



30th March 2022

Response to: "Changes to Transport Entitlement for The Swanage School"

This is the response by The Swanage School to the document entitled "Changes to Transport Entitlement for The Swanage School" and the consultation on the Dorset Council Home to School Transport Policy 2022-23.

Context

Currently students from Swanage and the surrounding area are provided free home to school transport to The Purbeck School, which is not their nearest school, rather it is c.10 miles away in Wareham. In some cases children living within a few hundred metres of The Swanage School are enabled to travel needlessly over twenty miles a day, at council taxpayers' expense. As a result of this policy The Purbeck School is oversubscribed and this has had the perverse knock-on effect that some students are being transported, also at council taxpayers' expense from Bovington, past The Purbeck School to The Swanage School.

Specifically, The Swanage School objects on the following grounds:

1. Home to school travel and transport statutory guidance – issued by DfE, July 2014, updated 2017

This guidance is statutory and thus should be complied with.

1.1 Ref. Page 6. Second Main point

The guidance states that there is a *"need for local stakeholders to work together in partnership to agree and deliver transport policies that meet the particular needs of the area"*.

The Swanage School has not been involved in the development of the home to school transport policy at any stage. Indeed, since opening DC has not directly sought the input from The Swanage School or its stakeholders. In November 2016 The Swanage School responded in writing to the admissions policy consultation, but none of the issues raised in that initial response have been taken into account. Indeed, the Headteacher was not contacted directly to draw attention to the fact that a specific paper had been written regarding the updating of the policy!

1.2 Ref. Page 6 Fifth main point

The guidance states that *"Local Authorities should review travel policies, arrangements and contracts regularly to ensure best value for money is achieved"*.

Currently the policy needlessly enables children to be transported away from their nearest school thereby incurring unnecessary transport costs. The policy is therefore in breach of the statutory guidance.

1.3 Ref. Pages 7 to 9. Section 1.1, sustainable school travel. Also Education Act Section 508a (3).

The guidance states that there is a requirement for transport policies to be sustainable:

“The sustainable school travel duty should have a broad impact, including providing health benefits for children and their families, through active journeys such as walking and cycling. It can also bring significant environmental improvements, through reduced levels of congestion and improvements in the air quality to which children are particularly vulnerable”.

The Education Act clarifies this as follows:

This is defined as *“an improvement to either or both of the following:*

- *The physical well-being of those who use them*
- *The environmental well-being of the whole or part of their area.”*

The current policy needlessly transports children from Swanage to Wareham (approx. 10 miles each way). This does not improve individual student physical well-being. Indeed, by changing the policy it would encourage more children to walk or cycle to their local school. Also, by having several unnecessary bus journeys there is a currently negative impact on the environment in the local area.

It is clear therefore that the policy is not sustainable and is therefore in breach of the statutory guidance.

1.4 Page 16 and 17. Discretionary Arrangements

The minimum requirement for home to school transport as required by the Department for Education is to:

“provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school is:

- *beyond 2 miles (if below the age of 8); or*
- *beyond 3 miles (if aged between 8 and 16)”*

The DCC home to school transport policy satisfies this requirement for almost all schools in Dorset.

However, for the Isle of Purbeck DC have chosen to have a different policy. To be compliant with the statutory guidance the DC home to school transport policy must conform with the guidance on discretionary arrangements.

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- There is no explicit guidance to allow for the provision for children in a particular location.
 - The guidance states that *"Local Authorities will need to be aware of their obligation not to discriminate under article 14 of the ECHR."*

The current DC home to school transport policy discriminates against children of secondary school age who live within the Dorset Education Authority, outside Swanage by providing free transport to a school which is not their nearest school. Children in Swanage are 'advantaged', whilst others outside the area are accordingly therefore disadvantaged.

The guidance states that: *"It is recognised that local authorities will need to balance the demands for a broad range of discretionary travel against their budget priorities."*

The example given for use of discretionary powers in the guidance is on grounds of religion, low income, SEN and disabilities. None of these are appropriate in this case and therefore, again the LA is not complying with the need to balance their budgetary priorities.

2. Local Government Act 1999 Section 3

In addition to the Home to School statutory requirements DC also have a legal responsibility to comply with the Local Government Act 1999. In particular there is a duty to comply with section 3:

"to secure continuous improvement in the way in which its functions are exercised, having regards to a combination of economy, efficiency and effectiveness."

By transporting children needlessly away from their local secondary school, the current DC home to school transport policy is clearly in breach of this requirement in law.

3. In response to paper entitled: "Changes to Transport Entitlement for The Swanage School"


3.1 The paper identifies a "school transport catchment area" for The Swanage School. The diagram on page 3 is misleading because it fails to indicate that "the school transport catchment area" for The Swanage School is overlapped by "the school transport catchment area" for The Purbeck School. The points raised above indicate that there should be no overlap between the two schools' transport catchment areas.

3.2 The paper refers to the PAN for local primary schools as being 105 and that The Swanage School has a PAN of 84, thus requiring children to be transported away from The Swanage School. The Swanage School is willing and able to increase its PAN to meet the local need. Therefore there is no need, now or in the future, for the LA to provide free transport away from The Swanage School. If there should be an increase in the local demographic, then there would still be no need for the current overlapping school transport catchment areas. Instead, the standard statutory policy to provide transport to the nearest available school would still apply.

3.3 The paper refers to the “right of families to continue to gain transport to their historical KS3 and KS4 school provision”. The Swanage School contests that there is no “right” enshrined in law or by convention that families can access free transport to any school of their choice. Indeed across the county and the country the opposite is the case – children are entitled to free transport to their local school only.

Conclusion

We are advised that, if the council were to proceed with the policy as proposed in the consultation document, then that decision would be an unlawful one which could be challenged by way of judicial review. Obviously, the School does not want to be in a position where it feels it has no choice but to bring such a challenge.

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