

# **School Travel Pathfinder Draft Prospectus and Guidance**

## **Overview**

1. This guidance to local authorities covers local authority duties and powers relating to the school travel schemes envisaged under clauses 65, 66, and 67. It is issued under clause 65 (4). In addition, it contains guidance on the matters that the Secretary of State will take into account in approving and amending school travel schemes as provided for in paragraph 13 of Schedule 35C to the Education Act 1996. The guidance also covers duties included in clauses 64 and 71 of the Bill which relate to all local authorities in England (Pathfinder, and non-Pathfinder).
2. Part 1 of this guidance provides a general background to the Pathfinder proposals, including information relating to parental preference, and the proposal to extend transport rights for pupils for low income groups.
3. Part 2 deals with the local authority duty to promote sustainable travel (clause 63).
4. Part 3 deals with general information about Pathfinders, including the number and duration of schemes, and scheme objectives.
5. Parts 4, 5 and 6 cover the travel arrangements to be included in Pathfinder schemes; travel arrangements for “eligible children”; and “qualifying schools”.
6. Part 7 deals with charging policies.
7. Part 8 covers issues relating to the quality and efficiency of school travel provision.
8. Part 9 offers guidance to local authorities on the duty for local authorities to have regard to a parent’s religion or belief when exercising their school travel functions.
9. Part 10 deals with the piloting of schemes.

## **Part 1 - Background**

10. The right of parents to express a preference for the school they would like their child to attend was introduced in the Education Act 1980. However, this did not extend local authorities' duties to support choice through transport arrangements, and the Courts have held that local authorities do not have a duty to provide free transport for pupils whose parents have chosen to send them to a school other than the nearest suitable one, even if it is beyond statutory walking distance.

11. Despite this lack of support, a majority of secondary aged pupils in England (55.3%) attend a school other than the nearest one to their home. In London, where public transport networks are better, 73.3% of secondary aged pupils attend a school other than their nearest one, with these pupils travelling an average of 1.94 miles compared to 0.45 miles for those attending their nearest school. In Metropolitan authorities, 56.2% attend a school other than their nearest, travelling on average 1.98 miles compared to 0.61 miles for their counterparts attending their nearest school. In Unitary authorities, the equivalent figures are 52.8%, 2.46 miles and 0.75 miles, whilst in County authorities 47% attend a school other than the nearest, travelling on average 3.71 miles compared with 1.19 miles for those going to their nearest school<sup>1</sup>.

12. Given the proportion of pupils attending a school other than their nearest one, and that, in the past, local authorities have had no duty to make transport arrangements to schools other than the nearest suitable one, it is not surprising that a DfES study found that nearly two thirds of pupils who travelled to school by bus or taxi had their fares paid by their family rather than by their local authority<sup>2</sup>. The average cost to parents who paid bus/taxi fares for their children was £7.29 per pupil per week. Some of these pupils will have been travelling by bus from within the statutory 'walking distance', whilst others will have been travelling more than 3 miles, but to a school other than their nearest suitable one. Furthermore, the study found that the cost of paying bus and taxi fares for the journey to school did not fall equally. Pupils from lower income families were more likely to have to pay for their bus travel than pupils from higher income families.

13. Choice of school is often hindered by concerns among parents about the cost and availability of transport, and there is a real inequity in how far children are able to travel to school. More affluent children travel on average nearly half a mile further than the poorest, with only around 10% of children entitled to free school meals travelling 3 or more miles to school compared to 18% of children not entitled to free school meals.

14. DfES research also suggests that transport arrangements can have a disproportionate impact on the reasons why parents choose a particular school for their children. For example, 41% of parents living in social housing

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<sup>1</sup> Figures taken from 2005 PLASC data. Includes all pupils up to age 15 attending maintained secondary schools (excluding Middle deemed secondary), CTCs and Academies. Distances are measured in a straight line.

<sup>2</sup> See *The Cost of Schooling*, RR588, Department for Education and Skills, November 2004

cite travel convenience as the most important reason for choosing a school, compared with only 33% of owner occupiers<sup>3</sup>.

### **Extended rights to school transport in all local authorities**

15. The Education and Inspections Bill includes provisions to extend rights to free home to school transport for low income groups of secondary school age (pupils entitled to free school meals, and those whose families are in receipt of their maximum level of working tax credit). Under these provisions, where a pupil is attending one of their three nearest qualifying schools, they will be entitled to free travel arrangements where the school they attend is between two and six miles away.

16. This is designed to remove transport as a barrier to effective choice for parents from low income groups, and relieve the financial burden on those families currently paying full fares on public transport.

17. The Bill also includes provisions to extend existing rights to transport for primary aged pupils from low income groups. Currently, primary aged pupils over age 8 only receive transport to their nearest school more than 3 miles from their home – pupils from low income families will now receive free transport to their nearest qualifying school where this is more than 2 miles from their home.

18. The extension of rights to free travel arrangements for low income groups is dealt with in greater detail in paragraphs 123 to 130 below.

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<sup>3</sup> *Parents' experiences of the process of choosing a secondary school*, RR278, Department for Education and Skills, June 2001

## **Part 2 - Sustainable home to school transport**

19. The *Travelling to School* action plan<sup>4</sup>, set out a series of measures for schools, local authorities and central government in England to take, intended to reduce car use on the school run. Since its launch in September 2003, we have put in place a network of regional and local authority based school travel advisors to help schools, local education and transport authorities to work together to promote walking and cycling for pupils wherever these are safe, realistic options for travelling to school.

20. School travel advisers have already helped around 10,000 schools survey their pupils, analyse their journeys to schools, and work with local authorities, bus providers, parents and the local community to prepare travel plans to tackle rising car use on the journey to school. Through the school travel advisers, by the end of the decade, we want every school to have an active travel plan, and local authorities already produce strategies that show what they will do to achieve this in their areas.

### **Duty to promote sustainable modes of travel**

21. The Education and Inspections Bill (clause 63) inserts a new section 508A in the Education Act 1996. This places a general duty on local authorities to promote the use of sustainable travel and transport.

22. The duty applies to **children** (i.e. of compulsory school age and below), and **young people of 6<sup>th</sup> form age** (see glossary for definition).

23. The duty applies to children, and young people of 6<sup>th</sup> form age **in general** (rather than to each individual child or young person), and applies:

- to those resident in the authority's area, and receiving education or training in the authority's area; and
- to those not resident in the authority's area, but who travel within the authority's area to receive education or training.

24. The duty relates to journeys to and from institutions at the start and end of the day (including attendance at pre- and after-school activities), and journeys between institutions during the day. Journeys may be to, from or between schools (including independent schools), further education institutions, and other institutions where education or training might be delivered. As such, the duty includes consideration of the travel implications of extended schools, and delivery of education and training at different institutions for the 14 to 19 age group.

25. There are four main elements to the duty:

- an assessment of the travel and transport needs of children, and young people;

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<sup>4</sup> *Travelling toSchool : an action plan and good practice guide*, Department for Education and Skills and Department for Transport, September 2003.

- an audit of the sustainable travel and transport infrastructure within the authority that may be used when travelling to and from, or between schools/institutions;
- a strategy to develop the sustainable travel and transport infrastructure within the authority so that the travel and transport needs of children and young people are better catered for; and
- the promotion of sustainable travel and transport modes on the journey to, from, and between schools and other institutions.

### **Assessing the travel and transport needs of children and young people**

26. In recent years, local authority based school travel advisers have helped many schools survey their pupils, recording both how they travel to school and how they would like to travel to school. To date, around 25% of schools have travel plans, and by March 2006 we expect 40% of schools to have developed travel plans, with all schools having developed a travel plan by the end of the decade.

27. Many further education institutions and colleges have also developed travel plans based on the travel needs and wants of young people and staff.

28. Local authorities should, in large part, base their assessment of children and young people's travel and transport needs on the data provided in school or college travel plans.

29. From January 2007, 'mode of travel to school' will be included in the annual School Census. All schools with a travel plan will be required to complete this question in their returns, which will provide local authorities with monitoring data on existing travel patterns to schools in their area.

30. Where data obtained from these means is not adequate to provide a reliable picture of the travel and transport needs of children and young people in an authority's area, the local authority should conduct a sample survey of children and young people to obtain the relevant data. Such data should include questions relating to both how pupils travel, and how they would like to travel to school/college.

31. From 2007, local authorities will already be collecting data on 'mode of travel to school', as this is a mandatory indicator in Local Transport Plans (LTPs). The Department for Transport (DfT) has issued guidance on data collection in this area, and local authorities must ensure that their requests for information from schools are coordinated and do not place any unnecessary burdens on schools.

### **Audit of infrastructure to support sustainable school travel**

32. The Education and Inspections Bill (section 508A (3)) defines sustainable travel as modes of travel that improve the physical well-being of those using that mode (which would include health benefits derived from

increased levels of physical activity), and/or the environmental well-being of all or part of their area (through, for example reduced levels of congestion and pollution). Sustainable modes of travel include walking, cycling, bus use (and other forms of public transport), as well as car-sharing where there is no practical alternative to the private car on the journey to school.

33. Local authorities are already expected to consider accessibility issues – including the accessibility of key public services such as education - as an integral part of their Local Transport Plan<sup>5</sup>. The overall assessment of accessibility should consist of a mapping audit, and a review of existing knowledge and experience. The audit will include a mapping exercise showing how schools are served by bus and other public transport routes (including school transport provided by the local authority), footpaths, cycle ways, roads and associated features (crossing points and patrols, traffic calming measures, speed limits, etc), as well as any arrangements made to support sustainable school transport. Such arrangements should include the provision of cycle training, road safety training, and independent travel training, as well as the provision of walking buses, car sharing schemes, park and stride/ride schemes that may be in operation.

34. As well as these 'geographical' and 'transport' components, the audit should contain data relating to personal safety and security, and other factors that influence travel choices, such as poor behaviour on school buses, the incidence of bullying on the journey to school, and so on. In conducting this wider audit, best practice suggests that local authorities should draw information and data included in the travel plans drawn up by schools in their area, which will highlight significant barriers to pupils travelling by sustainable means, including perceptions of pupils, parents, and schools – for example, traffic speed on roads near schools, lack of safe crossing points, unlit footpaths, lack of cycle routes, bus routes that fail to pass within a reasonable distance of schools, the lack of affordable public transport options, and so on.

35. The information drawn from these sources will help the local authority to gain a more detailed picture of what the problems are, and will inform the measures that might be taken to tackle them. The audit will also provide a valuable tool for choice advisers, who will support disadvantaged families in gaining access to schools that best meet the talents, needs and aspirations of their children.

36. Audits of sustainable school transport will help local authorities to identify remedial actions such as: provision of cycle training; provision of independent travel training; arranging escorts for walking buses; installation of cycle routes; installation of traffic calming measures, new road crossings, and consideration of 20mph speed limit zones around schools and on heavily used walking routes; and so on. As well as addressing parental concerns about traffic risk, such measures should help reduce child pedestrian casualties, and help achieve a shift from car to sustainable travel on the journey to school.

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<sup>5</sup> See *Guidance on Accessibility Planning in Local Transport Plans*, DfT, December 2004.

## **Strategy to develop infrastructure to support travel and transport needs of pupils**

37. Having assessed the needs of pupils, and conducted an audit of the sustainable transport infrastructure that supports travel to school, local authorities must develop a strategy for developing that infrastructure so that it better meets the needs of children and young people in their area.

38. The strategy should be a statement of the authority's overall vision, objectives and work programme for improving accessibility to schools. The accessibility strategy should build on, and be developed in the context of the authority's community strategies, and Local Transport Plan (LTP) - including its accessibility plan and bus strategy.

39. In developing its strategy, the local authority should consider how improvements can help to deliver other objectives, including environmental improvements (from reduced levels of congestion and pollution), and enhanced child safety and security.

40. The strategy should be evidence-based, including an assessment of the accessibility needs and problems of the local authority's area, and demonstrate how a range of interventions can address these problems. The strategy should set out the accessibility priorities over a timeframe that fits the LTP planning cycle.

41. Local authorities must monitor the implementation of their strategy and revise these as they feel necessary. Under the [DN insert name] Regulations 2006, local authorities must publish their school transport strategy each year as part of the admissions round, and at least six weeks before parents are required to make a decision about the school(s) they wish their children to attend. The strategy will be an important source of information to parents on the travel options available to them when expressing their preferences for particular schools in the admissions round.

## **Promoting sustainable travel and transport to and from school**

42. The Government recognises that a wide range of benefits can accrue from more children travelling to and from school by sustainable means. These include the health benefits gained from a more active lifestyle, and environmental benefits from reduced levels of congestion and pollution.

43. In addition, a recent evaluation of school travel plans conducted by the Department for Transport<sup>6</sup> identified a range of benefits ranging from increased road safety, to healthier and more alert and engaged pupils, to increasingly independent travel for pupils with special educational needs. A brief summary of some of the benefits revealed by the study are included in the chart below.

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<sup>6</sup> [www.dft.gov.uk/stellent/groups/dft\\_sustravel/documents/page/dft\\_sustravel\\_610594-01.hcsp](http://www.dft.gov.uk/stellent/groups/dft_sustravel/documents/page/dft_sustravel_610594-01.hcsp)

### Case Studies Showing the Wider Benefits of STPs

School Name	Local Authority	Wider Benefit
Moselle Upper School	London Borough of Haringey	SEN Independent travel; increased confidence; changes in educational attitudes.
The Wakeman School	Shropshire	Pupil involvement; health benefits of more active travel; opportunities for working with local community.
Sharnbrook Upper School & Community College	Bedfordshire	Pupil involvement; safety (on site and on buses); engaging bus operators.
Samuel Pepys School	Cambridgeshire	SEN Independent travel; improved health and fitness; increased awareness of road safety issues; improvements in pupil behaviour.
Chace Primary School	Coventry	Increased punctuality and better attendance, leading to improved exam results.
St Andrew's CE Primary School	Devon	Healthier pupils; engaging pupils in a deprived area.

44. It is important that local authority promotional strategies link in to the range of potential benefits highlighted by school travel plans, some of which are highlighted in the chart above.

45. The evaluation report also highlights several schemes which reward pupils and schools for promoting sustainable travel (for example Surrey County Council runs a highly successful “Golden Boot Challenge”, Nottingham City Council achieved significant increases in the proportion of children walking to school through its “Eggs on Legs” campaign, and Devon County Council has a successful “Wizard Ways to Get to School” programme).

46. Schemes that directly reward pupils for adopting sustainable forms of transport can make a valuable contribution to reducing car use. The Chief Medical Officers’ report *‘At least five a week’* contains a wealth of data to demonstrate the health benefits of walking and cycling to school. More recently the Centre for Transport Studies and UCL published *‘Making children’s lives more active’* which showed that walking to school accounts for more activity for children than 2 hours a week PE.

47. We would encourage more local authorities and schools to develop such schemes and work with local business to develop new schemes and source the rewards for those taking part in those schemes.

48. Each local authority in England already produces a local strategy for engaging schools and other key partners in the travel planning process. Each strategy includes how the authority intends to promote sustainable travel options on the journey to school. There are a number of examples of good

practice in this area, including Shropshire County Council (strategy available at: , Norfolk County Council (see: ), and Suffolk County Council (). In addition, Centro in the West Midlands have produced a strategy showing how public transport authorities can support schools in the travel planning process (available at: ) *[DN – web site addresses to be inserted]*

### **Publication of sustainable school travel strategy**

49. The Education (School Information) (England) Regulations 2002 require local authorities to publish the authority's general arrangements and policies in respect of transport for pupils of compulsory school age and below to and from schools and institutions within the further education sector including, in particular:

- (a) the provision of free transport;
- (b) the carriage on school buses of pupils for whom free transport is not provided; and
- (c) the payment in whole or in part of reasonable travelling expenses.

50. The Regulations also require each authority to publish its arrangements and policies in respect of transport for pupils with Special Educational Needs (of compulsory school age and below) to and from maintained and non-maintained special schools and independent schools.

51. In the Department's view, local authorities should integrate their sustainable school travel strategies into these policy statements, and publish them together.

52. Local authorities are not required to publish certain types of information if that information is also published in the composite prospectus (regulation 7(5)). Many local authorities, as a matter of good practice, therefore publish their school travel policies in the composite prospectus. If they decide to publish this information elsewhere, the composite prospectus should include information as to where and by what means parents may access sources of information relating to school travel and transport policies.

### **Part 3 - School travel pathfinders**

#### **Background**

53. Under current school transport legislation, local authorities focus on the transport needs of a small minority of pupils – fewer than one in ten pupils. There is no requirement for local authorities to consider the needs of pupils attending schools other than their nearest one – whatever the distance from their home.

54. For a number of years there has been growing criticism of the fact that school transport arrangements do not take account of parental preference, especially for the least well off. Among others, the Audit Commission's 2001 Report "Going Places" suggests that higher income households are more likely to be able to bear the costs of sending children to schools other than the 'nearest suitable' school. Wealthier families might move home to secure a place for their children in a preferred school. Alternatively they might drive their children to school – adding to pressures on the environment. These options may not be available for lower income groups, or might cause severe financial difficulty if they are, raising issues of equity and fairness.

55. Many people have also highlighted the problems faced by pupils who live just inside the statutory walking distances – say between one and three miles from school. It may be too far or impractical to walk to school – particularly for primary age children or older children carrying heavy bags. The walking route may be unsafe for unaccompanied children. In many places there are no bus services, or no services that are tailored to the needs of children and young people, leaving parents and pupils with no realistic alternative to the family car. Any local strategy for reducing car use on the school run must cater for pupils who cannot realistically walk to school, but for whom there is no bus service available.

56. We expect local authorities applying for Pathfinder status to consider the needs of **all** pupils in their area – including pupils travelling to schools of parental preference and those living inside the statutory walking distance. They must produce local travel schemes which the Secretary of State will approve, underpinned by a comprehensive and coherent strategy which identifies and meets the travel needs of all pupils. This will include pupils who walk and cycle to school, as well as those who catch the bus, or travel by car.

57. Successful applicants will have built strong relationships with transport authorities who will work with local children's service departments and schools on all aspects of sustainable school travel. They will also have a sound strategy for working with bus operators to secure appropriate provision of commercial and subsidised bus services serving school pupils and other users of publicly funded transport provision. This will allow them to show that public spend on bus services produces gains for all users. Each school travel Pathfinder will be tailored to address local needs and priorities. Schemes will focus on measures that meet the needs of local authorities in a range of circumstances. For any proposals put forward by London Boroughs, it will be

essential that school travel schemes are consistent with the Borough's Local Implementation Plan.

58. This document explains the approach we expect local authorities to adopt in drawing up school travel schemes, and explains how the approval process will work.

### **Number and duration of schemes**

59. We will initially approve up to 20 Pathfinder schemes in England, but if demand is high, we can expand the number of schemes by changing our secondary legislation. Schemes may be proposed for the administrative area of a single authority, or else two or more local authorities may collaborate to run a joint scheme.

60. Where local authorities collaborate, each must have a separate application independently approved by the Secretary of State. Approved applications will form a contract between the local authority and the DfES, and as schemes may be amended, or revoked, it is essential that each authority has an approved scheme even where it is operating collaboratively.

61. We hope that as many schemes as possible will submit applications for approval in 2007, and anticipate that most would start in September 2009, running until the end of July 2012 or a later agreed date. However, we may continue to approve good schemes applications during 2008 and beyond as the DfES, and local authorities learn from the experience of the first few pilots, and we will keep the number of pilots under review if the schemes are successful.

62. We are seeking a balanced mix of schemes embracing rural and urban areas and focusing on a range of local priorities. We recognise that there are substantial differences within and between different rural and urban areas and will seek schemes offering different approaches that are sensitive to the needs of individual scheme areas.

63. DfES will evaluate the schemes each year, making the results available on relevant websites, and to other interested local authorities to encourage more applications for local travel schemes. We will also keep the evaluation data under review and consider whether further steps need to be taken to facilitate successful pilot projects. In addition, the Secretary of State will commission an independent evaluation of the schemes for publication before 1 January 2012.

64. Following the evaluation, the Secretary of State may by order provide for the Pathfinder scheme provision to cease to have effect. The order must specify when it takes effect (no earlier than 1 August 2012, and no later than 1 August 2015. If the provisions are not repealed in this manner, the Pathfinder approach may be made available more widely, to any local authority that proposes and has a scheme proposal approved by the Secretary of State.

65. Following the piloting phase, if the Secretary of State decides not to proceed with the Pathfinder approach more widely, scheme authorities will be able to terminate their schemes over a period of time by mutual agreement. If a scheme authority decides to revoke its own scheme, following consultation as set out in paragraphs 77-79 below, it can do so on a timescale that causes least disruption locally.

### **Objectives of Pathfinder schemes**

66. The main purpose of school travel has always been, and will continue to be, to enable pupils to attend school. Most pupils, particularly of primary age, walk to school and we want travel schemes to ensure that wherever possible the modal share of walking and cycling increases, because of the health, social, and environmental benefits.

67. Since September 2003, all local authorities have produced strategies showing how they will draw on the full range of local resources to support sustainable travel to school, and we expect scheme applicants to build on these strategies in putting together their scheme proposals. It is important that scheme proposals set out what is being done to boost walking and cycling, perhaps working with primary care trusts, as well as improvements to bus provision. Schemes must demonstrate that there is a comprehensive, workable strategy to improve health and the environment, rather than simply expanding bus use.

68. Pathfinder authorities will have to continue to make arrangements for “eligible children” (see Part 5 of this guidance). However, we want scheme areas to go well beyond this minimum, and use the new legislation to support arrangements that support parental preference, and offer a range of good quality, cost effective alternatives to the family car on the home to school journey. Schemes do not have to enhance bus travel: they could focus in whole or in part on increasing cycling, car sharing or walking.

69. Pathfinder schemes will have a number of compulsory, and a number of optional features. The Secretary of State will only approve individual Pathfinder schemes that address each of the following points:

- transport arrangements that support parental preference;
- transport arrangements for pupils living 2-3 miles from school; and
- reducing levels of car use on the home to school journey.

70. In addition, Pathfinders may wish to address one or more of a range of optional features, including:

- transport arrangements that support pupils receiving education at more than one institution as part of the delivery of the 14-19 strategy, and/or attending breakfast clubs, or after school activities under extended schools arrangements:

- pupils travelling to schools preferred on religious or philosophical grounds;
- pupils travelling along routes that parents consider unsafe;
- pupils participating in extracurricular activities, on or off school premises.

71. They might also trial:

- innovative purchasing arrangements, particularly in collaboration with other forms of publicly funded transport provision;
- modern technology in route planning, fare collection and scheme management;
- closer links with post-16 transport policies leading to more consistent provision for older pupils;
- wider use of staggered school opening hours, introduced through collaboration with schools;
- new approaches to transport safety issues;
- transport solutions tailored to rural schools and their communities, including, for example, yellow bus schemes.

72. This list is not exhaustive, and we recognise that there could be compelling local circumstances which suggest that a local authority should adopt different priorities: we will take a flexible approach provided applicants provide a reasoned explanation of how schemes meet local needs.

### **Extended school day**

73. Extended schools provide services and activities to children, young people, their families and their local communities during the school day, before and after school hours, at weekends and during school holidays. These services might include health and social services, childcare, adult and lifelong learning, sports and arts facilities, breakfast and after school clubs including homework clubs, parenting support and opening up facilities for community use.

74. It is important that school travel and transport is planned so that all children and young people can take advantage of, and benefit from, extended services offered by schools outside standard school hours, as we know that they can generate a range of positive outcomes. By 2006, all local authorities will receive extended schools funding, and local authorities and schools will decide how best to use it to enable them to provide extended services on school sites. This could include using some of the funding to organise transport to support children and young people attending extended services in schools. It is essential that school transport is integrated in the local planning of children's services and local authorities will want to consider how school

transport can support extended schools that are working in clusters to provide a wide range of services to communities. Pilot applications should set out how extended school provision is included in pilot proposals.

### **Assessing the travel and transport needs of pupils**

75. In 'Making the Connexions', published in February 2003, the Social Exclusion Unit encouraged local authorities to undertake 'accessibility planning'. This is the process of identifying where people live, and where they need to travel to, and using public subsidies to support services which take people where they want to travel as quickly and cheaply as possible.

76. Some local authorities are beginning to use modern technology to assess pupils' travel patterns. In Somerset, for example, the local authority uses data from the annual School Census to identify pupils' home to school travel patterns, allowing them to design more appropriate bus services and/or interventions which minimise short car journeys. Local authorities that have the capacity to plan transport provision strategically, on the basis of a careful analysis of pupils' needs, are likely to have the most persuasive proposals and the most carefully thought out monitoring and evaluation strategies. Recent research published by DfT has confirmed that high quality communication and information provision is an effective tool in changing travel behaviour: applicants should set out what they have done to date to exploit the 'soft factors' that affect travel decisions.

### **Local consultation**

77. Local travel schemes should be designed to meet local needs and aspirations. Before making a formal application, the local authority must consult widely: school governors, including governors of all special schools where pupils in the authority are placed; teacher association representatives at local level; parents and prospective parents; school's councils; pupils; the schools forum; the admissions forum; bodies representing any denominations with schools in the area; transport operators; FE institutions; groups representing parents with children with SEN and/ or disabilities; organisations with an interest in pupil safety such as BUSK and Brake; local councillors; and any other partners with a material interest in school travel schemes, for example, Transport for London in the London area, or Passenger Transport Executives (PTEs) where they exist. It is essential that parents and pupils, schools and further education colleges, are committed to local travel schemes and able to provide practical help in scheme design and in communicating scheme strategies to pupils and parents. In order to ensure school travel schemes make sense within the wider local education context, it would be helpful if they were discussed as part of Education Development Plan reviews.

78. Local Transport Plans, bus policies and post-16 policy statements should all support school pupils and provide straightforward and fair pricing and ticketing strategies, as well as a network that takes pupils to school by direct, economic routes. Applications should set out details of the consultation process that has taken place, together with the main findings, and action that

has been taken to address concerns. We expect authorities to conduct a public consultation which will give interested parties a minimum of 28 days during the school term to respond. Every reasonable effort should be made to inform the stakeholders listed in paragraph 77 of proposed changes. The results of consultation with each of the groups listed above must be published and included in scheme applications, with the views of parents who currently have transport provided given separately from other parents.

79. Local authorities should carry out a similar consultation before submitting proposals for material changes to the Secretary of State. Any significant changes would probably take place at the end of the academic year. Although, as stated earlier, revocation does not require the consent of the Secretary of State, scheme authorities must carry out a similar level of consultation before they decide to revoke a scheme. They should then give at least one term's notice to schools, pupils and parents before terminating schemes, to ensure alternative arrangements can be made. Apart from in exceptional circumstances, revocation of schemes should only take place after the end of the school year.

#### **Part 4 - Travel arrangements to be included in Pathfinder schemes**

80. Clause 65 of the Education and Inspection Bill inserts a new section 508E into the Education Act 1996, which in turn inserts “Schedule 35C – School Travel Schemes” into the Act.

81. Schedule 35C requires a scheme authority to set out (in general terms) what arrangements it considers appropriate to be made in connection with children’s attendance at school, a further education institution, or any other place (by virtue of arrangements made under section 19(1) of the 1996 Education Act).

82. Travel arrangements may be made by the local authority itself, or by any other body or person (such as a local transport body, or a school).

83. Example of other bodies, or persons making travel arrangements might include, for example: a parent consenting to use of their car in return for a mileage allowance; a school, or group of schools reaching an agreement with a local authority to provide transport in minibuses owned by the school; or a transport authority providing passes for all children on public transport.

84. Where a Pathfinder scheme proposal includes travel arrangements made by another body, or another person (i.e. other than the local authority), if those arrangements are not made, or not put into effect, then the local authority must make suitable alternative arrangements.

85. Schedule 35C lists some of the travel and transport arrangements that may be made. These may include: arrangements for the provision of transport, for example, provision of a seat on a bus or minibus provided by the local authority, or provision of a seat in a taxi where more individualised arrangements are necessary; arrangements for the payment of the whole or part of a person’s reasonable travelling expenses; and arrangements for the payment of certain allowances.

86. On condition that the relevant parental consent has been obtained by the local authority, a number of allowances and other arrangements might be considered to meet the local authority duty relating to travel arrangements. Examples include:

- a mileage allowance paid to a parent driving their “eligible” child to school in lieu of the local authority making arrangements for a taxi to transport the child;
- a cycling allowance paid by the local authority where the parent agreed for their “eligible” child to cycle to and from school instead of catching a bus for, say a three mile journey; and
- local authority provision of an escort to enable an “eligible” child with SEN to walk a short distance to school in reasonable safety, instead of making arrangements for a taxi to take them to and from school.

87. As stated, such arrangements require the relevant parental consent. These should be obtained by the local authority each year, or whenever a child moves school, whichever is the shorter period.

88. In certain circumstances, provision of an escort might fulfil the duty to make travel arrangements in full, or in part. For example where a child was unable to walk in reasonable safety, provision of an escort might enable them to do so, meaning that it was not necessary for the local authority to provide a taxi, or a seat on a bus. Alternatively, in the case of a child who was unable to travel independently on a public service bus, provision of an escort to enable them to do so might be a more appropriate arrangement than provision of a taxi.

### **Suitability of arrangements**

89. For a local authority to meet the requirements of this duty, travel arrangements must be “suitable”. The suitability of arrangements will depend on a number of factors. In the Secretary of State’s opinion, for local authorities to consider travel arrangements to be suitable, they should enable an eligible child to reach school without such stress, strain, or difficulty that they would be prevented from benefiting from the education provided. For arrangements to be ‘suitable’, they must also allow the child to travel in reasonable safety, and in reasonable comfort.

90. In the Secretary of State’s opinion, arrangements could not be considered to be suitable where, for example, an eligible child were expected to make several changes of public service bus to get to a relevant school, which resulted in an unreasonably long journey time.

91. What may be considered a reasonable journey time will depend on a number of factors, including the age and any individual needs of the child. For example, best practice suggests that the maximum length of journey for a child of primary school age might be considered to be 45 minutes; whilst a child of secondary school age might be expected to travel up to 75 minutes each way. Similarly, a child’s special educational needs and/or disability might be such that it implies a shorter maximum journey time.

92. Whilst the duty to make travel arrangements does not necessarily imply a door to door service, arrangements that anticipated a child being expected to walk an unreasonably long distance to catch a public service bus, or a bus journey that ended an unreasonably long distance from the relevant school would not be considered suitable by the Secretary of State. Again, the maximum distances will depend on a range of circumstances, including the age of the child, their individual needs, and the nature of the routes they are expected to walk to the pick up or set down points.

### **Pre employment checks and training for drivers and escorts**

93. For arrangements to be ‘suitable’, case law requires that they must be reasonably safe and stress free. In this regard, local authorities must ensure that the authority’s employees or employees of contractors whose duties on

behalf of the local authority involve a high degree of contact with children or vulnerable adults (involving regular caring for, supervising, training or being in sole charge of such people) are subject to enhanced Criminal Records Bureau checks.

94. The Safeguarding Children and Vulnerable Groups Bill currently before Parliament requires enhanced level pre-employment checks for any posits that involve regular caring for, supervising, training or being in sole charge of such people. In the context of school travel, this would include any drivers, escorts, 'walking bus' supervisors, cycle trainers, road safety trainers, and all other personnel who may be in sole charge of children on the journey to and from school must have undergone adequate pre-employment checks on their suitability for this role. These checks should be reviewed periodically, and as an absolute minimum, every three years.

95. We are aware of concerns that transport for some pupils with SEN and/or disabilities has been provided by drivers and escorts who have not had enhanced CRB checks completed. Local authorities must ensure that all drivers and escorts working with pupils with SEN and/or disabilities have been CRB checked.

96. CRB checks are built in to the licensing process for taxi and private hire vehicle (licensed mini-cab) drivers. Enhanced disclosures are required for these drivers when they apply for a license and each time they renew it. This applies in all parts of the country (except for some mini-cab drivers in London who currently hold temporary permits, but will be required to have full licenses with enhanced CRB checks by the end of 2006). Renewal of these licenses is required at least every three years.

97. All local authorities should ensure that all drivers and escorts taking pupils to and from school and related services have undertaken disability equality training. It is also good practice for those responsible for planning and managing school transport to have disability equality training. This training should consist of:

- an awareness of different types of disability including hidden disabilities;
- an awareness of what constitutes discrimination;
- training in the necessary skills to recognise, support and manage pupils with different types of disabilities, including hidden disabilities and certain behaviour that may be associated with such disabilities;
- training in the skills necessary to communicate appropriately with pupils with all types of different disabilities, including the hidden disabilities; and
- training in the implementation of health care protocols to cover emergency procedures.

## **Bus safety considerations**

98. Buses and coaches used to take pupils to and from school are public service vehicles and, as such, are subject to specific legislation on safety standards. The legislation is enforced by an initial inspection and certification of the vehicle and thereafter they are subjected to an annual check. Vehicles can also be subject to random roadside checks by the enforcement agencies in the same way as any other vehicles operated on the public highway. Vehicles that fail these tests are taken out of circulation and operators that use sub-standard vehicles may lose their operators licence.

99. Seat belts must be fitted in all coaches and mini-buses carrying groups of children on organised trips. However, much home to school transport is organised on service buses designed for urban use. These tend to travel relatively slowly over short distances with frequent stops. For practical reasons, these are not required to be fitted with seat belts. The engineering and design of many of them makes it technically difficult for them to be fitted with adequate seat belts retrospectively. However, the Department for Transport is in the process of implementing an EU Directive that will require all seated occupants in buses and coaches to use seat belts where they are fitted.

100. Schools or local authorities making arrangements for home to school transport are free to specify within their contracts that they will only accept vehicles fitted with seatbelts. Research suggests that this is one of the features of travel by bus that is highly valued by parents<sup>7</sup>.

101. The Public Service Vehicles (Carrying Capacity) Regulations 1984 allow the option of carrying three children under the age of 14 to occupy a bench seat designed for two adults on a service bus. The possibility of using the "three for two" allowance is diminishing as older buses with bench seats are replaced with modern buses with bucket-style seats on which the practice is not allowed. "Three for two" is an allowance not a requirement, and a recent survey of local authorities in England suggests that only a very small number of authorities make use of this concession in planning home to school transport. In the opinion of the Secretary of State, local authorities making arrangements for home to school travel should not routinely make use of the concession. Routine use of the concession strengthens perceptions of overcrowding and there is anecdotal evidence that it can have an adverse impact on pupil behaviour.

## **Poor behaviour on school buses**

102. The consequences of poor behaviour on school buses can be wide ranging. Other passengers may be deterred from using public transport shared with poorly behaved school pupils; in extreme cases, serious injury and even death may result from an accident caused by such behaviour.

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<sup>7</sup> See SDG report into Yellow buses.

103. The Department expects each school to promote appropriate standards of behaviour by pupils on their journey to and from school through rewarding positive behaviour and using sanctions to address poor behaviour. Guidance for schools on behaviour on school transport is contained within Key Stage 3 Behaviour and Attendance materials. Schools recognise that positive behaviour on the journey can help enhance the school's reputation, and that it also supports good behaviour within the school.

104. We expect schools to work with the police, bus operators and the local community to promote positive behaviour, and our guidance to schools makes it clear that persistent poor behaviour on the journey to and from school can be grounds for exclusion.

105. There are a number of means open to local authorities, and bus operators to address pupil behaviour on school buses. A number of pilots have shown that measures such as driver training, arrangements that ensure routes are driven by the same driver each day, and CCTV can lead to improvements in behaviour on school buses. Furthermore, where LEAs consider that escorts might be necessary to ensure safety of pupils on buses, they can stipulate the provision of escorts in their tender documents. The *Travelling to School* action plan<sup>8</sup> cites the work done by Essex County Council, which found that a behaviour liaison officer and escorts, together with driver training, reduced vandalism and poor behaviour on school buses.

106. The Department is aware of a number of local authorities that have adopted a policy of withdrawing transport, either for a temporary period, or permanently for more serious or persistent cases of misbehaviour. The intention is for such sanctions to be a deterrent and it would be hoped that that they would only rarely need to be invoked. However, it is important to signal to pupils and parents that behaviour which endangers other pupils – or indeed the driver and other passengers – will not be tolerated.

107. In the Department's view, a local authority that placed a transport ban (either temporary or permanent) on a particular child would not be implying that travel arrangements were not necessary and should not be provided, it would be saying travel arrangements were necessary and had been made, but that the child's behaviour was such that they can not take advantage of it.

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<sup>8</sup> *Travelling to School: an action plan*, DfES, September 2003

## **Part 5 – Travel arrangements for “eligible children”**

108. The new **Schedule 35B** to the Education Act 1996 defines ‘eligible children’ - those categories of children in an authority’s area for whom travel arrangements will always be required. A condition of each category is that they are of compulsory school age.

### **Children unable to walk to school by reason of their SEN, disability, or temporary medical condition**

109. Some children with SEN, a disability, a temporary medical condition, or any combination of these may, by reason of their SEN, disability, or medical condition, be unable to walk even relatively short distances to school.

110. Where such children attend their nearest qualifying school (or any other place where he/she is receiving education or training), and the school is within statutory walking distance, they will be “eligible children”. This means that local authorities must make suitable travel arrangements for children with SEN, a disability, or medical condition if their SEN, disability, or temporary medical condition means that they could not reasonably be expected to walk to the school (or other place where they might be receiving education or training by under section 19(1) of the Act).

111. This category of “eligible child” is protected from any changes that a Pathfinder authority may levy for the provision of school travel arrangements.

### **Children unable to walk in safety to school because of the nature of the route**

112. Paragraphs 4 and 5 of Schedule 35B deal with children who can not reasonably be expected to walk to school because of the nature of the routes to school which the children could reasonably be expected to take. Where children live within ‘statutory walking distance’ of their nearest qualifying school (or other place where education or training is provided under section 19(1)), local authorities may, in certain circumstances, be under a duty to make travel arrangements. These include where the nature of the route is such that a child can not reasonably be expected to walk (accompanied as necessary) in reasonable safety.

113. In assessing the comparative safety of a route, a local authority should conduct an assessment of the risks a child might encounter along the prescribed route (including, for example, canals, rivers, ditches, speed of traffic along roads, overhanging trees or branches that might obscure fields of vision for the pedestrian or motorist, etc.). In conducting the risk assessment, local authorities should take a range of factors into consideration, including:

- the age of the child;
- whether any potential risks might be mitigated if the child were accompanied by an adult;

- whether it is reasonably practicable for the parent/carer to accompany the child;
- the width of any roads travelled along and the existence of pavements;
- the volume and speed of traffic travelling along any roads;
- the existence or otherwise of street lighting; and
- 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.

114. In conducting their risk assessments, local authorities should use data on recorded accidents along potential routes. However, a lack of such accidents should not be taken as conclusive evidence that a route is safe. It may well be that a route is potentially so dangerous that no reasonable person would walk along the route, or allow their children to do so – resulting in such a low level of pedestrian use that there were very few or no recorded accidents.

115. Local authorities should note that from December 2006, the Disability Discrimination Act 2005, places a duty on the public sector to promote equality of opportunity for disabled people and to eliminate discrimination. This duty is anticipatory, meaning that public authorities will have to review all their policies, practices, procedures and services to make sure they do not discriminate against disabled people and ensure that all their services are planned with disabled people's needs fully considered in advance.

116. In the Department's view, this means that local authorities will be under a duty to amend their home to school transport policy if, for example, that policy relied on disabled parents accompanying their children along a walking route for it to be considered safe, and where the parents' disability prevented them from doing so. In such circumstances, a reasonable adjustment would be for the local authority to provide free home to school transport for the children of disabled parents.

117. This category of "eligible child" is protected from any changes that a Pathfinder authority may levy for the provision of school travel arrangements.

### **Children living outside statutory walking distance**

118. Paragraphs 6 and 7 of Schedule 35B define a further category of 'eligible child' – namely those children of compulsory school age attending their nearest qualifying school (or places other than a school at which they might receive education under section 19(1) of the 1996 Act), and living beyond statutory walking distance of the school.

119. Statutory walking distance is two miles for children aged under eight, and three miles for children aged eight and over.

120. Assuming that no arrangements have been made for enabling the child to become a registered pupil at a school nearer to his/her home, and that no

arrangements have been made by the local authority for boarding accommodation at or near the school (or other place), the local authority must ensure that suitable travel arrangements are made for the child.

121. Where a pupil is registered at a school, but is attending a place other than a school following an exclusion, the duty to make travel arrangements will apply to the other place rather than the school where they are registered.

122. Section 444 of the 1996 Act outlines the situations in which a parent may have a defence in law against a prosecution by a local authority for their child's non-attendance at school. New section 444(3B) provides a parent with a defence if he or she proves that:

- the qualifying school at which the child is a registered pupil is not within statutory walking distance;
- no suitable arrangements have been made by the local authority for boarding accommodation at or near to the school;
- no suitable arrangements have been made by the local authority for enabling the child to become a registered pupil at a qualifying school nearer to his/her home; and
- the local authority has a duty to make travel arrangements in relation to the child under 508B and has failed to discharge that duty.

### **Children entitled to free school meals, or whose parents are in receipt of their maximum level of Working Tax Credit**

123. Paragraphs 9 to 12 of Schedule 35B deal with additional entitlements to free school travel arrangements for children from low income groups.

124. Paragraph 13 of Schedule 35B defines children from low income groups as those who are entitled to free school meals, or those whose families are entitled to their maximum level of Working Tax Credit.

125. Children of compulsory school age, but under the age of eight are entitled to free travel arrangements to their nearest qualifying school more than two miles from their home. In addition, children aged eight, but under age 11 from low income families must have travel arrangements made where they live more than 2 miles from their nearest qualifying school.

126. This 2 mile limit should be measured in the same way as the "statutory walking distance", i.e. along the 'nearest available route'.

127. Those children aged 11 to 16 from low income families must have travel arrangements made to one of their three nearest qualifying schools (or places other than a school at which they might receive education under section 19(1) of the 1996 Act), where they live more than 2 miles, but less than 6 miles from that school.

128. Where a child is attending secondary school in a year 7 group in advance of their chronological age (i.e. they are, for example, still aged 10), for the purposes of school travel, they should be treated as if they had attained the age of 11. Assuming the other relevant conditions were met, they should be treated as being entitled to free travel arrangements to one of their three nearest qualifying schools.

129. The 2 mile limit should be measured in the same way as the “statutory walking distance”, i.e. along the ‘nearest available route’. However, the 6 mile upper limit is not a ‘walking route’, and should not therefore include any routes or parts of routes which would not be passable using a suitable motorised vehicle. In short, the upper limit should be measured along road routes.

130. This category of “eligible child” is also protected from any charges that a Pathfinder authority may levy for the provision of school travel arrangements.

## **Part 6 – Qualifying schools**

### **Meaning of “qualifying school”**

131. Subsection (10) of section 508B defines “relevant educational establishment” in relation to “eligible children”. The “relevant educational establishments” are either “qualifying schools” which are listed at paragraph 14 of Schedule 35B or places other than schools where a child is receiving education by virtue of arrangements made under section 19(1) of the Education Act 1996.

132. Subsection (11) allows for Regulations to be made to clarify the entitlement for eligible children, a small number of whom may be registered at more than one educational establishment, for example, children of no fixed abode might be registered at more than one school, and other children may be registered at a hospital school and another school, etc.

133. “Qualifying schools” are:

- 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.

134. In addition, in relation to a child with SEN, an independent school (other than a CTC, CCTA, or Academy) will be a “qualifying school” if it is the only school named in the child’s statement, or it is the nearest of two or more schools named in the statement.

### **Suitability of ‘qualifying school’**

135. References to “the nearest qualifying school” are to be taken to mean the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitudes of the child, and any special educational needs that the child may have.

136. The nearest qualifying school for a child with special educational needs may well be different than for other children.

### **Additional travel arrangements**

137. In addition to the arrangements for “eligible children” that Pathfinder authorities must make, the scheme objectives (above) make it clear that we want these authorities to pilot travel arrangements to a choice of schools for

all children in their authority. Pathfinder authority proposals must make it clear the extent to which their arrangements will support choice, and what limits they propose to operate.

138. We also want Pathfinder authorities to test appropriate alternatives to the existing statutory walking distance. Again, proposals should make it clear what distances they propose for different age groups.

## **Part 7 – Charging policy**

139. Scheme applications must set out local charging policies, making it clear how many pupils will be charged, and the level of any proposed charges. The Secretary of State will not approve any schemes that fail to include detailed proposals in local consultations. It is vital that any charges are affordable and pitched at a level that does not produce an increase in car journeys to school. Moreover, authorities should ensure they have cost effective methods of fare collection to avoid unnecessary administrative expenditure. Testing different methods of collecting charges is an important feature of pilots and we expect applications to describe their proposals when they apply.

140. Pathfinder authorities must not charge any “protected child”. Those groups of children protected from charges are:

- children of compulsory school age with a special educational need, and/or a disability, and/or a temporary medical condition, for whom travel arrangements are made because they can not reasonably be expected to walk to school by reason of their SEN, disability or temporary medical condition;
- children of compulsory school age for whom travel arrangements are made because the nature of the route is such that they can not be expected to walk that route in reasonable safety;
- children from low income groups for whom travel arrangements are made.

141. In addition, the Secretary of State will not approve any proposals from potential Pathfinder authorities that include introducing charges for any pupils who are currently in receipt of free home to school transport. The effect of this is that Pathfinder authorities may only introduce charges as pupils start attending a school (for example when first starting school, when starting a new phase of education, or when moving from one school to another). Any charging regime will therefore be phased in over time.

142. Although the legislation prevents scheme authorities charging in respect of children from low income families, we are concerned that charges could be particularly burdensome for working families on low incomes above the threshold for protection from charges, for large working families, and possibly for those that have to travel long distances to school in rural areas. There is a strong case for providing protection from charges to the fourth or subsequent child of compulsory school age in a household (nationally around 2% of the pupil population), and for graduated charges for those families in receipt of less than their maximum level of Working Tax Credit, and for the third sibling of compulsory school age. We expect scheme local authorities to explain how they propose to manage a charging regime cost effectively, taking into account the needs of low income and large families. Local authorities should also explain why they are confident that charging will not increase car use.

143. Pathfinder authorities must detail the level of charging they propose. We do not anticipate that charges will exceed £1 per day, and it is essential that any proposals to charge more than this amount are supported with persuasive data from the detailed consultations carried out by the authority.

144. Charges may have a differential geographic impact within scheme areas. Some areas may be net losers of public funding, with others gaining overall. Authorities' proposals should provide transparent information about any imbalances between areas generating and absorbing charges.

145. The legislation also protects children with SEN and/or a disability and/or a temporary medical condition from any charges in excess those charged to other children without SEN and/or a disability and/or temporary medical condition.

146. This means that no authority may make any charges additional to those that apply to children of the same age living in the same area who attend their neighbourhood school, if special arrangements have to be made to accommodate a child's disability or SEN. Special transport arrangements cover:

- transport provided as a result of a child's SEN and/or disability, where a pupil cannot avail themselves of transport provided for all pupils; and
- transport that has to be provided in order to support education meeting a pupil's SEN, which cannot be accommodated through transport available to other pupils living in the area. This would cover both specialised transport to local schools attended by pupils with SEN and specialised or non-specialised transport to schools further away than those attended by pupils resident in the area.

## **Part 8 – Quality and efficiency**

### **Integration with other forms of public transport**

147. School transport is provided in many different ways. Pupils may travel on public buses with a mix of other passengers, or on public buses that cater predominantly for schoolchildren. LAs or schools may provide dedicated school buses, and a small number of authorities have found ways to integrate social services and/or health service transport with school transport.

148. We estimate that over £2 billion is spent by central and local government, and the health service, on supporting school, non-emergency health, social service and public transport each year. Yet there is often very little integration, with local authorities and others citing barriers such as vehicle design, service schedules, and custom and practice. We hope that some schemes will explore the scope for closer integration, providing a better service not only for children, but for adults who depend on public transport to access employment, healthcare, day care and leisure activities. This approach may be particularly relevant for rural areas where there is less public transport available.

### **Competitive tendering for bus services**

149. Where a school bus carries any fare-paying passengers over a distance not more than 15 miles, it falls within the definition of "local service" and the competitive tendering requirements of sections 89 to 92 of the Transport Act 1985. Regulations under section 91 of the Act<sup>9</sup> enable most local authorities to spend up to 25% of their annual expenditure on bus subsidy on contracts which have not been subject to tender, known as "de minimis" contracts. Within the 25% figure there is no limit on the expenditure in any one year that may be incurred on an individual de minimis contract or the amount of de minimis contract expenditure in any year with any single operator. However, for authorities with annual expenditure of below £600,000 the 25% figure does not apply and the de minimis limit is set at £30,000 per contract per year. Further details of the de minimis rules can be found on the Department for Transport web site at: [www.dft.gov.uk/stellent/groups/dft\\_localtrans/documents/page/dft\\_localtrans\\_028602.hcsp](http://www.dft.gov.uk/stellent/groups/dft_localtrans/documents/page/dft_localtrans_028602.hcsp). It should be noted that the Regulations do not over-ride the requirements of European rules on the advertising of procurement contracts which are above a certain size (currently £153,000).

150. We believe that the de minimis provisions will be adequate in the majority of cases. However, if exceptionally a local authority proposes an arrangement for a Pathfinder scheme which, in its view, would only be feasible through negotiation with a single operator, we would be willing to consider making a case to the Department for Transport for the regulations to be suitably adapted for this purpose.

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<sup>9</sup> The Service Subsidy Agreements (Tendering) (England) Regulations 2002 (SI 2002 No. 2090) as amended by SI 2004 No. 609.

## **Cost effective provision**

151. In February 2004 DfES and ConfEd published a joint survey of the cost of school transport in England. It showed sharp differences between local authorities in overtly similar circumstances, reflecting differing local practices, particularly the availability of concessionary fares. It also showed that authorities with a well developed system of staggered school start times (thereby allowing the same bus to serve two or three rather than just one school) had cost effective provision.

152. In the USA and Canada schools collaborate closely over start and finish times, allowing them to run their distinctive 'yellow bus' networks cost effectively. We do not envisage that the North American approach – which can lead some pupils to start school very early in the morning – is appropriate in England. However, we think that some authorities could explore with their schools whether there is scope for shifting start and finish times by 10 or 15 minutes. Some authorities have found that these small differences enable buses to make more than one journey, reducing costs and opening up buses to many more pupils. We expect scheme authorities to investigate thoroughly the costs and benefits of multiple journeys with their schools, bearing in mind the pressures on parents who may have to take children to two or more different schools before going to work, as well as on school staff (who may be parents themselves).

## **Good quality, safe transport**

153. We sometimes receive complaints from parents about the quality of school transport, and from bus operators about the behaviour of children which may intimidate drivers, cause criminal damage, and compromise safety. We do not accept that poor behaviour is inevitable. Neither do we accept that it is uneconomic or undesirable to invest in school buses. We think that parents, schools, local authorities and bus operators can – together – do a lot more to set high expectations for pupil behaviour, and tackle poor pupil behaviour consistently and effectively both through technology such as CCTV and through safety and driver training.

154. We know that poor behaviour on school buses is sometimes simply a continuation of poor behaviour at school. For this reason, it is essential that strategies for securing good behaviour on school buses are developed in the context of local level discussions about how to improve behaviour outside the school gates more generally. We expect scheme authorities to set out their strategy for securing consistently good behaviour on school buses, including their track record of working with schools and bus operators.

155. Scheme applications should explain what local authorities are doing to ensure that good quality, well maintained vehicles, appropriate for school use, are used for school transport. We expect that steps will be taken to improve quality throughout the life of the scheme. Parents and pupils should be treated as customers, and their views sought and taken into account in designing and developing school services.

156. Parents are often concerned about the safety of their child's journey to school, whether they are walking, cycling, or taking the bus. They may be concerned about traffic danger, petty crime and bullying, or more serious violent assaults. Parents may be worried about the safety of buses, which they may consider overcrowded or insufficiently monitored by adults. Parents frequently voice concerns about 'three for two' seating and local authorities must confirm that this is not a feature of their proposed scheme arrangements. We expect scheme authorities to outline their approach to safety for all pupils on the home to school journey, as this is a key area for school travel plans. We expect schemes to include measures that will improve safety, particularly in reducing overcrowding and increasing seatbelt use. We particularly welcome proposals that can demonstrate significant safety improvements.

### **Special Educational Needs (SEN) and Disabilities**

157. Scheme applicants should describe how their proposals cater for pupils with SEN (with and without statements of SEN), disabled pupils and pupils with medical conditions. Our presumption is that wherever possible pupils with SEN and/ or disabilities will share transport with their peers, but that where this is not possible local authorities will make every effort to identify ways to combine journeys and, if possible, share vehicles and schedules with social services or health service transport.

158. We are aware of concerns that transport for some pupils with SEN has been provided by drivers and escorts who have not had enhanced CRB checks completed. This is not in accordance with DfES best practice guidance <http://www.teachernet.gov.uk/docbank/index.cfm?id=2172>. Although the Protection of Children and Vulnerable Groups Bill will provide additional protection, Pathfinder scheme applicants must provide confirmation that all drivers and escorts working with pupils with SEN have been CRB checked. It is essential that all local authorities applying to run a school travel scheme are able to demonstrate that all drivers and escorts taking pupils to and from school and related services have undertaken disability equality training. It is also good practice for those responsible for planning and managing school transport to have disability equality training. This training should consist of:

- an awareness of different types of disability including hidden disabilities;
- an awareness of what constitutes discrimination;
- training in the necessary skills to recognise, support and manage pupils with different types of disabilities, including hidden disabilities and certain behaviour that may be associated with such disabilities;
- training in the skills necessary to communicate appropriately with pupils with all types of different disabilities, including the hidden disabilities; and

- training in the implementation of health care protocols to cover emergency procedures.

## **Part 9 - 'Religion or belief'**

159. Clause 71 of the Education and Inspections Bill places a duty on local authorities in fulfilling their duties, and exercising their powers relating to travel to have regard to, amongst other things, any wish of a parent for their child to be provided with education or training at a particular school or institution on grounds of the parent's religion or belief.

160. The definition of 'religion or belief' follows that of the Equality Act 2006. Under this Act, 'religion' means any religion, and 'belief' means any belief. References to 'religion or belief' include references to a lack of religion or belief. It therefore follows that this duty covers all religions and denominations, as well as philosophical beliefs.

161. This guidance deals with the implications of this duty in relation to the duty to promote sustainable travel, and the duties and powers relating to the provision of travel arrangements to schools and other places.

### **'Religion or belief' and the duty to promote sustainable travel**

162. The duty to promote sustainable travel includes assessments of the travel needs of children and young people, and of the infrastructure supporting those needs. Travel needs include travel to and from school, further education institutions, and other places where education or training might be delivered, and travel between schools, and between schools and other educational institutions (including further education institutions and all other places where education or training may be delivered).

163. In fulfilling this duty, local authorities must consider the travel needs of pupils whose parents express a wish, based on religion or belief, for their children to attend a particular institution, and how the existing sustainable travel infrastructure might support travel to such schools and institutions. They must also consider how the infrastructure might be improved so it better meets the needs of children and young people, and how to promote sustainable travel on such journeys.

### **'Religion or belief' and the provision of school travel arrangements**

164. Many parents will choose to send their children to a school as near as possible to their home. However, some parents choose to send their children to a school with a particular ethos because they adhere to a particular faith, or philosophy. In many cases these schools may be more distant, and many local authorities will adopt home to school travel policies that facilitate attendance at such schools.

165. Whilst under the European Convention on Human Rights (ECHR), parents do not enjoy any right to have their children educated at a faith or a secular school, or to have transport arrangements made by their local

authority to and from any such school, the Secretary of State hopes that local authorities will continue to think it right not to disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools.

166. The Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical convictions, and believes that wherever possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express.

167. Although the provisions of the Equality Act 2006 (which places a duty on local authorities not to discriminate against a person on the grounds of their religion or belief), do not apply to the exercise of an authority's functions in relation to transport<sup>10</sup>, local authorities will need to be aware of their obligations under human rights legislation.

168. In exercising their functions, local authorities will therefore need to respect parents' religious and philosophical convictions as to the education to be provided for their children<sup>11</sup> in so far as this is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure. It may be incompatible, for example, on grounds of excessive journey length, or where the journey may have a detrimental impact on the child's education. Local authorities should also ensure that they do not discriminate contrary to Article 14 ECHR. For example, where transport arrangements are made for pupils travelling to denominational schools to facilitate parents' wishes for their child to attend on religious grounds, travel arrangements should also be made for pupils travelling to non-denominational schools, where attendance at those schools enables the children to be educated in accordance with their parents' philosophical convictions, and vice versa.

169. Where local authorities make arrangements for such children under a scheme, and have policies of levying charges for such transport, the Secretary of State believes that local authorities should pay careful attention to the potential impact of any charges on low income families whose parents adhere to a particular faith or philosophy, and who have expressed a preference for a particular school as a result of their religious or their philosophical beliefs. In the Secretary of State's opinion, where local authorities make travel arrangements for such children, these should be provided free of charge in the case of pupils from low income families (pupils entitled to free school meals or whose parents are entitled to their maximum level of Working Tax Credit).

170. Local authorities should give careful consideration to discrimination issues, and seek legal opinion if they are unsure about the effect of their policies, before publishing them each year.

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<sup>10</sup> s 51(2)(b) Equality Act 2006

<sup>11</sup> Article 2 of the First Protocol

171. LEAs and their legal advisors will be aware that Article 14 of the European Convention on Human Rights, and other non discrimination provisions, provide that school travel schemes may not operate in such a way as to discriminate against pupils or parents in the enjoyment of the following rights: (a) a child's right to education and (b) a parent's right to have their child educated in accordance with their own religious or philosophical convictions, unless such discrimination can be objectively and reasonably justified.

172. The Secretary of State will not approve school travel schemes which they consider to be incompatible with the Convention. Local authorities are therefore urged to give careful consideration to discrimination issues, and to seek legal opinion if they are unsure about the effect of their proposals, before submitting their schemes for approval.

173. Finally, it is essential that local authorities provide a thorough analysis of the impact of charging on different groups of pupils, particularly the groups outlined above, to clarify the net impact of any scheme on different segments of the pupil population. The Secretary of State will not approve scheme applications that fail to do this.

## **Part 10 – Piloting schemes**

### **Capacity**

174. Applicants should set out their track record in improving sustainable school travel in recent years. A track record of productive collaboration between local education departments and local transport services is essential. There should be realistic plans for acquiring expertise, particularly where new technology is trialled. It is essential that Pathfinder authorities are able to show that the costs of revenue collection are proportionate and realistic. It is also essential that applicants are able to show that they have a strong team with the right skills mix to tackle the cultural challenges that piloting will bring.

### **Application and approval process**

175. We hope to be in a position to seek expressions of interest by the spring of 2007 and would encourage local authorities seeking exploratory discussions to contact us as soon as possible. Formal applications should be set out in accordance with the attached annex, and submitted by no later than 30 November 2007 for schemes with planned start dates of September 2009. The Secretary of State can approve up to 20 local authorities to run schemes in England. If schemes are successful, the programme may be expanded to meet demand before the initial pilot phase ends.

176. In deciding which schemes to approve, we will consider the overall balance, so that in each country schemes cover a range of geographic and socio-economic circumstances; local partnerships; pupil age ranges and circumstances; scheme objectives and funding arrangements.

### **Freedom of information**

177. DfES adheres to the UK Government's Code of Practice on Access to Government Information, commonly known as Open Government. The National Assembly also has a Code of Practice on Public Access to Information. LEAs running schemes must be willing to provide information – including financial information – about their schemes, which will be published as part of the evaluation.

### **Funding**

178. The Department will provide additional funding building over time to a maximum of £12 million per annum to support the extension of travel arrangements to a choice of schools.

179. Local authorities are expected to fund schemes from resources already committed to funding school transport, together with any charges levied on pupils, and any approved additional revenue funding provided by DfES. Existing funds must continue to support school travel, with budgets uprated each year in line with comparable local authorities. All fare income must be invested in improved services.

180. Depending on the number of pupils covered by a scheme, 'pump-priming' money of up to £200,000 will be provided to the initial tranche of Pathfinder authorities with approved schemes.

### **Transition arrangements**

181. As previously stated, parents must express their school preferences in full knowledge of the transport arrangements that will be in place, and changes should not be made to existing transport arrangements for pupils whose circumstances remain unchanged. Charges can only be introduced in a phased manner, as pupils change school. We will not approve any proposals that introduce charges for transport provision that had previously been received free of charge.

182. Scheme proposals should set out the strategy that LAs will use to publicise new arrangements, and demonstrate that they have the support of governing bodies and headteachers who will probably be the first point of contact for parents uncertain, worried or confused about new arrangements. Scheme proposals must set out with care how they will introduce new arrangements.

### **Evaluation and monitoring**

183. Our primary concern will be to achieve a good spread of schemes. However, in evaluating individual schemes, as well as the criteria set out in this prospectus, DfES will also consider: the applicant's capability of running a scheme; the quality of partnerships and local support for plans; the extent to which the local authority is successful in identifying additional funding to support schemes; its plans for managing the scheme; the quality of the proposed services; and value for money.

184. Local authorities with approved schemes will be required to produce an annual report for DfES, which contains statistics on home to school travel, analysing the effect that schemes have had in reducing car use on the school run. It should contain an account of what has gone well and badly, and the views of key partners. It must also contain financial annexes, detailing the economics of schemes.

185. We expect pilot authorities to put in place reliable systems for monitoring travel to school patterns so that we can make a thorough assessment of the overall impact of the school travel scheme on all modes of pupil travel by category (*Walk, Cycle, Bus, Car/van, Car share, Rail, Other*). They must also assess the impact of their schemes on vulnerable groups (low income families, specific ethnic groups, pupils with SEN and disabilities). One option could be to use data on school management systems where it is already collected.

186. DfES will commission an independent evaluation of Pathfinder authorities which will draw together an analysis of each scheme, and provide evidence for the decision about whether or not to roll out the school travel scheme approach. Pathfinder authorities must agree to cooperate fully with

the independent evaluation, so that it provides the greatest benefits possible to all local authorities.

## Glossary

187. The Bill and this guidance contain a number of words and phrases that require definition. These are as follows:

- **‘child/children’** – in this guidance, ‘child’ or ‘children’ refers to those of compulsory school age or below. A child becomes of compulsory school age when he or she reaches the age of five and must start school in the term following his or her fifth birthday. Compulsory school age ceases on the last Friday in June in the school year in which the child reaches the age of 16.
- **‘young person of 6<sup>th</sup> form age’** - is someone above compulsory school age but under the age of 19, or who has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.
- **‘mode of travel/modal share** – ‘mode’ refers to the different means of travel, for example, on foot, by bicycle, car, bus, train, and so on. ‘Modal share’ refers to the proportion of children travelling by each mode.
- **‘sustainable travel modes’** – are modes of travel that the local authority considers may improve the physical well-being of those who use them, the environmental well-being of all or part of the local authority’s area, or a combination of the two. For example, walking and cycling might be likely to improve the health of those travelling on foot or by bicycle, as well as bringing environmental benefits from reduced levels of localised congestion and pollution where those walking or cycling had transferred from using cars. Similarly, bus use or car sharing might be considered to bring environmental benefits in comparison to individuals travelling by car.
- **‘walking distance’** – is defined in section 444(5) of the Education Act 1996 as either two miles (if the child is under 8 years old), or three miles (if the child is 8 years old or older). This is measured by the “nearest available route” (s.444(5)). The route is not necessarily the shortest distance by road. It is measured by the shortest route along which a child, accompanied as necessary, may walk with reasonable safety.
- **‘available route’** – a route will be “available” if it is a route along which a child, accompanied as necessary, can walk with reasonable safety to school. A route will be “available” even if the child would need to be accompanied along it by his or her parent or carer, as long as such accompaniment is reasonably practicable.
- **‘religion or belief’** – the Equality Act 2006 defines what is meant by "religion or belief" for the purposes of this Act. Section 44(a) defines "religion" as "any religion", a broad definition in line with the freedom of religion guaranteed by Article 9 of the European Convention on Human

Rights (ECHR). It 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 religion or religious belief, such as Catholics or Protestants within Christianity. The main limitation on what constitutes a "religion" for the purposes of Article 9 of the ECHR is that it must have a clear structure and belief system. Section 44(b) defines "belief" as "any religious or philosophical belief", and Section 44(c) and (d) state that "lack of religion" and "lack of belief" are also covered by the phrase "religion or belief".