

Consultation

35

The Local Authority should not prepare the Transport Policy Statement in isolation. It is important for the success of access arrangements that local partners are regularly consulted. The Local Authority has a duty to consult with the following stakeholders in developing the statement:

- Any other Local Authorities it considers appropriate. There will be occasions where learners will travel across Local Authority boundaries and this should not be a barrier for the learner. There are clear benefits for Local Authorities to collaborate where similar challenges exist or to share good practice;
- The governing bodies of schools and further education institutions. The statement shall specify the arrangements proposed to be made by the governing bodies of schools and further education institutions for the provision of transport and/or financial assistance. It is important to note, the power of schools and colleges to make arrangements is in addition to, and not instead of, the power of the Local Authority to make arrangements;
- The Passenger Transport Authority (where the Local Authority is a district in a metropolitan county);
- TfL (where the Local Authority is a London borough or the City of London);
- Any other person specified by the LSC. The LSC may require consultation with other bodies including the local LSC, HEIs, representatives of 14-19 consortia, federations, transport companies and authorities operating in the locality, public sector bodies, community groups, voluntary organisations, groups/organisations with an interest in disability issues.

36

The legislation was designed to ensure partnership and collaboration between Local Authorities and other key stakeholders in developing, publishing and delivering Transport Policy Statements for learners.

The statement is the responsibility of the Local Authority, however the Local Authority should try and achieve a consensus with other partners and stakeholders about its content and delivery.

(Section 509AB)

37

Post-16 Transport Partnerships which bring together the key partners set out above, have been funded to establish a collaborative approach to transport solutions and the production of the transport statement. See Section 2 for further information.

Good Practice Example

Nottinghamshire: Using the funding allocation to galvanise partnership

Nottinghamshire provides a good example of partnership working. There has been an active partnership involving all colleges and sixth forms since 2001. There is also a Post-16 strategic group that meets to develop policies.

The Local Authority is moving from institution-specific approaches to transport, to addressing broader area needs. To this end, Nottinghamshire allocates Transport Partnership Funding through the use of an Innovation Fund. Only joint applications signed by all institutions can be made for resources through the fund. This fosters partnership between institutions. The creation of area-stretching groups further encourages institutions to work together and provide equitable support for all learners. The application process has been made as simple and non-bureaucratic as possible. To ensure effectiveness, bidders must

clearly identify an intended outcome and then review the progress towards the outcome when the grant is given.

Partnership has also been used to reduce the problems associated with cross-boundary coverage, through collaboration between the City and County Council. The City Council is a full contributing member to the County Council Post-16 Strategy. This means they contribute to the county pot so the money is pooled between city and county, which removes the problems caused by institutions straddling boundaries. As part of this initiative, Nottinghamshire has appointed area strategy group co-ordinators to make county-wide bids into the innovation fund.

Source: SQW, good practice interviews

38

Local Authority transport leads should also be aware that an electronic forum has been developed by the LSC for use by the transport partnerships. We would encourage you to use this as a peer to peer network, it could also be used for sharing ideas, solutions and good practice in addressing transport issues. The site is password protected to ensure confidentiality and can be accessed at: <http://www.dcsf.gov.uk/financialhelp/16-19transport/forum/>. There is a requirement to sign up for a password.

Good Practice in Presenting the Transport Policy Statement

39

The document needs to reflect **what is available to learners** within the area, rather than referring to what is provided by the Local Authority. The Local Authority is responding as the lead agency of the partnership, rather than an "Authority". However, the Local Authority remains the agency responsible for completing the Transport Policy Statement.

40

Local Authorities need to ensure that the Transport Policy Statement includes the following (where appropriate, as not all are available in all areas):

- A general statement of intent, providing an overview of the Local Authority's policy, the rationale for the policy and the main objectives;
- Local Authority transport provision for learners aged 16-18;
- Local Authority supported concessionary fare schemes for learners aged 16-18 (including area wide schemes such as in the PTE/TfL areas);
- public transport (both bus and train) commercially operated discount schemes for learners aged 16-18 and LLDD;
- schools/colleges' own transport provision/support arrangements for learners aged 16-18 and LLDD.

41

We would also suggest including information on any of the following transport, which may apply to post-16 learners:

- social services transport if provided for education post-19, or for residential placements;
- community transport/voluntary sector transport in the area if that is available for education journeys;
- LLDD/SEN mobility training by colleges/schools/authorities – this should make clear whether this is provided as part of the curriculum only, or linked to home to college journeys;
- moped or cycle schemes available to learners e.g. Wheels to Work.

Please see [Appendix 2](#) for an example of a Transport Policy Statement template indicating advisable sections which should be covered.

In-year Changes

42

A Local Authority should consider its approach in implementing what is set out in its Transport Policy Statement and continue to monitor its progress throughout the year.

43

Although the Local Authority is obliged to publish the Transport Policy Statement by 31st May, the Authority has the power during the academic year to make additional arrangements which may become necessary even though they are not published.

([Section 509AA](#)).

Local Complaints Process

44

It is good practice for the Local Authority to publish in the Transport Policy Statement the process which will be undertaken should a complaint or an appeal be made by a learner, or on behalf of the learner. These should be taken up first with the Local Authority using any appeals procedures. If these do not result in a satisfactory outcome, learners and their families may appeal to the LSC for help, or take legal advice/pursue a civil action.

National Investigation of Complaints

45

The LSC has additional legal responsibilities for:

- investigating and responding to complaints and queries from individuals and Members of Parliament;
- investigating legal claims against Local Authorities which relate to the exercise of their functions under Sections 509AA or 509AB;
- mediating between interested parties where it appears to the LSC that there is a reasonable case to answer; and
- resolving such complaints, claims and queries as appropriate.

([Statutory Instrument 2007 No 1178](#))

46

It is not the role of the LSC to give formal approval to the Local Authority's Transport Policy Statement as this would compromise the LSC's ability to fulfil the responsibilities set out above in an impartial manner.

47

For details on the LSC Procedure for Complaints in Relation to Transport for Learners of Sixth Form Age see [Appendix 3](#).

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

Appendix 1

The Summary of Statutory Provisions

This appendix sets out the relevant statutory provisions in relation to Local Authorities' responsibilities in relation to the provision of transport for persons of sixth form age.

Consolidated version of the Education Act 1996, Learning and Skills Act 2000, Education Act 2002, Education and Inspections Act 2006 and Education and Skills Act 2008.

509 Provision of transport etc

- (1) A Local Education Authority shall make such arrangements for the provision of transport and otherwise as they consider necessary, or as the Secretary of State may direct, for the purpose of facilitating the attendance of persons not of sixth form age receiving education –
 - (a) at schools;
 - (b) at any institution maintained or assisted by the Authority which provides further education or higher education (or both);
 - (c) at any institution within the further education sector; or
 - (d) at any institution outside both the further and the higher education sectors, where a further education funding council has secured provision for those persons at the institution under section 4(3) or (5) of the [1992 c. 13.] Further and Higher Education Act 1992.
- (2) Any transport provided in pursuance of arrangements under subsection (1) shall be provided free of charge.
- (3) A Local Education Authority may pay the whole or any part, as they think fit, of the reasonable travelling expenses of any person not of sixth form age receiving education –
 - (a) at a school; or
 - (b) at any such institution as is mentioned in subsection (1);

for whose transport no arrangements are made under that subsection.

- (4) In considering whether or not they are required by subsection (1) to make arrangements in relation to a particular person, a Local Education Authority shall have regard (amongst other things) –
 - (a) to the age of the person and the nature of the route, or alternative routes, which he could reasonably be expected to take; and
 - (b) to any wish of his parent for him to be provided with education at a school or institution in which the religious education provided is that of the religion or denomination to which his parent adheres.
- (5) Arrangements made by a Local Education Authority under subsection (1) shall –
 - (a) make provision for pupils at grant-maintained schools which is no less favourable than the provision made in pursuance of the arrangements for pupils at schools maintained by a Local Education Authority;
 - (b) make provision for persons receiving full-time education at any institution within the further education sector which is no less favourable than the provision made in pursuance of the arrangements for pupils of the same age at schools maintained by a Local Education Authority; and
 - (c) make provision for persons receiving full-time education or training at institutions mentioned in subsection (1A) which is no less favourable than the provision made in pursuance of the arrangements for persons of the same age with learning difficulties (within the meaning of section 13 of the Learning and Skills Act 2000) for whom the Authority secures the provision of education at any other institution.

- (6) Regulations under section 414(6) may require publication (within the meaning of that section) by every Local Education Authority of such information as may be required by the regulations with respect to the Authority's policy and arrangements for provision under this section for persons attending institutions mentioned in subsection (1)(c) or (d) who are over compulsory school age and who have not attained the age of 19.
- (7) References in this section to persons not of sixth form age shall be construed in accordance with subsection (1) of section 509AC.

509AA Provision of transport etc. for persons of sixth form age

- (1) A Local Education Authority shall prepare for each academic year a Transport Policy Statement complying with the requirements of this section.
- (2) The statement shall specify the arrangements for the provision of transport or otherwise that the Authority consider it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training –
 - (a) at schools;
 - (b) at any institution maintained or assisted by the Authority which provides further education or higher education (or both);
 - (c) at any institution within the further education sector; or
 - (d) at any establishment (not falling within paragraph (b) or (c)) which is supported by the Learning and Skills Council for England or the National Council for Education and Training for Wales. For example Private training providers delivering LSC funded provision.

- (3) The statement shall specify the arrangements that the Authority consider it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at any establishment such as is mentioned in subsection (2).
- (4) The statement shall specify the arrangements proposed to be made by the governing bodies of –
- (a) schools maintained by the Authority at which education suitable to the requirements of persons over compulsory school age is provided; and
 - (b) institutions within the further education sector in the Authority's area
- for the provision of transport for facilitating the attendance of persons of sixth form age receiving education or training at the schools and institutions and for the provision of financial assistance in respect of the travelling expenses of such persons.
- (5) Those governing bodies shall co-operate in giving the Local Education Authority any information and other assistance that is reasonably required by the Authority for the performance of their functions under this section and section 509AB.
- (6) The statement shall specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985 (c. 67)) which are to be provided under any scheme established under section 93 of that Act to persons of sixth form age receiving education at any establishment such as is mentioned in subsection (2) above in the Authority's area.

- (7) The Authority shall –
- (a) publish the statement, in a manner which they consider appropriate, on or before 31st May in the year in which the academic year in question begins; and
 - (b) make, and secure that effect is given to, any arrangements specified under subsections (2) and (3).
- (8) Nothing in this section prevents a Local Education Authority from making, at any time in an academic year, arrangements –
- (a) which are not specified in the transport policy statement published by the Authority for that year; but
 - (b) which they have come to consider necessary for the purposes mentioned in subsections (2) and (3).
- (9) The appropriate Authority may, if it considers it expedient to do so, direct a Local Education Authority to make for any academic year –
- (a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at establishments such as are mentioned in subsection (2); or
 - (b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons;
- which have not been specified in the transport policy statement published by the Authority for that academic year.
- (9A) The "appropriate Authority" means –
- (a) in the case of a Local Education Authority in England, the Secretary of State; and
 - (b) in the case of a Local Education Authority in Wales, the National Assembly for Wales.

- (10) The Secretary of State (in relation to Local Education Authorities in England) or the National Assembly for Wales (in relation to Local Education Authorities in Wales) may by order amend subsection (7)(a) by substituting a different date for 31st May.

509AB Further provision about Transport Policy Statements

- (1) A statement prepared under section 509AA shall state to what extent arrangements specified in accordance with subsection (2) of that section include arrangements for facilitating the attendance at establishments such as are mentioned in that subsection of disabled persons and persons with learning difficulties.
- (2) A statement prepared under that section shall –
- (a) specify arrangements for persons receiving full-time education or training at establishments other than schools maintained by the Local Education Authority which are no less favourable than the arrangements specified for pupils of the same age attending such schools; and
 - (b) specify arrangements for persons with learning difficulties receiving education or training at establishments other than schools maintained by the Authority which are no less favourable than the arrangements specified for pupils of the same age with learning difficulties attending such schools.

- (3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the Local Education Authority shall have regard (amongst other things) to –
- (a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made;
 - (b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided;
 - (c) the distances, and journey times, between the homes of persons of sixth form age in their area and establishments such as are mentioned in section 509AA(2) at which education or training suitable to their needs is provided; and
 - (d) the cost of transport to the establishments in question and of any alternative means of facilitating the attendance of persons receiving education or training there.
- (4) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a Local Education Authority shall have regard (amongst other things) –
- (a) to the nature of the route, or alternative routes, which he could reasonably be expected to take; and
 - (b) to any wish of his parent for him to be provided with education or training at a school, institution or other establishment in which the religious education provided is that of the religion or denomination to which his parent adheres.
- (5) In preparing a statement under section 509AA a Local Education Authority shall have regard to any guidance issued;
- (a) by the Learning and Skills Council for England (in the case of an Authority in England); or
 - (b) by the National Assembly for Wales (in the case of an Authority in Wales), under this section.
- (6) In preparing a statement under that section a Local Education Authority shall consult –
- (a) any other Local Education Authority that they consider it appropriate to consult;
 - (b) the governing bodies mentioned in subsection (4) of that section;
 - (c) the Learning and Skills Council for England (in the case of a Local Education Authority in England) or the National Council for Education and Training for Wales (in the case of a Local Education Authority in Wales); and
 - (d) any other person specified for the purposes of this section by the Learning and Skills Council for England (in the case of an Authority in England) or the National Assembly for Wales (in the case of an Authority in Wales).
- (7) In preparing a statement under that section a Local Education Authority shall also consult –
- (a) where they are the Local Education Authority for a district in a metropolitan county, the Passenger Transport Authority for that county; and
 - (b) where they are the Local Education Authority for a London borough or the City of London, Transport for London.
- (8) Any guidance issued by the Learning and Skills Council for England under this section must be published in such manner as the Council thinks fit.
- 509AC Interpretation of sections 509AA and 509AB**
- (1) For the purposes of sections 509AA and 509AB a person receiving education or training at an establishment is of sixth form age if he is over compulsory school age but –
- (a) is under the age of 19; or
 - (b) has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.
- (2) References in section 509AA to an establishment supported by the Learning and Skills Council for England are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 5(2) of the Learning and Skills Act 2000.
- (3) References in section 509AA to an establishment supported by the National Council for Education and Training for Wales are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 34(2) of the Learning and Skills Act 2000.
- (4) References in section 509AB to persons with learning difficulties are to be construed in accordance with section 13(5) and (6) of the Learning and Skills Act 2000.

- (5) In sections 509AA and 509AB and this section –
- “academic year” means any period commencing with 1st August and ending with the next 31st July;
 - “disabled person” has the same meaning as in the Disability Discrimination Act 1995;
 - “establishment” means an establishment of any kind, including a school or institution;
 - “governing body”, in relation to an institution within the further education sector, has the same meaning as in the Further and Higher Education Act 1992.
- (6) The Secretary of State may by order amend the definition of “academic year” in subsection (5) in relation to its application in the case of Local Education Authorities in England.
- (7) The National Assembly for Wales may by order amend the definition of “academic year” in subsection (5) in relation to its application in the case of Local Education Authorities in Wales.

509AD LEAs in England: duty to have regard to religion or belief in exercise of travel functions

- (1) A local education authority in England must have regard, amongst other things, in exercising any of their travel functions in relation to or in connection with the travel of a person or persons to or from a school, institution or other place –
- (a) to any wish of a parent of such a person for him to be provided with education or training at a particular school, institution or other place where that wish is based on the parent’s religion or belief; and
 - (b) in a case where the person in question (or any of the persons in question) is of sixth form age (within the meaning given in section 509AC(1)), to any wish of that person to be provided with education or training at a particular school, institution or other place where that wish is based on the person’s religion or belief.
- (2) The “travel functions” of a local education authority in England are their functions under any of the following provisions –
- section 508A (duty to promote sustainable modes of travel etc);
 - section 508B (travel arrangements for eligible children);
 - section 508C (travel arrangements etc for other children);
 - section 508E and Schedule 35C (school travel schemes);
 - section 508F (transport etc for certain adult learners);
 - section 509AA (transport etc for persons of sixth form age).

- (3) For the purposes of this section –
- (a) “religion” means any religion,
 - (b) “belief” means any religious or philosophical belief,
 - (c) a reference to religion includes a reference to lack of religion, and
 - (d) a reference to belief includes a reference to lack of belief.”

Learning and Skills Act 2000

There is a further amendment within the Education and Inspections Act 2006, para 83 (4) that refers to the Learning and Skills Act;

In section 18 of the Learning and Skills Act 2000 (c. 21) (supplementary functions of Learning and Skills Council for England), after subsection (5)

insert –

“(6) The Secretary of State may by order confer or impose on the Council such powers or duties falling within subsection (7) as he thinks fit.

(7) A power or duty falls within this subsection if it is exercisable in connection with –

- (a) the Secretary of State’s function under section 509AA(9) of the Education Act 1996 (power to direct LEA to make arrangements

additional to those specified in Transport Policy Statement), or

- (b) any function of the Secretary of State under any of sections 496 to 497B of the Education Act 1996 as regards anything done,

proposed to be done or omitted to be done by a Local Education Authority in England under section 509AA or 509AB of that Act.”

STATUTORY INSTRUMENTS

2007 No. 1178

Education, England

The Learning and Skills Council for England (Supplementary Functions) Order 2007

Made – – – – *3rd April 2007*

Laid before Parliament *12th April 2007*

Coming into force – *14th May 2007*

The Secretary of State for Education and Skills makes the following Order in exercise of the powers conferred by section 18(6) of the Learning and Skills Act 2000³:

Citation, commencement and application

1. – a. This Order may be cited as the Learning and Skills Council for England (Supplementary Functions) Order 2007 and comes into force on 14th May 2007.

(1) This Order applies in relation to England.

Interpretation

2. In this Order –

“the Council” means the Learning and Skills Council for England

“the 1996 Act” means the Education Act 1996⁴.

Powers and duties to be conferred and imposed on the Council

3. – b. The Secretary of State confers and imposes the powers and duties mentioned in paragraph (2) on the Council, to the extent that they are exercisable in connection with –

- (a) the Secretary of State’s function under section 509AA(9) of the 1996 Act; or
- (b) any of the Secretary of State’s functions under any of sections 496 to 497B of the 1996 Act as regards anything done, proposed to be done or omitted to be done by a local education authority in England under section 509AA or 509AB of that Act.

(2) The powers and duties mentioned in this paragraph are –

- (a) investigating and responding to complaints and queries from individuals and members of Parliament;
- (b) investigating legal claims against local education authorities which relate to the exercise of their functions under sections 509AA or 509AB of the 1996 Act;
- (c) mediating between interested parties where it appears to the Council that there is a reasonable case to answer;
- (d) resolving such complaints, claims and queries as appropriate; and

³ 2000 c. 21; section 18(6) was inserted by section 83(4) of the Education and Inspections Act 2006 (c. 40). Section 152 of the Learning and Skills Act 2000 provides that any power to make an order under the Act is exercised by statutory instrument.

⁴ 1996 c. 56.

(e) in the event that any complaint or claim cannot be resolved, preparing cases for consideration by the Secretary of State as to whether he should exercise any of his functions under section 509AA(9) or sections 496 to 497B of the 1996 Act.

3rd April 2007

Bill Rammell
Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers and imposes on the Learning and Skills Council for England ("the Council") various powers and duties for dealing with complaints, legal claims and queries arising out of the Secretary of State's functions under section 509AA(9) of the Education Act 1996 and any of sections 496 to 497B of the 1996 Act as regards anything done, proposed to be done or omitted to be done by a Local Education Authority in England under section 509AA or 509AB of the 1996 Act. The powers and duties conferred are in addition to those already conferred on the Council by the Learning and Skills Council for England (Supplementary Functions) Order 2001 (S.I. 2001/2877).

Section 509AA(9) enables the Secretary of State to direct a Local Education Authority in England to make for any academic year: (a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at schools and various institutions that provide further education or are supported by the Learning and Skills Council for England; or (b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons.

Sections 496 to 497B give the Secretary of State power to make directions in respect of certain functions of a Local Education Authority, which include the duty to provide transport for persons who are of sixth form age or who are disabled or who have learning difficulties.

Appendix 2 – Part 1

Local Authority Transport Policy Statement Blank Template

Transport Policy Statement for learners aged 16-18 in further education and continuing learners aged 19 and over

Name of Local Authority:

Department Responsible:

1. Summary of Policy Statement and Main Objectives (this section should give an overview/statement of intent of what the Local Authority's transport policy is and what the subsequent desired outcomes are).

2. Please provide details of all concessionary fares, discounts, subsidies, passes or travel cards available for learners aged 16–18 and who provides them. Please provide details of any costs to the learner.

3. What times during the day can learners use their travel pass or obtain concessionary fares?

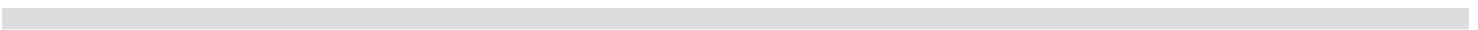
Appendix 2 – Part 2

4. Please confirm that support will continue to be made available to learners who reach 19 whilst continuing on a course.

5. How will learners be assessed to see if they are eligible for support? e.g. means-testing or must they be on benefits?

6. What help do you provide for learners with learning difficulties and/or disabilities including those over 19 or learners facing other difficulties in following their courses?

7. Do you provide mobility/independence training for learners who face difficulty with transport?



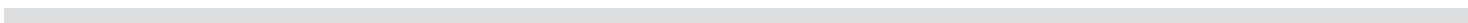
Appendix 2 – Part 3

8. When should learners start to apply for transport support?

9. What help can learners apply for if they need to travel to a course that is beyond your Local Authority area?

10. What help is available for learners who attend a further education institution which is beyond daily travelling distance and they need to stay away?

11. Please provide information about all points of contact for learners seeking transport support, e.g. Local Authority/college, bus company contact. Please include any websites and e-mail addresses.



Appendix 3

The LSC Procedure for Complaints in Relation to Transport for Learners of Sixth Form Age

Full details of the complaint should be submitted in writing to:

The Discretionary Support Team, Learning and Skills Council, Learner Support Directorate, 3rd Floor, The Straddle, Victoria Quays, Wharf Street, Sheffield S2 5SY

On receipt of a complaint the appropriate officer should check the matter is one which the LSC can investigate.

Within five working days of receipt of a complaint the appropriate officer should acknowledge receipt and send a copy of this procedure to the complainant. The complainant should be told whether the complaint is one which the LSC will investigate.

The appropriate officer should consider whether the complaint may be resolved by mediation and, if the parties agree, should arrange for a mediation meeting.

Within seven working days of receipt of the written complaint the appropriate officer should prepare a summary of the complaint to be sent to the complainant for approval. The complainant should be given seven working days to provide any response to this document.

The appropriate officer should consider any response from the complainant and, if appropriate, amend the summary of the complaint before sending this to the respondent. The respondent should be asked to provide within ten working days:

- a response to the summary of complaint together with relevant documentation;
- confirmation that the information provided can be shown to the complainant.

On receipt of documentation and response from the respondent, the appropriate officer shall provide the respondent's response to the complainant and seek confirmation within five working days as to whether the complainant remains dissatisfied.

If the matter has not been resolved within 20 working days of agreeing the summary with the complainant, the appropriate officer should consider each aspect of the summary of complaint and determine whether, on the balance of probabilities, the complaint should be upheld.

If the appropriate officer cannot resolve the position on the information available, he or she shall arrange for the parties to be contacted to obtain such further information as is required. If necessary the appropriate officer can arrange to meet with either or both of the parties. The information received and notes of any meeting, if available, should normally be disclosed to both parties.

Once a provisional decision has been made in relation to the complaint, draft findings should be sent to the parties providing them with an opportunity to respond within five working days.

Responses should be considered before the appropriate officer confirms the findings. This document should be finalised within five working days and sent to the parties. This concludes the investigation.

If at any point during the investigation, the appropriate officer encounters a delay in responding to/providing correspondence, the complainant should be notified of the delay and be given details when a response will be provided.

Monitoring Implementation of the Duty and the Secretary of State's Power to Direct

The implementation of the duty will be monitored at a national level by DCSF.

Section 509AA(9) gives the Secretary of State the power to direct a Local Authority to make for any academic year arrangements for the provision of transport or financial assistance for travelling expenses which have not been mentioned in the Transport Policy Statement. The provision clearly implies that the Local Authority does have a power to make arrangements for the provision of transport and financial assistance for travelling expenses which must be exercised reasonably.

The Secretary of State has a number of powers under the Education Act 1996 to ensure that Local Authorities carry out their statutory duties in relation to transport for post-16 learners. The Secretary of State can:

- give directions to a Local Authority if he is satisfied that the Authority is acting or proposing to act unreasonably in relation to the performance of its duties or exercise of its powers;
- give directions to a Local Authority if he is satisfied that the Authority has failed to carry out a statutory duty imposed on it;
- give directions to a Local Authority if he is satisfied that the Authority is failing to perform a statutory duty to an adequate standard;
- direct a Local Authority to make arrangements for the provision of transport for facilitating the attendance of learners of sixth form age receiving education or training at schools colleges and other LSC-funded establishments, or arrangements for providing financial assistance in respect of the reasonable travelling expenses of such learners, which have not been specified in the Transport Policy Statement published by the Authority for that academic year.

The Secretary of State can ask the LSC to exercise these powers on his behalf.

(Section 509AA(9))

The case for intervention will be identified through monitoring of the Transport Policy Statement or where a complaint remains unresolved; the LSC has the power to prepare a case for the Secretary of State's consideration.

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