



Department  
for Education

# **Guidance on home to school travel and transport**

**For local authorities, parents, schools  
and other persons or bodies who may  
find it useful**

**March 2013**

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# Summary

## About this guidance

This guidance, to which local authorities are under a statutory duty to have regard, is issued under duties placed on the Secretary of State by section 508D of the Education Act 1996 and provides a summary of the statutory duties with which local authorities must comply when making home to school travel arrangements.

This guidance replaces Home to School Travel and Transport Guidance- Ref: 00373-2007BKT-EN.

## Review date

This guidance will next be reviewed in 2015.

## What legislation does this guidance refer to?

- Sections 508A, 508B, 508C, 508D, 509AD and Schedule 35B of the Education Act 1996 (The Act), which were inserted by Part 6 of the Education and Inspections Act 2006 (EIA 2006).
- Regulation 5 and Part 2 Schedule to 2 to The School Information (England) Regulations 2008.

## Who is this guidance for?

This guidance is for:

- Local authorities
- Parents
- Schools
- Other persons or bodies who may find it useful.

## Key points

- Section 508A of the Act places a duty on local authorities in England to assess the school travel needs of all children and persons of sixth form age in their area and to assess and promote the use of sustainable modes of travel.
- Section 508B of the Act sets out the general duties placed on local authorities to make such school travel arrangements as they consider necessary for 'eligible

- children' within their area, to facilitate their attendance at the relevant educational establishment. Such arrangements must be provided free of charge.
- Section 508C of the Act provides local authorities with discretionary powers to make school travel arrangements for other children not covered by section 508B but the transport does not have to be free.
  - Section 508D of the Act places a duty on the Secretary of State to issue guidance to which local authorities have to have regard to in performance of their functions under section 508B (travel arrangements for 'eligible children') and 508C (travel arrangements for other children). The Secretary of State may revise this guidance from time to time.
  - Parents are responsible for ensuring their child's regular attendance at school and local authorities are under a duty to provide home to school transport, where necessary, to enable them to enforce attendance. Section 444 of the Education Act 1996 states that the child shall not be taken to have failed to attend regularly at the school if the parent proves that the local authority fails to make appropriate transport arrangements under Section 508.

## **Home to school travel and transport: Local authority arrangements**

### **Duty to promote sustainable modes of travel (Section 508A of the Act)**

This duty requires all local authorities in England to assess the school travel needs of all children and persons of sixth form age and to promote sustainable modes of travel to school. They must produce sustainable modes of travel strategy and a summary, on an annual basis, which must be published on the authorities' websites by 31 August each year.

The duty to promote sustainable travel applies in relation to children (of compulsory school age and below) and young people of sixth form age (broadly 16 to 19) who are travelling to and from schools, Further Education institutions or Pupil Referral Units at which they receive or are to receive education or training.

### **Travel arrangements for 'eligible children'**

Section 508B of the Act sets out the general duties placed on local authorities to make such travel arrangements as they consider necessary to enable the attendance of "eligible children" within their area, at the relevant 'qualifying school'. Such travel arrangements must be free of charge.

The duty applies to 'eligible children' in the authority's area who are attending their nearest 'qualifying school', where:

- the school is beyond the statutory walking distances of two miles for

children below the age of eight and three miles for those aged eight and over.

or

- the child is from a 'low income family' and is over age eight, but under 11 years of age, and they are living more than two miles from the nearest school;

or

- the child is from a 'low income family' and is of secondary age (aged 11-16) and attending a qualifying school that is between two and six miles from the child's home (as long as there are not three or more nearer suitable qualifying schools);

or

- the child is from a 'low income family' and is of secondary age (aged 11-16) and attending their nearest school preferred on the grounds of religion or belief, between two and 15 miles from home.

Local authorities must also make travel arrangements for those pupils who are unable to walk to school because of their special educational need (SEN), disability or mobility problems and children who cannot reasonably be expected to walk because the nature of the route is such that they cannot walk in reasonably safety.

Arrangements that might be considered to meet the local authority duty include:

- a mileage allowance paid to meet a person's travelling expenses in lieu of the local authority making arrangements to transport the child;
- provision of an escort(s) to accompany the child to school;
- voluntary arrangements made by the parent.

Such arrangements require the relevant parental consent.

## **Travel arrangements for other children**

Section 508C of the Act provides local authorities with discretionary powers to provide transport for children not covered by Section 508B. Where transport is provided, authorities may charge for the service.

## **Duty to have regard to religion or belief in exercise of travel functions**

Section 509AD of the Act places a duty on local authorities, when exercising their travel functions, to have regard to, amongst other things, any wish of a parent for their child to be educated at a particular school on the grounds of the parents' religion or belief. Religion or belief in this instance means any religious or philosophical belief.

This duty is in addition to the duty on local authorities to make travel arrangements for children from 'low income families' who attend the nearest school preferred on ground of religion or belief, where they live between two and 15 miles from school.

This duty is complemented by Section 9 of the Education Act 1996, which provides that

in exercising all duties and powers under the Education Acts, the Secretary of State and local authorities shall have regard to the general principle that pupils are to be educated in accordance with their parents' wishes, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable expenditure. However, there is no general statutory duty requiring local authorities to provide free transport to schools with a religious character.

## **Publication of travel arrangements and policies**

Regulation 5 and Paragraphs 4-6 of Schedule to 2 and paragraphs 9-11 and 15 of Schedule 3 to The School Information (England) Regulations 2008, require local authorities to publish general arrangements and policies in respect of transport for pupils of compulsory school age.

This information should be a clear and comprehensive statement of transport arrangements, explaining statutory and discretionary provision and how parents can hold local authorities to account through their appeals processes.

## **Definitions**

- Section 444 (5) of the Act defines 'walking distance'.
- Schedule 35B of the Act defines:
  - 'eligible children' (paragraphs 2-7 and 9-13);
  - 'qualifying school' (paragraph 15);
  - 'disabled child' (paragraph 15(4));
  - 'religion and belief' (paragraph 16 (6)) and 509AD of the Act;
  - 'low income family' (paragraphs 9-14).
- Section 579 of the Act defines 'child'.
- Section 509AC of the Act defines 'compulsory school age'.

## **Post-16**

Guidance relating to Post-16 transport is available on the Department's website at <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/LSC-P-NAT-100520>

## **Appeals**

Local authorities should have in place a review/appeals procedure for parents to follow should they have cause for complaint about the service or disagreement about the eligibility of their child for travel support. The procedure should be published alongside the local authority travel policy statement. If a complainant considers that there was a failure to comply with the procedural rules or if there are any other irregularities in the

way an appeal was handled there is a right of complaint to the Local Government Ombudsman. If a complainant considers the decision of the independent panel to be flawed on public law grounds, a complainant may apply for a judicial review.

The following paragraphs outline a recommended appeals process, which is summarised in Annex A.

## **Home to School Transport Appeals Process**

Local authorities should publish on their website, with paper copies available on request, details of a two stage home school transport review/appeals process for parents who wish to challenge a decision about:

- The transport arrangements offered
- Their child's eligibility
- The distance measurement
- The safety of the route

### **26. Stage one:**

- A parent has 20 working days from receipt of the local authority's home to school transport decision to make a written request asking for a review of the decision.
- The written request should detail why the parent believes the decision should be reviewed and give details of any personal and/or family circumstances the parent believes should be considered when the decision is reviewed.
- Within 20 working days of receipt of the parent's written request a senior officer reviews the original decision and sends the parent a detailed written outcome setting out:
  - the nature of the decision reached;
  - how the review was conducted (including the standard followed e.g. Road Safety GB);
  - information about other departments and/or agencies that were consulted as part of the process;
  - what factors were considered;
  - the rationale for the decision reached;
  - information about escalation to stage two (if appropriate).

### **27. Stage two:**

- Parent has 20 working days from receipt of the local authority's stage one decision to make a written request to escalate the matter to stage two.

- Within 40 working days an independent appeal panel considers written and verbal representations from the parent and officers and gives a detailed written outcome setting out:
  - the nature of the decision reached;
  - how the review was conducted (including the standard followed e.g. Road Safety GB);
  - information about other departments and/or agencies that were consulted as part of the process;
  - what factors were considered;
  - the rationale for the decision reached;
  - information about escalation to the Local Government Ombudsman (see below).
- The independent appeal panel members should be independent of the process to date and suitably experienced, to ensure a balance is achieved between meeting the needs of parents and the local authority, and that road safety requirements are complied with.
- Local Government Ombudsman – It is recommended that as part of this process, local authorities should make it clear that there is a right of complaint to the Local Government Ombudsman, but only if complainants consider 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. If the complainant considers the decision of the independent panel to be flawed on public law grounds, the complainant may apply for judicial review.

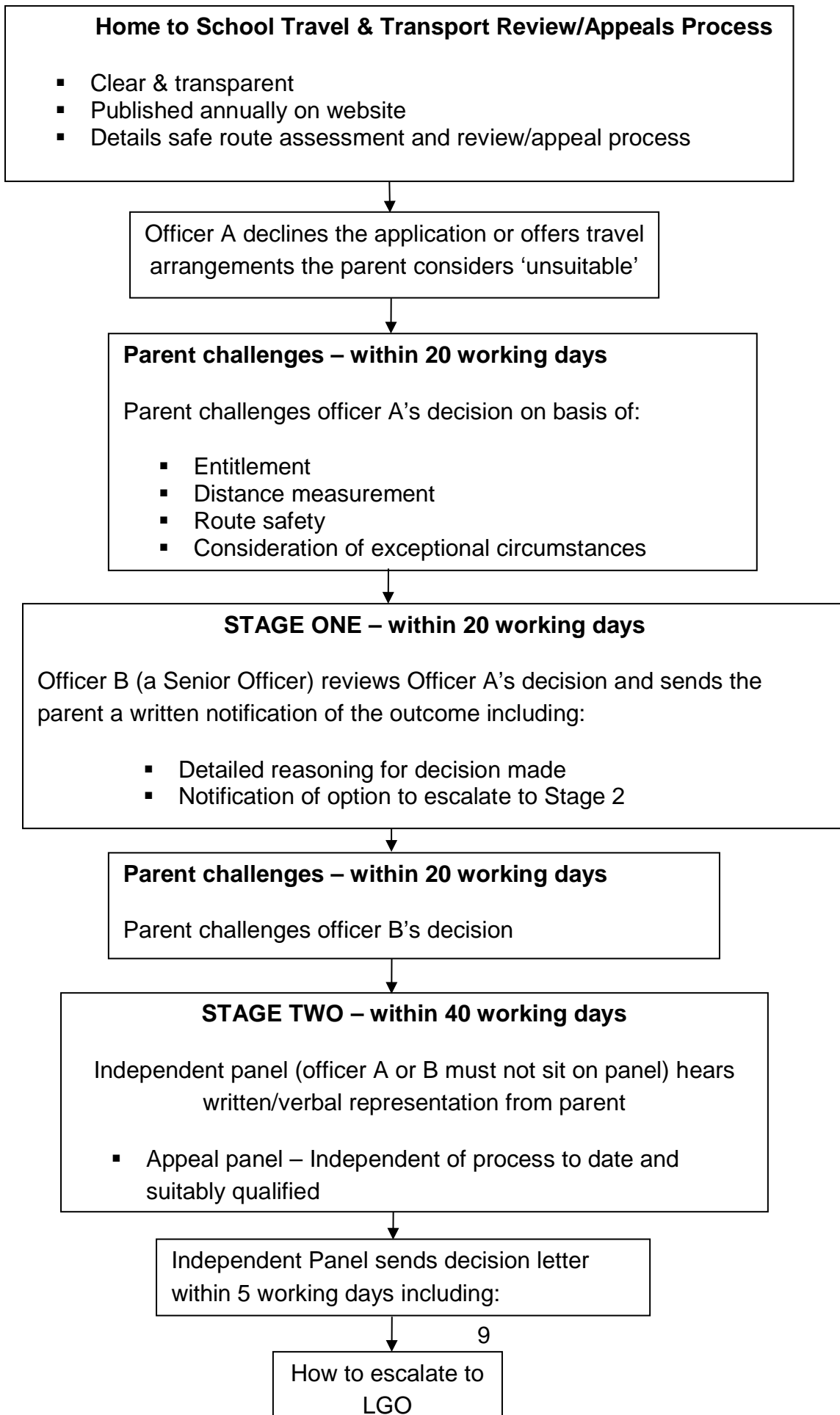
## **Consultation**

Local authorities should consult widely on any changes to home to school transport policies. Consultations should run for at least 28 days during term time. This period should be extended to take account of any school holidays that may occur during the consultation period.



## Annex A:

### Home to School Travel & Transport Review/Appeals Process flowchart





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