



Mainstream Home to School Transport Policy 2021-22

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1. Introduction

- 1.1 This document sets out the Local Authority's duties and responsibilities on school transport.
- 1.2 The aim of this document is to set out policies and approaches that provide the very best service to our customers by producing information in one document that is widely available to all parties with an interest in school transport.
- 1.3 It therefore clarifies the Local Authority's responsibilities for the delivery of mainstream, Special Educational Needs and post-16 transport and includes additional policies on transport for students, school transport operations in extreme weather conditions, behaviour and drugs and alcohol policy on school transport.
- 1.4 The policy is reviewed on a regular basis in consultation with other Council directorates and stakeholders, including schools, transport providers, neighbouring Local Authorities and Diocesan Authorities.
- 1.5 This policy only applies to those students living within the borough boundary of Swindon.
- 1.6 This document has been reviewed in line with the Home to School travel and transport guidance published by the Department for Education (DfE) in July 2014 and the Post – 16 transport and travel support to education and training (DfE) January 2019.
- 1.7 For the purposes of this document, the Local Authority (LA) is defined as the department within Swindon Borough Council that administers Education.
- 1.8 For further information and advice on this document, please contact:

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2. Legislation

- 2.1 The Education and Inspections Act 2006 inserted sections 508B and 508C into the Education Act 1996 (The Act). These sections place a duty on Local Authorities to ensure that suitable travel arrangements are made where necessary to facilitate the student's attendance at school. Please note that 508B refers to travel arrangements for 'eligible children' of compulsory school age. This is a mandatory requirement. 508C refers to travel arrangements for children other than 'eligible' children. This is a discretionary requirement
- 2.2 The duty applies for home to school travel arrangements made at the start of the day and school to home travel arrangements at the end of the day for students of compulsory school age. It does not relate to travel between educational institutions during the school day.
- 2.3 Parents are responsible for ensuring that their children attends school regularly. However section 444 of the Act outlines the situation where a parent may have a defence in law against prosecution by a Local Authority for their child's non-attendance at school. Section 444(3)(b) provides a defence if he or she provides that:
 - a. The qualifying school at which the student is a registered student is not within statutory walking distance.
 - b. No suitable arrangements have been made by the Local Authority for boarding accommodation at or near to the school
 - c. No suitable arrangements have been made by the Local Authority for enabling the student to become a registered student at a qualifying school near to his/her home
 - d. The Local Authorities has a duty to make travel arrangements in relation to the student under section 508B and has failed to discharge that duty.
- 2.4 The definition of eligible students is set out in (Schedule 35B) of the Act in respect of whom travel arrangements will be required.
- 2.5 Section 508B prescribes that travel arrangements must be provided free of charge. In cases where students do not qualify for free transport, section 508C provides a discretionary power for authorities to provide assistance by paying all or part of the student's reasonable travel expenses. Each authority decides whether and how to exercise these powers.
- 2.6 The Special Educational Needs and Disability Regulations 2014 section 53) indicate that the following must be published in the local offer in relation to transport assistance. Schedule 2(14) Transport arrangements for children and young people with special educational needs or a disability to get to and from school or post-16 institution, or other institution in which they are receiving

special educational provision or training provision including—

- (a) arrangements for specialist transport;
- (b) arrangements for free or subsidised transport;
- (c) support available in relation to the cost of transport, whether from the local authority or otherwise.

3. Mainstream School Transport Policies

Eligibility

- 3.1 Students will be entitled to free travel assistance from a suitable pick up point near to their home to a suitable set down point near the school they attend if:
- a. They attend the designated appropriate school
- and either**
- b. They are aged between five and seven years old and live more than 2 miles (3.218688 kilometres) from the school they attend;
- or**
- c. They are aged between eight and sixteen years old and live more than 3 miles (4.828032 kilometres) from the school they attend;
- 3.2 Distances will be measured by the safest walking route as defined by Swindon Borough Council using mapping software.
- 3.3 To qualify for transport assistance the student must be attending the designated appropriate school **AND** qualify under the distance criteria.

The designated appropriate school

- 3.4 The designated appropriate school for the purposes of assessing eligibility is the school within the **designated transport area** for the home address in **Appendix 1**.
- 3.5 When such a school is unavailable (i.e. there is no space in the relevant year group), the designated appropriate school will be considered to be the next nearest school with a place available. The next nearest school is measured as a straight line between the Local Land and Property Gazetteer (LLPG) address point of the applicant's home address and of the school with those living closest to school receiving higher priority.

Home address

- 3.6 Transport to and from school will be determined and approved from a single permanent residence. This is the one where the student spends most time with the parent/guardian and has been used for admission purposes and the school.
- 3.7 Transport provision will normally cease if there is a change in the home address that would lead to attendance not being at the designated appropriate school for the new address.

- 3.8 In exceptional circumstances, where there is a change in the student's home address, or placement if in public care, the Local Authority may consider the continued attendance at the current school to be the student's best interest. Consideration will be given to whether the change of address was entirely outside any parental control.
- 3.9 Recognised exceptions to the rules given above are as follows
- 3.9.1 In some cases of temporary disability of the student on the advice of the Local Health Authority. Evidence of this would be required.
- 3.9.2 For some students resident in Swindon in Year 10-13 whose families move out of the designated area for the Swindon school they are attending and live more than three miles by a safe walking route and receive Income Support or income-based Job Seeker's Allowance, to help them complete a GCSE or A-level Course.
- 3.9.3 Where a student studies somewhere other than the designated appropriate area school, sixth form or college to follow a course that is not provided, in broadly similar terms by the designated area colleges and the student's family receive Income Support or income-based Job Seeker's Allowance.

Road Safety

- 3.10 Transport is assessed for a safe walking route using "Assessment of Walked Routes to School Guidelines" published by Road Safety GB which identifies hazards and the assessment of risk of walked routes to school.

The assessment of a safe walking route

- 3.11 As it is the duty of parents to ensure that students attend school, the law on safe walking routes assumes that a responsible adult will accompany students to and from school.
- 3.12 A safe route will be on footpaths along the majority of its length. Short sections of road with a speed limit of 30mph or less may be acceptable, subject to assessment.
- 3.13 Crossings of major routes, including all routes with a speed limit of more than 30mph, will either be by controlled crossing or by under- or over-pass. This can legitimately involve a diversion or even doubling back on a route, but any additional distance will be included in the route measurement.
- 3.14 In determining entitlement to free transport, the route used in assessing the distance is the shortest safest available walking route in accordance with National Road Safety Guidance.

Primary School Aged Students

- 3.15 Transport can be provided, on road safety grounds if the journey to the designated appropriate school would involve the use of roads without footpaths or lighting.

Secondary School Aged Students

- 3.16 There are a number of criteria that need to be met for Secondary School students to receive transport on road safety grounds. The following criteria are based on the expectation that parents will accompany their children to and from school where they consider it necessary:

- a. There is no footway, or;
- b. Students have to walk along a dual carriageway with a speed limit of 40 mph or higher, and they have to cross a dual carriageway, and there is no safe crossing point available. A safe crossing point is defined as any of the following:

Light Operated Crossings
Zebra Crossing
Pedestrian Refuge
Foot Bridge
Underpass
School Crossing Patrol in Operation

Students (without an EHCP) unable to walk to school by reason of their disability, or mobility problem (including temporary medical conditions).

- 3.17 Where a student is attending their nearest qualifying school (or designated school if this is not the nearest) which is within the relevant walking distance (i.e. within 2 miles if aged under 8, and 3 miles if aged over 8), but is unable to walk to that establishment (accompanied as necessary) by reason of their SEN and/or disability, he or she will be eligible for transport assistance by providing appropriate evidence from their consultant, for example:

- Long term severely restricted independent mobility (something that is likely to last at least a year, this can include sporadic conditions such as epilepsy or multiple sclerosis).
- a physical disability e.g. severe cerebral palsy which may necessitate the daily use of significant mobility aids such as a wheelchair,
- a medical condition resulting in severe persistent pain and/or extreme fatigue, an example of this might be juvenile arthritis,
- a medical condition resulting in serious persistent health and safety risks. Examples of this might be intractable epileptic seizure disorders

- 3.18 Transport may be provided to the designated appropriate school on medical grounds for either short-term provision, where a student has a temporary medical problem or on a long-term basis if the student has a particular long-term condition. In both cases recommendations must be received from the Local Health Authority.
- 3.19 Evidence would be required and any application would be considered on a case by case basis. In all cases recommendations must be received from an appropriate medical officer from the Local Health Authority, this should be a Consultant looking after the student.
- 3.20 If assistance is granted this would be reviewed termly, with the need for new evidence to be submitted. If assistance is granted the LA, in the first instance would seek to provide petrol expenses. If a parent cannot provide evidence from the Local Health Authority, the LA will remove that assistance.

The Nature of Transport Arrangements

- 3.21 The arrangements for assisted travel which may be made under this policy will be at the LA's discretion and area made on the most cost-effective basis. These arrangements may take the form of:
 - a. Travel pass for use on public transport (season ticket);
 - b. A parent consenting to use their car in return for a mileage allowance;
 - c. Travel pass or other authorisation for use on private contract services;

Parental preference

- 3.22 The Local Authority has no duty to provide transport where parents exercise their right to express a preference for their child to
 - a. Attend a particular school other than the school which the LA has designated as serving the area where they live, or
 - b. Attend a particular school other than the designated appropriate school.

Education and Inspections Act 2006

- 3.23 The Education and Inspections Act 2006 provides extended right for students from low income groups.
- 3.24 Low income groups are defined as where the student is entitled to free school meals or where the parents receive the maximum Working Tax Credit are entitled as follows
 - a. Students aged between eight and eleven years old – where the nearest suitable school is beyond two miles
 - b. Students aged between eleven and sixteen

- i. To one of the three closest schools to the home address between 2 and 6 miles, or
 - ii. To a school between 2 and 15 miles where preferred on the grounds of religion or belief
- 3.25 The LA may review all eligibility for transport on a yearly basis. If the student is no longer eligible for transport assistance on these grounds then the transport will be withdrawn and the parent / carer will be informed.
- 3.26 There is a right of appeal for parents or students to the Education Transport Appeals Sub-Committee for transport on road safety grounds, in relation to the issue of their ability to accompany their children to school. (The need for parents to be at work would not usually be considered as a reason why transport should be provided). Details of the Appeals process are set out later in the document.

Timetable and process for applications

- 3.27 Applications are to be made online, via the LA website
https://www.swindon.gov.uk/info/20032/schools_and_education/414/school_travel_support/2
- 3.28 Whilst applications can be made at any time, applications for travel support to commence at the start of a new academic year should be made by 1st July.
- 3.29 The LA will accept application forms after this time, however the LA cannot guarantee travel support will be available for the start of the academic year

4. Mainstream School Transport – Discretionary

The Key policies involving discretionary transport are:

Students of pre-statutory school age

- 4.1 Transport may be provided for students of pre-statutory school age where transport is already running and where there are spaces available on current transport.

Education other than at School (EOTAS) and elective home education

- 4.2 Where parents, in conjunction with the school if appropriate, have chosen to educate their child other than at school, no assistance will be available from the LA in connection with any transport need arising.

Education other than at School (EOTAS) and referral units

- 4.3 Where the LA arranges for a student to have education other than at school, the LA will provide transport subject to normal eligibility rules on home to school transport.

Students without an Education, Health and Care Plans (EHCP)

- 4.4 All transport for students without EHCPs who are attending mainstream schools will be provided on the basis of normal eligibility criteria.
- 4.5 If a Local Authority places a student with an EHCP at a school or unit this will be deemed as the **designated appropriate school** for school transport purposes irrespective of the Local Authority's normal zoning arrangements, and these applications will be considered under the SEND Transport Policy.

Children in the care of the Local Authority

- 4.6 The school at which a student is placed by the LA will be deemed the **designated appropriate school** for school transport purposes irrespective of the LA's normal zoning arrangements in order to provide continuity of educational provision for such students. The allocation of a school place will be reviewed as part of the student's regular Care Plan review.

Continuity

- 4.7 Where students resident within the Borough move home during Years 10 and 11 out of the designated area for the current Swindon school in which they are studying, the LA may provide free home to school transport.
- 4.8 This is applicable when the current Swindon school is more than 3 miles from home and the parents are in receipt of the relevant qualifying benefits, (Universal Credit). This is to assist the student to complete their GCSE courses.
- 4.9 Any entitlement under continuity grounds must fulfil all the criteria in the paragraph above.

- 4.10 Any child whose entry to school has been delayed and may reach school leaving sooner than their peers (in Year 10), will continue to be eligible for school transport assistance if they are already in receipt of it for continuity purposes.

School Transport Appeals

- 4.11 Parents have a right of appeal to the Education Transport Appeals Subcommittee of Swindon Borough Council set out in part 7 of this policy

Provision of Passenger Assistants

- 4.12 A Passenger Assistant will only be provided following the outcome of an assessment of the student's Special Educational Needs and / or medical needs in order to meet the needs of the students travelling to and from school. This determination will be made by the Special Educational Needs and Disability Assessment Team, and any other appropriate professionals, in liaison with the Passenger Transport Team taking into account:
- 4.12.1 A student's medical needs, particularly where rescue medication is required. Passenger Transport Assistants employed by the LA are trained in Emergency Aid, but it is not part of their role to administer medication. If a student has medical needs that are likely to require intervention whilst travelling, consideration will be given to the provision of a specialist health carer from the NHS.
- 4.12.2 Where an individual student's needs create a clear danger or health and safety risk to themselves and other passengers on the vehicle
- 4.12.3 Where an assessment of the students on the vehicle and the journey to be undertaken highlight a clear danger or health and safety risk to all passengers on the vehicle.

5. Post 16 (16-18)Mainstream Education transport policy

- 6.1 There is no legal requirement for Local Authorities to provide transport beyond the completion of Year 11
- 6.2 This policy aims to ensure access to further education opportunities to all 16-19 year olds living in the Borough of Swindon, as required under the Education Act 2002.
- 6.3 Given the urban nature of the Borough, Swindon offers good transport accessibility within its boundaries, with extensive public transport provision. This presents very few barriers to learning for the majority of mainstream students.

Policy

There is no automatic discretionary subsidised support for pupils accessing mainstream Post 16 education although the transport on the school bus will be provided to the Ridgeway School 6th form from within the Ridgeway Transport Area if over 3 miles or due to an unsafe walking route. This will require an annual parental contribution of £495.

6. Other Key Policy Areas

Other relevant, key policies are set out below:

- 7.1 The home address given on the application form must be the address where the student resides for most of the week with their parent or carer. Where a student has a joint address or the parents have dual responsibility, then the address that the child benefit is paid will be taken as the students's home address. The LA may ask parents or carers to provide proof of these circumstances. Please note that transport, if provided, will only be provided to one address.
- 7.2 If you move house please let us know in advance as this may affect your child's entitlement to transport or they may need to be on a different bus. If you have any queries about the area you are moving into please contact us and we will be able to tell you the catchment areas for the school your child attends.
- 7.3 Students may be required to walk up to one mile from home to the pick-up point and, where students use public service routes, they may be required to walk up to one mile from the setting-down point to the school or 1.5 miles to a 16-18 provider.
- 7.4 Requests for changes in transport arrangements will be considered but changes, such as additional stops, are not always possible for reasons of safety and timing.
- 7.5 Students aged eight years of age who are entitled to free transport under the distance criteria will continue to receive free transport until the end of the academic term in which they reach the age of eight.
- 7.6 Where, for any reason, transport facilities have been approved in error, the LA reserves the right to withdraw that provision at any time convenient to the LA, and will normally do so, after giving due notice of its intention to do so.
- 7.7 Transport is only provided if the student attends the nearest education establishment offering the qualification irrespective of the module content.
- 7.8 Students who do not have an Education Health and Care Plan but who are deemed to have a level of special needs below that required for a formal statement, would not normally be entitled to free transport but would have the right to appeal for transport to the Education Transport Appeals Panel.

School Transport operations in extreme weather conditions

- 7.9 When there is snow, ice or flooding, school transport may be disrupted. If the bad weather occurs overnight, parents must contact the transport operator or listen to local radio / website / school to find out if the transport is running. If parents/carers cannot find out for certain and school transport is over 20 minutes late then it should be assumed that

the school bus is not operating at all. If a parent decides to take their child into school themselves, they must also be able to collect their child in the afternoon because school transport may still not be able to operate.

- 7.10 Where very bad weather is forecast or prolonged, the LA will make a decision after 2 p.m. the previous day as to whether to provide transport. In these instances information will be available on the local radio station and Council website.

Behaviour on School Transport:

- 7.11 The majority of students travelling to and from school behave well. For a few, this is not so and these few can make the journey very unpleasant for others. Unacceptable behaviour will not be tolerated and in all instances of unacceptable behaviour the school and parents of those concerned will be contacted. Bullying, vandalism or unruly behaviour can result in exclusion from transport.

7. School Transport Appeals

- 8.1 In accordance with the revised guidance for transport appeals, since September 2016, the LA has adopted a 2 stage review and appeal process.
- 8.2 This appeals policy is applicable to children who live within the Borough of Swindon that are attending mainstream and special schools. This appeals policy applies to children with or without an Education, Health and Care Plan (EHCP).

Right to Appeal

- 8.3 Where a parent has been refused transport assistance they can challenge the decision for the following reasons
- 8.3.1 The nature of the transport arrangements offered
 - 8.3.2 Their child's eligibility
 - 8.3.3 The distance measured in relation to statutory walking distances; and
The safety of the route

Stage 1

- 8.4 Within 20 working days from the receipt of the local authority's home to school transport decision, a parent can make a request asking for a review of the decision.
- 8.5 A parent will be advised of the right for a review within the decision letter.
- 8.6 The request for review should be made by completing the transport appeal form online. A link will be provided by email. The parent should state the reason why the decision should be reviewed and given details of any personal and/or family circumstances the parent believes should be considered when the decision is reviewed.
- 8.7 Within 20 working days of the receipt of the parent's written request a senior officer will review the original decision and will notify the parent by way of detailed written notification of the outcome of the review.
- 8.8 The decision letter will contain the following
- 8.8.1 The nature of the decision reached;
 - 8.8.2 How the review was conducted (including any standards followed e.g., Road Safety GB)
 - 8.8.3 Information regarding other parties consulted
 - 8.8.4 What factors were considered
 - 8.8.5 Information how the parent can escalate their case to stage 2 if appropriate

Stage 2

- 8.9 Following the receipt of the local authority's stage one decision notification, a parent can within 20 working days submit a request to escalate the matter to Stage 2.
- 8.10 A parent should complete a transport appeal form online. A link will be provided by email.
- 8.11 Within 40 days of receipt an appeal will be scheduled with the Education (Transport) Appeals Sub-Committee who will consider both written and verbal representation from both parents and officers involved in the case.
- 8.12 The parent will be notified of the outcome by telephone following the outcome of the appeal panel and will receive formal notification of the outcome within 5 working days. The notification will include
- 8.12.1 The nature of the decision reached;
 - 8.12.2 How the review was conducted (including any standards followed e.g., Road Safety GB)
 - 8.12.3 Information regarding other parties consulted
 - 8.12.4 What factors were considered
 - 8.12.5 If refused, information about how the parent can refer to the case to the Local Government Ombudsman
- 8.13 Where an appeal is upheld, this does not guarantee funding throughout the school life of the child, and the circumstances under which the appeal was upheld would be kept under review.

Education Transport Appeals Sub-Committee

- 8.14 An Education Transport Appeals Sub-Committee will meet to consider transport appeals. The membership of this Sub-Committee is made up of three Councillors selected from a pool appointed by the Appeals Committee. These Councillors will not have been involved with the case previously and should not have any close connection with the appellant. If one of the Councillors does have a remote connection with the appellant, they may be allowed to take part in the hearing if neither the LA's representative nor the appellant objects
- 8.15 The Education Transport Appeals Sub-Committee will consider case papers for each appeal consisting of the reasons as to why the LA have refused to provide transport assistance, any other relevant information and the parents appeal giving reasons as to why they are appealing against this decision.
- 8.16 Each Councillor will remain a Committee member for at least one year but there will be no limit on how long they wish to continue as a member providing there is no conflict of interest in the areas mentioned above.
- 8.17 All Councillors on the Appeals Committee will undertake training on the Transport Policy at least once per academic year to ensure that Councillors become 'expert' in this field.

- 8.18 The Education Transport Appeals Sub-Committee will consider all appeals on their individual merits. The decision of the Sub-Committee is final with no further rights of appeal.
- 8.19 The Education Transport Appeals Sub-Committee must operate within the Transport Policy at all times.
- 8.20 The Education Transport Appeals Sub-Committee must take into consideration the cost of transport should the appeal be upheld.
- 8.21 If the Education Transport Appeals Sub-Committee agrees to uphold an appeal, it must indicate the length of time for which the transport has been agreed.
- 8.22 Once the appeal has been heard the Education Transport Appeals Sub-Committee will make its decision that day and the Committee Officer will endeavour to contact the parent by telephone the same day to give the result of the appeal. A decision letter outlining the Education Transport Appeals Sub-Committee decision and its reasons will follow usually within one week.
- 8.23 If parents are not happy with the decision of the Education Transport Appeals Sub-Committee then they are able to contact the Ombudsman. The Ombudsman will only be able to look at the way the appeal was conducted and establish whether the LA followed all its processes in the correct manner.
- 8.24 If the Appeal is in relation to a placement made by order of an SEN & Disability Tribunal, the Appellant and the Local Authority may be bound by any decision relating to travel that the Tribunal has made. The SEN and Disability Tribunal may have specifically come to a decision about placement based on the inclusion of travel costs.
- 8.25 For appeals on the grounds of road safety, parents can only appeal if they believe that they are unable to accompany their child to school. However, the Appeals Sub-Committee will not usually accept the need for parents to be at work as the reason why transport should be provided.
- 8.26 The Education Transport Sub-Committee is able to consider applications for assistance from parents of children receiving nursery education as per the School Standards and Framework Act 1998.

Grounds Under Which the Education Transport Appeals Sub-Committee can Uphold an Appeal

- 8.27 The grounds under which the Education Transport Appeals Sub-Committee can allow / uphold an appeal are:
- 8.27.1 The Transport Policy has not been applied properly.
- 8.27.2 There are discrepancies in the way the application has been handled.

8.27.3 The individual circumstances put forward by the applicant outweigh the normal policy considerations and are considered to be exceptional circumstances.

8.28 Examples of exceptional circumstances are:

8.28.1 If there are exceptional circumstances within the immediate family unit where the child lives that affects the child ability to attend their designated school such as domestic violence. Evidence would be required to support this.

8.28.2 Death or serious illness of parent with whom the child has been living.

8.28.3 In cases of students with Special Educational Needs – additional evidence of need that the Education Transport Appeals Sub-Committee is asked to consider.

8. Contacts

Please contact Education Transport at:
educationtransport@swindon.gov.uk

Or for travel advice for students with an EHCP, please contact the SEND Travel Advisor at:
senttravel@swindon.gov.uk

Please also refer to the local offer <http://children.mycaremysupport.co.uk/>

Appendix 1 – Designated transport areas

The maps outlining the designated transport areas are found in a separate document to be read in association with this document (this can be made available on request to educationtransport@swindon.gov.uk)