

Home to School Travel and Transport Draft Guidance

Overview and glossary

1. This guidance to local authorities covers local authority duties and powers relating to school travel for children of compulsory school age and below under clauses 63, 64, 69, 71, and 72 of the Education and Inspections Bill (separate guidance to Pathfinder authorities has been issued dealing with clauses 65, 66, and 67).
2. Part 1 of this guidance deals with the local authority duty to promote sustainable travel (clause 63).
3. Part 2 deals with local authority duties relating to the provision of travel arrangements for children (clause 64).
4. Part 3 deals with “eligible children”, and “qualifying schools” (clause 64 and Schedule 8).
5. Part 4 deals with local authority powers relating to the provision of travel arrangements for children (clause 64).
6. Part 5 deals with the duty placed on local authorities to have regard to religion or belief in exercising their school travel functions (clause 71).

Glossary

7. The Bill and this guidance contain a number of words and phrases that require definition. These are as follows:
 - **‘child/children’** – in this guidance, ‘child’ or ‘children’ refers to those of compulsory school age or below. A child becomes of compulsory school age when he or she reaches the age of five and must start school in the term following his or her fifth birthday. Compulsory school age ceases on the last Friday in June in the school year in which the child reaches the age of 16.
 - **‘young person of 6th form age’** - is someone above compulsory school age but under the age of 19, or who has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.
 - **‘mode of travel/modal share** – ‘mode’ refers to the different means of travel, for example, on foot, by bicycle, car, bus, train, and so on. ‘Modal share’ refers to the proportion of children travelling by each mode.

- **‘sustainable travel modes’** – are modes of travel that the local authority considers may improve the physical well-being of those who use them, the environmental well-being of all or part of the local authority’s area, or a combination of the two. For example, walking and cycling might be likely to improve the health of those travelling on foot or by bicycle, as well as bringing environmental benefits from reduced levels of localised congestion and pollution where those walking or cycling had transferred from using cars. Similarly, bus use or car sharing might be considered to bring environmental benefits in comparison to individuals travelling by car.
- **‘walking distance’** – is defined in section 444(5) of the Education Act 1996 as either two miles (if the child is under 8 years old), or three miles (if the child is 8 years old or older). This is measured by the “nearest available route” (s.444(5)). The route is not necessarily the shortest distance by road. It is measured by the shortest route along which a child, accompanied as necessary, may walk with reasonable safety.
- **‘available route’** – a route will be “available” if it is a route along which a child, accompanied as necessary, can walk with reasonable safety to school. A route will be “available” even if the child would need to be accompanied along it by his or her parent or carer, as long as such accompaniment is reasonably practicable.
- **‘religion or belief’** – the Equality Act 2006 defines what is meant by "religion or belief" for the purposes of this Act. Section 44(a) defines "religion" as "any religion", a broad definition in line with the freedom of religion guaranteed by Article 9 of the European Convention on Human Rights (ECHR). It includes those religions widely recognised in this country such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha'is, Zoroastrians and Jains. Equally, denominations or sects within a religion can be considered as a religion or religious belief, such as Catholics or Protestants within Christianity. The main limitation on what constitutes a "religion" for the purposes of Article 9 of the ECHR is that it must have a clear structure and belief system. Section 44(b) defines "belief" as "any religious or philosophical belief", and Section 44(c) and (d) state that "lack of religion" and "lack of belief" are also covered by the phrase "religion or belief".

Part 1 – Sustainable school travel

8. The Education and Inspections Bill (clause 63) inserts a new section 508A in the Education Act 1996. This places a general duty on local authorities to promote the use of sustainable travel and transport.

9. The duty applies to **children** (i.e. of compulsory school age and below), and **young people of 6th form age**.

10. The duty applies to children, and young people of 6th form age **in general** (rather than to each individual child or young person), and applies:

- to those resident in the authority's area, and receiving education or training in the authority's area; and
- to those not resident in the authority's area, but who travel within the authority's area to receive education or training.

11. The duty relates to journeys to and from institutions at the start and end of the day (including attendance at pre- and after-school activities), and journeys between institutions during the day. Journeys may be to, from or between schools (including independent schools), further education institutions, and other institutions where education or training might be delivered. As such, the duty includes consideration of the travel implications of extended schools, and delivery of education and training at different institutions for the 14 to 19 age group.

12. There are four main elements to the duty:

- an assessment of the travel and transport needs of children, and young people;
- an audit of the sustainable travel and transport infrastructure within the authority that may be used when travelling to and from, or between schools/institutions;
- a strategy to develop the sustainable travel and transport infrastructure within the authority so that the travel and transport needs of children and young people are better catered for; and
- the promotion of sustainable travel and transport modes on the journey to, from, and between schools and other institutions.

Assessing the travel and transport needs of children and young people

13. In recent years, local authority based school travel advisers have helped many schools survey their pupils, recording both how they travel to school and

how they would like to travel to school. To date, around 25% of schools have travel plans, and by March 2006 we expect 40% of schools to have developed travel plans, with all schools having developed a travel plan by the end of the decade.

14. Many further education institutions and colleges have also developed travel plans based on the travel needs and wants of young people and staff.

15. Local authorities should, in large part, base their assessment of children and young people's travel and transport needs on the data provided in school or college travel plans.

16. From January 2007, 'mode of travel to school' will be included in the annual School Census. All schools with a travel plan will be required to complete this question in their returns, which will provide local authorities with monitoring data on existing travel patterns to schools in their area.

17. Where data obtained from these means is not adequate to provide a reliable picture of the travel and transport needs of children and young people in an authority's area, the local authority should conduct a sample survey of children and young people to obtain the relevant data. Such data must include questions relating to both how pupils travel, and how they would like to travel to school/college.

18. From 2007, local authorities will already be collecting data on 'mode of travel to school', as this is a mandatory indicator in Local Transport Plans (LTPs). The Department for Transport (DfT) has issued guidance on data collection in this area, and local authorities must ensure that their requests for information from schools are coordinated and do not place any unnecessary burdens on schools.

Audit of infrastructure to support sustainable school travel

19. The Education and Inspections Bill (section 508A (3)) defines sustainable travel as modes of travel that improve the physical well-being of those using that mode (which would include health benefits derived from increased levels of physical activity), and/or the environmental well-being of all or part of their area (through, for example reduced levels of congestion and pollution). Sustainable modes of travel include walking, cycling, bus use (and other forms of public transport), as well as car-sharing where there is no practical alternative to the private car on the journey to school.

20. Local authorities are already expected to consider accessibility issues – including the accessibility of key public services such as education - as an integral part of their Local Transport Plan¹. The overall assessment of

¹ See *Guidance on Accessibility Planning in Local Transport Plans*, DfT, December 2004.

accessibility should consist of a mapping audit, and a review of existing knowledge and experience. The audit will include a mapping exercise showing how schools are served by bus and other public transport routes (including school transport provided by the local authority), footpaths, cycle ways, roads and associated features (crossing points and patrols, traffic calming measures, speed limits, etc), as well as any arrangements made to support sustainable school transport. Such arrangements should include the provision of cycle training, road safety training, and independent travel training, as well as the provision of walking buses, car sharing schemes, park and stride/ride schemes that may be in operation.

21. As well as these 'geographical' and 'transport' components, the audit must contain data relating to personal safety and security, and other factors that influence travel choices, such as poor behaviour on school buses, the incidence of bullying on the journey to school, and so on. In conducting this wider audit, best practice suggests that local authorities should draw information and data included in the travel plans drawn up by schools in their area, which will highlight significant barriers to pupils travelling by sustainable means, including perceptions of pupils, parents, and schools – for example, traffic speed on roads near schools, lack of safe crossing points, unlit footpaths, lack of cycle routes, bus routes that fail to pass within a reasonable distance of schools, the lack of affordable public transport options, and so on.

22. The information drawn from these sources will help the local authority to gain a more detailed picture of what the problems are, and will inform the measures that might be taken to tackle them. The audit will also provide a valuable tool for choice advisers, who will support disadvantaged families in gaining access to schools that best meet the talents, needs and aspirations of their children.

23. Audits of sustainable school transport will help local authorities to identify remedial actions such as: provision of cycle training; provision of independent travel training; arranging escorts for walking buses; installing cycle routes; traffic calming measures; new road crossings; consideration of 20mph speed limit zones around schools and on heavily used walking routes; and so on. As well as addressing parental concerns about traffic risk, such measures should help reduce child pedestrian casualties, and help achieve a shift from car to sustainable travel on the journey to school.

Strategy to develop infrastructure to support travel and transport needs of pupils

24. Having assessed the needs of pupils, and conducted an audit of the sustainable transport infrastructure that supports travel to school, local authorities must develop a strategy for developing that infrastructure so that it better meets the needs of children and young people in their area.

25. The strategy should be a statement of the authority's overall vision, objectives and work programme for improving accessibility to schools. The accessibility strategy should build on, and be developed in the context of the authority's community strategies, and Local Transport Plan (LTP) - including its accessibility plan and bus strategy.

26. In developing its strategy, the local authority should consider how improvements can help to deliver other objectives, including environmental improvements (from reduced levels of congestion and pollution), and enhanced child safety and security.

27. The strategy should be evidence-based, including an assessment of the accessibility needs and problems of the local authority's area, and demonstrate how a range of interventions can address these problems. The strategy should set out the accessibility priorities over a timeframe that fits the LTP planning cycle.

28. Local authorities must monitor the implementation of their strategy and revise these as they feel necessary. Under the [*Sustainable School Travel Provision of Information* (?)] Regulations 2006, local authorities must publish their school transport strategy each year as part of the admissions round, and at least six weeks before parents are required to make a decision about the school(s) they wish their children to attend. The strategy will be an important source of information to parents on the travel options available to them when expressing their preferences for particular schools in the admissions round.

Promoting sustainable travel and transport to and from school

29. The Government recognises that a wide range of benefits can accrue from more children travelling to and from school by sustainable means. These include the health benefits gained from a more active lifestyle, and environmental benefits from reduced levels of congestion and pollution.

30. In addition, a recent evaluation of school travel plans conducted by the Department for Transport² identified a range of benefits ranging from increased road safety, to healthier and more alert and engaged pupils, to increasingly independent travel for pupils with special educational needs. A brief summary of these benefits are included in the chart below.

² www.dft.gov.uk/stellent/groups/dft_susttravel/documents/page/dft_susttravel_610594-01.hcsp

Case Studies Showing the Wider Benefits of STPs

School Name	Local Authority	Wider Benefit
Moselle Upper School	London Borough of Haringey	SEN Independent travel; increased confidence; changes in educational attitudes.
The Wakeman School	Shropshire	Pupil involvement; health benefits of more active travel; opportunities for working with local community.
Sharnbrook Upper School & Community College	Bedfordshire	Pupil involvement; safety (on site and on buses); engaging bus operators.
Samuel Pepys School	Cambridgeshire	SEN Independent travel; improved health and fitness; increased awareness of road safety issues; improvements in pupil behaviour.
Chace Primary School	Coventry	Increased punctuality and better attendance, leading to improved exam results.
St Andrew's CE Primary School	Devon	Healthier pupils; engaging pupils in a deprived area.

31. It is important that local authority promotional strategies link in to the range of potential benefits highlighted by school travel plans, some of which are highlighted in the chart above.

32. The evaluation report also highlights several schemes which reward pupils and schools for promoting sustainable travel (for example Surrey County Council runs a highly successful “Golden Boot Challenge”, Nottingham City Council achieved significant increases in the proportion of children walking to school through its “Eggs on Legs” campaign, and Devon County Council has a successful “Wizard Ways to Get to School” programme).

33. Schemes that directly reward pupils for adopting sustainable forms of transport can make a valuable contribution to reducing car use. The Chief Medical Officers’ report *‘At least five a week’* contains a wealth of data to demonstrate the health benefits of walking and cycling to school. More recently the Centre for Transport Studies and UCL published *‘Making children’s lives more active’* which showed that walking to school accounts for more activity for children than 2 hours a week PE.

34. We would encourage more local authorities and schools to develop such schemes and work with local business to develop new schemes and source the rewards for those taking part in those schemes.

35. Each local authority in England already produces a local strategy for engaging schools and other key partners in the travel planning process. Each strategy includes how the authority intends to promote sustainable travel options on the journey to school. There are a number of examples of good practice in this area, including Shropshire County Council (strategy available at: *[insert contact details for each]*), Norfolk County Council (see:), and Suffolk County Council (). In addition, Centro in the West Midlands have produced a strategy showing how public transport authorities can support schools in the travel planning process (available at:).

Publication of sustainable school travel strategy

36. The Education (School Information) (England) Regulations 2002 require local authorities to publish the authority's general arrangements and policies in respect of transport for pupils of compulsory school age and below to and from schools and institutions within the further education sector including, in particular:

- (a) the provision of free transport;
- (b) the carriage on school buses of pupils for whom free transport is not provided; and
- (c) the payment in whole or in part of reasonable travelling expenses.

37. The Regulations also require each authority to publish its arrangements and policies in respect of transport for pupils with Special Educational Needs (of compulsory school age and below) to and from maintained and non-maintained special schools and independent schools.

38. In the Department's view, local authorities should integrate their sustainable school travel strategies into these policy statements, and publish them together.

39. Local authorities are not required to publish certain types of information if that information is also published in the composite prospectus (regulation 7(5)). Many local authorities, as a matter of good practice, therefore publish their school travel policies in the composite prospectus. If they decide to publish this information elsewhere, the composite prospectus should include information as to where and by what means parents may access sources of information relating to school travel and transport policies.

Part 2 – Provision of travel arrangements

General duty relating to travel arrangements for eligible children

40. Clause 64 of the Education and Inspection Bill inserts a new section 508B into the Education Act 1996. Section 508B (1) requires LEAs to ensure that

suitable travel arrangements for “eligible children” in their area are made where they consider it necessary to facilitate their attendance at relevant educational establishments. The duty applies to ‘home to school to home’ travel arrangements, and not travel between educational institutions. Part 3 offers guidance on which children are to be treated as ‘eligible’.

41. Travel arrangements may be made by the local authority itself, or by any other body or person (such as a local transport body, or a school), but whoever makes the arrangements, they must be free of charge. For arrangements to be free of charge, every feature of the arrangements must be free. For example, a pass that entitles a child to occupy a seat free of charge, must itself be provided free of charge – there must be no charge for the pass, and no administrative or similar charge associated with issuing the pass. Similarly, if a child is required to undertake cycle training to benefit from a cycling allowance, that training must be provided free of charge.

Travel arrangements made by the local authority or other bodies/persons

42. Examples of other bodies, or persons making travel arrangements might include: a parent consenting to use of their car in return for a mileage allowance; a school, or group of schools reaching an agreement with a local authority to provide transport in minibuses owned by the school; or a transport authority providing free passes for all children on public transport. For example, in London, Transport for London provides free bus passes for all children under the age of 16. In most circumstances, London Boroughs may therefore consider that they do not need to make any additional arrangements for the majority of the children living in their area.

43. Subsection (4) lists some of the travel and transport arrangements that may be made. These may include: provision of a seat on a bus or minibus provided by the local authority; provision of a seat in a taxi where more individualised arrangements are necessary; and provision of a pass for a public service bus, or other means of public transport.

44. On condition that the relevant parental consent has been obtained by the local authority, a number of allowances and other arrangements might be considered to meet the local authority duty relating to travel arrangements. Examples include:

- a mileage allowance paid to a parent driving their “eligible” child to school in lieu of the local authority making arrangements for a taxi to transport the child;
- a cycling allowance paid by the local authority where the parent agreed for their “eligible” child to cycle to and from school instead of catching a bus for, say a three mile journey; and

- local authority provision of an escort to enable an “eligible” child with SEN to walk a short distance to school in reasonable safety, instead of making arrangements for a taxi to take them to and from school.

As stated, such arrangements require the relevant parental consent. These should be obtained by the local authority each year, or whenever a child moves school, whichever is the shorter period.

45. In certain circumstances, provision of an escort might fulfil the duty in full, or in part. For example where a child was unable to walk in reasonable safety, provision of an escort might enable them to do so, meaning that it was not necessary for the local authority to provide a taxi, or a seat on a bus. Alternatively, in the case of a child who was unable to travel independently on a public service bus, provision of an escort to enable them to do so might be a more appropriate arrangement than provision of a taxi.

Suitability of arrangements

46. For a local authority to meet the requirements of this duty, travel arrangements must be “suitable”. The suitability of arrangements will depend on a number of factors. In the Secretary of State’s opinion, for local authorities to consider travel arrangements to be suitable, they must enable an eligible child to reach school without such stress, strain, or difficulty that they would be prevented from benefiting from the education provided. For arrangements to be ‘suitable’, they must also allow the child to travel in reasonable safety, and in reasonable comfort.

47. In the Secretary of State’s opinion, arrangements could not be considered to be suitable where, for example, an eligible child were expected to make several changes of public service bus to get to a relevant school, which resulted in an unreasonably long journey time.

48. What may be considered a reasonable journey time will depend on a number of factors, including the age and any individual needs of the child. For example, best practice suggests that the maximum length of journey for a child of primary school age might be considered to be 45 minutes; whilst a child of secondary school age might be expected to travel up to 75 minutes each way. Similarly, a child’s special educational needs and/or disability might be such that it implies a shorter maximum journey time.

49. Whilst the duty to make travel arrangements does not necessarily imply a door to door service, arrangements that anticipated a child being expected to walk an unreasonably long distance to catch a public service bus, or a bus journey that ended an unreasonably long distance from the relevant school would not be considered suitable by the Secretary of State. Again, the maximum distances will depend on a range of circumstances, including the age of the child, their individual needs, and the nature of the routes they are expected to walk to

the pick up or set down points.

Pre employment checks and training for drivers and escorts

50. For arrangements to be 'suitable', they must be reasonably safe and stress free. In this regard, local authorities must ensure that the authority's employees or employees of contractors whose duties on behalf of the local authority involve a high degree of contact with children or vulnerable adults (involving regular caring for, supervising, training or being in sole charge of such people) are subject to enhanced Criminal Records Bureau checks.

51. The Safeguarding Children and Vulnerable Groups Bill currently before Parliament requires enhanced level pre-employment checks for any positions that involve regular caring for, supervising, training or being in sole charge of such people. In the context of school travel, this would include any drivers, escorts, 'walking bus' supervisors, cycle trainers, road safety trainers, and all other personnel who may be in sole charge of children on the journey to and from school must have undergone adequate pre-employment checks on their suitability for this role. These checks should be reviewed periodically, and as an absolute minimum, every three years.

52. We are aware of concerns that transport for some pupils with SEN and/or disabilities has been provided by drivers and escorts who have not had enhanced CRB checks completed. Local authorities must ensure that all drivers and escorts working with pupils with SEN and/or disabilities have been CRB checked.

53. CRB checks are built in to the licensing process for taxi and private hire vehicle (licensed mini-cab) drivers. Enhanced disclosures are required for these drivers when they apply for a license and each time they renew it. This applies in all parts of the country (except for some mini-cab drivers in London who currently hold temporary permits, but will be required to have full licenses with enhanced CRB checks by the end of 2006). Renewal of these licenses is required at least every three years.

54. All local authorities should ensure that all drivers and escorts taking pupils to and from school and related services have undertaken disability equality training. It is also good practice for those responsible for planning and managing school transport to have disability equality training. This training must consist of:

- an awareness of different types of disability including hidden disabilities;
- an awareness of what constitutes discrimination;
- training in the necessary skills to recognise, support and manage pupils with different types of disabilities, including hidden disabilities and certain behaviour that may be associated with such disabilities;

- training in the skills necessary to communicate appropriately with pupils with all types of different disabilities, including the hidden disabilities; and
- training in the implementation of health care protocols to cover emergency procedures.

Bus safety considerations

55. Buses and coaches used to take pupils to and from school are public service vehicles and, as such, are subject to specific legislation on safety standards. The legislation is enforced by an initial inspection and certification of the vehicle and thereafter they are subjected to an annual check. Vehicles can also be subject to random roadside checks by the enforcement agencies in the same way as any other vehicles operated on the public highway. Vehicles that fail these tests are taken out of circulation and operators that use sub-standard vehicles may lose their operators licence.

56. Seat belts must be fitted in all coaches and mini-buses carrying groups of children on organised trips. However, much home to school transport is organised on service buses designed for urban use. These tend to travel relatively slowly over short distances with frequent stops. For practical reasons, these are not required to be fitted with seat belts. The engineering and design of many of them makes it technically difficult for them to be fitted with adequate seat belts retrospectively. However, the Department for Transport is in the process of implementing an EU Directive that will require all seated occupants in buses and coaches to use seat belts where they are fitted.

57. Schools or local authorities making arrangements for home to school transport are free to specify within their contracts that they will only accept vehicles fitted with seatbelts. Research suggests that this is one of the features of travel by bus that is highly valued by parents³.

58. The Public Service Vehicles (Carrying Capacity) Regulations 1984 allow the option of three children under the age of 14 to occupy a bench seat designed for two adults on a service bus. The possibility of using the “three for two” allowance is diminishing as older buses with bench seats are replaced with modern buses with bucket-style seats on which the practice is not allowed. “Three for two” is an allowance not a requirement, and a recent survey of local authorities in England suggests that only a very small number of authorities make use of this concession in planning home to school transport. In the opinion of the Secretary of State, local authorities making arrangements for home to school travel should not routinely make use of the concession. Routine use of the concession strengthens perceptions of overcrowding and there is anecdotal evidence that it can have an adverse impact on pupil behaviour.

³ See SDG report into Yellow buses.

Poor behaviour on school buses

59. The consequences of poor behaviour on school buses can be wide ranging. Other passengers may be deterred from using public transport shared with poorly behaved school pupils; in extreme cases, serious injury and even death may result from an accident caused by such behaviour.

60. The Department expects each school to promote appropriate standards of behaviour by pupils on their journey to and from school through rewarding positive behaviour and using sanctions to address poor behaviour. Guidance for schools on behaviour on school transport is contained within Key Stage 3 Behaviour and Attendance materials. Schools recognise that positive behaviour on the journey can help enhance the school's reputation, and that it also supports good behaviour within the school.

61. We expect schools to work with the police, bus operators and the local community to promote positive behaviour, and our guidance to schools makes it clear that persistent poor behaviour on the journey to and from school can be grounds for exclusion.

62. There are a number of means open to local authorities, and bus operators to address pupil behaviour on school buses. A number of pilots have shown that measures such as driver training, arrangements that ensure routes are driven by the same driver each day, and CCTV can lead to improvements in behaviour on school buses. Furthermore, where local authorities consider that escorts might be necessary to ensure safety of pupils on buses, they can stipulate the provision of escorts in their tender documents. The *Travelling to School* action plan⁴ cites the work done by Essex County Council, which found that a behaviour liaison officer and escorts, together with driver training, reduced vandalism and poor behaviour on school buses.

63. The Department is aware of a number of local authorities that have adopted a policy of withdrawing transport, either for a temporary period, or permanently for more serious or persistent cases of misbehaviour. The intention is for such sanctions to be a deterrent and it would be hoped that that they would only rarely need to be invoked. However, it is important to signal to pupils and parents that behaviour which endangers other pupils – or indeed the driver and other passengers – will not be tolerated.

64. In the Department's view, a local authority that placed a transport ban (either temporary or permanent) on a particular child would not be implying that travel arrangements were not necessary and should not be provided, it would be saying travel arrangements were necessary and had been made, but that the child's behaviour was such that they can not take advantage of it.

⁴ *Travelling to School: an action plan*, DfES, September 2003

Part 3 – “Eligible children” and “qualifying schools”

Eligible children

65. The new **Schedule 35B** to the Education Act 1996 defines ‘eligible children’ - those categories of children in an authority’s area for whom travel arrangements will always be required. A condition of each category is that they are of compulsory school age.

Children unable to walk to school by reason of their SEN, disability, or temporary medical condition

66. Some children with SEN, a disability, a temporary medical condition, or any combination of these may, by reason of their SEN, disability, or medical condition, be unable to walk even relatively short distances to school.

67. Where such children attend their nearest qualifying school (or any other place where he/she is receiving education or training), and the school is within statutory walking distance, they will be “eligible children”. This means that local authorities must make suitable travel arrangements for children with SEN, a disability, or medical condition if their SEN, disability, or temporary medical condition means that they could not reasonably be expected to walk to the school (or other place where they might be receiving education or training by under section 19(1) of the Act).

Children unable to walk in safety to school because of the nature of the route

68. Paragraphs 4 and 5 of Schedule 35B deal with children who can not reasonably be expected to walk to school because of the nature of the routes to school which the children could reasonably be expected to take. Where children live within ‘statutory walking distance’ of their nearest qualifying school (or other place where education or training is provided under section 19(1)), local authorities may, in certain circumstances, be under a duty to make travel arrangements. These include where the nature of the route is such that a child can not reasonably be expected to walk (accompanied as necessary) in reasonable safety.

69. In assessing the comparative safety of a route, a local authority should conduct an assessment of the risks a child might encounter along the prescribed route (including, for example, canals, rivers, ditches, speed of traffic along roads, overhanging trees or branches that might obscure fields of vision for the pedestrian or motorist, etc.). In conducting the risk assessment, local authorities should take a range of factors into consideration, including:

- the age of the child;

- whether any potential risks might be mitigated if the child were accompanied by an adult;
- whether it is reasonably practicable for the parent/carer to accompany the child;
- the width of any roads travelled along and the existence of pavements;
- the volume and speed of traffic travelling along any roads;
- the existence or otherwise of street lighting; and
- the condition of the route at different times of the year, at the times of day that a child would be expected to travel to and from school.

70. In conducting their risk assessments, local authorities should use data on recorded accidents along potential routes. However, a lack of such accidents should not be taken as conclusive evidence that a route is safe. It may well be that a route is potentially so dangerous that no reasonable person would walk along the route, or allow their children to do so – resulting in such a low level of pedestrian use that there were very few or no recorded accidents.

Disabled parents

71. Local authorities should note that from December 2006, the Disability Discrimination Act 2005, places a duty on the public sector to promote equality of opportunity for disabled people and to eliminate discrimination. This duty is anticipatory, meaning that public authorities will have to review all their policies, practices, procedures and services to make sure they do not discriminate against disabled people and ensure that all their services are planned with disabled people's needs fully considered in advance.

72. In the Department's view, this means that local authorities will be under a duty to amend their home to school transport policy if, for example, that policy relied on disabled parents accompanying their children along a walking route for it to be considered safe, and where the parents' disability prevented them from doing so. In such circumstances, a reasonable adjustment would be for the local authority to provide free home to school transport for the children of disabled parents.

Children living outside statutory walking distance

73. Paragraphs 6 and 7 of Schedule 35B define a further category of 'eligible child' – namely those children of compulsory school age attending their nearest qualifying school (or places other than a school at which they might receive education under section 19(1) of the 1996 Act), and living beyond statutory walking distance of the school.

74. Statutory walking distance is two miles for children aged under eight, and three miles for children aged eight and over.

75. Assuming that no arrangements have been made for enabling the child to become a registered pupil at a school nearer to his/her home, and that no arrangements have been made by the local authority for boarding accommodation at or near the school (or other place), the local authority must ensure that suitable travel arrangements are made for the child.

76. Where a pupil is registered at a school, but is attending a place other than a school following an exclusion, the duty to make travel arrangements will apply to the other place rather than the school where they are registered.

77. Section 444 of the 1996 Act outlines the situations in which a parent may have a defence in law against a prosecution by a local authority for their child's non-attendance at school. New section 444(3B) provides a parent with a defence if he or she proves that:

- the qualifying school at which the child is a registered pupil is not within statutory walking distance;
- no suitable arrangements have been made by the local authority for boarding accommodation at or near to the school;
- no suitable arrangements have been made by the local authority for enabling the child to become a registered pupil at a qualifying school nearer to his/her home; and
- the local authority has a duty to make travel arrangements in relation to the child under 508B and has failed to discharge that duty.

Children entitled to free school meals, or whose parents are in receipt of their maximum level of Working Tax Credit

78. Paragraphs 9 to 13 of Schedule 35B deal with additional entitlements to free school travel arrangements for children from low income groups.

79. Paragraph 13 of Schedule 35B defines children from low income groups as those who are entitled to free school meals, or those whose families are entitled to their maximum level of Working Tax Credit.

Primary age

80. Children of compulsory school age, but under the age of eight are entitled to free travel arrangements to their nearest qualifying school more than two miles from their home (paras. 69 – 72). In addition, children aged eight, but

under age 11 from low income families must have travel arrangements made where they live more than 2 miles from their nearest qualifying school.

81. This 2 mile limit should be measured in the same way as the “statutory walking distance”, i.e. along the ‘nearest available route’.

Secondary age

82. Those children aged 11 to 16 from low income families must have travel arrangements made to one of their three nearest qualifying schools (or places other than a school at which they might receive education under section 19(1) of the 1996 Act), where they live more than 2 miles, but less than 6 miles from that school.

83. Where a child is attending secondary school in a year 7 group in advance of their chronological age (i.e. they are, for example, still aged 10), for the purposes of school travel, they should be treated as if they had attained the age of 11. Assuming the other relevant conditions were met, they should be treated as being entitled to free travel arrangements to one of their three nearest qualifying schools.

84. The 2 mile limit should be measured in the same way as the “statutory walking distance”, i.e. along the ‘nearest available route’. However, the 6 mile upper limit is not a ‘walking route’, and should not therefore include any routes or parts of routes which would not be passable using a suitable motorised vehicle. In short, the upper limit should be measured along road routes.

Meaning of “qualifying school”

85. Subsection (10) of section 508B defines “relevant educational establishment” in relation to “eligible children”. The “relevant educational establishments” are either “qualifying schools” which are listed at paragraph 14 of Schedule 35B or places other than schools where a child is receiving education by virtue of arrangements made under section 19(1) of the Education Act 1996.

86. Subsection (11) allows for Regulations to be made to clarify the entitlement for eligible children, a small number of whom may be registered at more than one educational establishment, for example, children of no fixed abode might be registered at more than one school, and other children may be registered at a hospital school and another school, etc.

87. “Qualifying schools” are:

- community, foundation or voluntary schools;
- community or foundation special schools;

- non-maintained special schools;
- pupil referral units;
- maintained nursery schools; or
- city technology colleges (CTC), city colleges for the technology of the arts (CCTA) or Academies.

88. In addition, in relation to a child with SEN, an independent school (other than a CTC, CCTA, or Academy) will be a “qualifying school” if it is the only school named in the child’s statement, or it is the nearest of two or more schools named in the statement.

Suitability of ‘qualifying school’

89. References to “the nearest qualifying school” are to be taken to mean the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitudes of the child, and any special educational needs that the child may have.

90. The nearest qualifying school for a child with special educational needs may well be different than for other children.

Part 4 – local authority powers relating to travel arrangements for other children

91. Section 508C provides local authorities with discretionary powers to make arrangements for those children not covered by Section 508B (above).

92. It provides a general power for local authorities to make travel arrangements to facilitate attendance for any child or groups of children not meeting the definition of ‘eligible children’ in Schedule 35B. For example, many local authorities make travel arrangements for children attending schools preferred on strong religious or philosophical grounds. Others consider it a priority to provide primary aged children with transport at a lower limit than the statutory walking distance (for example one and a half miles from school, rather than two miles). A smaller number of authorities make travel arrangements for children below compulsory school age.

93. Local authorities may wish to use this power to continue to exercise such discretion and provide discretionary support according to local priorities. Such policies may be an important part of the local authority’s strategy to promote sustainable travel, and should be clearly outlined in documents prepared for parents. Where arrangements are made, any alterations should if at all possible be made only at the end of the school year. As much notice as is reasonably possible should be given of any changes to support given to parents, so that they

can make alternative arrangements.

94. There is no requirement for these discretionary arrangements to be provided free of charge. However, if local authorities decide to levy charges, they should make this clear in their school travel policy documents. Good practice suggests that, where charges are levied, children from low income groups should be exempt.

95. Subsection (4) of 508C provides a power for local authorities to pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the statutory duty placed on local authorities, or under their discretionary powers to make travel arrangements. This is a replication of the existing power under 509(3) of the 1996 Act.

Part 5 – ‘Religion or belief’

96. Clause 71 of the Education and Inspections Bill places a duty on local authorities in fulfilling their duties, and exercising their powers relating to travel to have regard to, amongst other things, any wish of a parent for their child to be provided with education or training at a particular school or institution on grounds of the parent’s religion or belief.

97. The definition of ‘religion or belief’ follows that of the Equality Act 2006. Under this Act, ‘religion’ means any religion, and ‘belief’ means any belief. References to ‘religion or belief’ include references to a lack of religion or belief. It therefore follows that this duty covers all religions and denominations, as well as philosophical beliefs.

98. This guidance deals with the implications of this duty in relation to the duty to promote sustainable travel, and the duties and powers relating to the provision of travel arrangements to schools and other places.

‘Religion or belief’ and the duty to promote sustainable travel

99. The duty to promote sustainable travel includes assessments of the travel needs of children and young people, and of the infrastructure supporting those needs. Travel needs include travel to and from school, further education institutions, and other places where education or training might be delivered, and travel between schools, and between schools and other educational institutions (including further education institutions and all other places where education or training may be delivered).

100. In fulfilling this duty, local authorities must consider the travel needs of pupils whose parents express a wish, based on religion or belief, for their children to attend a particular institution, and how the existing sustainable travel infrastructure might support travel to such schools and institutions. They must

also consider how the infrastructure might be improved so it better meets the needs of children and young people, and how to promote sustainable travel on such journeys.

‘Religion or belief’ and the provision of school travel arrangements

101. Many parents will choose to send their children to a school as near as possible to their home. However, some parents choose to send their children to a school with a particular ethos because they adhere to a particular faith, or philosophy. In many cases these schools may be more distant, and many local authorities will adopt home to school travel policies that facilitate attendance at such schools.

102. Whilst under the European Convention on Human Rights (ECHR), parents do not enjoy any right to have their children educated at a faith or a secular school, or to have transport arrangements made by their local authority to and from any such school, the Secretary of State hopes that local authorities will continue to think it right not to disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools.

103. The Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical convictions, and believes that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express.

104. Although the provisions of the Equality Act 2006 (which places a duty on local authorities not to discriminate against a person on the grounds of their religion or belief), do not apply to the exercise of an authority’s functions in relation to transport⁵, local authorities will need to be aware of their obligations under human rights legislation.

105. In exercising their functions, local authorities will therefore need to respect parents’ religious and philosophical convictions as to the education to be provided for their children⁶ in so far as this is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure. It may be incompatible, for example, on grounds of excessive journey length, or where the journey may have a detrimental impact on the child’s education. Local authorities should also ensure that they do not discriminate contrary to Article 14 ECHR. For example, where transport arrangements are made for pupils travelling to denominational schools to facilitate parents’ wishes for their child to attend on religious grounds, travel arrangements should also be made for pupils travelling to non-denominational schools, where attendance at

⁵ s 51(2)(b) Equality Act 2006

⁶ Article 2 of the First Protocol

those schools enables the children to be educated in accordance with their parents' philosophical convictions, and vice versa.

106. Where local authorities make arrangements for such children under their discretionary powers (section 508C), and have policies of levying charges for such transport, the Secretary of State believes that local authorities should pay careful attention to the potential impact of any charges on low income families whose parents adhere to a particular faith or philosophy, and who have expressed a preference for a particular school as a result of their religious or their philosophical beliefs. In the Secretary of State's opinion, where local authorities make travel arrangements for such children, these should be provided free of charge in the case of pupils from low income families (pupils entitled to free school meals or whose parents are entitled to their maximum level of Working Tax Credit).

107. Local authorities should give careful consideration to discrimination issues, and seek legal opinion if they are unsure about the effect of their policies, before publishing them each year.

Publication of school travel/transport policies

108. The Education (Publication of School Travel Arrangements) Regulations 2006 [Draft] require local authorities to publish their policies relating to school travel. These will include arrangements for "eligible" children, and those made under the local authority's discretionary powers. In particular these will detail arrangements for pupils of compulsory school age to schools and institutions within the further education sector:

- Policies related to the provision of transport
- Arrangements for the provision of relevant allowances (for example, mileage allowances, and cycling allowances)
- Policies relating to arrangements for children with SEN (with and without statements)
- Policies relating to the payment of all or part of a child's reasonable travelling expenses
- Policies relating to travel arrangements made to school preferred on grounds of the parent's religion or belief

109. The information referred to in regulation above shall be published during the publication school year and in any event no later than six weeks before the date upon which parents may express a preference for a school in respect of the admission school year.

110. Local authorities should consult widely on any changes to their local policies on school travel arrangements, with all interested parties included in the consultations. Consultations should last for at least 28 working days during term time. This period should be extended to take account of any school holidays that may occur during the period of consultation.

111. Good practice suggests that any such changes should be phased in and come into effect as pupils start school.

Appeals procedures

112. Local authorities should have in place a robust appeals procedure for parents to follow should they have cause for complaint or disagreement reached concerning the eligibility of their child for travel support. The details of appeals procedures should be published alongside travel policy statements.