



IPSEA

Independent Parental Special Education Advice

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I am having difficulty getting my child to and from school. Does the Local Authority have to help?

For a child of compulsory school age, the Local Authority has a statutory duty to make suitable, free, transport arrangements in certain circumstances. (s.508B Education Act 1996). There are resources on the IPSEA website about transport here:

<http://www.ipsea.org.uk/what-you-need-to-know/home-to-school-college-transport>

In particular you may wish to read the statutory guidance on transport here:

<https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

This gives details of how transport should work for eligible children. There are different categories of eligibility and a child may be eligible under one or more of these categories, which must be considered separately.

The categories are (in outline):

- **Children who attend schools beyond the statutory walking distance from their home** (the statutory walking distance is 2 miles for children under 8 years old and 3 miles for children of 8 or over);
- **Children with SEN, disabilities or mobility problems** who live within the statutory walking distance but whose SEND or mobility problems mean that they cannot reasonably be expected to walk to their school;
- **Children whose route to school is unsafe.** This category will also include those whose home is within statutory walking distance of their school. The Local Authority should assess the route at the times the child would be using it. They should take into account various factors including the age of the child; whether risks might be less if the child were accompanied by an adult and whether that is practicable; and features of the route itself;
- **Children from low income families:** A child will qualify for eligibility under the 'low income' provisions if he is entitled to free school lunches, or if his parents or carers receive working tax credit at the maximum rate.

Providing advice to parents of children with special educational needs

Once a child is eligible under at least one of those categories then the LA is under a duty to make 'suitable' transport arrangements to the nearest suitable school unless the LA have made arrangements for him/her to attend a closer school.

In practice, if a LA has named a school in an EHC Plan, then they have not 'made arrangements' for a child to attend a nearer school and so if the LA were to name a school for a child in an EHC plan then, (subject to showing that they were eligible for free transport) this would, effectively mean that the child would be entitled to free transport to that school, which the LA would be under a duty to arrange.

LAs will sometimes try to suggest that a parent is responsible for transporting their own child to school, because the school that they have named in the EHC plan was a "parental preference", and there was a suitable school which was nearer. The case of **Dudley Metropolitan Borough Council v Shurvington** [2012] EWCA Civ 346 deals with this scenario and the steps which must be considered before it will be appropriate for the LA to be relieved of its duty to provide transport to a child in this situation. Details of that case are here:

<https://www.ipsea.org.uk/what-you-need-to-know/home-to-school-college-transport/links-to-case-law-on-transport>

If your child has no statement or EHC Plan then he or she will be admitted through the general admissions process and the transport entitlement is to the nearest school with places providing you haven't expressed a preference for a school further away.

Transport arrangements do not have to be door to door, and a LA will be entitled to use a system of 'pick-up points': **R (M) v London Borough of Hounslow and others** [2013] EWHC 579 (Admin)

The meaning of the phrase "suitable" transport arrangements has been defined by case law as transport arrangements which are reasonably stress free, and which enable an eligible child to arrive at school ready for a day of study: **R v Hereford and Worcester County Council, ex parte P** [1992] 2 FCR 732. In order to be deemed "suitable" the recommended length of a journey is 45 mins (primary) and 75 mins (secondary). Remember, however, that it will always be important to consider the needs of the particular child in question, and the statutory guidance on transport also highlights that these are "*maximum*" times - which should not be exceeded - but may also have to be reduced in a particular case if, for example, a child's SEN meant that they were only able to cope with a journey which was much shorter in length.

You should be able to find information about how to request transport through your Local Authority's Local Offer:

<https://www.ipsea.org.uk/what-you-need-to-know/la-duties>

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As far as appealing transport decisions, these should be challenged via internal LA procedures, which should involve a review by a Senior Officer, followed by an internal appeal panel. Annex 2 of the statutory guidance on transport sets out the procedure which it is recommended that all LAs follow in respect of transport appeals, and this should be in place for you to use within your local authority.

If any appeal is not successful, or you have further complaints about the way in which the LA are dealing with these issues, you would have a right of complaint to the Local Government Ombudsman – complaints about LA transport arrangements are amongst those commonly dealt with by the LGO. The details for that service (including their helpline) are here:

<http://www.lgo.org.uk/>

There are also further details about the LGO within our briefing on ‘Local Authority Complaints’ in the “Challenging Decision – Resources” tab here:

<https://www.ipsea.org.uk/what-you-need-to-know/challenging-decisions>

We can only provide information through this service, rather than offer direct advice. So if you need this, or you wish to discuss the situation with someone, you should book a call with one of our Advice Line volunteers:

<https://www.ipsea.org.uk/contact/advice-and-support/advice-line>