

2010 Post-16 Transport Guidance



June 2010

Guidance to Local Authorities in Preparing their Academic Year 2010/2011 Transport Policy Statement

Introduction

1. Local authorities have a duty to prepare and publish an annual Transport Policy Statement specifying the arrangements for the provision of transport or otherwise that the authority considers it necessary to make to facilitate the attendance of all persons of sixth form age receiving education or training¹.
2. The overall intention of the 16-18 transport duty is to:
 - ensure that learners of sixth form age are able to access the education and training of their choice; and
 - ensure that, if support for access is required, this will be assessed and provided where necessary.
3. This document has been jointly produced by the DfE and YPLA to support local authorities in developing their transport policy and publishing their Transport Policy Statement for the academic year 2010/11. From April 2010, this will become statutory guidance issued by the Secretary of State for Children, Schools and Families under section 509AB(5) of the Education Act 1996. Local authorities must have regard to this guidance when carrying out their responsibilities in relation to transport arrangements for young people of sixth form age.
4. Local authorities should take their own legal advice when preparing the Transport Policy Statement and devising a local response to transport needs, to ensure they are exercising their duties and powers in a manner which complies with the legislation and public law.

The Policy Landscape

5. In developing their transport policy, local authorities will want to be aware of the policy developments that relate to 16-18 transport requirements.
6. The Government legislated, through the Education and Skills Act 2008, to raise the participation age so that from 2013, young people will be required to stay in education or training until they are 17 and from 2015 until their 18th birthday. It is important that transport provision supports young people's participation in education and training both now and in the future.
7. The planning of transport provision at a local level should also take into account the delivery of the 14-19 curriculum reforms.

¹ Section 509AA of the Education Act 1996.

- Diploma delivery is now under way in many areas, with young people sometimes travelling between sites to access their Diploma learning.
- From 2010/11, the majority of 16-18 learning providers will be involved in delivering Foundation Learning (FL)². Learners may need to travel to alternative sites to access their learning.
- Increasingly young people will be undertaking Apprenticeships. There will be an entitlement to an Apprenticeship place for each suitably qualified young person from 2013, with around one in five of all young people undertaking an Apprenticeship by 2020.

8. To support the raising of the participation age and the delivery of the 14-19 reforms, from April 2010, local authorities take on a new responsibility for commissioning education and training provision for 16-18 year olds (and 19-24 year olds with learning difficulties and/or disabilities). The Young People's Learning Agency for England (the YPLA) and the Skills Funding Agency (the SFA) will support local authorities in their new role.

9. A National Commissioning Framework (NCF), setting out the core systems for planning, commissioning, procuring and funding of education and training provision, will be published by the YPLA in April 2010. The full commissioning process will be operational from the latter part of 2010. Ensuring that young people have access to the education and training provision that is commissioned at a local level will be essential.

Changes to the Guidance Required

10. Figures 1 and 2 set out a high level summary of the changes made through the Apprenticeships, Skills, Children and Learning (ASCL) Act 2009.

11. This guidance on the 16-18 transport duty reflects the changes made to the duty by Sections 53, 55 and 56 of the (ASCL) Act 2009, which apply from the academic year 2010/11. Figure 1 below provides a high level summary of these changes and their commencement dates.

² Foundation Learning will encompass all existing programmes at Entry Level and Level 1 for 16 to 19 year olds, including those in schools, colleges and E2E providers. Some schools in every area should also be involved, as Foundation Learning will have absorbed the Key Stage 4 Engagement programme for 14 to 16 year olds. By 2011/12 the majority of schools should be involved in delivering Foundation Learning, working with Local Authorities and partners across the 14-19 age range to ensure that provision bridges the age 16 divide effectively to support Raising the Participation Age.

Figure 1: Changes Apply for Academic Year 2010/11

Section of ASCL Act 2009	Commencement Date	Summary of the section
53	1 April 2010	Local authorities are required to consider what they have to do under section 15ZA(1) in respect of persons of sixth form age. That is that they must consider their responsibilities for commissioning education and training provision for 16-18 year olds when developing their transport policy for those of sixth form age.
55	Commenced 12 January 2010	<p>Introduces a requirement on local authorities to have regard to the need to provide sufficient information when drawing up their Transport Policy Statement and to consider the need to publish this statement in good time.</p> <p>Allows the Secretary of State for Children, Schools and Families to change by order the date by which Transport Policy Statements must be published.</p>
56	Commenced 12 January 2010	<p>New power for local authorities to amend and republish their Transport Policy Statements in-year in response to complaints or a direction by the Secretary of State.</p> <p>Complaints must go through a local complaints process first, before they can be considered by the Secretary of State.</p>

12. The remaining changes to the ASCL Act (Sections 54 and 57) will be commenced on 1 April 2010 but will apply to the academic year 2011/12. While they will not impact on the transport duty in 2010/11, local authorities need to be aware of these changes and plan ahead to respond to them. Further guidance will be issued by the Secretary of State for the academic year 2011/12 to support local authorities in meeting their responsibilities. Figure 2 summarises the changes that will come into force for academic year 2011/12. Where the changes do not apply until academic year 2011/12 (see figure 2) local authorities are asked to provide, as a distinct section, key details of how they will respond to these changes in their 2010/11 Transport Policy Statements.

Figure 2: Changes Apply for Academic Year 2011/12

Section of ASCL Act 2009	Commencement Date	Summary of the section
54	Commences 1 April 2010 but to apply for the academic year 2011/12	Adds young people of sixth form age and their parents to the list of named stakeholders local authorities have to consult in drawing up their Transport Policy Statement.
57	Commences 1 April 2010 but to apply for the academic year 2011/12	<p>Re-enacts the adult transport duty – s509 of the Education Act 1996. This requires local authorities to consider whether there is adequate transport provision available to facilitate the attendance of FE learners</p> <p>Requires local authorities to prepare and publish a new Transport Policy Statement for young people aged 19-24 with learning difficulties and/or disabilities. This can be produced in conjunction with the Transport Policy Statement for young people of sixth form age. There is a requirement to consult a number of parties in producing the statement, including young people and their parents.</p> <p>Requires local authorities to have regard to guidance issued by the Secretary of State.</p> <p>Provides that local authorities may amend and republish their Transport Policy Statements in-year in response to complaints or a direction by the Secretary of State. Complaints must go through a local complaints process first, before they can be considered by the Secretary of State.</p>

Extent and Coverage of the 16-18 Transport Duty – Section 509AA

13. The duty applies to all local authorities in England in respect of arrangements for young people (over compulsory school) aged 16-18 and those continuing learners who started their programme of learning before their 19th birthday³.

14. The legislation recognises that a local response to transport arrangements is important in enabling young people's participation in education and training. A local approach allows local circumstances to be taken into account. Therefore the legislation gives local authorities the discretion to determine what transport and financial support are necessary to facilitate young people's attendance. The local authority must exercise its power to provide transport or financial support reasonably, taking into account all relevant matters and a failure to make arrangements would amount to a failure to meet the duty.

15. The Transport Policy Statement must detail the transport arrangements and financial assistance with transport that the local authority considers it necessary to make to ensure access to education or training for learners of sixth form age⁴.

16. It is important that the local authority does not differentiate between providers or institutions in its arrangements. The arrangements must be provided for learners of sixth form age who are engaged in learning or training at:

- a school (including Academies);
- a further education institution;
- an Authority maintained or assisted institution providing higher or further education;
- an establishment funded directly by the YPLA e.g. Independent Specialist Providers for learners with learning difficulties and/or disabilities;
- a learning provider that is funded by the local authority to deliver Foundation Learning or other accredited programmes of learning which lead to a positive outcome (this could include colleges, charities and private learning providers).

17. Arrangements to support learners doing Apprenticeships (employed and non-employed Programme-led Apprenticeships) should also be set out in the Transport Policy Statement. Learning providers are responsible for ensuring that non-employed Programme-led Apprentices have reasonable expenses met in full where these are needed to overcome barriers to learning. These may include the costs of travelling to or from the place of learning or work placement. Employers and learning providers will want to take account of learners' likely transport arrangements when planning off-the-job training, particularly outside normal working hours. The

³ Section 509AC of the Education Act 1996 defines persons of sixth form age for the purposes of the sixth form transport duty .
⁴ See section 509AA of the Education Act 1996.

costs of expenses for learners should be claimed by learning providers against the Additional Learning Support allocation on the Training Provider Statement (TPS) in arrears.

18. The Transport Policy Statement must also specify the arrangements proposed to be made by the governing bodies of schools and further education colleges which may include support with transport costs or transport provision⁵. The local authority should only include arrangements that are actually going to be made and not make assumptions about what arrangements it thinks schools and colleges should make. Governing bodies are under a duty to co-operate in giving the local authority any information and other assistance that is reasonably required by the authority to enable them to prepare their statement⁶.

Transport Policy Statement Audience and Content

19. The Transport Policy Statement is intended to inform learners in year 11, 12 and 13 and their parents about what transport arrangements and support are available locally. Statements should be a one-stop shop providing information about transport arrangements to all types of provision, including arrangements made by bodies other than the local authority. The statement must set out what the local authority's overall transport policy is in regard to learners and the rationale behind the policy.

20. Transport Policy Statements should be clear and provide sufficient detail about the transport arrangements and support provided so as to inform learners in making their post-16 choices. Learners should be provided with information through the Transport Policy Statement about who is eligible for transport support and how and when they should apply for support. Details of any concessionary fares, discounts, subsidies or travel cards should be included alongside the eligibility criteria for this support and how eligibility will be assessed. Clear signposting from the statement should point young people to sources of further information e.g. local authority, college, transport provider websites or contact details.

Funding

21. The local authority is required to deliver the arrangements it has detailed in the Transport Policy Statement. The arrangements local authorities choose to make are generally funded through the formula grant from central Government to local authorities, and through locally raised revenue including council tax. Local authorities and their partners may use other sources of funding to support these costs where appropriate.

⁵ Section 509AA(4) of the Education Act 1996.

⁶ Section 509AA(5) of the Education Act 1996.

22. It should be noted that the Transport Partnership Fund, which is available to local authorities in 2010/11, is a short term source of funding and there is no guarantee that this funding will continue to be made available in future years. Therefore, those activities which have been established through the fund and proved to be most successful should be funded increasingly from local authority core funding i.e. from formula grant or locally raised revenue.

Assessment of What Arrangements Are Needed

23. In assessing what transport arrangements or financial assistance may be required, the local authority must have regard to the following.

23.1 The needs of those who could not access education or training provision if no arrangements were made⁷.

Local authorities need to satisfy themselves that they have made the transport arrangements or arrangements for financial assistance necessary to facilitate learners' participation in education or training. In doing so, they should consider the needs of the most vulnerable or socially excluded learners. The needs of learners with learning difficulties and/or disabilities should be specifically considered and the arrangements in place for each group must be documented in the Transport Policy Statement.

Local authorities should also consider the needs of:

- Those who are vulnerable to becoming NEET (not in education, employment or training) at the age of 16 or 17 or who have already become NEET. These young people should be supported in a suitable place of learning and provided with any support that is necessary with transport to enable them to participate⁸.
- Young parents – Care to Learn (C2L) can help pay for childcare and travel costs for learners aged 19 and under at the start of their course. The additional costs of taking a child to and from childcare may be claimed, within a set weekly limit. C2L does not support the costs of travel to the Learning Provider. Learning Providers should be encouraged to support learners to apply for C2L. Further details are available on the [directgov website](#)

and

- Those who live in particularly rural areas where the transport infrastructure can be more limited.

⁷ Section 509AB(3)(a) of the Education Act 1996

⁸ Local authorities are reminded that all 16 and 17 year olds (i.e. those completing compulsory education in the current year, or who completed in the previous year) are entitled to an offer of a place in post-16 learning under the September Guarantee.

23.2 The need to ensure that learners have reasonable opportunities to choose between different establishments at which education and training is provided⁹.

Young people should have a reasonable opportunity to choose between the courses available to them at 16 and be supported to access their choices. Local authority transport policies must be supportive of reasonable choice. In defining what is 'reasonable', local authorities will want to take into account any complaints received in previous years in respect of local Transport Policy Statements.

We would expect reasonable choice to include enabling learners to choose courses outside their home local authority boundaries if it makes sense for them to do so. In this case, local authorities will want to consider how their transport policy can support learner movement across local authority boundaries, to ensure that the learner is no worse off than if they had chosen to attend an establishment within their home local authority.

Local authorities will want to be mindful of the transport policy of neighbouring local authorities in determining how to support learners travelling across local authority boundaries. Learners should not be disadvantaged by travelling across local authority boundaries to education or training. The new arrangements for commissioning 16-19 education and training provision, which come into effect in April 2010, should support greater cooperation and engagement between local authorities in setting their transport policies.

Reasonable choice should also include enabling learners to choose an establishment of education or training that is not the closest to where they lived if it makes sense to do so.

Good Practice Example

Travelling outside LEA boundary or studying at institutions beyond daily travelling distance - due to the geography of Lancashire and its 13 border Authorities, the Partnership engages with other local LEAs, Schools and Colleges to support students when exercising their choice to travel outside Lancashire to study. Lancashire County Council collaborates with Schools and Colleges across the country.

Source: Lancashire Transport Policy Statement 2009

⁹ Section 509AB(2)(b) of the Education Act 1996.

23.3 The distance from the learner's home to establishments of education and training¹⁰.

Distance should be a factor that local authorities consider in determining eligibility for support with transport. Young people in rural areas should not be worse off financially because they may need to travel further to access education and training provision than their peers in urban areas. The statutory walking distance of 3 miles (along the nearest available route) for those over the age of 8, is set out under section 444(5) of the Education Act 1996 of the home to school transport duty for children of compulsory school age. This can be used as a bench mark by local authorities in defining the distance a young person might reasonably be expected to walk to access education or training. Local authorities will want to take into account other factors, such as the impact a learning difficulty or disability may have on a young person's ability to walk this distance, and the nature (including safety) of the route, or alternative routes, which a young person could be expected to take in determining whether transport arrangements are necessary.

23.4 The journey time to access different establishments¹¹.

Journey time also needs to be taken into account (as introduced by section 83 of the Education and Skills Act 2008). Consistent with the home to school transport duty for children of compulsory school age, young people should be able to reach their establishment of education or training without incurring such stress, strain, or difficulty that they would be prevented from benefiting from the education provided. For example, a young person should not have to make several changes of public service bus (or other mode of transport) to get to their establishment of education or training, if that would result in an unreasonably long journey time. In this context, local authorities will want to consider which mode of transport will best meet the need to ensure a reasonable journey time. Best practice suggests that a child of secondary school age may reasonably be expected to travel 75 minutes each way to access learning. Local authorities should apply similar expectations to learners of sixth form age.

23.5 The cost of transport to the establishments in question¹².

Local authorities are expected to target any support on those young people – and their families – who need it most, particularly those with a low income. The Transport Policy Statement should set out clearly the criteria used to establish a learner's eligibility to receive transport/financial support. The effective implementation of these measures will ensure that all learners are able to have reasonable choice in post-16 learning and will contribute towards reducing child poverty.

¹⁰ Section 509AB(2)(c) of the Education Act 1996.

¹¹ Section 509AB(3)(c) as amended by the Education and Skills Act, section 83.

¹² Section 509AB(3)(d) of the Education Act 1996.

Local authorities may ask learners and their parents for a contribution to transport costs. We would expect local authorities to exercise their discretion in determining in what circumstances it is appropriate to ask for a contribution, but in exercising their discretion they should:

- Ensure that any contribution is affordable for learners and their parents.
- Ensure that there are arrangements in place to support those families on low income. Low income groups will always include those on the maximum level of working tax credit.
- Take into account the likely duration of learning and ensure that transport policies do not adversely impact particular groups. For example, as learners with learning difficulties and/or disabilities are more likely to remain in education or training longer than their peers and therefore, any contribution sought from the families of learners with learning difficulties and/or disabilities would need to allow for the fact they may have to make a contribution over a longer period than the families of those with children who do not have a learning difficulty and/or disability.

Good Practice Example

Peterborough City Council makes free transport available to eligible post-16 students who:

- qualify for Income Support; or
- whose parent/carers qualify for Income Support or income-based Job Seekers' Allowance; and
- whose home is 3 miles or over from the nearest appropriate centre.

Source: Peterborough Transport Policy Statement 2009

23.6 Alternative means of facilitating attendance at establishments¹³.

Alternative means of facilitating attendance at establishments of education or training should be considered by local authorities. In doing so, local authorities should consider learners' safety. Suitable and appropriate alternatives may include transport solutions, for example:

¹³ Section 509AB(3)(d) of the Education Act 1996.

- Cycle schemes – which can support independence but also offer a sustainable form of transport provision.
- Moped schemes - which can support individual learners (over the age of 17) to travel to education and training from rural areas where there is no critical mass of learners meaning that, for example, a bus service, is not viable.
- Independent travel training to enable young people (often with learning difficulties and/or disabilities) to travel on public transport independently. These schemes enable young people to gain skills which can be used for travelling to education or training and have, in some cases, enabled local authorities to make cost savings. It is strongly recommended that local authorities consider these schemes for the all round benefits they can bring. For further information see paragraph 30.

23.7 Non-transport solutions to facilitate learner access.

Local authorities will also want to consider whether non-transport solutions could facilitate learner access to education or training. For example, peripatetic teachers, mobile provision and e-learning options are already in use in some areas or are being explored as part of the 14-19 reforms.

23.8 Preferences based on religion.

Local authorities must have regard to any preference the individual may have for a particular institution based on their religion or belief¹⁴.

Under this Act “religion” means any religion and “belief” means any religious or philosophical belief. References to “religion or belief” include references to a lack of religion or belief. It therefore follows that this duty covers all religions as well as philosophical denominations.

It should be noted that “religion” and “belief” are not opposites, and there may be considerable overlaps in the coverage of the two terms.

The definition of “religion” includes those religions widely recognised in this country such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha'is, Zoroastrians and Jains. Equally, denominations or sects within a religion can be considered as a religious or religious belief, such as Catholicism or Protestantism within Christianity. The Department considers that the main limitation on what constitutes a “religion” is that it must have a clear structure and belief system.

¹⁴ Section 509AD of the Education Act 1996 (as inserted by section 84 of the Education and Inspections Act 2006). Subsection (3) provides that “religion” means any religion and “belief” means any religious or philosophical belief.

For a “belief” to be worthy of protection it must attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society and not be incompatible with the human dignity of the fundamental rights of the child¹⁵. Examples of beliefs are Humanism and Atheism.

Local authorities should obtain their own legal advice in relation to the scope of this requirement.

Financial Assistance and Charging

24. When setting their transport policies local authorities should take into account the differing needs of learners in their areas. To aid transparency, it is helpful for local authorities to set out the average cost per learner of post-16 transport in their area before any subsidies are deducted. Clearly setting out average costs will enable learners and parents to understand the extent of the local authority subsidy.

25. Local authorities may take receipt of Education Maintenance Allowance (EMA) into account in assessing an individual’s need for financial help with transport but they cannot stipulate that a learner must use their EMA to meet transport costs. The purpose of EMA is to act as an incentive to encourage participation and progression in post-compulsory education, it would be counter to that purpose if a young person had to use a significant proportion of their EMA to meet the costs of transport. EMA is not intended to meet a young person’s transport costs.

Good Practice Example

In order to qualify for financial support for transport in **Bradford**, students must demonstrate financial hardship by current receipt of Education Maintenance Allowance (EMA) or, where no longer in receipt of EMA, proof that the household income is below £30,810 per year. Bradford’s Post 16 Transport Policy statement states that: *“The policy allows for provision to support students in receipt of EMA to ensure that the EMA is not too greatly eroded as an incentive.”*

Source: Bradford Transport Policy Statement 2009

26. For provision delivered to learners aged 16-18 in colleges of further education, independent providers and school sixth forms¹⁶ an annual allocation of discretionary Learner Support (dLS), formerly referred to as Learner Support or Hardship Funds. The purpose of dLS is to provide exceptional support to individual learners who are experiencing financial difficulty with meeting costs associated with learning. dLS is not to be used routinely to fund transport costs. Local authorities

¹⁵ See Campbell and Cosans v UK (1982) 4EHRR 293

¹⁶ Known as 16-18 Learner Responsive Provision ie that provision driven by the requirements of individuals, who can choose from a range of qualifications approved for funding by the Government, the learning taking place mainly on schools’, colleges’ or providers’ premises.

should not take into account the fact that the YPLA provides this funding to colleges and providers when determining what transport arrangements it needs to make.

Specific consideration of Learners with Learning Difficulties and/or Disabilities

27. Section 509AB(1) imposes a requirement that the Transport Policy Statement should set out to what extent the arrangements specified in the statement include arrangements for facilitating the attendance at schools and learning providers of learners with learning difficulties and/or disabilities. Arrangements for this group of learners must therefore be explicitly set out in the Statement.

28. The transport needs of learners with learning difficulties and/or disabilities should be considered in assessments made under Section 139A of the Learning and Skills Act 2000. The local authority may assess learner transport needs in more detail beyond the Section 139A assessment. Arrangements cannot be limited to those learners who have been previously assessed as having a statement of SEN. Learner transport needs will change throughout their educational career and equally their disability status may change. The local authority can take into account receipt of Disability Living Allowance when assessing what support might be needed by a learner (ie as a proxy of the severity of a disability) but may not require the learner to use this to support their transport costs to learning.

29. A learner with learning difficulties and/or disabilities may take longer to complete a programme of learning or training, and therefore it will be good practice for the local authority to extend the arrangements for the provision of transport until a learner has completed their programme even if that is after they have reached the age of 19.

30. If the local authority and/or providers operate an independent travel training scheme it is good practice to include such initiatives in the Transport Policy Statement. The statement should set out the process for the learner or carer to access the scheme. Plans are underway to incorporate Independent Travel Training as part of Foundation Learning with courses leading to accreditation under the QCF.

31. A tool has been developed to help local authorities to monitor the cost-effectiveness of their Independent Travel Training programme in a consistent way. The tool is intended to support local authorities in making a case for mainstream funding for their Independent Travel Training programmes by showing the financial savings that can be realised through implementing such programmes. The tool is available at: www.dcsf.gov.uk/14-19/transport

Good Practice Example

Essex Travel Training work with young people and adults with additional needs to give them the skills they need to access everyday activities, such as education, employment, training or leisure, and helps them to live their lives independently.

The team work with clients to develop a range of skills: from coping with traffic on major road and planning journeys; to how to get help and using a telephone. Since April 2006, over 800 referrals have been received with in excess of 600 successful completions.

Prior to Travel Training many clients relied on organised transport, predominantly taxis, to access everyday activities. The majority of the time this transport is organised and paid for by the local authority even though the majority of clients are entitled to concessionary fares pass on public transport. On completion of their training, this organised travel is no longer needed and the council has saved around £500,000 across the Education and Adult Social Care budgets. The project has secured long term funding (until 2011 currently) to continue to improved accessibility for individuals with additional needs, opening up new opportunities that many people take for granted.

Source: Essex Transport Policy Statement 2009

32. The 16-18 transport duty relates to learners of sixth form age with learning difficulties and/or disabilities aged up to 19 (and beyond the age of 19 if they are continuing on a particular course started before the age of 19). Local authorities also have a duty under the Education and Skills Act 2008 to encourage, enable and assist the participation of learners with learning difficulties and/or disabilities up to the age of 25 in education and training. It therefore follows that it is good practice for local authorities to include information about what transport arrangements are available and if they are adequate to enable these learners to participate. Local authorities will want to be aware of the adult transport duty (section 508F and section 508G of the Education Act 1996, as inserted by section 57 of ASCL 2009) in carrying out their responsibilities for this group. Guidance will be issued to support local authorities in carrying out their responsibilities under the adult transport duty ahead of the academic year 2011/12.

Local Complaints Process

33. Local authorities must publish as part of the Transport Policy Statement the process which will be followed should a complaint or an appeal be made on behalf of, or by a learner. Complaints must first be taken up with the local authority¹⁷. If

¹⁷ Section 509AE(4) (sixth form complaints) of the Education Act 1996.

these do not result in a satisfactory outcome, learners and their families may complain to the Secretary of State.

Complaints to the Secretary of State

34. The Secretary of State has powers under section 496 and 497 of the Education Act 1996 to direct a local authority where they have exercised their functions unreasonably or where they have failed to discharge a duty. If the Secretary of State is satisfied that an authority has acted unreasonably, he may give such directions as to the exercise of the power or performance of the duty, as appear to him, to be expedient. It should be noted that this is a high threshold: conduct will be “unreasonable” only if it is conduct which no reasonable local authority acting with due appreciation of its responsibilities would have decided to adopt. Where a complainant is not satisfied with the outcome of the local complaints procedure the Secretary of State will not always be able to intervene.

35. Under section 509AA (9), the Secretary of State may also direct a local authority to make transport arrangements or provide financial assistance for travelling expenses for individuals or groups of learners. This only applies where particular transport arrangements or financial assistance have not been included in, or are not covered by, the local authority’s Transport Policy Statement. The Secretary of State can make a direction where he considers it expedient to do so, having regard to the particular circumstances of the case.

Consulting Key Partners on the Transport Policy Statement

36. The Transport Policy Statement is the responsibility of the local authority, however the local authority should try and achieve a consensus with other partners and stakeholders about its content and delivery. Post-16 Transport Partnerships which bring together the key partners have been helpful in developing a collaborative approach to transport solutions and the production of the Transport Policy Statement.

37. The local authority has a duty to consult with the following stakeholders in developing the statement to ensure it provides a full picture of the available transport and support.

- Any other local authorities it considers appropriate¹⁸. There will be occasions where learners will travel across local authority boundaries and this should not be a barrier for the learner. There are clear benefits for local authorities to collaborate where similar challenges exist or to share good practice. From 1 April 2010 Sub Regional Groupings (SRGs) will provide a forum for local authorities to work together to build a picture of learner demand and flows between local authorities and across travel to learn areas. They will enable

¹⁸ Section 509 AB(6)(a) of the Education Act 1996.

local authorities to plan and commission learning provision in collaboration with neighbouring authorities. The Transport Policy Statement must set out the local authority's travel policy to neighbouring local authority areas. Local authorities should also consult neighbouring local authorities that are in Wales or Scotland.

- Other departments within the local authority, for example social services, who may also procure for, or own, their own transport.
- The governing bodies of schools and further education institutions¹⁹. The Transport Policy Statement shall specify the arrangements proposed to be made by the governing bodies of schools and further education institutions for the provision of transport and/or financial assistance. It is important to note, the power of schools and colleges to make arrangements is in addition to, and not instead of, the power of the local authority to make arrangements.
- Passenger Transport Executives and the Integrated Transport Authorities they are responsible to and Transport for London (TfL) where the local authority is a London borough or the City of London^{20 21}.

38. Other bodies including: learning providers; representatives of 14-19 consortia; federations; HEIs; transport companies and authorities operating in the locality; public sector bodies; community groups; voluntary organisations and groups/organisations with an interest in disability issues including Independent Specialist Providers should also be consulted where appropriate.

39. It is good practice to include young people, young people with learning difficulties and/or disabilities and parents in any consultation process to ensure that their needs are established and catered for. From the academic year 2011/12 onwards local authorities will be required to consult persons of sixth form age and their parents.²² Local authorities should set out in their 2010 Transport Policy Statements how and when they propose to consult young people and their parents to inform the development of their 2011 statements.

¹⁹ Section 509AB(6)(b) .

²⁰ Section 509AB(7)(a)

²¹ Section 509AB(7)(b).

²² Section 54 of ASCL 2009 inserts new subsection (ca) in s509AB(6.) This has been commenced in April 2010, to apply for the academic year 2011-12.

Good Practice Example

Nottinghamshire provides a good example of partnership working. There has been an active partnership involving all colleges and sixth forms since 2001. There is also a Post-16 strategic group that meets to develop policies.

The Local Authority is moving from institution-specific approaches to transport, to addressing broader area needs. To this end, Nottinghamshire allocates Transport Partnership Funding through the use of an Innovation Fund. Only joint applications signed by all institutions can be made for resources through the fund. This fosters partnership between institutions. The creation of area-stretching groups further encourages institutions to work together and provide equitable support for all learners. The application process has been made as simple and non-bureaucratic as possible. To ensure effectiveness, bidders must clearly identify an intended outcome and then review the progress towards the outcome when the grant is given.

Partnership has also been used to reduce the problems associated with cross-boundary coverage, through collaboration between the City and County Council. The City Council is a full contributing member to the County Council Post-16 Strategy. This means they contribute to the county pot so the money is pooled between city and county, which removes the problems caused by institutions straddling boundaries. As part of this initiative, Nottinghamshire has appointed area strategy group co-ordinators to make county-wide bids into the innovation fund.

Source: SQW, good practice interviews

Publication of the Transport Policy Statement

40. The Transport Policy Statement must be published by the local authority by 31st May.

41. The Transport Policy Statement should be available on the local authority's own website by 31st May. Local authorities are also responsible for ensuring that a link is made to the Directgov website which is the main source of government web-based information for the general public.

42. To facilitate this process the Local Authority's web team should complete the following actions:

- load the Transport Policy Statement on to the council website; and
- update the links to local Directgov (LGSL/IL 1135/8: "find out about transport for 16-19 year olds in education")

Any difficulties experienced in locating local authority web team details should be directed to localdirectgov@communities.gsi.gov.uk

43. Local authorities should also provide information about the transport arrangements in their areas through the 14-19 prospectus, options evenings and

other mechanisms. Availability and cost of transport will inform how young people choose their post-16 provision. Local authorities will need to ensure that those who have a role in supporting young people to make this decision are aware of transport arrangements in their area.

Good Practice Example

Websites with weblinks to education and transport providers are an effective way of providing up-to-date information and this practice is much in evidence. Leicester, for example, has developed a Student Travel Website. This has the added advantage of accessibility for a wider audience, including learners living in other areas. The website includes information on training programmes, various videos and recordings. During the design of the website, teachers, parents and learners were all consulted to ensure the information available on the website was appropriate and helpful.

Source: SQW, good practice interviews

In-year Changes

44. A local authority should consider its approach in implementing what is set out in its Transport Policy Statement and continue to monitor its progress throughout the year.

45. Changes in legislation through the ACSL Act 2009 have allowed for Transport Policy Statements to become more responsive. From 2010, local authorities may amend and republish their transport policy statements in year in response to complaints or to a direction by the Secretary of State.

Appendix – Summary of Statutory Provisions

This appendix sets out the relevant statutory provisions in the Education Act 1996 (as amended) in relation to local authorities' responsibilities for the provision of transport for persons of sixth form age.

The section highlighted in bold refer to the amendments made to the 1996 Act by the Apprenticeship, Skills, Children and Learning Act 2009.

References to the "Learning and Skills Council" that were previously in these provisions have been removed or amended in anticipation of Order²³

Section 509AA: Provision of transport etc. for persons of sixth form age

- (1) A Local Education Authority shall prepare for each academic year a Transport Policy Statement complying with the requirements of this section.
- (2) The statement shall specify the arrangements for the provision of transport or otherwise that the Authority consider it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training—
 - (a) at schools;
 - (b) at any institution maintained or assisted by the Authority which provides further education or higher education (or both);
 - (c) at any institution within the further education sector; or
 - (d) at any establishment (not falling within paragraph (b) or (c)) at which the authority secures the provision of education or training under section 15ZA(1) or the National Council for Education and Training for Wales.
- (3) The statement shall specify the arrangements that the Authority consider it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at any establishment such as is mentioned in subsection (2).
- (4) The statement shall specify the arrangements proposed to be made by the governing bodies of—
 - (a) schools maintained by the Authority at which education suitable to the requirements of persons over compulsory school age is provided; and
 - (b) institutions within the further education sector in the Authority's area for the provision of transport for facilitating the attendance of persons of sixth form age receiving education or training at the schools and institutions and for the provision of financial assistance in respect of the travelling expenses of such persons.

²³ Apprenticeship, Skills, Children and Learning Act 2009 (Consequential Amendments)(England and Wales) Order 2010.

- (5) Those governing bodies shall co-operate in giving the Local Education Authority any information and other assistance that is reasonably required by the Authority for the performance of their functions under this section and section 509AB.
- (6) The statement shall specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985 (c. 67)) which are to be provided under any scheme established under section 93 of that Act to persons of sixth form age receiving education at any establishment such as is mentioned in subsection (2) above in the Authority's area.
- (7) The Authority shall—
- (a) publish the statement, in a manner which they consider appropriate, on or before 31st May in the year in which the academic year in question begins; and
 - (b) make, and secure that effect is given to, any arrangements specified under subsections (2) and (3).
- (8) Nothing in this section prevents a Local Education Authority from making, at any time in an academic year, arrangements—
- (a) which are not specified in the transport policy statement published by the Authority for that year; but
 - (b) which they have come to consider necessary for the purposes mentioned in subsections (2) and (3).
- (9) The appropriate Authority may, if it considers it expedient to do so, direct a Local Education Authority to make for any academic year—
- (a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at establishments such as are mentioned in subsection (2); or
 - (b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons;
- which have not been specified in the transport policy statement published by the Authority for that academic year.
- (9A) The “appropriate Authority” means—
- (a) in the case of a Local Education Authority in England, the Secretary of State; and
 - (b) in the case of a Local Education Authority in Wales, the National Assembly for Wales.
- (10) The Secretary of State (in relation to Local Education Authorities in England) or the National Assembly for Wales (in relation to Local Education Authorities in

Wales) may by order amend subsection (7)(a) **to change the time by which the statement must be published.**

(11) Subsection (9) is subject to section 509AE (complaints about transport arrangements etc for persons of sixth form age in England).

Section 509AB: Further provision about Transport Policy Statements

- (1) A statement prepared under section 509AA shall state to what extent arrangements specified in accordance with subsection (2) of that section include arrangements for facilitating the attendance at establishments such as are mentioned in that subsection of disabled persons and persons with learning difficulties.
- (2) A statement prepared under that section shall—
 - (a) specify arrangements for persons receiving full-time education or training at establishments other than schools maintained by the Local Education Authority which are no less favourable than the arrangements specified for pupils of the same age attending such schools; and
 - (b) specify arrangements for persons with learning difficulties receiving education or training at establishments other than schools maintained by the Authority which are no less favourable than the arrangements specified for pupils of the same age with learning difficulties attending such schools.
- (3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the Local Education Authority shall have regard (amongst other things) to—
 - (a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made;
 - (b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided;
 - (ba) what they are required to do under section 15ZA(1) in relation to persons of sixth form age;**
 - (c) the distances, and journey times, between the homes of persons of sixth form age in their area and establishments such as are mentioned in section 509AA(2) at which education or training suitable to their needs is provided; and
 - (d) the cost of transport to the establishments in question and of any alternative means of facilitating the attendance of persons receiving education or training there.
- (4) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a Local Education Authority shall have regard (amongst other things)—

- (a) to the nature of the route, or alternative routes, which he could reasonably be expected to take; and
 - (b) to any wish of his parent for him to be provided with education or training at a school, institution or other establishment in which the religious education provided is that of the religion or denomination to which his parent adheres.
- (5) In preparing a statement under section 509AA a Local Education Authority shall have regard to any guidance issued;
- (a) by the Secretary of State (in the case of an Authority in England); or
 - (b) by the National Assembly for Wales (in the case of an Authority in Wales), under this section.
- (6) In preparing a statement under that section a Local Education Authority shall consult—
- (a) any other Local Education Authority that they consider it appropriate to consult;
 - (b) the governing bodies mentioned in subsection (4) of that section;
 - (c) the National Council for Education and Training for Wales (in the case of a Local Education Authority in Wales);
 - (ca) persons in the local education authority's area who will be of sixth form age when the statement has effect, and their parents;**
 - (d) any other person specified for the purposes of this section by the Secretary of State or the National Assembly for Wales (in the case of an Authority in Wales).
- (7) In preparing a statement under that section a Local Education Authority shall also consult—
- (a) where they are the Local Education Authority for a district in a metropolitan county, the Passenger Transport Authority for that county; and
 - (b) where they are the Local Education Authority for a London borough or the City of London, Transport for London.
- (7A) In preparing and publishing a statement under section 509AA, a local education authority must have regard to (amongst other things) the need to-**
- (a) include in the statement sufficient information about the matters that the statement must specify, and**
 - (b) publish the statement in time,**
- to enable persons who will be of sixth form age when the statement has effect and their parents to take reasonable account of those matters when choosing between different establishments at which education or training is provided.**

Section 509AC : Interpretation of sections 509AA and 509AB

- (1) For the purposes of sections 509AA and 509AB a person receiving education or training at an establishment is of sixth form age if he is over compulsory school age but—
 - (a) is under the age of 19; or
 - (b) has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.
- (3) References in section 509AA to an establishment supported by the National Council for Education and Training for Wales are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 34(2) of the Learning and Skills Act 2000.
- (4) References in section 509AB to persons with learning difficulties are to be construed in accordance with section 15ZA(6) and (7).
- (5) In sections 509AA and 509AB and this section—
 - “academic year” means any period commencing with 1st August and ending with the next 31st July;
 - “disabled person” has the same meaning as in the Disability Discrimination Act 1995;
 - “establishment” means an establishment of any kind, including a school or institution;
 - “governing body”, in relation to an institution within the further education sector, has the same meaning as in the Further and Higher Education Act 1992.
- (6) The Secretary of State may by order amend the definition of “academic year” in subsection (5) in relation to its application in the case of Local Education Authorities in England.
- (7) The National Assembly for Wales may by order amend the definition of “academic year” in subsection (5) in relation to its application in the case of Local Education Authorities in Wales.

Section 509AD: LEAs in England: duty to have regard to religion or belief in exercise of travel functions

- (1) A local education authority in England must have regard, amongst other things, in exercising any of their travel functions in relation to or in connection with the travel of a person or persons to or from a school, institution or other place—
 - (a) to any wish of a parent of such a person for him to be provided with education or training at a particular school, institution or other place where that wish is based on the parent’s religion or belief; and

(b) in a case where the person in question (or any of the persons in question) is of sixth form age (within the meaning given in section 509AC(1)), to any wish of that person to be provided with education or training at a particular school, institution or other place where that wish is based on the person's religion or belief.

(2) The "travel functions" of a local education authority in England are their functions under any of the following provisions—

- section 508A (duty to promote sustainable modes of travel etc);
- section 508B (travel arrangements for eligible children);
- section 508C (travel arrangements etc for other children);
- section 508E and Schedule 35C (school travel schemes);
- section 508F (transport etc for certain adult learners);
- section 509AA (transport etc for persons of sixth form age).

(3) For the purposes of this section—

- (a) "religion" means any religion,
- (b) "belief" means any religious or philosophical belief,
- (c) a reference to religion includes a reference to lack of religion, and
- (d) a reference to belief includes a reference to lack of belief."

Section 509AE : Complaints about transport arrangements etc for persons of sixth form age in England

(1) A local education authority may revise a statement prepared under section 509AA to change the arrangements specified under subsection (2) or (3) of that section if, as a result of a sixth form transport complaint, they have come to consider the change necessary for the purpose of the arrangements specified under the subsection in question.

(2) A local education authority must revise a statement prepared under section 509AA to change the arrangements specified under subsection (2) or (3) of that section if, as a result of a sixth form transport complaint, the Secretary of State has directed them to do so.

(3) An authority that revise a statement under subsection (1) or (2) must publish the revised statement and a description of the revision as soon as practicable.

(4) The Secretary of State need not consider whether to exercise any power under sections 496 to 497A (powers to prevent unreasonable exercise of functions, etc), section 509AA(9) (power to require LEA to make additional transport arrangements), or subsection (2) of this section in response to a matter that is, or could have been, the subject of a sixth form transport complaint made to him or her unless satisfied that—

(a) the matter has been brought to the notice of the local education authority concerned, and

(b) the authority have had a reasonable opportunity to investigate the matter and respond.

(5) In this section “sixth form transport complaint” means a complaint that is—

(a) about a local education authority's exercise of, or failure to exercise, a function under sections 509AA to 509AD in relation to persons of sixth form age, and

(b) made by a person who is, or will be, a person of sixth form age when the matter complained of has effect, or by a parent of such a person,

and “sixth form age” is to be construed in accordance with section 509AC(1).

(6) For the purposes of sections 509AA(8) and (9), 509AB(1) to (5), 509AC and 509AD, the revision of a statement under this section is to be treated as the preparation of a statement under section 509AA.

(7) Where a local education authority have published in a single document a statement prepared under section 508G and a statement prepared under 509AA, the requirement to publish a revised statement under subsection (3) is to be treated as a requirement to publish a version of the document that includes the revised statement.