

## **Lancashire County Council**

### **Student Support Appeals Committee**

**Minutes of the Meeting held on Monday, 1st October, 2018 at 10.00 am in County Hall, Preston**

#### **Present:**

#### **County Councillors**

A Cheetham

L Beavers

#### **1. Apologies**

CC Christian Wakeford  
CC Joe Cooney  
CC Yousuf Motala  
CC Malcolm Barron

#### **2. Disclosure of Pecuniary and Non-Pecuniary Interests**

#### **3. Minutes of the meeting held on 3rd September 2018**

**Resolved:** That; the Minutes of the meeting held on the 03<sup>rd</sup> September 2018 confirmed as an accurate record and signed by the Chair.

#### **4. Urgent Business**

SEN cases

#### **5. Date of the Next Meeting**

It was noted that the next meeting of the Committee would be held at 10.00am on Monday 05<sup>th</sup> November 2018, CH1:15 County Hall, Preston.

#### **6. Exclusion of the Press and Public**

**Resolved:** That the press and public be excluded from the meeting under Section 100A (4) of the Local Government Act, 1972, during consideration of the following item of business as there would be a likely disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 12A to the Local Government Act, 1972, as indicated against the heading of the item.

#### **7. Student Support Appeals**

(Note: Reason for exclusion – exempt information as defined in Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information).

A report was presented in respect of **17 appeals** against the decision of the County Council to refuse assistance with home to school transport. For each appeal the Committee was presented with a Schedule detailing the grounds for appeal with a response from Officers which had been shared with the relevant appellant.

In considering each appeal the Committee examined all of the information presented and also had regard to the relevant policies, including the Home to Mainstream School Transport Policy for 2018/19, and the Policy in relation to the transport of pupils with Special Educational Needs for 2013/14.

### **Appeal 4499**

It was reported that a request for transport assistance had initially been refused as the pupils would not be attending any one of the three nearest suitable schools, which are between 1.4 miles and 2.4 miles, respectively, from their home address and instead would attend the school of parental preference which is 2.9 miles away. The appellant was appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The Committee noted, the appellant was appealing on financial grounds and had provided a copy of their benefit review which expired on 05 April 2018.

The Officer's comments stated, as noted by the Committee, low income families have extended rights to free travel to their three nearest schools within 2-6 miles from the home address. However, even if the appellant was in receipt of the maximum amount of Working Tax Credit, there are still several schools closer to the home than the school attended.

The Committee noted, the officer's comments stated even if the school attended by the pupils was the closest to home, in light of it being under 3 miles walk from home to school, appellant would still have no statutory entitlement to free home to school transport as at 2.9 miles, the distance is under the statutory walking distance.

The Committee noted the pupils were not in receipt of free school meals. The tax credit information supplied by the appellant was awarded from 06/04/2017 to 05/04/2018. No up to date tax credit award details were submitted by the appellant. The Committee were unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law. No financial information was submitted to the Committee to state that the appellant is unable to afford the cost of a travel pass to the chosen school.

It is also acknowledged by the Committee that there are schools closer to the home address than the one attended by the pupils and it was noted that the school the pupils were attending was the first choice as parental preference.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupils would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4499 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2018/19.

### **Appeal 4501**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable schools which were 0.9 miles and 1.1 miles, respectively, and within walking distance and instead attends their sixth nearest school which is 3.6 miles away. The pupil was therefore not entitled to free transport in accordance with the Council's policy or the law. The appellant had appealed to the Committee on the grounds that they had extenuating circumstances to warrant Committee in exercising its discretion and award transport was not in accordance with the Council's policy or the law. The Committee noted the appellant advised they were a single parent working full time on a limited income and couldn't afford expense of bus fares to the school attended by the pupil.

The appellant stated, as noted by the Committee, their elder child had a free bus pass throughout the school career.

The Officer's comments stated, as noted by the Committee, the pupil was attending their sixth nearest school which is 3.6 miles from home. The Officer stated even if the appellant qualified for extended rights to free travel to school for the pupil on low income grounds (if the pupil was eligible for free school meals or if the appellant was on the maximum amount of Working Tax Credit), they would still unfortunately not qualify for transport assistance to the school attended by the pupil as it is not one of their three nearest schools.

The Committee were informed the pupil's elder sibling was granted a free travel pass having been excluded from the school the sibling was attending previously, to assist them in maintaining their placement at the school they attend now which is the same school where the pupil attends presently.

The Committee noted the pupil was not claiming free school meals.

The Committee have noted the appellant had sent in part of their Tax Credit payment notification which expired on 05 April 2018. No new payment details have been sent.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupils would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4501 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee

exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2018/19.

### **Appeal 4502**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school which is 1.9 miles away and instead attends school which is 3.3 miles away. The pupil was therefore not entitled to free transport in accordance with the Council's policy or the law. The family had appealed to the Committee on the grounds that they had extenuating circumstances to warrant Committee in exercising its discretion and award transport was not in accordance with the Council's policy or the law.

The Committee noted, the appellant stated they were advised by the pupil's health practitioner that they were under assessment by a consultant. The pupil had health traits and suffered from health problems. Travelling to school was a major problem as they had been bullied and even assaulted, leading to great distress and, consequently, avoiding school.

For a time the appellant gave up their full time job to transport the pupil to and from school but due to financial difficulties they have had to return to full time work.

*The appellant stated, as noted by the Committee, the school had put in place successful strategies to prevent bullying in school however there remains the problem of the pupil getting to and from school.*

The Committee noted, the appellant stated an Education Health Care Plan application was being submitted on the pupil's behalf. A change of school at this time would be detrimental to the pupil's wellbeing and education.

The Officer's comments stated, as acknowledged by the Committee, they had noted the information provided by medical professionals involved with the pupil and were sympathetic.

It was noted by the Committee, the Officer's comment stated, on the original admission application form when stating school preference on transferring from primary school, the appellant expressed the school attended by the pupil presently as their first preference and was offered that school. Had the appellant stated the nearest suitable school to home at 1.95 miles walking as their higher preference than the one attended by the pupil, a place would have been offered to the pupil at the nearest suitable school.

The Officer's comment stated, as noted by the Committee, had the appellant qualified for free school meals or be in receipt of the maximum amount of working tax credit, they would have qualified on low income grounds as at the time of admission and the present moment in time, the school attended by the pupil is the third nearest school to home and is between two and six miles from the home address.

The Officer's comments stated, as noted by the Committee, the pupil was not eligible for free school meals and no evidence had been provided to indicate meeting the low income threshold and in light of the appellant choosing a school which was not the closest to home, the appellant had no statutory entitlement under the home to school transport policy.

The Committee have acknowledged and read the statement made by the consultant but there was no evidence to support the pupil was on the Education

Health Care Plan and were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law and noted that the family are not in receipt of free school meals, no financial information was submitted to the Committee to state that that the appellant was unable to afford the cost of a travel pass to the chosen school.

Therefore, having considered all the appellants' comments and family circumstances the Committee felt that it should make a temporary award to assist the family in the interim. The Committee was persuaded that there was sufficient reason to uphold the appeal and provide temporary travel assistance for the pupil, to be collected from school only, up to the end of 2018/19 academic year (July 2019) to support the family. The appellant is also to make a new application as early as possible with all the relevant information to support their application and with a full and up to date EHCPlan in time before the existing claim expires.

**Resolved:** That;

- I. Having considered all the circumstances and the information as set out in the report presented, appeal 4502 be allowed on the grounds that the reasons put forward in support of the appeal were considered worthy of the Committee exercising its discretion to grant an exception with Home to Mainstream School Transport policy.
- II. The transport assistance awarded in accordance with I. above be up to the end of 2018/19 academic year (July 2019)

### **Appeal 4509**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest qualifying school, which is 3.2 miles from their home address, and instead would attend school which is 4.1 miles away. The pupil was therefore not entitled to free transport in accordance with the Council's policy or the law. The family were appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant stated, as noted by the Committee, that they and the pupil both suffer from a health issue, which makes them tired. As they live in a rural area, it would be much easier for the appellant to drop the pupil at the school bus stop for the school the pupil attended, which was the appellant's first parental preference as well. Further the pupil could travel with their sibling.

The Committee noted, the appellant stated, the nearest suitable school was in a different county, and in an area with which the family were unfamiliar, was not a suitable school for the pupil.

It was noted by the Committee, the appellant stated, that the pupil's elder sibling received free transport to the school of parental preference, thus setting a precedent for pupil.

The Committee noted the Officer's comments which stated they acknowledged the reasons for the appellant preferring the school attended by the pupil. They also acknowledged that the nearest suitable school was the pupil's second preference and is 3.2 miles away.

The Committee were reminded that from September 2015, the County Council removed discretionary elements of the Home to School Transport Policy and all new pupils starting school now only receive transport assistance if they attend their nearest school and live more than the statutory walking distance. The previous policy was much more generous and previous awards were granted to pupils who attended one of their nearest 3 schools, these pupils will continue to receive the award until they complete their secondary education. The Committee were also reminded that staff from Local Education Authority were available to discuss transport issues at most schools and that at the time of applying for places parents were advised that if transport to and from school was an issue to check the policy or ring the area education office where they would check entitlement to transport.

The Committee had noted the letters of hospital appointment sent in by the appellant for both themselves and the pupil as evidence for appointment on 26 July 2018 for the pupil and 30 July 2018 appointment for the appellant but they were not able to determine the health issues as mentioned by the appellant. The Committee have also noted the medical information from the appellant's General Practitioner stating the appellant's health issue but there was no evidence to state the appellant was not able to take the pupil to school. The Committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law and noted that the family are not in receipt of free school meals. No evidence had been provided by the appellant to confirm the claim of being on a low income

Therefore, having considered all of the parent's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4509 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2018/19.

### **Appeals 4510**

It was reported that a request for transport assistance had initially been refused as the pupils would not be attending their nearest qualifying school, which was 3.1 miles for the older pupil from their home address, and, 5.1 miles for the younger pupil from the home address, and, instead would attend school which is 5.3 miles away. The pupils were therefore not entitled to free transport in accordance with the Council's policy or the law. The family were appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant advised, as noted by the Committee, that they and their partner both worked on a shift basis which they couldn't change. Further, they have lately moved to a more isolated area, to care for elderly disabled family members. The Committee noted, the appellant stated, there was no public transport and the roads were unsuitable for walking or cycling. The appellant referred to the only private hire transport available on their street which served the school the pupils attended.

It was noted by the Committee the appellant stated it would be detrimental to the pupils' education and wellbeing if they had to change schools at this time especially as the older pupil had recently chosen their GCSE options.

The appellant stated, as noted by the Committee, it would be more expensive and environmentally unsound for transport to be put on specially to take the pupils to two different schools, or for the appellant and their partner to try to fit school runs around their shift work.

The Officer's comments stated, as noted by the Committee, they acknowledged the difficulties of living in a rural area. The nearest suitable school for these pupils with places available, are more than 3 mile away, and therefore not within the statutory walking distance. If they, therefore, transferred to the nearest suitable schools, the pupils would be entitled to free transport. Even if there was no public transport to the closest school, the Council would have an obligation to provide free transport to get to the closest school providing the distance to get to the school was over 3 miles.

The Committee noted, the parents referred to suitability of route but transport assessment are in two stages. Firstly, the Council assess the closest school to home. Once this has been established, they would look at the suitability of route to get to this closest school. The Council can only authorise free travel based on suitability of route if child is attending the closest school to home which is not the case in this instance.

The Committee were reminded that it is parental responsibility for ensuring their child's safe arrival at school. In all cases, when assessing the suitability of routes, the County Council will assume that the child is accompanied, where necessary, by a parent or other responsible adult and is suitably clad. It was also added that it is parental preferences for a school and academies and the application of admission arrangements linked to those which informs and drives the subsequent application of the Local Authority home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy.

It was noted by the Committee, the County Council does have an extended entitlement to those children who move house after the start of year 10 but this is only available to those families who are classed as being in receipt of low income (low income meaning meeting the qualifying criteria for free school meals or being in receipt of the maximum amount of working tax credits). In this instance the family were not classed as being in receipt of low income and furthermore, the house move took place before year 10 commenced.

The Committee noted there is a dedicated service that serves the school attended by the pupils, with the stop from home a few minutes' walk. Due to the rural location, there isn't a physical bus stop but on the county council mapping system there is a designated area that has been classified as a stop and the buss

will stop if flagged down( a map has been enclosed). The appellant is able to issue a bus pass, provided there is availability on the service.

The committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law and noted that the family were not in receipt of Free School Meals, no financial information was submitted to the Committee to state that that the appellant is unable to afford the cost of a travel to the chosen school.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary statement the Committee felt that the school the pupils would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal on the information provided.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4510 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to School Transport Policy for 2018/19.

#### **Appeal 4524**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 4.92 miles from their home address and instead would attend school which is 6.61 miles away from home. The appellant was appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant stated, as noted by the Committee, they were appealing on financial grounds. The appellant advised they struggled financially. Both the appellant their partner worked outside of the home area and were unable to collect the pupil from school. They had no family who were able to help with school drop off and collection. The appellant advised that the pupil would be nervous about travelling to and from school.

The Committee noted, the appellant referred to the home to school transport policy and their understanding of why the original application was refused which stated that they were not offered a place at the school they had put down as their first preference even though that would have been the only school the pupil would have been able to get to without need a bus. There were two buses the pupil need to catch to attend the school the pupil attended presently. According to the appellant, they were never made aware of any County Council officers when they attended all three of the open evenings for the schools, of which one of the school was the one the pupil currently attends. There was no one to discuss the transport difficulties of the schools. The appellant stated that it stated in the letter sent by Council that the appellant's family were allocated the closest school to home with space so argued the point why they were not offered the closest school at 4.92 miles and wondered if that was because the appellant's family were classed as living under a different council. The appellant was requesting if they could get help with part of the payment towards the pupil's transportation needs.



The appellant referred to Home to School Transport policy 2018/19, as noted by the Committee, which stated:

4b legal walking distance – aged 8 or over and the shortest suitable walking route is more than 3 miles (4.828032km) from the nearest school.

The appellant stated, as noted by the Committee, it would still have taken the pupil 1 hour 33 minutes to walk to the nearest suitable school and the appellant found this unacceptable and stated they had their first preference for school on the original application, which they did not get place for, as they were aware the struggle they would have with transport to any of the other schools.

The Officer's comments stated, as noted by the Committee, transport assistance had been refused as the pupil was not attending their nearest school. It is parental preference for schools and academies and the application of admission arrangements linked to these which informs and drives the subsequent application of the Local Authority's home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy.

The committee noted that eligibility to receive transport assistance is assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school. Admission information is available to all parents at the time of applying for school places. A summary transport policy is made available to all which parents and carers are advised to check carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County Council website and to seek advice from the area education office if they have any queries. The County Council also has officers in attendance at most schools open evenings to give advice on transport eligibility and admission queries. It was also noted by the committee that the authority re assess all awards of transport when a residential or school move takes place and that the assessment is made under the current policy. It was noted by the Committee, the Officer stated appellant expressed a single preference on the admissions applications form for a school in a different council but the council could not offer a place at this particular school and as no other preferences were stated, the Authority had no option but to allocate the closest school to home with space available.

The Committee were informed the Authority's home to school transport policy requires the Officers to provide transport assistance for a child to attend their nearest suitable school if they reside three miles or more from home by the shortest suitable walking route. For the transport assessment process the Officers would check whether places are available at a school nearer to the home address, the Officers would consider the position at the time immediately prior to school places being allocated.

The Officer stated, as noted by the Committee, had parents expressed a preference for nearer schools than the one attended by the pupil, they would have been offered places at the closer schools of which there were two between 4.9 miles and 5.4 miles respectively. The school attended by the pupil at 6.1 miles was the third nearest school at which a place could have been offered, had the schools been stated on the original school admissions application form.

The Committee noted, as stated by the Officer, even if the family qualified for free school meals or received the maximum amount of working tax credits, the family would have no eligibility for free transport. The school attended by the pupil was not the nearest to home a place could have been offered at and although school in question was the third closest to home a place could have been offered, the distance to the school exceeded 6 miles.

The Committee have acknowledged and noted the information provided by the appellant stating their reason for requesting a bus pass for the pupil and noted the appellant had quoted 4b-legal walking distance and their reasoning why they required a bus pass for the pupil.

The Committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law and noted that the family were not in receipt of free school meals, no financial information was submitted to the Committee to state that the appellant was unable to afford the cost of school transport.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupils would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4524 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2018/19.

### **Appeal 4532**

It was reported that a request for transport assistance had initially been refused as the pupil is not attending the nearest suitable school which is located 2.68 miles from the home address and is within the statutory walking distance of under 3 miles and is instead attending school at 2.96 miles from home and is also within the statutory walking distance of 3 miles from the home address based on original address used to apply for school admission by the appellant. Furthermore the address stated on the transport application form is also under statutory walking distance. Had the nearest suitable school been stated as higher preference on the school admission application form than the one attended by the pupil, a place would have been offered. The pupil was therefore not entitled to free school transport in accordance with the Council's Transport Policy or the law. The appellant stated, as noted by the Committee, that they felt they were given false information when they contacted the Pupil Access Team about school transport originally. In addition, they felt that the pupil's school was being discriminated against as it was a faith school. The appellant explained that they were told the reason the pupil did not qualify for a free bus pass was because they were not attending their nearest school. One of the schools given as a nearer school was on the same site as the school attended by the pupil and that the buses actually stopped outside the school.

The Committee noted the appellant added that they were only told that they could appeal the decision based on financial circumstances if the pupil were to attend the nearest school. The appellant stated that they felt this was a 'total backtrack' on the information they were originally given and goes against their rights to choose a faith school.

The Committee noted the officer's comments which stated that the pupil had been refused transport assistance as they were not attending their nearest suitable school. It is parental preference for schools and academies and the application of admission arrangements linked to these which informs and drives the subsequent application of the Local Authority's home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy. It was brought to the Committee's attention that eligibility to receive transport assistance is assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school. Admission information which is available to all parents from each September (online and paper where requested) provides a summary transport policy. Parents are advised to check the policy carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County Council website and to seek advice from the area education office if they have any queries. The County Council also has officers in attendance at most schools open to give advice on transport eligibility and admission queries.

The Committee have been informed that The Department for Education guidance confirms that parents do not enjoy a specific right to have their child educated at a school with a religious character or a secular school, or to have transport arrangements made by their local authority to and from any such school.

It was noted by the Committee the appellant referred in their case to discrepancies over the closest schools selected. It was brought to the Committee's attention there is additional transport assistance available to low income families but only if parents are in receipt of one of the qualifying benefits for free school meals or the maximum amount of Working Tax Credit and attending one of their three closest schools. The Officer stated that they were satisfied that the school attended by the pupil was one of the three nearest schools a place would have been offered along with the two closest school, had the appellant's family been classed as low income (receipt of free school meals or maximum working tax credits), pupil would have been entitled.

The Officer's comment stated, as noted by the Committee that from BOTH home addresses the school which is considered the closest by the Authority is under the three miles walking distance. This is the main basis for refusal for school transport assistance.

The Committee have noted the appellant had no active claim for free school meals, not had evidence been provided to indicate being in receipt of the maximum amount of working tax credits.

The Committee have noted all the extra evidence sent in by the appellant which consisted:

- Emails in relation to applying for transport assistance and home addresses dated between 8<sup>th</sup> and 10<sup>th</sup> August 2018

- Google maps showing distance to school attended by the pupil
- Email dated 17<sup>th</sup> September 2018 from appellant disputing distances of schools
- Email with maps sent in by appellant dated 19<sup>th</sup> September 2018 showing distance to nearest school and distance to school attended by the pupil

The Committee were unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law, no financial information was submitted to the Committee to state that the appellant is unable to afford the cost of a travel pass to the chosen school.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupils would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4532 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2018/19.

#### **Appeal 4534**

It was reported that a request for transport assistance had initially been refused as the pupil would be attending their nearest school, which was 1.68 miles from their home address and within statutory walking distance. The family were appealing to the Committee on the grounds that the Council had incorrectly assessed the appellant's claim against the law in using the address stated on the school admissions application form, this address being under statutory walking distance from home to school.

The appellant stated as noted by the Committee that they had shared care with 50:50 residence of the pupil. Application form was completed by the appellant from their address. The pupil's sibling had a bus pass already and living arrangements were the same. The appellant stated they were unaware that having a different application address would affect their eligibility for a bus pass. The appellant has asked that one and same address are used for both siblings. It was also noted as mentioned by the appellant that their ex partner received Child Benefit for the pupil and their sibling.

The Committee noted the Officer's comments which stated Section 4N of the 2018/2018 Home to School Transport policy which stated "You cannot use an address to apply for a school place and another to have transport entitlement assessed" unless in very exceptional circumstances which had resulted in a change in address arrangements following the offer of a school place which has to be backed up by evidence. No documentary evidence was provided to indicate a change in family circumstance since the allocation of school place (evidence provided was dated 2015). There had been no grounds for the Authority to reclassify the home address used for the purpose of any home to school transport decision.

The Officer's comment stated, as noted by the Committee, that they can only use a single address when assessing a home to school transport application. If there is a split parenting arrangement in place, this address is decided based on the points stated in section 4N of the 2018/2019 Home to School Transport Policy. Based on Section 4N, the address used was the address which was declared on the school admissions application form which is 1.6896 miles from home to school and was under the statutory walking distance of 3 miles (2 miles if low income) to enable a transport award. Therefore, the pupil was not entitled to free school transport in accordance with the Council's Transport Policy or the law. The Committee noted Section 4N of the 2018/2019 Home to School Transport Policy:

#### 4n- Definition of 'home'

If your child lives in two different homes, (there is a shared parenting arrangement in place between mother and father or other proved carer's) we will only provide transport from one of those addresses.

To work out whether your child is entitled to transport to and from school, we will use the address which we consider is your child's main home.

To decide which of the home is your child's main home, we will consider:

- The address which you specifically chose to use when applying for a school place;
- The address at which your child spends most school days; and
- The address you give your child's doctor, dentist etc.

If your child spends an equal amount of the school week at each address, we will usually consider the main address to be the one which you declared on your admission application. This is normally where your child wakes up on the most school days during the school term (Monday to Friday).

You should be aware that entitlement to assistance with home to school transport is assessed separately after the admission process (after school places have been offered).

You cannot use an address to apply for a school place and another to have transport entitlement assessed. For a new address to be accepted, there must be very exceptional reasons for the change, for example the sale of a property, house fire at one address, bereavement or relocation of the parents/carer to a single property. Parents must provide the necessary evidence for the Council to consider. A change in a child's living arrangements, for example, spending more time at the new address, will not generally be considered to equate to exceptional circumstances.

The Committee have read and noted information from the mediation group.

The Committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law and noted that the family were not in receipt of Free School Meals, no financial information was submitted to the Committee to state that that the appellant is unable to afford the cost of a travel to the chosen school.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary statement the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal on the information provided.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4534 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to School Transport Policy 2018/19.

### **Appeal 4538**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 2.16 miles from their home address and within statutory walking distance, and, instead would attend school which is 3.28 miles from the home address. There are further two schools closer, than the one attended by the pupil, which a space would have been offered, if they were selected as higher preference on the school admissions form, at 3.21 miles and 3.25 miles respectively. The pupils was therefore not entitled to free transport in accordance with the Council's policy or the law.

The family appealed to the Committee on the grounds that they had extenuating circumstances to warrant Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant, as noted by the Committee, was appealing on financial grounds. The appellant explained that they were a single parent on a low income and was currently job seeking. Having to pay for the pupil's travel to school had a big impact on their financial situation. They stated they wanted the pupil to attend the school they had put as first preference as it had a good reputation. The appellant added that the pupil had behavioural issues and they hoped that being at a good school will help to improve their behaviour.

The Committee noted, the appellant's family were receiving support from Social Care and they were on a care order on a home placement.

The Committee noted the officer's comments which stated that the pupil had not been entitled to assistance with home to school transport as the pupil was not attending their nearest suitable school. It is parental preference for schools and academies and the application of admission arrangements linked to these which informs and drives the subsequent application of the Local Authority's home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy. The DfE guidance confirms that parents do not enjoy a specific right to have their child educated at a school with a religious character or a secular school, or to have transport arrangements made by their local authority to and from any such school.

It was brought to the Committee's attention that eligibility to receive transport assistance is assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school.

The Committee were advised admission information is available to all parents from each September (online and paper where requested) provided a summary transport policy. Parents are advised to check the policy carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County

Council website and to seek advice from the area education office if they have any queries. The County Council also has officers in attendance at most schools open evenings to give advice on transport eligibility and admission queries. It was noted by the Committee that although the family were classed as in receipt of a low income, as there were three closer schools to home than the one attended by the pupil, family had no statutory entitlement under low income grounds.

The Committee have noted the additional evidence provided in form of benefits and bank balance. They also noted the family had an active claim for free school meals.

The Committee have allowed a temporary award for a bus pass to cover until end of Spring term 2019 and asking for extra evidence from the appellant for the following information:

- Is the pupil in receipt of Free School Meal
- Can the appellant or Social Worker send in copy of Care Order
- Did Pupil Access check if the pupil could have been offered a place at Preston Muslim Girls High School.

Therefore, having considered all of the appellants comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee was persuaded that there was sufficient reason to uphold the appeal and provide temporary travel assistance for the pupil up to the end of Easter Term 2018/19 (April 2019) to support the family in the interim.

**Resolved:** That;

- I. Having considered all the circumstances and the information as set out in the report presented, appeal 4538 be allowed on the grounds that the reasons put forward in support of the appeal were considered worthy of the Committee exercising its discretion to grant an exception with Home to Mainstream School Transport policy 2018/19.
- II. The transport assistance awarded in accordance with I. above be up to the end of Easter Term 2018/19 (April 2019) to support the family in the interim.

### **Appeal 4547**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which is 2.28 miles from their home address and within the statutory walking distance, and instead would attend a school which is 4.02 miles away. The family were appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law. The appellant advised, as noted by the Committee, the pupil was adopted. The pupil has recently been diagnosed with health issues. The appellant felt

confident that the pupil's school needs would be met at the school they have as their only parental preference. Due to work commitments, the appellant and their partner would have difficulty in taking the pupil to school. A family member was able to see the pupil out in the morning. The appellant stated public transport difficulties if the pupil was to go to the nearest suitable school.

The Committee noted the Officer's comments which stated transport assistance had been refused as the pupil was not attending their nearest school. It is parental preference for schools and academies and the application of admission arrangements linked to these which informs and drives the subsequent application of the Local Authority's home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy.

It was brought to the Committee's attention that eligibility to receive transport assistance is assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school. Admission information is available to all parents from each September (online and paper where requested). A summary transport policy is made available to all which parents and carers are advised to check carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County Council website and to seek advice from the area education office if they have any queries. The County Council also has officers in attendance at most schools open evenings to give advice on transport eligibility and admission queries. The Officer stated, as noted by the Committee, had the appellant's family been classed as in receipt of a low income, the pupil would qualify for free home to school transport (as the school attended by the pupil was the 3<sup>rd</sup> nearest a place could have been offered at and distance is between 2 and 6 miles). In this instance, the family were not in receipt of the maximum amount of working tax credits. In light of this, the family did not have a statutory eligibility to free home to school transport.

The Committee noted, the Officer pointed out had the appellant stated issues concerning lack of a school bus service to the closest school. Had the pupil attended the closest school and should distance qualifications had been met, the Council would have had a statutory obligations to provide free transportation. If school buses aren't in operation, the Council would select a suitable option to fulfil the legal obligation.

The Officers stated, as noted by the Committee, there were two dedicated school services that served the school attended by the pupil with the stop from home a few minutes walk. There is no issue in appellant purchasing a pass on the service (should the service have capacity). The appellant has been provided with a telephone number to ring.

The Committee noted all the supplementary evidence supplied by the appellant:

- Copy of individual support plan
- School bus timetable
- Letter form consultant community paediatrician
- Learners profile



The Officer's comments stated, as noted by the Committee, the pupil was not eligible for free school meals and no evidence had been provided to indicate meeting the low income threshold and in light of the appellant choosing a school which was not the closest to home, the appellant had no statutory entitlement under the home to school transport.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary statement the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal on the information provided.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4547 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to School Transport Policy 2018/19.

#### **Appeal 4548**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which is 2.30 miles from their home address and within the statutory walking distance, and instead would attend school which is 4.83 miles away and is over the statutory walking distance. Furthermore there are 13 schools closer than the one attended by the pupil, by walking route with excess of three of these, a place would have been offered if stated as a higher preference than the one attended by the pupil and within the 2.3 miles to 2.8 miles. The pupil was therefore not entitled to free school transport in accordance with the Council's Transport Policy or the law. The family were appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant stated, as noted by the Committee, the pupil was previously bullied at school. The school the pupil attended was the best option for them and the pupil is under CAHMS. The two nearer schools were not suitable.

The Officer's comments stated, as noted by the Committee, transport assistance had been refused as the pupil was not attending their nearest school. It is parental preference for schools and academies and the application of admission arrangements linked to these which informs and drives the subsequent application of the Local Authority's home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy.

The Committee noted that eligibility to receive transport assistance is assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school. Admission information is available to all parents at the time of applying for school places. A summary transport policy is made available to all which parents and carers are advised to

check carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County Council website and to seek advice from the area education office if they have any queries. The County Council also has officers in attendance at most schools open evenings to give advice on transport eligibility and admission queries.

The Committee noted, as stated by the Officer, although the family were classed as in receipt of low income, the pupil did not qualify for free home to school transport. Free transport on low income grounds can only be granted if child is attending of the three closest schools to home a place could have been offered at. In this instance, there were thirteen closer schools than the one attended by the pupil with three of these being under three miles away.

The Committee noted the pupil was in receipt of free school meal. They have noted the supplementary evidence supplied by the appellant:

- Jobseeker's allowance statement
- Personal Independence Payment

It was therefore decided that the appeal be **deferred** until the next scheduled meeting of the Committee on the 03rd December 2018 to allow the appellant to provide further evidence for the Committee to consider the appeal in full. It was noted by the Committee the following evidence/information is required from the Appellant **No later than Monday 19th November 2018 in order for the evidence to be collated and presented to the Panel for the 03rd December 2018 Committee Meeting:**

- Education and health care plan to be submitted to the committee at the time of admission to the school attended by the pupil.
- Education and health care plan to be submitted to the committee at the time the pupil was in previous school, if there was one.
- Financial information to be provided by the appellant to state the families' income.
- Up to date medical evidence or reports –Recent up to date and full benefit information required to assess financial status of the family.
- CAMH's up to date report
- Any proof of bullying report from school or police.

### **Appeal 4550**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which is 3.85 miles from their home address, and instead would attends school which is 4.52miles away. The pupil was therefore not entitled to free school transport in accordance with the Council's Transport Policy or the law. The family were appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law. The appellant stated the pupil's sibling was issued a bus pass. The pupil is staying with the appellant for safeguarding reasons. The appellant stated they

drive but has mobility issues. The appellant's partner is not able to pick up the pupil from school due to work commitments.

The Officer's comments stated, the pupil had been refused transport assistance at they were not attending their nearest suitable school. It is parental preference for schools and academies and the application of admission arrangements linked to these which informs and drives the subsequent application of the Local Authority's home to school transport policy. The Council has no statutory duty to provide transport assistance in circumstances where pupils do not attend their nearest school or academy.

It was brought to the Committee's attention that eligibility to receive transport assistance is assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school. Admission information which is available to all parents from each September (online and paper where requested) provides a summary transport policy. Parents are advised to check the policy carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County Council website and to seek advice from the area education office if they have any queries. The County Council also has officers in attendance at most schools open to give advice on transport eligibility and admission queries.

The Committee noted the Officer's comments which stated eligibility for transport was determined on receipt of application form based on circumstances at time of admission. The pupil's sibling was granted a pass due to the admissions data indicating a place at the nearest suitable school would not have been offered, even if the school was stated as a preference, so the school attended by the pupil at present, became the nearest school at the time for the sibling and as this school was over three miles away, transport was awarded.

The Officer's comment stated, as noted by the Committee, for the pupil the admissions data at time of application and at point of receiving the transport application form, a place could have been offered at the nearest suitable school if the school was stated as a higher preference on the original school admissions form than the school attended by the pupil.

It was noted by the Committee, the Officer stated, had family been classed as in receipt of low income, the pupil would qualify for free home to school transport (as school is the 2<sup>nd</sup> nearest a place could have been offered at and distance is between 2 and 6 miles). In this instance family were not in receipt of free school meals nor had evidence been provided of family being in receipt of the maximum amount of working tax credits. In light of this, family do not have a statutory eligibility to free home to school transport.

The Committee were informed there was a dedicated school services that served the school attended by the pupil, with the stop from home less than a 100 yards walk. There was no issue in appellant purchasing a pass on the service (should capacity exist on the service).

The Committee noted the family had no active claim for free school meals nor had evidence been provide to indicate being in receipt of the maximum amount of working tax credits.

The Committee have noted supplementary evidence supplied by the appellant:

- Residence of contract order
- Email from the appellant

Therefore, having considered all the appellants' comments and family circumstances the Committee felt that it should make an award to assist the family. The Committee was persuaded that there was sufficient reason to uphold the appeal and provide bus pass for the pupil, up to the end of 2021/22 academic year (July 2022) to support the family Resolved: That;

I. Having considered all the circumstances and the information as set out in the report presented, appeal 4550 be allowed on the grounds that the reasons put forward in support of the appeal were considered worthy of the Committee exercising its discretion to grant an exception with Home to Mainstream School Transport policy.

II. The transport assistance awarded in accordance with I. above be up to the end of 2021/22 academic year (July 2022)

### **Appeal 4555**

It was reported that a request for transport assistance had initially been refused the pupil was attending a school that is 1.89 miles from the home address and within statutory walking distance of 3 miles and furthermore, this distance is under the lower qualification distance of 2 miles for those in receipt of low income. The pupil was, therefore, not entitled to free transport in accordance with the Council's policy or the law. The appellant was appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant advised, as noted by the Committee, that two of the pupil's siblings were issued free bus passes under the previous Home to School Transport Policy. The appellant stated that a neighbouring family have been issued with a pass. Furthermore, the suggested walking route is unacceptable for an 11 year old child to use, as it used wooded areas; fields and subways. There was a safety risk, which would be exacerbated during darker evenings. The appellant had requested the assistance for five years.

The Officer's comments stated, as noted by the Committee, admission information which is available for all parents from each September (online and paper requested) provides a summary transport policy. Parents are advised to check the policy carefully if getting their child from home to school and back is a consideration. Parents are directed to a full copy of the Home to School Transport Policy on the Lancashire County Council website and to seek advice from the area education office if they have any queries. The County Council also

has officers in attendance at most schools open evenings to give advice on transport eligibility and admission queries.

The Committee noted, in August 2016, a school in the area where the pupil resided closed. At that time, the County Council undertook an assessment of the possible walking routes around the area where the pupil resided and between the school that had shut down and the nearest school.

The Local Authority, as noted by the Committee, has a detailed unsuitable routes policy which was applied when considering the walking routes. In this consideration, the County Council took into account footways, verges, walkable roadside strips, footpaths and bridleways.

The Committee noted the officer's comments that it is the parents' primary responsibility for ensuring their child's safe arrival at school and in all cases when assessing the suitability of routes the County Council will assume that the child is accompanied, where necessary, by a parent or other responsible adult and is suitably clad.

The Officer's comments stated, as noted by the Committee, the elder two siblings of the pupil would have been issued passes before these new assessments were conducted and the routes used previously didn't include the present street the pupil would be using (this previously took the distance over the 2 mile qualification mark for low income families).

The Committee noted on the Officer's comments that unless family move house or change school, this already existing entitlement would remain for the elder two siblings of the pupil until they leave school but any new children starting will be subject to the new routes deemed suitable.

The Committee were advised that in September 2015, the County Council removed discretionary elements of the Home to School Transport Policy. All new pupils starting at school now only receive transport assistance if they attend their nearest school and live more than three miles away. The committee were advised that when undertaking assessments there is no longer any consideration of which Geographical Priority Area or parish a pupil lives within and schools in neighbouring districts and local authorities are also considered when assessing the nearest schools to the pupil's home address.

It was noted by the Committee eligibility to receive transport assistance was assessed by determining the distance between a child's home and the nearest school they could attend. This measurement is taken from the nearest boundary entrance of the pupil's home to the nearest entrance to the school.

The Officer's comment stated, as noted by the Committee, the appellant stated a neighbouring family had been offered free transport. Without being able to refer to the personal data of others, the following three points may explain this:

1. In this instance the distance to get to the school attended by the pupil using the route which travels via the street the council uses as route comes out at 1.89 miles. This is 193.6 yards under the two mile qualification for low income families.
2. Children who have a Statement of Special Education Needs or Educational Health Care Plan have a separate policy (administered by the Special Education Needs Team) in which it is possible that transport can be authorised regardless of distance.

3. Just as this family are appealing for free transport based on their individual set of circumstances and have had the opportunity to provide as much evidence they see fit to emphasize this, another family's individual appeal circumstances and evidence could have been presented to a previous appeal committee hearing in which the committee may have decided to uphold the case.
4. The County Council's Unsuitable Routes Policy considers routes to be safe if there is a footway, verge, walkable roadside strip or footpath.

Parents have the primary responsibility for ensuring their child's safe arrival at school. In all cases, when assessing the suitability of routes, the County Council will assume that the child is accompanied, where necessary, by a parent or other responsible adult.

The Committee noted the family have an active claim for free school meals. The Committee also noted the email sent in by the appellant dated 13 September 2018, as supplementary evidence.

The Committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law, no financial information was submitted to the Committee to state that the appellant is unable to afford the cost of a travel to the chosen school.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary statement the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal on the information provided.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 4555 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to School Transport Policy 2018/19.

### **Appeal 1399382(SEND)**

It was reported that a request for transport assistance had initially been refused on the grounds that the nearest suitable school is considered to be located within the statutory walking distance of 2 miles from the home address. The pupil was, therefore, not entitled to free transport in accordance with the Council's policy or the law. The appellant was appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The Committee note the SEN Home to School Transport Policy 2013/14 – Section 2 which states under section 508 (B) of the Education Act 1996 that:-

*Free transport must be provided to and from school for the child if they are aged 5 to 16 and live outside the legal walking distance between home and the nearest suitable school.*

*Free home to school transport assistance will be provided to children of compulsory school age if they attend the nearest suitable school or residential provision and they live:*

- *More than two miles from home for a child aged 8;*
- *More than three miles from home for a child aged 8 or over*

The Committee noted the school attended by the pupil is a specialist school and was the closest to the home address.

The appellant stated, as noted by the Committee, the pupil had health issues, that the pupil had a reduced sense of danger and currently can climb out of the straps on their specialist buggy and was due to receive a wheelchair.

The Committee also noted, the appellant stated they were in receipt of benefits and believed the family to be classes as being on low income. The appellant stated their partner works, the Family do not have a car and that the appellant has an older sibling to take to school.

The appellant also stated, as noted by the Committee that a letter had been received from the hospital stating that the pupil's school was a 20 minute walk away and that the pupil tired easily due to health issues and would benefit from transport to school.

The Officer's comments stated, as noted by the Committee, medical advice received for the Education Health and Care Plan indicated that the pupil had health issues, however no information had been provided about the total family income including the appellant's partner's salary.

The Committee noted, as stated by the Officer that the pupil was currently taken to school by the appellant. The pupil arrives late and is collected early so the appellant could then collect the other sibling from a different school. The Head Teacher at the school attended by the pupil has stated that early collections and late starts couldn't continue when the pupil was of statutory school age, this would be the start of the Autumn Term September 2018.

However, the Transport Policy for Children and Young People with Special Educational Needs and Disabilities 2013-2014 states, as noted by the Committee, that the decision to provide transport was based on the pupil's needs. It was not, therefore, possible to take into account parents' work and or other commitments or attendance by siblings at other schools.

The Committee were informed that the school attended by the pupil's sibling was 0.2 miles from the family home address. The committee noted that even if transport was to be provided, as the home address was so close to the school attended by the pupil, the appellant would still have to make arrangements for the older sibling to be taken to and from school whilst somebody was present at home at pick up and drop of times to enable the pupil to attend school.

The committee were advised that the school attended by the pupil is 0.8 miles from the family home and as such is within the statutory walking distance under the SEN policy 2013/14 and only a 15 minute walk at most with only a minor part of this journey being along a main road, and include light controlled crossings.

It was brought to the Committee's attention that transport had been refused for the pupil on the grounds that the journey is under the statutory walking distance of 2 miles. The appellant was requesting transport due to having to collect another sibling from school. The Committee were reminded that the policy states that family commitments are not taken into consideration when assessing home to school transport for a pupil.

The Committee noted extra evidence supplied by the appellant:

- Education Health and Care Plan dated 13 June 2017
- Letter from Hospital dated 12 June 2018
- Letter from School attended by the pupil (not dated)

The Committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law, no financial information was submitted to the Committee to state that the appellant is unable to afford the cost of a travel to the allocated school.

The Committee also noted that the pupil had been assessed by wheelchair services and was now going to receive a wheelchair for postural/physical support and on health grounds. The pupil would now be a wheelchair user and they would have to travel on the wheelchair on transport, however no further information was supplied to state when this would happen etc. or if the wheelchair was to be used at school.

The policy states:-

***Children unable to walk to school by reason of their special educational need, disability or mobility problem***

*The Authority must provide transport assistance to children who could not reasonably be expected to walk the statutory walking distance to their nearest suitable school because of their SEN, disability or mobility problem. Cases are considered on an individual basis and medical evidence is required before transport assistance is agreed.*

***The decision to provide transport***

*It is important to bear in mind that the decision to provide transport is based on the pupil's needs. This means that Lancashire County Council are not able to take the following into account when considering home to school transport entitlement;*

- *Parents' work or other commitments.*
- *Attendance by siblings at other schools.*
- *If a parent chooses to send their child to a school that is not the nearest appropriate school to the home address.*
- *A journey from one educational establishment to another.*
- *Ad hoc visits to other schools, colleges or other establishments.*
- *Out of hours clubs (breakfast club, after school activities)*

*In these instances, transport arrangements will be the sole responsibility of the child's parent or carer.*

The provision of transport will be reviewed as part of the annual review of the statement of special educational needs. Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary statement the Committee felt that there was not sufficient reason to uphold the appeal on the information provided.



The Committee would like to advise the appellant that if circumstances changed and can be evidenced, they can appeal again.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 1399382 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to School Transport Policy for children and young people with special educational needs and disabilities 2013/14.

### **Appeal 1530608(SEND)**

It was reported that a request for transport assistance had initially been refused on the grounds that the pupil is below statutory school age. The pupil is attending a specialist school and their date of birth is 02/03/15. They will enter the reception class in September 2019 and would be of statutory school age for the start of the summer term 2020. The pupil was, therefore, below the statutory school age and not entitled to free transport in accordance with the Council's policy or the law. The appellant was appealing to the Committee on the grounds that they had extenuating circumstances to warrant the Committee in exercising its discretion and award transport that was not in accordance with the Council's policy or the law.

The appellant stated, as noted by the Committee, the pupil had health issues and was under investigation for a genetic condition. Although the pupil could walk, they had no sense of danger and/or direction. The pupil couldn't climb stairs or go anywhere unassisted. The family received benefit for the pupil and had a mobility pram. Without transport the pupil would only be able to attend the school from 10am -2pm. The family car was used by the appellant's partner to go to work. The appellant's partner started work at 8am and finished at 4:30pm. The Officer's comments stated, as noted by the Committee, medical advice received for the Education Health and Care Plan indicated that the pupil did have a health issues and was under investigation for a genetic condition. Appellant had discussed with the health officials that the pupil was showing health traits. Although the health officials agreed that the pupil showed social communication and interaction difficulties, there was no record diagnosis of health traits received by the SEND services.

It was noted by the Committee, the officer's comment stated, it would not be expected that a child of the pupil's age would go anywhere unassisted. The Education Health and Care Plan state that the pupil was independently mobile. They could climb stairs by "bear walking" or holding onto an adult's hand. The Committee noted the appellant had provided information about income and tax credits. It was not clear why the pupil would not be able to attend the nursery between 10am and 2pm as the family car was unavailable during the day due to appellant's partner working. The pupil was due to attend 2 days per week. The Committee noted transport had been refused for the pupil on the grounds that they were below statutory school age.

The Committee noted all the supplementary evidence provided:

- EHCPlan dated 02/05/2018
- Benefit letter dated 02/03/2018

- Benefit letter dated 14/05/2018
- Letter from SEND refusing transport dated 15/08/18
- Letter from Hospital dated 29/05/2018

It was therefore decided that the appeal be **deferred** until the next scheduled meeting of the Committee on the 03rd December 2018 to allow the appellant to provide further evidence for the Committee to consider the appeal in full.

It was noted by the Committee the following evidence/information is required from the Appellant **No later than Monday 19th November 2018 in order for the evidence to be collated and presented to the Panel for the 03<sup>rd</sup> December 2018 Committee Meeting:**

- What restriction apply for attendance to school
- How far is the school attended by the pupil
- What mobility component paid to the appellant for the pupil
- Appellant to provide family income evidence.

### **Appeal 1325062(SEND)**

It was reported that a request for transport assistance had initially been refused on the grounds that the nearest suitable school was considered to be located within the statutory walking distance 2 miles of the home address. The Pupil was attending specialist school which is 0.8 of a mile from the home address and therefore is under the legal walking distance of two miles.

The Committee noted Home to School Transport Policy 2013/14 – Section 2 which states under section 508 (B) of the Education Act 1996 free transport must be provided to and from school for the child if they are aged 5 to 16 and live outside the legal walking distance between home and the nearest suitable school.

Free home to school transport assistance will be provided to children of compulsory school age if they attend the nearest suitable school or residential provision and they live:

- More than two miles from home for a child aged 8;
- More than three miles from home for a child aged 8 or over

Please note SEN transport policy statement below:

#### **Children attending a mainstream school**

A child whose Statement of SEN indicates that his or her needs may be met at a mainstream school must meet the same eligibility criteria for transport support that apply to all children attending mainstream schools, unless they are unable (by reason of disability or medical condition) to walk the specified walking distance for their age.

#### **Children unable to walk to school by reason of their special educational need, disability or mobility problem**

The Authority must provide transport assistance to children who could not reasonably be expected to walk the statutory walking distance to their nearest suitable school because of their SEN, disability or mobility problem. Cases are considered on an individual basis and medical evidence is required before transport assistance is agreed.

### **The decision to provide transport**

It is important to bear in mind that the decision to provide transport is based on the pupil's needs. This means that Lancashire County Council are not able to take the following into account when considering home to school transport entitlement;

- Parents' work or other commitments.
- Attendance by siblings at other schools.
- If a parent chooses to send their child to a school that is not the nearest appropriate school to the home address.
- A journey from one educational establishment to another.
- Ad hoc visits to other schools, colleges or other establishments.
- Out of hours clubs (breakfast club, after school activities)

In these instances, transport arrangements will be the sole responsibility of the child's parent or carer.

The provision of transport will be reviewed as part of the annual review of the statement of special educational needs.

The Committee noted the school attended by the pupil is a specialist school. The appellant stated, as noted by the Committee, that when they were unable to get out of bed due to health issues they had ring their partner (who does not live at the same address) to take the pupil to school. This could only happen if the partner was not working. Otherwise, the appellant had to struggle. The pupil's behaviour was not good in the morning and they were not able to walk very far. The Committee noted, the appellant was in receipt of benefits. The appellant stated that the pupil had various medical conditions. The pupil was also described as unsteady and clumsy and wore Piedro boots as they were flat footed. Health tests were due. The pupil became very tired and needed to sit and rest, be carried or use a pushchair. They can become short of breath in cold weather and required use of an inhaler.

It was noted by the Committee, the appellant stated they did not have any family or friends close by. Family members work. They did not drive and described themselves as "pretty much on my own". The appellant's breathing wasn't too good and they were in hospital with pneumonia in April.

The appellant, as noted by the Committee, described the pupil as "hard work". The pupil's behaviour was not great in the morning as they refused to get ready. For the past 2 years the pupil had travelled to school in a push chair which they had now out grown. The appellant disputes that it was an 11 minute walk to school stating that the side gate to school was closed which then extended the journey by another 10 minutes. Having to walk to school was affecting behaviour,

attendance and education as the pupil was frequently 15-20 minutes late for school.

The Officer's comments stated, as noted by the Committee, no information had been provided by the appellant relating to medical conditions. No other financial details were provided. Medical advice received for the Education Health and Care Plan indicated that the pupil was reportedly exposed in pregnancy, born small for gestational age, had health issues. The pupil was prescribed Piedro boots but was reluctant to wear them. The appellant had a partner who attended the Annual Review, held by the school attended by the pupil, on 24/01/18. The partner was described as the pupil's parent. The Annual Review also noted that another member of the family sometimes looked after the pupil.

The Committee noted the Officer's comments which stated having transport to school would not alleviate with the pupil getting ready for school in the morning. The school attended by the pupil was 0.8 of a mile from the family home and as such is an 11 minute walk at most with only a short part of this journey being along a main road. This was as indicated on Google Maps and is to the front gate of the school. There was no information about an application for a specialist buggy that would be size appropriate.

The Committee noted additional comments which stated transport had been refused for the pupil on the grounds that the journey was under 2 miles. The pupil had been taken to school by the appellant for the last two years. There was no information as to why this had to change other than the pupil had grown out of their pushchair. The appellant could apply for a specialist buggy via Occupational Therapy. The appellant could access family support to enable them to develop strategies to manage the pupil in the morning. Providing transport would not solve these issues.

The Committee noted the extra evidence sent in:

- Amended Education Health and Care Plan date 16/01/2017

The Committee were also unable to determine the family's financial circumstances and noted that they were not in a position to decide if the family were on a low income as defined in law, no financial information, health information and no details of benefits claims was submitted to the Committee to support the appellant's claim.

Therefore, having considered all of the appellant's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary statement the Committee felt that there was nothing to state it was not unreasonable for the appellant to walk the pupil to school and there was not sufficient reason to uphold the appeal on the information provided.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 1325062 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to School Transport Policy for children and young people with special educational needs and disabilities 2013/14.

**Appeal 402915 (SEND)**

It was reported to the Committee that the appeal for the pupil had been made against Section 4 of the Home to school Transport Policy for Children and young people with Special Educational needs 2013/2014. The Local Authority's assessment of the Young Person has been made under section 4 of the policy and against appendix A. The committee noted that the pupil had been assessed as suitable to travel with other young people to and from school with a passenger assistant. The appellant wished individualised transport with a passenger assistant.

Local Authority assessed the pupil of falling into the T6 category under appendix A.

Appellant s state that they feel they ought to be assessed at category T8 under appendix A.

The appellant currently transports the pupil themselves using their own vehicle and are reimbursed mileage under section 8 of the policy.

The Committee had noted the Local Authority had agreed transport for the pupil under section 4 of the Transport Policy and had assessed the pupil as being able to travel on shared transport with transport assistance in place under (T6 of Appendix A) of the policy.

The Committee noted the appellant's summary which stated that the college the pupil attended was 30 miles from home. The committee noted that transport plus passenger assistance was provided between March 2014 and July 2016.

Additional children were then added to the run in September 2016 - without, according to the appellant, no risk assessment and consideration of the health needs of their child. According to the summary of the appellants appeal, the appellant states they were not informed until the taxi arrived to collect the pupil that other children had been added to the transport run. The appellant states that during the 2 week trial, the pupil became unwell and too stressed to go to school. The appellant states that when assessed, in the opinion of the appellant, the vehicle being used was too small to transport the children on the run and then went onto state that in their opinion a large vehicle would have taken longer on the country roads. The appellant states that the average journey is 1 hour – the committee noted appendix 1 of appellant's information that this reference was in relation the LCC transport provided.

The appellant stated, and noted by the Committee, the pupil was a wheelchair user with a health care plan and on medication. The committee noted the information stated by the appellant that the pupil had health issues which increased their risk of infections. The committee noted that the pupil was on strict fluid levels and suffered with infections which increased if the pupil sat for long periods.

The committee noted the appellant's statement that the pupil had personal caring needs which could require attention (due to personal accidents) which could make the pupil late for school or home. The committee also noted the appellant's reference to the pupil's legs and ankles could become painful if they sat for long periods and that as stated by the appellants that the pupil suffered from personal issues and needed a calm and quiet down times after school. The committee also noted the appellant's statement that the pupil also required night time care due to their health issues.

The appellant had stated, and noted by the Committee, that according to the appellant each issue needed a plan to balance all of them to maintain privacy and

dignity for the pupil, enabling the pupil to communicate their needs and stay well enough to go school.

The committee noted that in the appellant's opinion the policy only allowed single or shared transport or expenses and gave no consideration of journey times/distance and health needs.

The Committee noted, the appellants would like the Local Authority to change their transport policy to enable them to receive a personal budget and be paid via direct payments to transport the pupil to and from school. The committee noted that they would drive the pupil's own allocated vehicle or pay a Personal Assistant to transport the pupil. The committee noted that the appellant felt that this would save the Local Authority £10,000 as individualised transport costs, they estimate is £37,000 and shared is £19,000.

It was noted by the Committee, that it is the view of the appellant that they would like the costs back dated to September 2016 because the Local Authority failed to inform them of changes, failed to carry out a risk assessment prior to changes and did not offer a right to appeal at the time.

The committee noted that the appellant states that they had received:

- £3064.64 from September 2016 – July 2017
- £2132.18 from September 2017- February 2018
- £5196.82 total expenses since September 2016.

The appellant states costs below to the LA for LCC arranged transport in their estimations to be

Single cost would have been £75,000 for the 2 years.

Shared cost would have been £38,000 for the 2 years.

The Appellant's request £17,053.64

Local Authority would still save £57,946.36 on single and £20,946.36 on shared transport.

The appellant's request:

- £5,196.82 (return mileage)
- £6,660.00 (£9/hr – 4 hours per day for the 185 days attendance)
- £11,856.82 (reimbursed costs)

The committee noted the Officer's comments, informing that the pupil received individualised transport by default between the dates of March 2014 to July 2016 due to the pupil attending a school 29.8 miles away; thus there were very few children travelling to this school from the pupil's home area. The Committee noted that Individualised transport was not agreed formally at any time and reminded that the pupil had been assessed under T6 of the transport policy.

T6

*Child/young person is able to travel with selected other pupils. The level of need may require intervention/supervision from a trained passenger assistant.*

*Transport in a suitable vehicle provided.  
Passenger assistant provided*

The Committee noted that the officer's stated that a closer school was offered to the appellant which was 1 mile from the home address and would have been suitable for the pupil but this was refused by the appellant. The committee noted the sub note of the appellant stating that the school was not offered to them in September 2016.

The Committee noted that the officer reports that when other young people started the school who lived on route to the school that these pupils were added to the transport run in accordance to transport assessments undertaken by SEND Officers.

The Committee noted that Transport arrangements in line with individual assessment and the transport policy were considered, risk assessments had taken place and both the driver and passenger assistant reported no issues with shared transport.

The Committee noted the appellant had further stated that the driver and passenger assistant, according to their beliefs, were not medically trained in order to provide an opinion. The Committee further noted the appellant's statement that the introduction of other children to the run increased the pupil's journey by approximately 14 minutes in order to pick the other pupils up. The committee further noted the appellant's statement of *"if the pupil was to access transport on a shared run then their travel time would be 65 minutes and on an individual basis it would be 51 minutes. The time difference between the two options is therefore 14 minutes"*.

The committee noted that according to the appellant, that in their opinion they believed there was a 'conflict of interest' with the driver as they wanted to retain the route. Timings in the letter to the health official was not realistic during morning rush hour (as shown on evidence provided). In addition, the route with additional children was a diversion from the previous route and meant the vehicle was 'doubling back' on itself.

The Committee noted from the officer's statement that the Local Authority took on board all concerns raised for the pupil's health and further noted in line with health officials.

The Committee noted as confirmed by the officer that the pupil's health needs were taken into account when the decision was made to provide home to school transport in line with the policy. The pupil's needs were considered and assessed as being able to access shared transport under category T6 of the policy. The committee noted the further statements that according to the appellant no information was requested from health officials that gave initial advice and recommendations, however the committee noted that the appellant had submitted letters from Alder Hey Childrens hospital relating to the pupil's condition in 2016, the Committee were unsure what other medical officials that the appellant refers to.

The Committee were advised that Personal Budgets and Direct Payments were not in place for home to school transport under the current policy. The Local Authority currently pay parents mileage under section 8 of the policy which was agreed as an alternative when parents raised concerns about shared transport,

the Committee noted that the appellants are currently in receipt of this allowance. The Committee were advised that the policy states *"Where a child has been assessed as entitled to transport, parents who are willing to drive their children to school themselves may, in exceptional circumstances, opt to receive a mileage allowance instead of transport being provided by the Council."*

The Committee have considered all the appellants and officer's comments, statements and evidence and have concluded that:

- Transport Policy and SEN state places at a closer school was refused by the appellant. At the time transport was not agreed as the pupil was not attending the closest school.
- Transport Policy does not allow a Pay Rate per hour for taking a pupil to school, the policy only allows a mileage allowance in exceptional circumstances.
- The pupil had already been provided with a wheelchair enabled vehicle under PIP.
- Parents are responsible for getting their child/children to and from school safely. The Committee also noted the officer's comments that it is the parents' primary responsibility for ensuring their child's safe arrival at school.
- The pupil does not attend the nearest school/college.
- Provision is available at a nearer Further Education Establishment.
- Payment is made to parents for mileage to the nearest Further Education establishment attended by the pupil.

It was therefore decided that the appeal be **deferred** until the next scheduled meeting of the Committee on the 1<sup>st</sup> October 2018 to allow the appellant/SEN Officer to provide further evidence for the Committee to consider the appeal in full.

It was noted by the Committee the following evidence/information is required from the Appellant/SEN Officer **No later than Monday 17<sup>th</sup> September 2018 in order for the evidence to be collated and presented to the Panel for the 1<sup>st</sup> October 2018 Committee Meeting:**

- Education and health care plan to be submitted to the committee at the time of admission to the school previously attended by the pupil.
- Financial information to be provided by the appellant to state the families' current total income for the period of two years where the appellant is claiming.
- Current EHCPlan stating school/college to be considered for the pupil.
- Up to date medical evidence or reports – the ones provided by the appellants were dated 2016, the committee note that this information is over 18 months old and that the pupil's medical circumstances may have changed.
- Recent up to date and full benefit information required to assess financial status of the family.



- Details and evidence from the chosen college as to what course and facilities the pupil can be offered
- Details and evidence from the nearer college as to what course and facilities the pupil can be offered
- Recent and up to date report required from Health Professionals.
- Details of carer allowance paid to the appellant over the period wishing to claim (i.e. past two years).

Following the deferred decision the following evidence was supplied by the appellant to support their claim:

- Copy Of final EHCP issued 02/03/2017
- Copy of letter from Hospital
- Health Information Passport
- Amended EHCP issued 13/08/2018
- Email from Practice Manager re Transport Evidence
- Email from College
- Copy of letter from Hospital
- Copies of Health Authority letters x 3

The Committee have noted the appellant was not prepared to provide financial information as requested to state the families total income for the period of two years where the appellant was claiming as they state transport in their opinion was not means tested. Also with regard to the request for details of carers allowance paid to the appellant over the past two years, again, the appellant was not prepared to provide this information as transport was in their opinion not means tested.

The Committee noted all the information sent for the appeal hearing was not complete nor was in sent in advance to allow proper consideration of all the information. The Committee will now hear the appeal at the next meeting held on 05<sup>th</sup> November.

It was therefore decided that the appeal be **deferred** until the next scheduled meeting of the Committee on the 05<sup>th</sup> November 2018 to allow the appellant to provide further evidence for the Committee to consider the appeal in full.

It was noted by the Committee the following evidence/information is required from the Appellant/SEN Officer **No later than Monday 19th November 2018 in order for the evidence to be collated and presented to the Panel for the 03rd December 2018 Committee Meeting.**

The Committee have considered all the appellants and officer's comments, statements and evidence and have concluded that:

- Transport Policy and SEN state places at a closer school was refused by the appellant. At the time transport was not agreed as the pupil was not attending the closest school.
- Transport Policy does not allow a Pay Rate per hour for taking a pupil to school, the policy only allows a mileage allowance in exceptional circumstances.
- The pupil had already been provided with a wheelchair enabled vehicle under PIP.

- Parents are responsible for getting their child/children to and from school safely. The Committee also noted the officer's comments that it is the parents' primary responsibility for ensuring their child's safe arrival at school.
- The pupil does not attend the nearest school/college.
- Provision is available at a nearer Further Education Establishment.
- Payment is made to parents for mileage to the nearest Further Education establishment attended by the pupil.

It was therefore decided that the appeal be **deferred** until the next scheduled meeting of the Committee on the 1<sup>st</sup> October 2018 to allow the appellant/SEN Officer to provide further evidence for the Committee to consider the appeal in full.

It was noted by the Committee the following evidence/information is required from the Appellant/SEN Officer **No later than Monday 17<sup>th</sup> September 2018 in order for the evidence to be collated and presented to the Panel for the 1<sup>st</sup> October 2018 Committee Meeting:**

- Education and health care plan to be submitted to the committee at the time of admission to the school previously attended by the pupil.
- Financial information to be provided by the appellant to state the families' current total income for the period of two years where the appellant is claiming.
- Current EHCPlan stating school/college to be considered for the pupil.
- Up to date medical evidence or reports – the ones provided by the appellants were dated 2016, the committee note that this information is over 18 months old and that the pupil's medical circumstances may have changed.
- Recent up to date and full benefit information required to assess financial status of the family.
- Details and evidence from the chosen college as to what course and facilities the pupil can be offered
- Details and evidence from the nearer college as to what course and facilities the pupil can be offered
- Recent and up to date report required from Health Professionals.
- Details of carer allowance paid to the appellant over the period wishing to claim (i.e. past two years).

Following the deferred decision the following evidence was supplied by the appellant to support their claim:

- Copy Of final EHCP issued 02/03/2017
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The Committee have noted the appellant was not prepared to provide financial information as requested to state the families total income for the period of two years where the appellant was claiming as they state transport was not means tested. Also with regard to the request for details of carers allowance paid to the appellant over the past two years, again, the appellant was not prepared to provide this information as transport was not means tested.

The Committee noted all the information sent for the appeal hearing was not complete nor was it sent in advance to allow proper consideration of all the information. The Committee will hear the appeal at the next meeting held on 03<sup>rd</sup> December 2018.

The Committee have expressed that if the appellant does not send in the information required then a decision will be based on the information supplied, however they would like to offer the appellant another opportunity to supply the required information.

It was therefore decided that the appeal be **deferred until the next scheduled meeting of the Committee on the 03<sup>rd</sup> December 2018** to allow the appellant to provide further evidence for the Committee to consider the appeal in full.

It was noted by the Committee the following evidence/information is required from the Appellant **No later than Monday 19<sup>th</sup> November 2018 in order for the evidence to be collated and presented to the Panel for the 03<sup>rd</sup> December 2018 Committee Meeting.**

L Sales  
Director of Corporate Services

County Hall  
Preston