

Appendix A Home to School/College Transport (Mainstream)

The Legal Framework

The legal parameters relating to home to school/college transport for children and young people of statutory school age are set out in Sections 508, 509 and schedule 35B of the 1996 Education Act as amended by the Education and Inspections Act 2006.

Sections 509(1) and (2) place a duty upon local authorities to provide free transport where necessary to facilitate the attendance of children and students at schools and institutions both within and outside of the further and higher education sectors.

Section 509(3) allows local authorities to pay the whole or any part of reasonable travelling expenses when not making provision under 509(2) above.

Section 509(4) requires local authorities to take certain factors into account including the child's age, the nature of possible routes and parental wishes for the provision of education at a school or institution in which the religious education is that of the religion or denomination to which his/her parent adheres.

Section 509AD defines the duty placed on local authorities to have regard to religion and belief in exercising their school travel functions. They are required to provide free transport to the nearest secondary school preferred by reason of a parent's religion or belief between 2 and 15 miles from the child's home where the family meets the national low-income criteria.

In line with the requirements of the Act, the Council provides free transport for all young people of secondary school age (11-16) living in low income families **if** they are eligible for free school meals, or their parents are in receipt of their maximum level of Working Tax Credit¹, to:

- one of their three nearest qualifying schools where they live more than two miles, but not more than six miles from that school and
- 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.

The Act requires authorities to make arrangements to assist students with transport costs, as appropriate, who are enrolled on a full-time post-16/FE course of study, which started before they reached the age of 19. For students with disabilities and/or learning difficulties, assistance must be provided up to the age of 21, as a minimum. It does not prescribe what those arrangements might involve. It is therefore, for the Council to decide whether transport needs to be provided and under which circumstances assistance with travel should be available.

The law states that in providing transport, local authorities must make no less favourable arrangements for students attending a further education sector institution or a higher education institution maintained or assisted by the Council than at a

¹ These are statutory eligibility criteria.

maintained or state-funded school (be it a community, voluntary aided, foundation school or academy, including free schools and University Technical Colleges).

The law also stipulates that if the Skills Funding Agency (SFA) has secured for a student a placement for education or training at an institution outside the further and higher education sectors together with accommodation, the Council is under a duty to provide transport if it deems it necessary for facilitating the student's attendance at that institution.

Section 508A of the Act covers the duty upon local authorities to promote sustainable travel.

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

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

Statutory walking distance is defined in Section 444(5) of the Act as either two miles (if the child is under 8 years of age) or three miles (if the child is aged 8 to 16 years old).

The Council has used its discretionary powers under Section 508C of the Act to apply a two mile 'walking distance' for children up to the point at which they transfer to secondary school at age 11.

The Equality Act 2010

S149 Equality Act 2010 ('The Act') places a duty on local authorities to promote equality of opportunity for disabled people and to eliminate discrimination. As such the Council has a duty to ensure that its policies, practices, procedures and services do not discriminate against disabled people.

Section 6 of The Act defines disability and section 20 defines the duty to make reasonable adjustments so that disabled people are not discriminated against.

The Council is under a legal duty to publish a policy that reflects these provisions and to comply with the requirements of the Public Sector Equality Duty.