

## **Lancashire County Council**

### **Student Support Appeals Committee**

#### **Minutes of the Meeting held on Monday, 16th March, 2020 at 10.00 am in County Hall, Preston**

#### **Present:**

County Councillor Anne Cheetham (Chair)

#### **County Councillors**

J Cooney  
Y Motala

D Stansfield

#### **1. Apologies**

None

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

None

#### **4. Minutes of the meeting held on 20th January 2020**

Resolved: That; the Minutes of the meeting held on the 20<sup>th</sup> January 2020 were confirmed as an accurate record and were signed by the Chair.

#### **5. Urgent Business**

46734

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

To be confirmed asap.

#### **7. 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.

#### **8. Student Support Appeals**

(Not for Publication – Exempt information as defined in Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interests in disclosing the information).

Please note that due to the confidential nature of the information included in this report it will not be published on the website.

#### **4734**

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 5.26 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 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 Committee noted the appellant was appealing on Medical, Financial and Educational continuity grounds. The Committee were advised that the pupil had been awarded as a result of a previous appeal held on the 5<sup>th</sup> November 2018 a temporary award of a travel pass up to the end of Summer Term 2019.

The Committee noted that the appellant was again appealing under the same grounds as previous and has included the following evidence to support their case for travel assistance for the pupil who was now in year 8 at the preferred school of choice.

- Benefit award letter, pages 3 and 4 only supplied – giving details of the award up to the end of March 2020.
- E-mail from Key Worker dated 2<sup>nd</sup> December 2019.
- Letter from appellant asking for another appeal.
- Virgin Care letter dated November 2019 – detailing appointment for Pupil.
- NHS Letter – detailing appointment for the pupil dated November 2019
- NHS Letter – detailing appointment for the appellant dated November 2019.

The Committee noted that the school awarded was the 1<sup>st</sup> preference of school when applying for a year 7 place and that the pupil had been awarded 1<sup>st</sup> choice of school.

It was noted by the Committee there was an additional entitlement to transport assistance for low income families. If parents are in receipt of the qualifying benefits for free school meals or the maximum amount of Working Tax Credit. The pupil was not attending one of their 3 nearest schools between 2 and 6 miles. The Committee noted that the pupil attends the 4<sup>th</sup> closest school to the home address and as thus did not qualify under this extended low income element of the transport policy.

It was explained to the Committee, assessing a pupil's eligibility to receive transport assistance was a two part process. Firstly, a pupil's nearest school, for transport assessment purposes, is determined. This is the school that is closest

to the pupil's home, measured by the shortest walking or road routes, as accepted by the County Council. The safety of the route between home and school is only considered if a pupil is attending their nearest establishment.

It was noted by the Committee, a summary of the County Council's Home to School Transport Policy is provided within all the admissions documentation, both in the booklets and online. Parents are urged to contact their local education office if travel costs are a consideration or concern when parents are making a school application. Additionally, members of the Pupil Access Team are in attendance at nearly all of the school open evenings to give advice about admissions and transport entitlement.

The Committee were informed the Department for Education statutory guidance requires the County Council to assess transport eligibility by considering whether a place could have been allocated in the normal admission round if the parent had included the school as a preference. The Committee noted from the officers notes that at the time of application places would have been available at closer schools and that at the time of the schedule being drawn up these places still remained available to the pupil.

The appellant stated that they had no support from family/friends or neighbours to support with assisting the pupil to and from home to school, the Committee noted that the father lived close to the family at under 3 miles. The Committee noted that the father lives close to the family but the appellant has not stated if the father helped out in any way.

The Committee noted that the family moved into the area and initially stayed within a refuge before moving to the current property in October 2017, the Committee note that the family have now been at the current address for over 2 years.

It was also noted by the Committee the statutory guidance from the Department for Education states that schools can be considered when undertaking assessments to receive transport assistance if they have places available and "provide education appropriate to the age, ability and aptitude of the child, and any SEN that child may have". The County Council delegates a significant amount of funding to all mainstream high schools to provide the learning support for pupils with additional needs. All schools are expected to provide the necessary support to enable a pupil to fully access the curriculum. The Committee noted that the pupil was unknown to the SEN Service and had no Education and Health care plan stating that the school currently attending was the only school that could offer support to the pupil. The Committee were also made aware that the place was not won on appeal but offered from the waiting list and accepted on the 13<sup>th</sup> June 2018 for a place starting year 7 in September 2018.

The Committee also noted that the appellant had stated also that they were appealing on Educational Continuity grounds. The Committee were reminded that this only applies to year 6, year 10 and year 11 pupils and that the pupil was currently in year 8.

The Committee noted that the appellant had not supplied any information advising if any improvement in health or the family circumstances had been made since the last appeal was heard, the Committee noted that circumstances reported by the appellant were the same as previously stated for the previous transport appeal.

It was brought to the Committee's attention that the County Council's Home to School Transport Policy does include some discretionary provision for pupil where there is satisfactory medical evidence of parental incapacity. This assistance is however only available where a pupil attends their nearest school and the family meets the low income criteria.

It was noted by the Committee, a summary of the County Council's Home to School Transport Policy is provided within all the admissions documentation, both in the booklets and online. Parents are urged to contact their local education office if travel costs are a consideration or concern when parents are making a school application. Additionally, members of the Pupil Access Team are in attendance at nearly all of the school open evenings to give advice about admissions and transport entitlement.

The Committee had therefore decided that in order to give the appeal proper and due consideration that the appellant be given the opportunity to submit the following evidence or additional evidence that they consider will support their appeal.

- Up to date, full and current full benefits awarded to the family. (Supplied details for 2018 only).
- Current and up to date Key worker reports relating to the pupil. (Letter supplied no details given of the reason why the pupil requires a bus pass).
- Current and up to date Health Visitor reports relating to the pupil and the appellant.
- Current and up to date prescription details (2018 supplied) of the appellant.
- Detailed evidence/report of the support received from Home start
- Details of the long term prognosis of the appellant from a qualified health practitioner.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal **4734 be deferred.**

**The Committee require the appellant to supply the above documentation in full no later than the 21<sup>st</sup> February in order for the appeal to be heard in full at the next Committee meeting on the 16<sup>th</sup> March 2020.**

The Committee noted that the appellant had not supplied the above documentation.

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 4734 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 2019/20.

#### **4789**

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 1.94 miles from the home address, and instead would attend a school which was 4.86 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 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 Committee noted the appellant stated the family moved to their present address last year because the landlord gave them notice. The move was not voluntary. Their current home was owned by a family friend and was now their permanent address.

It was noted by the Committee the appellant stated they were appealing on financial grounds because they couldn't afford the pupil's bus fares. The appellant worked full time and didn't have a partner. Their total monthly income was stated but no evidence had been provided to support this. The appellant was not appealing on medical grounds, but was appealing on educational continuity grounds. The pupil had settled in well at the school attended having started there at the start of Year 8. Prior to that the pupil was home schooled. The pupil was currently being tested for dyslexia. The appellant had also stated the child followed a faith and the school which was considered nearest suitable school would not be suitable for the pupil due to faith belief.

The appellant was requesting transport from October 2019 until the pupil left school attended or the family's circumstances changed, as noted by the Committee.

The Committee were reminded that 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 to 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 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, as noted by the Committee.

The Committee were informed transport appeals are evidence based. The notes of guidance provided with the appeal form do state that if a parent is making a case on financial grounds that it is essential that the fullest detailed documentation is provided as this will evidence that a parent cannot fund the transport themselves. The notes state that any information received will be dealt with in strict confidence and refer to bank and benefit statements etc.

The Committee were reminded that the DFE state that schools can be considered when undertaking assessments to receive assistance if they have places available and provide education appropriate to the age, ability and aptitude of the pupil and include any SEN that pupil may need. The Committee were advised that the authority delegates a significant amount of funding to all mainstream schools to provide the learning support for pupils that may have additional needs. All schools are expected to provide the 1 to 1 support to enable a pupil to fully access the curriculum. The authority would expect any school to be able to provide appropriate support for any additional needs the pupils may face.

The Committee noted that although the pupil was eligible to receive free school meals, the 'low income' criteria does not apply because there are at least 3 nearer schools with places available in their year group, at 1.94 miles, 2.22 miles and 2.71 miles respectively.

The Committee also noted that the appellant had signed the application form for the transport appeal and that this states that "I Declare that the information given in this application is correct and complete to the best of my knowledge and belief, I have attached all relevant supplementary information I wish to make available to support my case."

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 4789 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 2019/20.

**4801**

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 2.30 miles from the home address, and within the statutory walking distance of under 3 miles and instead would attend a school which was 9.69 miles away. The pupil was therefore not entitled to free transport in accordance with the Council's policy or the law.

The Committee noted the appellant was not appealing on medical or educational continuity grounds but was appealing on financial grounds and Exception Reason. Neither the appellant nor their partner worked and they staged their total household monthly income although no evidence had been provided to support this.

It was brought to the Committee's attention that under Section D: Other Exceptional Reason, the appellant advised that the pupil's previous school was unable to support their academic attainment or emotional wellbeing. The pupil was the eldest sibling of 4 children. Their sibling had health issues. The pupil's education provision needed to be in a smaller setting that could aid in nurturing their own abilities, as their home life was very busy and time for 1:1 support was limited due to their sibling's requirements and level of need. The pupil's health began to suffer so the appellant and partner found new provision at the school attended that could help the pupil to achieve the best from school. Their family social worker could support their decision and this appeal.

The Committee noted the pupil was previously awarded a bus pass and the family would like it to continue. Transport would be required from January 2020 until the pupil left school.

Officer's comments and review information stated, as noted by the Committee, transport had not been approved because the pupil was not attending their nearest suitable school.

The Committee noted there was an additional entitlement to transport assistance for low income families if parents were in receipt of the qualifying benefits for free school meals or the maximum amount of Working Tax Credit. Free travel is provided if a pupil is attending one of their three nearest schools and the school is situated between 2 and 6 miles from home.

It was noted by the Committee the pupil was in receipt of Free School Meals and was entitled to transport to their previous school on these ground. However, since they had moved schools they were no longer entitled to transport assistance because the school attended was not one of the three nearest schools and was more than 6 miles from the home address.

It was also noted by the Committee the statutory guidance from the Department for Education states that schools can be considered when undertaking assessments to receive transport assistance if they have places available and "provide education appropriate to the age, ability and aptitude of the child, and

any SEN that child may have". The County Council delegates a significant amount of funding to all mainstream high schools to provide the learning support for pupils with additional needs. All schools are expected to provide the necessary support to enable a pupil to fully access the curriculum. The pupil did not have an Education, Health and Care Plan and no evidence had been provided to indicate that the school attended was the only one that could meet their needs.

The Committee were informed when assessing home to school transport entitlement, it is not possible for there to be consideration how the pupil might undertake the journey to school. The availability and capacity of bus services can change depending on demand and revenue from bus fares.

It was brought to the Committee's attention that there was a dedicated school service that served the school attended by the pupils with the stop from home a few minutes' walk away. The appellant could contact School Traveline to enquire about purchasing a pass on this service.

The Committee also noted that the appellant had read the schedule and agreed with its content. 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 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 4801 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 2019/20.

#### **4802**

It was reported that a request for transport assistance had initially been refused as the pupils would not be attending their nearest suitable school, which was 1.52 miles for the older pupil and 2.50 miles for the younger pupil from their home address and within statutory walking distance and instead would attend a school which was 3.31 miles away.

The pupils 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 noted the appellant's family and their 4 children moved house this year because they needed more room for the children, and to be closer to the hospital. The move was voluntary and permanent. There were other two adults living in the household. The pupils presently took buses to travel to school accompanied by the appellant. The appellant cannot get home in time after school for their other two children because the buses would take longer. All three monthly tickets cost was stated by the appellant, plus a taxi every day after



school to get the appellant to pick up their disabled child on time. The cost of the taxi was stated by the appellant.

It was noted by the Committee the appellant was not appealing on financial grounds. They had a partner who worked full time and their net income per month was stated. The family were also in receipt of carer's allowance for a child with a disability, child tax credit, care and child benefit with amount stated for all the benefits. The total household monthly income was also stated however, no financial evidence had been supplied to support this.

The Committee noted the appellant was appealing on medical grounds and had written a letter in support of this. One of the appellant's children had a disability and had appointments at the hospital every two weeks and sometimes had to go to hospitals in other towns. The appellant didn't drive and had to go by taxi or bus. Their partner worked full time from 4:00am until 4:00pm or 5:00pm and was therefore unable to help them. The appellant had attached medical information in respect of their child with disability, complex medical issues (37 operations before the age of 18 months) and behaviour. The child was on SEN and had transport to school. There were no resources provided to the family to assist with the child's condition apart from disability allowance. There was no help available from extended family/friends/ neighbours to support the appellant get the children to and from school.

It was also noted by the Committee the appellant was appealing on Educational Continuity Grounds. The taxi for the child with disability came at 8:20am. The appellant had one child in secondary education. The two pupils the appellant was requesting transport changed schools in September and the appellants was reluctant to separate them. If the appellant separated the pupils then they would have to go to 4 schools at the same time.

The Committee noted the family were not receiving support from any agencies and the appellant had requested transport as soon as possible until they could place the children in the same school close to home.

The Officer's comments and review information, as noted by the Committee, stated when assessing home to school transport entitlement, it is not possible for there to be consideration of how the pupil might undertake the journey to school. The availability and capacity of bus services can change depending on demand revenue from bus fares.

The Committee was reminded 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 dressed. The County Council's Unsuitable Routes Policy considers routes to be safe if there is a footway, verge, walkable roadside strips or footpath. The Committee were reminded and noted that the authority will not take into account the working arrangements of parents or other commitments like taking other children to and from school when assessing transport entitlement.

It was brought to the Committee's attention The County Council's Home to School Transport policy contains a discretionary award for pupils with long term medical needs. Where it is apparent that a pupil is physically unable to walk to school, transport provision may be considered. Unfortunately this discretion

cannot be applied to the pupils the appellant was requesting transport for as they were not the children with the medical condition. The child with the medical condition was the sibling of the pupils.

It was brought to the Committee's attention that the pupil did not have an Education, Health and Care Plan. The statutory guidance from the Department for Education states that schools can be considered when undertaking assessments to receive transport assistance if they have places available and "provide education appropriate to the age, ability and aptitude of the child, and any SEN that child may have".

The Committee noted at the time of the change in circumstances other nearer schools with places available for the older pupil were at 1.70 miles, and 1.89 miles respectively. Additionally the nearest suitable school at 2.50 miles also has places available in the pupil's year group.

The younger pupil has places available at 3.21 and 3.28 miles respectively. The Committee have noted all the supplementary evidence supplied by the appellant.

The Committee also noted that the appellant had read the schedule and agreed with its content.

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 4802 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 2019/20.

#### **4804**

It was reported that a request for transport assistance had initially been refused as the pupil was attending their nearest suitable school, which was 1.94 miles from their home address and within statutory walking distance

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 noted the appellant was not appealing on financial grounds or educational continuity grounds but was appealing on medical grounds as the appellant suffered from depression and anxiety although no evidence had been provided to support this. They find it hard to leave the house for long periods and they had 3 other siblings to take to school.

It was noted by the Committee under Section D, the appellant advised that the pupil's journey was unsafe and unsuitable. It was a 4 mile walk a day which took 2 hours. The pupil was a shy person and unaware of the big bad world. It is dark

at 7.30am and part of the road the pupil uses didn't have a pavement so the pupil had to walk on the road with cars speeding past them. The family couldn't afford a bus pass due to financial difficulties and had 4 other younger children.

The Committee noted transport was required as soon as possible until the pupil left school. The appellant had also stated there was a bus at the end of the road. The Officer's comments and review information, as noted by the Committee, stated transport assistance had not been approved because the distance from home to school was less than the statutory walking distance.

The Committee was reminded 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 dressed. The County Council's Unsuitable Routes Policy considers routes to be safe if there is a footway, verge, walkable roadside strips, footpaths and bridleways. The section of the route that the appellant considered to be unsuitable had previously been assessed by a member of the Pupil Access Team and had been deemed 'suitable' in accordance with our Policy. The section of the route that the appellant considered to be unsuitable had previously been assessed by a member of the Pupil Access Team and had been deemed 'suitable' in accordance with the Policy. There were a number of stepping off verges and at those points where there is no step off or verge the traffic count did not exceed the maximum vehicle numbers per hour in relation to the width of the road. When assessing home to school transport entitlement it was not possible for there to be consideration of how the pupil might undertake the journey to school. The availability and capacity of bus services could change depending on demand and revenue from bus fares. There was a dedicated school services that served the school attended by the pupil with the stop from home a few minutes' walk away. Parents were able to contact School Traveline to enquire about purchasing a pass on this service.

The Committee were reminded and noted that the authority will not take into account the working arrangements of parents or other commitments like taking other children to and from school when assessing transport entitlement.

The Committee noted the pupil was not in receipt of Free School Meals.

The Committee also noted that the appellant had signed the application form for the transport appeal and that this states that "I Declare that the information given in this application is correct and complete to the best of my knowledge and belief, I have attached all relevant supplementary information I wish to make available to support my case."

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal **4804 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 2019/20.

#### 4807

It was reported that a request for transport assistance had initially been refused as the pupils would not be attending their nearest suitable school, which was 1.35 miles for the older pupil and 2.66 miles for the younger pupil from their home address and within statutory walking distance and instead would attend a school which was 3.38 miles away.

The pupils were 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 noted the appellant moved house for work reasons and to be closer to the family. The appellant's partner was also living in the household. The pupils presently travelled to school by taxi.

It was noted by the Committee the appellant was not appealing on financial, medical or educational continuity grounds but was appealing under Section D, and the appellant had detailed the attachments in support of their appeal. They had also contacted the relevant schools to back up the family's assertions. They were also willing to make an FOI request for transcripts of the phone calls to both school admission teams, as these would back up the information attached. The appellant stated that the Admissions team advised that their nearest school that could take both pupils was the one attended by them and they should apply for home to school transport as the school was over 3 miles away. At the time the other 5 schools nearer to home did not have any places available for both pupils. The appellant stated they were told not to appeal as it would take too long. After their application was declined they checked the mileage to all 5 schools – maps and letters were attached in support of the appellant's transport appeal.

The appellant didn't drive as noted by the Committee and their partner worked full time on a 3 shift rotation and drove 40 miles to work and because of this, they couldn't drive the pupils to and from school.

The Committee noted transport was required to start from January until the pupils left school or the family's circumstances changed.

It was noted by the Committee the Officer's comments and review information stated transport assistance had not been approved because the pupils were not attending their nearest suitable school.

The Committee noted the council appreciated that the appellant would like both the pupils to attend the same school. When advising on school place availability advice was given on which schools might be able to accommodate all siblings in a family but parents are usually informed about which schools may have places in the children's individual year groups. The appellant's partner had confirmed that they were aware there were places at nearer schools for the children separately. It was brought to the Committee's attention that parents have the right to say which school they would prefer their child to go to but this does not automatically mean that their child would be entitled to free transport to the school. Transport entitlements are determined according to the individual child's circumstances. Therefore the nearest suitable school for one child for transport purposes may not be the same as the nearest suitable school for the sibling.

The Committee noted information obtained by the Pupil Access Team indicated that there would have been a place for the younger pupil at one of the schools at the time the family moved. The appellant had stated they were informed by the school that there wasn't in fact a place in the year group for the pupil. If that was the case then the pupil would still not be entitled to transport assistance because there was a place available at two other nearer schools at 3.11 miles and 3.12 miles.

It was addressed by the Committee there is an additional entitlement to transport assistance for low income families. If parents are in receipt of the qualifying benefits for free school meals or the maximum amount of Working Tax Credit. Free travel is provided if a pupil is attending one of their three nearest primary school that is more than 2 miles from home.

The Committee noted that pupils were in receipt of Free School Meals, however as they were not attending their nearest schools they did not qualify for transport assistance on low income grounds.

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.

The Committee noted the appellant had supplied any supplementary evidence to support their appeal.

The Committee also noted that the appellant had acknowledged and accepted information on the appeal schedule.

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 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 **4807 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 2019/20.

#### **4808**

It was reported that a request for transport assistance had initially been refused as the pupils were attending their nearest suitable school, which was 1.1 miles from their home address and within statutory walking distance

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 noted the appellant's summary which stated the appellant lived with their partner. The partner had a car but they needed it to drive to their place of work. Their working hours were 8.00am – 4.00pm. The family were relying on friends and relatives to take the pupils to and from school. The appellant's parents were elderly and were struggling to continue to help due to poor health. The appellant's partner had to work to support the family. Friends were struggling due to other commitments.

It was noted by the Committee the appellant was not re-appealing on financial ground or educational continuity grounds but was re-appealing on medical grounds as they suffered from health issues although no medical evidence from a hospital consultant or a GP had been provided to support this.

The Committee noted the appellant stated they were unable to learn to drive due to their medical issue and were unable to leave the house alone or work anymore.

The appellant stated, as noted by the Committee, they were in receipt of PIP enhanced mobility and Universal Credit (limited capability to work), although no financial evidence of the final award had been provided to support this.

The Committee noted appellant had requested transport as soon as possible until the children leave school or the family's circumstances changed.

The Officer's comments and review information stated, as noted by the Committee, transport assistance had been refused as both pupils were attending school which was 1.1 miles from their home.

The Committee noted the appellant had provided some medical evidence about their inability to undertake the journey to school without another person but it was not clear why the pupils could not undertake the journey with extended family members or friends.

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 brought to the Committee's attention that although the County Council does provide some transport assistance when one parent is ill it is clear that this is not on offer where the other parent is unable to accompany a child due to work commitments. This was the case in the appellant's appeal.

The Committee were reminded and noted that the authority will not take into account the working arrangements of parents or other commitments like taking other children to and from school when assessing transport entitlement.

The Committee also noted that the appellant had signed the application form, for the transport appeal and that this states that "I Declare that the information given in this application is correct and complete to the best of my knowledge and belief, I have attached all relevant supplementary information I wish to make available to support my case."

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 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 4808 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 2019/20.

### **4813**

It was reported that a request for transport assistance had initially been refused as the pupil was attending their nearest suitable school, which was 1.56 miles from their home address and within statutory walking distance.

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 noted the appellant was not appealing on financial, medical or education continuity grounds but was appealing under Section De and they had attached a letter which explained in detail why they felt that the walking route from their home to the school attended by the pupil was unsafe and had enclosed photographs of the road that the pupil had to walk along.

The appellant had stated, as noted by the Committee, transport was required as soon as possible and although the appellant had not stated how long transport was needed it had been assumed that transport would be required until the pupil left school or the family's circumstances changed or the proposed toucan/pelican crossing was installed and/or footpaths were upgraded.

The Committee noted the Officer's comments and review information which stated transport had not been approved because the distant from home to school was less than the statutory walking distance of 3 miles

It was explained to the Committee, assessing a pupil's eligibility to receive transport assistance was a two part process. Firstly, a pupil's nearest school, for transport assessment purposes, is determined. This is the school that is closest to the pupil's home, measured by the shortest walking or road routes, as accepted by the County Council. The safety of the route between home and school is only considered if a pupil is attending their nearest establishment.

It was brought to the Committee's attention an assessment of the road crossing referred to by the appellant had previously been undertaken by the Pupil Access Team at times when a child would be travelling to and from school. This determined that the route was suitable in accordance with the Council's School Transport Unsuitable Routes Policy.

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.

The Committee were reminded and noted that the authority will not take into account the working arrangements of parents or other commitments like taking other children to and from school when assessing transport entitlement.

The Committee noted the pupil was not in receipt of Free School Meals. The Committee noted all the supplementary evidence provided by the appellant. The Committee also noted that the appellant had signed the application form for the transport appeal and that this states that "I Declare that the information given in this application is correct and complete to the best of my knowledge and belief, I have attached all relevant supplementary information I wish to make available to support my case."

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 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 **4813 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 2019/20.

### **1314861**

It was reported that a request for transport assistance had initially been refused as the pupil was attending their nearest suitable school, which was 0.2 miles from their home address and within statutory walking distance.

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 was stating as noted by the Committee that they were appealing on medical grounds relating to them as the appellant. The appellant had state the health issue they were diagnosed with and had provide medical evidence in the form of a clinic letter date 2017. The appellant stated they struggled to stand for long periods and when walking long distances, they required to take regular stops to ease the pain for which evidence was provided in the form of a clinic letter date 2018. The appellant had stated what health issues they had and what support they used to try and reduce pain.



The Committee noted the appellant had stated they had no extended family or friends to support getting the pupil to school. The appellant's partner had to be at work and so was unable to participate in taking and collecting the pupil to and from school. The partner did help on days when the appellant was particularly unwell, but was unable to do this consistently due to their work commitments. The appellant stated the pupil had no road safety awareness and had a tendency to run off.

It was noted by the Committee the appellant was in receipt of Employment Support Allowance.

The Officer's comments as noted by the Committee stated that although the pupil attended a special school provision, the Home to mainstream school transport policy 2019/20 Appendix B-Point 5 – Children who parents due to their medical condition are unable to accompany their children to school states assistance under this section will only be provided for pupils who meet the low income criteria outlined in Section 6 of the policy.

**Under section 508 (B) of the Education Act 1996 we must provide free transport to and from school for your child if they are aged 5 to 16 and they 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 under 8 ;
- more than 3 miles from home for a child aged 8 or over

The Committee were informed the pupil did not meet the distance or SEND criteria but met the low income criteria-the pupil was entitled to free school meals. **Lancashire County Council will generally consider applications for Home to School Transport when the child is in receipt of a Statement of Special Educational Needs and young people with LDD who have a S139a Learning Difficulty Assessment. The Inclusion and Disability Support Service SEND Integrated Assessment Team will deal with Home to School Transport applications and entitlement decisions as part of the placement process.**

**Transport assistance will be provided to compulsory age children to the designated or nearest appropriate school mentioned in the statement of special educational needs if the child lives further than the statutory walking distance from the school.**

If your child is entitled to free school meals or you receive the maximum amount of Working Tax Credit, you are defined in law as being on a low income.

If you have a low income and your child is at primary school, we must provide free transport to and from school if they have to walk two miles or more to their nearest school.

The Committee noted the school attended by the pupil was 0.2 miles from the home address.

It was noted by the Committee the appellant had provided evidence that they were entitled to high rate mobility via DLA/PIP in a letter dated March 2018.

The Committee noted Home to School Transport Policy for children and young people with SEND 2013/14, section 3, states that Council are not able to take parents' work or other commitments into account when considering home to school transport entitlement. In these instances, transport arrangements would be the sole responsibility of the child's parents or carer.

It was noted by the Committee the appellant had provided evidence that they were in receipt of Employment Support Allowance as they had a disability or health condition which affected how much they could work. Employment Support Allowance provided money to help with living costs if not able to work and support to get back into work if able to.

The Committee also noted the EHCP demonstrated:

- A need for a high level of adult support
- Has sensory seeking behaviours
- Difficulties with fine and gross motor skills
- Not ware of appropriate social rules
- Difficulties with expressive and receptive language.

The Committee have noted supplementary evidence supplied by the appellant:

- DLA award notification 02/03/2018
- ESA award notification 05/09/2019
- Clinic letter 17/05/2017
- Clinic letter 11/06/2018
- Hospital appointment letter 25/09/2019
- Clinic letter 15/02/2018
- Education, Health and Care Plan 15/02/2019

The Committee have noted the information provided by the appellant is not up to date.

The Committee also noted that the appellant had signed the application form for the transport appeal and that this states that "I Declare that the information given in this application is correct and complete to the best of my knowledge and belief, I have attached all relevant supplementary information I wish to make available to support my case."

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 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 **1314861 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 2019/20.

#### **46734**

It was reported that a request for transport assistance had initially been refused on the grounds that the pupil had applied for a course at a College which had been refused as the student was 19 at the start of the course. The student also had 3 years of post 16 transport to the college.

The refusal for transport assistance was on the grounds that the pupil had applied for course at the college and was 22 years of age at the start of the course. This would also be the 4<sup>th</sup> year of post 16 transport to College.

Transport policy states that no assistance will be provided for students who are aged 19 or above when they start their further education course.

The pupil was therefore not entitled to free transport in accordance with the Council's policy or the law. The appellants 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 Committee noted, the appellants had stated, the pupil had been following a Pathway Course for past 3 years at the College. The pupil finished their course in July 2019 with a view to progressing to the Gateway Course. The next Gateway Course was due to start in September but the pupil was having health issues at the beginning of the course and was not able to start the course until October.

The appellants reported that as the pupil was late in starting the course the tutors had put the pupil on the Pathway Course to reinforce some of the areas/skills to enable them to successfully transition to the Gateway Course which was an entry level 3 course as they would not be able to catch up due to their medical condition and learning difficulties.

It was noted by the Committee, the timetable provided by the appellants indicating the days the pupil was accessing Pathways and Gateways Courses. The appellants were requesting transport for the pupil on the days when they were on the Pathways Course as a continuation of the previous course. The appellants stated that it was quite normal for young adults to drop back a year in college when they were facing a greater challenge in completing a course in a set timetable. The appellants stated that the pupil had dropped back partly onto the pathways course due to missing timetable but also they faced a greater challenge to complete a course in a set timescale. The appellants felt it would be reasonable for the council to continue with its help to fund the pupil's travel expenses on Tuesdays, Thursdays and Fridays.

The Committee noted the appellants had what health issue the pupil had and the pupil also had learning difficulties which made the pupil learn at a slower rate. The Officers comments and review stated, as noted by the Committee, the post 16 transport policy states that no assistance will be provided for the following students:

A student who is aged 19 or above when he or she starts a further education course.

The following conditions also apply:

The young person is under 19 year of age when they start their course and the distance between the young person's home to their education provider is more than 3 miles by the nearest suitable walking route.

Home to school/provider transport would only be considered for young people aged 16-19 who are attending their nearest appropriate school/provider which is

within the 3 miles walking distance if they could not be reasonably expected to walk there, accompanied as necessary, by reason of their SEN, disability or mobility problem. Cases are considered on an individual basis and medical evidence was required before transport assistance was agreed.

It was noted by the Committee Medical information provided further details however criteria applied based on age and previous transport not medical. As the pupil was 22 at the start of the course this falls outside the post 16 transport policy.

The Committee noted the pupil's needs were described in the EHC plan and review summary which was attached for the Committee. There was no disagreement regarding the nature of the pupil's needs and/or content of the EHC plan.

The Committee have noted the officer's notes state what the appellants have listed in relation to the course attended by the pupil:

Appellants have listed the pupil's courses as Gateways and Pathways Timetables provided from appellants and also from Colleges show course attended by the pupil. The College was contacted by the officers to confirm course the pupil was attending and they also confirmed the pupil was retaking some units on a level 2 Pathways Course as part of their programme as per the timetable. The pupil had completed an entry level 2 course last academic year for which certificate was attached.

**Resolved:** Therefore, having considered all of the family's circumstances and the officer responses as set out in the Appeal Schedule 46734, application form and supplementary evidence the Committee was persuaded that there was sufficient reason to uphold the appeal and **Allowed to the end of July 2022 when the pupil will then be under Adult Social Care Register.**

L Sales  
Director of Corporate Services

County Hall  
Preston