



Department  
for Education

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# **New home to school travel and transport guidance**

# New home to school travel and transport guidance

The Department for Education is proposing to introduce new Home to School Travel and Transport Guidance. The law has not changed and the duty to provide home to school transport remains with local authorities. However, the current guidance was published in 2007 and needs to be updated to reflect better the schools system that has developed since 2010.

The aim of the new guidance is to reduce prescription and allow greater freedoms for local authorities to develop transport policies that meet the needs of their areas. The guidance also sets out a recommended appeals process that is intended to be both clearer for parents and local authorities and more independent.

This 10 week consultation seeks views on the content of this guidance and on how successfully it meets these aims.

**To** Local authorities, parents of compulsory aged school children (5-16) (mainstream and SEN), and other interested parties.

**Issued** 25 March 2014

**Enquiries To** If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288

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## Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

# 1 Introduction

- 1.1 The current 2007 Home to School Transport Guidance is based on a schools system largely derived from the Education and Inspections Act 2006 and its case studies represent examples from that period or earlier. Furthermore the guidance represents the thinking of that period in that it is highly prescriptive and sets out how local authorities should handle a wide variety of different issues and situations.

## 2 New guidance aims

- 2.1 Since 2010 the educational landscape has been transformed by the rapid expansion of the academies programme, the introduction of free schools and the introduction of the academy presumption for new local schools. The duty to provide home to school transport remains with local authorities and we are not proposing to change this. However, we think the associated statutory guidance must be updated to better reflect the requirements of today's dynamic and increasingly autonomous schools system.

This government is committed to reducing prescription wherever possible, to help encourage innovation from which our schools system and the children and families it serves can benefit. Home to school transport is no different. The aim of the new guidance is, therefore, to provide a less prescriptive environment (within the existing law) to allow local authorities to innovate and collaborate with their partners and stakeholders to develop transport policies that meet the particular needs of their areas.

The new guidance offers examples of innovative problem solving and other good practice from local authorities. These are intended to inform local authorities' thinking to help reach the best solution for a particular situation. Many are derived from DfE's earlier Efficiency and Practice Review and have been updated to set out the very latest position.

The recommended appeals process included in the guidance is intended to be both clearer for parents and local authorities and more independent. This guidance was prepared with the assistance of a working group of local authority practitioners and road safety advisers.

## 3 Summary

- 3.1** 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: 00373-2007 BKT-EN.

### 3.2 Review date

This guidance will next be reviewed in 2015.

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

- Sections 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](#).
- Equalities legislation.
- [School Admissions Code](#).

### 3.4 Who is this guidance for?

This guidance is for:

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

### 3.5 Key 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 area<sup>1</sup>.
- 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.

### 3.6 Local authorities' statutory duties

In order to comply with their home to school transport duties local authorities must, among other things:

- 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).
- Make transport arrangements for all children who cannot reasonably be expected to walk because the nature of the route is deemed unsafe to walk.
- Provide free transport where pupils are entitled to free school meals or their parents are in receipt of maximum Working Tax Credit if the nearest suitable schools is:
  - Beyond 2 miles (for children over the age of 8 and under 11).
  - Between 2 and 6 miles (if aged 11-16 and there are no more than three suitable nearer schools).
  - Between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief (aged 11-16).

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

- Make transport arrangements for all children who are unable 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. Such children should be assessed on an individual basis to identify their particular transport requirements. Mainstream transport requirements (e.g. the statutory walking distances) should not be conflated with assessments for the transport needs of SEN and disabled children.
- Ensure travel arrangements enable an eligible child to reach school in reasonable safety and comfort and in a state that is conducive to study.

## 4 Part 1

### 4.1 Sustainable school travel

Section 508A of the Act places a general duty on local authorities to promote the use of sustainable travel and transport<sup>2</sup>. The duty applies to children and young people of compulsory school age and sixth-form age who travel to receive education or training in a local authority's area<sup>3</sup>. The duty relates to journeys to and from institutions where education or training is delivered.

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 better catered for;
- the promotion of sustainable travel and transport modes on the journey to, from, and between schools and other institutions; and
- publication of Sustainable Modes of Travel Strategy.

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

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

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.

#### **4.2 Assessing the travel and transport needs of children and young people**

Local authorities should, in large part, base their assessment of children and young people's travel and transport needs on the data provided in school or college travel plans. Effective school travel plans put forward a package of measures to improve safety and reduce car use, backed by a partnership involving the school, education and transport officers from the local authority, the police and the health authority. Many travel plans 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 so on) to be fully engaged when addressing this duty.

#### **4.3 Audit of infrastructure to support sustainable school travel**

Local authorities already collect much of the information required for the audit of the infrastructure supporting sustainable school travel. The audit will include a mapping exercise showing how schools are served by:

- bus and other public transport routes (including school transport provided by the local authority);
- footpaths, cycle ways, roads and associated features (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).

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, 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. The arrangements for children with SEN or disabilities should also be considered and whether e.g. some might benefit from independent travel training which can result in a skill for life<sup>4</sup>.

#### **4.4 Strategy to develop infrastructure to support travel needs of pupils**

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 developing that infrastructure so that it better meets the needs of children and young people in their area. 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.

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

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.

#### **4.5 Promoting sustainable travel and transport to and from school**

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.

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



## **4.6 Publication of Sustainable Modes of Travel Strategy**

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 year<sup>5</sup>.

# **5 Part 2**

## **5.1 Provision of travel arrangements: general**

Sections 508B and 508C of the Act place a duty on local authorities to ensure that suitable travel arrangements are made, where necessary to facilitate a child's attendance at school. This part of the guidance relates to arrangements that apply to all children.

The duty applies to home<sup>6</sup> to school travel arrangements at the start of the day, and school to home travel arrangements at the end of the day. It does not relate to travel between educational institutions during the school day.

Parents are responsible for ensuring that their children attend school regularly. However, section 444 of the Act outlines the situations in which a parent may have a defence in law against a prosecution by a local authority for their child's non-attendance at school. Section 444(3B) provides a parent with a defence if he or she proves that:

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

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

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

## 5.2 Statutory walking distances

The statutory walking distances are 2 miles for children aged under 8, and 3 miles for children aged 8 and over<sup>7</sup>. 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 with reasonable safety. As such, the route measured may include footpaths, bridleways, and other pathways, as well as recognised roads.

## 5.3 Qualifying school

The relevant educational establishment in relation to an eligible child will be either a qualifying school or the place, other than a school, where he is receiving education by virtue of arrangements made under section 19(1) of the Act<sup>8</sup>.

Regulations<sup>9</sup> 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.

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<sup>10</sup>.

For SEN children, an independent school can also be a qualifying school where this is named on the child's statement, or it is the nearest of two or more schools named in the statement.

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<sup>7</sup> Section 444(5) of the Act

<sup>8</sup> Section 508B(10) of the Act.

<sup>9</sup> [The School Travel \(Pupils with Dual Registration\)\(England\) Regulations 2007](#) (S.I.2007/1367).

<sup>10</sup> See paragraph 15 of Schedule 35B of the Act.

#### **5.4 Suitability of a qualifying school**

References to the nearest qualifying school are to be taken to mean the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any SEN that the child may have.

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

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

Subsection (4) of 508B and 508C of the Act lists 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.

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 an escort to enable a child with SEN to walk a short distance to school in reasonable safety, instead of making arrangements for a taxi to take them to and from school.

## **5.6 Suitability of arrangements**

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 a shorter journey time is usually more appropriate.

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 be combined with the transport time when considering the overall duration of a journey. For arrangements to be suitable, they must also be reasonably safe and stress free, to enable the child to arrive at school in a state that is conducive to study.

## **5.7 Safeguarding requirements**

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. 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.

## **5.8 Equality training**

All local authorities should ensure that all drivers and escorts taking pupils to and from school and related services have undertaken equality 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 equality training. This training should consist of:

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

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

## **5.9 Bus safety considerations**

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.

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.

## **5.10 Poor behaviour on school buses**

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 head teachers 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. 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. Persistent poor behaviour can be grounds for exclusion. Where local authorities consider that escorts might be necessary to ensure safety of pupils on buses, they can stipulate the provision of escorts in their tender documents.

## 5.11 Publication of general arrangements and policies

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 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.

## 6 Part 3

### 6.1 Travel arrangements for eligible children

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. These are also set out in the [‘Local authorities’ statutory duties’](#) section of this guidance. This includes the following:

- Children unable to walk to school, including where the distance is less than the statutory walking distances, by reason of their SEN, disability, or mobility problem (including temporary medical conditions e.g. a broken leg<sup>11</sup>) should be assessed on an individual basis to identify their particular transport requirements. Mainstream transport requirements (e.g. the statutory walking distance) should not be conflated with assessments for the transport needs of SEN and children with disabilities; and
- Children unable to walk (accompanied as necessary), including where the distance is less than the statutory walking distances, in safety to school because of the nature of the route<sup>12</sup>.

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<sup>11</sup> Paragraphs 2 and 3 of Schedule 35B of the Act.

<sup>12</sup> Paragraphs 4 and 5 of Schedule 35B of the Act.

Creating safe walking 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 it is recommended that local authorities consider 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/carer to accompany the child along a route which would otherwise be classified as being unsafe.

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 and pedestrian crossings 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.

Local authorities should also promote and ensure equality of opportunity for disabled parents and carers. If a parent's or carer's disability prevents them from accompanying 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.

Children who live beyond the statutory walking distance, 2 miles (if below the age of 8) or beyond 3 miles (if aged between 8 and 16) attending a qualifying school (or places other than a school at which they might receive education under section 19(1) of the Act) are also eligible children for whom local authorities must provide free school transport.

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

Children entitled to free school meals, or whose parents are in receipt of their maximum level of Working Tax Credit have extended rights to free home to school travel<sup>13</sup>. These are:

- For children over the age of 8 and under 11, where their nearest suitable school is beyond 2 miles.
- For children aged 11-16, where their preferred suitable school is between 2 and 6 miles and there are no more than three suitable nearer schools.
- For children aged 11-16 where the nearest school preferred on the grounds of religion or belief is between 2 and 15 miles.

The 2 mile limit should be measured in the same way as the statutory walking distances, see section 5.2. 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 not therefore include any routes or parts of routes which would not be passable using a suitable motorised vehicle. In short, the upper limits should be measured along road routes.

## **6.2 Timing of assessment of eligibility**

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 as required during the course of the school year e.g. as a result of families moving to a new area.

Where entitlement to extended travel rights has been established (see second paragraph of section 7.1) 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 someone moves out of eligibility during the year, then for the following year, it seems appropriate to suggest that there would also have to be a new assessment of places available. If, for example, a pupil was registered at their third nearest school and at the point of reassessment neither of the two nearer schools had places available, then transport support would continue as the school had, by default, become the nearest suitable with places available.

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<sup>13</sup> Paragraphs 9-14 of Schedule 35B of the Act.



## **7 Part 4**

### **7.1 Travel arrangements for other children**

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, for which a charge can be made. Where charges are imposed, good practice suggests that children from low income groups should be exempt.

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.

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

## **8 Part 5**

### **8.1 Religion or belief**

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. In many cases these schools may be more distant, and many local authorities have used their discretionary powers to adopt home to school travel policies that facilitate attendance at such schools. 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 two and 15 miles from their home.

Under the European Convention on Human Rights (ECHR), parents do not enjoy any 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. However, the Secretary of State hopes that local authorities will continue to think it right not to disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools.

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.

Although the provisions of the Equality Act 2010 (which places a duty on local authorities not to discriminate against a person on the grounds of their religion or belief), do not apply to the exercise of an authority's functions in relation to transport<sup>14</sup>, local authorities will need to be aware of their obligations under human rights legislation.

In exercising their functions, local authorities will therefore need to respect parents' religious and philosophical convictions as to the education to be provided for their children<sup>15</sup> in so far as this is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure. It may be incompatible, for example, on grounds of excessive journey length, or where the journey may have a detrimental impact on the child's education. Local authorities should also ensure that they do not discriminate contrary to Article 14 of the ECHR. For example, where transport arrangements are made for pupils travelling to denominational schools to facilitate parents' wishes for their child to attend on religious grounds, travel arrangements should also be made for pupils travelling to non-denominational schools, where attendance at those schools enables the children to be educated in accordance with their parents' philosophical convictions, and vice versa.

Children aged 11-16 from low income backgrounds are eligible for free travel arrangements to the nearest school (between 2 and 15 miles) preferred on grounds of religion or belief. However, local authorities may wish to use their discretionary powers to extend transport arrangements beyond this statutory

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<sup>14</sup> s31 of, and paragraph 11 of Schedule 3 to, the Equality Act 2010.

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

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

## **9 Part 6**

### **9.1 Policy changes and appeals procedures**

#### **Policy Changes**

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.

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. The logic being that parents have made decisions 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.

## Appeals

Local authorities should have in place a review/appeals procedure for parents to follow should they have cause for complaint about the service, or disagreement about the eligibility of their child for travel support. The procedure should be published alongside the local authority travel policy statement. If a complainant 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 a complainant considers the decision of the independent appeals panel to be flawed on public law grounds, they may apply for a judicial review.

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](#).

## 10 Definitions

- 10.1**
- 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.

## **11 Further information**

### **11.1 Post-16 transport**

Guidance relating to post-16 transport is available on the [Department's website](#).

### **11.2 Sustainable transport**

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](http://www.sustrans.org.uk)

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](http://www.livingstreets.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](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279657/moving_living_more_inspired_2012.pdf)

### **11.3 DBS (formerly CRB) employee suitability checks**

Further information about DBS checks can be obtained from:

<https://www.gov.uk/disclosure-barring-service-check>

## **12 Annex 1**

12.1 Please download Annex 1: Case studies [here](#).

## **13 Annex 2**

13.1 Please download Annex 2: Recommended review/appeals process [here](#).

## **14 How To Respond**

**14.1** Consultation responses can be completed online at [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations)

by emailing: [HometoSchoolTransport.CONULTATION@education.gsi.gov.uk](mailto:HometoSchoolTransport.CONULTATION@education.gsi.gov.uk)

or by downloading a response form which should be completed and sent to:

Lynne Pape

School Organisation and Admissions Division

2F Area E

Department for Education

Mowden Hall

Darlington

DL3 9BG

## **15 Additional Copies**

**15.1** Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at: [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations)

## **16 Plans for making results public**

**16.1** The results of the consultation and the Department's response will be published on the Department for Education e-consultation website in summer 2014.