



To: Members of the Appeals Sub-Committee

Notice of a Meeting of the Appeals Sub-Committee

Thursday, 29 September 2011 at 10.00 am

County Hall, Oxford OX1 1ND

Peter G. Clark.

Peter G. Clark
County Solicitor

September 2011

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Membership

Chairman – Councillor Neil Owen
Deputy Chairman - Councillor A.M. Lovatt
Councillor Anne Purse

Notes:

- **Date of next meeting: 27 October 2011**

Declarations of Interest

This note briefly summarises the position on interests which you must declare at the meeting. Please refer to the Members' Code of Conduct in Section DD of the Constitution for a fuller description.

The duty to declare ...

You must always declare any "personal interest" in a matter under consideration, ie where the matter affects (either positively or negatively):

- (i) any of the financial and other interests which you are required to notify for inclusion in the statutory Register of Members' Interests; or
- (ii) your own well-being or financial position or that of any member of your family or any person with whom you have a close association more than it would affect other people in the County.

Whose interests are included ...

"Member of your family" in (ii) above includes spouses and partners and other relatives' spouses and partners, and extends to the employment and investment interests of relatives and friends and their involvement in other bodies of various descriptions. For a full list of what "relative" covers, please see the Code of Conduct.

When and what to declare ...

The best time to make any declaration is under the agenda item "Declarations of Interest". Under the Code you must declare not later than at the start of the item concerned or (if different) as soon as the interest "becomes apparent".

In making a declaration you must state the nature of the interest.

Taking part if you have an interest ...

Having made a declaration you may still take part in the debate and vote on the matter unless your personal interest is also a "prejudicial" interest.

"Prejudicial" interests ...

A prejudicial interest is one which a member of the public knowing the relevant facts would think so significant as to be likely to affect your judgment of the public interest.

What to do if your interest is prejudicial ...

If you have a prejudicial interest in any matter under consideration, you may remain in the room but only for the purpose of making representations, answering questions or giving evidence relating to the matter under consideration, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Exceptions ...

There are a few circumstances where you may regard yourself as not having a prejudicial interest or may participate even though you may have one. These, together with other rules about participation in the case of a prejudicial interest, are set out in paragraphs 10 – 12 of the Code.

Seeking Advice ...

It is your responsibility to decide whether any of these provisions apply to you in particular circumstances, but you may wish to seek the advice of the Monitoring Officer before the meeting.

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

AGENDA

1. Apologies for Absence and Temporary Appointments
2. Declaration of Interest - see guidance note opposite

EXEMPT ITEM

It is RECOMMENDED that the public be excluded for the duration of item 4E since it is likely that if they were present during that item there would be disclosure of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972 (as amended) and specified below in relation to that item and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

THE REPORTS RELATING TO EXEMPT ITEMS HAVE NOT BEEN MADE PUBLIC AND SHOULD BE REGARDED AS STRICTLY PRIVATE TO MEMBERS AND OFFICERS ENTITLED TO RECEIVE THEM.

3. Appeals against decisions by the Council in respect of Home to School Transport (Pages 1 - 54)

The public should be excluded during this item because its discussion in public would be likely to lead to the disclosure to members of the public present of information in the following prescribed categories:

1. Information relating to any individual;
2. Information which is likely to reveal the identity of an individual;
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that such disclosure would infringe the rights of the individual to privacy contrary to the general law and the duty of the authority to respect human rights.

Please note that the Home to School Transport Policy is a publicly available document and is attached to the agenda.

The Sub-Committee is RECOMMENDED to consider the cases and determine the appeals.

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Home to School Travel Policy for 2011/12

Introduction

1. The County Council is keen to encourage young people to walk or cycle to school or college or to make use of public transport, but it also provides free transport and some assisted transport as set out in the Home to School Transport Policy set out in this document.
2. The legal basis for the provision of home to school transport is set out in sections 508A, 508B, 508C, 508D and 509AD and Schedule 35B of the Education Act 1996 (as amended by Part 6 of the Education and Inspections Act 2006) and where appropriate the Equality Act and English and European case law. In addition local authorities are under a statutory duty to have regard to the Home to School Transport Guidance issued by the then DfES (now DCSF) in 2007.
3. The Home to School Transport Policy applies to young people who live in the County of Oxfordshire. Those who are not resident in Oxfordshire are advised to contact their own home local authority for details of any policy that their home authority may have regarding home to school/college transport.
4. Parents of those aged from 4 (Rising Five's) to 16 need to complete and submit a Transport Application Form if they wish to apply for free or subsidised home to school transport. If they wish to apply for subsidised travel an 'Application for Concessionary Travel on a School Bus' needs to be completed.
5. When, under the Home to School Transport Policy, children and young people are entitled to free transport it is provided by the most cost effective means. This will usually be by the provision of a free bus pass. However, where numbers are small children sometimes have to be transported by taxi. Where parents wish to take their children to school and it is therefore possible to avoid the provision of a taxi the Local Authority may agree to the payment of a mileage allowance. The mileage allowance is provided for the child's journey to school and the return to the child's home. Parents are not provided with a mileage allowance for their own return to home in the morning or their journey to the school in the afternoon, i.e. the LA pays a mileage allowance for two journeys per day rather than four. The mileage allowance is the Revenue and Customs All Car Rate (currently 40p). If through a change in circumstance¹ the payment of the mileage allowance proves no longer to be the cheapest way of transporting the child to school the alternative means of travel will be offered and the parent will be given up to 6 weeks

¹ For example if a taxi contract is awarded to transport another nearby child to the same school and there is a spare seat in the vehicle.

to consider the new arrangement. At the end of that period or when the alternative means of transport is taken up, whichever is the sooner, the mileage allowance will be withdrawn.

6. Where free or concessionary travel has been agreed it is provided for attendance at the beginning and end of the school day and not for extracurricular activities.
7. The responsibility for determining entitlement issues rests with the School Admissions Team since transport decisions relate to the school attended. The responsibility for organising transport rests with the Integrated Transport Unit.
8. Any information regarding Oxfordshire's Home to School Transport Policy obtained from any source other than the Admissions Team of Oxfordshire County Council or the Oxfordshire public website should be disregarded.
9. Buses and coaches used for home to school transport are public service vehicles and are subject to specific safety legislation. This is enforced by an initial inspection and certification of the vehicle followed by subsequent annual checks. Vehicles are also subject to random roadside checks undertaken by the 'Vehicle and Operator Service Agency' (VOSA). VOSA are able to prohibit any vehicle that is non-compliant, i.e. is in a dangerous condition, not roadworthy and/or the driver's hours are irregular. Any Service Provider using sub-standard vehicles may lose their operator's licence.

Statutory Walking Distance

10. In understanding home to school transport and what can and cannot be provided free of charge it is important to understand what is referred to as "the statutory walking distance". This is 2 miles for children who are under 8 years of age, and 3 miles for those of statutory school age who are 8 and over. It is measured along the shortest route along which a child, accompanied by a responsible adult, may walk with reasonable safety. The route may include footpaths, bridleways, and other pathways, as well as recognised roads. All such routes need to be open to the public. When there are issues raised over the possible safety of a walking route the Admissions Team will arrange for an initial assessment by the Integrated Transport Unit and if necessary a full risk assessment by Road Safety.

Distance Measuring for Free Transport for Children of Low Income Families

11. The 2 mile limit is measured in the same way as the "statutory walking distance". However, the 6 mile and 15 mile upper limits are not walking routes. They are measured along routes that are passable using a road route suitable for motorised vehicles.

Home

12. A child's home is considered to be the child's main place of residence during the normal school week. Free transport can only be provided from that one address.

Travel to a Friends Home

13. No seat can be provided on an ad hoc basis to children wishing to travel to the homes of children who are entitled to free transport.

Escorts

14. Escorts are normally only provided when it has been established through the assessment or review process that a child with a Statement of Special Educational Needs has a specific need to be accompanied.
15. Escorts will not normally be provided in any other circumstances.

Parents accompanying children in OCC transport

16. Parents will not normally be able to travel in OCC provided transport.

Assessment of Eligibility for Free Transport on Admission to Primary or Secondary School

17. An assessment of eligibility for free transport is made as part of the normal admissions process for entry to school. Parents are normally notified of the decision in the letter offering a school place.
18. If a child ceases to be eligible during the course of the school term, for example due to moving address, the provision should cease at the end of that term.

Free transport for those of school age (F1 to Year 11)

19. Children within the following categories are eligible for free transport:
 - a. Children attending the designated (catchment) school for their address if the distance from home to school is over the "statutory walking distance" of 3 miles if 8 or over or 2 miles if less than 8 and of statutory school age. This applies whether or not the school was listed on the Common Admissions Preference Form (admissions application form).
 - b. Children attending the nearest available school or educational placement to their address, if the distance from home to school is over the "statutory walking distance" of 3 miles if aged 8 or over or 2 miles if less than aged 8 and of statutory school age. This applies whether or not the school was listed on the Common Admissions Preference Form (CAPF).

- c. Children who are aged 8 or over and are under 11 years old who are eligible for Free School Meals or whose parents are in receipt of the maximum level of Working Tax Credit and attend the nearest school if it is over 2 miles from their home.
- d. Children aged 11 to 16 who are eligible for Free School Meals or whose parents are in receipt of the maximum level of Working Tax Credit and who attend one of their three nearest suitable schools (or places other than school at which they might receive education under section 19(1) of the Education Act 1996), where they live more than two but not more than 6 miles from that school. The 2 mile distance is measured by “walking route” and the 6 mile distance is measured by road route.
- e. Children attending the nearest available school to their address even if it is less than the statutory walking distance, if it would not be safe for a child accompanied by an adult to walk from the home to the school. This applies whether or not the school was listed on the CAPF. If the route is subsequently determined to be safe the free transport will be withdrawn after the parent will be given up to 6 weeks to consider the new arrangement. At the end of that period or when the alternative means of transport is taken up, whichever is the sooner, the mileage allowance will be withdrawn.
- f. Children aged 11 to 16 who are eligible for Free School Meals or whose parents are in receipt of the maximum level of Working Tax Credit and want their child to be educated in accordance with their religion or belief and they attend the nearest suitable school preferred on grounds of religion or belief that is over 2 miles but no more than 15 miles from their home. The 2-mile distance is measured by “walking route” and the 15-mile distance is measured by road route.
- g. Children entitled to free transport that then move house during Year 11 and continue to attend their original school subject to the following limits:
 - i. Transport can be provided other than by taxi
 - ii. The distance travelled is no more than 15 milesTaxis will only be used in exceptional circumstances.
- h. Children with a disability who do not have a Statement of Special Educational Need who by reason of their disability are unable to walk even relatively short distances to school and children with a mobility problem caused by a temporary medical condition, for example a broken leg. This assistance is subject to confirmation of the medical reasons for the provision by a GP or consultant.

- i. Children with a Statement of Special Educational Needs where one of the following applies:
 - (i) The school attended is the nearest suitable school or educational placement to their address that has an available place, if the distance from home to school is over the “statutory walking distance” of 3 miles if aged 8 or over or 2 miles if less than aged 8 and of school age.
 - (ii) The school attended is the nearest suitable school or educational placement to their address that has an available place and the distance from home to school is less than the distances set out in h(i) but it would not be safe for a child accompanied by an adult to walk from the home to the school.
 - (iii) The children concerned are unable to walk to school by reason of their special educational need or, if disabled, their disability or because of a temporary or long term medical condition. Evidence is required from a GP or consultant.

Free Travel to Out County Residential Schools for those with Special Educational Needs

Out County Weekly Boarding

- 20. The beginning and end of each term of each school week to a total of 76 single journeys per year.

Termly Boarding (3 terms per year)

- 21. Children of 11 or over are entitled to free travel at the beginning and end of each term and half term up to a maximum of 16 single journeys per year.
- 22. Children aged up to 11 are entitled to free travel at the beginning and end of each term and half term, plus 4 discretionary journeys home per year, up to a maximum of 24 single journeys per year.

Termly Boarding (4 terms per year)

- 23. Children of 11 or over are entitled to free travel at the beginning and end of each term and half term up to a maximum of 16 single journeys per year.
- 24. Children aged up to 11 are entitled to free travel at the beginning and end of each term and half term, plus 4 discretionary journeys home per year, up to a maximum of 24 single journeys per year.

Out County 52 Week Boarding (joint placement with other agency)

25. All boarders (or parents) are entitled to 12 single trips home per year (broadly relating to term times). Any additional trips will be the responsibility of the other agency.

Payment of parental journeys for those with children at out county residential special schools

26. Payment will be made if one of the following applies:
- a. Attendance at their child's annual review
 - b. Attendance at any meeting called by the LA at the pupils school
 - c. Journeys necessitated by a child's sickness or emergency medical appointments
 - d. An agreed journey to visit a new school placement
 - e. To attend up to three additional meetings per year at the school (called by the school or requested by the parents) if sanctioned by the LA in advance.

Overnight Accommodation

27. The LA will not normally reimburse the cost of overnight accommodation for parents/carers.

Applications for Transport Assistance on Grounds of Religion and Belief

28. In making decisions on assistance with transport the LA will respect parents' religious and philosophical convictions as to the education to be provided for their children in so far as this is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure (as per para.134 of the Home to School Travel and Transport Guidance issued by the then DfES in 2007).
29. However, a parent will need to satisfy the LA of the genuine nature of the religious and/or philosophical belief and that the application is made in good faith. The burden of proof lies with the child's parent/parents.
30. Examples of acceptable evidence are:
- a. The provision of a baptismal certificate.
 - b. A statement of atheism.
 - c. A statement of adherence to a particular faith.
 - d. A letter of support from a priest or rabbi stating that the child belongs to a particular congregation.

Normally two pieces of evidence will be required.

31. It is important to note that the LA will take into account the financial consequences of any applications for assistance and that setting up new

coach services or taxi routes or specifically continuing them when they could be discontinued in order to accommodate new travellers would normally fall within the definition of “unreasonable public expenditure”. However, where there are spare seats on already existing home to school transport routes, or scheduled public transport services, the LA will be able to consider applications for places under the concessionary travel arrangements.

32. The LA will not take into academic grounds for preferring a particular school when making a decision on whether to provide assisted transport on grounds of faith or belief.
33. Decisions on applications for transport assistance on grounds of faith or belief will normally be taken by a panel of three. The chairman will normally be the Service Manager for Admissions.

16-19 Home to School/College Transport

Annual 16 to 19 Transport Policy Statement

34. Details of travel provision for the 16 to 19 age group will be published by 31 May of each year in the 16-19 Transport Policy Statement. This is intended to ensure that young people can make informed choices regarding post16 education. The Policy Statement can be amended in year in response to complaints or a direction from the Secretary of State. Complaints can be heard by the Appeals Sub-Committee of the Democratic and Organisation Committee (DOC).

Free Travel

35. Students with learning difficulties and/or disabilities who are beyond statutory school age and who are aged 16 to 19, will receive free travel to that placement when they attends the nearest suitable school or educational placement to their home address that has an available place and one of the following applies:
 - a. It is over 3 miles from their home to the educational placement.
 - b. It is less than 3 miles from their home to the educational placement but it would not be safe for the young person, even if accompanied by an adult, to walk from home to that placement.
 - c. The young person is unable to walk to the school or education placement due to their learning difficulty and/or disability, or because of a temporary or long term medical condition. Evidence is required from a GP or consultant.

Subsidised Travel (16-19 age group)

36. Students who do not have learning difficulties and/or disabilities who are beyond statutory school age, are aged 16 to 19, and who attend either a

college or a school may use the concessionary travel scheme where it is necessary to enable them to access the designated school or college for their area (lower concessionary charge payable) or to access a non designated area school or college (higher concessionary charge payable). The concessionary travel scheme makes places available on transport provided for those who are eligible for free home to school transport.

37. Oxfordshire residents aged 16-19 living within the catchment area of Henley College will continue to be eligible for subsidised travel to that college if the college is over 3 miles or if there is no safe walking route (lower concessionary charge payable). The latter charge will be reviewed on an annual basis.
38. In exceptional circumstances, and only where places on relevant home to school transport routes are unavailable, season tickets on public transport may be provided for travel to the designated college or school from the student's home address at the relevant concessionary charge rate. This is meant to apply where a home to school transport route is full and it would be possible to use public transport and so avoid the unnecessary additional public expense of contracting for additional capacity on that route.

Travel Arrangements for Learners with Learning Difficulties Assessments (aged 19-24)

39. An annual Learning Difficulties and Disabilities Transport Policy Statement will be issued by the LA either with the 16-19 Transport Policy Statement or separately. This document will specify any transport or other arrangements, any payment of travel expenses and concessionary schemes which the LA plans to make available to this group of learners in the following academic year to publication. The Policy Statement will also set out the arrangements for facilitating boarding provision outside both the further education and higher education sectors. Complaints can be heard by the Appeals Sub-Committee of the Democratic and Organisation Committee (DOC).

The Concessionary Travel Scheme

40. Concessionary seats are spare seats on home to school transport routes. These are routes that are operated for the benefit of those who are entitled to free transport to and from school. The key points regarding this scheme are set out below:
 - a. The Council cannot guarantee that a young person will keep the seat for longer than two terms
 - b. Fare prices are reviewed annually

- c. The parent, or in the case of Years 12 and 13 must complete an application form for concessionary travel
- d. Parents are required to pay for two terms travel in advance
- e. The price charged covers a return journey for every school day of the relevant period
- f. There will be no rebates for those deciding to travel for less than the maximum number of possible journeys per term, for example there is no rebate if a young people decides to use his/her bus pass for morning travel and returns by some other private means in the afternoon
- g. If a seat is available a bus pass will only be issued on receipt of a completed application form, and correct payment
- h. No guarantee can be given that the bus will continue to run throughout a young person's time at a school, or that the place on the bus will not be withdrawn at some future date if the place is required for a young person who is entitled to free travel
- i. The concessionary charge will be waived for those eligible for Free School Meals or for those whose parents are in receipt of the maximum level of Working Tax Credit. In addition the cost of the concessionary charge will be waived for the third and subsequent children of families where they have more than two children using the same home to school transport service.
- j. When there are more requests to pay for seats on a particular route than there are seats available they will be allocated in the descending order of priority shown in the table "Priority for Concessionary Places".

Priority for Concessionary Places

Priority	Category
1.	Those with a Statement of Special Educational Needs naming the school
2.	Looked After Children
3.	Years 12 and 13
4.	Children in receipt of Free School Meals or whose parent/parents are in receipt of the maximum of Working Tax Credit
5.	Those who travelled on the route the previous term
6.	By year group, in ascending order of priority from F1 to Year 11

7.	Those living closest using the shortest designated public route on the County Council's Geographic Information System
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41. The current charges payable under the concessionary fares scheme are shown in the table "Charges 2010/11". These charges are subject to annual review.

Charges 2010/11

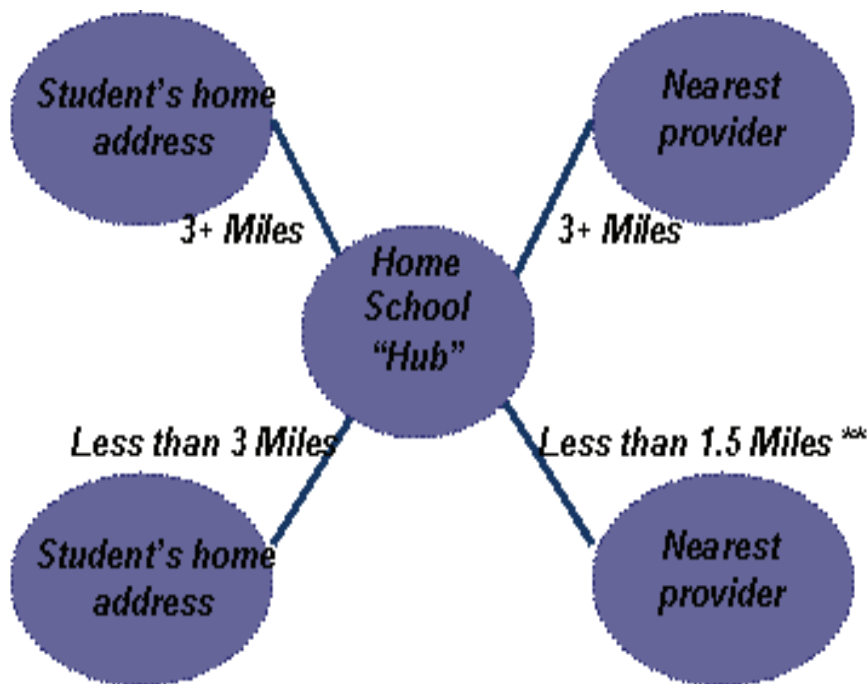
F1 to Year 11 Under 3 miles	£ 240 per annum (£80 per two terms of the 6 term year)
F1 to Year 11 Over 3 miles	£447 per annum (£149 per two terms of the 6 term year)
Post 16 Designated area school or college	£ 240 per annum (£80 per two terms of the 6 term year)
Post 16 Non designated area school or college	£447 per annum (£149 per two terms of the 6 term year)

Collaborative Learning Transport

42. The cost of collaborative learning transport is met from the budgets of 14-18 Partnerships, not the Home to School Transport Budget and decisions on provision will be made by those Partnerships.
43. Transport assistance to access collaborative learning opportunities is determined by distance as set out below:
- a. Any arrangement applies to the nearest provider of that course
 - b. If a single journey from the home school to the nearest course provider is over 3 miles then transport will be provided
 - c. If journey from home to home school is less than 3 miles but the distance from the home school to the nearest provider is over 1.5 miles then transport will be provided from home school to the provider only
 - d. If the distance from the student's home to school is over 3 miles but the distance from the home/school to the nearest provider is less than 1.5 miles (safe/reasonable walking distance) then transport will not be provided to continue on to the provider

- e. If a pre-existing route from the child's home to their nearest provider is available then a place may be offered on that transport if the distance is over 3 miles (with the consortium paying for concessionary places). If the distance is less than 3 miles and a concessionary place is available the student must apply and pay as set out in the Home to School Transport Policy
 - f. If a course runs over 2 hours of the normal school day then transport will be provided to the child's home but only if that child is living over 3 miles from their home school.
44. Diagram 1 illustrates how the Home to School and Collaborative Learning Transport Policy would affect the normal journey for a student to their nearest provider.

Diagram 1
"Hub & Spoke"
Journey Criteria Model A



*** If this journey is greater than 1.5 miles then transport would be provided on the grounds that it is not a reasonable journey time.*

45. Diagram 2 illustrates when a student would not normally be eligible for transport but a seat on a concessionary bus route is available from close to their home address to the nearest provider. If the journey is over 3 miles the relevant consortium may apply for and pay for the seat. If the journey is less than three miles then it would be the responsibility of the parent to apply and pay for the seat.

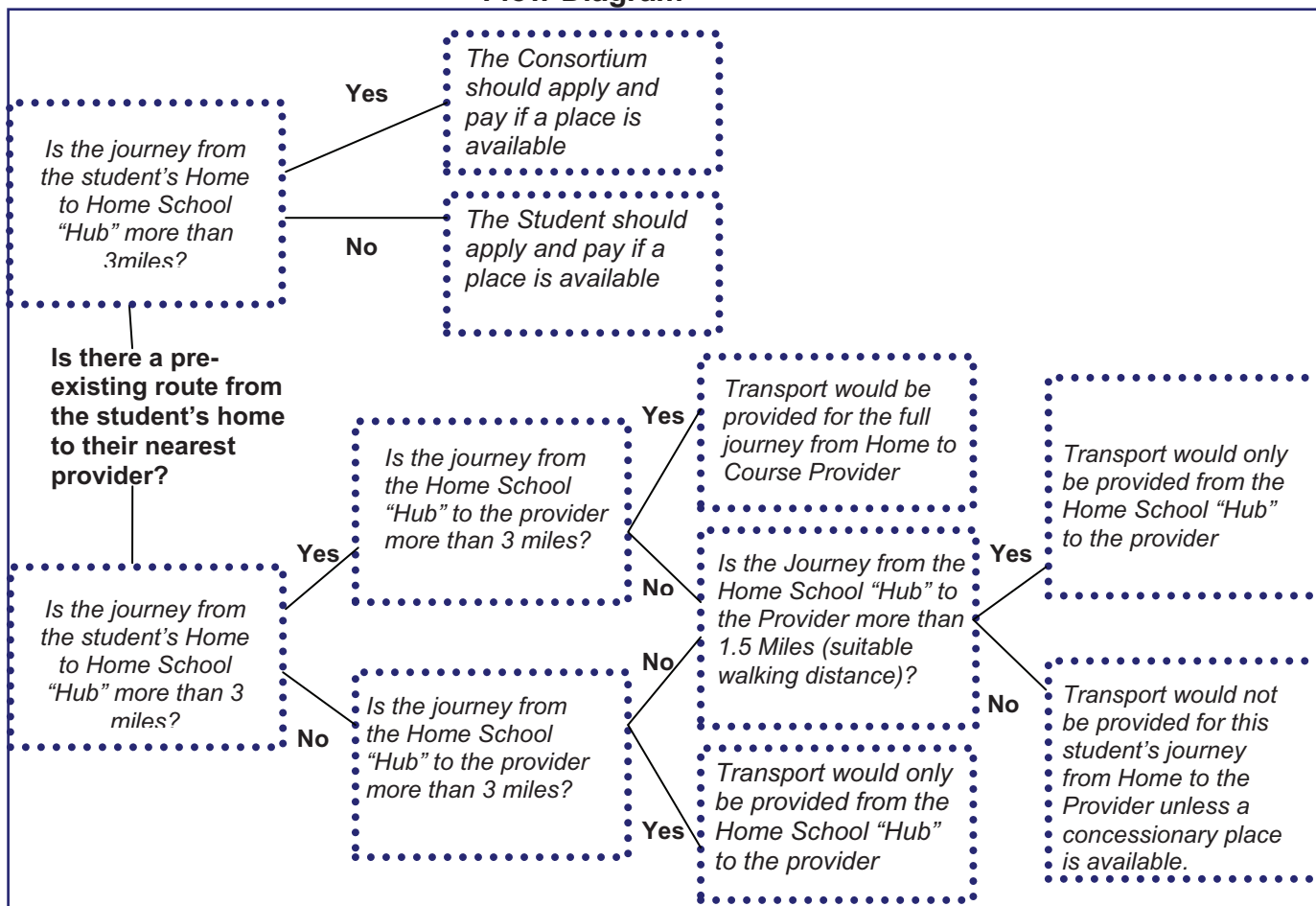
Figure 2
Concessionary Travel
Journey Criteria Model B



*** If this journey is greater than 1.5 miles then transport would be provided on the grounds that it is not a reasonable journey time.*

46. Diagram 3 expresses the criteria in a flow diagram.

**Diagram 3
Flow Diagram**



Transport Appeals

- 47. Parents can request an appeal to the Appeals Sub-Committee of the Democratic and Organisation Committee (DOC) regarding decisions taken by officers within the Admissions Team or the Integrated Transport Unit should they have cause for complaint or disagreement concerning the eligibility of their child for travel support.
- 48. The Clerk to the Appeals Sub-Committee will not be a member of the Admissions Team or the Integrated Transport Team.
- 49. The Appeals Sub-Committee hearings will be organised as soon as possible following the request from parents to lodge an appeal. The timing of the appeal will depend upon the availability of councillors.
- 50. A representative of the Admissions Team will present the LA's reasons for not providing transport and appellants can present a case in writing and /or in person (if the parent wishes, accompanied by a friend). The format of the appeal is set out below:

- a. Presentation of the LA's case by the LA representative
 - b. Committee members and the parent are able to ask questions of the LA representative
 - c. Presentation of the parent's case
 - d. Summing up by the LA representative
 - e. Summing up of the parents case
 - f. Both the LA representative and the parent/parents friend leave the hearing together.
 - g. Consideration of the case by the Appeals Sub-Committee
 - h. The Appeals Sub-Committee makes a decision as to whether to uphold or refuse the appeal
51. The decision of the Appeals Sub-Committee will be considered binding by the LA and there is no further right of appeal.
 52. The LA will not consider requests for a further transport appeal within the school year unless there has been a significant change of circumstance.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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