

# Introduction...

Most children make their own way to school either accompanied by their parents, or independently if they are older. For some disabled children this may not be possible, either because their school is too far away, or because they are not able to walk or use public transport in the same way as other children. Local authorities must make free travel arrangements for these children.

The information in this leaflet refer to children of compulsory school age (5-16) in England only. References to children with Education, Health and Care plans (EHC plans) also cover those who still have Statements under the old system.

## The Duty of The Local Authority

Local authorities must make travel arrangements they consider necessary to enable eligible children to attend school. These arrangements must be provided free of charge under section 508B of the Education Act 1996. Local authorities also have the discretion under section 508C of the Education Act 1996 to provide transport for a wider group of children. This could be free or charged for.

## Who is Eligible?

Some criteria apply to all children, and pupils. Others apply only to children with a disability, special need, or mobility difficulty.

### Distance

This applies if your child lives outside the statutory walking distance to their nearest suitable school. **Statutory walking distance is defined as 2 miles for children under 8, and 3 miles for age 8 and over.** The distance measured is the shortest route along which a child can walk in reasonable safety. This may not be the same as the driving route and may include footpaths.



## Unsuitable Walking Route

This applies if your child lives within the 2-mile or 3-mile limit but there is no safe walking route, for instance if the only route were along an unlit busy road with no pavement.

## Children with a Special Educational Need, Disability, or Mobility Difficulty

If your child cannot reasonably be expected to walk to school because of a special educational need, disability, or mobility problem, they will be entitled to free school transport, **regardless of the distance they live from the school**. An assessment must be made on the child's individual needs.

### Statutory guidance says:

*'Usual transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to SEN and/or disability.'*

This criterion applies to **all** children with SEND or mobility difficulties, not just children with EHC plans or who attend special schools.

Some children may be unable to walk to school because of a physical disability or medical issue; for others there may be psychological or behavioural issues which may put a child at risk. Local authorities should consider whether a child can walk, alone or with an adult, and if it would be reasonable to expect a parent to accompany the child on foot.

Age should also be taken into account; it may be reasonable to expect a parent to walk a 6-year-old to school but not a 15-year-old.

Your ability to drive your child to school **must not** be considered what looking at eligibility under special educational needs or disability.



## Families on Low Income

If your family is on a low income, the distance criteria are more generous by lowering the statutory walking distance for over eights and extending the range of schools. You will meet the criteria for low income if your child is eligible for free school meals or you are on the maximum amount of working tax credit or equivalent under Universal Credit. Your child will then be eligible for free travel if they are:

- *age 8-10 living over 2 miles from the nearest suitable school*
- *age 11-16 living within 2 and 6 miles of school if it is one of the three nearest suitable schools.*
- *age 11-16 living between 2 and 15 miles of the nearest school preferred on the grounds of religion or belief.*

## Qualifying Schools

To be entitled to free school transport, your child must attend a 'qualifying school'. These are:

- *state maintained schools*
- *academies, free schools and pupil referral units*
- *an independent school named in section I of your child's EHCP. You can't get school transport if your child does not have an EHCP and is placed at an independent school at your own expense.*

Eligibility for transport is considered to the nearest suitable school only.

## Alternative Provisions

If your child is on roll at a mainstream school but has been placed in a pupil referral unit temporarily then they may get school transport if they meet the eligibility criteria, even if they don't qualify for their usual school

## Under Fives

Most children now start school in the September after their fourth birthday. There is however no duty to provide transport until children reach compulsory school age - the term after they turn five.

Your local authority may provide transport for four-year olds in reception class if they will be eligible when they are five. If you are turned down, it may be possible to challenge a decision on equality grounds if your four-year-old has to attend a school at some distance from home, rather than their local mainstream school

## Children With EHC Plans – School Preference

If your child has an EHC plan, you have a right to have your preferred school named in section I if it meets specific criteria, including suitability and efficient use of resources.

If the EHC plan names your preferred school with no conditions and it is the only school named, then it automatically counts as the closest suitable for transport purposes, and the local authority must provide free school transport if your child is eligible.

Sometimes however, the local authority may consider that another school nearer to home is also able to meet your child's needs and that the additional transport to your preferred school would cost too much. The local authority may then either:

- *name the further school as parental preference but state in the EHCP that there is a closer suitable school, and the parent will be responsible for school transport*
- *name the closer school only.*

The local authority should not refuse to name your preference if there would only be a small cost difference. If you are not happy about the named school, you can appeal to the SEND tribunal.

We recommend that you seek independent advice if you disagree with the local authority about the right school for your child.

## Including Transport in EHC Plans

If your child has an EHC plan, you do not need to be concerned if transport is not mentioned, as eligibility is covered under general education law. Transport does not normally count as special educational provision. It may be included only in exceptional circumstances for children of compulsory school age. This might be where specialised arrangements are necessary to enable the child to access education.

### Residential Placements

If your child attends a residential school named in an EHC plan, your local authority should make reasonable travel arrangements. This might be direct transport or reimbursement of travel costs. There's no legal definition of what would be reasonable, but we would expect the minimum to be weekly transport for weekly boarders and at the beginning and end of holidays for termly boarders. Your local authority may fund additional visits by parents or expenses for attendance at annual reviews.

### Transport Outside of The Normal School Day

The legal entitlement for transport is for the beginning and end of the normal school day only. You don't have a right to special arrangements to enable your child to attend appointments or after-school clubs. If you do need flexible arrangements, it may be worth considering a personal travel budget or mileage allowance if you are able to take your child.

## School Transport Options – Suitability

The duty on the local authority is to make suitable ‘travel arrangements’, which may not be door-to-door transport. Depending on the needs of your child you might be offered:

- *a bus pass for use on public transport*
- *travel training to enable an older child to walk or take public transport on their own*
- *a place on a dedicated school bus*
- *a shared taxi or minibus*
- *an individual taxi with or without an escort.*

**also, with your consent only**

- *a mileage allowance or personal transport budget.*
- *a walking escort.*

Some families like the flexibility of a personal transport budget to enable them to make their own arrangements. The local authority cannot however insist on this, even if you have a Motability car or your child gets higher rate mobility of Disability Living Allowance (DLA).

### **The Duty of The Local Authority**

The local authority has a duty to provide suitable transport, which must be non-stressful. This is defined in case law as transport that enables a child:

*“to reach school without undue stress, strain or difficulty such as would prevent him from benefiting from the education the school has to offer, [...] [and] to travel in safety and in reasonable comfort”.*

A bus pass and a programme of travel training may, for instance be appropriate for a young adult with moderate learning difficulties, but highly unsuitable for an 11-year-old with severe autism and sensory sensitivities, who may need door to door transport and an escort.

# Staff Training

Some parents report that staff on school transport are caring and a full part of their child's education team. In other cases, however, drivers and escorts may be unaware of children's difficulties and are poorly trained to handle their behaviour. Guidance is clear that all staff should have up to date training including:

- *an awareness of different types of disability including 'hidden' disabilities*
- *an awareness of discrimination*
- *skills to communicate with children with different disabilities and to manage behaviour.*

Local authorities must also ensure that the necessary safeguarding checks are carried out.

# Applying for School Transport

You will probably need to apply formally for school transport to your local authority. Some local authorities require parents to reapply, either annually or at major transition points such as moving to secondary school. Information on how to apply should be on the local authority's website and 'local offer' site.

You should include as much information as you can with your application. It's important to show that your child meets the eligibility criteria. If you are applying under the SEND criterion, explain in detail:

- *why your child is not able to walk to school, both physical reasons and any need for close supervision*
- *give details of the actual journey on foot and how your child would be affected*
- *If you have professional evidence about your child's walking ability or the difficulties they have in public places, include that too.*

# Challenging Decisions

## Local Appeal

You may be unhappy with a local authority decision on school transport, either because they have decided your child is not eligible or you consider that the transport offered is not suitable. Your local authority should have a complaints and appeals procedure for transport decisions, and this should be published alongside the transport policy. Statutory guidance recommends a 2-stage procedure involving an initial review by a senior officer followed by an independent appeal panel. However there is no legal requirement to follow this.

If you are not happy with the outcome of the local appeal process, you may be able to take matters further to the Local Government Ombudsman (LGO). You can do this if you think the local authority did not follow proper procedure in the appeal, or that the decision was not in keeping with the law. The LGO has issued a focus report on school transport which gives examples of some cases they have dealt with.

It may be possible to take legal action against the local authority via the judicial review process. It is important to get independent legal advice before taking this step.

## SEND Tribunal

If there is a dispute over the closest suitable school and the local authority has put more than one school in section I of the EHC plan or a note to say that parents will be responsible for school transport, you can appeal to the SEND tribunal to have your preference named as the only school.



## Further Information



**Information:** You may find it helpful to look at our other leaflets and information on our website, social media channels and through our workshops and courses. We have some downloadable resources. If you can't find the answers to your questions, you can get in touch by phone, text or email – **you choose** which works best for you.



**Advice:** We provide unbiased information and advice about what the law says, the local authority's policies and procedures, and about the policy and practice in local schools or other settings. We do not take sides or tell you what to do, we will help you get the information you need to make your **own choices**.



**Support:** We can help you by **listening** to your views and concerns, whilst working with you to explore your options. We can help you with preparation for meetings, with letters, forms and reports and support you to have the confidence to **express your views**.

## Useful Links

**Ace Education** (independent advice and information on state education in England).

**Child Law Advice** (education law advice for families)  
[www.childlawadvice.org.uk](http://www.childlawadvice.org.uk)

**Contact** (for families with disabled children) [www.contact.org.uk](http://www.contact.org.uk)

**Council for Disabled Children** (umbrella body for the disabled children's sector)  
[www.councilfordisabledchildren.org.uk](http://www.councilfordisabledchildren.org.uk)

**IASS** (information, advice and support services network)  
[www.cyp.iassnetwork.org.uk](http://www.cyp.iassnetwork.org.uk)

**IPSEA** (national charity providing legally based information advice and support) [www.ipsea.org.uk](http://www.ipsea.org.uk)

**Our Website** [www.cornwallsendiass.org.uk](http://www.cornwallsendiass.org.uk)

**SEND Code of Practice** (explains the statutory duties of schools and local authorities)  
[www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)

**SEND Tribunals Service** (organisation responsible for handling claims)  
[www.justice.gov.uk/tribunals/send](http://www.justice.gov.uk/tribunals/send)