

Cheshire West and Chester Council

Home to educational establishment transport policy

1. Introduction

This policy sets out the framework against which all home to educational establishment transport applications ('transport applications') will be assessed before a decision is made with regard to providing travel assistance to the educational establishment.

This policy sets out the home to educational establishment transport provision which Cheshire West and Chester Council ('the council') is under a statutory duty to have regard to, and must comply with, when making home to educational establishment travel arrangements.

The appendices to this policy set out the procedures by which eligibility and suitability will be assessed and how individuals can appeal against these decisions.

References to 'Statement of Special Educational Needs' and 'Learning Disability Assessment' have been removed from this document in the expectation that all pupils, students and 'relevant young learners' will now have had these replaced by an Education, Health and Care Plan (EHCP).

Where reference is made to nearest suitable school, this is 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 (SEN) that the child may have.

1.1 Parent/carer responsibilities

It is the responsibility of the parent/carer to ensure that their children get to and from school at the appropriate time each day. Travel arrangements are an important consideration when parent/carers are making school preferences. The parent/carer is responsible for ensuring home to school travel arrangements are in place. They remain responsible for their child until they are received on to school premises and after they leave the school premises.

Before applying for a school place parents/carers are urged to consider how they will transport their child(ren) to school, taking into account any potential transport costs. In making this consideration they are advised that:

- School admissions and school transport policies are prescribed through different pieces of legislation. School admission applications are calculated using a straight line distance.

School transport applications are assessed using an in-house Geographical Information System (GIS) mapping system that measures the nearest available walking route ('upper limits' for 'extended eligibility' which exceed statutory walking distances will be measured along road routes). Further information is contained in the section 'Establishing eligibility for transport assistance on distance grounds'.

- Eligibility for travel assistance will be subject to review in the event of a change of circumstance and parents/carers should not assume that current eligibility will prevail for the whole of the time that a child is at a school. Parents/carers are responsible for ensuring that they notify the council of any change in circumstances that may change the eligibility of their child for travel assistance. Circumstances that might lead to a review of eligibility and consequent withdrawal of assistance include (but are not limited to):
 - a change in the length of the walking route (eg as a result of a new shorter route being created or a nearer pedestrian entrance to a school being opened)
 - re-classification of a hazardous route (eg as a result of a pedestrian crossing being installed or a road improvement which significantly lowers traffic volumes)
 - an error in the calculation of distances
 - a change in financial circumstances that means parents/carers no longer experience hardship
 - the change to the statutory walking distance from two to three miles when a child reaches the age of eight (eligibility will automatically be reviewed at the end of year three)
 - a change in the child's place of residence.

The same process of withdrawal of assistance will be followed whether a change impacts upon an individual, several children or a large group of children. Withdrawal of assistance will be subject to a period of notice. This will normally be one full term, except in the case of a change of residence, when assistance will be subject to immediate withdrawal (unless eligibility is established through receipt of an application for assistance at the new address). In considering the withdrawal of assistance the council will consider the potential impact upon the child and any consequential disruption to the child's education.

It is the responsibility of the parent/carer to make the necessary arrangements for attendance at an appropriate school or other setting, including submitting applications to the council, as necessary, for admission and for travel assistance. All applications assessed under this policy assume that all children and young people will be accompanied as necessary.

2. Review

Councils should review travel policies, arrangements and contracts regularly to ensure best value for money is achieved. This policy is subject to review each year.

3. The legislation

This policy seeks to comply with the following relevant legislation, and may be subject to review in the light of legislative change:

- Sections 508A, 508B, 508C, 508D, 508F, 508G and 509AD and Schedule 35B of the Education Act 1996 (the Act), which were inserted by Part 6 of the Education and Inspections Act 2006 (EIA 2006)
- Regulation 5 and Part 2 of Schedule 2 to The School Information (England) Regulations 2002, as amended

The summary of these sections are as follows:

- Section **508A** of the Act places a duty on local authorities (LAs) in England to assess the school travel needs of all children and persons of sixth form age in their area and to assess and promote the use of sustainable modes of travel.
- Section **508B** of the Act sets out the general duties placed on LAs to make such school travel arrangements as they consider necessary for 'eligible children' within their area, to facilitate their attendance at the relevant educational establishment. Such arrangements must be provided free of charge.
- Section **508C** of the Act provides LAs with discretionary powers to make school travel arrangements for other children not covered by Section 508B but the transport does not have to be free.
- Section **509 AD** of the Act places a duty on the LA, when exercising its travel functions, to have regard, amongst other things, any wish of a parent for their child to be educated at a particular school on the grounds of the parents' religion or belief. Religion or belief in this instance means any religious or philosophical belief.

This duty is in addition to the duty on the LA to make travel arrangements for children from 'low income families' who attend the nearest school preferred on grounds of religion or belief, where they live between two and 15 miles from home.

This duty is complemented by Section 9 of the Education Act 1996, which provides that in exercising all duties and powers under the Education Acts, the Secretary of State and local authority shall have regard to the general principle that pupils are to be educated in accordance with their parents' wishes, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable expenditure. However, there is no general statutory duty requiring the LA to provide free transport to a faith school.

- Section **508F** of the Act places a duty on LAs to make any transport or other arrangements that they consider necessary, or that the Secretary of State directs, for the purpose of facilitating the attendance of learners who are aged 19 or over at certain educational establishments. The transport must be provided free of charge.

4. Eligibility for statutory travel assistance free of charge

The council must provide travel assistance free of charge to children who meet certain criteria:

4.1 Eligible compulsory school aged children (aged 5-16)

Compulsory school age begins at the start of the term following a child's fifth birthday. Young people can leave school on the last Friday in June of the academic year in which they are 16.

Raising of Participation Age legislation has required all young people to stay in a designated learning environment until the age of 18 since September 2015. This does not raise the compulsory school age for transport purposes. For further details see the Post 16 transport policy statement.

The council will make such travel arrangements as it considers necessary to enable the attendance of 'eligible children' within the Cheshire West and Chester area at the nearest 'qualifying school'. Such travel arrangements will be free of charge.

An 'eligible child' is:

- of 'compulsory school age' (aged 5-16)
and
- attending the nearest 'qualifying school' or a place other than that 'school' whereby arrangements have been made for their attendance due to exclusion, illness or otherwise pursuant to Section 19 (1) of the Education Act 1996 ('the school')
and
- there is no other suitable home to educational establishment transport arrangement already in place

and

- fulfils **one** of the following criteria:
- ‘the school’ is beyond the statutory walking distances of two miles for children below the age of eight, and three miles for those aged eight and over
- ‘the school’ is within the statutory walking distance but the child cannot reasonably be expected to walk there accompanied because of their mobility problems or because of associated health and safety issues related to their special educational needs (SEN) or disability. (As per Schedule 35 of the Act, ‘disability’ is as defined in Section 6 of the Equality Act 2010: a person has a disability if they have (a) a physical or mental impairment, and (b) that impairment has a substantial long term effect on their ability to carry out normal day-to-day activities. A chronic health condition may lead to eligibility under this definition.) Eligibility for such children will be assessed on an individual basis to identify their particular transport requirements.
- ‘the school’ is within the statutory walking distance, but having regard to the nature of the route the child, accompanied as necessary, cannot be expected to walk to it
- the child has been excluded and ‘the school’ they are obliged to attend is outside the statutory walking distance

or one of the following ‘extended eligibility’ criteria which are only applicable to families on a low income (ie those pupils who are entitled to a free school meal or whose parents are in receipt of maximum Working Tax Credit):

- the child is from a ‘low income family’ and aged 8-11 and lives more than two miles from ‘the school’
- the child is from a ‘low income family’ and aged between 11-16 and ‘the school’ is between two and an upper limit of six miles from the child’s home (provided there are not three or more nearer suitable qualifying schools)
- the child is from a ‘low income family’ and aged between 11-16 and attending their nearest school preferred on the grounds of religion or belief, between two and an upper limit of 15 miles from home.

Qualifying school

The relevant educational establishment in relation to an eligible child will be either a qualifying school or the place, other than a school, where they are receiving education by virtue of arrangements made under section 19(1) of the Act.

The School Travel (Pupils with Dual Registration)(England) Regulations 2007 clarify the entitlement for eligible children, a small number of whom may be registered at more than one

educational establishment, e.g. 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.

Qualifying schools are:

- community, foundation or voluntary schools
- community or foundation special schools
- non-maintained special schools
- pupil referral unit
- maintained nursery schools or
- city technology colleges (CTC), city colleges for the technology of the arts (CCTA) or academies, including free schools and university technical colleges (UTC)¹⁵
- for children with SEN, an independent school can also be a qualifying school where this is named on the child's EHCP, or it is the nearest of two or more schools named.

A child placed in a school by means of the council's fair access protocol will be deemed to be attending the 'nearest qualifying school'.

Establishing eligibility for travel assistance on distance grounds

These notes set out the processes that will be followed when considering whether a child is eligible for assistance on the grounds that they live beyond the statutory walking distance (along a non-hazardous route) to the nearest qualifying school or that they meet extended eligibility criteria for assistance.

In order to establish the nearest qualifying school the distance between home and school is measured, using the council's in-house digital GIS mapping system. This system measures along the footpath network, from the pupil's home gate or drive nearest to the school to the nearest gate/entrance of the school grounds, by way of the nearest available walking route. Some internet packages might show a different measurement as they use the road network to measure distances.

The measurement of **walking** distance continues to be taken from home to the school by the shortest available walking route. In order for a route to be deemed suitable, Cheshire West and Chester Council considers that any footpaths should be metalled or have a reasonably even and firm surface. In instances where the suitability and safety of a walking route is in question the final decision will rest with the council. In line with the statutory guidance produced by the Department for Education the assessment of all walking routes assumes that a child is accompanied as necessary by a responsible adult.

The measurements associated with the upper thresholds for school transport, i.e. the maximum distances of six and fifteen miles for those who qualify on the grounds of free school meals or

working tax credits (extended rights legislation) are to be made along roads, and do not include footpaths or other routes.

Where it is considered that the route may be 'hazardous' an assessment of the route will be made. An assessment will also be made for an eligible pupil in response to parental concerns about the safety of a walking route to a bus-stop. Further information about the calculation of distances and hazardous routes are to be found in Appendix four - guidance on walking to school routes.

The council will promote good practice by reviewing routes, and where resources permit, put in place suitable new paths, pedestrian crossings and cycle lanes in order to improve safety and increase choice for pupils to walk.

4.2 19 year olds and over with an Education Health and Care Plan (EHCP)

The council must make such arrangements for the provision of travel assistance as they consider necessary, or as the Secretary of State may direct for:

- adult learners who are receiving education at an institution maintained or assisted by the LA and providing further or higher education **or** within the further education sector
- relevant young learners who are aged between 19 and 25 who have an EHCP and are receiving education or training at institutions outside both the further education and education sectors where the LA has secured for the adult the provision of education or training at the institution and the provision of boarding accommodation.

5. Eligibility for statutory travel assistance for which the council has the discretion to make a charge

The council is required to provide this travel assistance, but has chosen to provide this assistance without making a charge subject to the defined eligibility criteria.

5.1 16-19 year olds with an Education Health and Care Plan (EHCP)

Where a post 16 student has been placed at a special school or unit by the council, travel assistance may be provided in the same way as for children of statutory school age and will be free of charge. The eligibility criteria will apply, as detailed in section 4.1, i.e. relating specifically to a student attending the nearest qualifying educational establishment and distance.

Travel assistance will not be provided automatically unless the post 16 student cannot walk to the educational establishment, accompanied as necessary.

6. Eligibility for discretionary (ie non-statutory) travel assistance free of charge

The council is not required to provide discretionary travel assistance but currently chooses to make the following provision without making a charge subject to the defined eligibility criteria:

6.1 Post 16 mainstream students on hardship/low income

There is no statutory duty for the council to provide post 16 transport for mainstream students. The council will, however, exercise its discretionary powers when considering individual cases of low income/hardship. Where low income/hardship can be demonstrated following an assessment of income and expenditure, the council will consider providing support in order to remove transport as a barrier to an individual's continuation into further education. For further information see Appendix three – post 16 transport hardship assessment, and the Post16 transport policy statement.

6.2 0-4 year olds with an Education Health and Care Plan (EHCP)

Where a pre-school child has been placed at a nursery, special school or unit by the council, travel assistance may be provided in the same way as for children of statutory school age and will be free of charge. The eligibility criteria will apply, as detailed in section 4.1, i.e. relating specifically to a child attending the nearest qualifying educational establishment and distance.

Travel assistance will not be provided automatically unless it can be demonstrated that the child cannot use a walking route to the educational establishment, accompanied as necessary.

7. Eligibility for discretionary (ie non-statutory) travel assistance with a charge applied

The council is not required to provide discretionary travel assistance but currently chooses to provide the following chargeable assistance to those who meet the defined eligibility criteria.

7.1 Those with a disability/medical condition who are not attending their nearest qualifying school

Where a child of compulsory school age (5-16) attends a school which is not their nearest qualifying school and they are unable to travel there due to a disability, as described in section 4.1 above, travel assistance may be considered by the council, however this will not be free of charge. A payment contribution towards the travel costs will be applied. This will be £880 for the academic year (or £440 for the academic year where hardship can be demonstrated following an assessment of income and expenditure by the council's benefits team). A pro-rata

charge, based upon any half of a school term during which assistance is required, will be made for children experiencing short term conditions, for example, a broken leg.

It is the responsibility of the parent/carer to produce evidence of the disability/medical condition in all cases. This is normally endorsed by the family doctor or consultant. The council may ask the parent/carer to provide explicit further medical evidence or the council may, with the permission of the parent/carer, approach the family doctor or consultant to seek further medical evidence. If provided, the requirement for travel assistance will be reviewed no less than termly or in the case of long term medical conditions, annually. Any charges incurred by the parent/carer in providing this evidence will not be met by the council.

7.2 The sale of spare seats on contracted transport

When all eligible pupils have been allocated a seat and a spare seat exists on a vehicle that the council has contracted to provide transport from home to school, the council will offer that seat for sale to parents of children who are otherwise ineligible for travel assistance. A fixed price of £880 for the academic year will be charged.

Pupils aged either 0-4 or post 16 pupils, with an EHCP, who are otherwise ineligible for travel assistance will qualify for a reduced spare seat charge of £440 for the academic year where low income/hardship can be demonstrated following an assessment of income and expenditure by the council's benefits team.

8. The provision of travel assistance

8.1 The council may provide travel assistance in a number of ways that reflect:

- the assessed travel needs of the children and young people
- the sustainability of the travel arrangements
- the comparative costs of different forms of travel assistance.

These forms of assistance include:

- cash grants (mainstream) and personal travel budgets (SEN)
- passes for use on scheduled bus or rail services
- contracted buses/coaches
- contracted taxis/minibuses
- volunteer drivers and passenger assistants.

For those with special educational needs travel assistance may be provided in the form of independent travel training (ITT). This may be provided in conjunction with other forms of travel assistance, for example, bus or rail pass.

8.2 Timescale for processing applications for travel assistance

The council will use its best endeavours to process applications for travel assistance and make assessment of eligibility for support within 14 days of receipt of the application. However applicants should be advised that these timescales may be exceeded during peak times.

There will be no entitlement to assistance until eligibility has been established. However, if a child is found to be eligible and the decision has not been made within 14 days of receipt of the application, then assistance will be backdated to the fourteenth day after the application was received and any reasonable travel costs incurred in the intervening period will be reimbursed upon receipt of evidence of expenditure.