

# Appeals Sub Committee Agenda

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**Date:** Monday, 8th February, 2021

**Time:** 10.00 am

**Venue:** Virtual

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How to watch the Meeting.

For anyone wishing to view the meeting live, please click in the link below:

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Or dial in via telephone on 141 020 3321 5200 and enter Conference ID: 248 942 207# when prompted.

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and in the report.

It should be noted that Part 1 items of Cheshire East Council decision making meetings are live recorded and the recordings are uploaded to the Council's website.

## **PART 1 - MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

### **1. Appointment of Chairman**

To appoint a Chairman for the meeting.

### **2. Apologies for Absence**

To receive any apologies for absence.

### **3. Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

### **4. Public Speaking Time/Open Session**

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For any apologies or requests for further information, or to give notice of a question to be asked by a member of the public

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In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

## **5. Exclusion of the Press and Public**

The reports relating to the remaining items on the agenda have been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matters may be determined with the press and public excluded.

The Committee may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

## **PART 2 - MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT**

### **6. School Transport Appeals (Pages 37 - 90)**

The Sub-Committee is asked to determine the following appeals against the decision of the Council not to offer assisted school transport.

The cases will be heard at the following times:

Case 1: 10.10am

Case 2: 10.45am

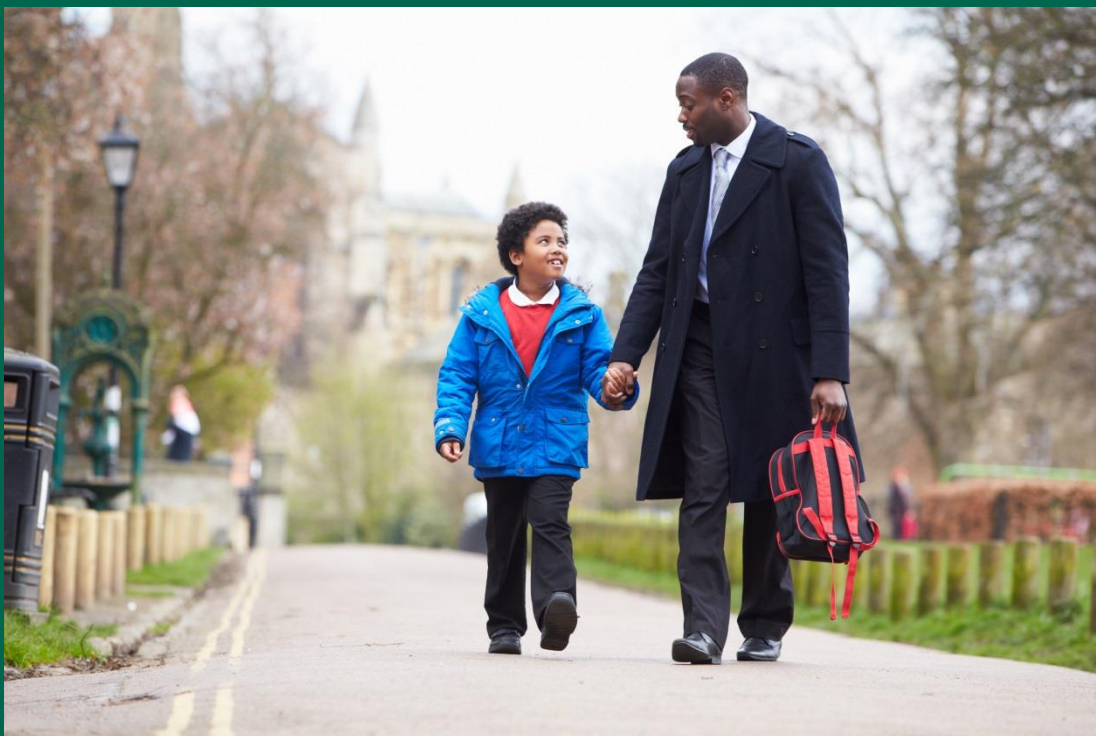
Case 3: 11.15am

**Membership:** Councillors S Edgar, A Harewood and D Murphy

# Compulsory School Age Education Travel Policy

## Cheshire East Council

1 September 2018



## Document summary

This document details the Local Authority's policy on education travel assistance for Cheshire East resident children of compulsory school age<sup>1</sup> and those attending a reception class the term after their fourth birthday (*rising fives*).

The **Post 16 Travel Policy Statement** provides travel information for young people over compulsory school age, including the travel assistance available for post 16 learners with an Education Health and Care Plan (EHCP) setting out their special educational needs and/or disability (SEND).

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Other related education travel policies:

- Post 16 Education Travel Policy Statement
- Education Travel Payment Policy

<sup>1</sup> Compulsory school age begins at the beginning of the term following a child's 5th birthday and ceases on the last Friday in June in the school year when the child reaches the age of 16.

- Education Travel Behaviour Code
- Education Travel Appeals and Complaints Policy
- Sustainable Modes of Travel Strategy

## 1. Local Authority Education Travel Duty

1.1 Local authorities are required by both the Education Act 1996 and the Education and Inspections Act 2006 to make suitable travel arrangements for certain children to attend school. This policy sets out how the Local Authority will meet this statutory duty and provides information about the categories of eligible children, the provision offered and circumstances when assistance is not provided.

1.2 It is a parent's<sup>2</sup> responsibility to ensure that their child gets to and from school at the appropriate time each day and to put in place the necessary travel arrangements. In exercising its duty, the Local Authority has a general expectation that a child will be accompanied by a parent where necessary, unless there is a good reason why it is not reasonable to expect the parent to do so.

1.3 The Local Authority has legal duties under the Education and Inspections Act 2006 to promote sustainable modes of travel for children and young people of compulsory school age<sup>3</sup>. When a child is eligible for travel support the Local Authority will provide that support using the most cost effective option available, these will include the dedicated school bus services, use of the service bus network, information on walking and cycling routes and the availability of walking buses to primary schools. Most schools produce travel plans, which include information about the different options available to parents for getting their child to school. Please see the Council's **Sustainable Modes of Travel Strategy**.

1.4 Additional provision provided by the Local Authority for children and young people who have special educational needs or disabilities (SEND) or other mobility difficulties with travel between home and school is set out in separate documents, as below:

**Annex A - SEND Education Travel Policy**  
**Post 16 Education Travel Policy Statement.**

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<sup>2</sup> As defined in Section 576 of the Education Act 1996. Further Information is published on the Council's website at [http://www.cheshireeast.gov.uk/schools/admissions/advice\\_and\\_guidance.aspx](http://www.cheshireeast.gov.uk/schools/admissions/advice_and_guidance.aspx)

<sup>3</sup> 'Child', 'compulsory school age' and 'sixth-form age' are defined respectively in sections 579(1), 8 and 509 AC of the Education Act 1996.

## 2. Compulsory School Age

2.1 Compulsory school age begins at the beginning of the term following a child's 5<sup>th</sup> birthday and ceases on the last Friday in June in the school year when the child reaches the age of 16. Children may, however, start school in the reception class in the September following their 4th birthday and will therefore be considered eligible children for the purpose of this policy.

## 3. Eligible Children

3.1 Under section 508B and Schedule 35B of the Education Act 1996 local authorities are under a duty to provide free school travel to 'eligible children'. To qualify as an 'eligible child', the child must be of compulsory school age (5—16) or, for the purpose of this policy, a rising five attending school the term after their fourth birthday, attending a qualifying school and must fulfil one of the criteria listed below:

***Criterion 1 - The child is living outside of the statutory walking distance of the nearest suitable school, which is:***

- Beyond 2 miles for children below the age of 8.
- Beyond 3 miles for children aged 8 – 16.

***Criterion 2 - The child cannot reasonably be expected to walk the route to school because the nature of the route is unsafe to walk.***

Case law has established that local authorities are required to make school travel arrangements where a child lives under the statutory walking distance to school but does not have a route available that can be walked in reasonable safety. If the nature of the route is such that the child cannot reasonably be expected to walk to school, even when accompanied by a responsible person, then the Local Authority will deem it 'unavailable'. In determining what is 'reasonable', the Local Authority will take into account the latest national guidance issued by Road Safety GB.

3.2 Issues surrounding personal security do not form part of the assessment and it is assumed the child is accompanied by a responsible adult. There is no requirement for a route to be lit and temporary closures such as road works or flooding are not taken into account.

3.3 If alternative routes are available within the statutory walking distance then assistance will not be granted.

***Criterion 3 - Children from low-income groups or families are defined in legislation as those entitled to free school meals, or whose families receive the maximum level of Working Tax Credit. A child in these circumstances has extended rights to free travel if:***

- The child is aged 8-11 and the nearest suitable school is beyond 2 miles; or
- The child is aged 11-16 and the nearest suitable school is between 2-6 miles and there are not three or more suitable nearer schools; or
- The child is aged 11-16 and the school is between 2-15 miles and is the nearest school preferred on the grounds of religion or belief. Religion or belief includes a lack of religion or belief and so also applies to an atheist parent's wish for their child to attend a non-faith school.

3.4 To qualify under the extended rights eligibility, the child will need to be entitled to free school meals or their parents are in receipt of maximum Working Tax Credit<sup>4</sup>.

3.5 Where entitlement to extended travel rights has been established the entitlement will remain for the entirety of the school year for which the assessment has been made. Proof of entitlement is required at the time of application followed by annual confirmation to confirm low-income status.

***3.6 SEND Criterion - The child cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety concerns related to their SEN<sup>5</sup> or disability<sup>6</sup>.***

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<sup>4</sup> Paragraphs 9-14 of Schedule 35B.



3.7 This will be assessed by the Local Authority on a case-by-case basis to identify particular travel requirements as set out in the Local Authority's SEND Travel Assistance Policy. **The application of this criterion is set out in Annex A - SEND Education Travel Policy.**

#### 4. Measuring Distance

4.1 The statutory distance referred to in this policy is measured by the shortest route along which a child, accompanied if necessary, may walk in reasonable safety. The distance between home and school is measured using a digital mapping system from the child's home gate or drive nearest to the school to the nearest available gate or entrance of the school grounds. A child's home is defined as the place where the child is habitually and normally resident. When measuring the distance to a school with a split site arrangement, the available gate or entrance on the main block (where the reception area and/or main entrance is located) will be used.

#### 5. Nearest Suitable School

5.1 The nearest suitable school is defined as the nearest qualifying<sup>7</sup> school with places available that provides education appropriate to the age, ability and aptitude of the child and considering any special educational needs that the child may have. For most children, including those who have an Education, Health and Care Plan (EHCP) in the mainstream sector, the nearest suitable school is the qualifying school that is declared by the Local Authority to be the school serving the area in which the child's home address falls – referred to as the designated catchment area school. However, it may also mean the nearest qualifying school to the home address; for example, in the absence of a designated catchment school or where that school is nearer than the

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<sup>5</sup> The SEN Code of Practice 2001, paragraphs 8:87—8:90 sets out the considerations for transport for a child with a Statement of SEN. The SEN and Disability Code of Practice 2015 sets out the considerations for a child with an EHCP.

<sup>6</sup> As per Schedule 35 of The Act, disability is as defined in S.6 of EA 2010: a person has a disability if they have (a) a physical or mental impairment, and (b) that impairment has a substantial a long-term effect on the ability to carry out normal day-to-day activities. Therefore a chronic health condition may lead to eligibility under this definition.

<sup>7</sup> Section 508B(10) of the Act.

designated catchment area school. A school allocated for a child under the Local Authority's Fair Access Protocol will also be a qualifying school.

5.2 If an application is made for the nearest suitable school but it is unsuccessful as the year group is full, the next nearest school with places available will be deemed the nearest suitable school for travel purposes. For the purpose of education travel assistance, this will be measured using the shortest route along which a child, accompanied if necessary, may walk in reasonable safety, as set out in section 4.

## 6. Qualifying Schools

6.1 Qualifying schools include:

- community, foundation or voluntary schools
- community or foundation special schools
- non-maintained special schools
- pupil referral units
- maintained nursery schools or
- city technology colleges (CTC), city colleges for the technology of the arts (CCTA) or academies, including studio schools, free schools and University Technical Colleges (UTC).
- those specified in an applicable court order

6.2 It will also include an independent (fee paying) school where the Local Authority has agreed that the school is the nearest suitable school to meet the particular needs of the child and names the school in the child's Education, Health and Care Plan, or it is the nearest of two or more schools named on the same basis. It will also include a residential placement.

**6.3 A child attending a school outside the statutory walking distance will not be eligible for assistance if the Local Authority can demonstrate that there is a nearer suitable school.**

## **7. Suitable Travel Assistance**

7.1 Suitable travel assistance will be that which enables an eligible child to reach school safely and reasonably stress free and to arrive at school ready for a day of study. Best practice suggests that a child of primary school age should not travel for longer than 45 minutes and a child of secondary school age should not travel for more than 75 minutes. The Local Authority will normally expect a child to walk up to 1 mile to access travel arrangements. The first priority will be to arrange travel assistance from a suitable pick up point rather than the home address. The responsibility for a child's safety in getting to and from the pick up point is the parent's.

7.2 For eligible children, the Local Authority will provide travel assistance for the start and end of the school day only. Travel assistance during the day between schools or to other specialist provision is the schools' responsibility. Travel outside the usual school start and finish times will be the parent's responsibility.

7.3 The type of travel assistance offered is at the Local Authority's discretion and will be the most cost effective option.

**7.4 Only where there is no reasonable alternative available in the opinion of the Local Authority will travel by minibus/taxi be provided.**

7.5 Travel assistance will be reviewed regularly to make sure that the arrangements made continue to be appropriate for the child's needs and are the most cost effective solution.

7.6 Assistance given for one child in a family will not create a precedent for any of his or her brothers or sisters or other children living at that address. Each child's case will be treated individually and separate applications for assistance will be required for each child. If the Education Travel policy has changed since older sibling received assistance, the younger sibling will be subject to the new travel policy.

## **8. Hired Transport**

8.1 Hired transport, such as a taxi or minibus, will only be provided in exceptional cases or where there is no suitable alternative in the opinion of the Local Authority.

8.2 Transport will usually be shared with a number of other children, unless there is clear evidence that the child must travel alone. Alternatively there may be a school coach or bus service which can be used.

8.3 The first priority will be to arrange travel assistance from a suitable pick up point rather than the home address. Parents are responsible for their child's safety in getting to and from the pick up point.

## **9. Spare Seat Applications**

9.1 The Local Authority will accept applications for non-eligible children for 'spare seats' on contracted provision. A spare seat will be withdrawn (allowing 2 weeks notice) when the seat is required for an entitled child, or if the service is withdrawn or the seating capacity of the vehicle is reduced.

## **10. Behaviour Code**

10.1 The Local Authority publishes an Education Travel Behaviour Code. This code sets out the expectations on children travelling to or from their place of learning and the procedure that will be implemented where there is a failure to comply. Poor behaviour can result in the withdrawal of free travel, either for a fixed period or permanently. This code is provided at the time that travel arrangements are confirmed and parents of learners receiving travel assistance from the Local Authority must ensure that their child is made aware of these requirements.

## **11. Direct Payments**

11.1 Where an entitlement to travel assistance exists a direct payment may be offered to parents if this is the most cost effective solution compared to negotiating a suitable transport contract or using an available public service route. This payment will be based on a mileage allowance. Payment is made on a family basis since the cost will be the same for two or more children, with changes to this cost if children are at different schools. This is not available to parents who prefer to make their own arrangements to transport their child to their designated school if public transport or a hired vehicle is available, unless this is a more cost effective method of travel.

11.2 Entitlement will be reviewed annually to allow other travel strategies to be employed, should they become more cost effective to the Local Authority.

11.3 Full details are contained within the **Education Travel Payments Policy**.

## **12.Children Excluded from School**

12.1 Schools and Academies are responsible for arranging provision from the 6<sup>th</sup> day of a temporary exclusion and communicating these arrangements with parents, in line with DFE guidance<sup>8</sup>. Where a pupil who is eligible for local authority travel assistance is temporarily excluded from school, for a period of more than five days, travel assistance will continue to be provided.

12.2 Children admitted to another establishment following a permanent exclusion will not receive travel assistance other than when qualifying under normal criteria. The Local Authority will, however, work with parents to identify suitable travel arrangements and where travel is arranged on behalf of the family, parents will be required to meet the full cost of travel.

## **13.In Year Changes**

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<sup>8</sup> Exclusion from maintained schools, academies and pupil referral units in England  
Statutory guidance for those with legal responsibilities in relation to exclusion  
September 2017

13.1 A change in circumstances in year can result in a change in eligibility.

Examples include, but are not limited to:

- A change in the child's place of residence;
- A change of school;
- A change in financial circumstances that means parents no longer qualify under low income criterion;
- A change in the length of the walking route (e.g. as a result of a new shorter route being created or a nearer pedestrian entrance to a school being opened);
- Re-classification of a unavailable route (e.g. as a result of a pedestrian crossing being installed or a road improvement which significantly lowers traffic volumes);
- An error in the calculation of distances;
- Change to the statutory walking distance from two to three miles when a child reaches the age of eight (eligibility will automatically be reviewed at the end of year three).

13.2 Where the change in circumstances removes eligibility the removal of that assistance will normally be subject to a 12 weeks notice period. The exceptions to this notice period allowing that assistance to be withdrawn with immediate effect include:

- Change of school;
- Where the normal place of residence has changed
- Where incorrect, misleading or potentially fraudulent information has been used to determine eligibility.
- Where, for any reason, travel assistance has been approved/provided in error, the Local Authority reserves the right to withdraw that provision.

**13.3 Parents must immediately notify the Local Authority of any change in personal circumstances that may change their child's eligibility.**

## **14. Appeals against Refusal of Travel Assistance**

14.1 There is a right of appeal if the Local Authority refuses travel assistance. Cheshire East Council has adopted the process recommended by Government which includes a two stage process for any complaints relating to:

- The travel arrangements offered
- A child's eligibility
- The measurement of statutory walking distances
- The safety of the route.

14.2 Full details are set out in the Local Authority's **Education Travel Appeals and Complaints Policy**.

## **15. Applying for Travel Assistance**

15.1 Applications for travel assistance can be made online at [www.cheshireeast.gov.uk/schooltransport](http://www.cheshireeast.gov.uk/schooltransport)

## **16. Implementation Timing**

16.1 All aspects of this policy will be implemented from 1 September 2018 for all new applicants for travel support. For those pupils already in receipt of some form of support on this date this will continue, normally until the next point of transition in their school career. Ultimately any existing arrangements will be reviewed through the annual review of the Education and Health Care Plan (EHCP) or when circumstances change.

# **Annex A**

# **Special Educational Needs and Disabilities**



## Annex summary

This annex provides additional details in respect of the Local Authority's policy on education travel assistance for Cheshire East resident children of compulsory school age<sup>9</sup> and children receiving education below compulsory school age as rising fives<sup>10</sup>, with special educational needs<sup>11</sup> and/or disability<sup>12</sup> (SEND) or mobility problems.

The **Post 16 Travel Policy Statement** provides travel information for young people over compulsory school age, including the travel assistance available for post 16 learners with an Education Health and Care Plan (EHCP) setting out their special educational needs and/or disability (SEND) and low income families.

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<sup>9</sup> Compulsory school age begins at the beginning of the term following a child's 5th birthday and ceases on the last Friday in June in the school year when the child reaches the age of 16.

<sup>10</sup> Children may start school in the reception class in the September following their 4th birthday and will therefore be considered eligible children for the purpose of this policy.

<sup>11</sup> The SEN Code of Practice 2001, paragraphs 8:87—8:90 sets out the considerations for transport for a child with a Statement of SEN. The SEN and Disability Code of Practice 2015 sets out the considerations for a child with an EHCP.

<sup>12</sup> As per Schedule 35 of The Act, disability is as defined in S.6 of EA 2010: a person has a disability if they have (a) a physical or mental impairment, and (b) that impairment has a substantial a long-term effect on the ability to carry out normal day-to-day activities. Therefore a chronic health condition may lead to eligibility under this definition.

## A1. Eligible Children

A1.1 Most children with SEND with an Education, Health and Care Plan (EHCP)<sup>13</sup> do not require special travel arrangements. Through the EHCP process, consideration will be given in the first instance to a child's ability to walk to school, to travel on a public bus or rail service or a contract bus service or to be taken to school by their parents. Therefore, in assessing the necessary travel arrangements and regardless of any special educational need, disability (SEND) or mobility problems, the Local Authority will first consider the eligibility of children who are attending a qualifying school<sup>14</sup> against the criteria set out in the **Education Travel Policy**, as summarised below:

- walking distance (to the designated<sup>15</sup> school);
- unavailable routes;
- families on low incomes when the walking distance is over 2 miles (secondary pupils only);

A1.2 As required by legislation, local authorities must also make suitable travel arrangements for children who cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety concerns related to their special educational needs or disability (SEND). Where a child with SEND does not qualify for travel assistance under general criteria, as summarised above and set out in section 3 of the Local Authority's Education Travel Policy, travel assistance will be provided subject to the criterion outlined below:  
**The child cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety concerns related to their SEN or disability .**

**A1.3 Travel assistance is only provided to the child's nearest suitable qualifying school. This is based on the nearest qualifying school to the child's home that can meet the child's SEND. If by parental choice a more distant school is attended, any travel arrangements shall remain the responsibility of the parent.**

<sup>13</sup> An education, health and care (EHC) plan is for children and young people aged up to 25 who need more support than is available through special educational needs support. EHC plans identify educational, health and social needs and set out the additional support to meet those needs.

<sup>14</sup> See section 6.

<sup>15</sup> Nearest suitable school agreed through the SEND process.

A1.4 Where the higher rate mobility component of Disability Living Allowance is received for the child, and is taken in the form of a vehicle, it would be expected that the vehicle be used to transport the young person to their place of learning.

## **A2. Application Process**

A2.1 Parents will need to apply for travel assistance by completing the online form found on the Council's website at [www.cheshireeast.gov.uk/schooltransport](http://www.cheshireeast.gov.uk/schooltransport)

A2.2 Travel assistance is not automatically given just because a child has an Education, Health and Care Plan. Many children with SEND and mobility problems are able to travel to school without support from the Local Authority. However, some children with specific needs will require more support, often for an agreed period of time.

A2.3 If the distance to school is below the statutory distance, the Local Authority will need to see medical evidence from a consultant or community paediatrician of the child's mobility difficulties and confirming that the child cannot walk to school (accompanied as necessary).

A2.4 Eligibility is assessed by the Local Authority on an individual basis to identify particular travel requirements and evidence will be sought from relevant health professionals and from parents.

A2.5 Where relevant, a risk assessment will be carried out before the student begins travelling to make sure that the assistance provided meets their needs and safeguarding duties.

## **A3. Completing a Course of Study**

A3.1 Some learners with an Education, Health and Care Plan will take longer to complete their course of study due to their special needs. Where the Local Authority has agreed travel assistance on the basis of the criteria set out in this policy for a child

of compulsory school age, if the learner continues to attend the same educational establishment and their travel needs remain unchanged, as agreed in the EHCP, exceptionally, travel assistance will continue. This will be subject to the outcome of the annual review. Any travel assistance agreed on this basis will be provided in accordance with the arrangements set out in the Post 16 Transport Policy Statement.

#### **A4. Residential Schools**

A4.1 Where a child attends a residential school and is entitled to travel assistance, this is provided at the start and end of each half-term or, at the start and end of each week depending on the boarding arrangements. Transport will **not** be provided at other times or for parental visits for meetings.

#### **A5. Personal Travel Budget**

A5.1 A Personal Travel Budget (PTB) is for children of compulsory school age with special educational needs and/or disability (SEND) who are unable to access public or hired transport because of their needs.

A5.2 It is provided at the discretion of the Local Authority to ensure the most cost effective solution whilst ensuring families have the opportunity for increased choice and control including supporting older children to become independent travellers. The amount received is based on the distance from the child's home to school or college.

A5.3 Full details are set out in the **Education Travel Payment policy**.

#### **A6. Independent Travel Training (ITT)**

A6.1 At secondary school (or college), independent travel training (ITT) can enable the learner to use public transport or travel independently as part of their transition into adulthood. ITT can help support independence by developing personal, social and life skills by looking at the learner's needs and capabilities.

A6.2 The Local Authority will consider the capability of a learner to travel independently. If they are assessed as suitable, the Local Authority may offer learners travel training to become independent travellers.

A6.3 The training will be given by qualified staff following an approved programme in partnership with schools and colleges and include communication with parents. Successful completion of training may result in the removal of free transport.

## **A7. Suitable Travel Assistance**

A7.1 Suitable travel assistance will be that which enables an eligible child to reach school safely and reasonably stress free and to arrive at school ready for a day of study. A child will not therefore be expected to make several changes on public transport. Best practice suggests that a child of primary school age should not travel for longer than 45 minutes and a child of secondary school age should not travel for more than 75 minutes. The Local Authority will normally expect a child to walk up to 1 mile to access travel arrangements. The first priority will be to arrange travel assistance from a suitable pick up point rather than the home address. The responsibility for a child's safety in getting to and from the pick up point is the parent's.

A7.2 For eligible children, the Local Authority will provide travel assistance for the start and end of the school day only. Travel assistance during the day between schools or to other specialist provision is considered to be the schools' responsibility. If a child requires travel to or from school other than at the usual school start or finish times this will be the responsibility of the parent.

A7.3 The type of travel assistance offered is at the Local Authority's discretion and will be the most cost effective option. The Local Authority is under an obligation to minimise public expenditure and therefore will look at the lowest cost option.

**A7.4 Only where there is no reasonable alternative available in the opinion of the Local Authority will travel by minibus/taxi be provided.**

A7.5 Travel assistance will be reviewed regularly to make sure that the arrangements made continue to be appropriate for the child's needs and are the most cost effective solution.

A7.6 Assistance given for one child in a family will not create a precedent for any of his or her brothers or sisters or other children living at that address. Each child's case will be treated individually and separate applications for assistance will be required for each child. If the Compulsory School Age Education Travel policy has changed since older sibling received assistance, the younger sibling will be subject to the new travel policy.

## **A8. Passenger Assistants**

A8.1 Passenger assistants are only provided on hired transport where the child has:

- a severe physical condition;
- a medical condition requiring immediate treatment; or
- severe behavioural difficulties meaning the health and safety of the child, driver or anyone else travelling in the vehicle would be at risk.

A8.2 The use of a passenger assistant will be reviewed regularly since the need may change.

A8.3 The passenger assistant's duty is to supervise students in a vehicle and to help with boarding and leaving the vehicle where the pupil has physical, sensory or medical difficulties. However, they are not able to collect pupils from home or take them into school if that would mean leaving other vulnerable children unattended.

## **A9. Reviewing Travel Assistance**

A9.1 Travel assistance will be reviewed as part of the EHCP review. Parents will be informed of all decisions in writing.

A9.2 For children with an Education, Health and Care Plan, eligibility may end following the conclusion of the annual review process. If this is the case, travel assistance will be withdrawn following a 12 weeks notice period, or at the end of the summer term, whichever is sooner.

## **Annex B**

# **Available Walking Routes**



## **Annex B – Available Walking Routes to School Policy**

This annex provides details in respect of the Local Authority's policy on the assessment of walked routes to school for all Cheshire East resident children of compulsory school age and children receiving education below compulsory school age as rising fives.

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### **B1. Introduction**

This document outlines the method for carrying out the assessment of walked routes to school, which determines whether a route is assessed as available for an accompanied child to walk to and from school.

The route assessments are based on the latest version of the 'Assessment of Walked Routes to School' guidelines developed by Road Safety GB and takes into account the guidance issued by the Department for Education in their 'Home to School Travel and Transport Guidance'.

These assessments do not determine whether a route is 'safe' or 'dangerous', as all roads can present some element of road safety risk. Instead, the assessment determines whether a child should be eligible for travel assistance from the Local Authority because a particular walking route presents exceptional road safety hazards.

The method for measuring distances of the shortest walking route to school is outlined in the 'Compulsory School Age Education Travel Policy'.

The assessment of routes are carried out using a rigorous and robust assessment process as detailed in B3 and B4 of this document and are authorised by a qualified road safety practitioner and senior highways officer.

It should also be noted that a walking route is assessed to see if it is walkable, not whether it should be walked. A parent is responsible for deciding how their child travels to school whether it is on foot, cycle, bus or car.

## **B2. General Points**

Walking routes to school are assessed as unavailable where either walking alongside the road, or crossing the road, is considered to be exceptionally hazardous. Details of the assessment are outlined in B4 of this document.

Parents are responsible in law for ensuring their children receive an appropriate education which in most cases includes regular attendance at school. Case law has also been established that it is the parent's responsibility to accompany a child, regardless of the age of that child, on their journey to and from school. The Local Authority also expects parents to make suitable alternative arrangements if they are unable to personally accompany their child.

Parents are responsible for ensuring their children have suitable clothing and footwear, reflective clothing or other visibility aids such as torches.

It is expected that traffic along assessed routes will abide by all road traffic regulations, including remaining within posted speed limits, obey one-way traffic restrictions, not park in a manner which creates an obstruction to the highway etc. The Local Authority is entitled to expect that the police will undertake enforcement action where necessary.

The Local Authority assumes that a child is accompanied as necessary on their walking route to and from school. Therefore routes are not classified as unavailable solely due to any or all of the following factors:

- Lonely routes
- Personal safety concerns
- Routes that pass close to canals, rivers, ditches, lakes, pond etc.
- Routes that require railway crossings if a suitable, authorised crossing is present.

### **B3. Process for assessing a walked route to school**

1. A request to assess a route for availability is made to the Local Authority by either a parent or school.
2. The request is passed to an Assessing Officer, who will undertake an initial desktop evaluation of the walking route from the home address to the school. Should an available walking route be identified that is shorter than the statutory walking distance, based on the age of the child, then no further assessment is undertaken. Should one or more routes be identified, but there is doubt over the availability of those routes, then an initial assessment of the potential route is carried out.
3. Evidence already available to the Assessing Officer will be taken into account in the full assessment. Other aspects of assessment may (but will not always) include a site visit, information on traffic volumes (where required and where available) and collision data history.
4. The Assessing Officer will complete a written report, using a standard format and detail their findings whether they consider the route to be available or unavailable.
5. The route assessment will then be checked and reviewed by a qualified Road Safety Officer and Senior Highways Officer.

6. Any faults with the highway, such as overgrown vegetation or trip hazards, will be reported to the Council's Highway Service.
7. The findings of the process above will be communicated with the applicant and they will be informed of the outcome of the route assessment.
8. Parents may wish to appeal the assessment, if there are exceptional personal circumstances that they wish to be taken into consideration. However, they may not appeal the road safety decision.
9. If a route is assessed to be unavailable, then travel assistance will be arranged as soon as reasonably practicable. If a route is assessed to be available, but travel assistance had already been provided, then the Local Authority will give notice to withdraw that transport.

#### **B4. The assessment of a walked route to school**

The assessment of walked routes to school is based on the 'Home to School Travel and Transport Guidance' produced by the Department for Education (revised in 2014) and the Assessment of Walked Routes to School guidelines produced by Road Safety GB (revised in 2017), which provides guidance on the interpretation of both case law and what is generally accepted by many Local Authorities as good practice in assessing various elements of the walking route between home and school.

##### **General**

- This guidance is a general summary of the factors taken into account in the assessment of available walking routes.
- Assessments usually take place in the morning during the times that pupils will be travelling to school, but assessments may also be undertaken when returning home from school.
- The start and end points of the assessment and the details of the route taken will be provided along with a map of the route assessed. The route assessment may be split into sections if the nature of the route varies, i.e. from rural to urban and town centre.
- The time and day the assessment is undertaken will be stated.
- The weather and light conditions will be noted.
- Consideration will be given to the nature of the route at different times of the year – for example, problems with flooding or surface conditions.

- On its own the absence of street lighting does not make a route unsafe.
- A route that crosses or follows a public right of way will generally be considered as an available walking route, as long as there is a good walking surface.
- Photographs will be taken to exemplify areas likely to be of concern.

### **Section Characteristics**

- The assessment will record any known collision data (using STATS19 data) for each section.
- The assessment will define the length of each route section (this information is not to be used in measuring a child's home to school distance).
- The assessment will name the roads on the route and any relevant characteristics, including whether the route is urban or rural, single carriageway, speed limit and whether there is any street lighting.
- The assessment will record if there is a footway and if so, it's general availability, condition and suitability. The assessment will show if it is of sufficient width and quality.
- The assessment will define road widths and any variations where there is no footway (noting locations where the footway narrows and pinch points).
- If there is no footway the volume and speed of traffic will be taken into consideration, as well as forward visibility and sighting times.
- Step-offs (this is where a pedestrian may be able to step-off the road onto a grass verge or similar) will be noted.
- Where there is overgrown vegetation that may compromise the availability of a footway, this will be reported to the Council's Highway Service.
- The assessment will consider whether there are any alternative walking routes.

### **Crossing Assessment**

The assessment will:

- Consider whether there is a need to cross a main road or significant side road or entrance on the section of route being assessed.

- Make reference to the fact that there are side roads and entrances and specifically note any that are likely to have significant traffic movements and which need to be crossed.
- Note whether there are any formal crossing facilities in place such as a traffic refuge or signal controlled crossing.
- Outline the most appropriate location to cross the road if there are no formal crossing points.
- Consider whether there is a safe opportunity to cross the road.

### **Walking at the side of the road assessment**

The assessment will:

- Consider whether there is a footway on the section and if there is an available walking route on both sides of the road.
- Consider which side of the road the footway is situated on whether it has a reasonable even surface and is of sufficient width.
- Consider whether availability is likely to remain the same throughout the year and in all conditions.
- Consider the characteristics (length, width and 'condition') of the verge or footway.

### **Traffic Counts and Gap<sup>16</sup> Counts**

- Where there is a need to walk in the road – either because of the lack of pavement, or crossing the road is required – then a traffic or gap count may be undertaken. Traffic counts and gap counts will be carried out if the sighting lines are poor and / or there is a medium to heavy traffic flow.
- Traffic counts will be carried out for a 1 hour period during the time the pupil is expected to walk to and from school.

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<sup>16</sup> A gap count records the number of opportunities to cross in each 5 minute period. Four gaps in each 5 minute period indicate a road that can be crossed without too much delay. Longer gaps are classified as multiple gaps rather than just one gap

The table below illustrates some of the factors considered; however, professional judgement will be exercised to take account of any local circumstances and the merits of any individual case, as required.

<b>Factor Assessed</b>	<b>What is Assessed</b>	<b>Assumptions</b>
The age of the child	<p>The age of the children using the walking route will be assessed.</p> <p>The age of the child is assessed to distinguish between the 2 maximum walking distances from home to school i.e. 2 or 3 miles.</p>	The existence of public transport (bus or rail) or fare paying places on contracted home to school transport is not taken into account when assessing a walking route.
Whether any potential risks might be mitigated if the child were accompanied by an adult	<p>The route is assessed on the basis that a responsible adult will accompany the child as necessary.</p> <p>There may be circumstances where this may not be possible i.e. because of disability. Such circumstances would be considered by means of an appeal.</p>	<p>Existing case law about adults accompanying children remains unchanged.</p> <p>It is recognised that parents may decide that accompaniment is not required as the child matures; however the legal precedent suggests that parents accompany as necessary until the child reaches normal school leaving age.</p>
The existence or otherwise of street lighting	Where crossing roads, or where there is no available footpath, the existence or otherwise of street lighting will be considered (where visibility of pedestrians at the side of the road could be compromised).	The existence or otherwise of street lighting is taken into account where this will assist drivers in seeing pedestrians walking in the road or at identified crossing points where no signal controlled or Zebra crossings exist. If a continuous suitable footway exists then street lighting is desirable but may not be required for a route to be assessed as available.
The condition of the route at different times of the year, at the times of day that a child would be expected to travel to and from school	<p>Site visits will cover the whole route but focus on parts of the route with potential hazards, and will take place at the time in the morning (or afternoon) when children would be travelling to school.</p> <p>Assessments when undertaken will consider seasonal variations in conditions along a route.</p> <p>Assessments may identify improvements to routes which if</p>	<p>The route will be kept well maintained by landowners and / or the Highway Authority. Where problems are identified, such as overgrown foliage and damage to footways on private land we will ask landowners to repair this, or the Council will repair this and recharge landowners as appropriate.</p> <p>Assessments will consider the condition of the route at different times of the year and in particular the effects of vegetation growth.</p>

	undertaken would make the route available, even if the route is deemed to be not available in the interim	
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## **B5. Withdrawal of Transport / Offers of Transport**

The Local Authority will from time to time, reassess routes that have been classified as unavailable to determine whether the criteria for the route has changed. Walking routes to school, that have previously been assessed as unavailable, may become available due to improvements to the highway or public rights of way. If the criteria for a route changes from unavailable to available, then transport assistance may be withdrawn.

Where a route was previously unavailable and becomes available, reasonable notice of the transport provision to be withdrawn will be issued in writing to the parent. This period will be a minimum of a school term, or 12 weeks where shorter.

Where a parent disputes the assessment of an available route, or a request is made for an assessment where no previous assessment has been undertaken, there is a process of review outlined in B4 in this document.

Where a pupil or student has been assessed as eligible for assisted or free transport in error, reasonable notice of the provision to be withdrawn will be issued in writing to the parent.

Where information has been provided that – in the opinion of the council – is both false, and has been deliberately or negligently provided, the council reserves the right to cease transport provision with immediate effect

Where temporary factors are considered to be the reason for a route being assessed as unavailable (e.g. through significant planned roadworks temporarily rendering part of the route unavailable, ground conditions during winter months etc.) the Local Authority may exceptionally consider provision of transport for the period(s) of unavailability. In these instances, notice periods for withdrawal may be shortened from the 12 weeks previously outlined in this document.

## **B6. Appeals Process**



Parents may not request an appeal or review on the grounds that they disagree with the road safety assessment undertaken by a qualified road safety officer. However, they may appeal if parents consider there are exceptional personal circumstances that need to be taken into consideration by the Local Authority.

There is a right to appeal if the Local Authority refuses travel assistance. Cheshire East Council has adopted the process recommended by Government which includes a two stage process for any complaints relating to:

- The travel arrangements offered
- A child's eligibility
- The measurement of statutory walking distances
- The safety of the route

Full details are set out in the Local Authority's **Education Travel Appeals and Complaints Policy**.

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## APPEALS SUB-COMMITTEE

## PROCEDURE TO BE FOLLOWED ON THE DAY

1	Appellants arrive at Reception and will wait in the appointed waiting area.
2	Members assemble in meeting room.  They will be joined by the Committee Officer and the Legal Clerk to discuss any preliminary issues, but not the cases themselves.
3	The <b>Legal Clerk</b> will then meet the Appellants and explain the procedure to them.
4	The <b>Legal Clerk</b> will bring the first Appellant into the meeting.
5	The <b>Chairman</b> will welcome all to the meeting and will invite Members and Officers to introduce themselves.
6	The <b>Presenting Officer</b> will present the case for the Authority.
7	<b>The Appellant</b> to ask questions of the Presenting Officer, by way of clarification.
8	<b>Sub-Committee Members</b> to ask questions of the Local Authority Presenting Officer.
9	The <b>Appellant</b> presents their case.
10	<b>The Presenting Officer</b> to ask questions of the Appellant by way of clarification.
11	<b>Sub-Committee Members</b> to ask questions of the Appellant.
12	The <b>Local Authority Presenting Officer</b> to sum up the Authority's case.
13	The <b>Appellant</b> to sum up their case.
14	The Presenting Officer and Appellant to withdraw from the meeting.
15	The Committee reaches its decision, advised by the <b>Legal Clerk</b> .

**Note:** Neither the Presenting Officer nor the Appellants are permitted to be in the Committee Room in the absence of the other.

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