



Home to School Transport Policy 2020/21

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Transport Coordination Service
Economic Growth and Development Directorate



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1 Scope of the Policy

- 1.1 This policy details the circumstances in which Cornwall Council, in its capacity as the Local Authority for Cornwall, will provide transport to school or other education setting for children of compulsory school age living in Cornwall, and how these arrangements will be made. It covers the 2020/21 academic year.
- 1.2 The policy also details the circumstances in which the Local Authority will provide transport assistance for children living in Cornwall, where it has chosen to exercise its discretion to do so.
- 1.3 The policy is made under the provisions of Section 508 and 509 of the Education Act 1996 and Schedule 35B inserted by the Education and Inspections Act 2006. Under the terms of the Act, the policy covers:
 - a) The provision of transport free of charge;
 - b) The carriage on school buses of children for whom transport is not provided free of charge;
 - c) The payment in whole or part of reasonable travelling expenses;
 - d) The provision of other travel arrangements including Passenger Assistants;
 - e) The arrangements for children with Special Educational Needs;
 - f) The arrangements in respect of transport for children to schools for which their parent/carer has expressed a preference on the grounds of the parent/carer's religion or belief.
- 1.4 More information on the relevant legislation and the statutory guidance to which Local Authorities must have regard (Home to School Travel and Transport Guidance, Department for Education, July 2014) can be found at www.gov.uk.

2 Roles and Responsibilities of Parents/Carers

- 2.1 It is the responsibility of the parent/carer to ensure their child attends school regularly. This includes making the necessary arrangements for attendance at school, such as submitting applications for admission and transport where necessary.

Accompaniment

- 2.2 The general expectation is that all children will be accompanied by their parent/carer when walking to and from school, including to and from a provided pick-up / drop off point, unless there is a good reason why it is not reasonable to expect the parent to do so.

3 The Statutory Provision of Transport by the Local Authority

- 3.1 Schedule 35B of the Education Act 1996 defines 'eligible children' for whom travel arrangements must be provided free of charge by the Local Authority.
- 3.2 To be eligible for transport free of charge children in all categories below must be of compulsory school age (children aged under 5 attending full-time in a Reception class will be considered to be of compulsory school age) and attending their nearest 'qualifying school'. A 'qualifying school' is defined as an educational establishment where a child is receiving education appropriate to the age, ability, aptitude and any special educational needs of the child and which is a Local Authority maintained school, state-funded independent school (Academy or Free School), pupil referral unit or, in the case of children with special educational needs, an independent school where it is named in the child's Education, Health and Care Plan. Transport assistance is not provided for children attending further education establishments.
- 3.3 Cornwall Council has exercised its discretion to extend the definition of 'qualifying school' to also include a child's designated school, where it is not the nearest school. The designated school is the school designated for the child's address by the Local Authority. This may be different from the designated area used by a school for admissions purposes. The designated area for all addresses in Cornwall can be viewed via: www.cornwall.gov.uk/education-and-learning/schools-and-colleges/school-admissions/designated-areas
- 3.4 Where a child attends a school which is not the nearest available school or designated school as a result of parental preference, transport will only be provided in very exceptional circumstances (with the exception of statutory entitlements based on low income. Parents/carers should therefore be aware when making a preference for a school which is not the nearest or designated school that they will remain responsible for transport to and from school should their family or financial circumstances change.
- 3.5 Where it is evidenced that a child is unable to attend their nearest or designated school, the expectation is that they attend their next nearest qualifying school.

- 3.6 Where a child attends a school which is not the nearest available school or designated school as a result of parental preference, but which later becomes the nearest school with a place available for that child, there will be no eligibility for transport if a place would have been available at the nearer or designated school/s at the time an application for school admission was made.
- 3.7 Transport will be provided via the most cost-effective suitable method. The Council's default and preferred mode of transport is via public transport. Where public transport is unavailable or unsuitable, alternative modes of travel may include a seat on a bus, minibus or taxi provided under closed contract to the Local Authority.
- 3.8 As a guide, journey times will not normally exceed 45 minutes each way for primary-aged children and 75 minutes each way for secondary-aged children. However, where a child attends a school which is a considerable distance from their home address, journey durations in excess of this advised threshold may be unavoidable. Should you require any advice on journey times, we strongly recommend that you contact the Transport Coordination Service prior to making an application.
- 3.9 Transport is provided from the home address at which the child is habitually and ordinarily resident. If there is shared residence of the child or if there is a dispute and both parents are eligible for transport, it may be necessary to use the address of the person receiving Child Benefit for the child.
- 3.10 Provided transport is not necessarily provided from door to door. Children may be required to walk, accompanied by their parent/carer, to and from the nearest pick-up / drop-off point for public or contracted transport. The distance to a pick-up/set-down point will not normally exceed 1 mile for a primary-aged child and 1.5 miles for a secondary-aged child.
- 3.12 Transport will only be provided to/from the school at which the child is on roll.
- 3.13 Transport will only be provided at the official beginning and end of the school day only. Transport is not provided to meet a child's reduced timetable, including after school clubs or extra-curricular activities, nor is transport provided for work experience placements, work-based learning or travel between schools.

- 3.14 Passenger Assistants will only be supplied on provided transport arrangements where they are necessary to meet a child's individual or medical needs.

Children Living Outside Statutory Walking Distance

- 3.15 A child will be eligible for transport free of charge to his or her nearest qualifying school (or designated school if it is not the nearest) where a place is available if he or she lives outside statutory walking distance.
- 3.16 'Statutory walking distance' is defined in Section 444(5) of the Education Act 1996 as two miles for children aged under eight years and three miles for children aged eight years and over. For the purposes of determining entitlement in this respect, Cornwall Council has exercised its discretion to consider walking distance to be two miles for primary school children up to the end of Year 3 and three miles for primary and secondary school children aged eight and above from Year 4 onwards. There is an enhanced entitlement for children aged eight and above (Year 4 onwards) from families on a low income.
- 3.17 Walking distance is measured by the shortest route by which a child, accompanied by their parent/carer, may walk with reasonable safety. This may include footpaths, bridleways and other pathways as well as roads.

Children Unable to Walk to School by Reason of their Special Educational Needs (SEN), Disability or Mobility Problems – Including Temporary Medical Conditions

- 3.18 Where a child is attending his or her nearest qualifying school (or designated school if it is not the nearest) which is within walking distance, but is unable to walk to that school, accompanied by their parent/carer, by reason of their SEN and/or disability, he or she will be eligible for transport free of charge.
- 3.19 This includes provided transport on a temporary basis where a child has a mobility problem caused by a temporary medical condition - e.g. a broken leg.

- 3.20 Applications in this category must be supported by written evidence from a GP or Consultant. The evidence should provide confirmation of the individual's medical condition(s) and an explanation as to how this prevents them walking the distance to and from school. All requests will be considered on a case-by-case basis. Evidence of factors such as receipt of Higher-Level Disability Living Allowance (DLA) may also be considered to assess the level of need.

Children Unable to Walk Safely to School Because of the Nature of the Route

- 3.21 Where a child is attending his or her nearest qualifying school (or designated school if it is not the nearest) which is within walking distance, but the nature of the route is such that a child cannot be expected to walk, accompanied by their parent/carer, in reasonable safety, he or she will be eligible for transport free of charge.
- 3.22 In order for a route to qualify in this category, it must have been assessed and classified as an unsafe walking route by Cornwall Council. Details of the Council's assessment process can be found in the Pedestrian Route Assessment Policy, available at www.cornwall.gov.uk/schooltransport.
- 3.23 Assessments will not consider issues of personal safety or security, as it is the responsibility of parents/carers to ensure that their child is accompanied by their parent/carer, when walking to and from school.
- 3.24 Cornwall Council retains the right to reassess a route classified as an unsafe walking route. If the route is later assessed as being suitable for school pedestrian use, Cornwall Council will phase-in the withdrawal of transport, meaning assistance will be refused for new applications only. Any existing entitlements will not be withdrawn.

Extended Rights | Children from Low Income Groups

- 3.25 Children from low income groups (defined as being entitled to Free School Meals or a family in receipt of maximum level Working Tax Credit) have the following additional entitlements to transport free of charge:
- a) For secondary-aged children aged eleven or above the entitlement to transport free of charge is increased to any one of the three nearest

schools, where these are more than two miles but not more than six miles from the home address;

- b) Primary aged children aged eight and above (Years 4 to 6) attending their nearest suitable school which is more than two miles from the home address;
- c) Where a parent/carer has expressed a preference for a school based on religion or belief, then a child aged eleven to sixteen from a low-income group is also eligible for transport free of charge to that school if it is the nearest suitable school preferred on the grounds of religion or belief and they live more than two miles but not more than fifteen miles from that school. *Section 8* gives more information on the interpretation of 'religion or belief'.

3.26 Eligibility for transport free of charge on low income grounds will normally be valid for the whole of the academic year in which eligibility was confirmed. However, during the ongoing roll-out of Universal Credit, transitional protections have been put in place that mean that for anyone in receipt of Free School Meals as at 1 April 2018 will remain eligible until at least 31 March 2022 (or until he or she completes Year 6 or Year 11 at their current school, if this is sooner). Entitlements awarded to parents in receipt of maximum level Working Tax Credit will be awarded until the end of the academic year in which eligibility is confirmed. Parents/carers will need to reapply for transport for the following academic year.

3.27 Working Tax Credit will gradually be phased out as claimants are transferred onto Universal Credit. Claimants currently eligible for extended rights transport via maximum Working Tax Credit will become eligible for Free School Meals under the new criteria for determining eligibility for Free School Meals introduced in April 2019.

Children Who Cannot be Reasonably Accompanied

3.28 Where a child is attending his or her nearest qualifying school (or designated school if it is not the nearest) which is within walking distance, but the parent/carer cannot be reasonably expected to accompany their child to/from school, he or she will be eligible for transport free of charge.

- 3.29 This includes provided transport where parents/carers are unable to accompany their child due to their medical circumstances or disability.
- 3.30 Requests for transport under this category will be considered on a case-by-case basis and will require evidence to be provided by relevant professionals, as appropriate.

4 Discretionary Provision of Transport Assistance

- 4.1 In addition to its statutory duty to provide transport free of charge to the eligible children outlined above, the Local Authority may exercise its discretion to provide transport as follows.

Permanent Exclusions

- 4.2 Where a child is unable to attend their nearest or designated school following permanent exclusion, transport assistance will be provided to their next nearest suitable school where it is beyond statutory walking distance from the home address.

Managed Moves

- 4.3 Where a child is subject to a managed move, transport assistance will be provided to their next nearest qualifying school where it is beyond statutory walking distance from the home address.
- 4.4 Requests for transport under this category will be considered on a case-by-case basis by the Education Welfare Service and the Transport Coordination Service.

Fair Access

- 4.5 Where a child is placed at a school under Stage 2 of the Fair Access Protocol, transport assistance will be provided to the new school where it is beyond statutory walking distance from the home address.

Children in Care

- 4.6 Where a child is in the care of the Local Authority, transport will be provided to a school which is not that child's nearest or designated school where it is considered to be in the best interests of the child.
- 4.7 Requests for transport under this category will be considered on a case-by-case basis and funded on a 50/50 basis by the Children in Care Education Support Service and the Transport Coordination Service.

Involuntary and Unforeseen Home Moves for Children in Year 10 or Year 11

- 4.8 Where a child in Year 10 or Year 11 moves house away from their nearest qualifying school (or designated school if it not the nearest) after 1 September in the year in which they start Year 10, he or she may be eligible for transport assistance if the family's move was involuntary and unforeseen (e.g. social housing relocation or as a result of safeguarding issues) and the journey time to the school is less than 75 minutes in each direction.
- 4.9 Requests for transport under this category will require supporting written evidence (e.g. housing association).

Children Attending Child Development Centres

- 4.10 Where a child of pre-school age is required to attend a Child Development Centre, either as part of an assessment of their special educational needs or as part of their special educational provision, transport assistance will be provided to where the child lives more than one mile from the provision. The transport assistance normally provided for children attending a Child Development Centre is by way of reimbursement of mileage and/or expenses incurred.

Exceptional Circumstances

- 4.11 Transport assistance may be provided in exceptional circumstances to children not otherwise eligible. The term 'exceptional' relates to circumstances which are unusual, uncommon and infrequent. Such circumstances may include, but are not limited to:
- a) Short-term absences from the home address due to exceptional circumstances beyond the parent's control.
 - b) Urgent relocation as the result of safeguarding action.
 - c) Exceptional family circumstances whereby the child may otherwise be at risk of educational disruption or non-attendance.

- 4.12 Requests for transport under this category will be considered on a case-by-case basis and will require evidence to be provided by relevant professional(s) as appropriate.

5 Concessionary Riders

- 5.1 Where spare seats are available on vehicles contracted by the Local Authority to provide transport to school, these may be allocated to children not entitled to travel free of charge – such children are referred to as Concessionary Riders. Concessionary Rider seats will only be made available where there are genuine spare seats available - i.e. fully-available and not where absenteeism falsely indicates availability.
- 5.2 The charge for Concessionary Riders must be paid in advance. Charges for the 2020/21 academic year are as follows.

Concessionary Rider Charges		
Criteria	Per Year	Per Term
Children attending their nearest or designated school, who live within statutory walking distance, but who are not in receipt of Free School Meals or their parents/carers are not in receipt of their maximum level of Working Tax Credit.	£255	£85
Children attending their nearest or designated school, who live within statutory walking distance, and who are in receipt of Free School Meals or their parents/carers are in receipt of their maximum level of Working Tax Credit – low income families are eligible for a 50% reduction.	£127.50	£42.50
Children not attending their nearest or designated school.	£420	£140

- 5.3 Concessionary Rider seats are allocated for a maximum duration of one school year only. From the start of each academic year (i.e. September) fresh applications must be made for all concessionary rider places. As the supply of places is limited and not all applications may be successful, the following order of priority will be used in making allocations:
- a) Children attending their designated or nearest school – will be prioritised using a points system, which favours the younger child with farther to travel;

- b) Children attending a “choice of school” – priority will be given to existing “choice of school” concessionary riders, with preference being given to older children;
 - c) Choice of school - new applications – again, preference will be given to older children;
 - d) Any child not falling into the above categories for whatever reason.
- 5.4 Any offer of a Concessionary Rider place will be made for the whole of the academic year, but on the understanding that any seat allocated will have to be relinquished with a minimum of seven days’ notice if, at a later date, the seat is required for a child who is entitled to transport free of charge, or the service is withdrawn when the transport requirements in the area are reviewed. In such circumstances, a pro-rata refund will be paid.

6 Payment of Travel Expenses

- 6.1 On occasion, where no suitable transport provision is available, alternative arrangements may be considered to meet the Local Authority's duty to provide travel arrangements for an eligible child. This could include paying a mileage allowance to a parent/carer where it is cost effective to the Local Authority to do so.
- 6.2 The payment of mileage allowances will be at the Local Authority's discretion. The Local Authority also reserves the right to withdraw the offer of a mileage allowance where alternative appropriate transport provision becomes available that will provide better value for money. In such circumstances, a minimum of seven days' notice will be given.
- 6.3 The offer of a mileage allowance will be at the rate of 25p per mile and can only be claimed with prior written agreement from the Local Authority. Payment cannot be backdated.
- 6.4 In exceptional circumstances, other expenses may also be paid in whole or in part to a parent/carer where there is prior written agreement from the Local Authority.
- 6.5 Claims should be submitted in arrears once a month using the form provided by the Local Authority and are limited to the amount agreed in advance. Proof of attendance will also need to be obtained from the relevant school prior to submitting your claim.
- 6.6 Any additional expenditure for travel/attendance at times outside of the beginning and end of the school day remains the responsibility of the parent/carer and will not be reimbursed by the Council.
- 6.7 Where it cost-effective to do, the Local Authority may offer parents/carers a Personal Transport Budget (PTB). Unlike mileage allowances, there is greater flexibility in what PTBs can be spent on.
- 6.8 The Local Authority can only reimburse costs which are incurred by parents/carers. Where payments cannot reasonably be regarded as a reimbursement of expenditure, parents will need to declare this as employment income. It is the responsibility of parents/carers to satisfy themselves that they meet HMRC's requirements but, to not declare such income, would amount to fraud.

7 Transport for Children with an Education, Health and Care Plan

Eligibility

- 7.1 Children with an Education, Health and Care Plan (EHC Plan) have the same entitlement to transport as all other children.
- 7.2 However, where a child has an EHC Plan, the nearest qualifying school (i.e. that provides education appropriate to the age, ability and aptitude of the child, including any special educational needs) may well be different than for other children.
- 7.3 Where a school is named by the Local Authority on a child's EHC Plan, that school will be deemed to be the child's nearest qualifying school for the purposes of transport eligibility, unless named as a result of parental preference and in the Local Authority's view the child's needs could be met at a nearer school. For some children, this may be a placement outside of Cornwall.

Travel Arrangements

- 7.4 The appropriate transport provision for a child with special educational needs will be determined by the Statutory SEN Service (drawing down information from the child's EHC Plan) and the Transport Coordination Service. This may also include liaison with previous schools, as well as other relevant professionals.
- 7.5 Where an eligible child has an EHC Plan and their assessment identifies the need for a residential school placement, either in Cornwall or in an out of county resource, transport will be provided in accordance with the commissioned boarding arrangements. Transport will also be provided if the commissioned school is closed (either planned or unplanned). However, transport will not be provided for parental visits or meetings. The transport assistance normally provided for out of county placements is by way of reimbursement of mileage and/or expenses incurred.

Consistency of Transport Arrangements

- 7.6 It is acknowledged that some children with EHC Plans require consistency of travel arrangements due to their difficulties in responding to and accepting change. Where such needs are identified, the Transport Coordination Service will request that the transport provider limits the number of different drivers and passenger assistants (if applicable).
- 7.7 The Local Authority is duty-bound to periodically review and retender its transport network and, as a contracting authority, must always consider the procurement rules to which it is subject in making any decision regarding the engagement of a transport provider. This means that changes to transport operators and arrangements may take place at any point in the school year.
- 7.8 Where this occurs, and it is identified that a child with an EHC Plan may have difficulties in responding to and accepting such changes, as much notice as possible will be given and further transition arrangements will be offered (e.g. an opportunity of a 'meet and greet' with the driver and passenger assistant prior to transport commencing). However, it is not be possible or permissible to stipulate that a particular transport provider must be engaged to meet a child's transport requirements, nor is it within the remit of a senior officer (Stage 1 Appeal) or the Appeals Committee (Stage 2 Appeal) to reach a decision which would counter these procurement rules.

Passenger Assistants

- 7.9 Passenger Assistants are not normally supplied on provided transport except in individual cases where they are, in the Local Authority's view, necessary to meet a child's individual needs. The role of a Passenger Assistant will be to provide general supervision and ensure a safe and comfortable journey to and from school.
- 7.10 Passenger Assistants will only be provided to meet more complex individual needs, such as medical or health requirements, where there is supporting evidence from two relevant professionals confirming that such support is necessary to ensure a child's safe journey to and from school. A corresponding Care Plan will also need to be provided. Only Passenger Assistants who have received appropriate specific training with regard to the needs of an individual child will be employed to provide such support.

- 7.11 Submission of supporting evidence does not automatically guarantee entitlement to a Passenger Assistant or specific individual arrangements and the final decision rests with the Transport Coordination Service.

Wheelchairs

- 7.12 In determining the safest mode of travel for children and young people who use wheelchairs, the Local Authority has regard to International Best Practice Guidance (BPG1) issued in 2013. BPG1 recommends that where a child weighs less than 22kg, the safest method of travel is for the child to transfer to an appropriate Child Restraint System (a car seat). This is because it is considered to reduce the risk of injury in the event of an accident.
- 7.13 The Local Authority's expectation is therefore that children weighing less than 22kg will transfer to an appropriate car seat for travel. However, it is recognised that other factors may make transfer to a car seat inappropriate. Such decisions will be made by the relevant professionals (including clinicians) and the Transport Coordination Service. Parent/carer cooperation and consent will also be sought, which is essential for the safe carriage of the child.
- 7.14 Children who are transported seated in their wheelchair must have a valid Wheelchair Passport. The Passport is a tag attached to the chair after a travel assessment, normally at the time the chair is issued.

Specialist Car Seats

- 7.15 Where a relevant professional determines that a child must travel in a specialist car seat (i.e. not a standard booster seat), the expectation is that if parents/carers are in possession of such equipment, that they will ensure that it is available for use on school transport.

8 Transport to Schools Allocated on the Grounds of Religion or Belief

- 8.1 Section 35B of the Education Act 1996 places a duty on local authorities to provide travel arrangements free of charge for children aged 11 to 16 of parents/carers on low incomes to the nearest suitable school preferred on the grounds of religion or belief, where they live more than two miles but not more than fifteen miles from that school.
- 8.2 Religion or belief means any religion in line with the freedom of religion guaranteed by Article 9 of the European Convention on Human Rights (“ECHR”) and includes religions widely recognised in the UK such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha’is, Zoroastrians and Jains. Equally, denominations or sects within a religion can be considered as a religion or religious belief, such as Roman Catholics or Protestants within Christianity. The main limitation on what constitutes a “religion” for the purposes of Article 9 of ECHR is that it must have a clear structure and belief system. For a belief to be worthy of protection, it must attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society; and not be incompatible with human dignity or the fundamental rights of the child.
- 8.3 References to religion or belief also include references to a lack of religion or belief.
- 8.4 Where an application for transport is made on the grounds of religion or belief, confirmation of baptismal status or written support from a relevant priest/minister must be provided with the transport application form. The school will also need to confirm that an application for admission to the school was made on the grounds of religion/belief and the relevant supporting evidence provided.
- 8.5 With the exception of its statutory duty with regard to children from low income families, Cornwall Council does not provide any other transport assistance to children attending a school other than their nearest or designated school on the grounds of religion or belief.

9 Assessment of Eligibility

Measurement of Distances

- 9.1 Measurement of driving distances in relation to transport eligibility are undertaken using Ordnance Survey (OS) Highways data. The following road classifications are excluded to ensure compliance:
- Restricted Local Access Roads - a road intended for the start or end of a journey, not intended for through traffic and will have a restriction on who can use it.
 - Secondary Access Roads - a road that provides alternate/secondary access to property or land not intended for through traffic.
 - Any isolated roads which do not join with the rest of the network have been removed.
- 9.2 Measurement of walking distances in relation to transport eligibility are undertaken using all of the above, plus passenger ferry crossings have been added to the data, along with Public Rights of Way (PROW). The PROW data has been extended by up to 10m in a straight line if doing so results in it reaching a road. As above, any isolated roads and PROWs which do not join with the rest of the network have been removed.
- 9.3 Measurements are taken from the main gate of a child's home address (this is where the property meets the maintained highway - private driveways and access lanes are excluded) to the main gate of the school. Distance measurements will be rounded to two decimal points.
- 9.4 Walking distance is measured by the shortest route by which a child, accompanied by their parent/carer, may walk and do so in reasonable safety. This may include footpaths, bridleways and other pathways as well as maintained roads.
- 9.5 Upper distance limits (such as eligibility for transport to a preferred school for children from low income groups) do not assume a child will be walking and will therefore be measured along road/driving routes.
- 9.6 When determining a child's nearest school, a walking distance of two miles is used for primary-aged children and a distance of three miles for

secondary-aged children. Driving distances will be used where the schools in question are outside statutory walking distance.

Moving Home or Transferring School

- 9.7 Where a child transfers to another school as a result of parental preference or a house move, or retains a school place after moving home, eligibility for transport will be re-assessed using the normal eligibility criteria.

Safeguarding

- 9.8 Only transport staff who have undergone an Enhanced Disclosure & Barring Service (DBS) check and been cleared by the Council, are authorised to undertake school transport duties. All drivers and passenger assistants must also attend the relevant safeguarding training arranged by the Council.

Behaviour

- 9.9 Parents/carers, schools, transport operators and the Local Authority all have an interest in behaviour on school transport. Each year, all parties are issued with the Local Authority's 'Code of Good Practice for Pupils' guidance document.
- 9.10 The Education Act 2006 empowers headteachers to take action to address unacceptable behaviour even when this takes place outside the school premises and when the child is not under the legal control of the school, but when it is reasonable to do so. In the Department for Education's view, this does include behaviour on school transport.
- 9.11 Where there are repeated instances of unacceptable behaviour, or a single incident of extreme unacceptable behaviour, which breach the 'Code of Good Practice for Pupils', the Local Authority reserves the right to temporarily or permanently withdraw transport. This will be determined in consultation with the child's school; however, the final decision rests with the Transport Coordination Service.
- 9.12 For children with Education Health and Care Plans, discretion will naturally be given where unacceptable behaviour occurs as a result of the child's individual needs. However, where it is determined such

behaviours are unresolvable and/or compromise the Local Authority's duty of care to other passenger, the driver and Passenger Assistant (where applicable), the Local Authority reserves the right to temporarily or permanently withdraw provided transport. In such circumstances, the Local Authority may only be able to offer a mileage allowance to the parent/carer. Such decisions will only be determined in consultation with the child's school, the Statutory SEN Service and the Transport Coordination Service.

10 Appeals

10.1 Where an application for provided, assisted or subsidised transport has been declined by the Local Authority, or if the parent/carer believes that the travel arrangements are unsuitable, there is a right of appeal against the decision on the following grounds:

- Eligibility;
- Distance measurements;
- The safety of the route;
- The suitability of transport arrangements offered;
- Exceptional circumstances.

10.2 While there is a right of appeal against the suitability of transport arrangements offered, it is not within the remit of a senior officer (Stage 1 Appeal) or the Appeals Committee (Stage 2 Appeal) to reach a decision which would counter procurement legislation. For example, it is not possible or permissible to stipulate that a particular transport provider must be engaged to meet a child's transport requirements.

Stage 1 Appeal

10.3 Parents/carers have 20 working days from receipt of the Local Authority's decision to submit a Stage 1 Appeal.

10.4 Stage 1 Appeals will generally be considered within 20 working days of receipt. However, it is envisaged that many appeals will be considered much sooner than these timings, whilst complex cases may take longer.

10.5 Stage 1 Appeals are considered by a Senior Officer within the Transport Coordination Service, who will review the original decision and respond with a detailed written outcome setting out:

- Whether they have upheld the Local Authority's original decision;
- Why they have reached that decision; and
- The factors they took in to account in reaching that decision.

Stage 2 Appeal

- 10.6 Parents/carers have 20 working days from receipt of the Local Authority's Stage One Appeal decision to submit a Stage 2 Appeal.
- 10.7 Stage 2 Appeals will generally be considered within 40 working days of receipt. However, it is envisaged that many appeals will be considered much sooner than these timings, whilst complex cases may take longer.
- 10.8 Stage 2 Appeals are considered by Cornwall Council's Appeals Committee, made up of three elected Cornwall Councillors who are independent of any previous decisions which have been made regarding the transport application. The Committee will consider written and verbal representations from the parent and officers and give a detailed written outcome (within 5 working days) setting out:
- Whether they have upheld the Local Authority's original decision;
 - Why they have reached that decision; and
 - The factors they took in to account in reaching that decision.
- 10.9 While waiting for an appeal to be heard, the responsibility for the child's attendance and safe travel to and from school remains with the parent/carer.

Local Government and Social Care Ombudsman

- 10.10 The Panel's decision is final and there is no further right of appeal. However, there is a right of complaint to the Local Government and Social Care Ombudsman if the complainant considers that there was a failure to comply with the procedural rules or if there are any other irregularities in the way the appeal was handled.

Judicial Review

- 10.11 If the appellant considers the decision of the Appeals Committee to be flawed on public law grounds, the appellant may apply for judicial review.

11 Definitions

- **Guidance** | means guidance issued by the Secretary of State further to section 508D Education Act 1996. The current Guidance is Home to School Travel and Transport Guidance (DfE July 2014)
- **Council** | means Cornwall Council as the Local Authority for Cornwall and includes the committees and panels authorised to deal with education transport matters.
- **Designated School** | means the school designated by the Council for children living within a certain area. The designated area for transport entitlement may differ from the designated area for admissions purposes, or the school may not use a designated area for admissions purposes.
- **Preferred School** | means a school which the parents/carers of a child have expressed a preference that the child attends, rather than the designated school.
- **Nearest Qualifying School** | means the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any special educational needs that the child may have.
- **Low Income Group** | as defined in paragraphs 9-14 Schedule 35B Education Act 1996 means those children who are entitled to Free School Meals, or those whose families are in receipt of maximum level Working Tax Credit.
- **Statutory Walking Distance** | as defined in section 444(5) of the Education Act 1996 means two miles for children aged under eight and three miles for children aged eight and over. This is measured by the “nearest available route” (section 444(5)). The route is not necessarily the shortest distance by road. It is measured by the shortest route along which a child, accompanied by their parent/carer, may walk with reasonable safety.
- **Religion or Belief** | means any religion in line with the freedom of religion guaranteed by Article 9 of the European Convention on Human Rights (“ECHR”) and includes religions widely recognised in

the UK such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha'is, Zoroastrians and Jains. Equally, denominations or sects within a religion can be considered as a religion or religious belief, such as Roman Catholics or Protestants within Christianity. The main limitation on what constitutes a “religion” for the purposes of Article 9 of ECHR is that it must have a clear structure and belief system. For a belief to be worthy of protection, it must attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society; and not be incompatible with human dignity or the fundamental rights of the child.

- **Eligible Child** – means a child defined in section 35B Education Act 1996 and paragraphs 78-80 of the Guidance and includes children unable to walk to school by reason of their special educational needs, disability, or mobility problem including temporary medical conditions.
- **Suitable Arrangements** – means arrangements that “enable an eligible child to reach school without stress, strain, or difficulty that they would be prevented from benefitting from the education provided”.

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