

sendiass

NORTH YORKSHIRE

Leaflets and Factsheets

School Transport

www.sendiassnorthyorkshire.co.uk

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 to Provide School Transport

In England, the law says that a local authority must:

- Make such suitable and free home to school travel arrangements as it considers necessary
- For all eligible children in the authority's area
- For whom no, or no suitable, free travel arrangements are provided by anyone else

• The law is clear that where a child is eligible, it is the local authority which is responsible for transport, not the child's parent. Whilst a local authority can discharge this duty by making arrangements with parents (for example, parents could use their own car in return for a mileage allowance), they can only do so with the parents' consent.

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.

Are children who have special educational needs, a disability or mobility problems automatically entitled to free transport?

No – having special educational needs, a disability or a mobility problems (or an Education, Health and Care Plan) does not in itself automatically entitle a child to free school transport. 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.

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:

- If only one school is named unconditionally in a child's EHC Plan, then that school is deemed to be the nearest suitable school and a local authority must provide transport to that school, even if it believes that there is a closer suitable school.
- name the closer school only.

If the parents and lo disagree about the school to be named in the Plan, the law says that a local authority must name a parent's choice of school (even if it's further away), unless it can show that either:

- the parent's preferred school is unsuitable to the child's age, ability or aptitude or to his special educational needs; or
- the child's attendance at that school would be incompatible with the provision of efficient education for others, or the efficient use of resources.

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 do not 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).

According to the Guidance (DFE, Home to school travel and transport guidance), the maximum each way length of journey should be 45 minutes for a child of primary school age and 75 minutes for secondary school age children. However, both the Guidance and the Courts have acknowledged that journeys for children with special educational needs and/or disabilities may be more complex and a shorter journey time may not always be possible.

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 children may need to be accompanied by an escort who will be responsible for their care and supervision whilst they are travelling to and from school.

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 escorts and drivers receive the appropriate training and carry out necessary checks (eg DBS – Disclosure and Barring Service).

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.

Link to Local Offer: [SEND local offer | North Yorkshire County Council](#)

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 (Link: [School transport - Local Government and Social Care Ombudsman](#)) 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.

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
- **Collis Mediation Ltd** (mediation and disagreement resolution service) www.collismediationltd.com
- **Contact** (for families with disabled children) www.contact.org.uk
- **Council for Disabled Children** (umbrella body for the disabled children's sector) www.councilfordisabledchildren.org.uk
- **IASSN** (information, advice and support services network) www.cyp.iassnetwork.org.uk
- **IPSEA** (national charity providing legally based information advice and support) www.ipsea.org.uk
- **Our Website** www.sendiassnorthyorkshire.co.uk
- **SEND Code of Practice** (explains the statutory duties of schools and local authorities) www.gov.uk/government/publications/send-code-ofpractice-0-to-25
- **SEND Tribunals Service** (organisation responsible for handling claims) www.justice.gov.uk/tribunals/send

sendiass NORTH YORKSHIRE

Special Educational Needs and Disabilities
Information, Advice and Support Service

If you would like any further information please see the links below to our website and social media pages.

Alternatively, if you would like some extra support for your child/young person you can call or email our

Advice Line service on 01609 536923 or

info@sendiassnorthyorks.org.uk

Our Advice Line is open 9:30-1pm Monday to Friday during Term-Time and 9:30-1pm Tuesday and Thursday during School Holidays.



Information



Advice



Support



Education



Rights



EHC Plans



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