

## **Appendix 2 – Responses to the Consultation**

### **1. Respondents**

There were 24 responses to the consultation.

The responses were made by the following groups (respondents could indicate more than one response)

Local Resident	8	34.78%
Parent (of primary aged children)	11	47.83%
Parent (of secondary aged children)	6	26.09%
Interested in education	2	8.70%
Transport providers	0	0.00%
Parish/Ward Councillor	1	4.35%
School	3	13.04%

Does the respondent have a child who accesses transport assistance?

Yes	14	58.33%
No	10	41.67%

The ethnicity of the respondent

White British	19	86.35%
Asian Indian	1	4.55%
Mixed other	1	4.55%
Mixed White & Black Caribbean	1	4.55%

Does the respondent have a disability?

Yes	1	4.55%
No	18	81.82%
No response	1	13.65%

## 2. Comments made

1.	<p>The policy fails to make note of the duty of section 35B to the 1996 Act which sets out who eligible children are.</p> <p>Paragraph 2 of this schedule says that disabled children and children with SEN of compulsory school age who live within school walking distance but cannot reasonably be expected to walk to school are all eligible.</p> <p>If a school is named in the statement or EHCP, it will be deemed the most suitable school for that child's SEN /needs.</p> <p>A parent can request the school but very often it is termed as "choice" by the LA when in fact it is the most appropriate for this child's needs.</p> <p>This is a used as a reason for refusing transport and is therefore unlawful.</p>
	<p><i>Swindon Borough Council has considered schedule 35B of the Education Act (Paragraph 2 of that schedule) and has also sought advice of Counsel on this. The wording suggested by Counsel has been included in the draft policy which is being consulted on.</i></p> <p><i>This has been addressed in section 3.18 of the proposed policy which states:</i></p> <p><i>"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."</i></p> <p><i>In relation to the named school in the EHCP, section 5.3 of the proposed policy refers to this and states:</i></p> <p><i>"Where a school is named by the Local Authority on a student's Education Health and Care Plan (EHCP) or Statement of Special Educational Needs, that school will be deemed to be the students nearest appropriate school for the purposes of transport eligibility, unless named as a result of parental preference, and in the Authority's view, the child's needs could be met at a nearer school, which has also been named in the Statement or EHCP."</i></p>
2.	<p>In order to consult properly guidance from the Supreme Court on consultation should be sought. Secondly all cuts and decisions must be taken in accordance with the public sector equality duty in section 149 of the equality act 2010 which requires "due regard to be given to a series of specified needs. The most relevant need in such a case is the need to "advance equality of opportunity" for disabled people compared with others. See section 149 (1)(b). You will need to understand therefore how many disabled people would be affected, analysed and see what the impact and considered ways in which the impact could be mitigated or avoided. For reference there is extensive case law in the section 149 duty which places a heavy burden on LA's who are seeking to cut services which are valued by disabled people. You also fail to make note of the duty of section 35B to the 1996 Act which sets out who eligible children are. paragraph 2 of this schedule says that disable children and children with SEN of compulsory school age who live within school walking distance but cannot reasonably be expected to walk school are all eligible. If a school is named in the statement or EHCP, it will be deemed the most suitable school for that child's SEN /needs. A parent can request the school but very often it</p>

	is termed as "choice" by the LA when in fact it is the most appropriate for this child's needs. Any attempts to short change children and parents out of the duty by the LA and I am sure that there will be willing solicitors to make a JR case law for this borough.
	<i>Please see response to 1 above referring to Schedule 35B of the Education Act. An equality impact assessment has been carried out which will be considered by Cabinet when deciding on the proposals</i>

<b>3.</b>	You seem to be forgetting about S35 about SEN eligible for transport due to SEN.
	<i>Please see response to 1 above referring to Schedule 35B of the Education Act.</i>

<b>4.</b>	The policy being proposed is unfair and unjust and seems to be aiming only at cost saving mechanism for the local council by exploiting the vulnerability of the families and children with special needs. The fact that these children ( primary, secondary and post 16 ) have an EHCP is indicative enough evidence that, these pupils have needs which are bigger and complex enough to state they need extra support, supervision during their commute to their primary place of education from their residence immaterial of the party who chose the educational establishment. EHCP being a legally binding contract between both parties and the content of the EHCP therefore agreed by both, a door to door transport to the named educational establishment from their primary residence is the EHCP holders right and therefore LAs duty to provide
	<i>If the student is eligible for transport assistance, and a school is named by the Local Authority in the EHCP or Statement, that school is deemed to be the students nearest appropriate school for the purposes of transport eligibility. Parent/carers may chose a different school to the nearest appropriate school, as long as the school will still meet the needs of the student as outlined in the statement / EHCP. However, the parent/carers will then become liable for the transport costs to that school. This is not a change in policy as this has been part of the Transport Policy for many years and is common practice amongst many other Local Authorities. This is also applicable for mainstream students also, in that if parents choose a different school other than their designated appropriate school then they will be liable for all transport costs. Eligibility for an EHCP does not automatically mean eligibility for transport assistance. This is assessed on an individual basis.</i>

<b>5.</b>	My son uses school transport to take him to the best school for his educational needs without the transport he would not be able to go and it would be detrimental to his schooling
	<i>We are not proposing any changes in the policy to the eligibility criteria.</i>

<b>6.</b>	I am concerned that when my son who has SEN goes to secondary school in Sept 2017 that school transport maybe an issue as he needs a secondary school that can cope with his complex SEN needs. We have looked at our closest mainstream school which has an SRP, but didn't feel confident or like the way the unit was set out etc. So a school further away from home was the best option.
	<i>Where a school is named by the Local Authority on a student's Education Health and Care Plan (EHCP) or Statement of Special Educational Needs, that school will</i>

	<i>be deemed to be the students nearest appropriate school for the purposes of transport eligibility, unless named as a result of parental preference, and in the Authority's view, the child's needs could be met at a nearer school, which has also been named in the Statement or EHCP. Parents may choose a different school to the nearest suitable school as deemed by the Local Authority, but the parents / carers will then be liable for the transport costs to that school.</i>
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7.	Teaching colleagues within our organisation have become increasingly concerned by the poor organisation and supervision during the transportation of some of our most vulnerable children. Parents have also expressed their frustration and concern at the lack of organisation and reliability of transport for their children. Our pupil's experience at the point where the policy translates into action has been characterised by a lack of cohesion and consistency which has resulted in distress
	<i>We have not been made aware of any regular transport issues concerning this school. We have checked our records and are not at this time aware of any issues concerning transport. We were only providing one social care route to this school which was not for the length of the whole school year. This route was an escorted route and did not always complete its journeys due to the child/family not always being available when the transport called. So if there are concerns we are not aware of, we would be happy to be made aware of them so we can investigate.</i>

8.	<p>The catchment for Ridgeway School in Wroughton does not look like it has changed, nor does the catchment for Chiseldon Primary school but there is a new area called Commonhead which includes all the areas up to the Motorway and includes Coate Village and Badbury Park. This is in the catchment for Dorcan comprehensive. We welcome the change of the new area called Commonhead.</p> <p>At the moment a number of children go from the Badbury Park estate by mini bus to Chiseldon Primary school and make friends. We would like the Borough Council to keep the current arrangement that when they move on to senior school they have the option to go to Ridgeway rather than Dorcan. These children from Badbury Park should go to Liden primary school which is across the Marlborough Road but this school is currently full. Its catchment area for senior school is Dorcan. At present we have not got a primary school built at Badbury Park, this will only happen when 750 homes are built and there is some question over the location of the school.</p> <p>When this school is built and in use this will revert back to the senior children attending this school moving on to Dorcan Comprehensive.</p> <p>As a Parish Council we would like the option to be available to parents for the children to either go to Ridgeway or Dorcan Comprehensive school.</p>
	<p><i>The designated transport areas were created in September 2014 in anticipation of the new development area at Badbury Park, this has not changed for the 2017 consultation. The Designated Transport Area for Badbury Park is Commonhead (Primary) and The Dorcan Academy (Secondary).</i></p> <p><i>There is currently no primary school within the designated transport area for Commonhead, however Liden is the closest school. Parents have the right to express a preference for any school when making a transport application, schools such as Liden will be closer to the home address than Chiseldon. Liden is not full at the current time in any of its year groups. The transport being provided from children</i></p>

	<p><i>living in the development to Chiseldon is being put on by the school and not directly by the Council.</i></p>
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	<p><i>Parents living in the area when selecting a secondary school have the right to express a preference of Ridgeway School, however they will not be eligible for transport assistance to the school through the mainstream transport provisions as their designated appropriate school is The Dorcan Academy.</i></p>
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