

Guidance for Suffolk School Travel review/appeals process

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Introduction

The eligibility for Suffolk County Council (SCC) funded school travel is detailed in the School Travel and Post-16 Travel policies which have been drafted in accordance with the relevant law and guidance and in particular:

- sections 444 and 508A-509AE Education Act 1996
- the Education Act 2002
- the Education and Inspections Act 2006; and
- the Children & Families Act 2014.

In addition, the requirements of the Department for Education (DfE) Special Educational Needs and Disability 0-25 Code of Practice (2015) and DfE Home to School Travel and Transport Statutory Guidance for Local Authorities (July 2014) have been taken into account.

Full details on the school travel policies can be found at www.suffolkonboard.com/policies

SCC operates an appeal's process in line with DfE Guidance where parents/carers can challenge the refusal of their application for school travel or if the parent/carer finds the travel arrangements offered 'unsuitable'.

We understand that going through a review/appeal process may be an anxious time for families and we hope that the information contained in this guide will simplify the process for you. We will take you through this process and explain what happens at each stage.

You can only submit an application for SCC funded school travel for the school:

- where your child is currently on roll; or
- where a school place has been offered by the relevant admission authority.
- If you have not submitted a SCC funded school travel application, please do this first by going to www.suffolkonboard.com/optin

If you are aged 16 and over, please apply at www.suffolkonboard.com/apply

On what grounds may I make a review/appeal?

In accordance with the DfE guidance, you may request a review/appeal for the following reasons:

- the travel arrangements offered
- the child's eligibility
- the distance measurements in relation to the statutory walking distance
- the safety of the route.

If you wish, you may use more than one reason as grounds for your appeal. In this case, your appeal will always be considered in the following order:

- distance measurement
- safety of the walking route
- child's eligibility
- travel arrangements.

Disagree with the distance measurement

If your appeal is because you disagree with the distance measurement, the Passenger Transport Team will remeasure it along the shortest available walking route to and from your home address to the school.

For school places starting from September 2019, distance measurements are calculated using a network comprised of the Ordnance Survey Integrated Transport Network (ITN)*, which includes all roads and urban paths, and Public Rights of Way as shown on the Definitive Map. Public Rights of Way will be included in distance measurements on a route that is generally available all year round except in extreme weather conditions (as may be the case with any road).

**Please note the ITN layer will be replaced by the Ordnance Survey Mastermap Highways Network from September 2019.*

Safety of the walking route

If your child is attending their nearest suitable school and you have appealed on grounds of safety, you will need to give reasons why you consider that the route is not safe for your child to walk accompanied as necessary by a responsible parent. Examples of the kind of information you could provide for appeals on grounds of safety of the route are:

- information about hazards or recent accidents
- information on traffic volume or speed
- photographs to illustrate your case

After you have submitted your appeal, an independent Road Safety Auditor will assess the route based on national guidance and produce a report to determine if the route is either not dangerous or not safe. The route is assessed according to the approved published Road Safety GB (formerly LARSOA) Guidelines ("The Guidelines"), and the risk assessment procedure is based on the published RoSPA guidelines for school visits.

All walking routes to school may present some element of road safety risk, whether they are heavily trafficked urban routes, or more lightly trafficked rural routes. This report will take a minimum of six weeks to be produced. If a road safety appeal has been undertaken in the last 5 years that covers the route from

where you live to the school, and found to be not dangerous, we will not reassess the route unless there has been a significant change to the highway infrastructure that has created an unavoidable hazard.

From September 2019, Public Rights of Way will be included in distance measurements on a route that is generally available all year round except in extreme weather conditions (as may be the case with any road). Suitable routes to school will include:

- public rights of way (footpaths and footways)
- bridleways
- crossing fields
- wooded areas

The following are regarded as acceptable risks and not normally accepted as reasons for a route being unavailable in line with national guidance as detail above:

- No street lighting
- Moral danger (lonely areas)
- Unmanned level crossings
- Muddy paths
- Electric fences
- Presence of livestock.

In all cases we assume your child will:

- be accompanied by their parent/carer if necessary unless there is a good reason why it is not reasonable to expect the parent/carer to do so. It is the responsibility of parents/carers to ensure that children attend school and SCC will always expect that parents/carers will accompany their children to school, or if unable to do this, to make other arrangements to enable their children's attendance at school
- have suitable clothes and footwear (for wet weather or a muddy path)
- have reflective bands and a torch if needed.

Routes that are entirely urban are considered not dangerous and will not be assessed unless there is clear evidence as to an unavoidable hazard.

If the Road Safety Auditor decides that the route is not safe for an accompanied child, your child and any other child affected by the decision will be offered SCC funded school travel.

If the Road Safety Auditor considers that the route is not dangerous for an accompanied child, then you will be sent a copy of the Road Safety Report and invited to present your case at the Education Transport Appeals Committee should you wish to do so.

If your concerns are about your child being able to safely walk the route due to their mobility problems or associated health and safety issues related to their special educational needs or disability, rather than the route itself not being safe, we will assess your child under the relevant criteria. Please see below.

Your child's eligibility

If we have advised you that your child is not eligible for SCC funded school travel, but you disagree with this, you will need to provide evidence to support why this should be considered.

This could include but is not limited to:

- children who cannot reasonably be expected to walk the distance to school due to their mobility problems or due to associated health and safety issues related to their special educational needs (SEN) or disability
- Families on low income who receive the maximum level of working tax credit or if your child receives free school meals
- your child has medical needs (which means they cannot be reasonably expected to walk the distance to school).

Examples of evidence you can provide to support your appeal could include, but is not limited to:

- a letter from a doctor or other medical professional
- a letter from the child's school or college
- evidence showing that your child has an entitlement to or protection in relation to free school meals, or that you are in receipt of the maximum level of working tax credit or meet the criteria in relation to Universal Credit
- Court order.

The travel arrangements offered

1. Travel arrangements offered

If you have been offered SCC funded school travel and you are not satisfied with the provision offered, you can ask for this to be reviewed.

It will not normally be accepted as a reason for an appeal that you are not happy with the provision due to a change of operator or that your child has been offered a bus rather than a taxi. You will need to provide evidence as to why the provision offered is not suitable for your child.

2. Travel arrangements not offered (or withdrawn)

Likewise, if your child has had SCC funded school travel and is no longer eligible, or your child is not eligible for SCC funded school travel, but you feel you have personal and/or exceptional circumstances that need to be considered, you can ask for this to be reviewed. You will need to evidence why your child cannot walk the route; why you as the parent cannot accompany them either walking or driving to school maybe due to your medical needs; or the reasons your child is unable to travel on public transport. You will need to provide evidence to support your appeal.

What information should I provide?

You will be asked to supply supporting evidence once the review/appeal form has been assessed and we contact you to let you know which panel or committee will consider your appeal and when.

You are responsible for providing all relevant information to support your appeal. This should be up to date detailed evidence; examples of evidence you will need to provide have been detailed in the respective criteria above. All the information you provide will be treated as confidential.

Usually, you will have to fund any supporting evidence required yourself where applicable (for example, if there is a medical professional charge for a supporting letter or copies of medical records).

If you choose not to provide any supporting evidence for your appeal, then it will be heard by the decision maker(s) based on the information provided.

The following will not normally be accepted as reasons for an appeal to be considered unless you have other exceptional reasons:

- Work issues relating to a parent's employment, such as working patterns, that may mean a parent is not to be able to get their child to school
- School's own travel – if a school has its own travel arrangements in place and subsequently changes them (e.g. the school travel is removed, or school starts to charge or increases the fare) then the local authority will only assess your child's eligibility to travel under the School Travel and Post 16 Travel policies or the Spare Seat policy
- Children at different schools when schools were parental preference. If, however, children are at different schools because of placements made by the local authority, parents will need to evidence why children are at different schools and are unable to make use of school breakfast clubs/after school clubs as a means to facilitate dropping off/collecting all school children
- House moves – changes to SCC funded school travel eligibility because of a house move

- School moves – changes to SCC funded school travel eligibility due to a parent/carer voluntarily moving their child’s school and they are no longer attending the nearest suitable school with places available which provides education appropriate for the age, ability, aptitude of the child and any SEND
- Disagree with the School Travel or Post 16 Travel policies.

How will my review/appeal form be considered?

We have three panels that can consider requests for school travel outside of the statutory responsibility as detailed in Suffolk’s School Travel and Post-16 Travel policies. They are as follows:

1. Individual Needs Travel Panel (INTP)
2. Travel Officer Panel (TOP)
3. Education Transport Appeals Committee (ETAC)

In line with DfE guidance, SCC has 40 working days from receipt of your appeal for your case to be heard by one of these appeal panels.

Individual Needs Travel Panel (INTP)

Appeals other than safety appeals, are referred to the INTP in the first instance in the following circumstances:

1. Any pupil aged 5-16 not attending their nearest suitable school*
2. Any pupil aged 5-16 in a vulnerable situation, who is not supported by any other service for travel, who has been given emergency/short term SCC funded school travel which needs to continue for more than 6 weeks
3. any pupil aged 5-16 in a vulnerable situation who is at risk of not attending school and not supported by another service for travel. This may include pupils who have special education needs and/or disabilities but do not have an Education, Health and Care Plan (EHCP). This may also include pupils who have a medical condition
4. Nursey school pupils in a specialist provision who are exceptionally not able to be accompanied by a parent
5. Post 16 students; this includes students who are in mainstream education, have SEND and those at risk of becoming NEET (not in education, employment or training).
6. Post 19 adult learners with an EHCP.

This panel consists of representative Officers from:

- Children and Young People’s Services
- Passenger Transport Team.

You do not have the option to give verbal representation to this panel because you are not eligible for SCC funded school travel. Appeals to the INTP will be held once a fortnight; in greater frequency than those appeals heard at the TOP and ETAC. The INTP may choose to approve or refuse travel and its decision is final. In some cases, they may refer the appeal to another independent appeal panel. There is no further right of appeal once the INTP decision has been made but you will be made aware of your right to contact the Local Government and Social Care Ombudsman or for Post 16, the Secretary of State.

Appeals to the INTP will usually be processed more quickly than appeals to the TOP and ETAC as the INTP has the capacity to hear more appeals at each scheduled meeting.

Occasionally in considering the evidence the INTP may find it is not appropriate for it to make a decision and so may have to refer the case to TOP for a decision.

Travel Officer Panel (TOP)

Appeals other than safety appeals, are referred to the TOP in the first instance in the following circumstances:

1. Pupils aged 5-16 attending their nearest suitable school but are under the statutory walking distance *

2. Pupils aged 5-16 attending their TPA school. Transport priority areas (TPAs) will not apply with effect from September 2019 and will not be taken into consideration at this panel from this date.
3. Pupils placed at a school. This may include
 - a pupil who has SEND and has an EHCP
 - pupil who is on a managed move.

This Panel hears appeals from those who wish to challenge transport arrangements for any reason other than the safety of the route, especially where you have circumstances that you believe should be considered exceptionally but you do not wish to give verbal representation.

The TOP consists of appropriate representatives from the following:

- Legal Services
- Children and Young People's Services
- Passenger Transport

Appeals to the TOP will usually be processed more quickly than appeals to the ETAC as the TOP has the capacity to hear more appeals at each scheduled meeting.

The TOP may choose to approve or refuse travel. The decision of the TOP is final and there is no further right of appeal once the TOP decision has been made but you will be made aware of their right to contact the Local Government and Social Care Ombudsman. Occasionally in considering the evidence the TOP may find it is not appropriate for it to make a decision and so may have to refer the case to ETAC for a decision.

Education Transport Appeals Committee (ETAC)

The ETAC is a SCC Regulatory Committee consisting of three elected County Councillors. It has a quorum of two and the meetings are clerked by the Democratic Services Department. The ETAC meets to consider cases affecting individuals relating to the safety of the route and/or exceptional circumstances where the parent wishes to make verbal representation.

Appeals are referred to the ETAC in the following circumstances:

1. Pupils aged 5-16 attending their nearest suitable school* relating to the safety of the route.
2. Pupils aged 5-16 attending their TPA school relating to the safety of the route and/or exceptional circumstances. Transport priority areas (TPAs) will not apply with effect from September 2019 and will not be taken into consideration at ETAC from this date.
3. Pupils aged 5-16 attending their nearest suitable school relating to the safety of the route and/or exceptional circumstances. This may include
 - a pupil who has SEND and has an EHCP
 - a pupil who is on a managed move.

For road safety appeals, the Councillors will inspect the route before the meeting. You will be invited to the meeting to make verbal representation and will be able to bring a friend or relative to support you. You can ask your local County Councillor to be present, or to put your case for you. When you are invited to a meeting of the ETAC, the invitation will include information on the way in which the meeting will proceed.

ETAC may choose to approve or refuse SCC funded school travel. The decision of the ETAC is final and there is no further right of appeal once the ETAC decision has been made. However, you will be made aware of your right to contact the Local Government and Social Care Ombudsman.

** Children living in Suffolk who will be starting at a new school in September 2019 will be eligible for SCC funded school travel when they meet the statutory walking distance criteria from their home to the nearest suitable school that would have had a place available for them. This would be whether or not an application was made for a place at that school.*

Who do I contact to make a review/appeal?

Only when you have been refused school travel can you lodge a review/appeal form. You will then need to complete the online review/appeal form at www.suffolkonboard.com/schooltravelreview within 20 working days of the date on your refusal letter.

If you need help to complete the form or do not have access to the internet, please contact our customer services team on 0345 606 6173.

Once your online form has been received, it will be assessed within 20 working days. We will then contact you to advise of the next steps, including information on which appeal panel will consider your case and how you can submit any supporting evidence. If you are not able to appeal, you will be given guidance on SCC's corporate complaint's process.

The outcome of your appeal

You will be informed of the outcome of your appeal in writing within 7 working days of the meeting.

If your appeal is refused by the ETAC, TOP or INTP, you will have no further right of appeal. However, should you feel that SCC has failed to follow correct procedures or has failed to act independently or fairly, you will have the right to complain to the:

Local Government and Social Care Ombudsman

PO Box 4771

Coventry

CV4 0EH

Helpline: 0300 061 0614

E-mail: advice@lgo.org.uk

Text 076248 4323

You cannot appeal against SCC's School Travel and Post-16 Travel policies. If you feel that the policies are unfair, you can explain your views to your local County Councillor. You can find out who your local County Councillor is from the website www.writetothem.com or by contacting SCC Democratic Services on 01473 265119.

In relation to the Post-16 Policy, if you are dissatisfied or unhappy you also have the option to make a complaint to the Secretary of State for Education.

To do this, young people or their families should use the contact form on gov.uk (www.education.gov.uk/help/contactus).

Any complaint should outline the case, set out the decision taken and include any other relevant documentation, for example any advice or decisions from the Local Government and Social Care Ombudsman where appropriate.

If you should be dissatisfied with any provision of the service you have received or you do not think the relevant policy has been applied correctly, you can raise your concerns through our corporate complaints process. You must provide reasons for your complaint and cannot complain simply because you disagree with the decision from ETAC, TOP or INTP.

To make a complaint, please contact the SCC Customer Rights Team. Full contact details are on the website www.suffolk.gov.uk/feedback or you can contact SCC Customer Rights Team comments@suffolk.gov.uk or on 0345 2661821.