

Lambeth SEND Travel Assistance Policy 2019

1: Introduction

Lambeth Council is committed to making sure that children and young people have access to transport and travel arrangements that promote their independence and wellbeing, as well as maximising benefits for the environment.

Most children and young people living in Lambeth do not receive or require travel assistance to get from home to school or their place of learning. As a general rule, Lambeth Council believes that the majority of children and young people will be able to travel on free public transport. It is recognised however, that not all children and young people can manage public transport, even with support.

Under the Education Act 1996 (“the Act”), local authorities in England have a duty to make suitable home-school travel arrangements for ‘eligible’ children of compulsory school age (5-16 year old), as the local authority considers necessary. These arrangements must be made free of charge, and the school in question must be a “qualifying school”.

The law says:

A local authority in England must make, in the case of an eligible child in the authority’s area...such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child’s attendance at the relevant educational establishment in relation to him, are made and provided free of charge.

(Section 508B (1), Education Act 1996)

One such group of ‘eligible’ children are children with special educational needs (SEN) and/or a disability and/or mobility problems who, by reason of their SEN, disability, or mobility problems, cannot reasonably be expected to walk to the school they are registered at, where that school is a qualifying school.

This document sets out the London Borough of Lambeth’s policy in relation to travel arrangements for children who are eligible on account of their SEN, a disability, or mobility problems. We hope that it will provide clarity to parents about their children’s entitlements, and what assistance is available to them in Lambeth.

There is a range of support available, including various modes of assistance to use London’s excellent public transport links. The type of assistance provided will depend on the child’s individual needs.

Lambeth has different obligations towards young people and young adults with SEN and/or a disability. Section 9 of this document provides brief details about these age groups, and links to the separate policies which detail the assistance available to them in full.

Lambeth reminds parents/carers that it is their responsibility to ensure that application forms have been received by the SEND Transport Team. No exceptions can be made in circumstances where forms have not been received. During the application process it remains the legal responsibility of the parent/carer to ensure that their child attends school regularly.

2: Relevant legislation

In preparing this document, we have had regard to the following legislation and guidance:

- the *Education Act* (1996), with particular reference to sections 508B, 508C, 509AA and Schedule 35, as inserted by the *Education and Inspections Act* (2006);
- the *Home to School Travel and Transport Guidance* (statutory guidance issued in 2014 and hereafter referred to as 'the Guidance');
- the *Children and Families Act* (2014);
- the *Special Educational Needs and Disabilities Regulations* (2014);
- the *Special Educational Needs and Disabilities Code of Practice* (2014);
- the *Post-16 Transport to Education and Training Guidance* (statutory guidance issued in 2017).

3: Travel assistance available for eligible children in Lambeth

If an assessment finds that a child is eligible for travel assistance to their nearest qualifying school, the next step is to determine what the most appropriate form of travel assistance will be. This will of course depend on the child's individual needs. Lambeth recognises the importance of providing 'suitable' travel which, taking into account the child's individual needs, should be reasonably stress-free and allow them to arrive at their educational placement ready to learn.

Journey time is of course a factor in this, but we would remind parents that the Guidance recognises that '*For children with SEN and/or disabilities, journeys may be more complex and a shorter journey time, although desirable, may not always be possible.*'

Where more than one mode of transport is suitable, Lambeth will choose the option which represents the most efficient use of resources.

Options for travel assistance can include:

- Provision of a travel card for the child to use on public transport (train, tube, and DLR in addition to the use of bus and tram currently available via Transport for London);
- Provision of an Oyster card or travel card for a parent, carer or other responsible adult;
- Travel reimbursements or personal budgets to facilitate the payment of reasonable travel expenses where the parent, carer or appropriate adult arranges travel for the child;
- A seat on a vehicle (suitably adapted as necessary). In most cases, the vehicle will be shared with children attending the same or nearby school.
- Independent Travel Training; and,
- Any other creative and efficient suggestions made by parents or carers.

All cases will be considered on their individual merits, but Lambeth will normally look first at the provision of travelcards or petrol reimbursements, with the expectation that, where possible, parents will support their children to attend school in this way.

Independent Travel Training

The ability to travel independently is a vital skill that young people will need to equip them for adult life. Lambeth wants to ensure that all young people have the opportunity to be as independent as possible, and also have options available to them after school which will help them to achieve their goals. By being able to travel independently, young people are also able to develop socially, and include themselves in as many opportunities as possible.

Independent Travel Training is a 1:1 training scheme that gives young people with Special Educational Needs the skills and confidence to make the home-to-school journey independently on public transport. The programme takes approximately 8 weeks, but this is dependent on the young person and their individual needs. Parents are included and supported through the whole process, from assessment to sign off.

For children of secondary school age or preparing to transfer to secondary school (i.e. at least 11 years old), the Panel will consider the appropriateness of Independent Travel Training, taking into account the individual needs and abilities of the child.

If the Panel considers it appropriate, then the young person will be referred for an assessment to determine if they are ready for Independent Travel Training. The assessment is usually a practical, off site journey, which will gauge a number of pre-requisite skills.

Lambeth consider engagement in the assessment to be compulsory, and alternative forms of support will not be provided following refusal to engage in the assessment process.

Following an assessment, if a child is deemed eligible to start ITT we expect parents/carers to support the process and allow the child to commence training. Lambeth will not offer alternative forms of travel support in cases where parents do not want to accept the offer of travel training.

If a child is assessed as not suitable or not ready for Travel Training, the Panel will consider offering an alternative form of support on a case by case basis.

Timings

Generally, transport provision will not be made other than at the beginning and end of the normal school day. In cases of exclusion, illness etc, when a child has to go home during the course of the school day the school, or parent/carer is responsible for transport.

SEND transport will not be provided to accommodate attendance at optional breakfast clubs or optional after school activities.

Home address

Each case is considered individually on its merits, but Lambeth will not normally provide travel assistance to two addresses. Families of children from split parental homes will therefore usually be required to decide which home is their chosen address for travel assistance purposes; the Council may require proof of this address.

'Home-to-school' transport is just that: transport to school, and transport home again, i.e. only two journeys during a school day. This will be from an agreed pick up/drop off point, normally the home address.

SEND transport will generally not be provided to and from alternative addresses, for example respite centres or relatives, if doing so would be disruptive to the route or would incur additional costs.

Behavioural Issues

If a child has to be separated from a shared route due to behavioural issues, especially when they result in health and safety issues for other children, Lambeth will usually offer a direct payment to parent to make alternative arrangements. Lambeth will not arrange a separate taxi except in the most exceptional circumstances which will be considered on a case by case basis.

Looked-After Children

For looked after children who are placed out-of-authority, the providing authority, where the child is ordinarily resident, is responsible for assessing the transport needs for the child. If transport is agreed by that authority, the local authority to which the child belongs must pay to the providing authority such amounts as agreed between them. Financial responsibility for travel support will sit with the social care team responsible for the care placement, if this placement is outside of Lambeth. Payments are made in line with the Inter-Authority Recoupment Regulations.

Sustainable Transport Duty

Lambeth recently became the first London Borough to declare a climate emergency, with a view to becoming a carbon neutral Borough by 2023. In regard to this, Lambeth SEND has a duty to promote sustainable home-to-school travel, such as local walking, cycling and bus use, wherever possible. This has important benefits for the environment, such as reducing congestion on the roads and improving air quality, as well as benefits for the child's physical health.

In considering what might be the most appropriate form of travel assistance, Lambeth will have regard to the Sustainable Transport Duty wherever possible. This means that, where appropriate, Lambeth will offer Independent Travel Training to facilitate children with SEN or disabilities use of a sustainable mode of transport, such as walking, cycling or a local bus route. The Guidance recognises that this can result in a skill for life.

More information relating to Lambeth's decision to declare a climate emergency can be found here <http://modern.gov.lambeth.gov.uk/documents/s107088/Climate%20Crisis%20Response%20CMDR.pdf>

4: What is a "qualifying" school?

Lambeth is only required to provide travel assistance to a qualifying school. Qualifying schools are:

- Community, foundation or voluntary schools;
- Community or foundation special schools;
- Pupil referral units;
- Maintained nursery schools; and,

- City Technology Colleges, City Colleges for the Technology of the Arts, academies, free schools, and university technical colleges.

Where an independent school, such as an independent special school, is named in Section I of a child's Education, Health and Care Plan (EHCP), it is considered a qualifying school for the purpose of travel assistance.

Nearest suitable school criteria

In respect of an eligible child, Lambeth will normally only provide travel assistance to the nearest suitable school – i.e. the nearest qualifying school which can meet the child's needs *and* offer the child a place.

Sometimes a parent's preferred school is not the nearest suitable school. In such cases, Lambeth may refuse to provide travel assistance if the cost of the placement plus transport would be significantly more expensive than the nearer placement.

Where a child has an EHCP, the issue of the nearest suitable school criteria can be an important consideration when discussing Section I of the Plan. More information about this can be found in Section 7 of this document.

5: Eligibility of children (aged 5-16)

Having SEN, a disability, or mobility problems does not mean that a child is automatically entitled to transport assistance. It must also be **unreasonable to expect them to walk to school**, either because of the health and safety implications of their SEN, disability or mobility problems or because of associated mobility issues. They must also be attending a qualifying school. (Please see Section 3 of this document for more information about qualifying schools).

In practice, this means that many children who have quite complex needs, for which they may have an EHCP, do not qualify for transport assistance. Equally, some children without an EHCP may be eligible for some form of assistance. (EHCPs and travel assistance are discussed in more detail in Section 7 of this document).

Eligibility is assessed on an individual basis, and a range of factors may be taken into consideration in determining what, if any, travel assistance is appropriate. Some of the most important factors we may take into account in an assessment of transport eligibility are discussed below.

- *The nature of the child's SEN, disability, or mobility problems*

We will consider the nature of the child's SEN, disability, or mobility problems, and how this may affect their ability to walk to the qualifying school they are registered at. A child may have complex SEN, for example, without it impacting on their ability to walk a specific route to school. In such a case, they would not be considered eligible for travel assistance. On the other hand, a child may have additional needs which do not impact greatly on other aspects of their education, but do make it unreasonable to expect them to walk to school.

- *Walking distance and the nature of the route*

The law requires free transport to be provided for not only children with SEND, but all pupils of compulsory school age if their nearest suitable school is:

- Beyond 2 miles (if below the age of 8);
- Beyond 3 miles (if aged between 8 and 16).

Many children with SEN, a disability or mobility problems will attend a school beyond the statutory distances, and so are eligible for travel assistance on these grounds.

However, where a child attends a school within walking distance – i.e. less than the stipulated 2 or 3 miles, depending on age – and they have SEN, a disability or mobility problems, they *may* still be eligible for travel assistance. The crucial test is whether the child's SEN, disability or mobility issues make it unreasonable to expect them to walk to school. Lambeth will assess this on a case-by-case basis.

Parental accompaniment

Sometimes it may be unreasonable to expect a child to walk unaccompanied due to their SEN, disability or mobility issues, but reasonable to expect them to walk when accompanied by a suitable person, such as their parent. Whether it is reasonable to expect a child to walk when accompanied, and then whether it is reasonable to expect their parent to accompany them, are therefore important considerations in determining travel assistance eligibility.

Lambeth will take a range of factors into account when considering the issue of parental accompaniment. However, as the Guidance states, *'The general expectation is that a child will be accompanied by a parent where necessary, unless there is a good reason why it is not reasonable to expect the parent to do so.'* If a parent believes they do have a good reason for being unable to accompany their child to school, Lambeth invites them to explain this to the appropriate officer during the transport assessment process. An example of a 'good reason' might be where a parent/carer has a disability which would make it unreasonable to expect them to accompany their child to school. In such a case, the parent/carer would be invited to submit medical evidence of their condition or disability and Lambeth would then make appropriate reasonable adjustments based on the evidence. Parents should contact Lambeth to discuss what might be helpful supporting evidence.

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Where a parent or parents work, this will not normally on its own be considered 'a good reason'. Lambeth's general approach is that all working parents are expected to make arrangements to get their child to/from school, including using wrap around services, childminders or relying on families and friends as appropriate.

We recognise that siblings at other schools may be a relevant factor, for example where a family have more than one qualifying child attending different schools. However, in the first instance, parents would be expected to make use of wrap around services provided by schools, which exist precisely to assist in such situations, or childminders and relying on families and friends.

- Parental accompaniment and the age of the child

In assessing the reasonableness of expecting a parent to accompany their child to school, the Guidance suggests that local authorities may take into account the age of the child and whether one would ordinarily expect a child of that age to be accompanied. We would remind parents that the Guidance does not state a specific age at which one would ordinarily expect a child to be able to walk to school unaccompanied. Our approach is therefore that this point will depend to some extent on the nature of the route. In some situations, for example where the route is very short and safe, the general expectation might be that a 12-year-old could travel unaccompanied. However, where the route is longer or more complex, one might not expect the average 12-year-old, to make the journey unaccompanied. This will be assessed on a case-by-case basis.

6: Timing of assessments

Generally, we would expect travel assistance assessments to take place during the normal school admissions round. This is when most school places are available, and assessing eligibility at this time therefore allows the greatest prospect of being able to secure a place at the nearest suitable school.

Where eligibility has been established and arrangements have been made, we would normally expect to provide the agreed assistance for the remainder of the school year, in order to minimise disruption. Reviews of agreed provision usually occur on an annual basis and seek to determine whether the current provision should be ceased, or different or additional arrangements ought to be made.

In the case of a child who has an EHCP, it may be more appropriate to review transport arrangements when the EHCP is reviewed.

Inevitably, some cases will not follow this chronology. Common situations in which we would expect this to be the case include when:

- a child with SEN, a disability or mobility problems moves to Lambeth's area during the school year, and applies for travel assistance;
- a child in receipt of travel assistance changes educational placement during the year, and their travel needs along the new home-to-school route need to be reviewed;
- the home address of a child in receipt of travel assistance changes during the school year, and their travel needs along the new home-to-school route need to be reviewed; or,
- an application for assessment for travel assistance is made during the school year, or once the placement has already commenced.

If Lambeth becomes aware of such a change, we will organise an early review of travel arrangements. If you are in receipt of assistance, and there are any changes to your child's SEN, disability or mobility problems, or the route to their educational placement, Lambeth's SEND team must be notified immediately.

7: Travel assistance and Education, Health and Care Plans (EHCPs)

Travel assistance and the arrangements made as part of an Education, Health and Care Plan are usually separate. There is no requirement to have an EHCP in order to be eligible for travel assistance on SEND grounds and equally many children with an EHCP are not eligible for travel assistance. In addition to this, transport is rarely specified in an EHCP, and there is no right of appeal to the SEND Tribunal for issues regarding travel assistance. (For further details about rights of appeal in transport matters, please refer to Annex 1 of this document).

In cases where travel assistance is being requested for a child without an EHCP, SEND will refer to Social Care to assess and fund arrangements.

Travel assistance can be an important consideration in determining Section I of the EHCP (i.e. the section where the child's school placement is named) as local authorities are allowed to take the cost of providing travel assistance into account when determining whether a placement is an efficient use of resources.

Where the parent's preferred placement is not the nearest suitable school (i.e. the nearest qualifying school which can meet their child's needs and offer them a place), and the total cost of the child's placement and travel assistance would be significantly greater than if they were to attend the nearer school, Lambeth may refuse to provide travel assistance to the parental choice.

Lambeth will negotiate this matter with parents, and where travel assistance is responsible for the increased costs, the parental preference can still be named in Section I, subject to the parent agreeing to take responsibility for providing home-to-school transport. In such a case, both placements will be named in Section I, with a brief statement explaining that if the parent provides travel, the child will attend the parental preference, otherwise Lambeth will make suitable travel arrangements for the child to attend the nearer school.

Independent Travel Training

Although travel assistance is not normally detailed in an EHCP, Independent Travel Training may in some circumstances be considered as special educational provision. In such cases, it would be detailed in Section F (“Special Educational Provision”) of the EHCP. It would also be linked to Section E (“Outcomes”), along with expectations for independent home-to-school travel.

Residential Placements

Where Lambeth names a residential provision in Section I of the EHCP, which is at some distance from the family’s home, we will provide reasonable transport or travel assistance. The latter might be e.g. reimbursement of public transport costs, petrol costs, or provision of a travel pass. However, there may be situations where parents have agreed to pay for this transport, in return for Lambeth not naming a nearer suitable provision to home.

8: Exclusions

In line with the Guidance, Lambeth recognises that where a pupil is registered at a school (i.e. transport rights have been established for the school year), but is attending a place other than that school as a result of temporary exclusion, eligibility for home to school travel will apply to the other place for the temporary period.

If there is to be a permanent exclusion, and thus a change of educational placement, Lambeth will review any current travel provision made in respect of the child.

9: Transport provision for other age groups in Lambeth

Children with SEN or a disability under compulsory school age

Lambeth does not have a duty to provide travel assistance for children under compulsory school age, and we do not normally do so. If you believe there are compelling and exceptional reasons for such provision to be made, please contact the SEND team to discuss the matter.

Young people with SEN or a disability aged 16-18

Local authorities have different responsibilities regarding travel arrangements for post-16 learners. Lambeth is required to publish an annual policy statement for learners in this group. The 2018-19 version of this document, which includes information for learners with SEN or a disability, can be found at this address: <https://www.lambeth.gov.uk/sites/default/files/cyp-lambeth-16-19-sen-travel-policy.pdf>

Young adults up to 25

The legislation is less prescriptive for the age 19-25 age group. These applications are considered by Adult Social Care on a case by case basis. *Lambeth SEND Travel Assistance contact*

10: Applications and contact

Applications should be made online via Lambeth Local Offer <https://lambeth.gov.uk/send-local-offer>

Postal Address:

London Borough of Lambeth
PO Box 734
Winchester
SO23 5DG

Office Address:

1st Floor Civic Centre
6 Brixton Hill
London
SW2 1EG

Tel 02079266839

Email transport@lambeth.gov.uk

Annex 1: Appeals process

London Borough of Lambeth follows the appeals process set out in the Statutory Guidance.

Stage One: review by a senior officer

If a parent is not happy with Lambeth's decision regarding travel assistance, they have a right to request a review of the decision to be made by a senior officer to the person(s) who originally conducted the assessment.

The parent has 20 working days from receipt of Lambeth's decision to make a written request for such a review. In their written request, the parent should detail:

- why they believe the decision should be reviewed; and,
- any personal and/or family circumstances they believe should be taken into consideration when the decision is reviewed.

An officer senior to the original decision-maker will then review the original decision. In most cases, we would anticipate this to take place within 20 working days of receipt of the parent's written request. However, in a very complex case, we reserve the right to take more time to conduct the review.

After reaching a decision, the senior officer will send the parent a detailed written notification of the outcome of their review. This will set out:

- the nature of the decision reached;
- how the review was conducted;
- information about other departments and/or agencies that were consulted as part of the process;
- what factors were considered;
- the rationale for the decision reached; and,
- information about how the parent can escalate their case to stage two if they are still not satisfied with the outcome of their request.

Stage Two: review by an independent appeal panel

If a parent is not satisfied with the outcome of the first-stage review, they have the option to make a written request to escalate the matter to stage two. This must be made within 20 working days of receipt of the decision letter from the first-stage review.

Within 40 working days of receipt of the parent's request, an independent appeal panel will consider written and verbal representations both from the parent and officers involved in the case. A detailed written notification of the outcome will be provided within 5 working days of the decision. This will set out:

- the nature of the decision reached;
- how the review was conducted;
- information about other departments and/or agencies that were consulted as part of the process;
- what factors were considered;
- the rationale for the decision reached; and,
- information about the parent's right to put the matter to the Local Government Ombudsman.

The independent appeal panel members will be independent of the original decision-making process. They are not, however, required to be independent of Lambeth as a local authority. They will be suitably experienced to consider the specific issues in the individual case.

Further rights of appeal

If the parent does not consider the matter satisfactorily resolved after the second-stage review, they may have further rights of appeal.

If a parent considers that there was a failure to comply with the procedural rules, or that there were any other irregularities in the way the appeal has been handled, they have a right of complaint to the Local Government Ombudsman.

If a parent considers that the decision of the independent panel was flawed on public law grounds, they may apply for a judicial review.

DRAFT FOR CONSULTATION