



Department
for Education

Home to school travel and transport for children of compulsory school age

Statutory guidance for local authorities
Consultation draft

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Summary

About this guidance

This is statutory guidance from the Department for Education. Local authorities are under a duty to have regard to it when carrying out their duties in relation to home to school travel, transport and sustainable travel for children of compulsory school age.

Where the words 'must' or 'must not' are used, these represent a mandatory requirement. Where the word 'should' is used, this represents something you ought to do or something that is considered good practice but is not a mandatory requirement. A full explanation of words formatted in ***bold italics*** can be found in the definitions section of this document.

It is issued under the duties placed on the Secretary of State by Sections 508A (7) and 508D (1) of the Education Act 1996.

It replaces Home to School Travel and Transport Guidance 2014 (reference DFE-00501-2014).

Review date

This guidance will be kept under review and will be updated when necessary.

What legislation does this guidance refer to?

This guidance refers to the legislation governing home to school travel and transport for children of compulsory school age, in particular:

- section 508A of the Education Act 1996 – local authorities' duty to promote sustainable modes of travel
- section 508B and schedule 35B of the Education Act 1996 – travel arrangements for eligible children
- section 508C of the Education Act 1996 – travel arrangements for other children
- the School Information (England) Regulations 2008

More information about legislation that relates to home to school transport and travel can be found in annexes 2 and 3.

Who is this guidance for?

This guidance is for:

- local authorities

It may also be of interest to:

- schools
- parents
- organisations involved in advising parents
- transport providers.

Main points

- There has been no change to the legislation governing home to school travel and transport.
- This is statutory guidance for local authorities on fulfilling their duties in relation to home to school travel and transport for children of compulsory school age.
- It provides local authorities with guidance on:
 - making home to school travel arrangements, free of charge, for all eligible children (part 1)
 - their discretionary power to provide home to school travel (part 2)
 - ensuring the suitability of travel and transport arrangements (part 3)
 - putting in place a local home to school transport policy (part 4)
 - school transport appeals (part 5)
 - their duties in relation to sustainable school travel (part 6)
- The main changes from the Home to School Travel and Transport Guidance 2014 are:
 - revised drafting and structure, and the inclusion of examples, to aid the reader's understanding
 - new guidance on putting in place local school transport policies, including a checklist in annex 1
 - additional guidance on the provision of home to school transport for children with special educational needs
 - new guidance on the suitability of travel arrangements for children with medical needs (see paragraphs 71 and 72).
- The policy for transport to post-16 education and training is different from that for children of compulsory school age. Separate guidance is available on the [GOV.uk website](https://www.gov.uk).

Part 1: local authorities' statutory duty in relation to eligible children

1. Local authorities must provide such free home to school travel arrangements they consider necessary to facilitate the attendance at school of eligible children resident in their area¹.
2. They must make arrangements to enable a child to travel to school for the beginning of the school day, and to return **home** at the end of the school day. They are not required to make arrangements for travel between institutions during the school day, or to enable children to attend extra-curricular activities and other commitments outside of school hours².
3. The home to school travel arrangements must be free of charge to the parent of an eligible child.
4. A local authority is not required to make home to school travel arrangements for an eligible child where:
 - suitable home to school travel is provided by someone else e.g. travel provision made available to children by Transport for London³.
 - a child is eligible for free home to school travel but a parent nevertheless chooses to make their own arrangements for the child's travel to and from school⁴.
5. Parents are responsible for ensuring their children of compulsory school age receive a suitable full-time education⁵. If a child of compulsory school age is registered at school but fails to attend school regularly, their parents may be guilty of an offence and can be prosecuted by the local authority⁶. However, parents will have a defence in law⁷ against such prosecution if the child is an eligible child and the local authority has failed to make home to school travel arrangements for them.

¹ Section 508B of the Education Act 1996 (as inserted by the Education and Inspections Act 2006)

² P v East Sussex County Council [2014] EWHC 4634

³ See the Transport for London website for further information.

⁴ However this should not be a barrier for a parent of an eligible child requesting school transport at a later time should they require it.

⁵ Section 7 and 8 of the Education Act 1996

⁶ See School attendance parental responsibility measures: statutory guidance for local authorities, school leaders, school staff, governing bodies and the policy (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/581539/School_attendance_parental_responsibility_measures_statutory_guidance.pdf) for further information.

⁷ Section 444 (3B) of the Education Act 1996.

Categories of eligible children⁸

6. There are four categories of eligible children:
- statutory walking distances (paragraphs 8 to 10 below);
 - special educational needs, disability or mobility problems (paragraphs 11 to 12);
 - unsafe walking route (paragraphs 13 to 14); or
 - extended rights (paragraphs 15 to 19).
7. A child is an eligible child if they are of **compulsory school age** and fall within one of these four categories.

Statutory walking distances⁹

8. A child under the age of 8 is eligible for free home to school travel to their **nearest suitable school**¹⁰ if it is more than 2 miles from their home.
9. A child aged 8 years or over is eligible for free home to school travel to their nearest suitable school if it is more than 3 miles from their home.
10. See paragraph 41 and 42 for information about measuring the statutory walking distances.

Child A is six years old and attends her nearest suitable school. It is 2.3 miles from her home. Child A is eligible for free home to school transport.

Child B is seven years old and attends a primary school that is 2.6 miles from her home. However, there is another suitable primary school just 1.2 miles from her home which has places available. Child B is not eligible for free home to school transport, as she is not attending her nearest suitable school.

Child C is eleven years old and attends his nearest suitable school. It is 2.6 miles from his home. Child C is not eligible for free home to school transport because his school is not beyond the statutory walking distance for a child of his age.

⁸ The categories of eligible children are set out in schedule 35B to the Education Act 1996 (as inserted by the Education and Inspections Act 2006).

⁹ Section 444(5) of the Education Act 1996

¹⁰ Information about nearest suitable schools is set out in paragraphs 27-29

Special educational needs, a disability or mobility problems

11. A child is eligible for free home to school travel if:
 - they attend their nearest suitable school; and
 - it is within the statutory walking distance of their home; and
 - they cannot reasonably be expected to walk there because of their **special educational needs, disability** or mobility problems.
12. See paragraphs 43-45 for information about assessing the eligibility of children with special educational needs, a disability or mobility problems.

Child D is fourteen years old and has cerebral palsy. She attends her nearest suitable school. It is 1 mile from her home. The nature of her condition requires her to use crutches to walk, and she needs to take her time to ensure she is balanced. The local authority decides that she could not reasonably be expected to walk to school. Child D is eligible for free home to school transport.

Unsafe walking route

13. A child is eligible for free home to school travel if:
 - they attend their nearest suitable school; and
 - it is within the statutory walking distance of their home; and
 - they cannot reasonably be expected to walk there because the nature of the route means it would be unsafe for them to do so; and
 - there is no reasonable alternative route, within the statutory walking distance, that it would be safe for them to walk.
14. See paragraph 46 and 47 for information about assessing route safety.

Child E is twelve years old. He attends his nearest suitable secondary school. It is 2 miles from his home. The only walking route to his school is along a busy country lane. The local authority carries out an assessment of the route and decides it would not be safe for him to walk to school along this road. Child E is eligible for free home to school transport.

Extended rights

15. A child is eligible for free home to school travel if they are eligible for free school meals **or** if a parent with whom they live receives maximum Working Tax Credit **and**:

- they are aged 8 to 10 years, attend their nearest suitable school and it is more than 2 miles from their home; or
- they are aged 11 to 16 years, and attend one of their three nearest suitable schools which is between 2 and 6 miles from their home; or
- they are aged 11 to 16 years, attend a school that is between 2 and 15 miles from their home that their parents have chosen on the grounds of their religion or belief and, having regard to that religion or belief, there is no suitable school nearer to their home.

Child F is eleven years old and eligible for free school meals. His nearest suitable school is 2.5 miles from his home. His second nearest suitable school is 3 miles away. His third nearest is 5 miles away. Child F would be eligible for free home to school travel to any of these schools.

Child G is eleven years old and eligible for free school meals. Her three nearest schools are School X, School Y and School Z. School X is 1.5 miles from her home, School Y is 2.2 miles from her home, and School Z is 5.5 miles from her home. Child G would be eligible for free home to school travel to School Y or School Z, but not to School X.

Child H is thirteen years old, and is eligible for free school meals. He and his parents are members of the Church of England. Because of this, he attends a Church of England school that is 8 miles from their home. There are other schools which are nearer to their home, but none of these is a Church of England school. Child H is eligible for free home to school travel.

16. Where, during the course of a school year, a child ceases to be eligible for free school meals, or a parent ceases to receive maximum Working Tax Credit, the local authority should continue to provide free home to school travel for the remainder of that school year.

17. See paragraph 42 for information about measuring distances for the purposes of assessing eligibility for extended rights.

18. The introduction of Universal Credit **has not** changed the way eligibility for extended rights to home to school transport is determined. It will remain the case that

children will be eligible for extended rights if they meet the criteria set out in paragraph 15 above.

19. Working Tax Credit will gradually be phased out as claimants are transferred onto Universal Credit. Claimants currently eligible for extended rights via maximum working tax credit, will become eligible for free school meals under new criteria¹¹ for determining eligibility for free school meals introduced in April 2018, and therefore retain their eligibility to extended rights.

Ways in which free home to school travel may be provided¹²

20. It is for local authorities to decide how to provide free home to school travel to eligible children. They might, for example, provide a child with a seat on a dedicated school bus or minibus, or with a pass for free travel on a bus where there are appropriate pick up and set down points available. They may also provide a seat in a taxi.

21. There are a range of alternative ways in which LAs can meet their duties, provided they have parental consent. With the agreement of a parent, the local authority might provide a personal transport budget or pay a mileage allowance to the parent to transport their child to school, pay a cycling allowance to enable a child to cycle to school, or provide independent travel training to a child where it is appropriate to do so.

Personal Transport Budgets and Mileage Allowances

22. Where a parent has agreed to receive a personal transport budget or mileage allowance, it is for the local authority to determine how to administer this. Local authorities may require parents to provide copies of receipts and other supporting documentation.

23. Monthly payments made by the local authority, to reimburse the cost incurred by a parent in providing a child's home to school transport on behalf of the local authority, will not be taken into account in a Universal Credit (UC) assessment.

24. Any additional payments, e.g. to cover unexpected expenses relating to a child's home to school transport, may also be reimbursed, by the local authority. Such ad hoc payments to cover additional expenditure would be treated as capital in the UC assessment and the usual UC capital rules would apply.

¹¹ For more information, see *Free School Meals: guidance for local authorities, maintained schools, academies and free schools* at www.gov.uk/government/publications/free-school-meals-guidance-for-schools-and-local-authorities.

¹² Sub-sections 508B (1) and 508B (4) of the Education Act 1996 (as inserted by the Education and Inspections Act 2006)

25. Payments provided in this way should not give rise to tax liability, but it is the responsibility of individuals to satisfy themselves that they meet HMRC's requirements. Guidance on tax liability can be found in the Employment Income Manual, EIM71100, on the government website www.gov.uk.

26. Local authorities must ensure that the travel arrangements they make take account of the needs of the child concerned. For example, it would not be appropriate to provide a pass for free travel on a service bus to a child whose special needs meant they would be unable to travel on a service bus. More information on suitability of transport can be found in part 3.

Local authority Z has introduced a transport scheme it believes will promote consistency and routine for pupils of a local special school. Local authority Z has agreed to pay for the lease of a minibus and give the special school the costs for the driver and petrol rather than paying a contractor. The local authority retains responsibility for vehicle maintenance, and the school is able to use the bus during the school day as long as they provide the home to school transport. Local authority Z has made some savings, as well as an improvement in the service provided because the school staff know the children well and are better placed to make travel arrangements that meet their needs

Local authority Y has received an application for home to school transport for a child with special educational needs. This child is an eligible child. The parent would prefer to take the child to school himself, because the child gets distressed when travelling with anyone else, but is unable to because he must take their other child to school. The other child is not an eligible child. Local authority Y suggests to the parent that they provide travel arrangements for the non-eligible child to allow the parent to take the eligible child to school. The parent is happy with this arrangement, and the local authority is able to make a saving whilst delivering their statutory duty.

What is a suitable school?

27. When we use the term 'suitable school' in this guidance we mean a qualifying school (see paragraphs 30 and 31 for the definition of a qualifying school) that is suitable for the child's age, ability, aptitude, and any special educational needs they may have¹³, as well as for the child's gender.

¹³ Section 7 of the Education Act 1996

Child I attends a boys' secondary school that is 5.3 miles from his home. His nearest school is a co-educational secondary school 3.4 miles away. The co-educational school is Child I's nearest suitable school.

28. For a school to be suitable it must be possible for the child to secure a place there at the time transport eligibility is considered. For most cases, this will be during the **normal admissions round**, but some cases will need to be considered during the course of a school year, for example, as a result of families moving into the area.

29. For a local authority to refuse free home to school travel for a child on the grounds they are not attending their nearest suitable school, the prospect of them being able to secure a place the nearest suitable school must have been a realistic one at the time the application for a school place was made.

Child J is eleven years old, and attends a secondary school 4.2 miles away from her home. Her parents applied for this school as their first preference. The nearest secondary school is 3.7 miles from their home. They chose not to apply for this school. The nearest school is undersubscribed and Child J would have been offered a place there had her parents applied. Child J is not eligible for home to school travel as she is not attending her nearest suitable school with available places.

Child K is eleven years old and attends the second nearest secondary school to his home. It is 4.2 miles away. His nearest secondary school is 3.7 miles from his home. His parents applied for the nearest school, but it was oversubscribed and he was not offered a place. Child K is eligible for free home to school travel as he is attending his nearest suitable school with available places.

Child L attends a school 3.4 miles away from her home. It is her second nearest school. Her parents applied for her nearest suitable school but it was oversubscribed and she could not be offered a place. She is eligible for free home to school travel. Mid way through the school year, a place becomes available at the nearest suitable school. The local authority enables Child L to retain her transport entitlement

Qualifying schools

30. To be eligible for free home to school travel, a child must attend a qualifying school. Qualifying schools are:

- community schools, foundation schools or voluntary aided and voluntary controlled schools

- academies or alternative provision academies
- community or foundation special schools
- non-maintained special schools
- pupil referral units
- maintained nursery schools
- city technology colleges and city colleges for the technology of the arts.

31. For children with special educational needs, an independent school is a qualifying school if it is named in their Education, Health and Care plan (EHC plan), or is the nearest of two or more schools named in their EHC plan.

Further information about children with EHC Plans

32. Parents have the right to ask for a particular school to be named in their child's EHC plan. The local authority must name that school in the plan unless it would be unsuitable for the child's age, ability, aptitude or special educational needs, or the child's attendance would be incompatible with the efficient education of others or the efficient use of resources¹⁴.

33. Where the parent's preferred school is further away from their home than the nearest school that can meet the child's special educational needs, the local authority can name the nearer school if it considers it to be appropriate for meeting the child's special educational needs. Alternatively, they may agree to name the preferred school but are able to ask the parent to provide some or all of the transport funding¹⁵

34. In deciding whether to name the nearest or preferred school in the plan, the local authority should consider whether transporting the child to the preferred school would be compatible with the efficient use of resources. This is known as 'the Dudley test'¹⁶.

35. It should first determine the cost of providing the child with free travel to each of the two schools. It should then decide whether the additional cost of providing travel to the parents' preferred school is compatible with the efficient use of resources. In doing so, it should have regard to the educational benefits and other advantages that the school will provide for the child.

¹⁴ See paragraphs 9.78 to 9.80 of the Special Educational Needs and Disability Code of Practice: 0 to 25 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf.

¹⁵ See paragraph 9.214 of the Special Educational Needs and Disability Code of Practice: 0 to 25.

¹⁶ Dudley v Shurvington [2012] EWCA

36. If it decides it would be compatible with the efficient use of resources to provide free home to school travel to the parents' preferred school, it should name only that school in the child's EHC plan. If it decides the additional cost is incompatible with the efficient use of resources, it may name both schools in the EHC plan on the condition that the parents pay the cost of transport to their preferred school.

Free home to school travel to schools which are not qualifying schools

37. A child may also be eligible for free home to school travel where they receive education at a place other than a school by virtue of arrangements made under section 19 (1) of the Education Act 1996¹⁷. (Section 19 (1) requires local authorities to make arrangements for the provision of suitable education, at a school or otherwise, for children of compulsory school age who, by reason of illness, exclusion, or otherwise, may not receive suitable education unless such arrangements are made for them).

38. Where, as a result of being excluded from school, a child remains on the register of that school but attends an educational establishment that is not a qualifying school, that educational establishment must be treated as if it were a qualifying school and the child were a registered pupil at that school.

Children registered at more than one qualifying school¹⁸

39. Some children are registered at more than one school. Where a child is registered at two qualifying schools (which are not pupil referral units) the local authority's duty to provide free home to school travel applies to whichever of the schools the child is attending on any school day on which home to school travel is required.

40. Where a child is of no fixed abode, and is registered at two or more qualifying schools (which are not pupil referral units), the local authority must, so far as is reasonably practicable, provide free home to school travel to the nearest qualifying school at which they are registered on the days that they attend there.

¹⁷ Paragraphs 3, 5, 7 and 10 of schedule 35B of the Education Act 1996 (as inserted by the Education and Inspections Act 2006)

¹⁸ The School Travel (Pupils with Dual Registration) (England) Regulations 2007 (S.I.2007/1367) clarify the entitlement for a small number of eligible children that may be registered at more than one educational establishment.

Assessing eligibility

Measurement of routes

41. When a local authority assesses whether the distance between a child's home and their school is further than the statutory walking distance, the route they measure must be the shortest route along which a child, accompanied as necessary, may walk safely. This is not necessarily the shortest distance by road. The route may also include footpaths, bridleways, other pathways and alternative entrances to the school.

42. When a local authority assesses, for the purposes of extended rights, whether a child lives more than 2 miles from a school, the route should be measured in the way described in paragraph 41 above. But, when assessing whether a child lives within 6 to 15 miles from their school, the local authority should measure road routes only.

Children with special educational needs, a disability or mobility problems

43. Transport does not have to be specified in a child's EHC plan for them to be eligible for free home to school transport¹⁹. Local authorities should assess the eligibility of children with special educational needs, a disability or mobility problems on a case by case basis.

44. In order to be able to assess whether a child with special educational needs, a disability or mobility problems can reasonably be expected to walk to school, a local authority may ask a parent (or other person requesting free travel for the child) to provide them with information about the child and why they could not reasonably be expected to walk to school. The local authority should be clear about what information they require. It might include medical evidence, information from teachers and special educational needs professionals, or information from the child's EHC plan.

45. As part of its assessment, the local authority should have regard to any health and safety issues related to their special educational needs, disability or mobility problems.

Route safety

46. When assessing route safety, local authorities should consider a range of risks such as canals, rivers, ditches, speed of traffic and fields of vision for the pedestrian and

¹⁹ Transport should be recorded in the EHC plan only in exceptional cases. See paragraph 9.215 of the Special Educational Needs and Disability Code of Practice: 0 to 25.

motorist. They should also consider whether it is reasonable to expect a parent to accompany their child along a route which would otherwise be considered unsafe.

47. Modern technology is valuable in identifying, measuring and assessing routes. However, where the safety of a route is challenged, the local authority should arrange for an assessment of that route to be carried out, walking it at the times of day and on the days of the week that the child would travel.

Accompaniment

48. When assessing route safety and when assessing whether a child with special educational needs, a disability or mobility problems can reasonably be expected to walk to school, local authorities should consider whether the child could reasonably be expected to walk if accompanied and, if so, whether a parent can reasonably be expected to accompany their child. This will involve taking account of the child's age and any special educational needs that are relevant to their ability to walk to school safely.

49. Where a child does need to be accompanied, the general expectation is that they will be accompanied by a parent unless there is a good reason why it would not be reasonable to expect a parent to do so. For example, a parent's disability may prevent them from accompanying their child along a walking route that would be considered unsafe without adult supervision²⁰.

Child L is 9 years old and has an autistic spectrum disorder. He attends his nearest suitable school which is 2.5 miles from his home. He is unaware of danger and has to be accompanied even on very short journeys. He also becomes distressed and can act unpredictably in noisy environments. His walk to school would be along busy roads. From the information provided, the local authority assess that his parents would not be able to keep him safe on this journey. Child L is eligible for free home to school travel.

Other benefits or allowances

50. Local authorities should provide free home to school travel for all eligible children, regardless of whether they or their parents receive further benefits or allowances. Being in receipt of additional benefits or allowances such as Disability Living Allowance, a

²⁰ Local authorities must be aware of their duties under the Equality Act 2010.

Motability vehicle or Foster Care Allowance²¹ does not affect a child's eligibility for free home to school travel.

²¹ This is except where the local authority has specifically included expenses for school transport in the fostering allowance because the child is an eligible child. This can only be done with the foster carer's agreement – see section 508B(4)(b) of the Education Act 1996 (as inserted by the Education and Inspections Act 2006).

Part 2: local authorities' discretionary power

54. Local authorities have a discretionary power to provide home to school travel for children resident in their area who are not eligible children²².

52. Their discretionary power relates to travel in either direction between the child's home and their school, or in both directions.

53. They may, for example, use their discretionary power to:

- provide free home to school travel to children who are not eligible children
- provide home to school travel for children who are not eligible children for which parents are charged a reduced rate.

54. With parents' consent, they may also:

- pay all or part of the reasonable travel expenses for children who are not eligible
- make arrangements for the payment of travel allowances for children who are not eligible
- provide an escort for children who are not eligible when travelling to and/or from school.

55. Any charges made should be reasonable. Where charges are made, local authorities should consider waiving or reducing them for children who are from low-income families.

56. It is for each local authority to decide whether and how to exercise their discretionary power. They are best placed to determine local needs and to balance these against their budget priorities. They should make clear in their home to school travel policy the discretionary travel that they provide.

Examples of ways in which local authorities might use their discretionary power

57. Some parents choose to send their children to a school with a designated religious character. The Secretary of State continues to attach importance to the availability of such choice within the school system. A local authority might use their discretionary power to provide free travel to schools with a religious character for children who are not eligible children.

58. Some such arrangements are associated with long-standing local agreements about the siting of schools. Whilst recognising the budgetary constraints local authorities

²² Section 508C of the Education Act 1996 (as inserted by the Education and Inspections Act 2006).

currently face, the Secretary of State expects local authorities to consider all possible options before disturbing well established arrangements, paying particular attention to the potential impact of any changes on children from low income families.

59. A local authority might also use their discretionary power to provide free home to school travel to support other local arrangements, for example where the operation of local school catchment areas for admissions purposes mean children are unlikely to be offered a place in their nearest school for transport purposes.

60. A local authority may also provide free home to school travel in exceptional circumstances. They should make decisions on a case-by-case basis. This may require them to request that parents provide them with supporting evidence.

61. Local authorities should set out in their home to school travel policy, what types of circumstances they would consider to be exceptional, how parents should apply for free travel, and the supporting evidence parents should provide.

62. Examples of exceptional circumstances may include where:

- a child has been forced to move into temporary accommodation or a refuge – to provide them with continuity by enabling them to continue attending their current school
- a child's parent is unable to take their child to school because they are suffering from serious illness

Part 3: suitability of transport arrangements

Journey times

63. Local authorities should ensure that the transport arrangements they make for eligible children are suitable, safe and reasonably stress free²³ to enable the children to arrive at school ready for a day of study.

64. As a general guide, the maximum journey time should be 45 minutes for a child of primary school age, and 75 minutes for a child of secondary school age, including any time taken to walk to a pick up point, bus stop or train station. It is, however, recognised that this may not always be possible, particularly in rural areas.

65. Wherever possible, a child should not be expected to make several changes on public transport.

66. Journeys for children with special educational needs, disability or mobility problems may sometimes need to be longer and more complex than for other children. Local authorities should, however, avoid extending routes for such children unnecessarily, and ensure that any issues arising from lengthier journeys are appropriately addressed.

Children with special educational needs, a disability or mobility problems

67. When making transport arrangements for children with special educational needs, a disability or mobility problems, local authorities will need to identify and take account of their particular needs and ensure that the transport they provide meets those needs. For example, children with a high level of need might require the support of a passenger assistant on their journey, or if a child uses a wheelchair, walking frame or other mobility aid, it may need to be transported with them.

68. A child's needs may need to be reassessed from time to time, for example, as the child's needs change or if any changes are made to the travel arrangements. Some children with special educational needs can find change distressing. Local authorities should therefore provide parents with as much notice as possible of any changes in a child's travel arrangements.

²³ R v Hereford and Worcester County Council, ex parte P 2 [1992] 2 FCR 732

Independent Travel Training

69. Preparing for adulthood is a key part of the SEND reforms of 2014²⁴, and focuses on four outcomes: employment/education; independent living; community participation; and good adult health.

70. Independent travel training can provide long term benefits to individuals in terms of a skill for life that may lead to greater social inclusion and improved employment prospects. Local authorities should offer independent travel training for all pupils with SEND that they believe will be able to complete the programme. They should discuss the benefits of travel training with parents and provide assurances that their child will not lose any transport entitlements until they are confidently able to travel independently.

Children with medical needs

71. When a local authority makes transport arrangements for a child with medical needs, they should conduct a risk assessment to consider how those needs might affect the child during their home to school journey and put in place proportionate arrangements to manage those needs. This is likely to involve consulting the parent and may also involve consulting the child and their school, and considering any information in an EHC plan.

72. It should ensure the driver of a vehicle providing dedicated home to school transport, and any passenger assistant involved in providing the child's transport, are aware of the needs and how to respond to them²⁵, and have received any training necessary to enable them to do so. See also paragraphs 75 and 76 below on training.

Safeguarding

73. Local authorities must ensure that the required safeguarding and suitability checks on the drivers of vehicles providing dedicated home to school transport²⁶, and any passenger assistants involved in providing home to school transport have been undertaken. In these circumstances both roles are considered to be regulated activity, which means some people are barred from doing it. Therefore, if the LA are responsible

²⁴ <https://www.gov.uk/government/news/reforms-for-children-with-sen-and-disabilities-come-into-effect>

²⁵ The Department has published statutory guidance for schools on supporting children with medical conditions (www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3). This suggests schools share children's individual health care plans with the local authority responsible for that child's home to school transport.

²⁶SI2009 no. 1548 – The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009

for arranging transport for a child, they must ensure the relevant checks have been done²⁷.

74. The Department for Transport has issued new statutory guidance²⁸ for taxi and private hire vehicle licensing authorities on how to use their licensing powers to protect children and vulnerable adults. Where the local authority is the licensing authority, they must have regard to this guidance.

Training

75. Local authorities should ensure that drivers of vehicles providing dedicated home to school transport, and any passenger assistants involved in providing home to school transport, have undertaken appropriate training and that this is kept up to date. It is also considered good practice for those responsible for planning and managing school transport to have undertaken appropriate equality training.

76. This training should include (but is not restricted to):

- the handling of emergency situations, including when to contact the emergency services
- an awareness of different types of disability, including hidden disabilities
- an awareness of what constitutes discrimination
- training in recognising, supporting and managing children with different types of disabilities, including hidden disabilities, and behaviour that may be associated with such disabilities
- communicating appropriately with pupils with different types of disabilities, including hidden disabilities.

Child M is an eligible child, and has a number of complex special educational needs, some of which affect her continence. She travels to school in a dedicated taxi and has a passenger assistant to support her journey. Child M's needs have been discussed between the parent, the school, the local authority and the transport provider and it has been agreed that the passenger assistant should be trained in intimate care to ensure Child M's transport is suitable for her needs.

²⁷ The Disclosure and Barring Service (DBS) maintains lists of individuals who are unsuitable to work with children and vulnerable adults. Information about DBS checks is available here:

www.gov.uk/government/organisations/disclosure-and-barring-service

²⁸ At time of consultation, this guidance is yet to be published. Additional information and a link to this will be added following consultation.

Poor behaviour on school transport

77. 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. The Education and Inspections Act 2006 empowers headteachers to take action to address unacceptable behaviour even when this takes place outside the school premises and when pupils are not under the legal control of the school, but when it is reasonable to do so. In the department's view, this would include behaviour on school buses, or otherwise on the route to and from school, whether or not the pupils are in school uniform.

78. A number of local authorities have adopted a policy of withdrawing transport, either for a temporary period, or permanently for more serious or repeated cases of misbehaviour. Equally, the behaviour of pupils outside school can be considered as grounds for exclusion. This will be a matter of judgment for the headteacher²⁹. Local authorities might also consider that escorts are necessary to ensure safety of pupils on buses and can stipulate the provision of suitable escorts in their tender documents.

Vehicle safety

79. Buses and coaches used to take children to and from school are public service vehicles. This means they are subject to specific legislation on safety standards. Local authorities should satisfy themselves that the vehicles used are appropriate for the types of journeys planned. They may, if they wish, specify within their contracts with school transport providers that they will only accept vehicles fitted with seat belts.

80. Regulations³⁰ provide that three children under the age of 14 may count as two passengers when travelling on a service bus and occupying seats which do not have seatbelts fitted (i.e. on a service bus they may occupy a bench seat designed for two adults on a service bus). Local authorities should only make use of this concession on an exceptional basis.

²⁹ <https://www.gov.uk/government/publications/school-exclusion>

³⁰ The [Public Service Vehicles \(Carrying Capacity\) Regulations 1984](#)

Part 4: local home to school travel policies

81. Local authorities must publish their policy on home to school travel for children of compulsory school age³¹. Parents may wish to take account of the provisions of the policy when deciding which schools to apply for. The policy must, therefore, be published by 19th September³² each year.

82. The policy should enable parents to understand easily whether their child is eligible for free home to school travel, or any other help with home to school travel the local authority provides using its discretionary power.

83. It must tell parents how and when they should apply for home to school travel, and how they may appeal against the local authority's decision in relation to home to school travel for their child.

84. It should tell parents how they may find out which school is their nearest suitable school, and explain how parents may wish to take travel considerations into account when deciding which schools to apply for. Local authorities may find it useful to explain within their policies that the nearest suitable school for transport purposes may not be the same as the nearest school for admissions purposes.

Elements of an effective travel policy

85. An effective home to school travel policy will clearly explain:

- the four categories of eligible children³³;
- any other help with home to school travel the local authority provides using its discretionary power³⁴;
- how and when parents should apply for free home to school travel (or other help with home to school travel);
- how children's eligibility will be assessed;
- how the local authority measures distances for the purposes of assessing eligibility, and how it assesses route safety;

³¹ Regulation 8 and 9 of the School Information (England) Regulations 2008, and paragraphs 10 and 11 of schedule 3 to those regulations. In addition, regulation 5 and paragraphs 5 and 6 of schedule 2 to these regulations require local authorities to include information about their home to school travel policy in their composite prospectus for school admissions.

³² Regulation 8(2) of S.I. 2008/3093 School Information (England) Regulations 2008

³³ The categories of eligible children are set out in schedule 35B to the Education Act 1996 (as inserted by the Education and Inspections Act 2006) and summarised in paragraphs 6-19 of this guidance.

³⁴ Local authorities discretionary powers are set out in part 2 of this guidance.

- in instances of dual living arrangements, such as equal shared custody for separated parents, how the local authority determines the child's home.
- the ways in which free or discretionary home to school travel will be provided; for example, dedicated school bus, bus pass for use on public service buses, dedicated taxi; and
- any charges made for discretionary transport³⁵
- how parents may appeal against the local authority's decision in relation to home to school travel for their child.

86. A checklist of the necessary components of a school transport policy can be found in annex 1. Local authorities may find this helpful in ensuring their policies are lawful.

87. Local authorities should pay careful attention to the wording, layout and length of their home to school travel policies, so that they are as easy as possible for parents to understand. They should ensure that they are easy for parents to find on their website.

88. Local authorities may, if they wish, set their home to school travel policy out in more than one document. For example, they might set out the part of their policy that relates to home to school travel for children with special educational needs, disabilities and mobility problems in one document, and the remainder of their policy in another document. Where this is the case, both (or all) policies should be located in the same place on the local authority's website, and the local authority should ensure that a reader of any of the documents is able to understand easily the basic provisions of the whole home to school travel policy.

89. Local authorities should ensure that information about home to school travel for children with special educational needs and disabilities is included in their Local Offer³⁶.

90. Home to school travel policies may signpost parents of children who are not eligible for home to school travel support to other sources of information about travel to school; for example, the websites of local transport providers.

Policy changes

91. There is no requirement for a local authority to annually conduct a formal review of their home to school policy. They should nonetheless keep it under regular review to ensure it continues to meet local needs and comply with statutory requirements.

³⁵ Section 508C (5) of the Education Act 1996 (as inserted by the Education and Inspections Act 2006).

³⁶ The Children and Families Act 2014 requires local authorities to publish a local offer, setting out in one place information about provision they expect to be available for children and young people in their area who have special educational needs.

92. Local authorities should consult locally on proposed changes to their home to school travel policy. As a minimum this should include consulting:

- schools whose pupils will be affected by the proposed changes, including those located in other local authority areas; and
- parents whose children will (or may) be affected by the proposed changes, including those whose children attend school in a neighbouring authority, and those whose children may be affected in the future; for example, because they live in the catchment area of, or attend the feeder school of, a school affected by the proposed changes. This could include consulting the local authority Parent Carer Forum.

93. Local authorities should give careful consideration to the impact proposed changes to their home to school travel policy will have on parents' school choices, and on the financial impact they will have on affected families. Wherever possible, local authorities should phase in changes so that children who begin attending a school under one set of travel arrangements continue to benefit from those arrangements until they leave that school.

94. Consultation should last for at least 28 working days during term time.

Part 5: appeals

95. Local authorities should have in place a clear and transparent two stage process to enable parents to appeal against the local authority's decision in relation to home to school travel for their child. They should publish their appeals process alongside their home to school travel policy (or with each policy if a local authority has multiple policy documents) and make paper copies available on request.

96. Parents should be able to appeal against the local authority's decision about:

- their child's eligibility for home to school travel under any of the statutory categories, or the local authority's discretionary power
- the suitability of the travel arrangements offered
- the distance measurement in relation to statutory walking distance or extended rights
- the safety of the route.

97. Parents wishing to complain about the service provided by the local authority should use the local authority's complaints procedure

98. It is for local authorities to determine how their appeals process will operate but, in the interests of consistency, we recommend they adopt the process and timescales set out below.

Stage one: review by a senior officer

99. The process should allow a parent 20³⁷ working days from the day they received the local authority's home to school travel decision to submit a written request asking for a review of that decision. The parent should explain why they believe the local authority should review its decision and should include any information they would like to be considered as part of the review.

100. A senior officer within the local authority's home to school travel team (or within the team's line management chain), should review the decision in light of the information provided by the parents. Local authorities may consider it good practice for the review to be conducted by a panel of senior officers, rather than an individual

³⁷ As with the whole appeals process the timings are recommended and not compulsory. We envisage many appeals will be dealt with much sooner than these timings, particularly those which have a time pressure, whilst complex cases may take longer.

101. Within 20 working days of receiving a parent's request for a review, the senior officer(s) should notify the parent in writing of the outcome of the review. They should clearly explain:

- whether they have upheld the local authority's original home to school travel decision; and
- why they reached that decision; and
- the factors they took into account in reaching that decision.

102. Where they have upheld the original decision, they should also explain how the parent may escalate their appeal to stage two of the process.

Stage two: review by an independent appeal panel

103. Stage two is intended to provide for impartial re-consideration of the case. The process should allow a parent 20 working days from the day they received the outcome of stage one to notify the local authority in writing that they wish to escalate the matter to stage two, and to provide any additional information that they wish to be considered in light of the stage one decision.

104. The local authority should make arrangements for an independent panel to review the case. The panel members should be independent of the original decision making process, but need not be independent of the local authority. They should have the knowledge, skills and experience to ensure that the local authority complies with its statutory duties, that a balance is achieved between meeting the needs of parents and of the local authority, and that no child is placed at unnecessary risk.

105. This review should take place within 40 working days of the local authority's receipt of a parent's request. It may include consideration of oral, as well as written, representations from the parent. It may also include written and oral representations from the officer who made the local authority's original decision and those who conducted the stage one review.

106. Within 5 working days of completing its considerations, the appeal panel should notify the parent in writing of the outcome of their review. They should clearly explain:

- whether or not they have upheld the local authority's original decision; and
- why they reached that decision; and
- the factors they took into account in reaching that decision.

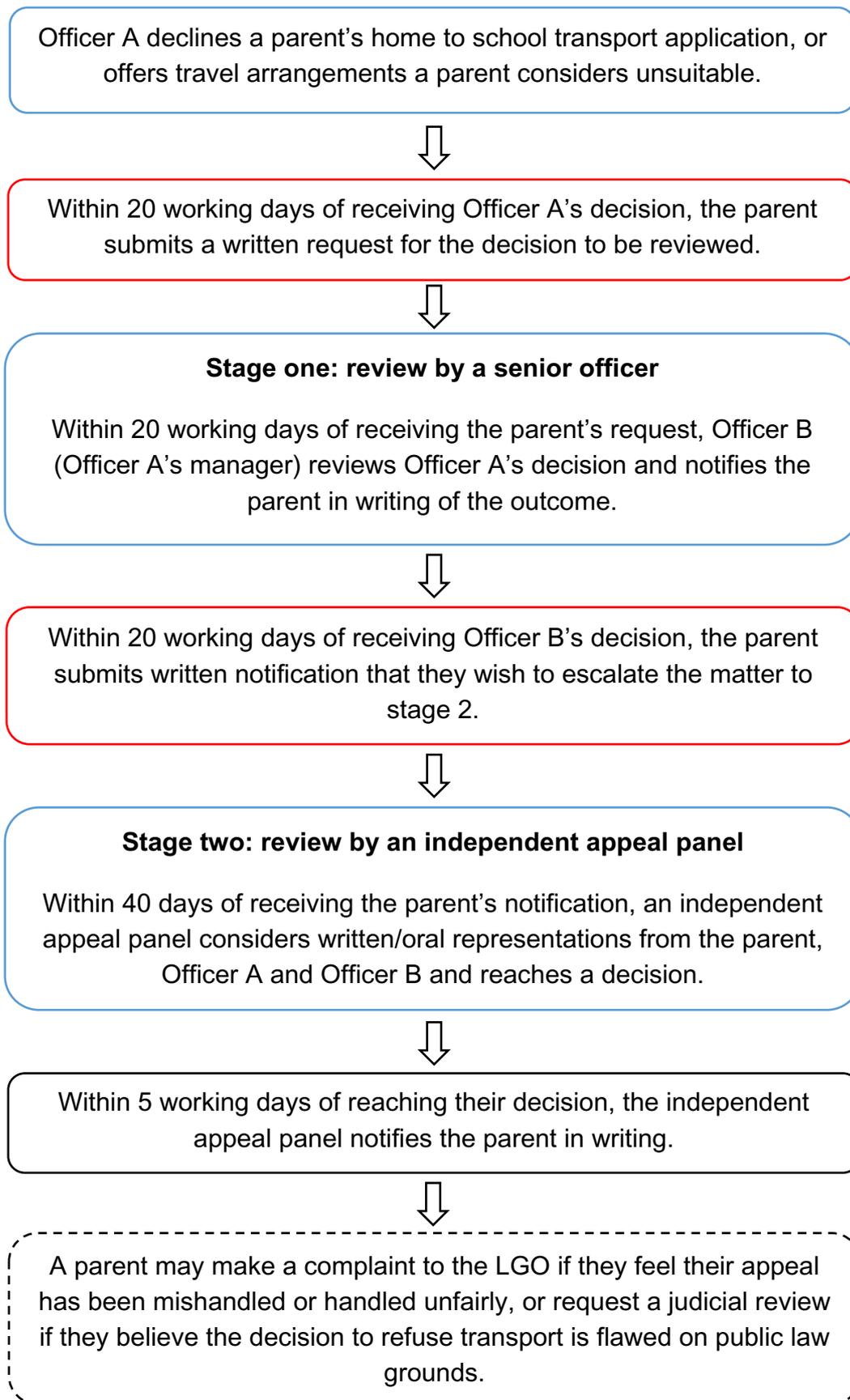
107. Where they have upheld the home to school travel decision, they should also explain that the parent may complain to the Local Government and Social Care

Ombudsman if they believe the local authority has refused help unfairly, made a mistake or not handled their application or appeal for home to school transport correctly³⁸.

108. If an appellant considers the decision of the independent appeals panel to be flawed on public law grounds, they may apply for a judicial review.

³⁸ For more information visit: <https://www.lgo.org.uk/>

Flowchart of the suggested appeals process



Part 6: sustainable school travel

109. Local authorities have a duty to promote the use of sustainable modes of travel on journeys to and from schools in their area³⁹.

110. Sustainable modes of travel are those which the local authority considers may either improve the physical well-being of those who use them, or the environmental well-being of all or part of the local authority's area, or both⁴⁰.

Sustainable Modes of Travel Strategy

111. Each **academic year**, local authorities must prepare a document which sets out their strategy to promote the use of sustainable modes of travel to meet the school travel needs of their area⁴¹. This document must be published⁴² by 19th September⁴³ each year.

112. Before preparing their strategy, a local authority must carry out:

- an assessment of the school travel needs of children and persons of sixth form age resident in their areas
- an audit of the sustainable travel infrastructure within their area⁴⁴

113. The local authority must also publish a summary of the Sustainable Modes of Travel Strategy within their composite prospectus⁴⁵.

Assessing school travel needs

114. The school travel needs of a local authority's area relate to journeys to and from school (or other place of education) undertaken by children who are resident in the local authority's area, or who travel to school (or other place of education) in the local authority's area⁴⁶.

115. Local authorities will need to base their assessment of school travel needs on information provided by schools and colleges. Schools may have school travel plans and these may include information that will be useful to the local authority in conducting their assessment.

³⁹ Section 508A (1) (c) of the Education Act 1996.

⁴⁰ Section 508A (3) of the Education Act 1996.

⁴¹ Section 508A (1) (a) of the Education Act 1996.

⁴² Schedule 3 of S.I. 2008/3093 School Information (England) Regulations 2008.

⁴³ Regulation 8(2) of S.I. 2008/3093 School Information (England) Regulations 2008

⁴⁴ Section 508A (2) of the Education Act 1996.

⁴⁵ Schedule 2 of the School Information (England) Regulations 2008.

⁴⁶ Section 508A (4), (5) and (6) of the Education Act 1996.

Audit of infrastructure to support sustainable school travel

116. The audit should include a mapping exercise showing how schools are served by:
- bus and other public transport routes, including school transport provided by the local authority or schools
 - footpaths, cycle ways, roads and associated features such as crossing points and patrols, traffic calming measures and speed limits
 - other arrangements such as cycle training, road safety training, and independent travel training; walking promotion schemes, barrier removal schemes, car sharing schemes and park and stride/ride schemes, and cycle parking.
117. It should take account of:
- other factors that may influence travel choices, such as personal safety, and poor behaviour on school buses. School travel plans can help local authorities understand any specific local issues, the views of schools and the perceptions of pupils and parents
 - the travel needs of children with special educational needs or disabilities and whether some might benefit from independent travel training which can result in a skill for life.

Developing the Sustainable Modes of Travel Strategy

118. A Sustainable Modes of Travel Strategy should:
- be a statement of the local authority's vision, objectives and work programme for improving the sustainable travel infrastructure and for promoting sustainable school travel
 - aim to provide health benefits for children and their families through active journeys, and environmental improvements through reduced congestion and improvements in air quality.
119. Local authorities should monitor the implementation of their strategy and revise it as they feel necessary.
120. Links to sources of further information about sustainable travel are available in the further information section.

Further information

Special educational needs and disability

The special educational needs and disability code of practice for children and young people aged 0 to 25 is available on [the GOV.UK website](#)

Preparing for Adulthood is a programme providing expertise to support local authorities and their partners to embed preparing for adulthood from the earliest years. More information can be found on their [website](#).

Post-16 Travel

Guidance for local authorities on post-16 transport is available on the [GOV.UK website](#).

Sustainable transport

British Cycling is the national governing body for cycling and can provide advice on cycling to school and cycle training. More information is available at www.britishcycling.org.uk

The Department for Transport released the **Cycling and Walking Investment Strategy** in April 2017 confirming its commitment to making the country a walking and cycling nation. More information is available at <https://www.gov.uk/government/publications/cycling-and-walking-investment-strategy>

Department for Transport funding is available to Local Highway Authorities and Schools Games Organiser Host Schools for the provision of **Bikeability cycle training** for school children in England. This will teach children to cycle safely, confidently and competently on the roads. More information is available at www.dft.gov.uk/bikeability/schools

Modeshift STARS is the National School Travel Awards scheme and is supported by the Department for Transport. Modeshift STARS has been established to recognise schools that have demonstrated excellence in supporting cycling, walking and other forms of sustainable travel. At the time of publication, 69 local authorities and over 3,500 schools are currently using the online system which provides a tool for local authorities to monitor the implementation of school travel plans, audit the sustainable travel and transport infrastructure for schools in their areas and assess the school travel needs of pupils. More information is available on their website www.modeshiftstars.org

Sustrans is the leading sustainable transport charity that provides practical advice that can be passed onto parents to increase confidence in walking and cycling. More information is available on their website www.sustrans.org.uk

Route safety

Road Safety GB have produced 'Assessment of Walked Routes to Schools Guidelines'. More information on **Road Safety GB** can be found on their website www.roadsafetygb.org.uk.

The **Department for Transport** has published a Walking Route Audit Tool that local authorities may find useful in identifying actions to improve route safety. It can be found on GOV.UK.

Licensing

Guidance on who can drive a school mini bus can be found on GOV.UK

To drive a bus requires a professional driving qualification called the Driver Certificate of Professional Competence (CPC). A **licencing guide**, produced by the Traffic Commissioners for Great Britain can be found on GOV.UK

DBS employee suitability checks

Further information about **DBS checks** (and who requires them or is eligible) can be found on GOV.UK

Behaviour

Departmental guidance on behaviour and discipline in schools can be found on GOV.UK

Definitions

- **'academic year'** is defined by The School Information (England) Regulations 2008 as a period commencing with 1st August and ending with the next 31st July.
- **'compulsory school age'** is set out in section 8 of the Education Act 1996 and The Education (Start of Compulsory School Age) Order 1998.

A child reaches compulsory school age on the prescribed day following their fifth birthday, or on their fifth birthday if it falls on a prescribed day. The prescribed days are 31 December, 31 March and 31 August.

A child ceases to be of compulsory school age on the last Friday in June in the school year in which a child reaches age 16⁴⁷.

- a school with a **'designated religious character'** is a school which has received a designation order under Section 69(3) of the School Standards and Framework Act 1998 stating that it has a religious character. Schools that have a designated religious character can deliver religious education and collective worship in accordance with the tenets of their faith. They can also prioritise admissions for pupils of their faith and recruit staff on the basis of their faith.
- **'disability'** is defined in section 6 of the Equality Act 2010. A person has a disability if they have (a) a physical impairment, and (b) that impairment has a substantial and long-term effect on their ability to carry out normal day-to-day activities. A chronic health condition may constitute a disability.
- **'eligible children'**, **'qualifying schools'**, **'disabled child'** and **'low income family'** are defined in Schedule 35B of the Education Act 1996 (as inserted by the Education and Inspections Act 2006 (see annex 3)).
- A child's **'home'** is the place where they are habitually and normally resident.
- **'normal admissions round'** refers to the period during which parents apply for and offers are made of places in a school's normal year of entry. This is usually reception in primary school and year 7 in secondary school.
- References to **'parent'** in this document include birth parents, adoptive parents, foster parents, carer or legal guardians with parental responsibility.
- **'religion'** means any religion, **'belief'** means any religious or philosophical belief, a reference to religion includes a reference to lack of religion, and a reference to belief includes a reference to lack of belief. This is set out section 509AD(3) of the Education Act 1996 and also in section 10 of the Equality Act 2010.

⁴⁷ Section 8(3) of the Education Act 1996

- **'road route'** means a route passable by a motor vehicle, but could include distance covered on additional transport e.g. a ferry.
- **'special educational needs'** is defined in section 20 of the Children and Families Act 2014. A child or young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her.

Annex 1: home to school travel policy checklist

A local authority home to school travel policy must contain a number of elements to be considered lawful. There are also a number of elements that a local authority home to school travel policy should include to ensure it is clear and easy for parents to understand. A list of the main elements is below, however, it is not an exhaustive list and authorities are free to add elements they consider necessary, provided they are lawful.

Local authorities may wish to use the list to help ensure their current policy is lawful, to support a review of their current policy, or to support the drafting of a revised policy.

- The policy includes a clear introduction explaining what the reader can expect to learn from the document.
- The policy clearly explains all four categories of eligible children (*statutory walking distances; special educational needs, disability and mobility problems; unsafe walking routes and extended rights*).
- Where a local authority has a separate policy document for a category of eligibility (for example, special educational needs) they should refer to this within the main policy document so parents may easily understand all the categories of eligibility.
- The policy includes information on how a parent can apply for home to school travel support.
- The policy clearly explains the terms that will enable a parent to understand whether their child is eligible for home to school travel support. This includes terms such as 'home address' and 'nearest suitable school'.
- The policy clearly explains how a child's eligibility will be assessed. This includes how distances will be measured and how route safety is assessed.
- The policy clearly explains that the eligibility of children with special educational needs, a disability or mobility problems will be **assessed on an individual basis**.
- The policy clearly explains the ways in which travel assistance is provided, for example, passes for public service buses, dedicated school buses, taxis.
- The policy clearly explains the circumstances in which it will consider providing home to school travel support on a discretionary basis. Where an authority has an automatic entitlement to discretionary travel for groups of children (such as long standing arrangements for catchment areas), this is clear in their policy.
- The policy clearly explains any other arrangements that are in place for children who are not eligible for free home to school travel, such as concessionary schemes. It

may also be helpful to include information about any other sources of support or services a child may benefit from in terms of travel, such as relevant services offered by local bus service operators.

The policy clearly explains how a parent may appeal the local authority's decision in response to their application for home to school travel support.

Annex 2: equalities legislation and home to school transport

Local authorities must comply with the Equality Act 2010 and the European Convention on Human Rights, which is incorporated into UK law by the Human Rights Act 1998, when exercising their home to school transport functions.

This section is intended to highlight the most relevant provisions.

The Equality Act 2010

The Equality Act prohibits a local authority from discriminating against someone on the grounds of a 'protected characteristic'. The relevant protected characteristics for the purposes of home to school transport are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

However, through an exemption in Part 2 of Schedule 3 of the Act, the discrimination provisions on age and religion or belief do not extend to a local authority's home to school transport arrangements. So, for example, a local authority would not be unlawfully discriminating on religion or belief grounds if it arranged a school bus to a faith school but not to another school in the area.

The Act also places a legal obligation on the local authorities to comply with the public sector equality duty. This means they must consider how their home to school transport decisions and policies affect people with protected characteristics, and must have due regard to the need to:

- eliminate discrimination against people with protected characteristics
- promote equality of opportunity between people who have a protected characteristic and those who do not; and
- foster good relations between people who have a protected characteristic and those who do not.

The European Convention on Human Rights (ECHR)

Article 2 of Protocol 1 of the ECHR gives parents the right to have their children educated in accordance with their religious and other views.

In addition, section 509AD of the Education Act 1996 requires local authorities to have regard to any wish of a parent to have their child educated at a school based on their religion or belief when exercising their home to school transport duties.

This does not, however, mean that parents have a specific right to have their children educated at such a school, or to have transport arrangements made by their local authority to and from any such school.

Local authorities should, nonetheless, have regard to the provisions of the ECHR and section 509AD when considering any request made by a parent for travel assistance to a school they have selected on the grounds of their religion or belief.

They should not, for example, have a blanket policy that they never provide travel assistance to schools with a designated religious character. Should they receive a request from a parent for transport to such a school, they should consider whether it would be appropriate to exercise their discretionary power.

Annex 3: relevant legislation

This annex sets out the relevant statutory provisions, referred to throughout this guidance, in relation to local authorities' responsibilities for the provision of home to school travel for pupils of compulsory school age.

Education Act 1996

Section 7 - Duty of parents to secure education of children of compulsory school age

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (a) to his age, ability and aptitude, and
- (b) to any special educational needs he may have,

Section 19 (1) Provision of education in pupil referral units

Each local education authority shall make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.

Section 444 (3)⁴⁸ Offence: failure to secure regular attendance at school of registered pupil

(3A) Subsections (3B) and (3D) apply where the child's home is in England.

(3B) The child shall not be taken to have failed to attend regularly at the school if the parent proves that—

- (a) the local authority have a duty to make travel arrangements in relation to the child under section 508B(1) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty, or;
- (b) the local authority have a duty to make travel arrangements in relation to the child by virtue of subsection (2)(c) of section 508E (school travel schemes) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty.

⁴⁸ As inserted by Part 7 of the Education and Inspections Act 2006.

(3C) For the purposes of subsection (3B)—

- (a) the reference to “travel arrangements” in paragraph (a) has the same meaning as in section 508B, and;
- (b) the reference to “travel arrangements” in paragraph (b) has the same meaning as in paragraph 3 of Schedule 35C.

(3D) Where the school is an independent school which is not a qualifying school, the child shall not be taken to have failed to attend regularly at the school if the parent proves—

- (a) that the school is not within walking distance of the child's home,
- (b) that no suitable arrangements have been made by the local authority for boarding accommodation for him at or near the school, and
- (c) that no suitable arrangements have been made by the local authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(3E) For the purposes of subsection (3D), “qualifying school” has the same meaning as it has for the purposes of Schedule 35B (meaning of “eligible child” for the purposes of section 508B).

Section 508A⁴⁹ Duty to promote sustainable modes of travel

(1) A local education authority in England must—

- (a) prepare for each academic year a document containing their strategy to promote the use of sustainable modes of travel to meet the school travel needs of their area (“a sustainable modes of travel strategy”),
- (b) publish the strategy in such manner and by such time as may be prescribed, and
- (c) promote the use of sustainable modes of travel to meet the school travel needs of their area.

(2) Before preparing a sustainable modes of travel strategy, an authority must in particular—

⁴⁹ As inserted by Part 6 of the Education and Inspections Act 2006

(a) assess the school travel needs of their area, and

(b) assess the facilities and services for sustainable modes of travel to, from and within their area.

(3) “Sustainable modes of travel” are modes of travel which the authority consider may improve either or both of the following—

(a) the physical well-being of those who use them;

(b) the environmental well-being of the whole or a part of their area.

(4) The “school travel needs” of a local education authority's area are—

(a) the needs of children and persons of sixth form age in the authority's area as regards travel mentioned in subsection (5), and

(b) the needs of other children and persons of sixth form age as regards travel mentioned in subsection (6)

(5) The needs of children and persons of sixth form age in the authority's area as regards travel referred to in subsection (4)(a) are their needs as regards travel to and from—

(a) schools at which they receive or are to receive education or training,

(b) institutions within the further education sector at which they receive or are to receive education or training, or

(c) any other places where they receive or are to receive education by virtue of arrangements made in pursuance of section 19(1).

(6) The needs of other children and persons of sixth form age as regards travel referred to in subsection (4)(b) are their needs as regards travel to and from—

(a) schools at which they receive or are to receive education or training,

(b) institutions within the further education sector at which they receive or are to receive education or training, or

(c) any other places where they receive or are to receive education by virtue of arrangements made in pursuance of section 19(1),

in so far as that travel relates to travel within the authority's area.

(7) The Secretary of State must issue, and may from time to time revise, guidance in relation to the discharge by a local education authority of their duties under this section.

Section 508B⁵⁰ - Travel arrangements for eligible children

(1) A local education authority in England must make, in the case of an eligible child in the authority's area to whom subsection (2) applies, such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child's attendance at the relevant educational establishment in relation to him, are made and provided free of charge in relation to the child.

(2) This subsection applies to an eligible child if—

(a) no travel arrangements relating to travel in either direction between his home and the relevant educational establishment in relation to him, or in both directions, are provided free of charge in relation to him by any person who is not the authority, or

(b) such travel arrangements are provided free of charge in relation to him by any person who is not the authority but those arrangements, taken together with any other such travel arrangements which are so provided, do not provide suitable home to school travel arrangements for the purpose of facilitating his attendance at the relevant educational establishment in relation to him.

(3) "Home to school travel arrangements", in relation to an eligible child, are travel arrangements relating to travel in both directions between the child's home and the relevant educational establishment in question in relation to that child.

(4) "Travel arrangements", in relation to an eligible child, are travel arrangements of any description and include—

(a) arrangements for the provision of transport, and

(b) any of the following arrangements only if they are made with the consent of a parent of the child—

⁵⁰ As inserted by Part 6 of the Education and Inspections Act 2006

(i) arrangements for the provision of one or more persons to escort the child (whether alone or together with other children) when travelling to or from the relevant educational establishment in relation to the child;

(ii) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses;

(iii) arrangements for the payment of allowances in respect of the use of particular modes of travel.

(5) “Travel arrangements”, in relation to an eligible child, include travel arrangements of any description made by any parent of the child only if those arrangements are made by the parent voluntarily.

(6) “Travel arrangements”, in relation to an eligible child, do not comprise or include travel arrangements which give rise to additional costs and do not include appropriate protection against those costs.

(7) For the purposes of subsection (6)—

(a) travel arrangements give rise to additional costs only if they give rise to any need to incur expenditure in order for the child to take advantage of anything provided for him in pursuance of the arrangements, and

(b) travel arrangements include appropriate protection against those costs only if they include provision for any expenditure that needs to be incurred for the purpose mentioned in paragraph (a) in the case of the child to be met by the person by whom the arrangements are made.

(8) Travel arrangements are provided free of charge if there is no charge for anything provided in pursuance of the arrangements.

(9) Schedule 35B has effect for the purposes of defining “eligible child” for the purposes of this section.

(10) References to a “relevant educational establishment”, in relation to an eligible child, are references to—

(a) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 2, 4, 6, 9, 11 and 12 of Schedule 35B, the qualifying school (within the

meaning of that Schedule) at which the child is a registered pupil referred to in the paragraph in question, and

(b) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 3, 5, 7, 10 and 13 of Schedule 35B, the place other than a school, where the child is receiving education by virtue of arrangements made in pursuance of section 19(1), referred to in the paragraph in question.

(11) Regulations may modify subsections (1) and (2) to provide for their application in cases where there is more than one relevant educational establishment in relation to a child.

Section 508C⁵¹ - Travel arrangements for other children

(1) A local education authority in England may make such school travel arrangements as they consider necessary, in relation to any child in the authority's area to whom this section applies, for the purpose of facilitating the child's attendance at any relevant educational establishment in relation to the child.

(2) This section applies to a child who is not an eligible child for the purposes of section 508B.

(3) "School travel arrangements", in relation to such a child, are travel arrangements relating to travel in either direction between his home and any relevant educational establishment in relation to the child, or in both directions.

(4) "Travel arrangements", in relation to such a child, are travel arrangements of any description and include—

(a) arrangements for the provision of transport, and

(b) any of the following arrangements only if they are made with the consent of a parent of the child—

(i) arrangements for the provision of one or more persons to escort the child (whether alone or together with other children) when travelling to or from any relevant educational establishment in relation to the child;

⁵¹ As inserted by Part 6 of the Education and Inspections Act 2006

(ii) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses;

(iii) arrangements for the payment of allowances in respect of the use of particular modes of travel.

(5) A local education authority in England may pay, in the case of a child in the authority's area to whom this section applies and in relation to whom no arrangements are made by the authority under subsection (1), the whole or any part, as they think fit, of a person's reasonable travelling expenses in relation to that child's travel in either direction between his home and any relevant educational establishment in relation to the child, or in both directions.

(6) References to a “relevant educational establishment”, in relation to a child to whom this section applies, are references to—

(a) any school at which he is a registered pupil,

(b) any institution within the further education sector at which he is receiving education, or

(c) any place other than a school where he is receiving education by virtue of arrangements made in pursuance of section 19(1).

Section 508D - Guidance in relations to sections 508B and 508C

(1) The Secretary of State must issue, and may from time to time revise, guidance in relation to the discharge by a local education authority of their functions under sections 508B and 508C.

Section 509AD⁵² - Duty to have regard to religion or belief in exercise of travel functions

(1) A local 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 school, institution or other place,

⁵² As inserted by the Education and Inspections Act 2006

(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 and 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 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 for other children);

section 508E and Schedule 35C (school travel schemes);

section 508F(local authorities in England: provision of transport etc for 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.

Schedule 35B⁵³ - Meaning of “eligible child”

(1) For the purposes of section 508B (travel arrangements for eligible children) an “eligible child” means a child who falls within any of paragraphs 2 to 7 or 9 to 13.

(2) A child falls within this paragraph if—

⁵³ As inserted by the Education and Inspections Act 2006

- (a) he is of compulsory school age and is any of the following— a child with special educational needs; a disabled child; a child with mobility problems,
- (b) he is a registered pupil at a qualifying school which is within walking distance of his home,
- (c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
- (d) having regard to whichever of the following are relevant— his special educational needs; his disability; his mobility problems, he cannot reasonably be expected to walk to the school mentioned in paragraph (b).

(3) A child falls within this paragraph if—

- (a) he is of compulsory school age and is any of the following— a child with special educational needs; a disabled child; a child with mobility problems,
- (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and
- (c) having regard to whichever of the following are relevant— his special educational needs; his disability; his mobility problems, he cannot reasonably be expected to walk to that place.

(4) A child falls within this paragraph if—

- (a) he is of compulsory school age and is a registered pupil at a qualifying school which is within walking distance of his home,
- (b) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
- (c) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to the school mentioned in paragraph (a).

(5) A child falls within this paragraph if—

(a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and

(b) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to that place.

(6) A child falls within this paragraph if—

(a) he is of compulsory school age and is a registered pupil at a qualifying school which is not within walking distance of his home,

(b) no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near the school, and

(c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(7) A child falls within this paragraph if—

(a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),

(b) that place is not within walking distance of his home,

(c) no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near that place, and

(d) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(8) (1) Where—

(a) a child of compulsory school age has been excluded from a relevant school,

(b) he remains for the time being a registered pupil at the school, and

(c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training,

paragraph 6 has effect as if the place at which the child is required to attend were a qualifying school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).

(8) (2) For the purposes of sub-paragraph (1)—

- (a) “relevant school” and “appropriate authority” have the same meaning as in section 444ZA (application of section 444 to alternative educational provision), and
- (b) subsection (3) of that section applies in relation to that sub-paragraph as it applies in relation to subsection (2) of that section.

“Low Income Families”

Paragraphs 9 to 13 provide that certain children who meet the requirements of those paragraphs and the ‘appropriate condition’ contained in paragraph 14 are also ‘eligible children’.

(9) A child falls within this paragraph if—

- (a) he has attained the age of 8 but not the age of 11,
- (b) he is a registered pupil at a qualifying school which is more than two miles from his home,
- (c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
- (d) the appropriate condition is met in relation to him.

(10) A child falls within this paragraph if—

- (a) he has attained the age of 8 but not the age of 11,
- (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
- (c) that place is more than two miles from his home, and
- (d) the appropriate condition is met in relation to him.

(11) A child falls within this paragraph if—

- (a) he has attained the age of 11,
- (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than six miles, from his home,
- (c) there are not three or more suitable qualifying schools which are nearer to his home, and
- (d) the appropriate condition is met in relation to him.

(12) A child falls within this paragraph if—

- (a) he has attained the age of 11,
- (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than fifteen miles, from his home,
- (c) his parent has expressed a wish, based on the parent's religion or belief, for him to be provided with education at that school,
- (d) having regard to the religion or belief on which the parent's wish is based, there is no suitable qualifying school which is nearer to the child's home, and
- (e) the appropriate condition is met in relation to him.

(13) A child falls within this paragraph if—

- (a) he has attained the age of 11,
- (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
- (c) that place is more than two miles, but not more than six miles, from his home, and
- (d) the appropriate condition is met in relation to him.

(14) (1) For the purposes of paragraphs 9 to 13, the appropriate condition is met in relation to a child if condition A or condition B is met.

(2) Condition A is met if the child is within section 512ZB(4) (provision of free school lunches and milk).

(3) Condition B is met if—

- (a) a parent of the child, with whom the child is ordinarily resident, is a person to whom working tax credit is awarded, and
- (b) the award is at the rate which is the maximum rate for the parent's case or, in the case of an award to him jointly with another, at the rate which is the maximum rate for their case.

(15) (1) The definitions in sub-paragraphs (2) to (5) apply for the purposes of this Schedule.

(2) “Qualifying school” in relation to a child means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school,
- (c) a school approved under section 342 (non-maintained special schools),
- (d) a pupil referral unit,
- (e) a maintained nursery school, or
- (f) a city technology college, a city college for the technology of the arts or an Academy.

(3) In relation to a child with special educational needs, an independent school, other than a college or Academy falling within sub-paragraph (2)(f), is also a “qualifying school” if—

- (a) it is the only school named in the statement maintained for the child under section 324, or
- (b) it is one of two or more schools named in that statement and of those schools it is the nearer or nearest to the child's home.

(4) “Disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995, and “disability” is to be construed accordingly.

(5) “Walking distance” has the meaning given by section 444(5).

(6) “Religion” and “belief” are to be read in accordance with section 509AD(3).

(7) In the case of a child who is a registered pupil at both a pupil referral unit and at a school other than a unit, references in this Schedule to the school at which he is a registered pupil are to be read as references to the unit.

The Public Service Vehicles (Carrying Capacity) Regulations 1984, section 5

(1) Save as provided in paragraph 2, no person shall drive, or cause or permit to be driven, on a road and a vehicle if the number of seated passengers exceeds the number of seats available for passengers.

(2) For the purposes of paragraph 1 (b) (ii), on and after 1 September 1985 three seated children each of whom is under 14 years of age shall count as two passengers.

The School Travel (Pupils with Dual Registration) (England) Regulations 2007

(1) This regulation modifies the application of section 508B (1) and (2) of, and paragraph 3(1) and (2) of Schedule 35C to, the Education Act 1996 in respect of children who are registered pupils at more than one educational establishment.

(2) Where a child is registered at—

(a) two qualifying schools other than pupil referral units, or

(b) in the case of a child who has no fixed abode, two or more qualifying schools other than pupil referral units, the relevant educational establishment in relation to him is whichever of the schools he is attending at the relevant time.

(3) Where a child has no fixed abode “home to school travel arrangements” means travel from wherever the child is residing at the relevant time to the nearest qualifying school at which he is registered, so far as is reasonably practicable.

(4) For the purposes of paragraphs (2) and (3)—

(a) “qualifying school” has the meaning given in paragraph 15(2) and (3) of Schedule 35B to the Education Act 1996,

(b) the “relevant time” means any school day on which travel arrangements are required, and

(c) a child has no fixed abode if he falls within regulation 9(1)(a) of the Education (Pupil Registration) Regulations 2006.

School Information (England) Regulations 2008

(8) (1) A local authority must publish the information in Schedule 3 in accordance with paragraph (2) and regulation 9.

(2) Such information must be published during the offer year and, except in so far as it relates exclusively to primary education, or special educational provision, or provision to which section 19 of EA 1996(1) applies (*exceptional provision of education in pupil referral units or elsewhere*), must be published no later than six weeks before the date up to which parents may express a preference for a school in respect of the admission year.

(3) Where changes in respect of any of the matters required to be published under this regulation have been decided upon by the local authority but not yet implemented, the local authority must also publish information about those changes.

(9) (1) A local authority must publish the information in Part 1 of Schedule 3⁵⁴

(a) by placing it on their website;

(b) by copies being made available for distribution without charge to parents on request, and for reference by parents and other persons—

(i) at the office of the local authority, and

(ii) at every school maintained by the local authority, other than a nursery school, a special school or a pupil referral unit, and at every Academy, city technology college, and city college for the technology of the arts in composite prospectus area;

(c) by copies being distributed without charge to parents of pupils at schools maintained by the local authority, other than nursery schools, special schools or pupil referral units, who, in the offer year, are in the final year at such schools and who might transfer to other schools so maintained; and

(d) by copies being made available for reference by parents and other persons at the public libraries in the area of the local authority.

⁵⁴ Set out on the following page

(2) In the case of the information in paragraph 9 of Schedule 3 (*the local authority's sustainable modes of travel strategy*) the local authority need not comply with subparagraphs (1)(b) - (d).

Schedule 3 – Information to be published by local authorities

(10) In relation to travel arrangements—

(a) the local authority's general arrangements and policies in respect of the making of travel arrangements in accordance with the discharge of their functions under sections 508B and 508C of EA 1996; or

(b) where a school travel scheme made by the authority has effect in relation to an admission year, the arrangements made under the scheme.

(11) The information in paragraph 10 must include, in particular—

(a) the provision of free transport;

(b) the carriage on school buses of pupils for whom free transport is not provided;

(c) the payment in whole or in part of reasonable travelling expenses;

(d) the provision of other travel arrangements including escorts;

(e) the arrangements for children with special educational needs; and

(f) the arrangements in respect of transport for pupils to schools for which a pupil's parent has expressed a preference on the grounds of the parent's religion or belief.



Department
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