

BIRMINGHAM CITY COUNCIL

CHILDREN'S SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

TUESDAY, 08 JANUARY 2019 AT 13:00 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 APOLOGIES

To receive any apologies.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 - 126

3 REQUEST FOR CALL IN: TRAVEL ASSIST SERVICE

To consider the 'Request for Call-in' (the portfolio holder and the Lead Officer identified in the report have been summoned to attend the meeting). The following documents are attached in respect of the papers:
(A) The executive Decision record;
(B) The relevant form for the 'Request for Call-in' lodged by Councillors Debbie Clancy and Ken Wood;
(C) The report considered by Cabinet Committee in reaching their decision.

4 REQUEST(S) FOR CALL IN/COUNCILLOR CALL FOR ACTION/PETITIONS RECEIVED (IF ANY)

To consider any request for call in/councillor call for action/petitions (if received).

5 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

General**Reports****Decision History**

This section allows you to view the general details of a Decision

Details

Status

Decision Subject To Call In

Title

Travel Assist Service

**Urgent Decision - Not in
Forward Plan**

No

**Details for Agenda
Sheet**

Report of Interim Corporate Director for Children and Young People

**Implementation Date
(not before meeting on)**

Tue 11 Dec 2018

Purpose

Further to Cabinet decision June 2018 to seek Cabinet agreement to Policy and Commissioning Strategy following public consultation.

Key Portfolio

Education, Skills and Culture

**Include item on Forward
Plan/ Key Decision**

Yes

Decision Maker**Reason For Key
Decision**

Revenue in excess of £0.5m and significant effect on two or more Wards

Relevant Documents**Is Private**

No

Directorate

Children and Young People

Private Reason

Decision Outcome

On 11 December 2018, Cabinet:-

- (i) Consulted on the draft 0-25 Policy for Home to School Transport (see report Appendix A);
- (ii) Adopted and implemented the Commissioning Strategy at Appendix B to the report;
- (iii) Delegated authority to the Acting Corporate Director, Children and Young People in conjunction with the Director of Commissioning and Procurement, the Corporate Director, Finance and Governance (or their delegate) and the City Solicitor (or their delegate) to award contracts to the successful providers following completion of the tendering process;
- (iv) Authorised the City Solicitor to negotiate and execute any documents to give effect to the above recommendations.

THE DEADLINE FOR CALL IN IS 1600 HOURS ON TUESDAY

A request for call in was submitted by Councillors Ken Wood and Debbie Clancy at 13:05 hours on 18 December 2018. No action can be taken to implement the decision until the request has been considered by the Learning, Culture and Physical Activity Overview and Scrutiny Committee - the meeting should be held by 8 January 2019.

Rating Yes

Is the Decision Maker
Aware of the Decision No

Is the Head of Services
Aware of the Decision No

Is Decision County Wide No

Would the
recommended decision
be contrary to the
budget and policy
framework No

Decision Maker Role

Additional Information

Reg 10

Reg 11

Decision Criteria

This Decision does not contain any decision criteria records.

Wards

Acocks Green; Allens Cross; Alum Rock; Aston; Balsall Heath West; Bartley Green; Billesley; Birchfield; Bordesely & Highgate; Bordesely Green; Bournbrook & Selly Park; Bournville & Cotteridge; Brandwood & Kings Heath; Bromford & Hodge Hill; Castle Vale; Druids Heath & Monyhull; Edgbaston; Erdington; Frankley Great Park; Garretts Green; Glebe Farm & Tile Cross; Gravelly Hill; Hall Green North; Hall Green South; Handsworth; Handsworth Wood; Harborne; Heartlands; Highter's Heath; Holyhead; Kings Norton North; Kings Norton South; Kingstanding; Ladywood; Longbridge & West Heath; Lozells; Moseley; Nechells; Newtown; North Edgbaston; Northfield; Oscott; Perry Barr; Perry Common; Pype Hayes; Quinton; Rubery & Rednall; Shard End; Sheldon; Small Heath; Soho & Jewellery Quarter; South Yardley; Sparkbrook & Balsall Heath East; Sparkhill; Stirchley; Stockland Green; Sutton Four Oaks; Sutton Mere Green; Sutton Reddicap; Sutton Roughley; Sutton Trinity; Sutton Vesey; Sutton Walmley & Minworth; Sutton Wylde Green; Tyseley & Hay Mills; Ward End; Weoley & Selly Oak; Yardley East; Yardley West & Stechford

Topics

This Decision does not contain any Topic records

Overview and Scrutiny

Learning, Culture and Physical Activity Overview and Scrutiny Committee



Appendix 2: Request for Call In – Pro-forma

To:

Committee Services, Room 315, Council House.

E-Mail: LESCommitteeServicesAll@birmingham.gov.uk (marked "For the attention of Dave Smith")

Date: 18 December 2018

Please arrange for a meeting of the

Learning, Culture & Physical Activity

O&S Committee

to be called to discuss the following executive decision:

Title: Travel Assist Service

Taken By: CABINET

On: 11 December 2018

Reason for request:

(a) Is the Executive decision within existing policy?

1. the decision appears to be contrary to the Budget or one of the 'policy framework' plans or strategies; ☐
2. the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees; ☐
3. the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive); ☐

(b) Is the Executive decision well-founded?

4. the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision; ☐
5. the Executive appears to have overlooked some relevant consideration in arriving at its decision; ☒
6. the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do; ☒
7. the decision appears to be particularly "novel" and therefore likely to set an important precedent; ☐
8. there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council. ☒



(c) Has the Executive decision been properly taken?

9. the decision appears to give rise to significant legal, financial or propriety issues;



10. the notification of the decision does not appear to have been in accordance with council procedures;



(d) Does the Executive decision particularly affect a District?

11. the decision appears to give rise to significant issues in relation to a particular District.

Councillor

(Signed)

Councillor Ken Wood

(Print Name)

Councillor

(Signed)

Councillor Debbie Clancy

(Print Name)



Subject: Travel Assist Service

Report of: Acting Corporate Director Children & Young People

Relevant Cabinet Member: Cllr Jayne Francis - Education, Skills & Culture
Cllr Kate Booth - Children's Well-being
Cllr Paulette Hamilton - Health & Social Care
Councillor Brett O'Reilly - Finance & Resources

Relevant O &S Chair(s): Cllr Mariam Khan - Learning, Culture & Physical Activity
Cllr Mohammed Aikhlaq – Children's Social Care
Cllr Rob Pocock - Health & Social Care
Cllr Sir Albert Bore - Resources

Report author: Sharon Scott - Interim Assistant Director SEND
Tel: 0121 303 6694
Email: Sharon.Scott@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 005449/2018		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

- 1.1 This report provides details of proposals to proceed on two key areas required to modernise and improve the Council's Home to School Transport Service (Travel Assist). The report follows-on from an earlier report to Cabinet on the

26th June 2018, where it was agreed that the following documents would be presented:

- The proposed 0-25 Home to School transport policy (**Appendix A**)
- The Home to School transport commissioning strategy (**Appendix B**)

2 Recommendations

That Cabinet approval is given to; -

- Consult on the draft 0-25 Policy for Home to School Transport (see **Appendix A**).
- Adopt and implement the Commissioning Strategy at **Appendix B** to this report.
- Delegate authority to the Acting Corporate Director, Children and Young People in conjunction with the Director of Commissioning and Procurement, the Corporate Director, Finance and Governance (or their delegate) and the City Solicitor (or their delegate) to award contracts to the successful providers following completion of the tendering process.
- Authorise the City Solicitor to negotiate and execute any documents to give effect to the above recommendations

3 Background

- 3.1 Birmingham's Travel Assist Service provides a variety of transport options to over 4,250 children on a daily basis, with an additional 1,500 receiving bus passes, and has an overall budget of £18.4m for 2018/19. The majority of the children using the service have requirements related to SEND but the service also supports eligible children without SEND, looked after children; children in temporary accommodation and other vulnerable groups. The service operates more than 600 routes and has a range of support options including: 1-to-1's; mini bus/coach transport; Travel Guides; Personal Transport Budgets; Bus Passes and Independent Travel Training. The latter has been introduced over the last 18 months and has been well received by schools with many developing and expanding their own complimentary programmes.
- 3.2 Since 2016 the service has been the subject of a root and branch review, and delivered 90% of the planned changes at that time. Consequently complaints have reduced, operational efficiency has improved (lower numbers of staff and a faster turn-around for applications) through better use of IT and lean processes and external relationships have improved with key stakeholders such as Headteachers.
- 3.3 However, Travel Assist continues to overspend against budget, and there are continuing issues with the delivery of such a large scale transportation operation, which can impact on the service that families receive.

- 3.4 Travel Assist is part of a group of services that support families with children with SEND. These include SENAR, Early Support and Access to Education. The recent SEND Inspection report looked at the whole system of SEND support across the city, and partners. The recommendations and action being taken following this report, will positively impact upon transport provision. One key proposal is to develop more local special educational provision within the city, reducing the need for children to travel long distances to a suitable education placement. Another important aspect is the need to focus on independence, working with families and young people much earlier in the child's life to develop important skills (such as travelling independently) and preparing for adulthood.
- 3.5 Over recent years in line with home to school transport services nationally, Travel Assist has been experiencing an increase in demand. Over 330 additional families successfully applied for specialist transport during the 2017/18 academic year and the numbers of children being transported across the city has grown year on year, in line with an increase in Education, Health and Care Plans.
- 3.6 The service simply cannot continue to provide travel assistance in the manner it has to date, and the full range of options available, including Personal Transport Budgets and bespoke solutions for families will be further developed.

3.7 0-25 Policy

- 3.7.1 At present the law is different in relation to Home to School transport based on the differing ages of children and whether they are of compulsory school-age.
- 3.7.2 The Council has a number of legal duties and powers related to home to school travel assistance, including a duty under Section 508A Education Act 1996 to promote sustainable modes of travel. The Council also has a duty under Section 508B Education Act 1996 to make suitable home to school travel arrangements for eligible children.
- 3.7.3 When reviewing existing policies from other Local Authorities, Birmingham should be doing more to help families consider and adopt independent travel options. Too many of our children are still on buses for far too long which affects their readiness to learn and, in some cases, school attendance and behaviour. The service is still too reactive and does not provide enough support, working with other SEND-focused services, early in a child's life to plan for and support families as their children grow older.
- 3.7.4 The key principles proposed in the new policy (to be consulted upon) will be in line with the findings of the SEND Inspection June 2018 and reflect national good practice and the latest statutory guidance. A new policy also offers an opportunity to ensure that the clarity of the offer is in line with the transparency required across the SEND system, for example, with regards to budgetary

challenges and city-wide partnership outcomes for children. Proposed changes include:

- Combining the policies into a single 0-25 composite policy document.
- Changing the Stage 2 Appeal Panel from a Members Panel to Officers. This is in line with good practice nationally; retains a Stage 2 Appeals process; and will involve officers who have a related specialism but have not been involved directly in any of the cases.
- Increasing the financial contribution requested from parents of children and young people who are not of compulsory school age.
- Clarifying the circumstances when travel assistance will be provided for children who are below compulsory school age.
- Setting out the Council's policy in relation to travel assistance for young adults over the age of 19.
- Strengthening the emphasis on independent travel training and alternative modes of transport.
- An increased emphasis on the use of Personal Transport Budgets.
- Greater clarity of the application process and eligibility for parents (what we will and won't do).
- Greater clarity concerning the rights and responsibilities of parents towards accompanying their children to school.
- Greater clarity around the factors that will be relevant to the decision whether to offer travel assistance.

3.7.5 The draft policy and consultation process reflects the consideration of future anticipated demand across the city, to better plan transport options, reduce travel times, build and move provision in line with the SEND and Inclusion Strategy and inform the new commissioning and procurement process. It will include working with the market to understand how we can improve the logistics of the service and if appropriate adopt the expansion of pick-up points. It will also include consideration of the green transport agenda and emission reductions in line with the Council's clean air strategy. This work will require close working across teams including: Travel Assist; Finance; Legal and Governance; Commissioning and Procurement, SENAR, Early Support, data and performance.

3.7.6 A further report will be brought to Cabinet outlining the outcome of the consultation and any proposed changes to the draft policy.

3.8 Commissioning Strategy and Plan

3.8.1 Since the Cabinet report in June 2018 soft market testing has been completed, to give a better understanding of the different models of service delivery in order to inform the decision on the best future model(s). The soft market testing has

enabled us to gather intelligence as to what works well elsewhere across the public sector in relation to the provision of the travel assist service. It has also revealed that many of the local authorities are facing the same challenges and increasing costs of the Travel Assist Service.

3.8.2 Many local Authorities are considering both in-house and third party provision of the service, with many opting for a Dynamic Purchasing System (DPS) for a procurement route. Unlike other procurement routes such as open and restricted processes, a DPS permits new suppliers, after a pre-qualification stage; to join the DPS framework at prescribed times during its life time. This provides the Council with a refreshed competitive framework and negates the requirement, as is the requirement of other frameworks to conduct frequent contract renewals as the DPS can be awarded for a period longer than four-years (which is the restriction for traditional frameworks). Further information on the DPS to be adopted for this procurement will be included in the procurement strategy in the New Year.

3.8.3 The commissioning strategy in **Appendix B** outlines the commissioning intentions for the Travel Assist Service.

4 Options Considered and Recommended Proposal

4.1 A full options appraisal will take place as part of the Commissioning process to determine the best solution(s) to deliver the future service requirements. The consultation with service users, parents, schools and providers will help to inform this process.

4.2 The options which have been considered in relation to the proposed 0-25 policy are as follows. First, to not consult on the draft 0-25 policy, retain the existing policies and adopt a post-19 policy. However, the existing policies require amendment to be brought up to date with current statutory guidance, ensuring they are lawful, and to give effect to the proposed commissioning strategy, if approved. Therefore, this option is not recommended. Secondly, to consult on the draft 0-25 policy. This option is recommended because a policy has been drafted which complies with the statutory guidance and would be compatible with the commissioning strategy, if it is adopted.

5. Consultation

5.1 Internal

5.1.1 Consultations have taken place with the following:

- The Interim Assistant Director for SEND, Children & Young People Directorate
- The Interim Assistant Director for Commissioning, Children & Young People Directorate
- Council Management Team

- The Travel Assist Manager
- The Commissioning and Contract Management Board

5.1.2 This report has been drafted in consultation with officers from Legal and Governance, Finance and Corporate Procurement and Commissioning.

5.2 External

5.2.1 Market engagement has been completed by the commissioning and procurement team with external providers and public sector bodies.

6 Risk Management

6.1 The Corporate Procurement Service (CPS) approach is to follow the Council Risk Management Methodology and the Travel Assist Team is responsible for local risk management. A risk register for this project will be jointly produced and owned by The Travel Assist team and CPS with arrangements being put in place to ensure operational and procurement risks (respectively) are appropriately mitigated.

7. Compliance Issues:

7.1 **How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

7.1.1 The recommended decisions are consistent with the Council policies, plans and strategies;

- The Council has a statutory duty to make transport arrangements for eligible children with Special Educational Needs and Disabilities (SEND) and to provide free transport to eligible children based on distance, safe walking routes and low income. Some children and adults have needs that require specialist vehicles and escorts; this can be provided under the proposed contract.
- Having access to appropriate travel assistance ensures every child is supported to attend school. Regular reviews of travel plans will support the development of increased independence where appropriate.
- Supporting educational attainment and independence helps to tackle the causes of deprivation and inequality through improving educational performance and confidence.

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

- Due to the value of spend for some suppliers being below £200,000, the Birmingham Business Charter for Social Responsibility will not apply to them.

- For those suppliers with whom we spend £200,000 or more per annum, as part of the contract review and extension we will seek to put in place new charter actions plans for all contractors
- The design of a new contract will include consultation on what social value can be sought from the contract. In part this will be through pre-market engagement to determine the social value opportunities.

7.2 Legal Implications

- 7.2.1 The Council has a duty under Section 508A of the Education Act 1996 to promote sustainable modes of travel.
- 7.2.2 The Council also has a duty under Section 508B of the Education Act 1996 to make suitable home to school travel arrangements for eligible children.
- 7.2.3 The Council has the power under section 509A of the Education Act 1996 to make travel arrangements for children receiving early years' education otherwise than at school.
- 7.2.4 The Education Act 1996 requires local authorities to adopt and give effect to a transport policy statement dealing with young people of sixth-form age (section 509AA) specifying the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age at their place of education or training.
- 7.2.5 The Council has a duty under section 508F of the 1996 Act to make such arrangements for the provision of transport and otherwise as the authority consider necessary for facilitating the attendance of adults at their place of further or higher education, and the Council must prepare and publish a transport policy statement dealing with young adults aged 19 and over for whom an Education, Health and Care Plan is maintained (Section 508G).
- 7.2.6 The Education Act 1996 does not expressly require the preparation of a transport policy for children of compulsory school age. However, the statutory guidance says "local authorities must publish general arrangements and policies in respect of home to school transport for children of compulsory school age. This information should be clear, easy to understand and provide full information on the travel and transport arrangements. It should explain both statutory transport provision, and that provided on a discretionary basis. It should also set out clearly how parents can hold local authorities to account through their appeals processes".
- 7.2.7 The Council is under a duty to have regard to statutory guidance issued by the Department for Education when carrying out its duties in relation to home to school travel and transport, including when making and

consulting on policy changes. The statutory guidance is at **Appendices C and D** to this report.

- 7.2.8 The requirements of the Data Protection Act 2018 and Human Rights Act 1998 will be taken into consideration in terms of the processing, management and sharing of data involved in these proposals. The recommended tenderer will be required to demonstrate or evidence that they have appropriate policies and procedures relating to data protection in place. A full diligence exercise will be undertaken by Legal Services. Data Processing / Sharing Agreements will be agreed with the recommended tenderer.
- 7.2.9 There have been a number of legal challenges recently with regards to Home to School Transport provided by other Local Authorities and the quality of consultations. The consultation to be undertaken on the 0-25 Policy will reflect this learning nationally, ensuring that all statutory stakeholders are consulted; and the consultation process is robust and meaningful.

7.3 Financial Implications

- 7.3.1 The Travel Assist Service continues to face severe financial pressures in 2018/19, which it is seeking to address.
- 7.3.2 The budget for Travel Assist in 2018/19 is £18.396m and the forecast spend at Month 7 was £21.912m, which represents an overspend on budget of £3.516m. This is largely a result of the non-delivery of savings in previous years and increasing demand for the service.
- 7.3.3 To address the underlying issue the current Budget Consultation proposals incorporate assumptions of both pressures, funding and savings, to seek to deal with the overspend going forward. In 2019/20 pressures funding of £2.200m is included in the proposed LTFP together with assumed savings of £1.718m, based on a part year effect of changes introduced in 2019/20. Savings increase to £2.488M in 2020/21 based on the full year effect of those changes.
- 7.3.4 This report identifies the measures which will seek to deliver the required savings which are quoted above, to bring spend back in line with budget resources and consistent with the proposed LTFP.
- 7.3.5 Dependent upon the outcome of the consultation process and the consideration of various options for transport going forward, referred to in the Commissioning Strategy, there will be a need to develop further, more detailed costings and forecasts. If this results in a materially different financial position, then further consideration by Cabinet may be required.

- 7.3.6 The Commissioning Strategy has also highlighted the expected increase in demand for the service over the next four years, so the impact of demand changes will need to be kept under review over this period.

7.4 Procurement Implications

- 7.4.1 This is reflected in the Commissioning Strategy.

7.5 Human Resources Implications

- 7.5.1 There may be Human Resources and workforce considerations, including potential TUPE implications, staff and trade union consultation and engagement if any Council staff, including transport guides, are entitled to transfer to a new provider as part of the commissioning strategy.

7.6 Public Sector Equality Duty

- 7.6.1 This is reflected in the Commissioning Strategy. The consultation will be undertaken in line with the Equality Impact Assessment for the project.

8 Background Documents

- 8.1 List of Appendices accompanying this Report (if any):

- **Appendix A:** Draft 0 – 25 Policy
- **Appendix B:** Travel Assist Commissioning Strategy
- **Appendix C:** Home to school travel and transport guidance – statutory guidance for local authorities – July 2014
- **Appendix D:** Post-16 transport to education and training – statutory guidance for local authorities – October 2017

- 8.2 Background Document:

- Cabinet Report 26th June 2018 – Travel Assist Service (Forward Plan Ref. No. 005164/2018)

Travel assistance policy for 0-25 year olds in education

Contents

Introduction, key principles and types of travel assistance

Part 1: Pre-schoolers aged 0-4 (pre-compulsory school age)

Part 2: Children aged 5-16 (compulsory school age)

Part 3: Young persons aged 16-18 (sixth form age)

Part 4: Adults aged 19+

Part 5: How to apply for travel assistance and appeal against decisions

Appendices

Appendix 1: Application forms for travel assistance

Appendix 2: Further documents relevant to Part 2 (children of compulsory school age)

Appendix 3: Travel support available from schools and further education institutions for young persons of sixth form age (see page xx above)

Appendix 4: Travel concessions which may be available for young persons of sixth form age (see page xx above)

Appendix 5: Birmingham Schools, Academies and Free Schools with Sixth Forms (for persons of sixth form age – see page xx above)

Appendix 6: Travel Concessions and Other Sources of Support for adults aged 19+ (see page xxx above)

Appendix 7: List of other relevant documents

Introduction, Key Principles and Types of Travel Assistance

1. This document sets out the policy of Birmingham City Council (“the Council”) in relation to the provision of travel assistance for 0-25 year olds in education who are resident within the City of Birmingham. It is available on the Council’s website at www.birmingham.gov.uk/school-travel. It is intended to provide clarity for children, young persons, adults, parents and carers facing a wide range of circumstances. We are always looking to improve the information we make available and will use any feedback provided to us to develop this statement. If you wish to provide any feedback on the policy please contact the Education Transport Service at XXXX.
2. This policy is divided up by the following age groups as the relevant legal provisions in the Education Act 1996 are grouped this way:

Part 1: Pre-compulsory school age (0-4 year olds) – someone in this category is referred to in this policy as a pre-schooler

Part 2: Compulsory school age (5-16 year olds) – someone in this category is referred to in this policy as a child. Children become of compulsory school age at one of three points during the school year in which they turn 5, depending on when exactly their birthday is. Children cease to be of compulsory school age on the last Friday in June of the school year in which they turn 16.

Part 3: Young persons of sixth form age (16-18 year olds) – someone in this category is referred to in this policy as a young person. The legal definition is a person over compulsory school age but under the age of 19, but this definition also includes a person who began a particular course of education or training at a school or college before turning 19 and continues to attend that course.

Part 4: Adults learners (19+) – someone in this category is referred to in this policy as an adult.

3. Part 5 then sets out how to apply for travel assistance and how to appeal against decisions about travel assistance.

Key Principles

4. The following key principles apply across all age ranges covered in this policy:

Admission does not confer automatic entitlement to travel assistance:

Admissions and travel assistance are separate matters and acceptance at a particular school or other institution, or the naming of a school/institution in an EHC plan, does not automatically entitle the child or young person to travel assistance.

Budgetary considerations: The Council has a limited budget for the provision of travel assistance to those in education. Any discretionary decision about the provision of travel assistance will take account of this and the number and type of competing claims that are made upon it.

Changes in circumstances: Parents or carers (in the case of those aged under-18) of children in receipt of travel assistance and recipients of travel assistance themselves (in the case of those aged over-18, or any person acting on their behalf) must tell the Council immediately of any change in circumstances which may affect their entitlement to travel assistance.

Independent travel training: Applicants for travel assistance will be assessed for independent travel training (ITT) and recipients of travel assistance will be expected to undertake suitable ITT as part of their education to help them develop their independence.

Other means of travel: When taking discretionary decisions about the provision of travel assistance, the Council will consider all other ways and means for the applicant to get to the school or institution in question.

Personal Transport Budgets: The Council encourages the use of personal

transport budgets wherever appropriate as this helps individuals and families to have the most control over their travel arrangements.

Parental involvement: Parents are expected to accompany their children to school or college where necessary until they turn 18 unless there is a good reason why this is not possible.

Reviews of travel assistance: All grants of travel assistance will be reviewed at least once per year and in all cases where there is, or may be, a significant change in circumstances affecting eligibility for travel assistance (e.g. change in school or home address, change in personal or family circumstances, change in recipient's needs). Where the recipient of travel assistance has an EHC plan then this review will be undertaken at or following the annual review of the plan. Any changes to travel assistance following a review will be implemented from the beginning of the next academic term, or sooner by mutual agreement.

Travel concessions, bursaries, state benefits etc.: The Council expects applicants for travel assistance to have applied for and/or made use of all travel concessions, bursaries, state benefits (including mobility cars) etc. for which they are eligible.

Travel for other purposes: When taking discretionary decisions about the provision of travel assistance the Council may take into account how the applicant travels (or is able to travel) for non-educational purposes, e.g. recreation, shopping, family visits etc.

Types of Travel Assistance

5. The Education Act 1996 and this policy use the phrase 'travel assistance' because the form this takes will vary and often does not involve the Council providing any transport at all. The Council will determine what is appropriate in each case, taking account of its legal obligations, the needs of the applicant, safety considerations, the best use of the Council's resources, any expressed preference and any other relevant matter. As a guide, the

following are the types of provision made in most cases:

- **Travel pass** – This is a free pass for the use on public transport and is the most common form of travel assistance provided.
- **Personal Transport Budget** – This will be paid on a monthly basis over 11 months to the parent or carer (in the case of those under-18) or the individual or a person acting on their behalf (in the case of those over-18). The parent/carers or adult individual then assumes full responsibility for the travel arrangements and getting the child or themselves to their place of education on time and achieving good attendance. It is anticipated that the use of personal transport budgets can meet most individual and family's needs and the Council encourages their use wherever appropriate.
- **Transport vehicles** – The provision of a vehicle to transport a child, young person or adult to and from their place of education. Vehicles and drivers are provided by a suitably qualified, registered, commercial provider working to contractual standards set by the Council. Whenever possible, individuals will travel together in a suitable vehicle, specially adapted as necessary to meet their needs. Each route will be planned on the basis of the start and finish times of the place of education and the shortest possible route for all passengers on a particular vehicle. Passengers will be picked up and dropped off at a convenient location, within a reasonable distance from their home, in many cases from recognised bus stops. A home pick up and drop off will only be made where it is deemed essential due to the individual's significant needs.
- **Provision of a Guide** – A pupil guide may be provided to accompany a child, young person or adult to their place of education whether using public transport or on Council provided transport. Pupil Guides will only be provided where they are necessary for the safe operation of vehicles and/or the care of children and young people

and where parents or carers are not reasonably able to accompany them.

- **Other** – The Council may provide any other form of travel assistance which is considered suitable and will consider any suggestions from applicants about any particular type of travel assistance

Part 1: Pre-schoolers aged 0-4 (pre-compulsory school age)

6. The Council's policy is not to provide travel assistance to pre-schoolers except where the pre-schooler has an EHC plan and the circumstances can be said to be exceptional. Even where the Council does provide travel assistance to a pre-schooler it will make a charge for this [which will be calculated in the same way as the charge for the provision of travel to young persons as set out in Part 3].
7. The Council will consider whatever is said in any application but will have particular regard to the following:
 - Distance and journey time from the pre-schooler's home to their place of education and the cost of providing travel assistance to there
 - What alternative means of facilitating attendance there may be
 - What alternative placements or options there may be
 - The contents of any EHC plan (including anything about transport)
 - The best use of the Council's resources and the competing claims upon them

Part 2: Children aged 5-16 (compulsory school age)

8. The Education Act 1996 sets out the categories of children and young persons of compulsory school age who are eligible for free travel assistance. The Council's policy is to provide travel assistance to these categories of eligible children in accordance with its legal obligations, but not otherwise unless there are exceptional circumstances. Appendix 2 contains a list of other documents that are relevant to this part of the Council's 0-25 policy.
9. Where travel assistance is provided it will be whatever the Council considers is necessary and suitable for the purpose of facilitating the child's or young person's attendance at school for the normal school day. A list of the most usual types of travel assistance is set out at page xx above.
10. There are 3 categories of eligible children to whom the Council is obliged to provide travel assistance free of charge as set out below. Where they refer to a "qualifying school" this means a school (or nursery) maintained by the Council ("state schools"), a pupil referral unit, a non-maintained special school, Academy or a place where a child is receiving education arranged by the Council otherwise than at school. A "home address" is considered to be a residential property that is the child's only or main residence and is either:
 - a) Owned by the child's parent(s), or the person with parental responsibility for the child; or
 - b) Leased to or rented by the child's parent(s), or the person with parental responsibility under lease or written rental agreement of not less than twelve months duration; and
 - c) Where parents have shared responsibility for a child, and the child lives with both parents for part of the week then the main residence will be determined as the address where the child lives the majority of the week. Parents may be requested to supply documentary evidence to satisfy the authority that the child lives at the address put forward

by the parents.

11. The 3 categories of eligible children are as follows.

Category 1: Distance

12. Travel assistance will be provided for children who attend their nearest qualifying school and the distance between their home address and school is over the statutory walking distance. The statutory walking distances are:

- 2 miles for children under 8 years of age
- 3 miles for children or young people aged 8 or over.

13. Below these distances the responsibility for the journey to school rests with the parents or carers. The statutory walking distance is measured along a route that a child might reasonably be expected to walk to school accompanied where necessary by a parent or carer.

14. Where a parent or carer chooses a school for the child but there is a qualifying school nearer to home which he or she could attend then travel assistance is not available under this heading. In the case of children with an EHC plan there may be cases where a school that is not the nearest qualifying school is named on the basis that the parents will be responsible for transporting them. Where this happens the EHC plan will be worded accordingly and make the position clear.

Category 2: Low income families

15. "Low income family" means one where the child or young person is entitled to free school meals or where one or both parents are in receipt of the maximum level of working tax credit. Children or young people in such families who do not qualify for travel assistance in category 1 (distance) above are nonetheless entitled to travel assistance if they satisfy the following criteria:

- Primary Aged Children: Children aged between 8 and 11 years of age from low income families are entitled to free travel assistance

where they are attending their nearest qualifying school and that school is more than 2 miles from their home.

- Secondary Aged Children and Young People: Children and young people aged 11-16 (in year groups 7 to 11) from low income families are entitled to free travel assistance if they are attending a school more than 2 miles but not more than 6 miles from the home address and it is one of the three nearest suitable qualifying schools from their home. This distance is extended from 6 to 15 miles if the parents or carers have selected the nearest qualifying school based on their religion or belief and, having regard to the religion or belief in question, there is no suitable qualifying school nearer to home.

Category 3: Special educational needs or disability

16. Children and young people who do not qualify for travel assistance under category 1 (distance) or category 2 (low income) above are nonetheless entitled to travel assistance if they are attending the nearest qualifying school to their home which is suitable for their needs but have special educational needs, a disability or mobility problem and for this reason cannot reasonably be expected to walk to that school, even if accompanied.
17. As noted above in relation to category 1, in the case of children with an EHC plan there may be cases where a school that is not the nearest qualifying school is named on the basis that the parents will be responsible for transporting them. Where this happens the EHC plan will be worded accordingly and make the position clear.

Part 3: Young persons aged 16-18 (sixth form age)

18. This part of the policy includes the Council's Transport Policy Statement which the Education Act 1996 requires it to publish each year, setting out what travel assistance is available, from the Council and other bodies, to facilitate the attendance of young persons of sixth form age receiving education or training at schools, FE colleges/institutions, 16-19 Academies, and certain other institutions maintained or funded by the Council.

19. The vast majority of young people do not receive or require travel support from the Council and, unless the circumstances are exceptional, the only category of young persons of sixth form age the Council will consider providing travel assistance for are those with an Education Health and Care Plan, a disability or learning difficulties. In considering whether to provide travel assistance the Council will have regard to the following:

- The needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made;
- The needs of those who are vulnerable to becoming not in education, employment or training (NEET) at the age of 16 or 17, or who have already become NEET
- The needs of young persons who are parents
- The need to ensure that persons in the Birmingham area have reasonable opportunities to choose between different establishments at which education or training is provided;
- The Council's general duties to ensure that enough suitable education and training is provided to meet the reasonable needs of 16-18 year olds;
- Distance and journey time from the student's home to establishments of education and training, the cost of transport there and alternative means of facilitating attendance at establishments;
- The nature of the route or alternative routes which the young person could reasonably be expected to take;

- Any preference to attend a particular educational establishment based on religion or belief;
- The nature of the young person's special educational needs, disability or learning difficulty;
- Anything said in an EHC Plan about transport;
- Whether there is a nearer institution which is suitable and can provide the same or similar qualification(s)
- The best use of the Council's resources

20. As set out in the Key Principles above, the Council will also expect applicants first to have applied for and made use of all other sources of assistance. Financial assistance may be available from (or by applying through) the school or further education institution in question and Appendix 3 sets out full details of these schemes. In addition there are various concessionary travel schemes in Birmingham which may be available and these are set out in Appendix 4.

21. If the Council agrees to provide travel assistance it will usually take one of the forms set out at page xx above.

22. Where the travel assistance consists of a taxi or specialist vehicle, the young person and/or his or her parents or carers will be required to contribute towards the cost of this. The amount that will be required is £780 per academic year or £390 if the young person is from a low income family. The Council will consider a young person to be from a low income family if he or she falls into any of the categories below:

- Families in receipt of Income Support.
- Families in receipt of Income Based Jobseekers Allowance (IB JSA).
- Families who receive Child Tax Credit and have an annual income below the relevant threshold.
- Families who receive Employment and Support Allowance (Income related).
- Families who receive The Guarantee Element of State Pension Credit.

- Families who receive support under Part VI of the Immigration and Asylum Act 1999.
- Families in receipt of the maximum level of Working Tax Credit.
- Families in receipt of benefits that supersede those listed above.

23. Young persons who receive Income Support or income based Job Seekers Allowance in their own right will also be considered to be from a low income family.

24. The payment is a contribution towards the cost of providing the transport and the Council will fund the balance. This contribution is required due to the high cost of such transport and the Council's limited resources. It enables the Council to provide transport and travel assistance to a greater number of young people with special educational needs or disability or learning difficulties than would otherwise be the case.

25. The amount of contribution will be reviewed annually and will take account of any change in the relevant Council budget. Any changes will be notified to the affected young persons and their parents or carers. This transport policy statement will be amended and re-published where any costs are changed.

26. Appendix 3 is a list of sources of travel support available to young persons through schools and further education institutions. Enquiries and applications in respect of these should be made through the young person's school or institution.

27. Appendix 4 is a list of travel concessions which may be available to young persons.

28. Appendix 5 is a list (in alphabetical order) of schools, Academies and Free Schools with sixth forms in the Council's area.

Part 4: Adults aged 19+

29. This part sets out the Council's transport policy statement as required by section 508G of the Education Act 1996 in respect of academic year 2018/19 for adults, that is to say persons who are not of compulsory school age or sixth form age. Section 508G of the Education Act 1996 requires the Council to specify in this document:
- a. any transport or other arrangements, and any payment of travelling expenses, made or to be made in relation to the academic year under section 508F in relation to adults (Post-19) with an EHC plan; and
 - b. any travel concessions which are to be provided to adults (Post-19) with an EHC plan receiving education or training at certain institutions.
30. This policy statement also sets out the Council's arrangements under section 508F in relation to adults without an EHC plan.
31. The Council does not consider it necessary to make any general arrangements for free transport or the payment of any travelling expenses under section 508F of the Education Act 1996 and will only consider doing so for individuals if they have an EHC plan or the circumstances are exceptional. The Council will consider whatever is said in any application but will have particular regard to the following:
- Distance and journey time from the applicant's home to their place of education and the cost of providing travel assistance to there
 - What alternative means of facilitating attendance there may be
 - What alternative institutions or options there may be
 - The contents of any EHC plan (including anything about transport)
 - The best use of the Council's resources and the competing claims upon them
32. The Council is required by law to provide any travel assistance considered necessary under section 508F free of charge.
33. Appendix 6 is a list of travel concessions and other sources of support for adults aged 19+.

Part 5: How to apply for travel assistance and appeals against decisions about travel assistance

34. A formal application must be made to the Council's Travel Assist Service for all travel assistance in this policy, and all applications must be made on the prescribed form. The forms are at Appendices xx-xx and are also available on the internet at [INSERT ADDRESS].
35. For pre-schoolers and children the application should be made by a parent or carer. For young persons with an EHC plan attending a special school or college applications should be submitted by the learning establishment the young person attends direct to the Council's Travel Assist Service. For other young persons and adults, the application should be made by the young person or adult, or by a person acting on their behalf.
36. Each application will be processed as quickly as possible but during the application process parents of a child of compulsory school age remain under their legal duty to ensure the child attends school regularly, and all other applicants for travel assistance remain responsible for their attendance.
37. Consideration will be given to everything said in applications and all evidence provided in support as well as all matters to which the Council is required by law to have regard, in order to determine whether to provide travel assistance and if so, what form that assistance should take and (where applicable) whether any charge will be made.
38. If an application for travel assistance is not approved by the Council, or the applicant disagrees with the type of travel assistance offered, there is a right of appeal as set out below. During the appeal stages, travel assistance will not normally be provided and changes to existing travel assistance will not normally be made.

39. Appeals should be made within 20 working days of the decision being received by the parents or carers and on the appropriate form which can be obtained by contacting the Birmingham Education Transport Service as follows:

- Telephone: 0121 303 2450 /303 4425/ 303 4955
- Email: Educationtransport@birmingham.gov.uk
- Website: www.birmingham.gov.uk/transport-travel

40. The appeal will need to set out the exact nature and grounds of the appeal. The appeals process has two stages:

Stage 1 – A Council officer will consider the appeal within 5 working days of the receipt of the appeal form and the applicant will receive confirmation that the appeal is under review. Further evidence may be requested to support the appeal and consultation with caseworkers and professional bodies may be required. A decision and notification will be made within 20 working days from receipt of the appeals form. If the applicant remains dissatisfied with the outcome, they should notify the Council in writing within 20 working days of receiving the appeal decision and the appeal moves to stage 2.

Stage 2 – Stage 2 is a review by a panel of 3 Council officers independent of the original decision-making process which will take place within 40 working days. The panel will consider written and verbal representations from (or on behalf) of the applicant as well as from a Council officer involved in the case and provide the applicant with written notification of its decision within 5 working days.

41. If the applicant remains dissatisfied, , the further options are to complain to the Council using its complaints procedure, a complaint to the Local Government Ombudsman, a complaint to the Secretary of State for Education and legal proceedings but it is for applicants to decide which of these, if any, they wish to pursue.

Appendices

Appendix 1: Application forms for travel assistance

Appendix 2: Further documents relevant to Part 2 (children of compulsory school age)

Appendix 3: Travel support available from schools and further education institutions for young persons of sixth form age (see page xx above)

Appendix 4: Travel concessions which may be available for young persons of sixth form age (see page xx above)

Appendix 5: Birmingham Schools, Academies and Free Schools with Sixth Forms (for persons of sixth form age – see page xx above)

Appendix 6: Travel Concessions and Other Sources of Support for adults aged 19+ (see page xxx above)

Appendix 7: List of other relevant documents

Travel Assist Service

Appendix B – Commissioning Strategy

AMENDED Paragraph 2.5, page 7

The text below is to replace paragraph 2.5 on page 7 of Appendix B – Commissioning Strategy

2.5 Proposed changes include:

- a) Combining the policies into a single 0-25 composite policy document.
- b) Changing the Stage 2 Appeal Panel from a Members Panel to Officers. This is in line with good practice nationally; retains a Stage 2 Appeals process; and will involve officers who have a related specialism but have not been involved directly in any of the cases.
- c) Increasing the financial contribution requested from parents of children and young people who are not of compulsory school age.
- d) Clarifying the circumstances when travel assistance will be provided for children who are below compulsory school age.
- e) Setting out the Council's policy in relation to travel assistance for young adults over the age of 19.
- f) Strengthening the emphasis on independent travel training and alternative modes of transport.
- g) An increased emphasis on the use of Personal Transport Budgets.
- h) Greater clarity of the application process and eligibility for parents (what we will and won't do).
- i) Greater clarity concerning the rights and responsibilities of parents towards accompanying their children to school.
- j) Greater clarity around the factors that will be relevant to the decision whether to offer travel assistance

COMMISSIONING STRATEGY - TRAVEL ASSIST

Version	Author	Changes	Date
V0.1	Sarah Sinclair	First version	17.7.18
V0.2	Samantha Richardson	Demand Modelling Added (where data was available)	10.10.18
V0.3	Carol Woodfield	Options Appraisal Information	07.11.18
V0.4	Samantha Richardson	Proof read and amendments	08.11.18
V0.5	Sarah Sinclair	Further drafting changes	13.11.18
V0.6	Carol Woodfield / Ann Marie Rochford	Further drafting changes	16.11.18
V0.7	Sarah Sinclair	Further drafting changes. Incorporating comments from Ian Burgess and Paul Stevenson	20.11.18

Birmingham City Council

Travel Assist Commissioning Strategy 2018 - 2023

DRAFT 0.7

1.0 Introduction

- 1.1 Birmingham City Council (the Council) is spending more than it can afford on travel assistance for children and young people with special educational needs and disabilities (SEND). Whilst improvements have been made within the service in recent years, significantly more needs to be done. There needs to be a brave and bold approach to addressing this complex priority. There are no easy options due to the sometimes challenging and complex needs of service users, relationships with stakeholders and the level of dependencies with other services.
- 1.2 This commissioning strategy has been developed in recognition of the quality improvements and financial efficiencies that need to be made. It sets out the required actions to promote and develop services to deliver more sustainable, healthier and safer journeys for education. The strategy sets out the vision for travel assistance for children and young people in Birmingham, the strategic and policy context and an outline of the proposed commissioning approach.

Context

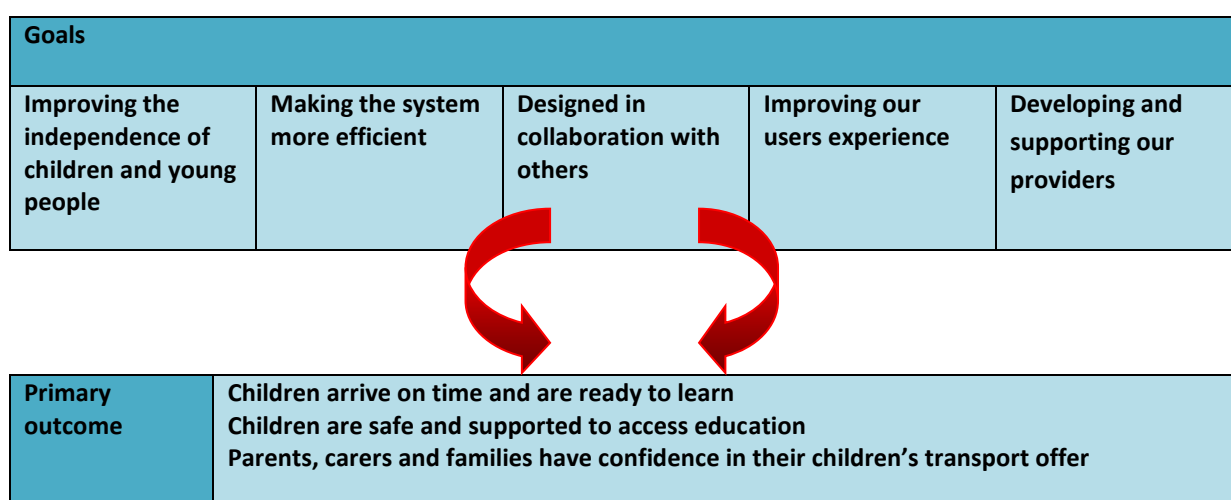
- 1.3 The Council is seeking to improve the SEND offer as well as reducing the cost of providing this vital service. Birmingham's travel assist service provides a variety of transport options to over 4,250 children and young adults on a daily basis, with an additional 1,500 receiving bus passes and an overall budget of £18.4m for 2018/19. Over 330 additional families successfully applied for specialist transport during the 2017/18 academic year and the numbers of children being transported across the city have grown year on year in line with an increase in Education, Health and Care Plans. On current spend sustainable savings of circa £2.488m will need to be made by 2021-21, in addition to containing additional demand through the impact of the Commissioning Strategy and policy changes.
- 1.4 The Children and Families Act 2014 introduced major reforms to the way local authorities and their partners support children and young people with SEND. There have been previous attempts to reduce spend on travel assist but these to date have not delivered the level of savings needed.
- 1.5 The Council is required to have a robust, equitable and coherent transport policy in line with the Department for Education (DfE) Home to School Transport Statutory Guidance July 2014, the Post-16 Transport to Education and Training Statutory Guidance 2017 and the SEND Code of Practice 2014. These documents set out guidance on legal duties and best practice expectations each local authority is required to meet. This includes a guideline for maximum travel times (45 minutes for primary and 75 minutes for secondary and post 16), plus the provision of supporting escorts. The Council's SEND transport offer is set out in the transport

policy which outlines the scope and parameters of the Councils SEND transport offer based on the above statutory guidance.

Birmingham Vision for travel assistance

- 1.6 Birmingham's vision for travel assistance is to ensure every pupil with SEND is able to access a safe and efficient service that is reliable and flexible. Our aim is to ensure pupils arrive at their destination safely, giving them the best possible opportunity to start the day ready to learn. We understand that supporting educational attainment and independence helps to tackle the causes of deprivation and inequality through improving educational performance and confidence. We wish to introduce new and alternative models of delivery, including pick up points and school led transport, in order to reduce carbon emissions in line with the clean air and green agenda.
- 1.7 Our mission is to offer every pupil the opportunity, where appropriate, to undertake travel training to feel empowered and enabled to access school or college independently and to utilise those skills through to adulthood. Maximising independence improves the social and life skills of pupils and this stays with them through to adulthood.
- 1.8 Birmingham will support families and schools with all pupils' transitions towards independence and encourage a reduction in the dependency on the system and the Council.
- 1.9 The Council aspires to provide an environment and ethos which supports children and young people to travel on foot, by bike or by public transport. We want to embed a culture of sustainable travel for educational journeys, particularly focusing on walking and cycling, to tackle congestion, improve air quality, improve public health, support community cohesion and improve road safety.

Goals and outcomes



Secondary outcome	<p>Children experience a consistent and timely service to reduce anxiety/uncertainty</p> <p>Children travel for the minimum amount of time possible to get to school</p> <p>Children are relaxed and ready to learn each day</p> <p>Children are supported to travel to school effectively</p> <p>Children are protected from harm</p> <p>Children are enabled to travel as independently as possible</p> <p>Parents and carers have trust and confidence in their children's transport offer</p> <p>Parents and carers feel supported to develop their own family life balance</p> <p>Parents, carers and young people have involvement in the decision making related to their or their children's travel</p>
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2.0 Legislative requirements, strategic and policy context

- 2.1 A child or young person has SEND if they have a learning difficulty or disability which calls for special educational provision to be made for him or her. A child of compulsory school age or a young person has a learning difficulty or disability if he or she;
- a) Has significantly greater difficulty in learning than the majority of others of the same age, or
 - b) Has a disability which prevents or hinders him or her from making use of facilities generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.
- 2.2 Many children and young people who have SEND may have a disability under the Equality Act 2010 – that is ‘a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities’. This definition provides a relatively low threshold and includes more children than many realise: ‘long-term’ is defined as ‘a year or more’ and ‘substantial’ is defined as ‘more than minor or trivial’. This definition includes sensory impairments such as those affecting sight or hearing, and long-term health conditions such as asthma, diabetes, epilepsy, and cancer. Children and young people with such conditions do not necessarily have SEND, but there is a significant overlap between disabled children and young people and those with SEND. Where a disabled child or young person requires special educational provision they will also be covered by the SEND definition.
- 2.3 The Equality Act 2010 sets out the legal obligations that schools, early years providers, post-16 institutions, local authorities and others have towards disabled children and young people.

Related legislation and guidance

Working Together to Safeguard Children (2018): Statutory guidance from the Department for Education which sets out what is expected of organisations and individuals to safeguard and promote the welfare of children.

Children and Families Act 2014: This Act makes provision about children, families, and people with special educational needs or disabilities.

Special educational needs and disability code of practice: 0 to 25 years – statutory guidance: Guidance on the SEND system.

Education Act 1996: This Act contains the main provisions relating to home to school transport.

Home to school travel and transport guidance: statutory guidance 2014.

Post-16 transport to education and training: statutory guidance 2017.

Equality Act 2010: This Act sets out the legal obligations that schools, early years' providers, post-16 institutions, local authorities and others have towards disabled children and young people.

The Children Act 1989 Guidance and Regulations Volume 2 (Care Planning Placement and Case Review) and Volume 3 (Planning Transition to Adulthood for Care Leavers): Guidance setting out the responsibilities of local authorities towards looked after children and care leavers.

Reasonable adjustments for disabled pupils (2012): Technical guidance from the Equality and Human Rights Commission.

Supporting pupils at school with medical conditions (2014): statutory guidance from the Department for Education.

The Mental Capacity Act Code of Practice: Protecting the vulnerable (2005)

Underpinning principles in the SEN Code of Practice

Participating in decision making – children, young people and their parents must be involved in discussions and decisions about their individual support and about local provision.

Supporting children, young people and their parents to participate in decisions about their support - providing information, advice and support as necessary to enable them to participate in discussions and decisions about their support.

Involving children, young people and their parents in planning, commissioning and reviewing services - children, young people with SEND and their parents must be consulted with when reviewing education and training provision, social care provision and when preparing and reviewing the Local Offer.

Identifying children and young people's needs – local authorities must carry out their functions with a view to identifying all the children and young people in their area who have or who may have a disability.

Greater choice and control for parents and young people over their support – the Local Offer should reflect the services that are available as a result of strategic needs assessments and reviews of local education and care provision.

Collaboration between education, health and social care services to provide support – local authorities must ensure that services work together where this promotes children and young people's well-being or improves the quality of special education provision and must work together to assess local needs and to plan and commission services jointly.

High quality provision to meet the needs of children and young people with SEND – schools and colleges must use best endeavours to ensure provision is there for those who need it underpinned by high quality teaching.

Focus on inclusive practice and removing barriers to learning – when a child or young person has SEND but does not have an Education, Health and Care Plan (EHCP) they must be educated in a mainstream setting, except in specific circumstances.

Supporting successful preparation for adulthood - partners should work together to help children and young people achieve their ambitions in relation to employment, independent living, participating in society and being as healthy as possible in adult life.

0-25 Travel Policy

2.4 At present the Council has three different policies/approaches for transport based on the ages of children: 4/5-16; 16-18; 19+ and there has been a lack of consistency and clarity in their application. This Commissioning Strategy has been shaped by the proposed changes to the 0-25 Travel Policy.

2.5 Proposed changes include:

- a) Combining the policies into a single 0-25 policy document
- b) Reviewing the level of charges for some travel assistance
- c) A focus on independent travel training and alternative modes of transport
- d) Support for parents with transitions and reducing dependency on the system and the Council
- e) A review of transport where families live very close to school (in line with other local authorities and national guidance)
- f) Changing the appeals process
- g) Greater clarity of the application process and eligibility for parents (what we will and won't do)
- h) Clarity concerning the rights and responsibilities of parents, schools, Council and the transport provider
- i) Transparency regarding budgets
- j) Packages of support with other SEND-related services
- k) The green transport agenda/emission reductions in line with the Councils clean air strategy
- l) Working more closely with schools, parents and carers collaborate on how best to deliver the home to school transport for children in their care

Policy and strategic context –sustainability and the green agenda

2.6 The Education Act 1996 places a general duty on local authorities to promote the use of sustainable travel and transport. The duty applies to children and young people of compulsory school age who travel to receive education or training in a local authority's area. The duty relates to journeys to and from institutions where education or training is delivered.

2.7 There are five main elements to the duty which local authorities must undertake:

Assessing the travel and transport needs of children and young people – developing and implementing a package of measures to improve safety and reduce car use, supported by a partnership involving the school, education, health and transport officers from the local authority, and the police. This needs to seek to secure benefits for both schools and children by improving health through active travel and reducing congestion caused by school runs, which in turn helps improve local air quality.

Audit of infrastructure to support sustainable school travel – developing a comprehensive understanding of local infrastructure supporting sustainable school travel. The audit should include a mapping exercise showing how schools are served by bus and other public transport routes; footpaths, cycle ways, roads and associated features and any other arrangements made to support sustainable school transport that may be in operation. The audit should also consider data relating to personal safety and security, and other factors that influence travel choices, such as poor behaviour on school buses and/or the incidence of bullying on the journey to school.

Strategy to develop infrastructure to support travel needs of pupils - establishing a strategy for developing existing infrastructure so that it better meets the needs of children and young people in their area.

Promotion of sustainable travel and transport to and from school - The sustainable school travel duty should have a broad impact, including providing health benefits for children, and their families, through active journeys, such as walking and cycling. It can also bring significant environmental improvements, through reduced levels of congestion and improvements in air quality to which children are particularly vulnerable.

Publish a Sustainable Modes of Travel Strategy - Local authorities are required to publish their Sustainable Modes of Travel Strategy on their website by 31 August each year.

3.0 Travel assistance in Birmingham - current service overview

Home to school transport

3.1 Local authorities have a duty to make such travel arrangements as they consider necessary to facilitate attendance at school for eligible children. Eligible children are defined as those children of compulsory school age (5-16) in an authority's area for whom free travel arrangements will be required. Local authorities are required to:

- a) Provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school is beyond 2 miles (if below the age of 8) or beyond 3 miles (if aged between 8 and 16)
- b) Make transport arrangements for all children who cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety issues related to their special educational needs (SEN) or disability. Eligibility for such children should be assessed on an individual basis to identify their particular transport requirements. Usual transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to SEN and/or disability.
- c) Make transport arrangements for all children who cannot reasonably be expected to walk to nearest suitable school because the nature of the route is deemed unsafe to walk.

- 3.2 Birmingham's travel assist service provides a variety of transport options to over 4,200 children on a daily basis, with an additional 1,500 receiving bus passes and has an overall budget of £18.4m for 2018/19. The majority of the children using the service have requirements related to SEND with the service also supports looked after children; children in temporary accommodation and other vulnerable groups. The service operates more than 590 routes and has a range of support options including: 1-to-1's; mini bus/coach transport; Travel Guides; Personal Transport Budgets; bus passes and Independent Travel Training. The latter has been introduced over the last 18 months and has been extremely well received by schools with many developing their own programmes.
- 3.3 Travel Assist is experiencing an increase in demand. Over 330 additional families successfully applied for specialist transport during the 2017/18 academic year and the numbers of children being transported across the city have grown year on year, in line with an increase in Education, Health and Care Plans.
- 3.4 The increase in the number of children on mini-buses has put the service under enormous strain, particularly with regards to travel guides and sufficient and suitable tail hoist vehicles to allow for wheelchair access. The service simply cannot continue to provide transport in the manner it has to date, and the full range of options available, including personal transport budgets and bespoke solutions for families must be developed and considered.
- 3.5 Using regularly updated service data and evidence, including examples of best practise from elsewhere, new small scale models of delivery (school ownership of transport; joint working with the adult service fleet; pick-up points) have been launched in recent months and have subsequently impacted positively upon market conditions. All these changes present, for the first time since August 2016, an opportunity to transform how the service operates across the city and supports children and families by introducing a hybrid model of delivery. A new commissioning strategy and plan will outline what this could look like, alongside the development of a new policy informed through consultation with families, schools and stakeholders.

Pupil headcount

- 3.6 There are currently 8472 children in Birmingham with an EHCP or statement of Special Education Need in schools across Birmingham broken down by:
- a) 6975 pupils in LA maintained settings which includes: Special Schools (4550); Mainstream Schools (1799); Resource Provision (624) and PRU (2)
 - b) 317 pupils in further education at LA Further Education Settings: Special Colleges (27) and Further Education Mainstream Colleges (209)
 - c) 302 pupils are in Other Local Authority Maintained settings which includes: Special Schools (136); Resource Provision (12) and Mainstream (154),
 - d) 64 pupils are in Other Local Authority Further Education Settings - Special Colleges (11) and Mainstream (53)
 - e) 895 are in independent settings – Special Schools (583); Alternative (117); Mainstream (129); Home Education (65) and one pupil is in an independent 'other' setting

- 3.7 Demand projections show that there will be approximately 9862 pupils with an EHCP or statement of SEND by 2020/2021; an increase of 1390 pupils over the next 3 years.

School Type	01/09/2013	01/09/2014	01/09/2015	01/09/2016	01/09/2017	01/09/2018	01/09/2019	01/09/2020	01/09/2021
LA Maintained Special	3624	3822	3923	4152	4342	4550	4776	5003	5232
LA Maintained Resource Provision	476	521	548	564	592	624	657	691	726
LA Maintained PRU	31	50	15	12	4	2	1	1	1
LA Maintained Mainstream	2132	1999	1938	1906	1849	1799	1751	1705	1669
LA Out of School	0	13	0	0	0	0	0	0	0
LA Referrals	0	0	0	0	0	0	0	0	0
LA FE Special	1	1	11	15	21	27	33	39	45
LA FE Mainstream	38	97	8	125	166	209	251	293	335
OLA Maintained Special	46	60	34	89	112	136	159	183	206
OLA Maintained Resource Provision	1	5	2	7	10	12	15	18	20
OLA Maintained PRU	1	1	0	0	0	0	0	0	0
OLA Maintained Mainstream	148	108	79	125	138	154	174	195	216
OLA FE Specials	6	7	3	7	9	11	14	16	19
OLA FE Mainstream	11	20	4	31	42	53	65	76	87
Independent Specials	228	212	275	408	496	583	670	758	848
Independent Alternative	7	64	84	83	100	117	133	150	166
Independent Mainstream	37	62	78	90	109	129	148	167	187
Independent Home Education	0	22	27	40	53	65	78	91	104
Independent Other	1	3	17	1	1	1	1	1	1
	6788	7067	7046	7655	8044	8472	8926	9387	9862

Internal provision

- 3.8 Travel assist is part of a group of services that support families with children with SEND. These include SENAR, Early Support and Access to Education. The services currently provide travel assistance for over 4,000 pupils. We also issue bus passes to SEND pupils instead of door to door transport. Travel assistance for eligible pupils is provided in the following ways:

Bus/Train Pass - pupils (or in some cases the pupil and parent) are provided with a bus or train pass. This can be a weekly/monthly/annual pass, dependent on the requirement.

Door to door transport – this is provided by various suppliers and methods including, private hire, black cab, accessible (tail hoist) and non-accessible minibuses. This is generally provided by suppliers on the T23 Framework; however we have a small number of vehicles (12) that are commissioned from BCC Adult Services Transport that provide a service to one school.

Pick up points – we provide transport to two schools whereby parents/carers are required to take their child to a pick up point. The pick-up points are a short distance from the pupils' home but this reduces the time the pupils are on board the vehicle, allows for bigger vehicles to be used, reduces carbon emissions and driver/guide working hours. Travel training can also be provided for pupils that wish to be trained to get to and from the pickup point independently.

Guides – guides are only provided on vehicles where the pupil(s) need additional support. Travel Assist currently employs over 600 permanent and relief guides and also procures agency guides. Parents are generally required to act as a guide if their child is a lone traveller and requires a guide.

Public Transport Guides – guides support pupils to travel on public transport. This is used as a gateway to travel training.

Travel Training – we have a small team of travel trainers that work with four schools to travel train pupils. We are currently looking at external suppliers that can increase the number of pupils that are travel trained. We work with schools and have provided travel training support in order that they can provide travel training to their pupils.

3.9 We also supply transport for life limited pupils that travel with complex care nurses.

Current commissioning and procurement arrangements

3.10 A contract for the provision of Transport Services was entered into in August 2009. The contract duration was 2 years with an option to extend for a further 2 years. Further subsequent contract extensions were approved and the current contract is due to expire in August 2019. The annual value of the contract is £13.805m, and the primary user of the contract is the travel assist team within the Children and Young People Directorate. The contract operates under 3 lots, consisting of various call-off contracts which cover transport provided through taxis, minibuses and specialist vehicles, transporting children to and from schools within Birmingham.

3.11 There are a number of contracts currently in place for travel assist that end 31 October 2019:

Supplier	% Of Allocated Work
A KHAN T/A CASTLE CARS	0.17%
ACCESSIBLE TRANSPORT GROUP LTD	46.86%
ATTAIN TRAVEL LTD	0.01%
BEARWOOD COACHES	7.69%
BEAUFORT CARS	1.39%
CHASEBASE LTD T/A PARKER RADIO CARS	0.14%
COMMUNITY TRANSPORT	0.50%
CRUCIBLE EDUCATION LTD	0.30%
ELITE RADIO CARS LTD	0.93%
ELMDON CARS (TAXIS) LTD	0.11%
ENDEAVOUR COACHES LTD	0.15%
EURO LINERS	1.64%
FINTAX CARS LTD	0.29%
GREAT BARR CARS	1.58%
KINGS NORTON COACHES	2.10%
LAWRENCE'S GARAGE LTD	16.68%
LOCAL RADIO CARS	0.38%
M J GROSVENOR (MOTORS) LTD	0.14%
MARK TAYLOR PRIVATE HIRE	0.15%
NORTH BIRMINGHAM TRAVEL LTD	1.55%

PLAZA CARS	0.56%
ROUNABOUT CARS BHAM LTD	1.75%
SELECT PRIVATE HIRE LTD	6.21%
SHEN CARE VOLUNTARY TRANSPORT	1.29%
STAR CARS & COACHES LTD	2.88%
STATION TAXIS	0.00%
TC CARS	1.30%
TOUCHWOOD PRIVATE HIRE LTD	3.26%

- 3.12 Commissioning and contract management arrangements need significant improvement, with a specific focus on performance management, quality assurance and health and safety compliance, risk management and financial management.

Demand pressures

- 3.13 As with other parts of the country, the Birmingham travel assist service continues to see a year on year increase in demand. Over 330 additional families successfully applied for specialist transport during the 2017/18 academic year. The growth in demand for travel assist can be linked to the growth in EHCPs over recent years and the forecast further increase in EHCPs associated with demographic changes. It is projected that demand for special education travel will increase by approximately 31.8% over the next four years, with an estimated 5651 children receiving SEND transport in the financial year 2020/2021. Based on the current delivery model, it is projected that the cost of delivering the service could be in the region of just under £30m per year by 2021.

	2018/19	2019/20	2020/21	2121/22
Overall costs	£21,912,000	24,168,509	26,840,939	29,689,956
Difference per Year		2,256,509	2,672,430	2,849,017
Cumulative Difference		2,256,509	4,928,939	7,777,956
Percentage Difference from 2018/19		10.3	22.5	35.5

- 3.14 At the current average cost, and without any efficiencies and improvements, this increase could potentially create additional budget pressures of just over £8m per annum by 2022. This is based on the current travel assist uptake of children requiring a transport service following EHCP agreement remaining the same (around 37% based on 2017/18 service data).
- 3.15 There are additional pressures as under the Education and Skills Act 2008, where young people have been required, by law, to stay longer in education or training.
- 3.16 There needs to be a comprehensive modelling of future service demand and required capacity across the city. Service demand needs to be stratified to ensure service commissioning and modelling meets need. Greater focus needs to be placed on flexibility

and ensuring that service provision can reflect changing needs. Services need to be able to enable children and families to develop independence from an early age, and through key transition periods.

- 3.17 Between 2017 and 2018 the service has seen an increase of 330 children. The increase in the number of children on mini-buses has put the service under enormous strain, particularly with regards to travel guides and sufficient and suitable tail hoist vehicles to allow for wheelchair access. The service simply cannot continue to provide transport in the manner it has to date, and the full range of options available, including personal transport budgets and bespoke solutions for families must be developed and considered.
- 3.18 Using regularly updated service data and evidence, including examples of best practise from elsewhere, new small scale models of delivery (school ownership of transport; joint working with the Adults fleet; pick-up points) have been launched in recent months and have subsequently impacted positively upon market conditions. All these changes present, for the first time since August 2016, an opportunity to transform how the service operates across the city and supports children and families by introducing a hybrid model of delivery.

What needs to be improved?

- 3.19 Since 2016 the service has been the subject of a root and branch review and associated improvements have been made. Consequently, complaints have reduced, operational efficiency has improved and external relationships have improved with key stakeholders such as head teachers. However, a 'stepped' changes and a new commissioning approach is now needed to deliver the required quality improvements and financial efficiencies, shaped by a new 0-25 travel policy.

4.0 Future commissioning approach

- 4.1 This commissioning strategy for travel assistance is a key element of the Birmingham SEND Improvement Programme. We need a radical and dynamic approach to commissioning that will underpin and support our collective capacity to bring together the breath of improvement that is needed in order improve outcomes, experiences of using services and to reduce financial pressures. We are supporting children with SEND, wherever possible, to become increasingly independent, resilient, and better connected to the opportunities that are available to all children.
- 4.2 To address the medium term financial plan challenge and in order to improve outcomes and experiences for children, young people, parents, carers and stakeholders, a new cross council approach to commissioning has been established. This is a combined and concerted effort to re-design the current system and to assess, design and implement new models for the future.
- 4.3 Commissioning is an ongoing process that involves understanding local needs and resources, taking decisions about priorities and ensuring the resources available are used in the best possible way in order to improve outcomes. A commissioning approach ensures that we

target our resources and develop or procure services where they will make the most difference, and also that we enable children, young people and their families to have a say over how their needs can best be met.

- 4.4 Service modelling will be undertaken to inform formal option appraisals, including “do nothing” or “de minimus” options. All modelling will draw upon the evidence base of ‘what good looks like’, evaluation of best practice elsewhere and will be based upon the existing SEND and Inclusion and Placement Strategies.
- 4.5 A key aspect of service modelling will be to set out the current baseline demand and performance of the service and the future and projected service demands. Opportunities will be explored for joint working, for example with neighbouring local authorities.
- 4.6 There are a number of dependencies that need to be considered in relation to the commissioning of travel assistance services. These include new policy development for SEND, travel assist and clean air; buildings and school place planning and actions taken to improve the timeliness and quality of ECHPs.
- 4.7 Market stimulation, development and management will be a key critical success factor. Supply market evaluation, development and stimulation is required to ensure a broad supply base and not a reliance on a single supplier (or if there is one main supplier the hybrid delivery solutions will need to be developed with other parties and partners) to seek innovative solutions to meet our outcomes.
- 4.8 We will establish a commissioning plan for our key commissioning activity between 2018-2020. This plan will include;
 - a) Underpinning **commissioning framework and governance**, to include any joint or aligned commissioning with the NHS and schools;
 - b) Arrangements for ensuring ‘the **voice of the child, young person, parents and carers**’ influences all aspects of the commissioning work;
 - c) **HR and workforce** considerations, including potential TUPE implications, staff and trade union consultation and union engagement;
 - d) **Communications and Engagement** requirements, internal and with stakeholders and partners;
 - e) **Market testing and engagement**, provider stimulation and development;
 - f) **Option appraisal**, making proper consideration of all options for outsourcing and internal provision;
 - g) Establishing **procurement** ‘routes to market’ and undertaking the procurement process;
 - h) **Data Modelling**, undertaking service capacity and demand modelling, now and in the future, creating a profile of demand based on current and future schools and settings and demographic changes;

- i) **Contract development**, ensuring the proper establishment of the 'core contractual pillars' of the service specification, dependency schedule and the performance, governance and finance frameworks;
- j) **Contract mobilisation and implementation planning**, including establishing phasing arrangements wherever possible and the assessment and mitigation of any potential risks to service stability;
- k) Establishing the **Intelligent client function** for on-going commissioning and contracts management arrangements;
- l) **Financial modelling** - evaluation of suppliers, opportunities for invest to save
- m) **Legal considerations** including compliance with relevant legislation, statutory duties, new policy and procedures and the development of new contracts;
- n) Undertaking **Equality Impact Assessment**
- o) **ICT and information governance** considerations for any technology changes, including applications.

Travel Assist commissioning principles

- 4.9 There are key relationships between service quality, contract and financial management and control practices that impact on costs and service experience. In order to achieve the high quality, sustainable and efficient services the following commissioning principles will be applied;

Strong voice and influence of the child, parents and carers

- Children, young people, parents and carers are seen, and treated, as partners as well as service users and this is evidenced by a clear voice and influence through the commissioning and procurement process;
- Children should always be supported to travel using mainstream travel arrangements and local travel schemes where they can.
- When arrangements are made for home to school travel, children, parents and carers are provided with clear and accessible information.
- More children, where possible and appropriate, will travel independently;
- Shorter assisted journeys (in terms of distance and time) with children being placed in schools as near to their home and community as possible;

Best in class procurement and contract management

- Approaches to procurement are used that enable contracts to be let on a rolling programme based upon blocks of activity for periods of at least five years to enable a relatively stable planning period for contractors / in house fleets to plan for the purchase or lease of vehicles;

- Contracts are sufficiently flexible and allow for service change in response to changes in need and requirements;
- Transparent contract management in relation to service activity, quality and financial performance;
- Where possible we will procure services into discrete areas of activity; these may be routes to a particular school, to a group of schools, or within an area of the authority;
- Service provision to be reviewed at least annually to ensure the most cost-effective use of vehicles, staff and resources; there can be an annual turnover in some client groups of 25-30%.
- Plain English is used in procurement documentation to encourage bids, especially from small operators, including the voluntary sector
- Must be in line with the SEND and Inclusion Strategy and the Admissions Strategy;
- There will be a hybrid delivery model that ensures no reliance on a single supplier and the introduction of flexibility to improve the quality and reliability of the service;
- A supplier (or suppliers) and services are procured which are able to deliver to an agreed set of performance measures to include capacity, quality and reliability, safety, financial management and improved efficiency and performance;
- The contract will ensure delivery of the Council's Social Value Policy through pre-market engagement to determine the social value opportunities, adherence to the Birmingham Business Charter for Social Responsibility and adoption of the Birmingham Living Wage by the supply chain;
- Compliance with the clear air and green agenda.

Informed and timely service planning and decision making

- Proactive use of risk assessments in order to identify the least restrictive form of travel for each individual pupil to meet his or her particular needs;
- The travel needs of each eligible pupil are reviewed at least annually to ensure that provision is safe and appropriate;
- A close relationship between those who authorise entitlement, and those with responsibility for the budget and its management;
- Proactive use of Birmingham and benchmarking data to routinely review costs, trends, service outcomes and quality standards in order to achieve on-going improvements;
- Geographical Information System (GIS) routing software is used to support frequent route planning and review;

- All services are planned and delivered ensuring full compliance with service standards, best practice and relevant legislative and regulatory requirements;
- Service planning and improvement is driven by a deep understanding of need and shaped by evidence based practice;
- Reduction of service demand over time as more children travel independently and the SEND/Inclusion and Placements strategies are implemented;
- A service which meets the current and future demand and will flex to meet the projected profile and needs of families and their children in the future;
- A broader range of provision will be included – taking into account the new models (in-house; school-led; school to pick-up) and operational services underpinned by an extended Independent Travel Training programme;

Strong focus on quality and safety

- There will be an integrated framework for health and safety and quality and service standards that run central through all service commissioning and delivery. This will include vehicle standards and maintenance, safeguarding, risk management and logistics management;
- Systems in place to ensure full compliance with service and quality standards and health and safety requirements;
- All operators comply with vehicle licensing, insurance and taxation requirements and Vehicle Construction and Use Regulations;
- All vehicles have a means of communication available for use in emergencies;
- Journeys minimise stress and there are established service standards of between 45 and 75 minutes that pupils should be on vehicles;
- Each journey is assessed to identify whether a passenger assistant is required in addition to the driver;
- Essential information and contact details are carried on vehicles and known to drivers and escorts. Pupils should normally remain on vehicles unless it is unsafe for them to do so.
- All drivers and escorts have positive enhanced CRB clearance prior to working with children;
- All drivers and escorts should carry photo identification at all times;
- All drivers of appropriate vehicles take Minibus Awareness Training (MIDAS) or training to a similar standard;
- All escorts take Passenger Transport Assistance Training (PAT) or a similar accredited course;

- Additional training is provided, including but not limited to conflict resolution, safe handling and working with children with particular medical conditions or disabilities;
- Individual pupil requirements are reviewed regularly and are repeated whenever there is a change in their needs, in order to assess whether the level of provision remains appropriate. A review period should be stated in the risk assessment.
- Drivers and escorts know what to do in the case of a medical emergency;
- Where children have life threatening conditions, specific care plans should be carried on vehicles. These should be agreed with the school, parents or carers and the responsible medical practitioner for the pupil concerned. They will specify the steps to be taken to support the normal care of the pupil as well as the appropriate responses to emergency situations;
- Subject to full consultation, there will be a revised and modernised policy for evaluation of what the service provides and the appeals process:
- A service that is clear and transparent, with consistent approvals and appeals processes that everyone can understand.

Effective partnerships working

- There will be a representative stakeholder and partner group established to ensure we have a full and comprehensive knowledge about our current services and that we capture ideas and aspirations for improvement;
- Opportunities to integrate travel services between education, social care and healthcare are maximised;
- It will be standard practice to provide regular and high quality information to children, parents and carers and other key stakeholders;
- Joined up delivery options with partners, providing economy of scale and opportunities to work differently with partners;

Robust and transparent financial management

- Contract prices are agreed for vehicles, drivers and escorts based on time and mileage; these enable routes to be varied to minimise costs whilst offering some protection to the operator and an incentive to invest;
- On-going financial analysis of activity and spend to ensure effective and efficient use of resources;
- The service will deliver within budget and the cost per child will reduce over time.



Department
for Education

Home to school travel and transport guidance

Statutory guidance for local authorities

July 2014

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Summary

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

This guidance is issued under duties placed on the Secretary of State by sections 508A and 508D of the Education Act 1996 (the Act). It deals with sections 508A, 508B, 508C, 509AD, and Schedule 35B of the Act which were inserted by Part 6 of the Education and Inspections Act 2006 (the EIA 2006).

This guidance replaces Home to School Travel and Transport Guidance Ref: 00373-2007BKT-EN.

Review date

This guidance will next be reviewed in 2017.

What legislation (including statutory instruments) does this guidance refer to?

This guidance refers to the following legislation (including statutory instruments):

- Sections 444, 508A, 508B, 508C, 508D, 509AD and Schedule 35B of the Education Act 1996 (the Act), as inserted by [Part 6 of the Education and Inspections Act 2006](#) (the EIA 2006)
- Regulation 5 and Part 2 of Schedule 2 to The School Information (England) Regulations 2002, [as amended](#)
- Equality Act 2010
- [School Admissions Code](#)
- European Convention on Human Rights
- The School Travel (Pupils with Dual Registration)(England) Regulations 2007
- Public Service Vehicles (Carrying Capacity) Regulations 1984
- Section 48 of the School Standards and Framework Act 1998

Who is this guidance for?

This guidance is for:

- Local authorities
- Leaders of maintained schools, academies and free schools
- Parents
- Other interested parties, e.g. Transport Providers

Main points

- There has been no change to school transport legislation and the associated duties continue to rest with local authorities.
- With the widening of the academies programme, the introduction of the free schools programme, and all schools now having the power to decide their session times, there will be an increasing need for local stakeholders to work together in partnership to agree and deliver transport policies that meet the particular needs of their area¹.
- The guidance on appeals has changed and is intended to ensure greater consistency in approach and to be clearer and more transparent for both parents and local authorities.
- The policy for post 16 transport is different from that for compulsory school aged children (5-16). The link to the department's guidance on post 16 transport is provided in the '[Further information](#)' section of this guidance.
- Local authorities should review travel policies, arrangements and contracts regularly to ensure best value for money is achieved.

Local authorities' statutory duties

In order to comply with their home to school transport duties local authorities must:

- Promote the use of sustainable travel and transport (Part 1.1).
- Make transport arrangements for all eligible children (Part 1.2).

¹ See Hertfordshire County Council's approach to capacity building in the [case study at Annex 1](#).

Part 1 - Statutory duties

1.1 Sustainable school travel

1. Section 508A of the Act places a general duty on local authorities to promote the use of sustainable travel and transport². The duty applies to children and young people of compulsory school age who travel to receive education or training in a local authority's area³. The duty relates to journeys to and from institutions where education or training is delivered.

2. There are five main elements to the duty which local authorities must undertake:

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

3. The Act defines sustainable modes of travel as those that the local authority considers may improve the physical well-being of those who use them, the environmental well-being of all or part of the local authority's area, or a combination of the two.

Assessing the travel and transport needs of children and young people

4. Local authorities should, in large part, base their assessment of children and young people's travel and transport needs on the data provided by schools or colleges, often contained within school travel plans. Effective school travel plans, updated as necessary, put forward a package of measures to improve safety and reduce car use, backed by a partnership involving the school, education, health and transport officers from the local authority, and the police. These seek to secure benefits for both the school and the children by improving their health through active travel and reducing congestion caused by school runs, which in turn helps improve local air quality. Many travel plans

² See Darlington Borough Council's approach to sustainable travel in the [case study at Annex 1](#).

³ 'Child', 'compulsory school age' and 'sixth-form age' are defined respectively in sections 579(1), 8 and 509 AC of the Act.

are produced as a result of planning conditions placed on new developments by local authority planning departments. This highlights the need for all relevant departments (e.g. highways departments, planning departments, transport departments, children's services, environment departments, and public health) to be fully engaged when addressing this duty.

Audit of infrastructure to support sustainable school travel

5. Local authorities already collect much of the information required for the audit of the infrastructure supporting sustainable school travel. Local authorities should audit infrastructure in accordance with any relevant guidance and the requirements of any infrastructure implemented. Specific school routes audits are considered good practice. The specifics of the audit and how often it should be reviewed are for a local authority to decide on as appropriate. However, 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);
- footpaths, cycle ways, roads and associated features (including crossing points and patrols, traffic calming measures, speed limits, 20mph zones); and
- any other arrangements made to support sustainable school transport that may be in operation (including the provision of cycle training, road safety training, and independent travel training; the provision of walking promotion and barrier removal schemes, car sharing schemes, park and stride/ride schemes, cycle parking).

6. The audit should also consider data relating to [personal safety and security](#), and other factors that influence travel choices, such as poor behaviour on school buses and/or the incidence of bullying on the journey to school. School travel plans will help local authorities understand any specific local issues, including perceptions of pupils and parents.

7. The arrangements or requirements for children with special education needs (SEN) or disabilities should also be considered and whether, for example, some might benefit from independent travel training which can result in a skill for life⁴.

Strategy to develop infrastructure to support travel needs of pupils

8. Following the assessment of pupil needs, and audit of the sustainable transport infrastructure that supports travel to school, local authorities must establish a strategy for

⁴ See Coventry City Council's approach to independent travel training in the [case study at Annex 1](#).

developing that infrastructure so that it better meets the needs of children and young people in their area. These improvements should address a range of objectives, including environmental improvements, health benefits and enhanced child safety and security. The strategy should be a statement of the authority's overall vision, objectives and work programme for improving accessibility to schools and will be an important source of information to parents on the travel options available to them when expressing their preferences for particular schools in the admissions round.

9. The strategy should be evidence-based, including an assessment of the accessibility needs and problems of the local authority's area. Local authorities must monitor the implementation of their strategy and revise these as they feel necessary.

Promoting sustainable travel and transport to and from school

10. Local walking, cycling, and bus strategies should inform the local authority's duty to promote sustainable school travel. In line with the physical Olympic and Paralympic legacy, as set out in HM Government's document '[Moving More, Living More](#)', promotion of walking and cycling to school can be an effective way to increase physical activity in children.

11. The sustainable school travel duty should have a broad impact, including providing health benefits for children, and their families, through active journeys, such as walking and cycling. It can also bring significant environmental improvements, through reduced levels of congestion and improvements in air quality to which children are particularly vulnerable.

Publication of Sustainable Modes of Travel Strategy

12. The Education (School Information) (England) Regulations 2002, as amended require local authorities to publish their Sustainable Modes of Travel Strategy on their website by 31 August each year⁵.

1.2 Provision of travel arrangements

13. Sections 508B and 508C of the Act make provision for local authorities to ensure that suitable travel arrangements are made, where necessary, to facilitate a child's attendance at school.

⁵ S.I. 2002/2897, amended by [The Education \(School Information\) \(England\) \(Amendment\) Regulations 2007 \(S.I. 2007/1365\)](#).

14. These provisions apply to home⁶ to school travel arrangements, and vice versa⁷. They do not relate to travel between educational institutions during the school day⁸.

15. Parents are responsible for ensuring that their children attend school regularly. However, section 444(3B) of the Act provides that a parent will have a defence in law against a prosecution by a local authority for their child's non-attendance at school where the local authority has a duty to make travel arrangements in relation to the child under section 508B and has failed to discharge that duty.

1.3 Provision of travel arrangements: Eligible children

16. Section 508B of the Act deals with the duty on local authorities to make such travel arrangements as they consider necessary to facilitate attendance at school for eligible children. Schedule 35B of the Act defines eligible children – those categories of children of compulsory school age (5-16) in an authority's area for whom free travel arrangements will be required local authorities are required to:

Statutory walking distances eligibility

- provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school⁹ is:
 - beyond 2 miles (if below the age of 8); or
 - beyond 3 miles (if aged between 8 and 16)

Special educational needs, a disability or mobility problems eligibility

- make transport arrangements for all children who cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety issues related to their special educational needs (SEN) or disability¹⁰. Eligibility, for such children should be assessed on an individual basis to identify their particular transport requirements. Usual

⁶ A child's 'home' is the place where he/she is habitually and normally resident.

⁷ Including to boarding provision, where applicable.

⁸ When a dual placement is outlined on an EHC Plan or statement, a local authority should use its discretion to decide on how best to cater for this child's individual circumstances.

⁹ Taken to mean the nearest [qualifying school](#) with places available that provides education appropriate to the age, ability and aptitude of the child, and any SEN that the child may have.

¹⁰ As per Schedule 35 of The Act, disability is as defined in S.6 of EA 2010: a person has a disability if they have (a) a physical or mental impairment, and (b) that impairment has a substantial a long-term effect on the ability to carry out normal day-to-day activities. Therefore a chronic health condition may lead to eligibility under this definition.

transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to SEN and/or disability.

Unsafe route eligibility

- make transport arrangements for all children who cannot reasonably be expected to walk to nearest suitable school because the nature of the route is deemed unsafe to walk.¹¹.

Extended rights eligibility

- provide free transport where pupils are entitled to free school meals or their parents are in receipt of maximum Working Tax Credit ¹² if:
 - the nearest suitable school is beyond 2 miles (for children over the age of 8 and under 11);
 - the school is between 2 and 6 miles (if aged 11-16 and there are not three or more suitable nearer schools);
 - the school is between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief (aged 11-16).

Accompaniment

17. In determining whether a child cannot reasonably be expected to walk for the purposes of 'special educational needs, a disability or mobility problems eligibility' or 'unsafe route eligibility', the local authority will need to consider whether the child could reasonably be expected to walk if accompanied and, if so, whether the child's parent can reasonably be expected to accompany the child. When considering whether a child's parent can reasonably be expected to accompany the child on the journey to school a range of factors may need to be taken into account, such as the age of the child and whether one would ordinarily expect a child of that age to be accompanied.

18. The general expectation is that a child will be accompanied by a parent where necessary, unless there is a good reason why it is not reasonable to expect the parent to do so.

19. Local authorities should, however, promote and ensure equality of opportunity for disabled parents. For example, if a parent's disability prevents them from accompanying

¹¹ Paragraphs 4 and 5 of Schedule 35B.

¹² Paragraphs 9-14 of Schedule 35B.

their child along a walking route that would otherwise be considered unsafe without adult supervision, a reasonable adjustment might be to provide free home to school transport for the child in question.

Assessing route safety

20. Creating safe walking, cycling and travel routes and encouraging more pupils to walk and cycle to school is one of the best ways to reduce the need for transport and associated costs. In assessing safety, local authorities should consider a range of risks, such as: canals, rivers, ditches, speed of traffic and fields of vision for the pedestrian or motorist. An authority should also consider whether it is reasonable to expect the child's parent to accompany the child along a route which would otherwise be classified as [being unsafe](#).

21. Good practice shows that using local knowledge, coupled with modern IT tools, is essential when assessing existing walking routes and identifying potential new ones. Putting in place suitable new paths, pedestrian crossings and cycle lanes can improve safety, but minimal investment can also reap significant rewards. This might be something as simple as trimming overgrown hedges or preventing illegal parking. Making parents aware of safe walking routes and the time taken to assess them can help alleviate concerns and significantly increase the amount of pupils choosing to walk.

Measurement of routes

22. The measurement of the statutory walking distances is not necessarily the shortest distance by road. It is measured by the shortest route along which a child, accompanied as necessary, [may walk safely](#). As such, the route measured may include footpaths, bridleways, and other pathways, as well as recognised roads.

23. The 2 mile limit for extended rights should be measured in the same way as the statutory walking distances. However, the 6 mile upper limit to a choice of schools, and the 15 mile upper limit to a school preferred on grounds of religion or belief are not walking routes, and should therefore be measured along routes that are passable using a suitable motorised vehicle. In short, the upper limits should be measured along road routes.

Timing of assessment of eligibility

24. At the point when transport eligibility is considered, the prospect of being able to secure a place in an alternative (usually nearer) school must be a real one. For most cases this will be during the normal school admissions round when places are allocated. A smaller number of cases will need to be considered during the course of the school year e.g. as a result of families moving to a new area.

25. Where entitlement to extended travel rights has been established the department's opinion is that local authorities should consider the pupil to be eligible for the entirety of

the school year for which the assessment has been made. If a pupil ceases to be eligible any change to provision made by the local authority must be considered in the context of the potential impact on the child. Disruption to a child's education should be avoided.

26. Where a pupil is registered at a school, but is attending a place other than that school as a result of temporary exclusion, [eligibility for home to school travel](#) will apply to the other place for the temporary period.

Qualifying school

27. The relevant educational establishment in relation to an eligible child will be either a qualifying school or the place, other than a school, where they are receiving education by virtue of arrangements made under section 19(1) of the Act¹³.

28. Regulations¹⁴ clarify the entitlement for eligible children, a small number of whom may be registered at more than one educational establishment, e.g. children of no fixed abode might be registered at more than one school, and other children may be registered at a hospital school and another school, etc.

29. Qualifying schools are:

- community, foundation or voluntary schools;
- community or foundation special schools;
- non-maintained special schools;
- pupil referral units;
- maintained nursery schools; or
- city technology colleges (CTC), city colleges for the technology of the arts (CCTA) or academies, including free schools and University Technical Colleges (UTC)¹⁵.

30. For children with SEN, an independent school can also be a qualifying school where this is named on the child's Education, Health and Care Plan (EHC Plan) or statement, or it is the nearest of two or more schools named.

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

31. Examples of other bodies or persons making travel arrangements might include: a parent consenting to use their car in return for a mileage allowance; a school or group of

¹³ Section 508B(10) of the Act.

¹⁴ [The School Travel \(Pupils with Dual Registration\)\(England\) Regulations 2007](#) (S.I.2007/1367).

¹⁵ Paragraph 15 of Schedule 35B.

schools reaching an agreement with a local authority to provide transport in minibuses owned by the school; or a transport authority providing free passes for all children on public transport. For example, in London, Transport for London provides free bus passes for all children under the age of 16. In many circumstances, London Boroughs may therefore not need to make any additional travel arrangements for children living in their area, particularly when eligibility would be through statutory walking distances or extended rights.

32. Subsection (4) of 508B and 508C of the Act list some of the travel and transport arrangements that may be made. These might include: provision of a seat on a bus or minibus provided by the local authority; provision of a seat in a taxi where more individualised arrangements are necessary; and provision of a pass for a public service bus, or other means of public transport.

33. On condition that the relevant parental consent has been obtained (annually or, if a child moves school, at that point too) by the local authority, a number of alternative arrangements might be considered to meet the local authority duty relating to travel arrangements. Examples include:

- a mileage allowance paid to a parent driving their eligible child to school in lieu of the local authority making arrangements for a taxi to transport the child;
- a cycling allowance paid by the local authority where the parent agreed for their child to cycle to and from school instead of catching a bus for, say a three mile journey; and
- local authority provision of a suitable escort to enable an eligible child with a disability to walk a short distance to school in safety, instead of making arrangements for a taxi to take them to and from school.

Suitability of arrangements

34. As a general guide, transport arrangements should not require a child to make several changes on public transport resulting in an unreasonably long journey time. Best practice suggests that the maximum each way length of journey for a child of primary school age to be 45 minutes and for secondary school age 75 minutes, but these should be regarded as the maximum. For children with SEN and/or disabilities, journeys may be more complex and a shorter journey time, although desirable, may not always be possible.

35. Consideration should also be given to the walking distance required in order to access public transport. The maximum distances will depend on a range of circumstances, including the age of the child, their individual needs and the nature of the routes they are expected to walk to the pick up or set down points and should try to be combined with the transport time when considering the overall duration of a journey. With regards to pick up points, local authorities may at their discretion use appropriate pick up points when making travel arrangements. For arrangements to be suitable, they must

also be safe and reasonably stress free, to enable the child to arrive at school ready for a day of study.

Part 2 - Discretionary Arrangements

Travel arrangements for other children

36. Section 508C of the Act provides local authorities with discretionary powers to go beyond their statutory duties and provide transport for children who are not entitled to free transport. Charges can be made, or, as stated in Subsection (5) of 508C local authorities may also pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the statutory duty placed on local authorities, or under their discretionary powers to make travel arrangements. Where charges are imposed, good practice suggests that children from low income groups (those not eligible for extended rights, either due to being just outside financial eligibility or live outside of the distance criteria and therefore not in receipt of free travel) should be exempt.

37. It is very much for the individual local authority to decide whether and how to apply this discretion as they are best placed to determine local needs and circumstances. It is recognised that local authorities will need to balance the demands for a broad range of discretionary travel against their budget priorities. While the department offers guidance, the final decision on any discretionary travel arrangements must rest with the individual local authority who should engage with parents and clearly communicate what support they can expect from the local authority.

Religion or belief

38. Many parents will choose to send their children to a school as near as possible to their home. However, some parents choose to send their children to a school with a particular ethos because they adhere to a particular faith, or belief. Local authorities need to respect parents' religious and philosophical convictions as to the education to be provided for their children¹⁶, give careful consideration to discrimination issues and seek legal opinion if they are unsure about the effect of their policies, before publishing them each year.

39. Under the European Convention on Human Rights (ECHR), parents do not enjoy a specific right to have their children educated at a school with a religious character or a secular school, or to have transport arrangements made by their local authority to and from any such school and the Equality Act 2010 (which places a duty on local authorities

¹⁶ Article 2 of the First Protocol.

not to discriminate against a person on the grounds of their religion or belief), does not apply to the exercise of an authority's functions in relation to transport¹⁷.

40. However, the Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical beliefs, and believes that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express. In many cases these schools may be more distant and therefore the provision of transport and/or training, and the avoidance of unreasonable expenditure on travel are encouraged. However, the department appreciates that this may be incompatible, for example, on grounds of excessive journey length, or where the journey may have a detrimental impact on the child's education.

41. The Act places a duty on local authorities to make arrangements for secondary pupils from [low income](#) backgrounds to attend the nearest school preferred on grounds of "religion or belief", where that school is between 2 and 15 miles from their home. Local authorities may wish to use their discretionary powers to extend transport arrangements beyond the extended rights duty and facilitate attendance at such schools. The Secretary of State expects local authorities to consider all possible options before they disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools. Local authorities should pay particularly careful attention to the potential impact of any changes on low income families (those not eligible under extended rights) whose parents adhere to a particular faith or philosophy, and who have expressed a preference for a particular school because of their religious or philosophical beliefs.

42. Local authorities will need to be aware of their obligation not to discriminate under article 14 of ECHR. For example, where local authorities use their discretionary powers to make travel arrangements for children on the basis of their parents' religious beliefs to schools designated with a religious character, the equalities implications should be considered, to facilitate parents' who wish their children to be educated in accordance with their philosophical convictions.

¹⁷ s31 of, and paragraph 11 of Schedule 3 to, the Equality Act 2010.

Part 3 - Transport Considerations

Safeguarding requirements

43. It is the responsibility of the individual local authority to ensure the suitability of its employees and any contractors or their employees by undertaking the required safeguarding checks on those whose work or other involvement will bring them into contact with children, or more widely, vulnerable adults. This should include bus drivers, taxi drivers and escorts, as necessary. The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged to become the [Disclosure and Barring Service](#) (DBS). CRB checks are now called DBS checks. Please see [Further information](#).

Training and Equalities

44. All local authorities should ensure that all drivers and escorts taking pupils to and from school and related services 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. This training could consist of (but is not restricted to):

- an awareness of different types of disability including hidden disabilities;
- an awareness of what constitutes discrimination;
- training in the necessary skills to recognise, support and manage pupils with different types of disabilities, including hidden disabilities and certain behaviour that may be associated with such disabilities;
- training in the skills necessary to communicate appropriately with pupils with all types of different disabilities, including the hidden disabilities; and
- training in the implementation of health care protocols to cover emergency procedures.

Bus safety considerations

45. Buses and coaches used to take pupils to and from school are public service vehicles and, as such, are subject to specific legislation on safety standards. All coaches and minibuses carrying groups of children of 3 to 15 years of age on organised trips are required to be equipped with seat belts. The legal requirement to fit seat belts does not apply to other types of bus, including those on public service. These tend to travel relatively slowly, over short distances, with frequent stops. Schools or local authorities making arrangements for home to school transport are free to specify within their contracts that they will only accept vehicles fitted with seatbelts.

46. The [Public Service Vehicles \(Carrying Capacity\) Regulations 1984](#) allow the option of three children under the age of 14 to occupy a bench seat designed for two adults on a

service bus. Modern bus designs and seat belt requirements are reducing the circumstances in which this practice can be adopted and in the opinion of the Secretary of State, local authorities making arrangements for home to school travel should only make use of this concession on an exceptional basis.

Poor behaviour on school buses/other modes of transport

47. 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 EIA 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.

48. 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 Headteacher¹⁸. 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.

Partnership

49. The department strongly supports local authorities in developing cross-cutting approaches to home to school travel and transport. Relevant considerations would include sustainability, delivering value money and finding school and parent friendly solutions. This could be through strong partnerships between local authorities and academies, the use of Department for Transport policies and practices, such as Local Transport Plans and Local Sustainable Transport fund (see [Further information](#)) and partnership with parents, for example to allow them to top up transport costs through the payment of fees in order to maintain the provision.

50. Partnerships are strongly encouraged, particularly in rural areas, where the generally more limited transport services could disadvantage children¹⁹.

¹⁸ <https://www.gov.uk/government/publications/school-exclusion>

¹⁹ See Staffordshire County Council's approach to rural travel provision in [case study at Annex 1](#).

Part 4 – Policy Changes

Publication of general arrangements and policies

51. Local authorities must publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. This information should be clear, easy to understand and provide full information on the travel and transport arrangements. It should explain both statutory transport provision, and that provided on a discretionary basis. It should also set out clearly how parents can hold local authorities to account through their appeals processes. Local authorities should ideally integrate their Sustainable Modes of School Travel strategies into these policy statements, and publish them together.

Policy Changes

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

53. Good practice suggests that the introduction of any such changes should be phased-in so that children who start under one set of transport arrangements continue to benefit from them until they either conclude their education at that school or choose to move to another school. Parents make school choices based on, amongst other things, the home to school transport arrangements for a particular school, and any changes might impact adversely on individual family budgets.

Part 5 - Appeals process

54. Local authorities should have in place both complaints and appeals procedures for parents to follow should they have cause for complaint about the service, or wish to appeal about the eligibility of their child for travel support. The procedure should be published alongside the local authority travel policy statement. If an appellant considers that there has been a failure to comply with the procedural rules or if there are any other irregularities in the way an appeal was handled they may have a right to refer the matter to the Local Government Ombudsman. 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.

55. In the past we have left it to local authorities to determine how their appeals procedures should operate in practice. However, in the interests of consistency and to be both clearer and more transparent, for both parents and local authorities, we have now set out a recommended review/appeals process in [Annex 2](#).

Further information

Post-16 transport

Guidance relating to post-16 transport is available on the [department's 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

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 here: www.dft.gov.uk/bikeability/schools

The Department for Transport Local Sustainable Transport Fund was established to support authorities in delivering local economic growth whilst cutting carbon emissions from transport. Further information can be found at: <https://www.gov.uk/government/collections/local-sustainable-transport-fund>

Living Streets runs the national Walk to School campaign which reaches over 13 million people. The campaign successfully encourages and supports parents/carers and children to make walking to school part of their daily routine. More information is available on their website www.livingstreets.org.uk

Modeshift is the national sustainable travel organisation. Modeshift supports local authorities, schools, business and communities to increase levels of sustainable travel. More information is available on their website www.modeshift.org.uk

Moving More, Living More is a document produced by the Department of Health which builds on the work already under way to help realise the aim of having a more physically active nation as part of the legacy from the London 2012 Olympic and Paralympic Games: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279657/moving_living_more_inspired_2012.pdf

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

DBS (formerly CRB) employee suitability checks

Further information about DBS checks (and who requires them or is eligible, for example bus drivers for designated home to school transport are eligible, whereas those driving

public services are not) can be obtained from: <https://www.gov.uk/disclosure-barring-service-check>

Definitions

- Section 444(5) of the Act defines the statutory walking distances.
- Schedule 35B of the Act defines:
 - ‘eligible children’ (paragraphs 2-7 and 9-13);
 - ‘qualifying school’ (paragraph 15);
 - ‘disabled child’ (paragraph 15(4));
 - ‘religion and belief’ (paragraph 15(6)) and 509AD of the Act;
 - ‘low income family’ (paragraphs 9-14).
- Section 579 of the Act defines ‘child’.
- Section 509AC of the Act defines ‘compulsory school age’.
- The Equality Act 2010 defines ‘religion or belief’ for the purposes of this Act.
- The Children’s and Families Act section 10 defines ‘SEN’

Key term Glossary

- Home: A child's 'home' is the place where he/she is habitually and normally resident.
- Nearest suitable school: Taken to mean the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any SEN that the child may have.
- Parent: Reference to parent in this document should be equated to mean parent/carer/legal guardian.
- Philosophical Belief: For a philosophical "belief" to be worthy of protection, it must attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society; and not be incompatible with human dignity or the fundamental rights of the child. Examples of beliefs are humanism and atheism.
- Road routes: Reference to road route should be taken to mean a route passable by a motor vehicle, and could include distance covered on additional transport, e.g. via ferry.

Annex 1: Case Studies

Sustainable travel

Effective sustainable travel plans have wider benefits for a local area than simply improving access to schools and education. Evidence shows that school travel plans can have benefits ranging from increased road safety, to healthier, more alert and engaged pupils, to increasing independent travel and associated life skills for pupils with SEN. Enabling the increased use of sustainable modes of travel such as walking, cycling and the use of public transport has environmental benefits in reducing levels of noise, congestion and poor air quality - the latter of which children are particularly at risk to.

Darlington Borough Council case study

Impact/benefits

The data from 2011-12 indicates that on average, 7% of secondary school pupils are choosing to cycle to school. Before the Local Motion initiative began, this figure stood at just 1%.

Details of the approach

Darlington Borough Council has encouraged a modal shift away from the car to more sustainable modes under the brand 'Local Motion'. The Local Sustainable Transport Fund has provided funding for the continuation of this project since 2011. It ensures that schools, young people and their families receive relevant information, to enable them to choose sustainable travel options to get to and from school.

How was the change made?

The whole schools package is underpinned by the Modeshift STARS online accreditation scheme which recognises and rewards each school's commitment to promoting sustainable travel. All Darlington schools must engage with Modeshift STARS in order to access other support and resources from the Local Motion project.

A new Year 6 Transition Programme has been introduced to help pupils and their parents make informed choices about sustainable travel options to the secondary school they will be attending.

All Darlington secondary schools have converted to academy status, but have continued to engage with the Local Motion programme and continue to support sustainable travel.

Advice for other LAs contemplating such an initiative

The Local Motion Transition encourages families to start thinking about how they are going to travel to secondary school long before they start at the school, to avoid relying on private cars.

For further information please email Louise Neale: louise.neale@darlington.gov.uk

Stoke-on-Trent case study

Impact/benefits

After just one year of Sustrans' engagement (2013/14) regular cycling amongst pupils (once or twice a week or more) increased from 8.5% to 12.7% and those regularly being driven (once or twice a week or more) decreased from 49.9% to 45.3%. This is helping to reduce the impact of congestion from education travel which is estimated to cost £2.6m per year.

Details of the approach

Stoke is one of eight partner local authorities in the Access to Education (A2E) programme, led by Devon County Council and coordinated by Sustrans. It is funded by the Local Sustainable Transport Fund.

Using locally-tailored packages Sustrans provide a real alternative to the car for trips to schools, colleges and universities, reducing congestion, improving journey reliability and boosting local economies.

How was the change made?

- Intensive engagement from two Sustrans officers working with 21 primary and seven secondary schools
- Provision of 'Access to Bikes School Hubs' – shipping containers that contain 15 bikes, helmets, hi-viz jackets, pumps, locks, lights and maintenance tools placed in nine schools
- Installation of cycle parking and scooter pods at schools
- A programme of highway safety improvements, including new crossings and off-road cycle access links from residential areas to schools

Advice for other LAs contemplating such an initiative

Schools need to have intensive support over an extended period of time which would include building the skills, knowledge and confidence of 'champions' to deliver the ongoing work. The Sustrans School Mark, an accreditation scheme which recognises and supports schools' excellence in active and sustainable travel, provides a framework to drive this forward.

For further information please email Allan Williams: allan.williams@sustrans.org.uk

Home to school travel assistance for pupils with SEN or disabilities

Research indicates that there can be significant short and long term benefits in the application of independent travel training for pupils with special educational needs or disabilities. The training given can result in savings to transport budgets in the short term, but can also provide longer term benefits to the individual in terms of a skill for life that might lead to greater social inclusion and employment prospects.

Coventry City Council case study

Impact/savings achieved

As a result of this initiative and tighter control and work to secure efficiencies in the operation of the home to school travel assistance programme the Council made £326k savings in 2011/12. The savings made in 2012/13 equated to £374k which includes the reductions in expenditure on home to school escorts. The total reduction over the 2 years is a 19% fall in expenditure.

Details of the new approach

Successful work has been undertaken to provide independent travel training for secondary aged pupils and the provision of personal transport budgets to the parents of pupils in special schools. This has enabled young people to become more independent and given them valuable skills for life, as well as securing a reduction in spending for the Council.

How was the change made?

Impower Consultancy was commissioned to identify potential efficiencies. Focus groups of parents of pupils with SEN or disabilities were formed to seek views and identify new ways of working. Two key work streams were then established to take forward the provision of Independent Travel Training and Personal Transport Budgets (PTBs).

Two travel trainers now focus their work on school aged pupils, to help them improve their independence skills. This also reduces the number of adults needing training in subsequent years.

The Council also developed a scheme to offer PTBs to parents. The funding was high enough to incentivise parents, while being low enough to deliver savings for the Council. This was piloted in one school initially and then rolled out across all the special schools.

Advice for other LAs implementing the change

Special school headteachers are fully involved in this initiative and they help identify suitable young people to undertake training.

Contacting parents by telephone was resource intensive, but very positive in terms of fully explaining the benefits and options. PTBs are voluntary, tailored and non-prescriptive. The attendance and punctuality of pupils with a PTB is monitored. Beyond this there is no prescription and parents are not asked to account for expenditure.

For further information please email Marian Simpson: marian.simpson@coventry.gov.uk

Capacity building with schools and transport operators

In a financial climate where spending is reduced and costs are increasing local authorities may well find that they have less funding available to support discretionary transport provision, but there may be alternative solutions.

Many academies, with support from their local communities, are taking full advantage of their academy freedoms and are collaborating with other stakeholders and providers to offer discretionary transport to their schools. Local authorities can greatly assist with these initiatives by sharing their experience, expertise and influence in the procurement of transport.

Hertfordshire County Council case study

Impact/savings achieved

£5-6 million will be saved each year as a result of schools and commercial operators providing discretionary travel on routes previously funded and delivered by the Council.

Details of the new approach

From September 2012 Hertfordshire County Council introduced a statutory only home-school transport policy. The Council was keen to attract third party providers to arrange transport on routes which it had previously organised and subsidised and that catered mainly for children without a statutory entitlement to home to school transport.

The Council has worked to build capacity locally to encourage and enable schools, community groups and commercial operators to provide school transport. From September 2013 a total of 130 routes to schools of preference operate without a financial subsidy from the Council. Thirty of these routes have been operating since April 2012.

How was the change made?

The Council supported schools and parents to help develop transport plans. The Council also secured the involvement of the commercial sector and promoted awareness of business opportunities to it.

Advice for other LAs implementing the change

Commercial operators require routes to be financially secure, and therefore are only likely to consider taking on routes where there is a predicted, fare paying commitment from parents. School transport only accounts for 192 days a year.

Local authorities should act as facilitators with the commercial sector, to help schools with contracts and to ensure competition law is followed. Models should rely on parents being able to fund their family's school transport, without any subsidy from the LA. In the

current financial climate, there has been more opportunity for commercial coach companies to participate in this market, rather than commercial bus companies.

For further information please email Sarah Vize: sarah.vize@hertfordshire.gov.uk

Demand responsive service in rural areas

Counties with a large number of small rural communities face the challenge of ensuring that children in these communities are transported to their local schools whilst also providing a cost efficient transport network to the wider community to avoid rural isolation. Rural transport is essential in sustaining local rural communities and connecting people with essential services.

Staffordshire County Council case study

Impacts/Benefits

As a result of replacing infrequent existing local service buses and incorporating home to school transport on to a demand responsive service, a sustainable service has been developed which transports children to school and enables the rural population to be connected with essential services and the wider community. Children that have been transported to school frequently go on to use the service when they move up to middle or high school, increasing their independence despite their rural location.

Details of the approach

Moorlands Connect, a Demand Responsive Service was launched in 2010. The service incorporates the home to school transport to two village schools within the operating area which covers approximately 125 square miles. Outside school transport times the vehicles can be booked as a door to door service to transport people to work, appointments or other essential journeys. Using smaller vehicles and a demand responsive approach that is not tied to a scheduled route has meant that remote areas now have access to a service.

How was the change made?

A rural transport review was commissioned in 2008 and recommended the implementation of a demand responsive service. Residents in the area were consulted and current services, including home to school transport, were reviewed to establish which services could be incorporated on to a new service to increase its sustainability. Funding was sourced from various external agencies for the purchase of two fully accessible vehicles that carry bicycles and the service was launched in September 2010. It continues to be well used by the local communities and also by visitors to the area who can get out and about in the Peak District using the service.

Advice for other LA's implementing the change

The process in setting up the service should include service demand evaluation, assessment of service options, the associated costs and, importantly, comprehensive consultation. Such service complements existing local bus services and provides

alternative choice for passengers. The latter ensures new and continuing public and political support for the scheme. Ticketing options need to be considered, including onward ticketing and potential integration with the local bus service(s). All funding options should be explored at a local and national level; this connect service received initial funding from Districts, Staffordshire Police and Fire services. Once the service is operational there is the need to monitor and evolve the service to meet ongoing needs and changing travel patterns.

For further information please email: kathryn.grattage@staffordshire.gov.uk

Annex 2: Recommended Review/Appeals Process

Previous guidance made clear that local authorities should have in place and publish their appeals procedures, but left it to the individual authority to determine how this should operate in practice. We are now recommending that local authorities adopt the appeals process set out below, appreciating that specifics, such as the identification of an appeal compared to a complaint, will need to be decided by local authorities. The intention is to ensure a consistent approach across all local authorities, and to provide a completely impartial second stage, for those cases that are not resolved at the first stage.

Local authorities should publish annually their appeals process on their website. This should set out a clear and transparent two stage process (with paper copies available on request) for parents who wish to challenge a decision about:

- the transport arrangements offered;
- their child's eligibility;
- the distance measurement in relation to statutory walking distances; and
- the safety of the route.

Stage one: Review by a senior officer

- A parent has 20 working days²⁰ from receipt of the local authority's home to school transport decision to make a written request asking for a review of the decision.
- The written request should detail why the parent believes the decision should be reviewed and give details of any personal and/or family circumstances the parent believes should be considered when the decision is reviewed.
- Within 20 working days of receipt of the parent's written request a senior officer reviews the original decision and sends the parent a detailed written notification of the outcome of their review, setting out:
 - the nature of the decision reached;
 - how the review was conducted (including the standard followed e.g. Road Safety GB²¹);
 - information about other departments and/or agencies that were consulted as part of the process;
 - what factors were considered;
 - the rationale for the decision reached; and

²⁰ 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.

²¹ Road Safety GB is the sole published standards known to the department, hence referenced.

- information about how the parent can escalate their case to stage two (if appropriate).

Stage two: Review by an independent appeal panel

A parent has 20 working days from receipt of the local authority's stage one written decision notification to make a written request to escalate the matter to stage two.

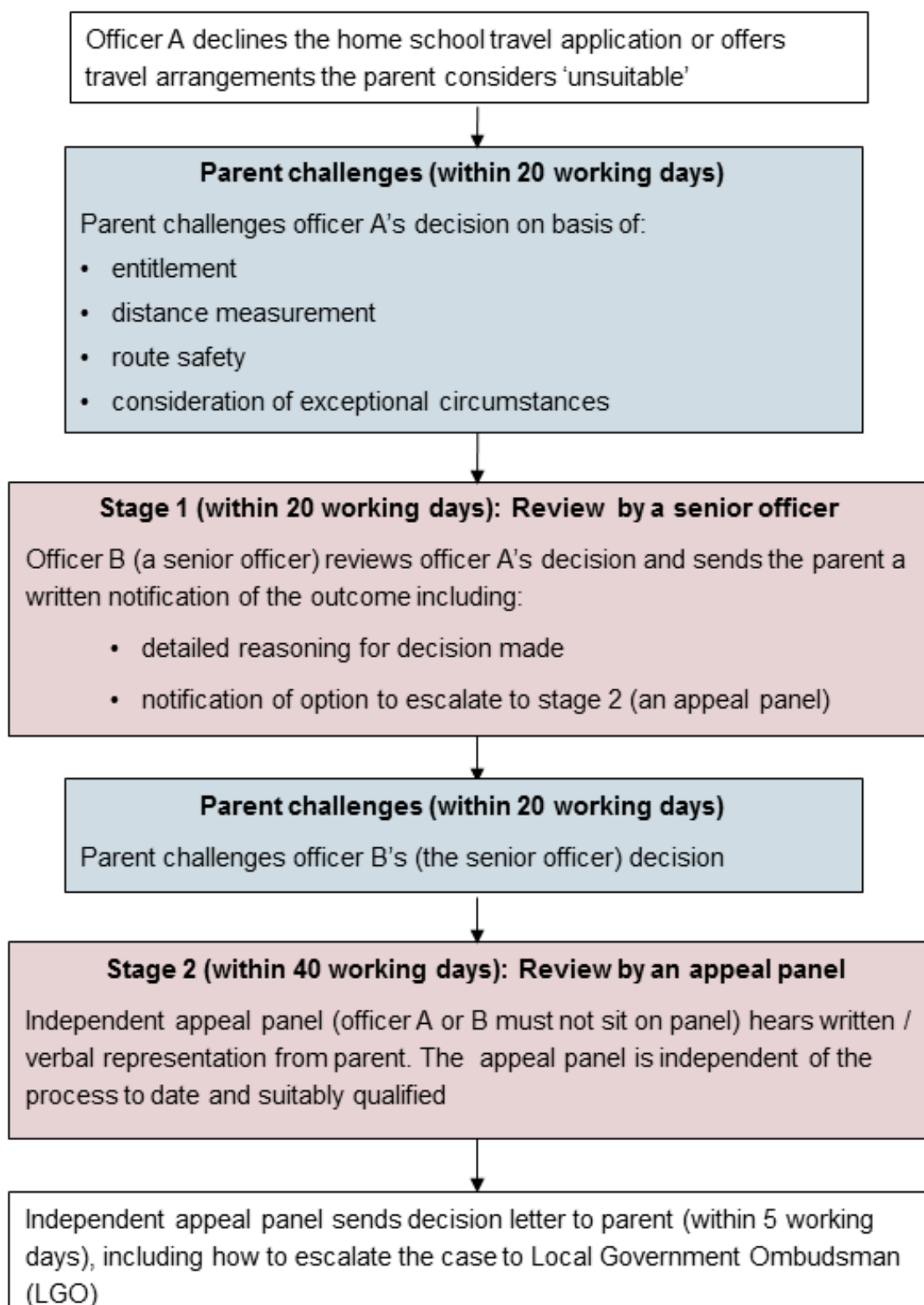
Within 40 working days of receipt of the parents request an independent appeal panel considers written and verbal representations from both the parent and officers involved in the case and gives a detailed written notification of the outcome (within 5 working days), setting out:

- the nature of the decision reached;
- how the review was conducted (including the standard followed e.g. Road Safety GB);
- information about other departments and/or agencies that were consulted as part of the process;
- what factors were considered;
- the rationale for the decision reached; and
- information about the parent's right to put the matter to the Local Government Ombudsman (see below).

The independent appeal panel members should be independent of the original decision making process (but are not required to be independent of the local authority) and suitably experienced (at the discretion of the local authority), to ensure a balance is achieved between meeting the needs of the parents and the local authority, and that road safety requirements are complied with and no child is placed at unnecessary risk.

Local Government Ombudsman – it is recommended that as part of this process, local authorities make it clear that there is a right of complaint to the Local Government Ombudsman, but only if complainants consider that there was a failure to comply with the procedural rules or if there are any other irregularities in the way the appeal has been handled. If the complainant considers the decision of the independent panel to be flawed on public law grounds, the complainant may also apply for judicial review.

Home to school travel and transport: flowchart of the review/appeals process





Department
for Education

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Department
for Education

Post-16 transport to education and training

Statutory guidance for local authorities

October 2017

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Summary

About this guidance

This is statutory guidance from the Department for Education¹. This means that local authorities must have regard to it when carrying out their duties in developing their transport policy and publishing their transport policy statements for young people of sixth form age² and adults aged 19 and over (including those with an Education, Health and Care (EHC) plan) in education and training³.

We use the term 'must' when the local authority is required to do something in law. When setting the departments expectations we have highlighted areas where the local authority should also take reasonable account of the circumstances of learners.

Local authorities should take their own legal advice when preparing the policy statement and devising a local response to transport needs, to ensure that they are exercising their duties and powers in a manner which complies with the legislation and public law.

Expiry or review date

This statutory guidance will be reviewed annually and updated versions will be published if necessary.

What legislation does this guidance refer to?

The guidance refers to legislation⁴ regarding the provision of transport to post-16 education and training for young people of sixth form age. Local authorities will also want to be aware of legislation regarding the provision of transport to post-16 education and training for those aged 19 to 25 and for whom an EHC plan is maintained. All of the relevant legislation is set out in '[Appendix – statutory provisions](#)'.

Who is this guidance for?

This guidance is for local authorities in England.

¹ Section 508H and Section 509AB(5).

² Section 509AC(1) of the Education Act 1996 defines persons of sixth form age for the purposes of the sixth form transport duty.

³ Sections 508F and 508G of the Education Act 1996.

⁴ Education Act 1996.

Key points

1. The department's mission to improve social mobility for young people includes providing education and training opportunities to gain the qualifications and skills they need to reach their potential, wherever they are growing up. British businesses, both locally and nationally, need a skilled and talented workforce, and in order to help make this happen, we are strengthening college-based education, developing technical routes and reforming apprenticeships to help young people, and businesses, to become the best they can be.
2. Local authority transport policies play an important role in supporting young people's participation in education and training. By publishing their transport policies each year, local authorities enable young people (and their parents) to take reasonable account of the arrangements available when choosing between different options.
3. Although on the face of legislation local authorities do not have to provide free or subsidised transport, when making their assessment of what is required, local authorities must act reasonably, taking into account all relevant matters, such as the needs of their population, the local transport infrastructure and the resources available.

Local authority responsibility

4. Local authorities have a duty to prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport or otherwise that the authority considers it necessary to make to facilitate the attendance of all persons of sixth form age receiving education or training⁵.
5. The overall intention of the 16-18 transport duty is to ensure that:
 - learners of sixth form age are able to access the education and training of their choice
 - if support for access is required, this will be assessed and provided where necessary.

The policy landscape

6. The planning of transport provision at a local level should take the following into account:
 - young people are now required to stay in education or training until their 18th birthday⁶. Local authorities are responsible for promoting the effective participation

⁵ Section 509AA of the Education Act 1996.

⁶ Education and Skills Act 2008.

in education and training of young people who are subject to the duty to participate;

- under the September Guarantee, every young person aged 16 or 17 should be offered a suitable place in education or training - further details are available at www.gov.uk/government/publications/september-guarantee-offers-of-education-or-training-for-16-to-17-year-olds; and
- increasingly young people will be undertaking apprenticeships and traineeships. Apprenticeships and traineeships are the best route to skilled employment and we would expect young people to continue to benefit from participating in these programmes.

Extent and coverage of the 16-18 transport duty – section 509AA

7. The duty applies to all local authorities in England in respect of arrangements for young people (over compulsory school age) aged 16-18 and those continuing learners who started their programme of learning before their 19th birthday.

8. The legislation recognises that a local response to transport arrangements is important in enabling young people's participation in education and training. A local approach allows local circumstances to be taken into account. The legislation therefore gives local authorities the discretion to determine what transport and financial support are necessary to facilitate young people's attendance. The local authority must exercise its power to provide transport or financial support reasonably, taking into account all relevant matters. A failure to make the arrangements that are specified in a transport policy statement (or ensure that such arrangements are made) would amount to a failure to fully meet the duty.

9. The local authority must publish a transport policy statement that details the transport arrangements and financial assistance in respect of reasonable travelling expenses that the local authority considers it necessary to make to ensure access to education or training for learners of sixth form age⁷.

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

- a school;
- a further education institution;

⁷ See section 509AA(2), (3) and (7)(a) of the Education Act 1996.

- a local authority maintained or assisted institution providing higher or further education;
- a 16 to 19 Academy;
- an establishment funded directly by the Education and Skills Funding Agency, for example independent specialist providers for learners with special educational needs and disabilities; or
- a learning provider that is funded by the local authority to deliver accredited programmes of learning (this could include colleges, charities and private learning providers).

11. Arrangements to support learners undertaking apprenticeships and traineeships should also be set out in the transport policy statement. These may include the costs of travelling to or from the place of learning or work placement. Employers and learning providers will want to take account of young people's likely transport arrangements when planning off-the-job training, particularly outside normal working hours.

12. The transport policy statement must also specify the arrangements proposed to be made by the governing bodies of schools and further education institutions which may include support with transport costs or transport provision⁸. The local authority should only include arrangements that are actually going to be made and not make assumptions about what arrangements it thinks schools and colleges should make. Governing bodies are under a duty to co-operate in giving the local authority any information and other assistance that is reasonably required by the authority to enable them to prepare their statement⁹.

Transport policy statement audience and content

13. The transport policy statement is intended to inform young people, in years 11, 12 and 13, and their parents about what transport arrangements and support are available locally. The statement should be a single point of reference providing information about transport arrangements to all types of provision, including arrangements made by bodies other than the local authority. The statement must set out what the local authority's overall transport policy is in regard to young people, which should include the rationale behind the policy.

14. The transport policy statement should be clear and provide sufficient detail about the transport arrangements and support provided to inform young people in making their post-16 choices. Young people should be provided with information through the transport policy statement about who is eligible for transport support and how and when they

⁸ Section 509AA(4) of the Education Act 1996.

⁹ Section 509AA(5) of the Education Act 1996.

should apply for support. Details of any concessionary fares, discounts, subsidies or travel cards must be included alongside the eligibility criteria for this support and how eligibility will be assessed¹⁰. Clear signposting from the statement should point young people to sources of further information, for example local authority, college or transport provider websites or contact details.

Funding

15. The local authority is required to deliver the arrangements it has detailed in the transport policy statement. Local authorities fund their responsibilities through the grants they receive from national government, which are not ring-fenced, and through generated income, such as council tax.

Assessment of what arrangements are needed

16. In assessing what transport arrangements or financial assistance may be required, the local authority must have regard to the following.

16.1 The needs of those who could not access education or training provision if no arrangements were made¹¹

Local authorities need to satisfy themselves that they have made the transport arrangements or arrangements for financial assistance necessary to facilitate young people's participation in education or training. In doing so, they should consider the needs of the most vulnerable or socially excluded. The needs of young people with special educational needs and disabilities should be specifically considered and the arrangements in place for each group must be documented in the transport policy statement (see section [‘Specific consideration of learners with special educational needs and disabilities.’](#))

Local authorities should also consider the needs of:

- those who are vulnerable to becoming not in education, employment or training (NEET) at the age of 16 or 17 or who have already become NEET; these young people should be offered a suitable course of education or training and provided with any transport support that is necessary to enable them to participate¹²;

¹⁰ Section 509AA(2) of the Education Act 1996.

¹¹ Section 509AB(3)(a) of the Education Act 1996.

¹² Local authorities are reminded that all 16 and 17 year olds (i.e. those completing compulsory education in the current year, or who completed in the previous year) are entitled to an offer of a place in post-16 learning under the September Guarantee.

- young parents – Care to Learn (C2L) can help pay for childcare and travel costs for learners aged 19 and under at the start of their course¹³. Learning providers should be encouraged to support young people to apply for C2L – further details are available at www.gov.uk/care-to-learn; and
- those who live in particularly rural areas where the transport infrastructure can be more limited.

16.2 The need to ensure that young people have reasonable opportunities to choose between different establishments at which education and training is provided¹⁴

Young people should have a reasonable opportunity to choose between the courses available to them at 16 and be supported to access their choices. Local authority transport policies must be supportive of reasonable choice. In defining what is ‘reasonable’, local authorities will want to take into account any complaints received in previous years in respect of local transport policy statements.

We would expect reasonable choice to include enabling young people to choose courses outside their home local authority boundaries if it makes sense for them to do so. Local authorities will want to be mindful of neighbouring transport policies and consider how their own transport policy can support movement across boundaries. The transport policy statement must set out the local authority’s policy for travel to neighbouring local authority areas.

Reasonable choice should also include enabling young people to choose an establishment of education or training that is not the closest to where they live if it makes sense to do so.

When developing their transport policy, local authorities are required to consider their responsibilities under the commissioning education and training duty¹⁵. Transport arrangements will need to support commissioning arrangements to ensure that young people have access to the education and training provision that has been commissioned.

16.3 The distance from the learner’s home to establishments of education and training¹⁶

Local authorities must consider distance in determining eligibility for support with transport. Young people in rural areas should not be worse off financially because they

¹³ The additional costs of taking a child to and from childcare may be claimed, within a set weekly limit. C2L does not support the costs of travel to the learning provider.

¹⁴ Section 509AB(3)(b) of the Education Act 1996.

¹⁵ Section 15ZA(1) of the Education Act 1996.

¹⁶ Section 509AB(3)(c) of the Education Act 1996.

may need to travel further to access education and training provision than their peers in urban areas.

The statutory walking distance of 3 miles to school (along the nearest available route) for those of compulsory school aged 8 and over is set out under section 444(5) of the Education Act 1996. This can be used as a benchmark by local authorities in defining the distance a young person might reasonably be expected to walk to access education or training.

In determining whether transport arrangements are necessary, local authorities will want to take into account other factors, such as the impact a learning difficulty or disability may have on a young person's ability to walk this distance, and the nature (including safety) of the route, or alternative routes, which a young person could be expected to take.

16.4 The journey time to access different establishments¹⁷

Journey time also needs to be taken into account. Consistent with the home to school transport duty for children of compulsory school age, young people should be able to reach their education or training without incurring such stress, strain, or difficulty that they would be prevented from benefiting from the education provided.

For example, a young person should not have to make several changes of public service bus to get to their education or training, if that would result in an unreasonably long journey time. In this context, local authorities will want to consider which mode of transport will best meet the need to ensure a reasonable journey time.

Best practice suggests that a child of secondary school age may reasonably be expected to travel up to 75 minutes each way to access learning. Local authorities should apply similar expectations to young people of sixth form age.

16.5 The cost of transport to the establishments in question¹⁸

Local authorities are expected to target any support on those young people – and their families – who need it most, particularly those with a low income. The transport policy statement should set out clearly the criteria used to establish a learner's eligibility to receive transport/financial support.

Local authorities may ask learners and their parents for a contribution to transport costs and in exercising their discretion they should:

- ensure that any contribution is affordable for learners and their parents;

¹⁷ Section 509AB(3)(c) as amended by the Education and Skills Act, section 83.

¹⁸ Section 509AB(3)(d) of the Education Act 1996.

- ensure that there are arrangements in place to support those families on low income; and
- take into account the likely duration of learning and ensure that transport policies do not adversely impact particular groups. For example, as young people with special educational needs and disabilities are more likely to remain in education or training longer than their peers, any contribution sought from these families would need to allow for the fact they may have to contribute for longer.

Local authorities may take receipt of 16-19 bursary funding into account in assessing an individual's need for financial help with transport.

To aid transparency, it is helpful for local authorities to set out the average cost per young person of post-16 transport in their area before any subsidies are deducted. Clearly setting out average costs will enable learners and parents to understand the extent of the local authority subsidy.

16.6 Alternative means of facilitating attendance at establishments¹⁹

Local authorities should consider alternative, safe means of facilitating attendance at establishments of education or training. Suitable and appropriate alternatives may include transport solutions, for example:

- cycle schemes – which can support independence and also offer a sustainable form of transport provision.
- moped schemes – which can support individual learners (over the age of 17) to travel to education and training from rural areas where public transport may not be available.
- independent travel training to enable young people (often with special educational needs and disabilities) to travel on public transport independently. See section [‘Specific consideration of learners with special educational needs and disabilities’](#) for further details.

16.7 Non-transport solutions to facilitate learner access

Local authorities will also want to consider whether non-transport solutions could facilitate learner access to education or training: for example peripatetic teachers, mobile provision and e-learning options.

16.8 Preferences based on religion

Local authorities must have regard to any preference the individual may have for a

¹⁹ Section 509AB(3)(d) of the Education Act 1996.

particular institution based on their religion or belief.

For the purposes of section 509AD²⁰ “religion” means any religion and “belief” means any religious or philosophical belief. References to “religion” or “belief” include references to a lack of religion or belief.

Specific consideration of learners with special educational needs and disabilities

17. The 16-18 transport duty relates to young people of sixth form age with special educational needs and disabilities aged up to 19 (and beyond the age of 19 if they are continuing on a particular course started before the age of 19).

18. Local authorities also have a duty under the Education and Skills Act 2008 to encourage, enable and assist the participation of young people with special educational needs and disabilities up to the age of 25 in education and training. It therefore follows that it is good practice for local authorities to include information about what transport arrangements are available and whether they are adequate to enable these young people to participate.

19. Section 509AB(1) of the Education Act 1996 requires local authorities to set out the extent to which the arrangements they have put in place pursuant to the transport statement prepared under section 509AA facilitate the attendance of young people with special educational needs and disabilities.

20. The transport needs of young people with special educational needs and disabilities should be reassessed when a young person moves from compulsory schooling to post-16 education. Arrangements cannot be limited to those young people who had been assessed as having particular transport needs prior to the age of 16. The Children and Families Act 2014 places a duty on local authorities to publish a ‘local offer’ setting out their services for children and young people with special educational needs and disabilities, and this must include information on the arrangements for travel to and from schools and post-16 institutions.

21. Young people with an EHC plan will have an institution named in their plan at Section I. There is no entitlement to transport to and from this named provider and transport should only be named in an EHC plan in exceptional circumstances. Local authorities should ensure during EHC plan discussions that parents are made aware that transport support will be considered in accordance with the local authority’s own post-16 transport policy.

²⁰ Section 509AD(3) of the Education Act 1996 (as inserted by section 84 of the Education and Inspections Act 2006).

22. A learner with special educational needs and disabilities may take longer to complete a programme of learning or training, and therefore it will be good practice for the local authority to extend the arrangements for the provision of transport until a learner has completed their programme even if that is after they have reached the age of 19.

23. If the local authority and/or providers operate an independent travel training scheme it is good practice to include such initiatives in the transport policy statement.

24. Local authorities will want to be aware of the adult transport duty (sections 508F and 508G of the Education Act 1996, as inserted by section 57 of the Apprenticeships, Skills, Children and Learning Act 2009) in carrying out their responsibilities for this group. Under section 508F, the local authority is required to make such arrangements for the provision of transport as they consider necessary in respect of:

(a) adults (ie those who are aged 19 or over) for the purpose of facilitating their attendance at local authority maintained or assisted further or higher education institutions or institutions within the further education sector; and

(b) adults aged under 25 with an EHC plan for the purpose of facilitating their attendance at institutions where they are receiving education or training outside the further and higher education sectors. For those young adults, the local authority's duty only applies where the local authority has secured the provision of education or training at that institution and the provision of boarding accommodation in connection with that education or training.

25. Where the local authority makes such arrangements, any transport provided must be free of charge²¹. Where the local authority decides not to provide transport arrangements in a particular case, they still have discretion to pay all or part of the reasonable travelling expenses for the student²².

26. The local authority also has a duty under section 508G to prepare a transport policy statement setting out any transport or other arrangements that it proposes to make for that academic year in respect of adults aged under 25 with EHC plans²³.

Local complaints process

27. Local authorities should publish as part of the transport policy statement the process which will be followed should a complaint or an appeal against a local authority decision be made on behalf of, or by, a young person. Complaints and appeals must first

²¹ Section 508F(4) of the Education Act 1996.

²² Section 508F(8) of the Education Act 1996.

²³ Section 508G(2)-(4) of the Education Act 1996.

be taken up with the local authority²⁴. If these do not result in a satisfactory outcome, it may be appropriate for young people or their families to consider contacting the Local Government Ombudsmen (LGO) or complaining to the Secretary of State for Education. The LGO is an independent organisation that looks into complaints against councils. This is a free service and information can be found online at www.lgo.org.uk.

28. To complain to the Secretary of State, young people or their families should use the contact form on gov.uk - www.education.gov.uk/help/contactus. Any complaint should outline the case, set out the decision taken by the local authority and include any other relevant documentation, for example any advice or decisions from the LGO where appropriate.

Complaints to the Secretary of State for Education

29. Under section 509AA (9), of the Education Act 1996, the Secretary of State may direct a local authority to make transport arrangements or provide reasonable travelling expenses for individuals or groups of learners. This only applies where particular transport arrangements or financial assistance have not been included in, or are not covered by, the local authority's transport policy statement. The Secretary of State can make a direction where she considers it expedient to do so, having regard to the particular circumstances of the case.

30. The Secretary of State also has powers under sections 496 and 497 of the Education Act 1996 to direct a local authority where they have exercised (or are proposing to exercise) their functions unreasonably or where they have failed to discharge a duty. If the Secretary of State is satisfied that an authority has acted (or is proposing to act) unreasonably, she may give such directions as to the exercise of the power or performance of the duty as appear to her to be appropriate.

31. The Secretary of State may exercise her section 496 and 497 powers following a complaint, or if the matter is brought to the department's attention by other means. When a complaint is submitted to the department, officials will consider the evidence received and where appropriate, seek further information. If the department finds that it is not appropriate for the Secretary of State to intervene by making a direction, they will communicate this decision to the correspondent and, where appropriate, the local authority.

32. If the complainant is dissatisfied with the way in which the department has handled the case they can log a [service complaint](#). Further information on the department's complaints process can be found on gov.uk at www.gov.uk/government/organisations/department-for-education/about/complaints-procedure. A service complaint will prompt consideration of how the case has been

²⁴ Section 509AE(4) of the Education Act 1996.

managed but there will not be a review of the substance of the decision made. The substance of the decision would only be considered if the complainant provided additional information relevant to the decision not to intervene.

33. If the complainant remains dissatisfied, they can ask their local MP to refer their case to the Parliamentary and Health Service Ombudsman (PHSO). If the PHSO accept a complaint for further consideration they could normally look at the department's handling of the case. The PHSO's role is not to reverse decision-making, but where it upholds a complaint, it can make recommendations to the department to put things right. Information on the PHSO can be found online at: www.ombudsman.org.uk.

Consulting key partners on the transport policy statement

34. The transport policy statement is the responsibility of the local authority. However, the local authority should try to achieve a consensus and work with other partners and stakeholders to develop a collaborative approach to transport solutions and the production of the transport policy statement. It is good practice for the different departments within each local authority to take a joined up approach. For example, the transport department might need to speak to the social services department if the social services department also procures transport.

35. The local authority must consult with the following stakeholders in developing the statement to ensure that it provides a full picture of the available transport and support:

- any other local authorities it considers appropriate (including neighbouring local authorities that are in Wales or Scotland)²⁵. There will be occasions where learners will travel across local authority boundaries and this should not be a barrier for the learner. There are also clear benefits for local authorities to collaborate where similar challenges exist or to share good practice;
- the governing bodies of schools and further education institutions²⁶. It is important to note that the power of schools and colleges to make arrangements is in addition to, and not instead of, the power of the local authority to make arrangements;
- the appropriate transport administration body for your area²⁷;
- Transport for London, if the local authority is a London borough council or the Common Council of the City of London²⁸; and

²⁵ Section 509 AB(6)(a) of the Education Act 1996.

²⁶ Sections 509AB(6)(b) and 509AA(4).

²⁷ Section 509AB(7)(a).

²⁸ Section 509AB(7)(b).

- persons who will be of sixth form age at the time of the transport policy statement and their parents²⁹. Local authorities should set out in their transport policy statements how and when they propose to consult young people and their parents to inform the development of their transport policy statements in the following year.

36. Other bodies including education and training providers; higher education institutions; transport companies and authorities operating in the locality; public sector bodies; community groups; voluntary organisations and groups/organisations with an interest in disability issues (including independent specialist providers) should also be consulted where appropriate.

Publication of the transport policy statement

37. The transport policy statement must be published by the local authority by 31st May each year.

38. The transport policy statement should be made available on the local authority's own website each year to inform young people's³⁰ choice of post-16 provision for the following academic year.

39. Local authorities are also responsible for ensuring that a link is made from their transport policy statement to the [GOV.UK](https://www.gov.uk). To facilitate this process the local authority's web team should complete the following actions:

- load the transport policy statement on to the council website; and
- manage the link to the GOV.UK page www.gov.uk/subsidised-college-transport-16-19.

40. To update the link or report broken links please email: local-direct-admin@digital.cabinet-office.gov.uk.

In-year changes

41. Local authorities should consider their approach to implementing what is set out in its transport policy statement and continue to monitor its progress throughout the year.

42. Local authorities may amend and republish their transport policy statements in-year in response to complaints. Local authorities must revise and republish their transport

²⁹ Section 54 of the Apprenticeships, Skills, Children and Learning Act 2009 inserts new subsection (ca) in s509AB(6.) This was commenced in April 2010, to apply for the academic year 2011/12.

³⁰ Section 509AA (7)(a) of the Education Act 1996.

policy statements if, as a result of a complaint, the Secretary of State has directed them to do so³¹.

³¹ Section 509AE (2) (3) of the Education Act 1996.

Appendix – statutory provisions

This appendix sets out the relevant statutory provisions in the Education Act 1996 (as amended) in relation to local authorities' responsibilities for the provision of transport for relevant young adults and persons of sixth form age³².

508F Local authorities in England: provision of transport etc for adult learners

(1) A local authority in England must make such arrangements for the provision of transport and otherwise as they consider necessary, or as the Secretary of State may direct, for the purposes mentioned in subsections (2) and (3).

(2) The first purpose is to facilitate the attendance of adults receiving education at institutions—

- (a) maintained or assisted by the authority and providing further or higher education (or both), or
- (b) within the further education sector.

(3) The second purpose is to facilitate the attendance of relevant young adults receiving education or training at institutions outside both the further and higher education sectors, but only in cases where the local authority have secured for the adults in question —

- (a) the provision of education or training at the institution in question, and
- (b) the provision of boarding accommodation under section 514A.

(4) Any transport provided under subsection (1) must be provided free of charge.

(5) In considering what arrangements it is necessary to make under subsection (1) in relation to relevant young adults, a local authority must have regard to what they are required to do under section 15ZA(1)³³ in relation to those persons.

(6) In considering whether they are required by subsection (1) to make arrangements in relation to a particular adult, a local authority must have regard (among other things) to the age of the adult and the nature of the route, or alternative routes, which the adult could reasonably be expected to take.

³² If a section number is followed by ... this denotes previous text in legislation has been repealed.

³³ 15ZA Duty in respect of education and training for persons over compulsory school age: England

(1) A [local authority] in England must secure that enough suitable education and training is provided to meet the reasonable needs of—

- (a) persons in their area who are over compulsory school age but under 19, and
- (b) persons in their area who are aged 19 or over but under 25 and are subject to special educational needs and disabilities learning difficulty assessment.

(7) Arrangements made under subsection (1) by virtue of subsection (3) to facilitate full-time education or training at an institution outside both the further and higher education sectors must be no less favourable than the arrangements made for relevant young adults of the same age for whom the authority secure the provision of education at another institution.

(8) A local authority in England may pay all or part of the reasonable travelling expenses of an adult —

(a) receiving education or training at an institution mentioned in subsection (2) or (3), and

(b) for whose transport no arrangements are made under subsection (1)

(9) In this section —

“adult” means a person who is neither a child nor a person of sixth form age,

“sixth form age” is to be construed in accordance with section 509AC(1), and

“relevant young adult” means an adult who is aged [for whom an EHC plan is maintained]

508G Local authorities in England: transport policy statements etc for young adults subject to learning difficulty assessment

(1) A local authority in England making arrangements, or proposing to pay travelling expenses, under section 508F in relation to relevant young adults must consult —

(a) any other local authority that they consider it appropriate to consult;

(b) governing bodies of institutions within the further education sector in the authority's area;

(ba) proprietors of 16 to 19 Academies in the authority's area;

(c) persons in the local authority's area who will be relevant young adults when the arrangements or payments have effect, and their parents;

(d) the Secretary of State; and

(e) any other person specified by the Secretary of State.

(2) The authority must prepare for each academic year a transport policy statement complying with the following requirements.

(3) The statement must specify any transport or other arrangements, and any payment of travelling expenses, made or to be made in relation to the year under section 508F in relation to relevant young adults.

(4) The statement must also specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985)³⁴ which are to be provided under any scheme established under section 93 of that Act to relevant young adults receiving education or training at an institution mentioned in subsection (2) or (3) of section 508F.

(5) The authority must publish the statement by the end of May in the year in which the relevant academic year begins.

(6) In preparing and publishing the statement, the authority must have regard (among other things) to the need to —

(a) include in the statement sufficient information about the matters that the statement must specify; and

(b) publish the statement in time

to enable relevant young adults and their parents to take reasonable account of those matters when choosing between different institutions at which education or training is provided.

(7) The publication of a statement under this section in relation to an academic year does not prevent an authority from —

(a) making additional arrangements or payments under section 508F in relation to the academic year, or

(b) providing additional travel concessions in relation to the academic year.

(8) The Secretary of State may amend subsection (5) by order to change the time by which the statement must be published.

(9) In this section —

“academic year” has the meaning given in section 509AC;

“governing body” has the meaning given in section 509AC; and

“relevant young adult” has the meaning given in section 508F.

³⁴ [The Transport Act 1985](http://www.legislation.gov.uk) can be viewed on www.legislation.gov.uk.

508H Guidance: sections 508F and 508G

In making arrangements under section 508F(1) and preparing and publishing a statement under section 508G, a local authority must have regard to any guidance issued by the Secretary of State under this section.

508I Complaints about transport arrangements etc for young adult for whom EHC plan is maintained

(1) A local authority may revise a statement prepared under section 508G to change any matter specified under subsection (3) of that section if, as a result of a relevant young adult transport complaint, they have come to consider the change necessary for a purpose mentioned in section 508F(2) or (3).

(2) A local authority must revise a statement prepared under section 508G to change any matter specified in subsection (3) of that section if, as a result of a relevant young adult transport complaint, the Secretary of State has directed them to do so.

(3) An authority that revise a statement under subsection (1) or (2) must publish the revised statement and a description of the revision as soon as practicable.

(4) The Secretary of State need not consider whether to exercise any power under sections 496 to 497A (powers to prevent unreasonable exercise of functions, etc) or subsection (2) of this section in response to a matter that is, or could have been, the subject of a relevant young adult transport complaint made to him or her unless satisfied that —

- (a) the matter has been brought to the notice of the local authority concerned; and
- (b) the authority have had a reasonable opportunity to investigate the matter and respond.

(5) In this section “relevant young adult transport complaint” means a complaint that is —

- (a) about a local authority's exercise of, or failure to exercise, a function under section 508F or 508G in relation to relevant young adults; and
- (b) made by a person who is, or will be, a relevant young adult when the matter complained of has effect, or by a parent of such a person

and “relevant young adult” has the meaning given in section 508F.

(6) For the purposes of sections 508G(7) and 508H, the revision of a statement under this section is to be treated as the preparation of a statement under section 508G.

(7) Where a local authority have published in a single document a statement prepared under section 509AA and a statement prepared under 508G, the requirement to publish a revised statement under subsection (3) is to be treated as a requirement to publish a version of the document that includes the revised statement.

509AA Local authorities in England: provision of transport etc. for persons of sixth form age

(1) A local authority in England shall prepare for each academic year a transport policy statement complying with the requirements of this section.

(2) The statement shall specify the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training —

- (a) at schools;
- (b) at any institution maintained or assisted by the authority which provides further education or higher education (or both);
- (c) at any institution within the further education sector;
- (ca) at any 16 to 19 Academy; or
- (d) at any establishment (not falling within paragraph (b), (c) or (ca)) at which the authority secures the provision of education or training under section 15ZA(1).

(3) The statement shall specify the arrangements that the authority consider it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at any establishment such as is mentioned in subsection (2).

(4) The statement shall specify the arrangements proposed to be made by the governing bodies of —

- (a) schools maintained by the authority at which education suitable to the requirements of persons over compulsory school age is provided; and
- (b) institutions within the further education sector in the authority's area

for the provision of transport for facilitating the attendance of persons of sixth form age receiving education or training at the schools and institutions and for the provision of financial assistance in respect of the travelling expenses of such persons.

(5) Those governing bodies shall co-operate in giving the local authority any information and other assistance that is reasonably required by the authority for the performance of their functions under this section and section 509AB.

(6) The statement shall specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985 (c. 67)) which are to be provided under any scheme established under section 93 of that Act to persons of sixth form age receiving education at any establishment such as is mentioned in subsection (2) above in the authority's area.

(7) The authority shall —

- (a) publish the statement, in a manner which they consider appropriate, on or before 31st May in the year in which the academic year in question begins; and
- (b) make, and secure that effect is given to, any arrangements specified under subsections (2) and (3).

(8) Nothing in this section prevents a local authority from making, at any time in an academic year, arrangements —

- (a) which are not specified in the transport policy statement published by the authority for that year; but
- (b) which they have come to consider necessary for the purposes mentioned in subsections (2) and (3).

(9) The Secretary of State may, if he considers it expedient to do so, direct a local authority to make for any academic year —

- (a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at establishments such as are mentioned in subsection (2); or
- (b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons

which have not been specified in the transport policy statement published by the authority for that academic year.

(10) The Secretary of State may by order amend subsection (7)(a) to change the time by which the statement must be published.

(11) Subsection (9) is subject to section 509AE (complaints about transport arrangements etc for persons of sixth form age in England).

509AB Local authorities in England: further provision about transport policy statements for persons of sixth form age

(1) A statement prepared under section 509AA shall state to what extent arrangements specified in accordance with subsection (2) of that section include arrangements for facilitating the attendance at establishments such as are mentioned in that subsection of disabled persons and persons with learning difficulties.

(2) A statement prepared under that section shall —

- (a) specify arrangements for persons receiving full-time education or training at establishments other than schools maintained by the local authority which are no less favourable than the arrangements specified for pupils of the same age attending such schools; and
- (b) specify arrangements for persons with learning difficulties [or disabilities] receiving education or training at establishments other than schools maintained by the authority which are no less favourable than the arrangements specified for pupils of the same age with learning difficulties [or disabilities] attending such schools.

(3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the local authority shall have regard (amongst other things) to —

- (a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made;
- (b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided;
- (ba) what they are required to do under section 15ZA(1) in relation to persons of sixth form age;
- (c) the distances, and journey times, between the homes of persons of sixth form age in their area and establishments such as are mentioned in section 509AA(2) at which education or training suitable to their needs is provided; and
- (d) the cost of transport to the establishments in question and of any alternative means of facilitating the attendance of persons receiving education or training there.

(3A) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a local authority in England shall have regard

(amongst other things) to the nature of the route, or alternative routes, which he could reasonably be expected to take.

(4) ...

(5) In preparing a statement under section 509AA a local authority shall have regard to any guidance issued under this section by the Secretary of State.

(6) In preparing a statement under that section a local authority shall consult—

(a) any other local authority that they consider it appropriate to consult,

(b) the governing bodies mentioned in subsection (4) of that section,

(c) ...

(ca) persons in the local authority's area who will be of sixth form age when the statement has effect, and their parents, and

(d) any other person specified for the purposes of this section by the Secretary of State.

(7) In preparing a statement under that section a local authority shall also consult —

(a) where they are a district council for an area in a metropolitan county, the Integrated Transport Authority for that county; and

(b) where they are a London borough council or the Common Council of the City of London, Transport for London.

(7A) In preparing and publishing a statement under section 509AA, a local authority must have regard (among other things) to the need to —

(a) include in the statement sufficient information about the matters that the statement must specify; and

(b) publish the statement in time

to enable persons who will be of sixth form age when the statement has effect and their parents to take reasonable account of those matters when choosing between different establishments at which education or training is provided.

(8)...

509AC Interpretation of sections 509AA and 509AB

(1) For the purposes of sections 509AA and 509AB a person receiving education or training at an establishment is of sixth form age if he is over compulsory school age but —

(a) is under the age of 19; or

(b) has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.

(2) ...

(3) ...

(4) References in section 509AB to persons with learning difficulties [or disabilities] are to be construed in accordance with section 15ZA(6) and (7).

(5) In sections 509AA and 509AB and this section —

“academic year” means any period commencing with 1st August and ending with the next 31st July;

“disabled person” has the same meaning as in the Equality Act 2010;

“establishment” means an establishment of any kind, including a school or institution; and

“governing body”, in relation to an institution within the further education sector, has the same meaning as in the Further and Higher Education Act 1992.

(6) The Secretary of State may by order amend the definition of “academic year” in subsection (5).

509AD Local authorities in England: 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 a school, institution or other place —

(a) to any wish of a parent of such a person for him to be provided with education or training at a particular school, institution or other place where that wish is based on the parent's religion or belief; and

(b) in a case where the person in question (or any of the persons in question) is of sixth form age (within the meaning given in section 509AC(1)), to any wish of that

person to be provided with education or training at a particular school, institution or other place where that wish is based on the person's religion or belief.

(2) The “travel functions” of a local authority in England are their functions under any of the following provisions—

section 508A (duty to promote sustainable modes of travel etc);

section 508B (travel arrangements for eligible children);

section 508C (travel arrangements etc for other children);

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

section 508F (local authorities in England: provision of transport etc for adult learners); and

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.

509AE Complaints about transport arrangements etc for persons of sixth form age in England

(1) A local authority may revise a statement prepared under section 509AA to change the arrangements specified under subsection (2) or (3) of that section if, as a result of a sixth form transport complaint, they have come to consider the change necessary for the purpose of the arrangements specified under the subsection in question.

(2) A local authority must revise a statement prepared under section 509AA to change the arrangements specified under subsection (2) or (3) of that section if, as a result of a sixth form transport complaint, the Secretary of State has directed them to do so.

(3) An authority that revise a statement under subsection (1) or (2) must publish the revised statement and a description of the revision as soon as practicable.

(4) The Secretary of State need not consider whether to exercise any power under sections 496 to 497A (powers to prevent unreasonable exercise of functions, etc), section 509AA(9) (power to require local authority to make additional transport

arrangements), or subsection (2) of this section in response to a matter that is, or could have been, the subject of a sixth form transport complaint made to him or her unless satisfied that —

- (a) the matter has been brought to the notice of the local authority concerned; and
- (b) the authority have had a reasonable opportunity to investigate the matter and respond.

(5) In this section “sixth form transport complaint” means a complaint that is—

- (a) about a local authority's exercise of, or failure to exercise, a function under sections 509AA to 509AD in relation to persons of sixth form age; and
- (b) made by a person who is, or will be, a person of sixth form age when the matter complained of has effect, or by a parent of such a person;

and “sixth form age” is to be construed in accordance with section 509AC(1).

(6) For the purposes of sections 509AA(8) and (9), 509AB(1) to (5), 509AC and 509AD, the revision of a statement under this section is to be treated as the preparation of a statement under section 509AA.

(7) Where a local authority have published in a single document a statement prepared under section 508G and a statement prepared under 509AA, the requirement to publish a revised statement under subsection (3) is to be treated as a requirement to publish a version of the document that includes the revised statement.

Further sources of information

Associated resources (external links)

- **Sustainable transport**

[Sustrans](#) is the leading sustainable transport charity that provides practical advice that can be passed on to parents and young people to increase confidence in walking and cycling.

Other departmental advice and guidance you may be interested in

- **[Home to school travel and transport statutory guidance](#) (for children of compulsory school age)**

Guidance relating to home to school travel and transport for pupils up to the age of 16 is available from the Department for Education's website.

- **[Participation of young people statutory guidance](#)**

The purpose of this guidance is to identify the key responsibilities of local authorities in relation to raising the participation age and promoting the participation of 16- and 17-year-olds. It is available from the GOV.UK website.



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