

## **Cheshire West and Chester**

### **Home to educational establishment transport**

## **Suitability assessment and appeals process**

### **1 Types of travel assistance**

It is for the Local Authority (the 'The Council') to decide what factors are to be taken into account when discharging its duty in providing travel assistance. The Council is required to provide travel options, not particular types of transport. All arrangements for travel assistance which may be made under the Home to Educational Establishment Transport Policy will be at the Council's discretion, taking account of the child/young person's needs and best value principles.

These arrangements will take the form of:

- Personal Travel Budget (PTB) (for example, to help meet the cost of using own car)
- Independent Travel Training (ITT) (all students will be assessed for this training)
- bicycle allowance
- travel pass for use on public transport (bus / rail)
- travel pass for use on school and college operated bus services
- Council contracted taxi / minibus / bus services
- passenger assistant only.

### **2 Passenger assistants/travel attendants**

Passenger assistants will be provided on Council arranged transport in the following circumstances where:

- the child/young person has multiple disabilities
- the child/young person has challenging behaviour which puts the welfare of self or others at risk
- following a safeguarding assessment there is a recommendation that a child/young person should not travel alone with a driver
- the child/young person has an acute physical or mental health need (assessed and funded by a medical professional) which requires monitoring and/or intervention on the journey
- children/young people of significantly differing ages or temperaments are being transported together, or where the size or composition of the group requires this.

### **3 Parent/carer responsibilities**

It is the parent/carer's responsibility to ensure that the child/young person is:

- ready to be picked up on arrival of the transport services
- accompanied by a designated parent/carer to and from the vehicle or agreed pick-up point.

In the event that a child/young person is not ready or at the designated pick-up point, the parent/carer is required to ensure the child/young person's attendance at school.

Changes to transport arrangements, for example, alternative pick-up and drop-off points, can be made subject to certain conditions, including: no resultant additional costs, vehicle availability, or causing minimal inconvenience to other passengers. Such arrangements must be made for specific days or specific periods of time, not on an 'ad hoc' basis and with 10 working days' notice.

No transport provision will be made other than at the beginning and end of the normal school day, regardless of circumstances. That is, in cases of exclusion, illness, etc, if a child/young person has to go home during the course of the school day or during examination periods, the school or parent/carer is responsible for transport.

### **4 Suitability appeal process**

The Council is responsible for making suitable home to school travel arrangements as it considers necessary, for the purpose of facilitating the child's attendance at the relevant educational establishment.

The suitability appeal process is two-fold:

- 1) a dissatisfied parent/carer may firstly apply for an internal, administrative review of the decision (stage one) by submitting a suitability appeal form
- 2) if still not satisfied following that process, the parent/carer may request an oral appeal hearing before the Suitability of Transport Appeals Panel ('STAP')(stage two).

STAP is responsible for hearing and determining appeals against decisions made by the reviewing officer; following a decision made by the Council in respect of the suitability of travel assistance offered to a child in accordance with the Council's Home to Educational Establishment Transport Policy.

This procedure refers only to the **suitability** of the travel assistance offered. It specifically does not relate to eligibility for travel assistance for which there is a separate appeals procedure (see Appendix One).

#### **4.1 Stage one (informal review)**

Where an offer of travel assistance is made by the Council pursuant to section 508B of Education Act 1996 (as amended) and the parent/carer considers the type of assistance offered to be unsuitable, the parent/carer should submit a suitability appeals form requesting for the decision to be reviewed.

The suitability appeals form must be submitted within three weeks of the original decision and should state why the parent/carer considers the travel assistance offered to be unsuitable. Pending the review the child will either be transported by the type of travel offered by the Council or by an alternative method arranged by the parent/carer.

The reviewing officer (who will be no less senior than the original decision maker) will reconsider, on paper, the suitability of the offer of travel assistance. The reviewing officer will take into account the relevant factors considered by the original decision maker, the factors set out by the parent/carer in the suitability appeals form and any other supporting evidence which the parent/carer (the appellant) considers relevant. The reviewing officer will either confirm the original offer of travel assistance or will make an amended offer. The reviewing officer will normally complete the review within 21 working days (where practicable) of receipt of the appeal form and communicate the decision in writing to the parent/carer.

Following the completion of the informal stage one review, should the parent/carer remain dissatisfied with the suitability of the type of travel assistance offered, the parent/carer should make a written request for their appeal to be heard by a Suitability of Transport Appeals Panel (STAP). This request should normally be made in writing to the reviewing officer within 10 working days of receipt of the notification of the reviewing officer's decision. The timetable and process set out in sections five and six below will then be followed. Pending the appeal the child will either be transported by the type of travel assistance offered by the Council or by an alternative method arranged by the parent/carer.

Note that late appeal applications will be considered only in exceptional circumstances. The STAP will decide if exceptional circumstances apply to any late application.

## **4.2 Stage two (suitability of transport appeals panel)**

### **Constitution of the panel**

The panel will consist of three officers, who will have had no prior involvement in the case and who will consider the application afresh. The panel members of the STAP will consider the facts which were presented to the reviewing officer but will also consider any new facts or evidence which are submitted in accordance with this procedure. Any documents which are submitted late will only be considered in exceptional circumstances at the discretion of the chair.

The outcome of the hearing will be either to

- a) uphold the appeal or
- b) dismiss the appeal.

If the appeal is upheld, the panel members will determine the type of travel assistance offered.

Reasons for the STAP's decision will be given in writing.

**Please note:** when the panel makes its decision, this could be for the same type of travel assistance as that originally offered. This could be for the same reasons as given when the original offer was made or for different reasons.

The STAP will be supported by a legal advisor who is independent of any legal advice previously provided to the relevant Council officers who have dealt with the case on behalf of the Council. The panel will also be supported by a clerk.

## **5 Timetable for submission of information before the hearing**

- 5.1 Upon receipt of notification that the parent/carer (the appellant) wishes to appeal, the reviewing officer will notify the clerk to the STAP who will arrange a date for the STAP hearing. The date will be no less than 30 working days after the date the appellant is notified by the clerk that arrangements are being made to hear the appeal (the 'start date'), but will be as soon as reasonably practicable thereafter.
- 5.2 Within 15 working days from the start date the appellant should submit the following to the clerk:
  - a written statement setting out the detailed grounds for the appeal - this should clearly state why the appellant considers the type of travel assistance offered to be unsuitable

- any supporting evidence the panel members should consider at the hearing
- if a representative is to be appointed to present the appeal at the hearing, their name and contact details
- a list of any witnesses the appellant wishes to call to give evidence to the hearing and a summary of the evidence they will present.

5.3 The appellant's statement and supporting evidence will then be copied to the relevant Council officer who will be presenting the case on behalf of the Council. Within 10 working days of receiving the statement and evidence the officer will prepare a final submission and gather any additional information.

5.4 All documentation, including the original report and decision, will be sent with the agenda to panel members of the STAP, the relevant Council officer and the appellant at least five working days before the hearing.

## **6 Procedure at the hearing**

The following procedure will be followed at the hearing, which will not be open to the public:

- appointment of a chair and confirmation that the members of the panel have not previously been involved in the decision-making
- introductions and housekeeping
- the Council officer will state the case in support of the Council's decision
- the Council officer may then be questioned by the appellant and members of the STAP
- the appellant or their representative will have the opportunity to state their case and invite any witnesses to give evidence
- the appellant or their representative and any witnesses may be questioned by the Council officer and members of the STAP
- the Council officer will then be asked to sum up
- the appellant or their representative will be given the opportunity to sum up
- all parties will leave and the STAP will consider the case in private
- the STAP will announce its decision
- no later than five working days after the hearing, the STAP's decision will be confirmed to the appellant in writing, by email where possible.

The decision will be binding on both parties.

Please be aware that between August and October, there is likely to be a backlog of suitability appeals waiting to be heard and it is important that parents/carers apply for travel assistance as early as possible in order to avoid any potential delays.

## **7 Terms of reference**

- 7.1 The Suitability of Transport Appeals Panel is responsible for hearing and determining appeals made against decisions taken in respect of section 508B Education Act 1996. This Act provides that the Council must make, in the case of an eligible child in the authority's area to whom sub-section (2) applies, such travel arrangements as it considers necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child's attendance at the relevant educational establishment in relation to him/her, are made and provided free of charge in relation to the child.
- 7.2 The appeal will be made following an internal review of the decision and in accordance with the suitability of home to educational establishment transport appeal procedure.
- 7.3 The panel will comprise of three senior managers representing various areas of the Council depending on the type of suitability appeal. (These terms include any role succeeding these roles following a structural reorganisation.)
- 7.4 No panel member will have been involved in the original decision against which the appeal is made or any review of that decision.
- 7.5 The panel shall hear and determine appeals in respect of the suitability of travel assistance offered under section 508B Education Act 1996 in accordance with:
- the Council's Home to Educational Establishment Transport Policy
  - the relevant legislation
  - any guidance issued by the Secretary of State
  - the relevant appeals procedure.