

By: Managing Director Children Families and Education

To: Children Families and Education Policy Overview Committee –
25 March 2008

Subject: SEN TRANSPORT AND TRANSPORT POLICY

Classification: Unrestricted

Summary: Advises and provides information to Members relating to SEN Transport and the review of Transport Policy following amendments to the legal framework included in the Education & Inspections Act 2006, identifying issues, inviting Members to endorse and support a new single Kent Policy on Transport for Children Families and Education.

Introduction

1. (1) The legal framework for home to school and college transport for children and young people of statutory school age are set out in Sections 508, 509 and Schedule 35B of the Education Act 1996, as amended by the Education & Inspections Act (EIA) 2006.

(2) EIA 2006 inserted new sections 508B and 508C into the Act. These sections place a duty on local authorities to ensure that suitable travel arrangements are made, where necessary to facilitate a child's attendance at school (defined as the 'relevant educational establishment' in relation to the child).

(3) The duty applies to "home to school" travel arrangements at the start of the day, and "school to home" travel arrangements at the end of the day. It does not relate to travel between educational institutions during the school day.

(4) Section 508B deals with the duty on local authorities to make such travel arrangements as they consider necessary to facilitate attendance at school for "eligible children".

(5) Schedule 35B defines "eligible children" – those categories of children in an authority's area for who travel arrangements will always be required. A condition of each category is that they are of compulsory school age. Under section 508B, every feature of these arrangements must be provided free of charge.

(6) Section 508C of the Act provides local authorities with the discretionary powers to make arrangements for those children not covered by Section 508B.

(7) A Local Authority can “opt out” of the new statutory provisions by making a “school travel scheme” but these must be approved by the Secretary of State. If LA makes a school travel scheme arrangements for “protected children” must be free of charge. Protected children are children with special educational needs, disability or mobility problems and/or children from low-income families.

Mainstream and College Transport

2. (1) Currently around 20,400 CYP of statutory school age (under 16) have free transport to mainstream schools and provisions. A further 2,900 post 16 young people have transport assistance to schools and college with around 1,900 making a contribution to costs. Current net costs are around £14.6m for mainstream transport and around £1.0m for college transport.

Special Educational Needs, Disability or Mobility

3. (1) The LA is expected to arrange transport for those children who cannot reasonably be expected to walk to school as a result of their disability, mobility problems or special educational needs, where even being accompanied by parent/carer, they or others cannot reasonably be protected from risk/harm. Currently this type of transport is discretionary but there is now a mandatory obligation to provide it. There is also an obligation to arrange transport for children without statements with disability or mobility and it covers children who have a temporary mobility problem or less severe medical condition which is not a disability under the Disability Discrimination Act 1995.

(2) Currently over 3,700 children and young people (CYP) with Statements of special educational need (SEN) receive free home to school transport. The majority of these CYP travel in hired transport such as taxi's and mini-buses. Cash allowances are paid to 210 parents/carers who transport their children to school. A relatively small number of CYP with SEN travel on public transport buses and trains. The total cost of SEN Transport is around £15m pa.

(3) Section 509(1) requires Local Authorities to make arrangements for the provision of transport and otherwise. The phrase “and otherwise” is intended to cover the provision of escorts and supervision of travel arrangements where necessary for individual or groups of children.

(4) Travel arrangements must be suitable, i.e. to enable the child to reach school without stress, strain or difficulty.

(5) To illustrate the individual nature of transport issues it is important to note that for CYP with disability, mobility or special educational needs the issue of suitable “safe” transport can go beyond the particular transport mode chosen: it can also inform selection of placement. In an appeal to the Special Educational Needs and Disability Tribunal (SENDIST) the Tribunal accepted that a five year old child with complex learning difficulties arising out of a severe developmental delay, would not be able to cope with any form of vehicle transport to school. SENDIST upheld the parents’ appeal for the child to be educated in an independent special school a few hundred yards from their home rather than the LA’s special school six miles away.

Low Income Families

4. (1) The Act introduces a new category of “eligible children”. These are children from low-income families, i.e. a child who is entitled to free school meals or if their parents receive Working Tax Credit at the maximum rate applicable.

(2) Children eleven years or older are eligible for school transport even if the school they attend is not the nearest suitable school, providing there are not three or more suitable schools nearer to their home – i.e. if a child of a low income family attends one of the three nearest secondary schools within a six mile radius of the home they are eligible for free school transport.

(3) Children from low income families who attend a school over two miles but under fifteen miles away from home are entitled to free school transport if their parent has expressed a wish for them to be educated at that school based on the parent’s religion or belief and there is no nearer suitable school. In this respect “belief” includes any religious or philosophical belief and includes lack of religion or belief.

(4) In respect of 8 to 10 year old children from low income families they will become eligible for free school transport if they live more than two miles from their nearest suitable school.

Kent Freedom Pass - Pilot Areas

5. (1) In recognition of the needs and vulnerability of young people with learning difficulties and disabilities, the Local Authority has decided to extend access to transport to escorts where they are needed to enable young people to travel safely as part of the Kent Freedom Pass pilot scheme. The majority of young people will already have been assessed as needing escorts when attending school or other educational provision. However, further assessments of needs may be required because:

- Some young people on a vehicle they share with others travelling to school may be able to travel by bus without an escort
- The needs of some young people are such that they could not travel on a bus, even with an escort e.g.: young people with very severe disabilities or who are severely Autistic

- There may be some disabled young people who do not currently have an escort when travelling by taxi but who would need an escort on a bus.

In many cases, the escort will be the young person's relative.

(2) There are around 700 CYP with SSEN in the pilot area. Over 480 have free home to school transport of which 210 have escorts. 10 of these children have a Kent Freedom Pass

(3) A survey will be undertaken with parents via Partnership with Parents and/or the Parent's Consortium to determine if there are any other aspects of the proposed "escort pass" that need to be considered.

Children's Social Services and Health Transport

6. (1) Children receiving overnight respite in SSD & Health Respite units continue to attend educational facilities throughout their stays. This is planned/commissioned by SSD/Health directly with Passenger Transport Services. The annual cost to SSD is £132k.

Resources

7. (1) The revenue resource implications of policy options related to a new single Kent Policy will be calculated in respect of policy options identified to comply with the new duties on the Local Authority. The affordability of policy options will be reported to CFE SMT and Cabinet Members.

Conclusion

8. (1) The new duty placed on Local Authorities by the EIA 2006 (together with new categories of eligible children) has served effectively to call into question the previous distinction between "SEN Transport" and "Mainstream Transport". Individual eligibility for free transport now relates to a set of circumstances and not simply distance and whether there is a Statement of SEN or not.

(2) Given these new duties it is appropriate to develop a new all encompassing Kent Policy on Transport for Children, Families and Education to encompass all children and young people of all age ranges and individual circumstances attending settings, schools and colleges.

Recommendations

9. (1) Members are asked to note the new duties on Local Authorities and to endorse and support the proposal to draw up a new single Kent Transport Policy for Children, Families and Education.

Colin Feltham
Head of Additional Educational Needs
& Resources
01622 605729
colin.feltham@kent.gov.uk

Scott Bagshaw
Head of Admissions & Transport
01622 694185
scott.bagshaw@kent.gov.uk

Background documents:

None

Other useful information:

None