

SEN factsheet

School transport 0-16 years and compulsory school age

Local authorities are required to provide free transport to eligible children who are of compulsory school age. Local authorities are also expected to use some discretion to provide free transport when it is reasonable to do so.

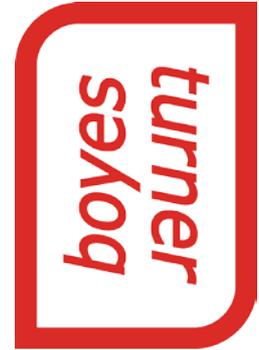
The following factsheet is addressed to parents of children and young people with special educational needs but is intended as guidance for anyone involved, including the young person themselves. “Young people” is a phrase which the Children and Families Act 2014 has introduced which means a person between 16 – 25 years of age. Between these ages the young person’s wishes will take priority as long as they have mental capacity.

Compulsory school age

Children are of compulsory school age from the beginning of the term after they turn five years until the last Friday in June of the academic year when they turn 16. The terms are those beginning in September, January and April. This means that children may have a school place, but are not required to actually attend school for a number of months.

Examples:

- Sam is born on 1 September 2014. He will be of compulsory school age at the beginning of the academic year in September 2019. He will cease to be of compulsory school age on the last Friday in June in 2031.
- Helen is born on 1 December 2014. She will be of compulsory school age at the beginning of term in January 2020. She will cease to be of compulsory school age on the last Friday in June in 2031.
- Joan is born on 3 March 2015. She will be of compulsory school age at the beginning of term in April 2020. She will cease to be of compulsory school age on the last Friday in June in 2031.



- John is born on 6 May 2015. He will be of compulsory school age at the beginning of term in September 2020. He will cease to be of compulsory school age on the last Friday in June in 2031.

Note: Local authorities must accept children into primary school in the September following the child's fourth birthday but parents can ask that their child does not start school until reaching compulsory school age. Parents can also ask that their child attend part-time until compulsory school age. In John's case his parents may choose to apply for admission in September 2020 into Reception or Year 1. This is true for all children born from 1 April until 31 August of each year.

Powers and duties

Transport provisions come in both powers and duties so it is important to understand the difference. A local authority power is something that it can decide to use. If a local authority has a power to do something then it must operate a policy about when and how it will decide to use the power.

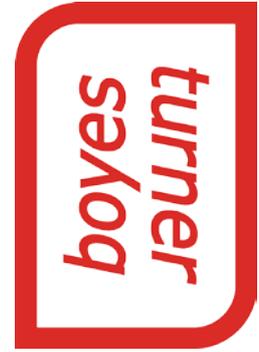
A duty is an obligation upon a local authority. Duties are defined by the law and, typically, statutory guidance is issued explaining to local authorities how they must comply with the duty.

Pre-school children (0-5)

Local authorities have a power to arrange transport for pre-school children.

Local authorities can provide transport if they are sure that without the transport the child would be unable to access the education placement. If a local authority decides to make this provision available, it is entitled to ask parents to make a contribution towards the costs, or pay for the transport entirely.

Local authorities must promote equality of opportunities between disabled people and non-disabled people. A local authority must be very careful when refusing to make free transport available for children aged 0-5 who are disabled as such a decision may have the effect of failing to comply with this duty.



Children of compulsory school age

A local authority is required to provide free travel arrangements that they consider “suitable” for “eligible children”.

The meaning of “suitable” transport has been considered by the courts. The conclusions have been that the transport cannot be stressful, must accommodate their disabilities and special educational needs (SEN) and enable the child to benefit from the education once they arrive at school.

“Eligible child” has many meanings:

- Any child who has disabilities and/or SEN, attends their nearest suitable school but the child cannot walk to that school because of their needs
- Any child who goes to their nearest suitable school and the school is over the statutory walking distance.
- Any child who goes to their nearest suitable school and the route to the school is not reasonably safe for the child to walk.

The statutory walking distance is two miles for pupils under eight years and three miles for pupils over eight years.

If a child is not an “eligible child” the local authority should still make transport arrangements available that it considers appropriate to ensure school attendance. This power does not extend to the local authority providing free transport. There must be a policy in place explaining what support the local authority will make available for children who are not “eligible”.

Transport for children with SEN

If a child is “eligible” they will receive free school transport. If not, the local authority must consider whether their SEN make transport necessary. The local offer must explain how a local authority will assess your child’s needs and determine what support they require with transport.

If a child is supported with either a Statement of SEN or Education, Health and Care Plan (EHCP), that document should name their school or educational institution. If the local authority considers that your preferred school is not the nearest suitable school it may ask parents to pay some, or all, of the transport costs.

Transport should be recorded in the Statement or EHCP only in exceptional cases where the child or young person has particular transport needs.



Transport costs may be provided as part of a "Personal Budget" where one is agreed and included in the EHCP as part of the special educational provision.

Equality Act

The Equality Act puts a number of obligations on local authorities in the way they provide their services. Relevant for transport are reasonable adjustments and indirect discrimination.

The duty to make reasonable adjustments means that a local authority must make adjustments for a disabled person if, without those adjustments, the disabled person will be disadvantaged as compared to a person without a disability.

Indirect discrimination would occur if the local authority operates a policy, criteria or practice which is applied to everyone but has the indirect impact of causing a detriment to a disabled person as compared to a non-disabled person.

If you have any questions or require advice, please contact the Special Educational Needs team on **0118 467 6547** or senexpertsolicitors@boyesturner.com.

This factsheet is provided free of charge for information purposes only, it does not constitute legal advice and should not be relied on as such. No responsibility for the accuracy and/or correctness of the information and commentary set out in the factsheet, or for any consequences of relying on it, is assumed or accepted by Boyes Turner LLP or any subsidiary, member, officer, employee, consultant or other agent of Boyes Turner LLP.