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School transport for pupils with Special Educational Needs

1 Background

The current arrangements for the provision of home to school transport were introduced in September 1997. Children are eligible for transport assistance if they are enrolled at a school beyond a certain qualifying distance from their home (two miles for primary pupils and three miles for post-primary pupils) and were not successful in seeking a place at a closer suitable school.¹

Article 33 of the Education and Libraries (NI) Order 1986 notes that ELBs should have regard to the interests of economy and efficiency. As such, cost, availability and convenience are to be taken into consideration when considering assisting pupils in home to school transport.²

2 Arrangements for pupils with Special Educational Needs (SEN)

Where an Education and Library Board (ELB) maintains a statement of the special educational needs of a pupil under Article 16 of the Education (NI) Order 1996,

¹ *Getting to school – Home to school transport arrangements* [online] Available at: http://www.deni.gov.uk/index/85-schools/schools_getting_to_school_pg.htm

² DE (2009) *Circular: School Transport* Bangor: Department of Education

decisions about the pupil's placement, including their entitlement to free home to school transport, are made by the ELB. This applies in both rural and urban settings. Therefore the general school transport arrangements may not apply in the case of a statemented pupil. In addition, the 1996 Order introduced a discretionary power for a Board to provide transport for statemented children attending an independent school.³

Nonetheless, a departmental circular states that placements of statemented children in response to parental wishes (whether at mainstream schools, special schools or independent schools) are subject to the statutory condition that they must, amongst other things, be compatible with the efficient use of resources. The circular notes that the ELBs should continue to give 'the most careful consideration as to whether the provision of free transport is justified in the particular circumstances of each individual case before indicating it in a statement.'⁴

3 Health and safety

Departmental guidance states that pupils 'should be able to travel in safety and reasonable comfort'. In particular, ELBs have a responsibility to ensure that the number of pupils being carried on their vehicles does not exceed the maximum set out in the Public Service Vehicles Regulations.⁵

Seatbelts

Where Board vehicles are fitted with seatbelts, they should bring this to the attention of pupils. A previous concession, whereby three children under 14 years of age were allowed to sit in a seat fitted with two seatbelts, was removed in the Public Service Vehicles (Conditions of Fitness, Equipment and Use) Regulations (NI) 1995.⁶

All children over the age of three travelling by taxi must wear an adult seatbelt and sit in the back of a taxi, if an appropriate booster or child seat is not available. There is no obligation on the taxi provider to supply child restraints.⁷

If pupils are travelling by bus or coach, those aged 14 and over are required to wear seatbelts where fitted. If travelling by minibus, all passengers, excluding those under the age of three, are required to wear seatbelts. The arrangements are as follows:⁸

- If a child restraint is available, it must be worn by all passengers travelling in the rear seats who are under the height of 135cm or the age of 12. However, there is no legal obligation on the minibus operator to provide a child restraint, so if none is available, children over the age of three should use the adult seatbelt;

³ DE (2009) *Circular: School Transport* Bangor: Department of Education

⁴ DE (2009) *Circular: School Transport* Bangor: Department of Education

⁵ DE (2009) *Circular: School Transport* Bangor: Department of Education

⁶ DE (2009) *Circular: School Transport* Bangor: Department of Education

⁷ DE (2007) *Circular: Guidance on the operation of the child car restraints regulations in relation to school activities* Bangor: Department of Education

⁸ DE (2007) *Circular: Guidance on the operation of the child car restraints regulations in relation to school activities* Bangor: Department of Education

- Children who are under 135cm or the age of 12 travelling in the front seats of a minibus they must use an appropriate child seat, booster seat or booster cushion;
- A child may use an adult seatbelt when they reach a height of 135cm or the age of 12.

4 Conclusion

Departmental guidance states that all children should be able to travel to school in safety and comfort. In addition, Education and Library Boards must take into consideration cost, availability and convenience in assisting any pupils in home to school transport. Consideration therefore could be given to the extent to which Boards are using resources efficiently whilst ensuring that children are transported to school in safety and comfort, with particular regard to compliance with regulations around passenger capacity and the wearing of seatbelts and child restraints, as appropriate.