

## **Consultation on Home to school travel and transport: statutory guidance**

### **About The Special Educational Consortium**

The Special Educational Consortium (SEC) is a membership organisation that comes together to protect and promote the rights of disabled children and young people and those with special educational needs (SEN). Our membership includes the voluntary and community sector, education providers and professional associations. SEC believes that every child and young person is entitled to an education that allows them to fulfil their potential and achieve their aspirations.

SEC identifies areas of consensus across our membership and works with the Department for Education, Parliament, and other decision-makers when there are proposals for changes in policy, legislation, regulations and guidance that may affect disabled children and young people and those with SEN. Our membership includes nationally recognised experts on issues including assessment and curriculum, schools and high needs funding, the SEN legal framework, exclusions and alternative provision.

**NB** This response does not cover every aspect of the consultation, but is an overview of some of the key issues that reflect the broad remit of the Consortium.

### **Supported by:**

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**Question 1a: Do you agree that the new guidance is clear and easy to understand?**

We welcome the revision of statutory guidance and the clarification of local authorities' statutory duties in relation to home to school transport. We feel that, in general, the new guidance is structured in a way that is clearer and easier to follow.

**Question 1b: Are there any areas of the revised guidance you believe could be further improved? If yes, please provide further feedback.**

Due to the frequency with which local authorities currently try to implement **blanket distance policies**, it is crucial that the requirement to make decisions based on an individual child's circumstances and needs is made clearly in the guidance.

Regarding '**Accompaniment**' - the phrase from the 2014 guidance '*whether one would expect a child of that age to be accompanied*' should be reinstated. Most children of secondary school age without Special Educational Needs/Disabilities (SEND) will be making their own way to school, so families of children with SEND are being severely disadvantaged by having to take on this responsibility beyond the age where it would normally be expected. It is important to make clear that decisions on accompaniment must be made based on the needs and abilities of a child, rather than making judgments on the basis of what to 'ordinarily expect' based on their age, as this will vary significantly from child to child.

The following should be made significantly clearer in the guidance:

- Local authorities must not restrict transport eligibility for children with SEND only to those with EHC plans or attending special schools;
- Inability to walk to school – there needs to be clarification of 'health and safety' issues. Local authorities need to look at the wider picture of a child's life and needs, including any relevant psychological, behavioural and sensory issues;
- The assessment only relates to a child's ability to make the journey safely on foot, not on a parent's ability to take the child by car.

We recommend that the home to school guidance makes clear that **all drivers and passenger assistants should be trained in basic life support skills**. In November 2014, a 13 year-old boy died following a suspected seizure on a school bus. The coroner issued a regulation 28 report to prevent future deaths in similar circumstances. The coroner's concerns included that "[There] is no requirement for drivers transporting

pupils/students to hold a Basic Life Support qualification.” In its response, the Department for Education stated that it was the Government’s intention that “[local authorities] should ensure that school bus drivers and escorts have training in basic life support skills and in the implementation of emergency protocols”. This should be made clear in the guidance for local authorities on home to school transport.

It is important that drivers and passenger assistants are able to respond promptly in life-threatening situations, whether or not a child has an emergency protocol or healthcare plan in place. Drivers and passenger assistants may be unaware that children travelling with them have a potentially life threatening condition and schools are not currently required to share individual healthcare plans (IHPs) with home to school transport providers. Staff may also be faced with life-threatening situations which do not arise from a long term condition.

**Question 2a: Do you think the examples will help local authorities meet their statutory duties?**

The specific use of concrete examples provides clarity to relevant processes and requirements, and provides additional clarity on these processes to practitioners and parents.

**Question 4: Do you agree this is an effective and proportionate approach to the management of children’s medical needs on school transport?**

The section on children with medical needs is particularly welcomed by SEC. In particular the emphasis on working with parents, and referencing a child’s EHCP (if/when relevant), is likely to lead to better experiences and safer practice.

**Question 5: Do you agree that Part 4 and the checklist in annex 1 will help local authorities make sure their transport policies are lawful?**

The inclusion of a policy checklist, as well as details of relevant legislation in the appendices, should leave local authorities with no doubt over what their obligations are, and how they should be fulfilled. This clarity will also help parents and support groups understand their own local authority’s role/obligations and, if necessary, support any relevant challenges to services/bodies who are not fulfilling their obligations.

**Question 6: Please provide any additional comments you wish to make on the draft guidance. In particular, we would be grateful for any comments on:**

- **paragraphs 22-26 on personal transport budgets;**
- **paragraphs 69 and 70 on independent travel training; and**
- **paragraphs 77 and 78 on behaviour.**

It is important that all drivers and passenger assistants are fully trained and skilled in **effective behaviour management** of pupils with SEND. This is important, both in terms of having a general understanding of SEND, and the need to understand specific considerations for the management of individual pupils. Without this, a pupil's day in school may be wasted because of a poorly handled incident on transport, which can lead to a pupil's education put at risk through external/internal exclusion. Staff accompanying students on transport should be supported to understand and manage behaviour linked to a child's SEND, in the same way staff on-site at a school are (through, for example, support, training and supervision).

SEC would also like to see the rights to free transport enjoyed by children and young people with SEND **extended to young people with SEND aged 16-19, and 19-25 with an EHC Plan**, in order to ensure that young people are not being denied appropriate education and training on the basis that their families cannot afford to pay their travel costs. We appreciate that this issue is not part of the current review which relates to the guidance for children, but this issue is of such importance that we would like to use this opportunity to clearly make the point that the current arrangements for post-16 are not working well. We are faced with another instance of a postcode lottery as most colleges generally take students from several different local authorities, whose transport policies for this group rarely tally, causing confusion and inconsistency. It is an anomaly that when we raised the age of 'participation' in education the transport issue was not addressed.

**Question 7: Do you agree with the public sector equality duty assessment as stated above? If not, please explain why.**

We feel that **there is a lack of equality considerations** in the main body of the guidance. The public sector equality duty is a duty on public authorities to show how they are eliminating discrimination, promoting equality of opportunity, and fostering

good relations. In this context, public authorities must consider how their policies or decisions affect people who are protected under the Equality Act, and this needs to be understood clearly in the context of decisions made and processes outlined in all local authority transport policies. In particular this should be highlighted with reference to discretionary policies e.g. in relation to under 5s.

The framework should make clear reference to disability as a 'protected characteristic'; and should clarify expectations on how local authorities have regard to the ways in which children also have individual protection from discrimination under the Equality Act; and to the expectation that local authorities may need to make reasonable adjustments for disabled children with regard to their transport.

**Question 8: Do you believe the revised guidance will result in any new costs or savings for local authorities? If yes, please explain why.**

The upskilling of staff is likely to include additional training costs, but this is a necessary part of schools and local authorities effectively meeting their duties under the Equality Act.

For any further clarification on this submission, or the work of SEC, please contact Chris Rees – [crees@ncb.org.uk](mailto:crees@ncb.org.uk)