



Department
for Education

Consultation on home to school travel and transport guidance

Government response

July 2014

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Introduction

The Home to School Travel and Transport Guidance is statutory guidance. This means that local authorities are under a duty to have regard to it when carrying out their duties in relation to home to school travel and transport, and sustainable travel. The aim of the guidance is to outline the statutory requirement and then go on to discuss the ways in which this can be delivered and the discretionary powers that local authorities can use.

There has been no change to school transport legislation and the associated duties continue to rest with local authorities. The revised guidance has been updated from the 2007 version to reflect the changes to the education landscape since then. In particular, the widening of the academies programme and increasing pressures on local authority budgets, alongside the government wide commitment to reduce prescription wherever possible.

The Department for Education (DfE) consultation ran for 10 weeks, 25 March 2014 until 3 June 2014 and was publicised widely. Completion was via e-consultation portal, email or post. The consultation process also involved meeting with key stakeholders to understand their issues and ensure full understanding of their feedback.

The consultation received 80 responses. Almost half of these responses were from local authorities and the overall response was positive.

This document outlines the key findings, the department's response to consultation comments and suggestions and the plan going forward.

Summary of responses received

A public consultation on Home to School Travel and Transport Guidance was completed on 3 June 2014. The majority of respondents to the consultation welcomed the proposals and agreed with the principles presented and in particular, the appeals process and the expectation for local authorities and schools to work together. However the difficulties in implementing these changes with current funding were acknowledged by a number of the respondents.

The respondent type breakdown was:

Respondent type	Number	Percentage
Local authority:	37	46%
Other:	30	38%
Parent/Carer:	12	15%
SEN provider:	1	1%
Total:	80	100%

Of the 'Other' respondents this was largely made up of:

- Headteacher/teacher associations
- Transport groups
- Faith/belief groups
- SEN groups

Analysis

Approach to guidance

Question 1a) Do you agree that the new guidance represents a less prescriptive approach to guidance on home to school transport?

1. There were 59 responses to this question.

Options	Total	Percentage
Yes:	39	66%
Not Sure:	13	22%
No:	7	12%

Question 1b) Do you consider the guidance overall is clear about the statutory duties and the expectations on local authorities, while reducing prescription to enable innovation and bespoke solutions?

2. There were 62 responses to this question and 44 made additional comments.

Options	Total	Percentage
Yes:	25	40%
Not Sure:	21	34%
No:	16	26%

3. When the results were broken down and only local authority responses were considered, the percentage of Yes responses rose to 53%.

4. A number of comments were made regarding the fact that the legislation was not being amended and that there was no change in funding and they were therefore uncertain as to why the guidance needed updating. Alongside this, a few respondents, particularly local authorities, raised the fact that less prescription means that the guidance is more open to interpretation and challenge, which may cause difficulties.

5. In terms of the clarity of the guidance, a number of respondents commented that some of the change in wording from the previous guidance had caused confusion and some reworking of language was required.

Government response

6. The department acknowledges that some respondents were disappointed that legislation, in particular the statutory walking distances, was not being changed, however, updating the guidance will support local authorities in being better able to provide a service for their area, through emphasising their abilities to use discretion and innovation to provide home to school transport.

7. In line with the comments regarding clarifying the meaning in certain parts of the guidance, the wording will be reviewed throughout the guidance and changes will include the following:

- The use of the word conflated (section 3.6 and 6.1¹), which was not deemed to be plain English, will be altered and the sentence meaning clarified, so it is clear that when assessing the transport needs of a child eligible for free transport due to SEN/disability or mobility problems the statutory walking distances are not applicable.
- The wording around the extended rights statutory duties will be reworked to clarify that it is one of the 3 nearest schools (rather than 4) that is a qualifying school.
- In section 3.6 the wording “a state that is conducive to study” will be altered to ensure plain English. However, the department will not go further to specify what this means as it is not something which can be decided at national level, and is a more case by case issue at local level.
- Consultation responses requested clarity on the use of the word ‘beyond’ when the statutory walking distances were listed. The explanation is that whilst the statutory walking distances are 2 and 3 miles respectively, it is only beyond these distances that the LA is duty bound to provide free transport.

¹ References to position of text relate to the consultation guidance document

Clarity and helpfulness of guidance

Question 2a) Do you agree that the guidance clearly and helpfully sets out those functions which are statutory duties on local authorities and those which are expectations?

8. There were 59 responses to this question.

Options	Total	Percentage
Yes:	29	49%
Not Sure:	21	36%
No:	9	15%

Question 2b) Suitability and safety of travel arrangements

9. There were 57 responses to this question.

Options	Total	Percentage
Yes:	35	61%
Not Sure:	16	28%
No:	6	11%

Question 2c) Discretionary travel

10. There were 57 responses to this question.

Options	Total	Percentage
Yes:	32	56%
Not Sure:	19	33%
No:	6	11%

Question 2d) Consultation and publication

11. There were 56 responses to this question.

Options	Total	Percentage
Yes:	41	73%
Not Sure:	8	14%
No:	7	13%

12. When broken down 93% of local authorities responded Yes to this question.

Question 2e) Appeals

13. There were 59 responses to this question and 37 made additional comments covering 2a to 2e.

Options	Total	Percentage
Yes:	35	59%
Not Sure:	13	22%
No:	11	19%

14. The percentage of local authorities that responded Yes was almost 70%.

15. Reasons for fewer than 50% Yes response to question 2a were that the structure of the guidance document did not make the split between the statutory and discretionary duties clear, and in particular eligibility requirements should be made clearer.

16. As a whole the document was considered to be helpful, however, there were a number of sections which respondents felt required more clarity, including: travel during the day and travel to boarding schools, school travel plans, measuring of journey distance and journey times, poor behaviour on school buses, safety and religion and belief.

17. The issue of sustainable transport was raised by a number of respondents, in particular that greater emphasis was required on the statutory duty and that the section could be strengthened through links to more examples and a greater emphasis on partnerships between different stakeholders.

Government response

18. With regards to the clarity of the guidance, the department will review the structure of the document and will ensure that there is a clear distinction between those duties which are statutory, including the sustainable transport requirement and those which are discretionary. Alongside the change in structure there will also be the addition of a glossary to ensure clarity of a number of terms, including: philosophical beliefs, road routes, qualifying/suitable school and parents.

19. The guidance, as stated in the legislation, only applies to home to school travel arrangements, with home being defined as the place where the pupil is habitually and normally resident. The words at the start and end of the school day will be removed as these are not from the legislation and a footnote will be added to outline that home to school travel relates to boarding school terms as well as daily travel to non boarding

schools. In the case of dual placements being outlined on statements, it is at the discretion of the LA to decide on transport arrangements, a footnote will be added to explain this.

20. The information included in school travel plans is key to enabling a local authority to fulfil its sustainable transport duty and the guidance will be amended to encourage schools to provide the information, whether in formal school travel plans or not, and for it to be updated as necessary. It is at the discretion of the local authority to outline their requirements for schools to provide the information.

21. The section outlining the measuring of statutory walking distances and extended rights distance limits will be drawn together into a single section. This should help to clarify that the reasoning behind the differences in measurement is that the statutory walking distances are the furthest children are expected to walk and can therefore include footpaths, whereas the limits applying to extended rights entitlement are not expected to be walked and therefore only road routes are measured.

22. The journey times stated in the document were developed through past discussions with a range of transport experts and local authorities. Based on more recent discussions with local authorities; the department believes they are still applicable. However, we will acknowledge the additional challenges in rural areas. We will also be changing the wording relating to children with SEN and/or disabilities to acknowledge that where they attend special schools their journeys can be more complex and are not necessarily shorter.

23. The section discussing poor behaviour on school buses will be widened to cover other modes of transport and the wording will be amended to clarify that poor behaviour can lead to the withdrawal of transport, or may be grounds for exclusion from the school. This will be a matter of judgment for the headteacher in accordance with the school's published behaviour policy.

24. Safety of children as they travel to and from school is clearly an extremely important matter and DfE supports DfT in their work to promote safe transport. When referring to 'unsafe' walking routes, this is the terminology used in the legislation and will therefore be used in the guidance. The guidance will not go further to quantify or define safety as it is impacted by such a range of issues relating both to the local environment and specific children.

25. The wording of the religion and belief section will be amended to add clarity to the section, without changing the meaning. A terminology change will also be made to include the use of the wording "school designated with a religious character".

26. In terms of sustainable transport and partnerships the department is extremely supportive of local authorities developing links with other agencies. In this light, Modeshift, Bikeability training and Local Sustainable Transport Fund will be added to the

list of further information sources and the wording around partnership in the guidance will be strengthened.

The recommended appeals procedure

Question 3a) Do you support the recommendation that there should be a two stage approach to conducting appeals?

27. There were 61 responses to this question.

Options	Total	Percentage
Yes:	54	89%
Not Sure:	4	7%
No:	3	5%

Question 3b) Do you think the recommended appeals process meets its aim of being both clear for parents and local authorities and more independent?

28. There were 58 responses to this question and 34 made additional comments.

Options	Total	Percentage
Yes:	36	62%
Not Sure:	13	22%
No:	9	16%

29. The positive comments about the described process included its transparency. A number of local authorities have already established similar processes that are working well.

30. Almost 1/5th respondents to this question raised concern about the appeals process timing. Whilst many felt that the number of days listed was too generous, some felt the process was too constrained. Two respondents raised the need for a fast track process for urgent cases.

31. Several respondents questioned the difference between complaints and appeals and some went further, suggesting that lack of clarity about the right of appeal could greatly increase the workload for local authorities.

32. Finally, some respondents requested clarity on what was meant by “independent” and “suitably qualified”.

Question 3c) Do you agree that appeal panel members should be independent of the local decision-making process regarding the suitability and safety of travel arrangements?

33. There were 58 responses to this question.

Options	Total	Percentage
Yes:	53	91%
Not Sure:	3	5%
No:	2	3%

34. On further breakdown it showed that it was only local authorities who did not answer 100% Yes.

Question 3d) Do you agree with the approach outlined in the guidance about the key considerations for local authorities when reviewing whether a walking route can be designated as being safe?

35. There were 54 responses to this question.

Options	Total	Percentage
Yes:	34	63%
Not Sure:	10	19%
No:	10	19%

Government response

36. The department is pleased with the response to the appeals process and recognises that it is a process that a number of local authorities have already adopted

37. The department believes that many of the concerns raised in the comments will be rectified by emphasising in the guidance that this is a recommended appeals process and is not compulsory. In the same spirit as the rest of the guidance we know that local authorities are better placed to establish systems designed for their areas and welcome them using the recommended process in a way most suitable for them. With regards to the specific concerns raised:

- The working day timings (working day as supposed to school days as appeals may be carried out during the school holidays) in the guidance are just guidelines, based on best practice. A footnote will outline that the department expects many cases will be dealt with sooner, but that exceptional cases may take longer.

- As with the timings of the appeals process, the identification of an appeal compared to a routine complaint and the setting of guidelines on topics of appeals is at the discretion of the local authority.
- We envisage that the Independent appeal panel would be independent of the original decision making process, i.e. is not required to be independent of the local authority. This is to provide clear delineation between the original decision maker(s) and the person(s) deciding the appeal outcome, and helps to demonstrate the robustness of the appeals process.

Case studies

Question 4a) Do you agree that the guidance benefits from the inclusion of case studies that highlight best practice in those areas covered within the guidance?

38. There were 56 responses to this question.

Options	Total	Percentage
Yes:	38	68%
Not Sure:	10	18%
No:	8	14%

Question 4b) Do you consider the case studies included in this guidance to be relevant and helpful?

39. There were 52 responses to this question and 32 made additional comments.

Options	Total	Percentage
Yes:	24	46%
Not Sure:	16	31%
No:	12	23%

40. The main reason given for the lower Yes response rate to the second question regarding case studies (4b) was that they were not new ideas or would be quickly outdated. A number of local authorities outlined that the methods outlined were already schemes they used. A quarter of respondents requested the inclusion of additional case studies.

Government response

41. The purpose of the case studies is to outline to local authorities and transport practitioners different ways in which home to school travel arrangements have been provided. They are certainly not meant to be exhaustive and merely a source of information and insight. Whilst we appreciate that a number of local authorities may already carry out the practices discussed, this will not be the case of all.

42. We are investigating additional case studies that help support the identification of new ways to carry out the duties and hope to include these in the updated guidance. Alongside this the department encourages local authorities to share good practice, where appropriate. Forums such as the Association of Transport Co-Ordinating Officers (ATCO) may be a good place for this.

Local authority and school relations

Question 5) Please use the box below to comment on the department's expectation that local authorities should work closely with all schools to facilitate local transport arrangements for all area pupils.

43. There were 51 responses to this question.

44. Over 70% of those that responded to this question voiced agreement with the expectation. A number then went further to emphasise that the partnership was particularly needed with academies. The reason for this was academies autonomy, particularly in relation to school day timings and term dates can impact on transport arrangements. Building good relations can avoid major financial implications. Almost a fifth of respondents requested clarity around who pays for transport when school days are changed.

Government response

45. The department was pleased with the response to this question, and very encouraged by the local authority respondents that said that they already had good partnerships.

46. With regards to incurring costs when school session times and dates are changed a local authority has the power to charge maintained schools for transport costs under section 48 of the School Standards and Framework Act 1998. This does not apply to academies. Consequently local authorities can ask, but cannot require academies to reimburse transport costs resulting from changes to school day session times.

Additional comments

Question 6) Please use the box below to add any additional comments on the guidance including general suggestions for improvement.

47. There were 36 responses to this question.
48. A range of different comments were made in this section. The key themes being:
- 40% of respondents made comments relating to SEN/Disability/Health conditions. A significant number of these were requesting clarity on how Education Health and Care Plans related to the home to school transport provision. One respondent raised the issue of health conditions and how these challenges were not addressed by the guidance.
 - A number requested clarity on parental responsibility and an emphasis that the needs of a child do not always equate to what is desired by the parent.
 - Clarification of safeguarding requirement and equality training.
 - Rural challenges and in particular that the distance cap on extended rights unfairly disadvantages those living in rural areas.
 - Clarity around pick up point arrangements.
 - Clarity around if a school can be charged by a local authority when a school changes session times.
49. A number of respondents used this question to suggest changes to the legislation, including:
- The policy should stretch from 0-25 in the same way that SEN policy does.
 - Provision of Home-to-School transport should be a means tested provision.
 - There should be a fundamental universal entitlement to free or reduced cost transport for young people.

Government response

50. Education Health and Care Plans (EHC Plans) are being phased in over the next 3 years to replace statements. Therefore, in the guidance where statements are mentioned, EHC Plans will also be referenced. The duties around home to school transport for eligible children, when eligibility is due to SEN and/or disability causing mobility problems, are separate to any form of other transport support provided (such as disability living allowance) and local authorities should not consider this in meeting their duty. However on a case by case basis specific agreements may be reached with parents.

51. The department acknowledges the challenge that health conditions can pose to home to school travel. However, it is not in scope to change the wording of the legislation or broaden the provision to include health conditions. Having said that, when the severity of a health condition is acute enough to require special consideration for travel, it should be covered by the eligibility criteria of the statutory duties due to the definition of disability. A footnote clarifying this definition will be added to the guidance.

52. Legislation states that parents are responsible for ensuring that their children attend school regularly. A paragraph will be added to the guidance to outline that when considering whether a child's parent can reasonably be expected to accompany the child a range of factors may need to be taken into account, such as the age of the child and whether one would ordinarily expect a child of that age to be accompanied. For all children there is a general expectation that they will be accompanied to school, but that the local authority must take into account the individual circumstances of the case and whether it is reasonably practicable for the parent to accompany the child. The department feels that it is implicit in the guidance, that transport arrangements need to be suitable for the child.

53. The wording around safeguarding requirements described in the guidance will be amended to ensure it is clear that only bus drivers who are providing designated home to school transport are subject to DBS checks. With regards to equality training, the guidance will be updated to include the word appropriate, to outline that it is at the discretion of the local authority to ensure that staff are suitably trained for the service they are providing.

54. The department understands the additional challenges that can be faced in rural areas and will include in the guidance a section about partnership, with particular emphasis on rural areas. The legislation is not being amended and therefore the distance cap on extended rights will not be changed. However, the wording in the discretionary arrangements section will be amended to include; good practice suggests that children from low income groups (those not eligible for extended rights due to living beyond the distance cap) should be exempt when charges are imposed.

55. The use of appropriate pick up points, in line with their duties, is at the discretion of the local authority and a sentence covering this will be added to the guidance.

56. When a school changes session time, section 48 of the School Standards and Framework Act 1998 allows a local authority to charge a maintained school for transport costs. In practice, this is not a significant issue as local authorities and schools tend to work through these issues collaboratively. We will keep this under review to ensure that it does not become a significant issue.

57. With regards to the suggested changes in legislation:

- There is not a single policy on home to school transport from 0-25 due to the many differences in the way education is provided between the 0-16 and 16-25 age groups. The guidance includes a link to post 16 policy, to ensure ease of use. Nurseries are included in the list of qualifying schools, as children may attend one up to age 5, meaning the legislation may apply.
- A change to incorporate means testing of entitlements is out of scope of this guidance change. The increased administrative costs of implementing such a system within each local authority would be one potential issue.
- Fundamental universal entitlement to free or reduced cost transport is out of scope of the department and would be the responsibility of DfT or individual local authorities.

Next steps

58. All comments have been noted and ministers are grateful to those who responded to the consultation for their contribution.

59. Throughout this document we have outlined the main ways in which the Home to School Travel and Transport Guidance will be reviewed and updated. We will ensure we liaise with lawyers and relevant parts of the department and other government departments, returning to respondents if further clarity is required.

60. Once these changes have been made and the minister agrees, the department hopes to publish the updated guidance summer 2014.

Annex A: List of organisations that responded to the consultation

- Association of School and College Leaders
- Association of Transport Co-ordinating Officers (ATCO)
- Birmingham SEN Parent Partnership Service
- Board of Deputies of British Jews
- British Cycling
- British Humanist Association
- Buckinghamshire County Council
- Calderdale Council
- Calderdale Parents and Carers
- Campaign for Better Transport
- CANDI (Children AND Inclusion) and City of York Council
- Catholic Education Service
- Confederation of Passenger Transport (CPT)
- Cumbria County Council
- Department for Transport
- Derby City Council
- Devon County Council
- East Riding of Yorkshire Council
- Education Law Association
- Epilepsy Action
- Essex County Council
- Gloucestershire County Council
- Grammar School Heads Association
- Herefordshire Council
- Hertfordshire County Council
- Independent Parental Special Education Advice (IPSEA)
- Kirklees Metropolitan Council
- Lancashire County Council

- Leicestershire Liberal Democrat Group
- LGA Public Transport Consortium
- Lincolnshire County Council
- Living Streets
- London Borough of Hillingdon
- London Borough of Hounslow
- Maxwell Gillott (a trading name of Simpson Millar LLP)
- Modeshift
- National Association of Head Teachers (NAHT)
- National Autistic Society
- National Deaf Children's Society
- North Somerset Council
- North Yorkshire County Council
- Nottinghamshire County Council
- Oxfordshire County Council
- Rotherham Metropolitan Borough Council
- Sandwell Metropolitan Borough Council
- Sefton Metropolitan Borough Council
- Somerset County Council
- South Tyneside Council
- South Yorkshire Education Transport Officer Group
- St Helens Council
- Staffordshire County Council
- Stockton-on-Tees Borough Council
- Suffolk County Council
- Surrey County Council
- Sustrans
- Torbay Council
- Trafford Council
- Transport for Greater Manchester
- Umbrella

- Voice: the union for education professionals
- Voluntary Group for Special Needs, Greenwich
- Wakefield Council
- West Berkshire Council
- West Midlands Integrated Transport Authority
- Westminster City Council

Key stakeholder meetings were held with:

[All stakeholders submitted formal consultation responses]

ATCO

Faith

IPSEA

Living Streets

Modeshift

OGDs (DCLG, DfT, DH, DEFRA)



Department
for Education

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