

THE HIGHLAND COUNCIL
EDUCATION, CULTURE AND SPORT SERVICE COMMITTEE
11 MARCH 2010

Agenda Item	
Report No	

Education Transport Appeals

Report by Director of Education, Culture and Sport Service

Summary

This report asks Members to approve revisions to the process for considering and determining education transport entitlement.

This report contributes towards the following outcomes in **Strengthening the Highlands:**

- Focus on safe school transport, encouraging more healthy and environmental options such as “walk to school” pathways, safety support and safe cycle tracks.
- Work with partners to improve road safety for children and young people and to reduce child fatalities and serious injury from road traffic accidents.

1. Background

- 1.1 In excess of 12,000 pupils are provided with free school transport each day across Highland. The current budget for school transport is £11.64M (the corresponding figure in January 2006 was £9.73M). This budget has increased by 19.67% in a 4 year period and now accounts for over 5% of the net Education Culture & Sport budget.
- 1.2 The legal requirement is that transport is provided so that children aged under 8 years do not have to walk more than 2 miles each way to and from school and children aged 8 years or over do not have to walk more than 3 miles each way. On this basis the Highland Council complies fully with the relevant legislation relating to the provision of school transport. In addition to the maximum walking distances, the Council is required by the Education (Scotland) Act 1980, as amended, to have regard to the safety of pupils when considering whether or not to provide home-to-school transport. Schedule 5 of the 1995 Education (Scotland) Act included specific reference to the fact that an authority must take into account the safety of a child when considering whether or not to supply school transport. Scottish Government guidelines issued in June 2006 reinforce this requirement and advise that school transport provision should be kept under review to ensure compliance with duties under the Act.
- 1.3 Although the Council provides assistance, it is the responsibility of parents/guardians to get their child to school or at the pick-up point on time. It is also the responsibility of parents/guardians to accompany their children while walking if it would not be appropriate for children to walk the route unaccompanied.
- 1.4 On a “dedicated” school contract, that is for school pupils only, after seats have been allocated to children who meet the criteria for free school transport, any vacant seats may be allocated for concessionary transport. The Council has a

statutory obligation to allocate seats to concessionary applicants if available. Critically, however, this transport is not guaranteed for any period of time and may be withdrawn at short notice if more children are granted free school transport by meeting the criteria for entitlement.

- 1.5 There is no statutory requirement to hold education transport appeals. However the Highland Council has established a right for parents/guardians to appeal any decision to refuse school transport. There are well-established appeals procedures, details of which are outlined in **Appendix 1**. On the basis that these procedures have been operating for a number of years it is now considered appropriate to review the Appeals committee procedures and to establish that the processes therein continue to serve the needs of all stake-holders.
- 1.6 Feedback from stakeholders including, parents, Members, MP/MSPs and Council officials, has identified the following concerns in relation to the current Appeals sub-committee procedure:
- Whether or not all risks are being adequately considered during the decision-making process and whether or not the risk assessment of the route is rigorous enough
 - Whether or not the appellant be provided with all of the information relating to the route that will be considered by the Appeals committee
 - Whether or not the appeal should relate to a route, rather than an individual pupil, and that the decision would be binding in respect of that route (the exception being where a pupil has a medical condition or additional support needs that may affect his/her ability to walk the route safely)
 - Whether or not appellants should attend the Appeal committee in person.
- 1.7 In order to inform this review, the education transport entitlement procedures in 18 other Scottish local authorities were examined. The outcomes of this review form the basis of the recommendations contained within this report.

2. Procedures in other local authorities

- 2.1 The education transport entitlement process in 19 Scottish local authorities (including Highland Council) is outlined in **Appendix 2**. This analysis includes the following detail:
- Who carries out the initial assessment
 - The basis of the initial assessment
 - The road safety assessment method used
 - Initial appeals are heard by
 - Second appeals are heard by
 - Whether or not the appellant is present
- 2.2 Whilst there is a degree of consistency across authorities in relation to who carries out initial assessments and the basis of these assessments, there is wide divergence in relation to the appeals process. This position can be summarised thus:

	Initial appeals (no. of authorities.)	Second appeals (no. of authorities.)
Officials	14	3
Members	2	2
No appeals permitted	3	14

- 2.3 In addition, of the 19 local authorities included within the analysis only 3 held hearings where appellants were permitted to attend, these 3 being those (other than Highland) where appeals were considered by Members.
- 2.4 It is clear from the above analysis that only 2 of the local authorities reviewed involve Members at the initial appeal stage. The approach of holding an initial appeal consideration by officers is clearly embedded in the majority of the authorities and as such merits closer examination in order to establish the relative strengths and weaknesses.

3. Route safety risk assessments

- 3.1 All road safety assessments are currently undertaken by an official from the Policy Standards & Safety Team in TEC Services. A narrative report is produced in respect of each route being appealed and reported verbally to the Appeals committee. This report is supplemented by photographs and a video of the route. At this time there is no risk assessment or recommendation included within this report.

4. Guidelines

- 4.1 At present there are 2 different sets of national guidelines available which provide guidance on the identification of risk and the assessment of hazards to the safety of a walking route to school. These guidelines are:-
- Local Authorities Road Safety Officers Association (LARSOA) guidelines 2002
 - County Road Safety Officers Association (CRSOA) guidelines 2002
- 4.2 The guidelines currently used by the Highland Council are based on a template provided by the Education Service in the late 1990s which follows the ethos of the guidelines issued by LARSOA. The choice of guidance seems to be a historical matter dating back to previous versions of the guidelines.
- 4.3 The present appeals reports prepared for submission to the Education Transport Appeals sub-committee uses the template as a basis to formulate the various aspects of the route such as the type of carriageway, the type of verges and the availability of step-offs where no pavement exists. Other factors such as the safety of road crossings and the volume and speed of traffic are also considered in the report.
- 4.4 A copy of the LARSOA guidelines is available for Members if required.

5. Proposals for route safety assessments

- 5.1 It is proposed that in future the route safety assessment report is supplemented by a schematic risk assessment using a risk assessment template based on the Local Authorities' Road Safety Officers Association (LARSOA) guidelines and is supplemented by a schematic risk assessment, an example of which is included

within **Appendix 3**. If the assessment of the route is that there are high risks then TEC Services officials would make the decision to grant free transport.

- 5.2 The assessment would also advise what mitigating actions, if any, would be required in order to reduce the safety risk. The potential exists therefore for ECS Service management to assess whether or not investment in these mitigating actions provides better long term value than providing free transport.
- 5.3 In those circumstances where a route is assessed as a low risk and does not therefore qualify for free transport the parents/guardian of the children in question could ask for the entitlement to transport to be reviewed. Under those circumstances this review would be heard by the existing Education Transport appeals sub-committee. This sub-committee would consider the evidence on which the original decision was based. It is proposed that the decision of this sub-committee is final, within the Council, and that no further review of the route would be undertaken unless there was a material change in the route characteristics.
- 5.4 It is proposed that a recommendation is included at the end of each route safety assessment report considered by the Member sub-committee that would recommend whether or not transport is provided on the basis of the relative safety of the route.
- 5.5 It is also proposed that a route will only be assessed once unless there is a significant change to the physical character of that route, for example, a significant increase in the volume of traffic, the creation of a pavement etc. It should be also noted that assessments may show variable risks throughout the length of the route.
- 5.6 It is recommended that in future this sub-committee is entitled the Education Transport Entitlement Review sub-committee to accurately reflect its purpose.
- 5.7 The strengths of the above approach can be summarised thus:
 - It meets all statutory requirements by linking decision-making with a risk assessment process based on nationally recognised road safety guidelines.
 - The decision-making process is objective and robust and is in line with the procedures that have been adopted by almost 74% of the Scottish local authorities reviewed.
 - All potential risks will be considered as part of the decision-making process.
 - The decision will, where appropriate, identify mitigating actions that could be taken in order to reduce the route safety risk. This will enable ECS Management to assess which course of action results in best value for the Service, for example by investing in the recommended mitigating actions as opposed to providing free transport.

6. The recommended Education transport entitlement review process

- 6.1 On the basis of the feedback received from within and outwith the Council it is proposed that the procedure outlined in section 5 above be adopted as the Education transport entitlement review procedure for the Highland Council.
- 6.2 A number of other authorities have recently assessed the safety of pick-up and drop-off points for school transport. It is proposed that the Pu-Do (Pick-up Drop-off) assessment process adopted by some other local authorities is assessed and

that the outcomes are reported back to this Committee for Members' consideration.

7. Recommendations

Members are requested to agree that the following procedures are adopted for considering requests for free school transport below the statutory distances of 2 miles (under 8 years) and 3 miles (8 years and over):-

- That the initial assessment of the route and decision is taken by officials from TEC Services based on a risk assessment framework (as outlined in Appendix 3);
- That the risk assessment framework should be based on the Local Authorities Road Safety Officers Association (LARSOA) guidelines;
- If the initial decision by officers is subsequently challenged then a review of education transport entitlement would be considered by a sub-committee of Members;

and to note that, in accordance with the Council's Standing Orders, the decisions of Appeals Committees are final within the Council.

Signature:

Designation: Director of Education, Culture and Sport

Date: 1st March 2010.

Author: Ron MacKenzie, Head of Support Services, Education, Culture and Sport

Background papers:

Appendix 1 – Existing education transport appeals procedure

Appendix 2 – Analysis of education transport review procedures in other local authorities

Appendix 3 – Route safety risk assessment template

1. Officers from TEC Services produce the documentation for the Appeals sub-committee comprising:

A covering report that includes the following details in relation to the appeal:

- Background
- Age of pupils
- School attended
- Location of home
- Route from home to school
- Grounds of appeal
- Assessment of route (without risk assessment)
- Views of local Members
- Arrangements for providing additional transport

In addition the following information is presented to the Appeals sub-committee:

- All correspondence from the appellants and all other relevant correspondence
- A road safety report, produced by an official from the Policy Standards and Safety team within TEC Services (this report does not include a risk assessment of the route or a recommendation)
- Pictures of the route
- A map of the route

In addition at the Appeals sub-committee meeting a film of the route is shown to Members.

2. The actual procedure at the Appeals sub-committee is as follows:

- Officials from TEC Services introduce the report and presents a film of route
- Appeals sub-committee Members have an opportunity to question the officials
- Local Members have an opportunity to question the officials
- Local Members have an opportunity to make their case either for or against the Appeal
- The Appeals sub-committee Members have the opportunity to ask the local Members questions
- The Appeals sub-committee make a decision based on the evidence presented and the information provided by officials and local Members from supplementary questions

3. The minute of the meeting records the decision. No other information is provided.

The current membership of the Appeals sub-committee is:

Mr W. Fernie
Mr A.M. Millar
Mr L. Fraser
Mrs B. McAllister
Mr B. Gormley

TRANSPORT APPEAL PROCESSES - COMPARISON OF COUNCILS

APPENDIX 2

Council	Initial decision by	Grounds for initial decision	Road safety assessment method	Appeal to	Second appeal to	Appellant present?	Other info
Aberdeen City	Transport Unit	Includes consideration of road safety	By Road Safety team - detail not known	None			Have built footpath to make a route safe and allow withdrawal of transport.
Aberdeenshire	Transport Unit	Generally distance only because fare paying buses are usually available below 3 / 2 miles	By Transport Unit, based on LARSOA, but only for route to bus pick-up point	None			Have extensive network of fare paying buses below entitled distances. Concessionary seats are charged for. Also have bus stop safety audits.
Angus	Education officers	Includes consideration of road safety	Template based on LARSOA	Director of Education (decision by officers)	Sub-Committee of 3 Members	Yes, but excluded for decision making	Transport Unit has record of all roads deemed unsafe by officers.
Argyll & Bute	Education officers	Generally distance only but take advice from Transport if they think that an appeal would succeed.	By Roads officials using West of Scotland Road Safety Forum template	Education officer	Education Head of Service, then Director.		Quite a lot of pupils get concessionary transport within surplus capacity (no additional provision). Charges for concessionary transport may be introduced from August.
Borders	Transport Unit	Policy agreed by Committee - includes road safety	Assessed by Road Safety Officer based on LARSOA	Officers (decision by Transport Unit and Education together)	No second appeal - would have to submit using general complaint procedure		



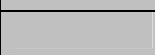




Clackmannanshire	Education's Transport / Fleet Unit	Considers suitability of route (prefer "suitability" to "safety"), and PUDO risk assessment. Every application is assessed.	Criteria developed with Roads - includes LARSOA plus detailed traffic flow figures and other factors including personal safety. Does not consider lighting.	Director of Education (decision in terms of policy)	None		Risk assessment also covers bus journey e.g. vandalism, procedure if bus breaks down, etc. Example of transport being provided for personal safety was a route passing Glenochil Prison - now likely to withdraw due to changed characteristics of route (new housing estate).
Dumfries & Galloway	Education officers	Distance only	Done only once	None			Very few complaints. Policy set by Education. Fairly high provision of concessionary or fare paying transport but some concessionary transport was withdrawn recently and reached front page of local paper.
Dundee							
East Lothian	Transport Unit	Includes consideration of road safety	Referred to Roads engineers if doubtful - Transport makes decision based on their report	Pupil Support Inclusion Service (Education) - decision by Education officers along with Head of Transportation.	None		Recently did a check after dark in response to a complaint but found nothing different from daylight conditions in terms of Highway Code
Edinburgh							
Eilean Siar	Transport Unit	Distance only	By roads engineer - method not known	Service Levels Appeals Panel (all functions) - c.6 Members	None	Yes or may appoint a representative	Distance entitlement is 1 mile for all pupils

Falkirk	Transport Unit	Normally on distance only but would refer to Roads engineers if safety mentioned on application and they felt the case was reasonable	LARSOA	Education officials - never known to go against Road Safety advice	Law & Admin - considered by a Council solicitor	Decision based on whether policy has been correctly followed. Second level appeal has only been used once since present system started 5 years ago.
Fife	Transport Unit	Considers if route is a reasonable walking route (prefer "reasonable" to "safe")	Based on LARSOA plus other factors relating to route environment e.g. overhanging brambles	Transport Unit - consideration by panel including PTU, Education officer, Traffic Management and Police	None	In process of mapping eligibility isopleths around all schools, taking account of distance and reasonable walking routes. Should be on website during 2010.
Highland	Transport Unit	Varied practices inherited from Education Areas	Assessed by Road Safety Officer based on LARSOA, but only at appeal stage	Sub-Committee of 5 Members	None	
Midlothian	Transport Unit	Includes consideration of road safety	Footpaths, street lighting, traffic volume	Transport Unit (Manager) - visits site with Road Safety team	None	Appeals normally confirm initial decision.
Moray	Transport Unit	Includes consideration of road safety	Until 2 years ago done by Police but they stopped doing it. Now mainly historical knowledge.	No formal process. If complaint received, one of the PTU team will do a site visit and make a judgment.		No significant level of objection to decisions.
North Ayrshire	Education officers	Based on designated walking routes. All new routes assessed before decision.	Designated walking routes assessed by Road Safety Officer - method not known.	Head of Service	Director, then Chief Executive.	

Orkney	Education officers	Distance only	Not specified - Education would consider on a case by case basis	Education officers	None		Entitlement is 1.5 miles in winter, statutory distances in summer. There is adequate capacity for concessionary seats so few complaints received. They aim to design routes to avoid pupils having to cross the road.
Perth & Kinross	Education officers (Transport Unit manages concessionary places)	Approved if there is a previous approval on safety grounds. No proactive safety assessment.	By Road Safety team using LARSOA modified with lower traffic flow thresholds.	Education officers - act on Road Safety recommendation.	Education Review Sub-Committee (all-purpose in Education) - 3 Cllrs + 2 lay members	Yes	Education may refuse initial application saying that a fare-paying bus is available. Majority of recent appeals have been over measurement of mileage.
Shetland							
Stirling	Transport Unit	Uses knowledge of established safe walking routes. Distance only where no previous assessment.	By Education officer based on LARSOA	Education officials who will assess route if necessary	None		
West Lothian	Transport Unit	Includes consideration of road safety	Initially by Transport Unit - refer to Transportation for written report if they have concerns	Transport Unit - appeals only on grounds of distance and only if within 0.05 miles of limit - measure on ground.	None		Very few new routes emerge due to urban nature of area.

APPENDIX 3

WALKING ROUTES TO SCHOOL: SCHEMATIC RISK ASSESSMENT

ROUTE				
Overall Route Assessment				
DISTANCE		Number of Pupils		Primary (P) Secondary (S)
	% of route where exists	Values/ Numbers	Highest level of risk along route	Mitigating factors/Comments
Adequate footpath				
Lighting				
Road width				
Traffic volume				
%age HGV's				
Traffic speed				
Accidents Recorded				
Road crossings				
Visibility				
Adequate step-offs				
Bus pick-up / drop-off point				
Exposure to weather				

