

Council response to home to school transport consultation

Introduction

The consultation on the draft home to school transport policy commenced on Monday 12 January 2015 and ended on Friday 27 February 2015. In total 149 responses were received. Of these, 57 responses were blank. 92 responses made comments or expressed concerns.

Organisations responding to the consultation included:

- Amaze
- Parent Carers' Council (PaCC)
- mASCot
- National Deaf Children's Society
- Homewood College and Pupil Referral Unit (joint)
- Department for Education (on behalf of National Children's Bureau)

The draft policy was also discussed at a meeting with representatives of Amaze and PaCC on 19 March 2015.

The majority of responses, including all the responses from organisations, concerned the implications of the policy for children with special educational needs (SEN) and disabilities. While many respondents supported independent travel as a concept, many also expressed concerns about how it would be implemented and argued that for a significant number of children with SEN, disabilities or mobility problems, independent travel was still not appropriate.

A small number of responses was received about transport for other children using public transport.

A summary of written or email responses is provided at Appendix 1. A summary of responses via the council's consultation portal is provided at Appendix 2.

Council response

Responses relating to transport policy for children with SEN, a disability or mobility problems

We welcome the broad understanding for the fact that at a time of significant financial challenge for local government we are taking the opportunity to ensure that children with SEN, disabilities or mobility problems should be helped wherever possible to develop independent travel skills which will be most important to them as they grow up and leave school or college.

We recognise that the quality of travel from home to school makes an important contribution to the quality of the school day and learning and that for children with SEN in particular it should, in the words of the Department for

Education (DfE) statutory guidance on home to school transport (July 2014), be 'safe and reasonably stress free'.

We fully understand the concerns that parents, carers and others have about how the positive intentions of independent travel will be implemented and we recognise the paramount importance of child safety and safeguarding. We agree that it will be essential to demonstrate that any changes in transport arrangements can be introduced in a way that is supported and safe.

This is why in the draft policy we linked the process for assessing eligibility for additional travel assistance to assessments for a statement of SEN or Education, Health and Care Plan (EHCP) and annual reviews. While the assessment for transport eligibility is separate from the EHCP assessments or annual reviews, it draws on the advice and risk assessments provided at that time and our aim is to ensure that decisions about eligibility for travel assistance reflect and complement the broader needs of the child's statement or EHCP.

For this reason we have retained the linkage with EHCP assessment/annual reviews in the revised final version of the policy and have also retained the requirement for annual applications. In this way we can identify whether the child is ready to move to a more independent mode of travel.

For all children, it is the responsibility of parents and carers to ensure that their children attend school regularly. It is reasonable to expect that parents will exercise this responsibility and that where it is reasonable to do so parents should not need to rely on additional support from the local authority. We recognise also that the statutory guidance includes some important safeguards for parents and carers of children with SEN, disabilities and mobility problems and this is reflected in the eligibility criteria that we have drafted for making decisions about applications for travel assistance.

We accept that some changes needed to be made to the draft policy paper for it to conform to the statutory guidance. Specifically:

- We have amended the policy to reflect the fact that children with SEN, disabilities or mobility problems do not have to have a statement or EHCP to be assessed for eligibility for additional transport assistance
- We have removed the reference that we expect families who receive a mobility allowance as part of the Disability Living Allowance to use this to take their children to school
- We accept that mileage payments for use of a Motability vehicle can only be used as the form of travel assistance if the parents or carers consent to this
- We accept that our assessment of whether parents or carers can be reasonably expected to accompany their children to school should take into account whether one would ordinarily expect a child of the same age to be accompanied

Probably the overriding concerns of the responses was the contention that the policy did not explain how the eligibility assessment for additional travel assistance for children with SEN, disabilities or mobility problems would be made nor how we would support the development of independent travel. We have therefore redrafted Part 2 of the policy document, bringing together elements that were previously separate in the paper and trying to describe in a logical sequence the process for assessment and the support for implementation of a stronger expectation of independent travel. We have also provided as an appendix the eligibility criteria that the Transport Panel will use to make decisions about additional travel assistance.

We note the request in the PaCC response that a representative of Amaze or PaCC should join the Transport Panel. We will discuss further with Amaze how they might best contribute to the work of the Panel. However as the council is the budget holder any role for Amaze or PaCC could only be advisory.

Several responses referred to the proposals not to provide travel assistance for pre-school children who are not of compulsory school age. This assistance is not statutory, only discretionary. However, we will continue to fund transport for those pre-school children who are currently receiving it until the end of the school year, so that their programmes are not disrupted.

There was also a suggestion that free transport should be extended to 18 in line with Raising the Participation Age. This would be a matter for legislation as the transport duty in relation to distance at present relates only to children and young people of compulsory school age, which still ends at 16, except for young people aged 16 – 18 with a statement or EHCP.

Throughout the development of the policy and this response to the consultation outcomes we have been aware of the impact of the equality duty. A key driver has been to move more children as far as possible from dependence to independence. A statement at the end of the revised policy paper summarises how we believe the equality duty has been respected in the development of the policy and will be in its implementation.

Responses relating to other home to school transport

A much smaller number of responses was received relating to pressures on the public transport network and the perceived unfairness of distance criteria.

The distance criteria are fixed in legislation and must be applied objectively and fairly in accordance with the statutory guidance.

The local authority keeps the public transport network under review but we are constrained in making changes by our own resources constraints and the legislative and commercial constraints on the transport providers.

Other factors

The opportunity has been taken to amend some of the wording to simplify the document and improve the grammar. We have reordered some of the later paragraphs to achieve a more logical sequence. We have also numbered paragraphs rather than headings so that it is easier to refer to specific details of the policy.

22 March 2015

Appendix 1

Emerging themes

The majority of responses were about the implications of the policy for children with special educational needs and disabilities. While many respondents supported independent travel as a concept, many expressed concerns that for a significant number of children, independent travel is still not appropriate. The following is a summary of the points that were made:

- It is not realistic for all children: those with SEND often do not have the cognitive ability or maturity to navigate public transport safely. They are very vulnerable. (26 responses)
- Independent travel is a cost cutting exercise: if children are accompanied by their parents they do not become more independent. SEND children already have poor life chances and limited choice of schooling. They should not suffer further discrimination. (7)
- If a parent or carer has health problems or does not drive, they cannot transport their child. Many parents have to change their working pattern or give up their job to transport their child. If a parent has to give up their job, the cost of council provided benefits would exceed the cost of transport. This may also be an equalities issue and does not reflect the statutory guidance, which states that the local authority must into account whether one would ordinarily expect a child of that age to be accompanied. (12)
- It is very difficult to transport two or more children to different schools at the same time. The policy discriminates against children with disabilities who need to attend a specialist facility which may be named in the statement/EHC Plan. (12)
- This policy should not apply to physically disabled children, including those in wheelchairs for whom access to public transport is already restricted. (6)
- SEN transport should be provided on a rolling basis, the requirement to apply every year is an unnecessary burden that causes families further anxiety and is not cost effective. Parents should reapply for transport only if their situation changes. (5) It is almost “prohibitively difficult” for parents to arrange home to school transport pre 16. (4)
- What will the LA do if schools fail to offer independent travel? (4)

A small number of responses was received about school buses:

- One respondent felt bus passes should only be valid on school days, another felt the opposite: bus passes should extend to cover travel in the evenings, weekends and school holidays. (2)
- Why does the council subsidise the buses that run at a loss and allow the bus company to keep all the profits from the busy buses? (1)
- One respondent felt the statutory walking distances were arbitrary. (1)
- Children should be prioritised for transport based on distance from school. (4)

- Transport should only be provided to distant schools if nearby schools are full. (1)
- Bus routes should be direct, using the ring road to reduce congestion and speed up journey times. (1)
- Buses often take too long and are full, preventing children nearer schools from boarding the bus. (1)

Organisational responses

Department for Education (DfE)

The DfE was contacted by the National Children's Bureau. The responses from organisations are summarised as follows with two concerns:

- That the policy in the original paragraph 20 suggested that only children with a statement or EHC Plan would be considered for assistance in part two of the policy
- That requiring parents with mobility vehicles to transport children was unlawful

Amaze

Amaze asked the council to tighten up section 20 as it was potentially confusing in its description of SEN and distance criteria, which were not linked in the way the paragraph appeared to suggest. More information was requested about independent travel arrangements. Amaze suggested adding section 17 from the DfE guidance about when a parent should accompany a child and how taking siblings to school is managed. The section about mobility vehicles in section 23 and the reference to DLA in section 20 were also questioned. Amaze requested clarification about transporting preschool children to specialist provision.

Parent Carers' Council

PaCC contended that the policy does not explicitly support independent travel training which is an equalities issue. PaCC requested further details of the additional funding and the provision of independent travel training and who is responsible for risk assessment before children are allocated a particular mode of transport or trained to travel independently. PaCC welcomed the policy to review transport annually at the annual review of the EHC Plan and suggested these should be developed and there should be an independent travel plan for each child. PaCC also requested that the LA appoint a PaCC or Amaze representative to sit on the Transport Panel.

Like DfE and Amaze, PaCC did not support use of DLA to fund transport and use of Motability vehicles. PaCC suggested that in paragraph 20, there should be regard to the maturity of SEND young people which may be less than their chronological age and that of other children. PaCC asked for acknowledgement in the policy that SEND young people may be more likely to have issues with behaviour. Any review of transport following an incident

should include consideration of whether the transport arrangement was unsuitable and causing stress/distress, in accordance with section 44 of the DfE statutory guidance about equalities. Sections 12 and 25 should make clear that if a child faces exclusion or attendance issues because of their SEND, the usual SEND criteria for transport would apply.

PaCC asked whether the LA would ensure risk assessments were undertaken before deciding a child or young person was capable of independent travel. They expressed similar concerns to Amaze about the lack of transport for preschool children needing specialist assessments. PaCC was concerned that the emphasis of the policy was on children *not* getting home to school transport rather than the duty of the LA to provide suitable transport for eligible children.

Finally, the organisation was concerned about the perception that those attending faith schools are not subject to the same rigorous criteria as SEND children.

Homewood College and The Pupil Referral Unit (joint response)

The College and the PRU were concerned that withdrawing taxis from their secondary age students would adversely impact attendance. They also believed that without transport, their students would be at greater risk of safeguarding issues: they would be less safe, more likely not to go straight home and potentially at greater risk of involvement with the criminal justice system. Homewood and the PRU argued that student's academic progress was likely to decline and would like the council to retain taxis for their high needs students.

The College and the PRU maintained that the hidden costs of even one learner from each of their schools reducing their attendance and engaging in anti-social behaviour outside school outweighed the financial gains for the local authority. Running minibuses would divert time and resource away from teaching.

Homewood and the PRU were concerned about the impact of removing hired transport on low income families with primary school children in particular. The College and PRU anticipated that the impact was likely to fall disproportionately on Pupil Premium learners from single parent families in deprived wards. White working class boys already form one of the lowest achieving groups. Equalities policies and protection must be addressed.

National Deaf Children Society (NDCS)

NDCS also challenged use of DLA by the family for transport by reference to the Equality Act. They asked about independent travel training including arrangements and the qualifications of trainers. They also asked what would happen if the training was unsuccessful or if it took years to travel independently.

The policy did not mention support for children to attend after school clubs. More detailed information was requested about escorts and whether only children with an EHC Plan would have escorts? NDCS asked what protocols and guidance were in place regarding risk assessment and wished to be assured that escorts and taxi drivers were suitably trained about disability awareness, deaf awareness and communication skills.

NDCS urged that communication requirements should be considered within risk assessments. The policy needed to outline reasonable travel times for children. It should state that the usual transport requirements of distance should not be considered if the child had SEND unless they were not eligible for assistance. NDCS asked for clarification about why transport would not be provided to nurseries and other preschool settings.

The policy should publish the proposed length of contracts for transport providers. Parents are often concerned about the frequency and short notice of changes to transport contracts which causes anxiety. NDCS suggested that the LA consult parents about changes to proposed providers and involve them in the evaluation of tender processes.

NDCS asked if the LA had considered the policy against its Public Sector Equality Duty or carried out an Equality Impact Assessment. The policy needed to clearly set out how parents could complain about the service or appeal a decision.

mASCot

As with other responses mASCot challenged the wording of section 20. mASCot argued that children with ASC are often unable to travel independently when they reach secondary school due to their condition including sensory difficulties and lack of road safety awareness. Noisy and full buses were very difficult for children with ASC. The needs of a child with a hidden disability such as ASC may not be understood by bus drivers or members of the public.

There was a concern that children with ASC may run off, get lost or have a lack of understanding of 'stranger danger'. As stated in the DfE statutory guidance, transport to school must enable the child to arrive stress free and ready to learn. Travel would be unpredictable and ASC children needed to be prepared for every eventuality. Independent travel training would need to be reinforced after it had been learned. Risk assessments, including action taken when a child leaves home but does not arrive at school should be carried out by schools, not the LA.

It was difficult for parents to juggle taking an ASC child to specialist provision alongside other children. "For some families, the nearest school may not be suitable for a child with autism and where a school is named on a child's statement/EHCP the LA has the responsibility for school transport." "The cost of appeals by parents and any ensuing litigation would mitigate any savings made, in addition to causing suffering to children and their families." The

council's policy should extend to children up to the age of 18 in line with the Raising of the Participation Age. The criteria for assessment of individual needs should be transparent and accessible to parents and carers.

Appendix Two

Consultation about the home to school transport policy

The Proposal: to amend the home to school transport policy

Parent or carer: 17 + 107 staff: 11 governor: 2 pupil: 0

Comments: response form: 17 e-mails: 6 online portal: (57 blank) 126

Total: 149

Comments:

- I agree with the new policy (4)
- I agree that parents should apply for transport annually (1)
- Independent travel is important and a good aim (9)
- Hired transport may be a stepping stone to independent travel (7)
- If children are a suitable distance from school or college, transport is unnecessary. It should only be provided where nearby schools are full (4)
- I agree with removing the taxi service because many parents are capable of taking their children to school (1)
- Bus passes should only be valid on school days, not at weekends or during school holidays (1)
- The catchment school is not always the nearest school. The two and three mile statutory walking distances are arbitrary. School bus passes should also apply in the evenings, at weekends and during school holidays (1)
- Independent travel is unrealistic for any child whose mental age is much younger than his or her chronological age. Many SEN children cannot understand money, have no road sense and would not cope with crowds in the morning, particularly if ASC. These SEN children are very vulnerable and may become victims of bullying. Sometimes medical equipment also needs to be transported. The safety of children with SEND should be the paramount concern (34)
- The new policy assumes that children have independent travel skills already. They are going to school to learn these skills (1)
- It is not reasonable to expect parents of SEND children to accompany their children when other children attend school unaccompanied (1)
- How will risk assessments be carried out and who will be responsible for them? Who will take responsibility when a child goes missing, has an accident, is abused or causes a public incident? (2)
- My child walks to school with an escort which is invaluable, the child would not be able to walk unescorted (1)

- Statutory distance and low income qualifications should not apply to SEND children in the DfE guidance (1)
- It is very important that children arrive at school calm and ready to learn (4)
- "Assistance with transport will only be provided when parents can demonstrate they are unable to transport their children" is a breach of the LA duty as the test under the Education Act 1996 is whether the child cannot reasonably be expected to walk to school (1)
- Please provide more information about how independent travel training will work and who will be responsible for arranging it. What will the LA do if schools fail to offer independent travel training? (5)
- A SEND trained professional must be involved in checking eligibility for home to school transport and should sit on the transport panel. It is schools, parents and health professionals who know the children (5)
- Independent travel is a cost cutting exercise: if children are accompanied by their parents they do not become more independent. SEND children already have poor life chances and limited choice of schooling. They should not suffer further discrimination (13)
- Parents are expected to absorb the costs of transport. Funding should be provided to schools (1)
- The council should find other ways of transporting SEND children, for example by leasing minibuses (3)
- There should be a clear statement that transport should not be a barrier to learning like in the post 16 transport policy statement. Arranging transport was "almost prohibitively difficult" pre 16 (4)
- Congestion around schools will worsen if taxi sharing comes to an end and every parent is expected to transport their child, particularly if parents have motability vehicles (4)
- If a parent or carer has health problems or does not drive, they cannot transport their child. Parents would have to change their working pattern or give up their job to transport their child. If a parent has to give up their job, the cost of council provided benefits would exceed the cost of transport (22)
- If parents receive DLA element of mobility payments, they should transport their children (1)
- It is illegal for the LA to expect parents to use the mobility element of DLA to fund transport (see IPSEA and CAF criteria.) (6)
- It is also unlawful of the LA to refuse to provide transport to nurseries, particularly where they are maintained, such as ICAN or Presens settings (2)
- SEND young people should have the same access to after school clubs as all other children because this promotes independence (3)
- My child would not manage to change buses and could therefore not attend school. Bus routes should be direct (including use of the ring road) rather than all going through town. This would speed up journey times and reduce congestion (6)
- Buses often take too long and are full preventing children nearer schools from boarding (1)

- Why does the council subsidise the buses that run at a loss and allow the bus company to keep all the profits from the busy buses? (1)
- Please do not remove school transport from my child. He would not be able to attend school without transport (3)
- It is very difficult to transport two or more children to different schools at the same time. The policy discriminates against children with disabilities who need to attend a specialist facility which may be named in the statement/EHC Plan (19)
- Primary school children should have transport provided. Secondary school children should travel independently when possible (1)
- The policy reduces parental choice if transport will not be provided (4)
- Schools may use transport as an excuse to say they cannot accept a child with SEN. Schools are already overstretched. The council should be mindful of medical advice and the individual circumstances of each child (3)
- SEN transport should be provided on a rolling basis, the requirement to apply every year is an unnecessary burden that causes families further anxiety and is not cost effective. Parents should reapply for transport only if their situation changes (6)
- It is not clear if parents or schools request transport from the local authority as part of the annual review of the EHC Plan (1)
- This policy should not apply to physically disabled children, including those in wheelchairs. Only one wheelchair is allowed on each public bus at a time. The Equality Act definition of disabled should be used (6)
- The assistance provided on hired transport requires improvement and does not always arrive on time (3)
- Children should be prioritised for transport based on distance from school (4)
- There is no public transport to schools outside the city (1)
- Parents are reluctant to allow children to cycle to school because the cycle lanes are unsafe and children may not be aware of any dangers (2)
- Please provide clarity about which criteria take priority when making a decision to provide SEND transport (e.g. level of disability, distance from school, mobility allowance and motability vehicle ownership, free school meals, children looked after etc.) (2)
- The policy should mention the need for adequate training for drivers and escorts taking children with special educational needs. Pick up and drop off times should be clearly agreed and fit in with the needs of the family. How will these be agreed? There should be flexibility for children with behavioural problems (3)
- Transport should be discontinued for able bodied children and retained for children with special educational needs, including to residential schools (2)
- We moved our child due to bullying, why are we not still entitled to help with transport?(1)
- Free transport should not be provided to faith schools. Parents choose a faith school but do not choose to have a disabled child (1)

- The LA should publish its appeals policy using DfE statutory guidance (1)
- There is no detail about management of the transport contracts and the need for consistency of drivers (1)
- The policy in its current form may result in a lot of appeals (1)