

IMPROVEMENT AND SCRUTINY COMMITTEE

EDUCATION PANEL

30 June 2004

REVIEW OF HOME TO SCHOOL TRANSPORT

1. Executive Summary

1.1 Background and Scope of the Review

Journeys to and from school account for a significant proportion of the traffic on the roads during peak school travel times. Parents have increasing concerns over road safety and the personal safety of their children and a lack of public transport mean that cars are increasingly used on the school journey. This in turn causes air pollution, poor health and traffic congestion.

LEAs have a duty in some circumstances to provide transport to and from school for entitled children. Greater parental choice and the move towards more diverse educational opportunities means that there is greater pressure than ever on home to school transport services. In Derbyshire the budget in 2002/2003 on home to school transport was over £9.5m.

The law relating to home to school transport is enshrined in the Education Acts of 1944, 1996 and 2002. The legislation is generally accepted to be out of date and in need of review, particularly the provisions relating to the distances young children are expected to travel to school.

This review concentrates on examining the home to school transport policy in Derbyshire and its application. If adopted, the recommendations will lead to genuine service improvements in the way in which home to school transport is administered. There is also potentially an opportunity for monetary savings to be identified by more strictly controlling and defining the policy on transport provision. Savings in officer time will also accrue as a result of the recommendations.

Finally, the recommendations will ensure that those applying for home to school transport will be subject to an application process which is fairer, quicker, more transparent and less stressful than the previous system.

1.2 Conclusions and Recommendations

1.2.1 The National Context

There is a general view that the law on home to school transport is inflexible, outdated and unworkable in modern society. Parents have concerns regarding the safety of their children both in terms of road safety and personal safety. They opt therefore, in many cases to take their children to school by car. This in turn causes traffic congestion, air pollution and poor health, both in children and adults. The Government has recently announced plans aimed at tackling these issues which will see some LEAs pilot alternative policies over a three-year period. The review supports the need for the legislation to be reviewed.

Recommendation 1

- (a) the review broadly supports the proposals for change likely to be included in the draft bill and also set out in the Department for Education and Skills and Department for Transport report “Travelling to School: An Action Plan”
- (b) the Improvement and Scrutiny Committee should, in consultation with the Cabinet Member for Education and the Chief Education Officer, take the lead in developing new County Council policies on home to school transport that arise out of any changes to legislation on home to school transport following the pilot studies to be undertaken by some LEAs.

1.2.2 The Local Context

The review has looked at the home to school transport policy in Derbyshire and how it relates to the Council’s overall aims and objectives. No clear link was found between the policy as it stands and the aims and objectives of the Council, although in general terms the review accepts that the policy will increase access to education. It is considered that the current policy lacks clarity and has largely evolved over time as a result of Appeals Panel decisions. The review concludes that the policy should be revised to make it clearer and more transparent and that the policy should be accompanied by guidance notes. The policy and the way in which it is applied should also be the subject of far greater control and monitoring.

The working group overseeing the review received examples of where the policy was considered not to be working and was in need of revision. The review also makes recommendations regarding the policy on:-

- The issue of parents accompanying their children on the school journey
- Conditions attached to the provision of transport
- Information on home to school transport provided to parents
- Concessions

Recommendation 2

The Chief Education Officer should;

- (a) urgently revise the home to school transport policy with a view to making the policy more flexible, consistent and transparent
- (b) again, as a matter of urgency, produce guidelines to support the implementation of the revised policy
- (c) ensure that children who currently receive free or assisted transport under the previous policy continue to do so while they are attending their current school up to the relevant age
- (d) explore the possibility of extending the remit of the officer to be employed to review the post 16 policy, to review the LEAs home to school transport policy as a whole
- (e) the working group overseeing the Improvement and Scrutiny review should be fully involved in the development of the new policy
- (f) following the revision of the policy, clear and more detailed information to parents on the home to school transport policy should be produced
- (g) investigate the Dangerous Routes Policy to allow if possible, for routes to be deemed suitable for children to walk to school unaccompanied
- (h) ensure that applications for transport appeals should be by application form only
- (i) introduce standard conditions on home to school transport provision along with robust monitoring and implementation procedures
- (j) introduce monitoring of expenditure on statutory and discretionary home to school transport provision
- (k) ensure that where possible, income from spare places on school transport be maximised

1.2.3 The Decision-making process

The review has found that for the majority of the large number of pupils who are eligible to receive transport, over 10,500 in 2001/2002, the LEA administer applications effectively and efficiently for the most part. The working group overseeing the review has serious concerns however, regarding the decision-making process on home to school transport in Derbyshire in terms of discretionary provision which fall outside of current policy and which are currently decided on through the Appeals Panel.

The current processes for dealing with cases which fall outside of policy was found to be slow, inflexible, inconsistent and in many cases unnecessary. Appeals Panels have effectively become the mechanism through which the LEA gains Member approval for decisions falling outside of policy. This is evidenced by the significant increase in the number of appeals in recent years and the fact that over 81% of appeals are allowed. In addition a “tabling” arrangement at Appeals Panels has developed which decides on cases where the appellant is not present. All tabled appeals are allowed.

The review also has concerns that the evidence presented to Appeals Panels is in some cases insufficient for the Panel to defend a decision to refuse transport. Panels are often forced to allow transport provision owing to the lack of evidence or supporting argument being presented to the contrary by the LEA. Area Education Officers are unnecessarily engaged in producing paperwork/evidence for those appeals that they expect to lose. If these decisions were taken without the need for an appeal, Area Education Officers would have more time to properly prepare to defend cases the LEA should be defending.

Recommendation 3

- (a) The Chief Education Officer, in line with the revised policy and guidance notes, should ensure that Area Education Officers are given the necessary authority to determine the majority of applications for home to school transport
- (b) The Cabinet Member for Education should decide on those minimal number of cases where a Member decision on transport provision is required
- (c) The Appeals Panel should continue to hear home to school transport appeals
- (d) The Appeals Panel should, in all cases, be provided with sufficient information by both parties to enable an informed decision to be taken based on evidence presented

1.2.4 Financial Implications of the review

The review has concerns that expenditure on home to school transport has risen in recent years and unless action is taken, these increases will be perpetuated. Expenditure in 2002/2003 was over £9.5m, the majority of this expenditure being on statutory provision.

There is no doubt that the LEA could achieve significant savings if transport provision was made purely on a statutory basis. However, the review supports the view that the LEA should continue to have a discretionary policy but it should be more defined and strictly controlled.

It is difficult to estimate potential savings that could accrue to the LEA if the policy was revised as details of expenditure on the different elements of discretionary provision are not known. Discretionary expenditure allowed through the appeals process in 2001/2002 was £205,000, which over a five-year period equates to over £937,000. There would also be efficiency savings in terms of officer time in preparing for and organising appeals.

By reducing the number of decisions going to appeal, especially those which are “tabled” or unopposed by Area Education Officers and approved, the stress caused to parents during this process will be reduced. The public perception of the LEA will be enhanced by effective and streamlined decision-making processes.

Some of the potential savings may be offset by the fact that decisions on home to school transport would if the recommendations are accepted, be taken more speedily, therefore incurring expenditure from an earlier date. Again the impact of this is difficult to determine.

1.2.5 Implementing the recommendations

The working group which has overseen the review, consider that it is important that they should be closely involved in the implementation of the reports recommendations. The report considers that the implementation of the recommendations should be considered as a matter of urgency.

Recommendation 4

If the recommendations are approved by Cabinet, the working group overseeing the review work with the Chief Education Officer in developing proposals for a revised policy and decision-making process and that these be considered by the Improvement and Scrutiny Committee prior to being referred to Cabinet for approval.

1.2.6 The Next Stage

The report will be referred to the Cabinet for consideration. It is recommended that:-

- (1) the Chair of the Improvement and Scrutiny Committee presents the report to the Cabinet.
- (2) following consideration of this report and subject to the Cabinet agreeing to the recommendations, it is suggested that the Improvement and Scrutiny Committee receives a report at a date to be determined, to outline progress made.

2.0 Introduction

2.1 Background

Journeys to and from school account for around 18% of traffic on the roads during peak times. Parents are increasingly concerned at the dangers surrounding the journey to school and do not let their children walk to school. The pressures of modern day life where both parents may well work and where time is often at a premium, is also likely to increase the number of car journeys and reduce the numbers of children walking to school.

A vicious cycle is therefore created. Parents worried about the dangers of road safety and also the personal safety of their children, coupled with, particularly in rural areas, a lack of public transport alternatives, use the car for the school journey. This in turn increases the congestion on roads, causes air and noise pollution and has an adverse effect on the health and physical fitness of both parents and children.

In certain circumstances, local education authorities (LEAs) have a duty to provide free transport for entitled children and young people, including those with special educational needs, to school or college. Demand for free school transport has increased significantly in recent years. In 2001/2002 the number of pupils in receipt of transport provision in Derbyshire was 10,580. Transport is a major factor in children attending school. In some cases, if the LEA did not provide transport, children may not attend school.

The law relating to school transport for children was originally set out in the Education Act 1944, although subsequent legislation in the Education Act 1996 has amended these provisions. This legislation is considered by many to be outdated and in need of review. Its provisions in terms of age and distance requirements for pupils to travel to school have for some time been felt to be unrealistic in modern society, particularly given the concerns of parents regarding safety on the school journey.

The Education Act 2002 requires authorities to co-ordinate post 16 transport arrangements through post 16 transport partnerships. The introduction of specialist secondary schools to increase curriculum choice, the provision of curriculum subjects at more than one educational base and also other associated changes to the 14 – 19 curriculum has added to

the problems being faced by LEAs with regard to home to school/college transport.

Home to school transport policies should have regard to all the above issues and will need to be complimentary to wider policies and plans of the LEA and County Council relating to education, transport and sustainability. The Government has recently issued a consultation paper "Travelling to School: An Action Plan". The paper sets out proposals relating to all aspects of school travel and aims to reduce congestion and consequently car journeys. One element is to consider whether to change current home to school transport legislation to allow local authorities greater flexibility in the way in which they provide assistance. Several authorities will be used to undertake pilot studies on the possible alternatives.

2.2 Scope and terms of Reference of the Review

The Education Improvement and Scrutiny Panel at its meeting held on 30 April 2003, considered the scoping report of the review of the Derbyshire Local Education Authority's home to school transport policy. The review will examine the present position in Derbyshire with regard to the LEAs policy on home to school transport, the decision-making process and how it is administered across the County.

To oversee the review, a working group comprising Councillors D Allen, G Mills and Mrs J A Twigg was established. The working group heard evidence directly from:-

Jill Beacham – Area Education Officer
Lin Routley - Area Education Officer
Anne Birch – Senior Education Officer – Social Inclusion
Andrew Prince – Assistant Education Officer
Kay Riley – Senior Solicitor - County Secretary's Division
Ivan Walters – Democratic Services Officer
Ian Wickham – Area Manager – Environmental Services Department
Ian Watts – Senior Transport Officer – Environmental Services Department
Tim Stephenson – Senior Transport Officer – Environmental Services Department
Donald Rae – Assistant Director of Education – Lifelong Learning
Councillor Alan Charles – Cabinet Member for Education
Councillor Lionel Cannon – Regulatory Committee, Education
Councillor Ray Caswell - Transport Appeals Panel Member

2.3 The Law on Home To School Transport

Under the Education Act 1944, LEAs are required to provide home to school transport to the nearest or normal area school for pupils aged eight and under who live more than two miles from the school, and for pupils aged over eight and up to the age of sixteen living more than three miles from the school by the nearest available walking route.

The legal duty to provide transport to enable children to attend school is enshrined in Section 509 of the Education Act 1996. Whilst it is an offence for a parent to fail to make sure that a child attends school regularly, the parent has a defence if the school is not within walking distance of the child's home and, if the LEA has made no arrangements for the pupil's transport to and from school.

The law also gives LEAs discretion to provide free school transport for pupils if the school attended is nearer than the statutory distances specified above. Guidance in this respect is available which amongst other provisions, stipulates that LEAs should have regard the age of the pupil, the nature of a particular route or alternative route and also the child's health.

In respect of post 16 education, the Education Act 2002 requires LEAs to prepare, for each academic year, a transport policy statement for persons over compulsory school age. The aim is to promote increased collaboration between the LEA and partner organisations such as the Learning Skills Councils and educational institutions.

The general duty to provide transport under Section 509 of the 1996 Act also applies in cases where pupils are subject to a statement of special educational needs. LEAs also have a power to provide transport for students over the age of 16 who at statutory school leaving age, have a statement.

3.0 Home To School Transport Policy in Derbyshire

3.1.1 School Aged Children

A copy of the County Council's policy on home to school transport is attached at Appendix 1 to the report. The policy is in line with the minimum provisions of the Education Act 1996 regarding distances children can be expected to walk to school.

The County Council also provides discretionary home to school transport over and above the statutory minimum. This discretionary provision includes:-

- Exceptions to statutory distances on the grounds of dangerous routes to schools
- Attending a school of parental choice which is beyond the 2 or 3 mile limit but is closer to home than the normal area school
- Change of address during exam years 10 and 11 to enable courses to be completed
- Transport to church aided schools

The policy allows for appeals against applications which are refused on the following grounds:-

- Calculation of distance
- Dangerous routes
- Religious grounds
- Special considerations

3.1.2 Special Educational Needs

A copy of the LEAs Special Educational Needs Policy is attached at Appendix 2 to the report. The general duties to consider free or assisted transport provision for children with special educational needs are the same as for those children who do not have statements. Where the child's disability prevents them from walking to school, assistance will be provided. Some children with special educational needs will be educated at special schools which most meet their needs. These schools may not be the nearest local school and transport may therefore be provided on the grounds of distance. The special educational needs of children do not automatically mean that transport assistance is required or provided.

3.1.3 Post 16 Provision

Discretionary provision is made for pupils over the age of sixteen continuing in school and also those attending colleges up to the age of 25. In the mid 1990's colleges were making their own arrangements for post 16 transport and the LEAs provision had reduced to the statutory minimum. Following disquiet at a national level regarding the lack of co-ordination of post 16 transport, the Education Act 2002 placed a legal duty on LEAs to produce a Post 16 Transport Plan. The Plan came in to effect in Derbyshire in April 2003.

Expenditure by colleges and the LEA under the new arrangements is expected to be the same as that for the previous provision. The Government has provided the Partnership with £270k to provide additional transport for 16-18 old learners in schools and colleges.

Over the years prior to the introduction of the Plan, post 16 provision across the County had become fragmented with different colleges operating different arrangements. For example:-

- Chesterfield College – does not charge students who live outside a 3 mile area from the College
- South Derbyshire College – charges students for transport but has no 3 mile rule
- Derby College – does not charge students but only provides transport to the college

The LEA, through the Partnership, is currently working towards introducing standard arrangements across the County, including Derby City and hopefully this will be in place from September 2004. Efforts are on-going to co-ordinate services to secure the most effective and efficient transport provision and to avoid duplication. The emphasis has changed to transport being aimed at the curriculum and learning rather than cost.

Part of the £270k is being allocated to produce information on facilities, routes and timetables both in written form and also by developing a website. The LEA also proposes to use some of the additional funds to create a post to review the policy on post 16 transport provision.

The Post 16 Transport Plan details what support the County Council provides at present including transport to sixth forms, special educational needs and b_ line 2.

3.1.4 Religious Preference

Parents choosing to send their children to a voluntary aided church school on religious grounds may be eligible for transport if the school is the normal area voluntary school and that school is outside the walking distances set out above. In the case of Roman Catholic Schools, only Roman Catholic baptised children are eligible to receive assistance with travel.

3.2 The Administration of Home To School Transport in Derbyshire

Home to school transport in Derbyshire is administered through the Social Inclusion Team within the Education Department. Officers based centrally at County Hall, takes the lead on strategic matters relating to home to school transport. Individual requests for the provision of transport are dealt with by officers based at Area Education Offices in Buxton, Chesterfield and Ripley. Transport provision is organised by officers in the Public Transport Unit.

In September 2003, a report was approved by Cabinet to restructure the Social Inclusion Team to take account of the impact of the Code of practice on School Admissions and Appeals.

Cases which are eligible usually take around 2-3 weeks to process. Where transport provision is refused, an appeals mechanism is in place. The appeals process is administered by an officer in the Democratic Services Section of the County Secretary's Division and the paperwork for appeals/reviews is prepared by the Area Education Officers. The Education Department has recently redefined the appeals process to the review process. The change is in name only and has not changed the process in practice. The review is still undertaken by the Appeals Panel. For the purposes of this report, this process will be referred to as the "appeals process". Cases which go to appeal on average take around 6-8 weeks to process from the date of application to the date of the appeal.

3.3 Expenditure

The budget for home to school transport in 2003/2004 is over £9.5m. A breakdown of this budget is set out in the table below.

Table 1.

Age Group	Expenditure
Primary	£1,300,222
Secondary	£4,518,278
Special	£3,443,293
Home to College	£266,897
Total	£9,528,690

The budget includes provision made for discretionary expenditure. Exactly how much the LEA spends on discretionary provision cannot be determined at present, although in 2001/2002, discretionary provision allowed through the appeals process was over £205,000.

The budget is held with in the Education Department although officers from the Public Transport Unit arrange transport provision on the basis of the most cost effective mode of transport which also best suits the needs of the child. Officers from within the Public Transport Unit work hard to put this in to practice. However, on occasions this may not be possible which may result in single occupancy taxi journeys being made.

3.4 Numbers of Pupils/Students Supported

The LEA processes a large number of home to school transport applications per year. Table 2 below sets out the numbers of pupils receiving transport provision in 2001/2002.

Table 2.

	Distance	SEN	Safety	Denominational	Other discretionary	Total
Primary	398	125	180	277	15	995
Sec'dary	6,800	175	420	695	100	8,190
Special		995				995
Other	250	150				400
Total	7,448	1,445	600	972	115	10,580

3.5 What transport assistance is provided?

Assistance with transport can be provided in several ways:-

- Provision of a bus pass
- Re-imbursement of travel costs
- Provision of taxis or contract buses where public transport is not available or appropriate
- By the allocation of spare places on a contract bus, for which a charge will be made.

4.0 Issues and Recommendations

4.1 Home to School Transport Policy – The National Context

There is widespread agreement that the law relating to home to school transport is inflexible, outdated and in need of review in order that the current demands on local authorities and the expectations of parents can be met.

Walking is still the main mode by which children travel to school. However, many parents are unwilling to allow their children to walk to school, preferring instead to travel by car in the main and to a lesser extent using public transport or cycling. Parents have genuine concerns for the safety of their children both in terms of road safety and also a fear of crime. A vicious circle is therefore created: increased congestion leading to road safety fears and more car journeys as parents allay their fears by driving their children to school. This in turn has a knock-on effect in terms of the health of school children and indeed their parents.

The vicious circle is being created at a time when local authorities are being increasingly asked to meet environmental and sustainability targets designed to reduce congestion, improve air quality and health and reduce road traffic accidents and casualties.

In modern society, the majority of parents, whether they live in an urban or rural location, would be unwilling to allow their children to walk to school up to the statutory distances of 2 miles for children aged under 8 and 3 miles for those aged over 8. As parental expectations on home to school transport rise, so it is becoming an increasingly major issue for local authorities. Expenditure by local authorities on home to school transport nationally has been rising for several years and this has been reflected locally. In Derbyshire, expenditure has risen from £7.4m in 2000/2001 to £9.5m in 2003/2004, a rise of over 28%.

A series of developments in education provision is also having a major impact on home to school transport. These include:-

- The creation of specialist schools
- The more flexible 14 – 19 curriculum providing a greater choice of subjects and educational settings
- The creation of extended schools
- The provision of before and after school classes, activities etc

- The requirement to provide full time education for permanently excluded pupils

Whilst the move towards more diverse educational opportunities and greater parental choice is to be welcomed, its impact on the provision of home to school transport is significant. It is obviously most cost effective for transport to be provided for larger numbers of pupils on buses. Single journeys by taxi are very expensive but, in some cases, particularly in rural areas they represent the only means of transporting a child to school.

The provision of transport is also a problem both locally and nationally. Costs within the transport industry have increased significantly in recent years. In addition increasing regulation regarding driving, driver rostering, the employment and use of escorts and the need for specialist vehicles for children with special educational needs has also meant that home to school transport is often not attractive work to transport providers. In Chesterfield for example, there are significant problems in finding sufficient numbers of taxis to undertake school journeys.

In November, the Queen's Speech set out the Government's intention to publish a draft bill to enable some local authorities to pilot new arrangements to reduce road congestion. The draft bill is expected to;

- Relax existing legislation to enable some authorities to pilot new arrangements for a period of 3 years.
- Give pilot authorities dispensation from existing statutory requirements to provide free transport beyond the two and three mile specified walking distances
- Allow pilot authorities to charge parents for transport and reinvest funding in to expanded transport provision.

The Department for Education and Skills and the Department for Transport documents "Travelling to School: An Action Plan" and "Travelling to School: A Good Practice Guide" support the proposals likely to be contained in the bill.

The review concludes that there is a clear need for home to school transport legislation and policies to be reviewed to make them more flexible to the needs and expectations of parents in modern society. It is important that not only should distance issues be reviewed but also other matters such as road safety, sustainability and health and also the implications of widening education choice and provision.

Local authorities should be given the legislative freedom to adopt local policies on home to school transport which take in to account local circumstances and which are complimentary to other policies on travelling to school.

Recommendation 1

- (a) the review broadly supports the proposals for change likely to be included in the draft bill and also set out in the Department for Education and Skills and Department for Transport report “Travelling to School: An Action Plan”
- (b) the Improvement and Scrutiny Committee should, in consultation with the Cabinet Member for Education and the Chief Education Officer, take the lead in developing new County Council policies on home to school transport that arise out of any changes to legislation on home to school transport following the pilot studies to be undertaken by some LEAs.

4.2 Home To School Transport Policy - The Local Context

4.2.1 The Policy

The LEA’s home to school transport policy should seek to compliment the County Council’s values and strategic aims and objectives. In terms of home to school transport these include:-

- **Key Council Plan goal - to improving participation and achievements in learning**
 - Key Objective – To increase participation in learning particularly where there has been evidence of under achievement
 - Key Objective – to improve support for individuals and groups of learners
- **Key Council Plan goal - to improve transport choice and safety.**
 - Key Objective - to reduce the numbers killed or seriously injured on Derbyshire roads
 - Key Objective - encouraging more journeys by public transport, cycling and walking.

- **LEA Values**

- Social cohesion and inclusivity
- Achievement of full potential for every individual because all have equal value
- A co-operative climate, emphasising collaboration, mutual rights and responsibilities

The review did not find a clear link between the LEA's home to school transport policy and the Council's key aims and objectives. Whilst it is accepted that the policy will increase access to education in general terms, the review found that the policy, particularly relating to discretionary provision, lacks clarity and has largely evolved over time as a result of Appeals Panel decisions, rather than a considered policy designed to achieve the Council's aims and objectives.

The way in which the current policy is administered which is dealt with in more detail later in the report, does not in all cases support the Council values, namely:-

- Openness and honesty in informing people about issues and choices, and decisions taken on their behalf
- Listening to local people to ensure we are responsive to their needs
- Fairness in our dealings with people and in the provision of services

In addition, the current policy does not support the Council's key goals of:-

- Enhance community leadership and make Council services accessible and responsive to local needs
- Achieve Best Value in service delivery and ensure continuous improvement in the quality and efficiency of services provided by the Council

The working group concludes that there is a need for the policy to be revised to make it clearer and more transparent than it is currently. The policy and the way it is administered in Derbyshire is demand led and at the same time lacking in control and direction. A clearer policy coupled with tighter controls will benefit not only applicants for transport provision but also Area Education Officers in implementing the policy. It is also recommended that detailed guidance notes should be developed to

accompany the policy. Taken together, the policy and the guidance notes should provide a clear statement as to what constitutes the LEAs home to transport policy, what will and will not be supported and what information/evidence will need to be produced before transport provision is allowed. If changes arise from this report, any child receiving free or assisted transport should continue to do so while they continue attending their current school.

There is no doubt that significant savings could be achieved if the LEA based home to school transport provision purely on minimum statutory provision. The review found however, that there was merit in continuing with a discretionary policy provided that decisions are taken in line with Council aims, objectives and values and provided that tighter controls on provision are made through the introduction of a new policy and supporting guidelines.

The developments arising out of the work of the Derbyshire Transport Partnership to co-ordinate and standardise transport provision for Post 16 learners is welcomed by the review. The proposal to employ an officer to revise the post 16 policy is supported, although the review considers that this should form part of a revision of the LEAs home to school transport policy in general.

The review found that there were several areas where the policy on home to school transport should be revised or the administration of the policy at least, clarified. Examples which demonstrate the inflexibility of the existing policy and the way in which it is administered are detailed in the **confidential Appendix**. These examples have been kept confidential as it would be possible for individuals to be identified from the information provided.

Other more general examples are set out below:-

Examples

Temporary change of address – as a result of a house fire, a family is temporarily re-housed while the repairs are carried out. The move takes the child out of the area of its normal area school. Cases have been refused by the Area Education Officers and have gone to appeal as the child is technically attending a school outside of its normal area. The Panel will in all such circumstances, allow the appeal.

Medical grounds – cases are put to appeal where in advance of the hearing, the appellant has provided a GPs/hospital medical note stating that a child is medically unfit to walk to school. The Appeals Panel is in no position to question medical advice.

Special Educational Needs/Post 16 – pupils with lifelong medical conditions that are not going to change over time who apply for a one-year course may be required to appeal to receive transport provision. Should they go on to undertake another course the following year, their application is currently likely to be refused forcing them to appeal again for transport provision.

Mode of Transport – cases have been put to appeal where the child is entitled to transport but where there is a dispute over the mode to be used. The Appeals Panel has no power to determine on such matters. These matters should be sorted out between the Area Education Officers and the Public Transport Unit. The policy should make it clear that there is no mode of transport choice and that arrangements may be altered, if necessary, to enable the LEA to provide the most efficient and cost effective means of transport provision.

Appeals on financial grounds – financial circumstances are not a grounds for appeal. Cases end up at appeal however, where the sole grounds for appeal are financial causing frustration and annoyance to parents and embarrassment to the Panel.

Urgent transport provision - in some exceptional cases, Area Education Officers have approved free transport for a period of time. The Officers then put the case to the Appeals Panel for a permanent decision to be made. It is difficult for the Panel to refuse transport in these circumstances, particularly as in some cases, the officer does not oppose the case.

Social Services cases – in some cases usually due to exceptional family circumstances, the Social Services Department will make provision for free transport as an interim measure while transport provision is formally arranged through the Education Department. If the application falls outside of normal policy, Area Education Officers refuse the application, only for it to be allowed on appeal.

Change of Address – Exam Years 10 and 11 – If a child moves address during years 10 and 11 they are entitled under the current policy to free

transport so as not to disrupt their education, as they have commenced examination courses. There are two issues here. Firstly, the cut off date for applying this policy. If a child moves during term time transport is provided. However, if a child moves in the last week of the summer holidays they are not, even though they will have already chosen their options. Parents argue at appeal that the child has already chosen their options at the end of year 9 and are therefore committed to the school. Should the cut off date be the point at which options are chosen?

Secondly, the policy currently provides for transport regardless of the circumstances of the move. Therefore, if the move is made through choice and there are no exceptional circumstances, the LEA still funds transport provision, often at considerable expense. The working group questions whether the LEA should do this where the move is through choice, such as moving to a bigger house. The working group would support a policy whereby such provision is made only in exceptional circumstances.

Admissions to normal area schools – In cases where parents move into an area often after the start of an academic year and cannot gain admission to the normal area school, based on case law, the LEA would normally pay transport costs to the next nearest available school. However, given the popularity of some schools and the admission arrangements, placement at the next nearest available school may not always be possible. Admission arrangements will often require an appeal and will be a lengthy process. Parents, anxious to avoid their children being out of school for lengthy periods, take the first place that becomes available to them. This is likely to become an even bigger issue in the future and the LEA need to be clear on whether it wishes to provide support in these cases and if so, whether any limitations should be placed on this provision, again possible where the move in to the area is made through choice.

Transport to Church Schools - The LEA currently provides transport to church schools provided the school is the normal area church school. In Derbyshire this can involve transport being provided for considerable distances and cost to the LEA. The review considers that it would be reasonable for distance restrictions to be placed on this provision, particularly as the decision to send a child to a faith school is a parental one.

Administrative Errors - If, as happens from time to time, officers implementing home to school transport make errors which result in the

LEA making transport provision which they have no obligation to provide, at present the LEA, usually through the Appeals Panel, agrees to honour the error, with the costs often being substantial. The review considers that the policy should clearly state that errors will be corrected when they are discovered and transport provision will be withdrawn. Withdrawal of transport provision should follow a “notice period” to allow parents time to make alternative arrangements and there should be a right of appeal against the decision.

Transport provision to pick up point - There have been instances where not only has transport been provided, but provision has been made from the home to the transport pick up point. The review considers that the policy should make it clear that under normal circumstances this will not be provided. Alternatively, provision could be allowed only if the child lived beyond a certain distance from the pick up point.

Date of Provision - In the case of successful appeals, the policy should make it clear whether transport provision is to be made from the date of application or date of approval. At present provision is back dated to the date of application only when parents ask. The review would recommend that payments should only be backdated where receipts confirming the incurring of expenditure can be provided.

4.2.2 Dangerous Routes, Walking Routes to School and Accompaniment Issues

The working group consider that accompaniment is a big issue for the LEA. The policy currently assumes that the child will be accompanied by an adult on the journey to and from school. This leads to a situation where for instance, a family with both parents working qualify for free home to school transport from the LEA as they are unable to accompany their child to school. A single mother with no job would be deemed to be available to accompany and would not be eligible to receive free transport. Accompaniment is a difficult area to determine and in many cases, the Appeals Panel has little option at present but to accept the parents word that they cannot accompany and provide transport. No supporting documentation/ proof is currently required from parents.

In cases where a route to school is felt to be dangerous, the Dangerous Routes Panel determine applications for transport in line with the dangerous routes criteria. Again, the criteria assume that the child is accompanied. In cases where a route is assessed and found to be not

dangerous, parents can appeal to the Home to School Transport Appeals Panel on the grounds that they cannot accompany. As stated above, the situation is very difficult to defend and transport is likely to be provided. The Appeals Panel is in many cases in no position to make a judgement on the route in question, as they will have no knowledge of it.

The review supports the continued need for a policy on dangerous routes. It considers however, that the dangerous routes policy and criteria should be re-examined in line with current case law, to ascertain whether where appropriate, a route is safe for a child to walk to school unaccompanied. If the policy can be reviewed in this way, parents possible “second chance” for free transport on accompaniment grounds through the appeals route would be removed and the appeal process simplified.

The working group recognises that living in isolated rural areas is not always by choice and that it can lead to social exclusion, particularly where families may be living in near poverty and without access to transport. The policies on dangerous routes and walking routes support this. However, the working group has concerns that the policy and the decision-making process not only supports those in danger of being socially excluded, but also supports those who cannot accompany their child purely because of work commitments. The working group points out that the vast majority of parents in Derbyshire and nationally, make their own arrangements to get their children to school. In many cases this may involve both considerable expense and inconvenience. The LEA, through the application of the policy on accompaniment, as it currently stands, support a minority of parents at considerable public expense, who have chosen to live and who can afford to live in isolated and often affluent areas. It is not considered unreasonable for parents to have to make their own arrangements to get their children to school.

The review concludes that the LEA should make it clear in the policy that provision of transport on accompaniment grounds will only be considered in exceptional circumstances and that normally employment/work issues will not be considered as a reason for transport provision. Both parents working should not be considered as an exceptional circumstance. Cases where transport is provided owing to employment should be exceptional and should only be allowed where conclusive proof of the need for transport is provided.

4.2.3 Conditions attached to the provision of Home to school transport provision

Appeals Panel Members have concerns that they hear some cases where they are “suspicious” about the facts of the case as presented by the appellant. The lack of evidence presented to the contrary means that appeals are often allowed. The review considers that at both the application and appeal stages, parents should be required to sign a declaration that the information they are providing in support of their application is correct. It should also be made clear that the LEA may require evidence to back up the information provided in applications. At present appeal is by letter, except in the Chesterfield and North East Derbyshire Area, where a form is used. Using an application form at the appeal stage may also improve the quality of information received on for instance, the precise grounds of appeal.

In many cases where transport is provided, provision may be for the period until the child finishes primary education or until the end of statutory school age. This may involve therefore, provision for a period of up to 5 years. The review understands that no review of cases generally takes place, except in medical cases, to ascertain if circumstances have changed during this period. This is particularly relevant on accompaniment grounds where employment situations can change.

The review has heard evidence that in some cases where transport is provided, the child fails to attend school or parents do not notify the taxi operator that the child will not be attending school. One example is set out in the Confidential Appendix, Case 2, had cost the LEA £1,120 in wasted journeys in a 6 month period. Transport Officers have indicated that Area Education Officers are provided with evidence of these wasted journeys but fail to take any meaningful action to address the problems. In the meantime, taxis continue to undertake wasted journeys at the LEAs expense.

The Public Transport Unit in agreeing taxi provision with taxi operators, agree that journeys cancelled giving 24 hours notice will not be charged to the LEA. However, where journeys are cancelled at less than 24 hours notice, for instance on the morning of the journey to school, the LEA will be charged. The review notes that a 24 hour notice period may not be practical and there may be benefits in changing this period when taxi transport contracts are renewed. In cases of illness for example, parents

will not know the previous day that their child is likely to be unfit to attend school.

Similarly, examples also exist where pupils misbehave on journeys to such an extent that taxi operators refuse to undertake the journey and the LEA has to try to find alternative provision to get the child to school.

The review concludes that the current policy and procedures do not address these types of issues and that action needs to be taken to monitor home to school transport provision once it has been provided. Officers in the Public Transport Unit face regular problems when dealing with wasted journeys, damage to vehicles and abuse of drivers. The lack of a policy on these issues means that it is difficult for officers to take any effective action to counter these problems.

It is recommended that:-

- Those in receipt of transport provision should be required to sign a formal agreement which sets out the conditions attached to the provision. This should include conditions regarding wasted journeys and mis-behaviour. The agreement should also make it a requirement for parents to notify the LEA of any changes to their personal circumstances where this may affect transport provision. It is noted that some authorities use behaviour contracts.
- The conditions should also set out that the LEA will, where appropriate, review cases where it is believed different circumstances affecting the transport provision have come to light. The review would recommend that it would be good practice to “spot check” a small number of reviews.
- In both the circumstances set out above, it should be made clear in the literature and forms used by parents on home to school transport that the LEA will be proactive in dealing with these types of issues with the ultimate sanction being the withdrawal of transport provision or the recovery of the costs of provision, where it has been found to have been obtained under false pretences. In cases where transport is withdrawn whether free or subsidised, the policy documents and the accompanying conditions should stress that in these circumstances, responsibility for getting children to school lies with the parents.

- In all cases, an application form should be used to initiate the appeals process.

4.2.4 Information on Home to School Transport

Information on school transport is provided in the Parents' Information Booklets for secondary and primary education. The information provided in the Booklets is largely the same as that provided in the policy. The same information is also available on the County Council's website. The review considers that it would be beneficial for parents to be provided with far more detailed information so that they are aware of what they can expect regarding home to school transport provision. Providing more information on the policy and how decisions will be reached will help to make the process clearer from the parents' perspective.

4.2.5 Concessions

The review heard evidence that in some cases, the LEA is losing out on potential income by refusing to allow children transport where parents are prepared to pay for a place on a vehicle. The Public Transport Unit do not in some cases allow these places to be taken to keep them available for children entitled to concessionary transport provision, even when a significant number of places may be available. This is particularly the case in areas/routes where there can be pressures on transport provision

Parents who are willing to pay for transport submit an appeal and in some cases depending on circumstances under the current policy, the appeal is allowed for free transport, often at considerable expense to the LEA. Income to the LEA is therefore lost. Case 3 in the confidential appendix is a good example.

Whilst the reasons for keeping spare places is accepted, the review concludes that provided that it is made clear in writing to parents that the concession can be withdrawn at short notice, parents should be allowed to pay to use these places. This practice is used by other LEAs.

Recommendation 2

The Chief Education Officer should;

- (a) urgently revise the home to school transport policy with a view to making the policy more flexible, consistent and transparent
- (b) again, as a matter of urgency, produce guidelines to support the implementation of the revised policy
- (c) ensure that children who currently receive free or assisted transport under the previous policy continue to do so while they are attending their current school up to the relevant age
- (d) explore the possibility of extending the remit of the officer to be employed to review the post 16 policy, to review the LEAs home to school transport policy as a whole
- (e) the working group overseeing the Improvement and Scrutiny review should be fully involved in the development of the new policy
- (f) following the revision of the policy, clear and more detailed information to parents on the home to school transport policy should be produced
- (g) investigate the Dangerous Routes Policy to allow if possible for an additional stipulation that routes may be deemed suitable for children to walk to school unaccompanied
- (h) ensure that applications for transport appeals should be by application form only
- (i) introduce standard conditions on home to school transport provision including behavioural standards along with robust monitoring and implementation procedures
- (j) introduce monitoring of expenditure on statutory and discretionary home to school transport provision
- (k) ensure that where possible, income from spare places on school transport be maximised

4.2.6 The Decision-making Process

The working group found that in the majority of the thousands of cases where pupils are eligible for free school transport, applications are dealt with efficiently and effectively. On average applications are dealt with within 2-3 weeks. There are examples however, of cases where the Appeals Panel has been used to decide on eligible cases where for instance, the mode of transport to be provided is disputed.

In those cases which fall outside of the policy, the working group has serious concerns over the current decision-making process. The review

has found that current procedures are slow, inflexible, inconsistent and in many cases, are unnecessary. The Appeals Panel is used inappropriately as a decision-making body rather than for its intended purpose.

The Appeals Panel Members interviewed as part of the review all indicated that they felt that on many occasions they were forced to hear appeals where there was no option but to allow the appeal in favour of the appellant. Indeed in some cases, Area Education Officers expected to lose the appeal or in other cases, made no attempt to fight the case. The facts of some appeals are so distressing and extreme that Panel Members have expressed embarrassment that parents have been forced to appeal. On other occasions, parents have been allowed to appeal on grounds over which the Panel cannot make a decision such as those examples set out on pages 19-21.

Table 3 below shows that the use of the Appeals Panel mechanism to determine applications is increasing. In 1998/99 there were 129 appeals of which 54% were allowed. By 2001/2002, the number of Appeals had risen to 196 with an average of over 81% being allowed. The figure is as high as 86% in the North East Derbyshire area. In 2002/2003, the figure had fallen slightly to 79%.

In addition, a “tabling” system has developed where appeals are put before the Panel, the appellant is not present and the Area Education Officers do not oppose the appeal. All “tabled” appeals are allowed. This is a means of speeding up the process and saving the appellant’s time.

Table 3

Area	Number of Appeals	Number of Appeals Allowed	% Allowed	Number of Appeals Refused
1998/1999				
AV, E & S	16	9	56	7
HP DD	62	32	52	30
NE	51	34	67	17
Total	129	75	58	54
1999/2000				
AV, E & S	29	20	69	9
HP DD	53	36	68	17
NE	53	28	53	25

Total	135	84	63	51
2000/2001				
AV, E & S	32	21	66	11
HP DD	66	50	76	16
NE	74	56	76	18
Total	172	127	74	45
2001/2002				
AV, E & S	54	41	76	13
HP DD	66	52	79	14
NE	76	65	86	11
Total	196	158	81	38
2002/2003				
AV, E & S	28	20	72	8
HP DD	85	68	80	17
NE	80	64	80	16
Total	193	152	78.75	41

(NB1: the numbers of appeals presented in the above table excludes “tabled” appeals.)

The current means of decision-making in relation to home to school transport has developed over a number of years. The Appeals Panel has become a silo for school transport applications. Area Education Officers have not been provided with the authority to take “obvious” decisions and through a lack of support from the Student Services Section and the lack of an alternative decision-making route are forced to refuse applications. Student Support Services, who oversee the administration of home to school transport centrally, have perpetuated the process in order that decisions have Member authority, rather than seeking to introduce revised decision-making processes.

The review considers that any decision-making process which has a success rate as high as 81% at appeal is not working efficiently and effectively. The Appeals Panel is being used as a means by which education officers can gain Member authorisation on matters which fall outside of normal policy. The result is that applicants are subjected to a lengthy and administrative process often taking several months, when in reality the outcome of the process is a formality.

The present means of using the Appeals Panel as the decision-making body is also not an efficient use of Area Education Officer time. Appeals require a considerable amount of paperwork to be prepared and this is done in the vast majority of cases, even those where officers expect to lose or do not fight the case. Under the current structure, the staffing resources are the same in the three Education Offices. The number of appeals however, varies from area to area. For instance, in 2001/2002, the Amber Valley and Erewash Area Office dealt with 54 appeals whereas the North East Derbyshire Area Office, with the same staffing establishment, processed 76 appeals. The review has concerns regarding inconsistencies in the evidence presented to the Appeals Panel to assist them in reaching a decision. This matter is dealt with more fully in section 4.2.7 below.

The report to Cabinet on 30 September 2003 on the restructuring of the Social Inclusion Team who administer transport applications, pointed to the resource and workload implications of implementing the provisions of the Education Act 2002 regarding revised school admission arrangements. The review notes that significant officer time is wasted preparing for transport appeals, which could be avoided if revised, and more efficient decision-making procedures were introduced.

In addition there are the costs associated with room hire and Members Allowances and also the costs of officer time supporting the appeals process.

The review considers that it is inappropriate and unreasonable for parents to be subjected to such a lengthy and unwieldy decision-making process. The need for applications for transport assistance often arises as a result of circumstances which are distressing and worrying. The current process of dealing with transport applications may only add to this distress and worry. Whilst the working party is satisfied that the “right” decision is usually reached at the conclusion of the process, the present arrangements do not support the Council’s vision and purpose “To improve life for local people by delivering quality services” and also the values of fairness, openness and honesty.

It is recommended that, as a matter of urgency, the Education Department should review decision-making procedures on home to school transport. Officers implementing the revised policy should be given clear authority to decide on cases such as those presented in this report. The review considers that the Appeals Panel is an inappropriate means through which

to process home to school transport applications. It fails the applicant by forcing them to go through a lengthy and stressful process, and it is inefficient and wasteful in terms of officer and Member time.

The review has already recommended that the policy should be reviewed and that guidance notes should be produced. This should have the effect that, cases which fall outside of the guidance and which require a Member decision, should be processed through the Cabinet Member for Education, with a positive recommendation from officers with supporting reasons. The numbers of these cases should be minimal. The Cabinet Member has regular meetings and delays in reaching a decision should therefore, be kept to a minimum. The review would expect that the number of cases going to appeal will be significantly reduced, freeing up Area Education Officer time that can be used to support other service pressures such as admission arrangements.

Appeals should continue to be heard by the Appeals Panel, although the number of cases should be significantly reduced. All appeals should be accompanied by the appropriate evidence to support the initial decision taken by Education Officers or the Cabinet Member.

4.2.7 Evidence presented to Appeals Panels

The working group received evidence that in some cases Panel Members were expected to take decisions on transport matters without access to the full facts and evidence to support or counter the appeal.

The review heard evidence that in bullying cases there is an inconsistency in approach between Area Offices. In some cases, the Appeals Panel hear cases where there is no evidence presented to counter parental claims of bullying. This makes it very difficult for the Panel to take any other decision than to allow the appeal. Members of the Appeals Panel pointed to numerous examples where through a lack of evidence presented to support the original decisions taken by Education Officers, the Panel had no option but to allow the appeal in favour of the appellant.

Members of the Appeals Panel also expressed concern that in SEN cases, the Area Education Officers, in presenting the Appeals do not have access the SEN Statements in defending appeals. SEN applications are dealt with by SEN officers who make the decision whether or not to approve transport applications as part of the statementing process. SEN officers do not allow access to the Statements on data protection grounds. This presents obvious problems to both Area Education Officers and Panel

Members. Again in some cases, appeals are allowed as little or no evidence is presented against the appellant's case.

The review is not convinced of the case made by SEN officers regarding the Data Protection Act and confidentiality of information and it is considered that this requires further consideration. At the very least SEN officers should be required in every case, to provide Area Education Officers with a written statement which provides the necessary information relating to the grounds of the appeal.

Time pressures in preparing for a large number of appeals means that it is not always possible for officer to properly prepare to defend appeals in the manner they would wish. If the number of cases going to appeal is significantly reduced, Area Education Officers will have more time to prepare fully for cases they would wish to defend, rather than preparing papers for appeals they know they will lose. This will also give Area Education Officers more time for other duties.

The statements of case in appeals cases are largely a presentation of the facts rather than a case against the appellant's arguments. The review considers that in future all statements should set out clearly why the appeal should be refused and should be accompanied by a positive recommendation. The appellant should be left to argue the case as to why transport provision should be made.

Recommendation 3

- (a) The Chief Education Officer, in line with the revised policy and guidance notes, should ensure that Area Education Officers are given the necessary authority to determine the majority of applications for home to school transport
- (b) The Cabinet Member for Education should decide on those minimal number of cases where a Member decision on transport provision is required
- (c) The Appeals Panel should continue to hear home to school transport appeals
- (d) The Appeals Panel should, in all cases, be provided with sufficient information by both parties to enable an informed decision to be taken based on evidence presented

4.2.8 Impact of the review

Expenditure on home to school transport has risen over the last five years. The budget for 2003/2004 is £9,528,690. The majority of this is spent on statutory provision. Members of the working group expressed concern that expenditure on home to school transport is rising well above the level of inflation. Expenditure in 2003/2004 was 8% above the £8.7m expenditure in 2001/2002. The trend over the last years has seen an 28% increase in expenditure and this is likely to continue given the increasing demands arising from parental school choice and more diverse educational opportunities, along with above average increases in transport costs. The review is concerned that given the increasing pressures on the budget, there is very little control over expenditure on transport provision.

The LEA cannot precisely determine the level of expenditure on discretionary provision, although in 2002/2003 the expenditure allowed at appeal totalled over £195,000, giving a maximum cost over a 5-year period of over £977,000. The annual figure in 1998/99 was by comparison, only £86,537. This represents a 236% increase. Over and above this amount there will be some discretionary provision which has been approved outside of the appeals process.

Whatever the actual level of discretionary expenditure, it is clear that the LEA could achieve significant savings by providing home to school transport on a statutory provision basis only. The review does not support this argument however, as it considers that there is merit in the discretionary provision helping to achieve the Councils aims and objectives with regard to educational opportunity and environmental policies. The review supports a more defined and strictly controlled discretionary policy which aims to provide transport provision for those in most need of assistance.

The review cannot quantify the likely impact on resources of implementing the recommendations of the review. This is partly because the LEA cannot determine the level of expenditure on the different elements of discretionary provision (ie. accompaniment, special needs etc). It is considered however, that if approved, the recommendations would lead to an overall reduction in expenditure and efficiency savings, based on the following provisos:-

- A revised policy on discretionary provision, more strictly controlled and implemented, could yield savings to the LEA

- There would be efficiency savings in officer time within the Education Department
- There may be some additional costs as decisions on applications for transport provision will be taken and implemented in less time than at present.

Parental choice and increasing educational opportunity are likely to place an ever-increasing burden on the home to school transport budget. The current policy and the way it is administered will serve to make the problem worse. The review considers that it is important that the LEA acts to revise the home to school transport policy in order that it is in a position to respond in the future to the growing expectations of the public and also so that it is able to prioritise expenditure to those individuals and families most in need.

4.2.9 Implementing the Recommendations

If the recommendations are approved by the Committee an action plan for their implementation will be produced and attached to the report when it is presented to the Cabinet.

If the report is approved by Cabinet, the review considers that it is important that the points raised in recommendations 2 and 3 in the report are given urgent consideration by the Chief Education Officer in consultation with the working group overseeing the review. The Improvement and Scrutiny Committee should consider any proposals put forward by the Chief Education Officer to revise the policy and the decision-making process prior to them being presented to Cabinet for approval.

Recommendation 4

If the recommendations are approved by Cabinet, the working group overseeing the review work with the Chief Education Officer in developing proposals for a revised policy and decision-making process and that these be considered by the Improvement and Scrutiny Committee prior to being referred to Cabinet for approval.

5.0 Summary

The review has looked in detail at the home to school transport policy and the way in which it is administered in Derbyshire. The report notes that the LEA administers the majority of home to school transport applications efficiently and effectively, particularly in those cases where the child is eligible for transport provision under the policy. There are however, several areas of concern relative to the policy and the decision-making processes and positive recommendations have been made to address these issues and to ensure that the provision of transport is prioritised to those most in need.

If adopted, these recommendations will lead to genuine service improvements in the way in which home to school transport is administered. There is also potentially an opportunity for monetary savings to be identified by more strictly controlling and defining the policy on transport provision. Savings in officer time will also accrue as a result of the recommendations.

Finally, the recommendations will ensure that those applying for home to school transport will be subject to an application process which is fairer, quicker, more transparent and less stressful than the previous system.

6.0. The Next Stage

The report will be referred to the Cabinet for consideration. It is recommended that:-

- (1) the Chair of the Improvement and Scrutiny Committee presents the report to the Cabinet.
- (2) following consideration of this report and subject to the Cabinet agreeing to the recommendations, it is suggested that the Improvement and Scrutiny Committee receives a report at a date to be determined, to outline progress made.

23/06/04