

HAMPSHIRE COUNTY COUNCIL

HOME TO SCHOOL TRANSPORT ENTITLEMENT POLICY

EFFECTIVE FROM SEPTEMBER 2021

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1. BACKGROUND AND SCOPE OF THE POLICY

- 1.1. The policy sets out the legal responsibilities that Hampshire County Council (HCC) has in order to provide assistance with transport to school or other education setting for children living in the HCC local authority administrative area. It also supports HCC's sustainable school travel strategy ¹.
- 1.2. This policy reflects the requirements of the Education Act 1996 and the Education and Inspections Act 2006. It also complies with the Department for Education's statutory guidance issued in July 2014².
- 1.3. The changes to the previous policy (September 2014 (Updated)), effective from September 2018, are:
 - Withdrawal of free transport for nursery children with SEN attending nursery placements; and
 - Implementation of charges where transport is provided as an exception to the policy.

Further changes that are effective from September 2019 are:

 - *Removal of free transport for Reception age children until they are of compulsory school age (term after fifth birthday); and*
 - *Removal of free transport where this applies to the increased walking distance from two to three miles with effect from a child's eighth birthday.*
- 1.4. Charges for transport arrangements are set out in Appendix 1.
- 1.5. The process for appeals is set out in Appendix 2.
- 1.6. Arrangements for post-16 age (sixth form) student transport are set out in a separate annual transport policy statement that is published by 31 May each year.

2. LEGAL RESPONSIBILITIES FOR TRANSPORTING CHILDREN TO/FROM SCHOOL

¹ <http://www3.hants.gov.uk/school-travel-strategy>

² Home to school travel and transport guidance

- 2.1. Most parents/carers take their children to and from school. Where their child has a school place parents have a legal duty and a responsibility to make the necessary arrangements to ensure that their child of compulsory school age attends school regularly.
- 2.2. Hampshire County Council (HCC) has a statutory duty to make arrangements to provide **free** home to school transport for **'eligible children' (defined in para 3.1) only**.

3. DEFINITION OF 'ELIGIBLE CHILDREN'.

3.1. Eligible children are defined³ as children of compulsory school age (defined in para 4.3):

- who attend their nearest or catchment school which is beyond the statutory walking distance.
- who, because of their special educational needs, disability or mobility problems cannot reasonably be expected to walk to their school.
- whose route to the nearest suitable school is unsafe.
- children entitled to free school meals or whose parents receive the maximum level of Working Families Tax Credit (subject to a distance requirement).

3.2. All eligible children are entitled to free transport to/from school at the beginning and end of the normal school day.

4. 'ELIGIBLE CHILDREN' - EXPLANATION OF RELEVANT FACTORS.

4.1. As a general rule, HCC will only make provision for **free** transport for the children referenced set out above.

4.2. The following paragraphs explain the eligibility for free transport for **eligible children only** in more detail.

Compulsory school age

4.3. Children are of compulsory school age from the beginning of the term following their fifth birthday (*or from their fifth birthday if it falls on 31 August, 31 December or 31 March*) until the last Friday in June of the academic year in which they reach 16 years of age.

(N.B. Transport will continue to be provided (throughout academic year 2019/20) for children in Year R who aren't yet of compulsory school age but, with effect from

³ Schedule 35b of the Education Act 1996

September 2019, transport will only be provided for children in year R who are of compulsory school age.)

Statutory walking distances⁴

4.4. For pupils of compulsory school age, transport is provided if their nearest suitable or catchment school, measured from the child's home to the nearest available entrance to the school grounds', is:

- Beyond two miles (if below the age of eight); or
- Beyond three miles (if aged between eight and 16).

4.5. An eight-year old living between two and three miles from their school ceases to be an eligible child on their 8th birthday. Transport will continue to be provided for such children to the end of the 2019/20 academic year but with effect from September 2019 transport will be withdrawn on their 8th birthday.

4.6. These are the statutory walking distances prescribed by legislation. However, different walking distances apply in respect of children who are entitled to free school meals or whose parents receive the maximum level of working tax credit (see paragraph 4.8).

4.7. When determining whether a non-catchment school qualifies as a nearer school distances greater than the statutory walking distances will be measured on 'road routes', passable for a suitable motorised vehicle.

Extended rights eligibility

4.7 Children entitled to free school meals or whose parents receive the maximum level of Working Families Tax Credit

The following distance criteria will apply:

- The nearest suitable school is beyond two miles, by the nearest walking route (for children over the age of eight and under 11); or
- The school is between two miles (nearest walking route) and six miles (by road) (if aged 11 to 16 and there are not three or more suitable nearer schools); or
- The school is between two miles (nearest walking route) and 15 miles (by road) and is the nearest school preferred on the grounds of religion or belief (aged 11 to 16).

Unsafe routes

4.8. Transport arrangements will be made for children of compulsory school age who cannot reasonably be expected to walk to the nearest suitable school because the nature of the route is deemed unsafe to walk.

⁴ Statutory walking distance defined in Section 444(5) of the Education Act 1996

4.9. National Road Safety Guidelines are in place for the assessment of routes. Officers apply the guidelines to determine the nature – safe or otherwise - of any walking routes.

Special educational needs (SEN), a disability or mobility problems

4.10. A child of compulsory school age with special educational needs, a disability or mobility problems **who cannot reasonably be expected to walk to school**, will receive free school transport, regardless of distance.

4.11. Eligibility is assessed on an individual basis, which includes the following:

- The child must be attending the nearest designated catchment area school, a nearer school, or the nearest school with a place or is attending the nearest appropriate school as determined by the Special Educational Needs (SEN) service.
- By reason of their SEN, a disability or mobility problem (including temporary medical conditions) the child cannot reasonably be expected to walk to school
- Eligibility will be assessed on an individual basis and any evidence submitted e.g. from a medical practitioner will be taken into consideration.

Primary Age Siblings

4.12. In the case of children with SEN, a disability or mobility problems (see paragraph 4.10), transport will be provided where there is a need for primary age sibling(s) to be taken to other school(s), provided that the school(s) is/are the catchment area school(s), or a nearer school or next nearest school. Also, it would need to be shown that the timing of the school day or the direction of the other school(s) would prevent the parent or carer from accompanying the child(ren).

Accompaniment

4.13. In determining whether a child cannot reasonably be expected to walk for the purposes of 'special educational needs, a disability or mobility problems eligibility' or 'unsafe route eligibility', HCC will consider whether the child could reasonably be expected to walk if accompanied and, if so, whether the child's parent/carer can reasonably be expected to accompany the child. This will take into account the age of the child and whether one would ordinarily expect a child of that age to be accompanied on that journey.

4.14. The general expectation is that a child will be accompanied by a parent or carer where necessary, unless there is good reason why it is not reasonable to expect the parent or carer to do so.

4.15. If a parent or carer submits evidence that they are unable to accompany their child to school this will be assessed on an individual basis and any evidence submitted e.g. from a medical practitioner will be taken into consideration.

4.16. Any transport provision made will be reviewed to take into account the age of the child and the parent/carer's medical condition.

Definition of Home address

4.17. The home address will be that at which the child resides and spends the majority of his/her time. Occasionally a child will have more than one address, for example, because they live with parents who have different addresses. In this situation the address used for determining transport will be the one at which the child spends most of their time including weekends and school holidays as well as during the week. When the child lives at the other address they will not qualify for any transport arrangements other than the one provided from the primary home address.

Qualifying schools

4.18. The schools covered by this policy statement are: -

- community, foundation and voluntary schools including special schools;
- non-maintained special schools;
- pupil referral units (education centres)⁵;
- city technology colleges (CTC), city college for the technology of the Arts (CCTA), or academies, including free schools and University Technical Colleges (UTC); or
- for children with SEN, an independent school if it is the only school named in the child's Education, Health and Care Plan (EHCP), or if it is the nearest of two or more schools named in the EHCP as is not named on the basis of parental preference.

School choice

4.19. Where parents/carers apply for the designated catchment or a nearer school and the school is unable to offer a place, free transport will be offered to the next nearest school with a place available providing the distance criteria are met.

4.20. The pupil will remain entitled to transport to the next nearest school with a place until they leave the school or they move address.

Permanent exclusion

4.21. Transport is provided for pupils who have been permanently excluded from school who attend a new school or Education Centre, subject to the statutory walking distance criteria being applied.

Suitability of arrangements

4.22. Transport arrangements will allow the child to reach school without undue stress, strain or difficulty. Shorter journey times are desirable in achieving this.

⁵ Where they are receiving education by virtue of arrangements made under section 19(1) of the Education Act 1996

As a guide, maximum journey times should be 45 minutes for primary school age children and 75 minutes for secondary school age children. An escort will be provided on SEN transport when required, based on the needs of the students travelling.

- 4.23. The most economic form of transport available will be provided, having due regard to the availability of the transport as determined by the Passenger Transport Group (PTG) of HCC and the maturity, health or special needs of the pupil, as determined by the Head of Transport in Children's Services Department.
- 4.24. In certain circumstances, the most suitable arrangement with parents' consent might be for the parents/carers to provide the transport, for which an allowance, currently 35p per mile, will be paid.

5. DISCRETIONARY TRANSPORT ARRANGEMENTS – CHARGEABLE

- 5.1. This section sets out the limited circumstances in which HCC will use its discretionary powers (under Section 508C of the Act) for children who are not entitled to free transport (as set out under Section 4 of this policy above).
- 5.2. Where this discretion is used there will usually be a charge for the transport provided, as shown in Appendix 1
- 5.3. All arrangements within this section will be time-limited. At the end of the specified period, parents will need to re-apply.

Concessionary travel (privilege place scheme)

- 5.4. A spare place on a contract vehicle may be offered to a child who is not entitled to transport assistance. It will be withdrawn if it becomes clear that it is needed by an entitled child or if re-tendering or re-planning changes the route or reduces the number of concessionary seats. A flat rate charge will be made, (set annually by HCC), except where the child being transported is entitled to free school meals or the family is in receipt of the maximum level of working tax credit. Parents must make their own arrangements for the pupil to travel to the nearest existing pick-up point on the route.

Part-time attendance

- 5.5 This will not normally be supported with a transport arrangement. Transport may be provided to facilitate part-time attendance where a child is convalescing following medical treatment or illness. The child's progress will be reviewed at least on a termly basis. This is a discretionary arrangement and may be subject to the charge in Appendix 1.

Journey times of more than 75 minutes

- 5.6 Unusually there may be situations where a journey time of more than 75 minutes is required, These may occur in transport:

- to church secondary schools;
- to special schools;
- to pupil referral units (Education Centres);
- for pupils attending their next nearest school with an available place because no place available at designated catchment area school or nearest school; and
- for pupils attending out of county residential schools.

Religion or belief

5.7 Under the extended rights eligibility (para 4.7), there is entitlement to free transport for children aged 11 to 16 attending the nearest school preferred on the grounds of religion or belief. Where this criterion does not apply, other arrangements, in line with policy or as an exception may be made.

6 CIRCUMSTANCES WHERE TRANSPORT WILL NOT BE PROVIDED

6.1 Transport will not be provided in circumstances other than those set out above for eligible children and where discretionary arrangements are made.

6.2 Specific examples of where transport will not be provided are:

- Temporary address. Transport will not be provided from a temporary address to a school that is not the designated catchment area or nearest school for that address.
- Journeys to and from other destinations. Transport is not offered to or from points other than the school/ education centre and home or pick up/drop off points.
- Victims of bullying. Dealing with bullying should be fully explored with the current school. If parents decide to move their child's school due to dissatisfaction with their current school then there is no entitlement to free school transport
- To or from pick-up and drop-off points. Except in the case of pupils with SEN, a disability or mobility problems as outlined in paragraph 4.10.
- Unacceptable behaviour of a pupil, as determined by the transport provider/operator and/or escort (where applicable).
- To take account of work/business commitments or domestic difficulties of parents/carers.
- To accommodate attendance at after school activities or for arrival at start times other than the usual start time for the school.

7 OTHER ISSUES

Withdrawal of Assistance

- 7.1. Where the home to school transport policy is changed and the level of discretionary provision reduced, transport may be withdrawn from children who are currently receiving assistance. In these cases, a reasonable notice period will be given, i.e. in optimum time to enable parents to make informed decisions about their children's education. Any change of policy will be subject to a period of consultation with those affected.

Delays

- 7.2. Where a delay occurs in providing transport which is over and above the normal operational timescale for doing so and the application for transport has been submitted in good time (with full information), reimbursement may be made to cover expenses incurred (upon production of evidence of expenditure) from the date from which transport would otherwise have been provided. Such reimbursement will be for use of the most cost effective type of transport.
- 7.3. In the case of entitlement being granted upon appeal, reimbursement may be made of expenses incurred upon production of evidence of expenditure from the date upon which the appeal was lodged or, if this falls within a school holiday period, from the start of the following term or half-term.

Errors

- 7.4 Where assistance is found to have been granted in error, notice of one full term will normally be given that assistance will be withdrawn to allow families to make other arrangements.
- 7.5 Where entitlement has been denied in error, transport will be arranged as soon as possible and consideration will be given to reimbursing parents retrospectively, with a time limit of the start of the academic year in which the error was discovered.

Complaints/Appeals

- 7.6 The County Council takes all complaints seriously and has a complaints procedure to ensure they are investigated and, where possible, resolved. A copy of the procedure is available upon request.
- 7.7 People are encouraged to raise their concerns using the appropriate contacts. Where necessary, complaints will be considered at a more senior level to ensure every effort is made to resolve the issue.
- 7.8 Parents wishing to make an appeal regarding a transport entitlement decision or subsequent transport arrangements should write to the Head of Information Transport and Admissions, Children's Services Department, Hampshire County Council, The Castle, Winchester, Hampshire, SO23 8UG. The appeals process is provided in Appendix 3

Contacts

7.9 Please visit the Home to School Transport page on the County Council's website (Hantsweb) for up to date contact information.

<http://www3.hants.gov.uk/education/schools/school-transport.htm>

Schedule of Charges for Exceptional Arrangements

Concessionary travel (privilege place scheme)

To be reviewed annually:

Distance to travel	Annual charge
Up to 5 miles	£600
5.01 miles to 7.5 miles	£831
7.51 miles to 10 miles	£1,164
Over 10 miles	£1,330

Waived for families when the travelling child is in receipt of FSM on the grounds of low income.

Exceptions to Policy

To be reviewed annually:

The following charges apply based on the price of the arrangement. The arrangement will be time limited and so the charge for exceptional arrangements can be related to the offer. The annual charges presented below can be pro-rata based on the length (in weeks) of the actual arrangement. The charge will be waived for families when the travelling child is in receipt of FSM on the grounds of low income

Distance to travel	Annual charge
Up to 5 miles	£600
5.01 miles to 7.5 miles	£831
7.51 miles to 10 miles	£1,164
Over 10 miles	£1,330

Appendix 2

Home to School Transport - Review/Appeals Process

Parents who wish to challenge a decision about:

- the transport arrangements offered;
- their child's eligibility;
- the distance measurement in relation to statutory walking distances; and
- the safety of the route

may do so by writing to The Transport Team, Elizabeth II Court North (2nd Floor), Children's Services Department, Hampshire County Council, The Castle, Winchester, Hampshire, SO23 8UG.

In the first instance a case will be reviewed by a Senior Officer.

In cases against refusal of a transport service there may be a further appeal to an Independent Appeal Panel.

For concerns about the transport arrangement offered a senior officer outside of the School Transport Team and holding a comprehensive understanding of the transport policy and legislative framework will make decisions on appeals against offers of transport.

Stage one: Review by a Senior Officer

- A parent has 20 working days from receipt of the local authority's home to school transport decision to make a written request asking for a review of the decision.
- The written request should detail why the parent believes the decision should be reviewed and give details of any personal and/or family circumstances the parent believes should be considered when the decision is reviewed.
- Within 20 working days of receipt of the parent's written request a senior officer reviews the original decision and sends the parent a detailed written notification of the outcome of their review, setting out:
 - the nature of the decision reached;
 - how the review was conducted (including the standard followed e.g. Road Safety GB);

Stage two: Review by an independent appeal panel, where it applies.

A parent has 20 working days from receipt of the local authority's stage one written decision notification to make a written request to escalate the matter to stage two.

Within 40 working days of receipt of the parents request an independent appeal panel will consider written and verbal representations from both the parent and officers involved in the case and give a detailed written notification of the outcome (within 5 working days), setting out:

- the nature of the decision reached;
- how the review was conducted (including the standard followed e.g. Road Safety GB);
- information about other departments and/or agencies that were consulted as part of the process;
- what factors were considered;
- the rationale for the decision reached; and
- information about the parent's right to put the matter to the Local Government Ombudsman (see below).

The independent appeal panel members will be independent of the original decision making process (but are not required to be independent of the local authority) and suitably experienced (at the discretion of the local authority), to ensure a balance is achieved between meeting the needs of the parents and the local authority, and that road safety requirements are complied with and no child is placed at unnecessary risk.

Local Government Ombudsman There is a right of complaint to the Local Government Ombudsman, but only if complainants consider that there was a failure to comply with the procedural rules or if there are any other irregularities in the way the appeal has been handled. If the complainant considers the decision of the independent panel to be flawed on public law grounds, the complainant may also apply for judicial review.