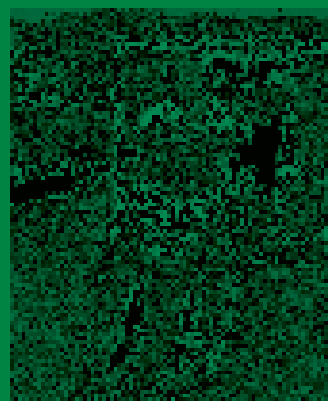




# Home to School Travel and Transport Guidance



department for  
**education and skills**

Creating Opportunity  
Releasing Potential  
Achieving Excellence

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# Overview



1. This guidance, to which local authorities are under a statutory duty to have regard, 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)<sup>1</sup>.
2. The guidance covers local authority duties and powers relating to sustainable school travel, and the provision of school travel arrangements for children and young people. Separate guidance to Pathfinder authorities has been issued dealing with the school travel schemes introduced by section 508E of the Act.
3. The guidance should also be read taking into account local authority duties to prepare Children and Young People's Plans.<sup>2</sup> Any area-wide Children and Young People's Plan should make reference to the Sustainable School Travel Strategy, which should make direct reference to locate itself within the framework, context and commissioning processes of the Children and Young People's Plan.
4. Part 1 of this guidance deals with section 508A – the local authority duty to promote sustainable travel.
5. Part 2 deals with sections 508B and 508C – general local authority duties relating to the provision of travel arrangements for children in their area.
6. Part 3 provides guidance relating to the provision of travel arrangements for “eligible children” and explains the term “qualifying schools” – section 508B and Schedule 35B.
7. Part 4 deals with local authority powers relating to the provision of travel arrangements for other children – section 508C.
8. Part 5 deals with the duty placed on local authorities to have regard to religion or belief in exercising their school travel functions – section 509AD.
9. Part 6 deals with policy changes, and appeals procedures.

<sup>1</sup> Sections 508A, 508B(11), 508D and 509AD (in respect of the exercise of travel functions under sections 508A and 509AA) came into force on 1st April 2007; the remainder of section 508B, section 508C, and 509AD (in respect of the exercise of travel functions under sections 508B and 508C) are to come into force on 1st September 2007.

<sup>2</sup> under section 17 of the Children Act 2004, The Children and Young People's Plan (England) Regulations 2005 (SI 2005 No. 2149) and the Government's non-statutory *Guidance on the Children and Young People's Plan*, HM Government/DfES, 2005.

## Part 1

# Sustainable school travel



10. Section 508A of the Act, in force from 1 April 2007, places a general duty on local authorities to promote the use of sustainable travel and transport.
11. There are four main elements to the duty, each of which is explained in more detail below:
  - an **assessment** of the travel and transport **needs** of children, and young people within the authority's area (see para. 16);
  - an **audit of** the sustainable travel and transport **infrastructure** within the authority that may be used when travelling to and from, or between schools/institutions (see para. 24);
  - 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 (see para. 29); and
  - the **promotion of sustainable travel** and transport modes on the journey to, from, and between schools and other institutions (see para. 34).
12. 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. For example, walking and cycling are likely to improve the health of those travelling on foot or by bicycle, and may well bring environmental benefits from reduced levels of congestion and pollution. Similarly, bus use or car sharing might be considered to bring environmental benefits in comparison to individuals travelling by car.

## Extent and coverage of duty

13. The duty to promote sustainable travel applies to **children and young people of 6th form age** (i.e. children of compulsory school age and below, and young people over compulsory school age but under 18, or older if they started a course of further education before their 19th birthday and are still participating in that course)<sup>3</sup>.
14. The duty applies to children and young people of 6th form age **in general** (rather than to each individual child or young person). It applies:
  - to all those resident in the authority's area, and receiving education or training in the authority's area, or in the area of another authority; and
  - to those not resident in the authority's area, but who travel within the authority's area to receive education or training.
15. The duty relates to journeys to and from institutions at the start and end of the day (including attendance at pre- and after-school activities), and journeys between institutions during the day. Journeys may be to, from or between schools (including independent schools), further education institutions, and other institutions where education or training might be delivered, including those where arrangements are made under section 19(1). As such, the duty includes consideration of the travel implications of extended schools, and delivery of education and training at different institutions for the 14 to 19 age group. Due regard should be given to the Disability Equality Duty which came into force in December 2006. This placed a duty on the public sector to ensure they do not discriminate against disabled people, and that all their services are planned with disabled people's needs fully considered in advance.

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

16. 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.
17. The Department's guidance on school travel plans<sup>4</sup> describes the essential components of 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. It is based on consultation with teachers, parents, pupils and governors and the wider community. The guidance describes the essential components of a travel plan.

### School Travel Plan Essentials

A brief description of the location, size and type of school

A brief description of the travel/transport issues faced by the school/cluster of schools, and should include all pupils' travel needs:

- journeys to and from school at normal start/finish times
- journeys to attend pre- and after-school events
- journeys made during the school day to attend activities at other locations

The results of a survey to identify:

- how children currently travel to/from school
- how they would like to travel to/from school

Clearly defined targets and objectives

Details of proposed measures – on- and off-site

<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.

<sup>4</sup> Available at: <http://www.teachernet.gov.uk/docbank/index.cfm?id=8951>

A detailed timetable for implementation

Clearly defined responsibilities with evidence that all interested parties have been consulted

Proposals for monitoring and review

18. In recent years, local authority based school travel advisers have helped many schools survey their pupils, recording both how they usually travel to school and how they would like to travel to school. To date, around 40% of schools have developed travel plans and we expect all schools to have developed one by the end of the decade.
19. The development of school travel plans can be linked to a wide range of programmes, such as healthy schools and sustainable schools. Whatever the links, the active engagement of pupils and parents in travel plan development, monitoring, and review is vital to their long term success, and will also help to ensure that the data obtained for the local authority assessment of travel needs is meaningful.
20. Many further education institutions and colleges have also developed travel plans based on the travel needs and wants of young people and staff. They recognise the important role that travel plans can play in raising awareness of young people and staff about the consequences of their transport choices and the benefits of choosing sustainable alternatives.

## West Cheshire College

**As part of its move to a new campus, the college developed a travel plan with a package of measures aiming to:**

- Manage car parking
- Reduce the need to travel

- Influence travel planning policy
- Promote environmental education
- Encourage increased walking and cycling
- Encourage increased use of public transport
- Improve information and raise awareness
- Promote staff and student health
- Provide opportunities for better home life balance
- Increase productivity
- Enhance the environmental performance of the College
- Reduce congestion on local roads
- Reduce operating costs

**The College is also contributing substantial sums to:**

- A residents' parking scheme
- Reducing the need to travel
- A crossing on the local ring road
- Good facilities for cyclists and walkers
- Support for bus and train fares

21. As was the case with the above example, 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 (for example, highways departments, planning departments, transport departments, children's services, environment departments, and so on) to be engaged when addressing this duty.
22. The annual School Census is an additional source of valuable data for the assessment of travel needs. Since January 2007, 'mode of travel to school' has been included in the annual census. All schools with a travel plan are required to complete this question in their returns, providing local authorities with

monitoring data on existing travel patterns to schools in their area. From 2007, local authorities will already be collecting data on 'mode of travel to school', as this is a mandatory indicator in Local Transport Plans (LTPs). The Department for Transport (DfT) has issued guidance on data collection in this area, and local authorities should ensure that their requests for information from schools are co-ordinated and do not place any unnecessary burdens on schools. The preferred source of data is through the School Census.

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

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

24. Local authorities already collect much of the information required for the audit of the infrastructure supporting sustainable school travel. Local authority Road Safety Plans, Transport Asset Management Plans and walking and cycling strategies will all play an important part in the audit.
25. Local authorities are already expected to consider accessibility issues – including the accessibility of key public services such as education – as an integral part of their LTP, or, in London, their Local Implementation Plan (LIP)<sup>5</sup>. The overall assessment of accessibility should consist of a mapping audit, and a review of existing knowledge and experience. The audit will include a mapping exercise showing how schools are served by:

- bus and other public transport routes (including school transport provided by the local authority);
- footpaths, cycle ways, roads and associated features (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 buses<sup>6</sup>, car sharing schemes, park and stride/ride schemes).

26. The audit should also contain data relating to personal safety and security, and other factors that influence travel choices, such as poor behaviour on school buses, the incidence of bullying on the journey to school, and so on. In conducting this wider audit, best practice suggests that local authorities should draw information and data included in the travel plans drawn up by schools in their area, which will highlight significant barriers to pupils travelling by sustainable means, including perceptions of pupils, parents, and schools – for example, traffic speed on roads near schools, lack of safe crossing points, unlit footpaths, lack of cycle routes, bus routes that fail to pass within a reasonable distance of schools, the lack of affordable public transport options, and so on.
27. The information drawn from these sources will help the local authority to gain a more detailed picture of what the problems are, and will inform the measures that might be taken to tackle them. The audit will also provide a valuable tool for choice advisers, who will support disadvantaged families in gaining access to schools that best meet the talents, needs and aspirations of their children.

<sup>5</sup> See *Guidance on Accessibility Planning in Local Transport Plans*, DfT, December 2004, or *Mayor's Transport Strategy – Local Implementation Plan Guidance*, Transport for London, July 2004.

<sup>6</sup> In November 2006, DfT announced a new scheme to provide small grants to primary schools in England to set up and sustain walking buses. For more information see: [http://www.dft.gov.uk/stellent/groups/dft\\_susttravel/documents/divisionhomepage/613661.hcsp](http://www.dft.gov.uk/stellent/groups/dft_susttravel/documents/divisionhomepage/613661.hcsp)

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

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

29. Following the assessment of pupil needs, and audit of the sustainable transport infrastructure that supports travel to school, local authorities must develop a strategy for developing that infrastructure so that it better meets the needs of children and young people in their area. **See the Annex to this guidance- School travel strategy development – potential key components.**
30. The strategy should be a statement of the authority's overall vision, objectives and work programme for improving accessibility to schools. The accessibility strategy should build on, and be developed in the context of the authority's community strategies, and LTP- including its accessibility plan and bus strategy, or, in London the LIP. The strategy will be an important source of information to parents on the travel options available to them when expressing their preferences for particular schools in the admissions round.
31. 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.

32. The strategy should be evidence-based, including an assessment of the accessibility needs and problems of the local authority's area and demonstrate how a range of interventions can address these problems. The strategy should set out the accessibility priorities over a timeframe that fits the LTP/LIP planning cycle.
33. 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**

34. LTPs/LIPs include walking, cycling, and bus strategies. They will already outline the local authority's general approach to promoting each of these modes of travel. Local walking, cycling, and bus strategies should inform the local authority's duty to promote sustainable school travel.
35. It is important that local authority promotional strategies also link in to the range of potential benefits highlighted by school travel plans, some of which are recorded in the chart below.
36. The Government recognises that a wide range of benefits can accrue from more children travelling to and from school by sustainable means. These include the health benefits gained from a more active lifestyle and environmental benefits from reduced levels of congestion and pollution.
37. In addition, a recent evaluation of school travel plans conducted by the DfT<sup>7</sup> identified a range of benefits ranging from increased road safety, to healthier and more alert and engaged pupils, to increasingly independent travel for pupils with special educational needs. A brief summary of these benefits are included in the chart on the next page.

<sup>7</sup> See <http://www.dft.gov.uk/pg/sustainable/schooltravel/research/tsi/>



## Case Studies Showing the Wider Benefits of STPs

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

38. The evaluation report also highlights several schemes which reward pupils and schools for promoting sustainable travel (for example Surrey County Council runs a highly successful "Golden Boot Challenge"<sup>8</sup>, Nottingham City

Council achieved significant increases in the proportion of children walking to school through its "Eggs on Legs" campaign (see box below), and Devon County Council has a successful "Wizard Ways to Get to School" programme ).<sup>9</sup>

## Nottingham City Council – 'Eggs on Legs'

Funding was provided through the Neighbourhood Renewal Fund for the period March 2004 to March 2006 to support the provision of walking buses and other walking initiatives, and the development of school travel plans for schools in certain deprived, inner city areas of Nottingham City.

There was significant reluctance shown towards the idea of walking buses, and the local authority decided to develop a walking initiative that was fun, simple and user friendly. The concept of 'Eggs on Legs' was developed to fit into the curriculum, and be more attractive to schools. This aimed to improve health through regular walking, increase road safety and reduce congestion around schools.

The initiative was originally rolled out around Easter time in four schools. Each child that walked to school on a designated day or week received a hard boiled egg. As a reward for walking, pupils were given time to decorate their eggs, and additional decorative items. Once the eggs were complete, a race was held where the eggs were rolled along the ground and not allowed to be broken – reinforcing the message of walking and arriving safely. Due to this initiative, the four schools experienced an increase in walking of 21%. The initiative was very well received and there were requests to make this an annual event.

39. Schemes that directly reward pupils for adopting sustainable forms of transport can

<sup>8</sup> See <http://www.idea-knowledge.gov.uk/idk/core/page.do?pageId=306416>

<sup>9</sup> See [www.devon.gov.uk/index/transport/green\\_travel/school\\_travel\\_plans/awards\\_and\\_grants.htm](http://www.devon.gov.uk/index/transport/green_travel/school_travel_plans/awards_and_grants.htm)

make a valuable contribution to the reduction of car use. The Chief Medical Officers' report *'At least five a week'* contains a wealth of data to demonstrate the health benefits of walking and cycling to school. More recently the Centre for Transport Studies and UCL published *'Making children's lives more active'* which showed that walking to school accounts for more activity for children than two hours a week of physical education (PE).

40. We would encourage more local authorities and schools to develop area-wide reward schemes as part of their efforts to promote sustainable travel, and work with local business to develop new schemes and source the rewards for those taking part in them.
41. Each local authority in England already produces a local strategy for engaging schools and other key partners in the travel planning process. Each strategy includes how the authority intends to promote sustainable travel options on the journey to school. There are a number of examples of good practice in this area, including Shropshire County Council<sup>10</sup>, Devon County Council<sup>11</sup>, and Solihull Metropolitan Borough Council<sup>12</sup>. In addition, Centro in the West Midlands has produced a strategy showing how public transport authorities can support schools in the travel planning process.
43. A summary of the Sustainable Modes of Travel Strategy must be published. If it is published in the composite prospectus, it does not also need to be published by the authority making copies available.<sup>14</sup>

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

42. The Education (School Information) (England) Regulations 2002, amended with effect from 1st June 2007, require local authorities to publish their Sustainable Modes of Travel Strategy on their web-site by 31 August each year<sup>13</sup>.

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<sup>10</sup> [www.shropshire.gov.uk/traveltransport.nsf/open/87ABA630D063868880257093003B17D7](http://www.shropshire.gov.uk/traveltransport.nsf/open/87ABA630D063868880257093003B17D7)

<sup>11</sup> [www.devon.gov.uk/index/transport/roads/road\\_safety/road\\_safety\\_for\\_young\\_people.htm](http://www.devon.gov.uk/index/transport/roads/road_safety/road_safety_for_young_people.htm)

<sup>12</sup> [www.solihull.gov.uk/akssolihull/images/att1010.doc](http://www.solihull.gov.uk/akssolihull/images/att1010.doc)

<sup>13</sup> S.I. 2002/2897, amended by The Education (School Information) (England) (Amendment) Regulations 2007 (S.I. 2007/1365).

<sup>14</sup> Regulation 7(5).

## Part 2

# Provision of travel arrangements: General



### Travel arrangements: General

44. The EIA 2006 inserted new sections 508B and 508C into the Act. These sections place a duty on local authorities to ensure that suitable travel arrangements are made, where necessary to facilitate a child's attendance at school (defined as the 'relevant educational establishment' in relation to the child – see further paragraphs 103 and 113). This part of the guidance relates to arrangements that apply to all children. For arrangements that relate only to 'eligible children' under section 508B, see Part 3 of this guidance. For arrangements that relate only to other children under section 508C, see Part 4 of this guidance.
45. The duty applies to "home<sup>15</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.
46. 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 "statutory walking distance" (see paragraph 47)
  - no suitable arrangements have been made by the local authority for boarding accommodation at or near to the school;

<sup>15</sup> A child's 'home' is the place where he is habitually and normally resident.

- 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.

### **Statutory walking distance**

47. "Statutory walking distance" is two miles for children aged under eight, and three miles for children aged eight and over.<sup>16</sup> The measurement of the "statutory walking distance" 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.

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

48. 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.
49. 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.

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

- a mileage allowance paid to a parent driving their "eligible child" to school in lieu of the local authority making arrangements for a taxi to transport the child;
- a cycling allowance paid by the local authority where the parent agreed for their 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.

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

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

<sup>16</sup> Section 444(5) of the Act.

## Suitability of arrangements

52. For a local authority to meet the requirements of this duty, travel arrangements must be “suitable”. The suitability of arrangements will depend on a number of factors. Best practice has shown that for local authorities to consider travel arrangements to be suitable, they must enable an eligible child to reach school without such stress, strain, or difficulty that they would be prevented from benefiting from the education provided. For arrangements to be ‘suitable’, they must also allow the child to travel in reasonable safety, and in reasonable comfort.
53. In the Department’s view, arrangements could not be considered to be suitable where, for example, a child were expected to make several changes of public service bus to get to a relevant school, which resulted in an unreasonably long journey time.
54. Best practice suggests that the maximum each way length of journey for a child of primary school age might be considered to be 45 minutes; whilst a child of secondary school age might be expected to travel up to 75 minutes each way. Similarly, a child’s special educational needs and/or disability might be such that it implies a shorter maximum journey time.
55. Whilst the duty to make travel arrangements does not necessarily imply a door to door service, arrangements that anticipated a child being expected to walk an unreasonably long distance to catch a public service bus, or a bus journey that ended an unreasonably long distance from the relevant school are unlikely to be suitable. Again, the maximum distances will depend on a range of circumstances, including the age of the child, their individual needs and the nature of the routes they are expected to walk to the pick up or set down points.

## Pre-employment checks and training for drivers and escorts

56. For arrangements to be ‘suitable’, they must be reasonably safe and stress free. In this regard, local authorities should ensure that the authority’s employees or employees of contractors whose duties on behalf of the local authority involve a high degree of contact with children or vulnerable adults (involving regular caring for, supervising, training or being in sole charge of such people) are subject to enhanced Criminal Records Bureau (CRB) checks. This should include bus drivers and escorts.
57. The Bichard Inquiry Report<sup>17</sup> identified systemic failures in the current vetting and barring systems, including: inconsistent decisions being made by employers of the basis of CRB disclosures; the fact that disclosure information is only valid on the day of issue; and that the barring system is reactive to harmful behaviour rather than preventative. Those recommendations of the Bichard report requiring changes to legislation have been taken forward in the Safeguarding Vulnerable Groups Act 2006.
58. The Safeguarding Vulnerable Groups Act will come into force in 2008. It provides that:
  - there will be two aligned barred lists – one for those who are barred from working with children (the “children’s barred list”), and one for those who are barred from working with vulnerable adults (the “adults’ barred list”);
  - there will be an Independent Barring Board (IBB). The IBB will maintain the children’s barred list and adults’ barred list and will make decisions about whether an individual should be included in a barred list;
  - a person will be able to apply to become subject to monitoring by the Secretary of State in respect of regulated activity relating to children or vulnerable adults or both.

<sup>17</sup> Available at: <http://www.bichardinquiry.org.uk/>

Where a person is subject to monitoring, the Secretary of State obtains details of that person's convictions and cautions and relevant information from police forces and must pass such relevant information to the IBB for its purposes;

- an individual who is included in the children's barred list must not engage in regulated activity in relation to children. An individual who is included in the adults' barred list must not engage in regulated activity in relation to vulnerable adults;
  - There will be a series of criminal offences to:
    - prevent barred individuals from engaging in regulated activity with children or vulnerable adults;
    - ensure that people permitted to engage in regulated activity with children or vulnerable adults are subject to monitoring;
    - ensure that relevant employers check whether an individual is barred or is subject to monitoring before engaging an individual in a regulated activity with children or vulnerable adults;
    - there will be monitoring of all those who have applied to become subject to it so that new information can be considered by the IBB; and
    - broadly, regulated activity will cover close contact work with children, work in key settings such as schools and care homes and key positions of responsibility such as the children's commissioner and the director of adult social services. In the context of school travel, this would include any drivers, escorts, 'walking bus' supervisors, cycle trainers, road safety trainers, and all other personnel who may be in sole charge of children on the journey to and from school.
59. Until the Safeguarding Vulnerable Groups Act comes into force, local authorities should continue to insist on CRB checks for school bus drivers, taxi drivers and escorts.

60. We are aware of concerns that transport for some pupils with SEN and/or disabilities has been provided by drivers and escorts who have not had enhanced CRB checks completed. Local authorities should ensure that all drivers and escorts working with pupils with SEN and/or disabilities have been CRB checked.
61. CRB checks are built in to the licensing process for taxi and private hire vehicle (licensed mini-cab) drivers. CRB disclosures are required for these drivers when they apply for a licence and each time they renew it. Renewal of these licences is required at least every three years.
62. All local authorities should ensure that all drivers and escorts taking pupils to and from school and related services have undertaken disability equality training. It is also good practice for those responsible for planning and managing school transport to have disability equality training. This training 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.

#### **Bus safety considerations**

63. Buses and coaches used to take pupils to and from school are public service vehicles and, as

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

64. 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 and it is recognised that their design makes it technically difficult for adequate seat belts to be fitted retrospectively. The DfT are in the process of implementing an EU Directive that will require all seated occupants in buses and coaches to use seat belts where they are fitted. This currently applies for all children aged 14 and over, and DfT are considering how to implement this requirement for younger children.
65. Schools or local authorities making arrangements for home to school transport are free to specify within their contracts that they will only accept vehicles fitted with seatbelts. Research suggests that this is one of the features of travel by bus that is highly valued by parents<sup>18</sup>.
66. The Public Service Vehicles (Carrying Capacity) Regulations 1984 allow the option of three children under the age of 14 to occupy a bench seat designed for two adults on a service bus. The possibility of using the "three for two" allowance is diminishing as older buses with bench seats are replaced with modern buses with bucket-style seats on which the practice is

not allowed. Similarly, where seat belts are fitted, "three for two" is not allowed. "Three for two" is an allowance not a requirement, and a recent survey of local authorities in England suggests that only a very small number of authorities make use of this concession in planning home to school transport. In the opinion of the Secretary of State, local authorities making arrangements for home to school travel should not routinely make use of the concession. Routine use of the concession strengthens perceptions of overcrowding and there is anecdotal evidence that it can have an adverse impact on pupil behaviour.

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

67. The consequences of poor behaviour on school buses can be wide ranging. Other passengers may be deterred from using public transport shared with poorly behaved school pupils; in extreme cases, serious injury and even death may result from an accident caused by such behaviour.
68. 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 requires head teachers to determine what measures should be taken to promote self-discipline among pupils<sup>19</sup>; and encourage positive behaviour and respect for others, including the prevention of bullying. The EIA 2006 makes it clear that head teachers must make and publish rules, and decide on penalties for unacceptable behaviour.
69. The EIA 2006 also 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

<sup>18</sup> <http://www.dft.gov.uk/pgr/sustainable/schooltravel/research/evaluationoffirstyellowschoo5750>

<sup>19</sup> See Part 1, section 89 of the Education and Inspections Act 2006.

the route to and from school, whether or not the pupils are in school uniform.

70. Guidance for schools on behaviour on school transport is contained within Key Stage 3 Behaviour and Attendance materials. Schools recognise that positive behaviour on the journey can help enhance the school's reputation, and that it also supports good behaviour within the school.
71. We expect schools to work with the police, bus operators and the local community to promote positive behaviour, and our guidance to schools makes it clear that persistent poor behaviour on the journey to and from school can be grounds for exclusion.
72. There are a number of means open to local authorities and bus operators to address pupil behaviour on school buses. A number of pilots have shown that measures such as driver training, arrangements that ensure routes are driven by the same driver each day, and CCTV can lead to improvements in behaviour on school buses. Furthermore, where local authorities consider that escorts might be necessary to ensure safety of pupils on buses, they can stipulate the provision of escorts in their tender documents. The *Travelling to School* action plan<sup>20</sup> cites the work done by Essex County Council, which found that a behaviour liaison officer and escorts, together with driver training, reduced vandalism and poor behaviour on school buses.
73. The Department is aware of a number of local authorities that have adopted a policy of withdrawing transport, either for a temporary period, or permanently for more serious or persistent cases of misbehaviour. The intention is for such sanctions to be a deterrent and it would be hoped that that they would only rarely need to be invoked. However, it is important to signal to pupils and parents that behaviour which endangers other pupils – or indeed the driver and other passengers – will not be tolerated.

#### **Publication of general arrangements and policies**

74. Authorities should publish general arrangements and policies in respect of transport for pupils of compulsory school age and below to and from schools and institutions within the further education sector including, in particular:
  - (a) the provision of free transport;
  - (b) the carriage on school buses of pupils for whom free transport is not provided;
  - (c) the payment in whole or in part of reasonable travelling expenses;
  - (d) the provision of other travel arrangements including escorts;
  - (e) the arrangements for children with special educational needs; and
  - (f) the arrangements in respect of transport for pupils to schools for which a pupil's parent has expressed a preference on the grounds of the parent's religion or belief.
75. In the Department's view, local authorities should integrate their Sustainable Modes of School Travel strategies into these policy statements, and publish them together.
76. Local authorities do not have to publish certain types of information if that information is already published in the composite prospectus (regulation 7(5)). Many local authorities publish their school travel policies in the composite prospectus, meaning they do not have to publish this information elsewhere. Other local authorities prefer to reduce the amount of information in the composite prospectus and publish school travel policies separately. If the local authority decides to publish this information elsewhere, the composite prospectus should include information as to where and by what means parents may access information relating to school travel and transport policies.

<sup>20</sup> *Travelling to School: an action plan*, DfES, September 2003 <http://publications.teachernet.gov.uk/eOrderingDownload/DFES-0520-2003.pdf>



## Part 3

# Travel arrangements for 'eligible children'



77. 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".

### Eligible children

78. Schedule 35B of the Act defines "eligible children" – those categories of children in an authority's area for whom travel arrangements will always be required. A condition of each category is that they are of compulsory school age. Under section 508B, every feature of these arrangements must be provided free of charge.



### Children unable to walk to school by reason of their SEN, disability, or mobility problem (including temporary medical conditions)<sup>21</sup>

79. Some children with SEN and/or a disability may, by reason of their SEN and/or disability, be unable to walk even relatively short distances to school. Similarly, children with a mobility problem caused, for example, by a temporary medical condition such as a broken leg, may also be unable to walk to school.
80. Where such children attend a qualifying school, which is within "statutory walking distance", and no suitable arrangements have been made by the Local Authority for enabling them to become a registered pupil at a qualifying school nearer to their home, they will be "eligible children". This means that local authorities must make suitable travel arrangements for children with SEN, a disability, or mobility problem (including

<sup>21</sup> Paragraphs 2 and 3 of Schedule 35B

temporary medical conditions) if their SEN, disability, or mobility problem means that they could not reasonably be expected to walk to the school (or other place where they might be receiving education under section 19(1) of the Act).

### Examples:

**Child A** attends her nearest primary school which is 1.5 miles from her home. When she started to attend the school her parents understood that she was not eligible for free transport, as there was an available walking route from her home to the school. As the walking route involved climbing over a stile, when Child A broke her leg and her parents applied for support, the local authority assessed Child A as eligible and made transport arrangements for her until she was fit to walk the route again.

**Child B** is a five year old child with cerebral palsy which severely restricts his mobility. His parents receive higher level Disability Living Allowance (DLA) in recognition of this. Child B attends his nearest suitable school which is one mile from his home. Receipt of higher level DLA indicates that it would not be reasonable to expect this child to walk to school and Child B is eligible for free transport.

**Child C** is 12 years old and has an autistic spectrum disorder. He attends his nearest suitable school which is 2.5 miles from his home. He is unaware of danger and has to be accompanied even on very short journeys. Child C's doctor has confirmed that in her opinion, his carer is unable to prevent Child C from being exposed to the risks arising from his lack of awareness of danger for a journey of this length. In the Department's view, it would be unreasonable for the local authority to conclude that Child C was not an "eligible child". To comply with their duty they must ensure that suitable arrangements for Child C are in place.

### Children unable to walk in safety to school because of the nature of the route<sup>22</sup>

81. Where children live within "statutory walking distance" of their nearest qualifying school (or other place where education is provided under section 19(1)), local authorities will be under a duty to make travel arrangements where the nature of the route is such that a child can not reasonably be expected to walk (accompanied as necessary) in reasonable safety.
82. In assessing the comparative safety of a route, a local authority should conduct an assessment of the risks a child might encounter along the prescribed route (including, for example, canals, rivers, ditches, speed of traffic along roads, overhanging trees or branches that might obscure fields of vision for the pedestrian or motorist, etc.). The assessment of a route should take place at the times of the day that pupils would be expected to use the route.
83. Route assessments should feed into the local authority duty relating to sustainable school travel (see Part 1 of this guidance), and may inform the local authority's plans for upgrading the infrastructure supporting sustainable school travel.
84. In conducting the risk assessment, local authorities should take a range of factors into consideration, including:
  - the age of the child;
  - whether any potential risks might be mitigated if the child were accompanied by an adult (see also para 86 below);
  - the width of any roads travelled along and the existence of pavements;
  - the volume and speed of traffic travelling along any roads;

<sup>22</sup> Paragraphs 4 and 5 of Schedule 35B

- the existence or otherwise of street lighting; and
- the condition of the route at different times of the year, at the times of day that a child would be expected to travel to and from school.

85. Whilst it is the responsibility of the parent to ensure that a child attends school regularly, the local authority should consider whether it is reasonably practicable for the child's parent/carer to accompany the child along a route which would otherwise be classified as too dangerous to walk in reasonable safety.
86. In conducting their risk assessments, local authorities should use data on recorded accidents along potential routes. However, a lack of such accidents should not be taken as conclusive evidence that a route is safe. It may well be that a route is potentially so dangerous that no reasonable person would walk along the route, or allow their children to do so – resulting in such a low level of pedestrian use that there were very few or no recorded accidents.

### **Disabled parents**

87. Local authorities should note that since December 2006, the Disability Discrimination Act 2005, has placed a duty on the public sector to promote equality of opportunity for disabled people and to eliminate discrimination. This duty is anticipatory, meaning that public authorities must review all their policies, practices, procedures and services to make sure they do not discriminate against disabled people, and to ensure that all their services are planned with disabled people's needs fully considered in advance.
88. In the Department's view, this means that local authorities will be under a duty to

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

### **Children living outside "statutory walking distance"<sup>23</sup>**

89. Children of compulsory school age attending a qualifying school (or places other than a school at which they might receive education under section 19(1) of the Act), who live beyond "statutory walking distance" of the school are also "eligible children" if no suitable arrangements have been made by the Local Authority for such children either for boarding accommodation for the child at or near the school or for enabling the child to attend a qualifying school nearer to his home, the local authority must ensure that suitable travel arrangements are made for the child.
90. Where a pupil is registered at a school, but is attending a place other than a school following an exclusion, the duty to make travel arrangements will apply to the other place rather than the school where they are registered.

### **Children entitled to free school meals, or whose parents are in receipt of their maximum level of Working Tax Credit – primary and secondary age groups<sup>24</sup>**

91. Children from low income groups are defined in the Act as those who are entitled to free school meals, or those whose families are in receipt of their maximum level of Working Tax Credit (WTC).

<sup>23</sup> Paragraphs 6-8 of Schedule 35B

<sup>24</sup> Paragraphs 9-14 of Schedule 35B

## Determining whether parents are receiving maximum WTC

92. When a customer is first awarded tax credits, or following a change in their household circumstances, HM Revenue and Customs issue a "tax credits award notice" detailing the breakdown and amount of the award. Part two of the award notice gives details of "**How we work out your tax credits**" including details of the full WTC elements. This is the maximum amount a customer can receive in WTC in any year. It then lists "**any reduction due to your income**" and shows the net amount payable. It is therefore readily apparent from the award notice whether a person is receiving maximum WTC or a reduced sum due to income.

## Primary age

93. Regardless of the level of family income, children of compulsory school age, but under the age of eight are entitled to free travel arrangements to their nearest qualifying school more than two miles from their home (paras.102-105). In addition, from September 2007, children aged eight, but under age 11 from low income families must have travel arrangements made where they live more than two miles from their nearest qualifying school.
94. This two mile limit should be measured in the same way as the "statutory walking distance", i.e. along the "nearest available route". This might include footpaths, bridleways and other tracks which are not passable by motorised transport.

## Children of compulsory school age who are 11 or over

95. One of the aims of the new school travel legislation is to secure fair access to schools – especially for children from low income groups, where lack of affordable transport can act as a barrier to choice. From September 2008, the Act extends rights to free transport

for all children from low income groups of compulsory school age who are 11 or over in two ways – to a choice of schools within six miles of the child's home, and to the nearest school preferred by reason of a parent's religion or belief up to a maximum of 15 miles from the child's home.

96. Children of compulsory school age who are 11 or over from low income families must have travel arrangements made to one of their three nearest qualifying schools (or places other than a school at which they might receive education under section 19(1) of the Act), where they live more than two miles, but not more than six miles from that school.

## Examples:

**Child A** is an eleven year old child entitled to free school meals. Their nearest suitable school is 2.5 miles from their home; the second nearest school is 3 miles away; and the third nearest is 5 miles away. Child A would be entitled to free transport to each of these three schools.

**Child B** is an eleven year old child whose parents are in receipt of their maximum level of working tax credit. Their nearest school – "x" – is 1.5 miles from their home; the second nearest – school "y" – is 2.2 miles from their home; and the third nearest – school "z" – is 5.5 miles away. Child B would be entitled to free transport to either school "y" or "z", but not to school "x".

**Child C** is an eleven year old child who is entitled to free school meals. School "x" is their nearest school, and is 4 miles away. School "y" is their second nearest – 4.5 miles away, and the next suitable school is school "z" – 10 miles from their home. Child C would be entitled to free transport to school "x" and "y", but not to school "z".

97. Where a parent has expressed a preference for a school, and that preference is based on the parent's religion or belief, then a child aged 11 to 16 from a low income family must also have travel arrangements made for them to the nearest suitable school preferred on grounds of religion or belief, where they live more than two miles, but not more than 15 miles from that school.
98. Part 5 of this guidance deals with the interpretation of "religion or belief" when considering home to school transport policy. Local authorities should consider this guidance in implementing their duties to ensure that suitable travel arrangements are in place for all eligible children.
99. It is for the Courts to interpret the meaning of "religion or belief"; and the scope of this duty, and we advise local authorities to obtain their own legal advice on such issues. However, the following cases provide examples of pupils, who based on the Department's interpretation of the law, we would consider to be "eligible" and others who in the Department's opinion would not be "eligible":

#### Examples relating to eligibility based on a parent's religion or belief:

**Child A** is entitled to free school meals. Child A's parents are members of the Church of England. Because of their religion, A attends a voluntary aided Church of England school which is 4 miles from the family home. However, there are three community schools closer to the home. This child is an "eligible child".

**Child B's** parents are in receipt of their maximum level of working tax credit. Child B's parents are Roman Catholics. Because of their religion, B attends a school designated as Roman Catholic which is 10 miles from the family home. However, there are three community schools closer to the home.

This child is an "eligible child", and will be protected from charges in scheme areas.

**Child C** is entitled to free school meals. Child C's parents are Jewish. Because of their religion, C attends a school designated as Jewish which is 35 miles from the family home. There are three community or C of E schools closer to their home. This child should **not** be an "eligible child" under these provisions.

**Child D** is entitled to free school meals. Child D's parents are atheists. They do not wish their child to attend a faith school. The three schools closest to their home are a designated C of E school, a designated Roman Catholic school, and an academy that is designated as Christian. Child D attends the nearest community school which is 7 miles away, and should be considered an "eligible child".

**Child E** is entitled to free school meals. Child E's parents are Jewish. Because of their religion, E attends the nearest school designated as Jewish which is 14 miles from the family home. There are three schools closer to their home, one designated as Church of England, and two community schools, one of which offers Hebrew Studies, the other the National Curriculum. This child is an "eligible child".

**Child F** is entitled to free school meals. Child F's parents are Jewish. Because of their religion, Child F attends a school designated as Jewish which is 14 miles from the family home. There are three community schools and a voluntary aided school designated as Jewish, which the parents do not wish their child to attend, closer to the home. This child is not an "eligible child".

**Child G** is entitled to free school meals. Child G's parents believe in selective education, and want their child to attend a grammar school that is 14 miles from their home in preference to one of the four comprehensive schools that are closer to their home. In the Department's view support for selective education does not amount to a 'philosophical belief', and the child is **not** an "eligible child" under these provisions.

**Children H and I.** Child H's parents are in receipt of their maximum level of working tax credit. Child H's parents are Roman Catholics. Because of their religion, H attends School X, a school designated as Roman Catholic which is 9 miles from the family home. There are three community schools closer to the home. H is an "eligible child".

Child I's parents are in receipt of their maximum level of working tax credit. Child I is a neighbour of H and is a Muslim child. Her parents also want her to attend School X because they believe that a faith school (of whatever religion) would be able to provide education more in line with their religious beliefs than a non-faith, community school. There are three community schools closer to I's home. I is an "eligible child".

**Child J** is entitled to free school meals. J's parents believe that their daughter should be taught Biology, Chemistry and Physics as separate subjects. None of the three nearest schools can guarantee that she will be able to be taught the subjects in way which accords with the parent's beliefs. The fourth school 9 miles away, can. In the Department's view an opinion that these subjects should be taught separately is not a "philosophical belief", and the child should not be considered eligible to free transport.

**Children K and L** live next door to each other, and are both entitled to free school meals. K's parents are Roman Catholics, and L's are Muslims, and both sets of parents believe – because of their religion that their daughters should be taught at a single sex school. None of the three nearest schools are single sex girls' schools. The nearest single sex girls' school is 14 miles away. Both Child K and Child L are eligible to free transport.

**Child M** is entitled to free school meals. M's parents do not believe that children should be obliged to wear school uniform. Their nearest school is 5 miles from their home and requires pupils to wear a uniform. The second nearest school is 12 miles away, and does not require

pupils to wear a uniform. Child M would not be an "eligible child" as, in the Department's opinion, a view that children should not wear school uniform does not amount to a "philosophical belief".

**Child N** is entitled to free school meals. Child N's parents are Humanists and do not want their child to attend a faith school. Child N attends school Y, a non-faith community school which is five miles from the family home. There are three faith schools closer to the home. This child is an "eligible child".

100. Where children attending secondary school in a year 7 group in advance of their chronological age (i.e. they are, for example, still aged 10), for the purposes of school travel, authorities may wish to treat them as if they had attained the age of 11 and assuming the other relevant conditions were met treat them as being entitled to free travel arrangements to one of their three nearest qualifying schools.
101. The two mile limit should be measured in the same way as the "statutory walking distance", i.e. along the 'nearest available route'. However, the 6 mile upper limit 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.

#### Meaning of "qualifying school"

102. 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>25</sup>

<sup>25</sup> Section 508B(10) of the Act.

103. Regulations<sup>26</sup> clarify the entitlement for eligible children, a small number of whom may be registered at more than one educational establishment, for example, children of no fixed abode might be registered at more than one school, and other children may be registered at a hospital school and another school, etc.

104. "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.<sup>27</sup>

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

#### **Suitability of a "qualifying school"**

106. 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 special educational needs that the child may have.

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

108. When considering eligibility for transport, for a school to be considered "suitable" it must have places available.

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

109. Existing case law, points to the critical point as being when places **are allocated**. This applies for the large majority of cases taking place during the normal admissions round, and the smaller number of cases that take place outside the normal admissions round.

110. 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. So, for example, where a parent had expressed a preference for three schools – one six miles from their home, one seven miles from their home, and one eight miles from their home – a place offered in the school seven miles away would attract transport support if, at the time that the offer of a place was made there were no places available in the school six miles away. As this school is the nearest school with places available, it is the "nearest suitable qualifying school".

111. In the Department's opinion, once eligibility has been confirmed on income grounds, then 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 moved 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 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>26</sup> The School Travel (Pupils with Dual Registration) (England) Regulations 2007 (S.I.2007/1367)

<sup>27</sup> Paragraph 15 of Schedule 35B.

## Part 4

# Travel arrangements for other children



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

113. It provides a general power for local authorities to make travel arrangements where necessary to facilitate attendance for any child or groups of children not falling within any of the categories of “eligible child” in Schedule 35B. For example, many local authorities consider it a priority to provide primary aged children with transport at a lower limit than the statutory walking distance (for example one and a half miles from school, rather than two miles). Others continue to apply a two mile “walking distance” up to secondary school age. A smaller number of authorities make travel arrangements for children below compulsory school age. Historically, almost all local authorities have provided transport to faith schools. The “relevant educational establishment” in relation to a child falling within section 508C will be: the school at which he is a registered pupil, the institution within the further education sector at which he is receiving education, 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>28</sup>

114. Local authorities may wish to use this power to continue to exercise such discretion and provide discretionary support according to local priorities.

115. The Secretary of State expects that local authorities may wish to exercise this

<sup>28</sup> [1] Section 508C of the Act



discretionary power to ensure that pupils whose parents had expressed a preference for a vocational education at a 14-19 vocational academy were not denied the opportunity to do so by the lack of, or the cost of transport arrangements to such a school. Local authorities should use this power to facilitate attendance at a vocational academy where the school's catchment area included all, or part of the local authority's area. Where such pupils were from low income backgrounds, then such arrangements should be free of charge.

116. Such discretionary policies may be an important part of the local authority's strategy to promote sustainable travel, and to promote fair access. They should be clearly outlined in documents prepared for parents. Where arrangements are made, any alterations should, if at all possible, be made only at the end of the school year. As much notice as is reasonably possible should be given of any changes to support given to parents, so that they can make alternative arrangements.
117. There is no requirement for these discretionary arrangements to be provided free of charge. However, if local authorities decide to levy charges, they should make this clear in their school travel policy documents. Good practice suggests that, where charges are levied, children from low income groups should be exempt.
118. Subsection (4) of 508C provides a power for local authorities to pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the statutory duty placed on local authorities, or under their discretionary powers to make travel arrangements.

## Part 5

# “Religion or belief”



**The content of this Part is based on the Department’s interpretation of the law at the time of publication. Interpretation of the provision is a matter for the courts and authorities must take their own legal advice and satisfy themselves that they are acting in compliance with the law.**

119. Section 509AD of the Act places a duty on local authorities in fulfilling their duties and exercising their powers relating to travel, to have regard to, amongst other things, any wish of a parent for their child to be provided with education or training at a particular school or institution on grounds of the parent’s religion or belief. This duty is in addition to the duty on local authorities to make travel arrangements for children of parents on low incomes who attend the nearest suitable school preferred on grounds of religion or belief, where they live more than two miles, but not more than 15 miles from that school considered (see paras 98-100). The definition of “religion or belief” follows that of the Equality Act 2006.
120. Under this Act, “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. It therefore follows that this duty covers all religions and denominations, as well as philosophical beliefs.
121. It should be noted that “religion” and “belief” are not opposites, and there may be considerable overlaps in the coverage of the two terms.

122. The definition of “religion” includes those religions widely recognised in this country such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha’is, Zoroastrians and Jains. Equally, denominations or sects within a religion can be considered as a religion or religious belief, such as Catholicism or Protestantism within Christianity. The Department believes that the main limitation on what constitutes a “religion” is that it must have a clear structure and belief system.
- 123 For a “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<sup>29</sup>. Examples of beliefs are Humanism and Atheism.
124. Case law<sup>30</sup> suggests that “belief” equates to “conviction”, and based on European case law, it has to be more than an opinion or idea. A belief must be genuinely held and the parent bears a heavy burden of showing that it is the real reason for whatever it is they are doing<sup>31</sup>.
125. Based on case law, the Department considers that the following example can be considered as philosophical belief in the educational context:
- belief in single sex education, where that belief is based on the parent’s religious views<sup>32</sup>.
126. “Beliefs” which have been considered as not meeting the requirements of cogency, seriousness, coherence, and so on – and are not therefore included in this duty include:
- a wish for a child to attend a particular category of school<sup>33</sup>. The case law concerned a grant maintained school, but the Department would consider a specific wish to attend, for example, a grammar school as fitting this category. In the view of the Department, a local authority would not need to have regard to such a wish when determining whether or not to make transport arrangements for a particular child;
  - preference for a particular type of management or governance which does not affect the curricula or teaching at the school<sup>34</sup>;
  - a belief that a child should be educated privately<sup>35</sup>;
  - a wish for a child to attend school where they will be taught in a particular language;
  - objection to rules requiring that a school uniform must be worn<sup>36</sup>;
  - content of school curriculum (sex education) provided that the curriculum did not amount to indoctrination incompatible with a parent’s religious or philosophical convictions<sup>37</sup>;
  - objections to the curriculum, where special arrangements made by the school or authorities (such as allowing children to be withdrawn from class) ensure the curriculum is not forced on them contrary to their convictions<sup>38</sup>; and
  - belief that a child should receive a particular type of educational provision<sup>39</sup>.

<sup>29</sup> See *Campbell and Cosans v UK* (1982) 4 EHRR 293

<sup>30</sup> *Ibid*

<sup>31</sup> See *Warwick v UK* (1989) 60 37 DR 96

<sup>32</sup> See *R (ota K) v Newham LBC* ([2002] EWHC 405 (Admin))

<sup>33</sup> See *Dove and Dove* [2001] ScotCS 291

<sup>34</sup> *Ibid*

<sup>35</sup> See *CB v Merton* [2002] EWHC 877 (Admin); *R v Department for Education and Employment ex p Begbie* [1999] ELR; and *W and DM v UK* ((1984) 37 DR 96).

<sup>36</sup> See *Stevens v UK* 46 DR 245 (1986)

<sup>37</sup> See *Alonso and Merino v Spain*

<sup>38</sup> *Kjedsen, Bus, Madsen and Pedersen v Denmark* (1976) 1 EHRR 711

<sup>39</sup> *T v SENT and Wiltshire CC* [2002] EWHC 1474 (Admin)).

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

### **“Religion or belief” and the duty to promote sustainable travel**

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

129. In fulfilling this duty, local authorities must consider the travel needs of pupils whose parents express a wish, based on religion or belief, for their children to attend a particular institution and how the existing sustainable travel infrastructure might support travel to such schools and institutions. They must also consider how the infrastructure might be improved so it better meets the needs of children and young people, and how to promote sustainable travel on such journeys.

### **“Religion or belief” and the provision of school travel arrangements**

130. Many parents will choose to send their children to a school as near as possible to their home. However, some parents choose to send their children to a school with a particular ethos because they adhere to a particular faith, or philosophy. In many cases these schools may be more distant, and many local authorities 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.

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

132. 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.

133. Although the provisions of the Equality Act 2006 (which places a duty on local authorities not to discriminate against a person on the grounds of their religion or belief), do not apply to the exercise of an authority’s functions in relation to transport<sup>40</sup>, local authorities will need to be aware of their obligations under human rights legislation.

134. 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>41</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

<sup>40</sup> s 51(2)(b) Equality Act 2006

<sup>41</sup> Article 2 of the First Protocol

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.

135. Children from low income backgrounds are eligible for free travel arrangements to the nearest school preferred on grounds of "religion or belief" (see paras 98 to 100). However, local authorities may wish to use their discretionary powers to extend transport arrangements beyond this statutory requirement. Where local authorities make arrangements under their discretionary powers (section 508C), and have policies of levying charges for such transport, the Secretary of State believes that local authorities should pay careful attention to the potential impact of any charges on low income families whose parents adhere to a particular faith or philosophy, and who have expressed a preference for a particular school as a result of their religious or their philosophical beliefs. In the Secretary of State's opinion, where local authorities make travel arrangements for such children, these should be provided free of charge in the case of pupils from low income families (pupils entitled to free school meals or whose parents are entitled to their maximum level of Working Tax Credit).
136. 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.

## Part 6

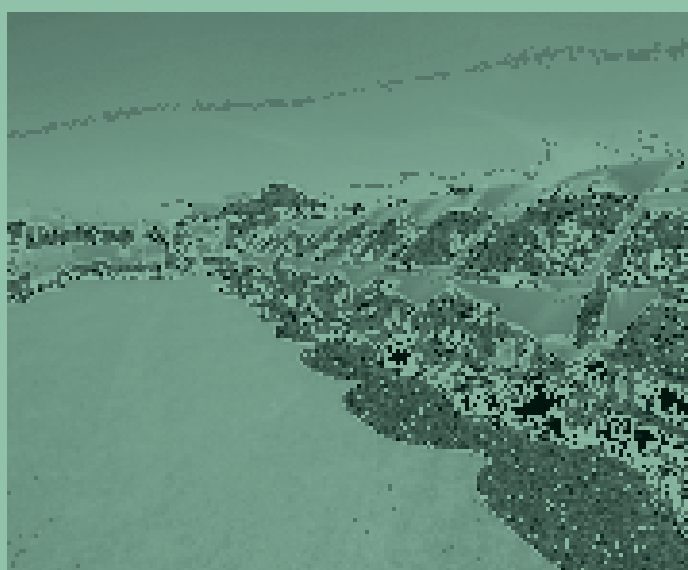
# Policy changes and appeals procedures



137. Local authorities should consult widely on any changes to their local policies on school travel arrangements, with all interested parties included in the consultations. Consultations should last for at least 28 working days during term time. This period should be extended to take account of any school holidays that may occur during the period of consultation.
138. Good practice suggests that any such changes should be phased in and come into effect as pupils start school.
139. Local authorities should have in place a robust appeals procedure for parents to follow should they have cause for complaint or disagreement concerning the eligibility of their child for travel support. The details of appeals procedures should be published alongside travel policy statements.



# Glossary



140. The Bill and this guidance contain a number of words and phrases that require definition. These are as follows:

- **'available route'** – a route will be “available” if it is a route along which a child, accompanied as necessary, can walk with reasonable safety to school. A route will be “available” even if the child would need to be accompanied along it by his or her parent or carer, as long as such accompaniment is reasonably practicable.
- **'child/children'** – in this guidance, ‘child’ or ‘children’ refers to those of compulsory school age or below. A child becomes of compulsory school age when he or she reaches the age of five and must start school in the term following his or her fifth birthday. Compulsory school age ceases on the last Friday in June in the school year in which the child reaches the age of 16.
- **'mode of travel/modal share'** – ‘mode’ refers to the different means of travel, for example, on foot, by bicycle, car, bus, train, and so on. ‘Modal share’ refers to the proportion of children travelling by each mode.
- **'religion or belief'** – the Equality Act 2006 defines what is meant by “religion or belief” for the purposes of this Act. Section 44(a) defines “religion” as “any religion”, a broad definition in line with the freedom of religion guaranteed by Article 9 of the European Convention on Human Rights (ECHR). It includes those religions widely recognised in this country such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha'is,

Zoroastrians and Jains. Equally, denominations or sects within a religion can be considered as a religion or religious belief, such as Roman Catholics or Protestants within Christianity. The main limitation on what constitutes a “religion” for the purposes of Article 9 of the ECHR is that it must have a clear structure and belief system.

Section 44(b) defines “belief” as “any religious or philosophical belief”. For a 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.<sup>42</sup>

Sections 44(c) and (d) of the Equality Act state that “lack of religion” and “lack of belief” are also covered by the phrase “religion or belief”.

- **‘sustainable travel modes’** – are modes of travel that the local authority considers may improve the physical well-being of those who use them, the environmental well-being of all or part of the local authority’s area, or a combination of the two. For example, walking and cycling are likely to improve the health of those travelling on foot or by bicycle, as well as bringing environmental benefits from reduced levels of localised congestion and pollution where those walking or cycling had transferred from using cars. Similarly, bus use or car sharing might be considered to bring environmental benefits in comparison to individuals travelling by car.
- **‘walking distance’** – is defined in section 44(5) of the Act as either two miles (if the child is under eight years old), or three miles (if the child is eight years old or older). This is measured by the “nearest available route” (s.44(5)). The route is not necessarily the

shortest distance by road. It is measured by the shortest route along which a child, accompanied as necessary, may walk with reasonable safety.

- **‘young person of 6th form age’** – is someone above compulsory school age but under the age of 19, or who has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.

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<sup>42</sup> See *Campbell and Cosans v UK* (1982) 4 EHRR 293



# Annex

## School travel strategy development – potential key components

Purpose	Potential Data/ Information	Source	Likely presentation format	Published for LA use	Published for Parent use
Needs Assessment	Pupil usual mode of travel	Local Data School Census	In table, chart or graph showing 2006/07 baseline, targets and any progression.	x	
Needs assessment	Pupil Travel Preference	STP Development/ review	In table, chart or graph no more than 3 years old (through STP review)	x	
Needs Assessment	Pupil Home Postcode	School Record/Map plot	MIS output	x	
Needs Assessment	School Location	Edubase	Map Plot	x	x
Needs Assessment	Post 16 usual mode & preference	College/workplace travel plan or sample surveys.	Table, chart or graph	x	
Needs Assessment	Extended School Journey info	Extended Schools Co-ordinators, Schools	Table, chart or graph	x	
Infrastructure Audit	Public transport Routes & provision (bus, rail etc, including concessionary info)	Bus strategy - LTP 2	Accession/ GIS output	x	x
Infrastructure Audit	Contracted School Bus/ Taxi routes	Education Transport Teams	Local format	x	x
Infrastructure Audit	Pedestrian Routes	Walking Strategy – LTP 2 PROW	Map plots /Local format	x	x
Infrastructure Audit	Cycleways	Cycle Strategy – LTP 2 Cycle maps	Map plots /Local format	x	x
Infrastructure Audit	Road classifications	Highways	Maps/GIS	x	x

Purpose	Potential Data/ Information	Source	Likely presentation format	Published for LA use	Published for Parent use
Infrastructure Audit	Existing Hard Measures – School Safety Zones, 20 zones, zig zags, speed limits, traffic calming etc.	LTP 2 School Travel Plans	Map plots /Local format	x	x
Infrastructure Audit	Controlled crossing and School Crossing Patrols	LTP 2 Road Safety Strategy	Map plots /Local format	x	x
Infrastructure Audit	Existing Local measures Walking bus, car share, park & ride/stride provision	STP Strategy	Map plots /Local format	x	x
Infrastructure audit	Cycle storage	STP/local data	Map plots/Local format	x	x
Infrastructure Audit	Cycle & Pedestrian Training	Road safety strategy LTP 2	Summary of existing provision if any, Map plots/Local format/Table	x	x
Infrastructure Audit	Road safety Education	Road safety strategy LTP 2	Summary of existing provision if any, Local format/Table	x	x
Infrastructure Audit	Independent Travel Training	Road safety strategy Mobility strategy LTP 2	Summary of existing provision if any, Map plots/Local format/Table	x	x
Infrastructure audit	Air Quality	LTP – Air Quality Action Plan	Map plots /Local format	x	
Infrastructure audit	“Soft Measures”	LTP 2 – Smarter Choices STP strategy	Local format/Table	x	
Infrastructure audit – current barriers	Accessibility of schools	LTP 2 – Accessibility strategy	Accession/ GIS output	x	
Infrastructure audit – current barriers	Network Hierarchy	Shown throughout LTP2 & Network Management Strategy	Map plots /Local format/Table	x	
Infrastructure audit – current barriers	KSI – numbers and locations	LTP 2 – Road Safety Strategy	Map plots, tables & charts	x	

Purpose	Potential Data/ Information	Source	Likely presentation format	Published for LA use	Published for Parent use
Infrastructure audit – current barriers	Pedestrian, Cycling & Child Casualties	LTP 2 – Walking & Cycling strategy, Child Road Safety Audit	Map plots, tables & charts	x	
Infrastructure audit – current barriers	Road congestion/ congestion pinch points	LTP 2	Map plots /Local format	x	
Infrastructure Audit – current barriers	Poor behaviour/ bullying on buses	Incident Log Reports from Heads/Operators/ Parents/Pupils Police prosecutions	Local format/Table	x	
Infrastructure Audit – current barriers	Identified Infrastructure barriers Speed limits, lack of crossings/lighting/cycle routes, etc	Walking/Cycling Strategy – LTP 2 STP Consultation/review Complaints SRS studies	Map plots /Local format	x	
Infrastructure Audit – current barriers	Inaccessible stops on bus routes, lack of public transport	STP Complaints	Map plots /Local format	x	
Infrastructure Audit – current barriers	Lack of crossing patrols	STP Complaints SCP Coordinator in each authority	Map plots /Local format	x	
Infrastructure audit – current barriers	Footway and road condition	LTP 2 – Walking Strategy	Satisfaction graph – showing trends	x	



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