

EDUCATION COMMITTEE

26 November 1996

REPORT BY THE DIRECTOR OF EDUCATION

Report No 971/96

**SCHOOL TRANSPORT:
EFFECTS OF THE EDUCATION (SCOTLAND) ACT 1996****ABSTRACT**

This report outlines the effect of recent legislation on arrangements for school transport and recommends a re-affirmation of the Council's current policies.

RECOMMENDATIONS

It is recommended that the Education Committee:

- a) notes the significant expenditure already being incurred by the Council on school transport, together with the continuing difficulty of containing that expenditure within the budget allocation in a climate of ever-increasing parental expectations;
- b) instructs me to monitor carefully this particular area of expenditure and to report back to the Committee immediately should difficulties arise;
- c) re-affirms its policy of providing transport to and from school to all primary school pupils residing more than 2 miles from their designated primary school and to all secondary school pupils residing more than 3 miles from their designated secondary school;
- d) instructs me to continue to make arrangements for transport to and from school for any pupil whose journey to her/his designated school is less than the appropriate distance described in (c) above, but which is deemed to be unduly hazardous by myself and the Director of Planning, Transport and Economic Development in consultation with appropriate officers of Tayside Police;
- e) re-affirms its policy of not providing school transport as of right to any pupil attending a school as a result of a parental placing request;
- f) re-affirms the delegated authority given to the Special Cases Sub Committee to consider any requests for school transport on exceptional grounds.

BACKGROUND

Members will recall that, at the meeting of the Education Committee on 15 October 1996, consideration was given to SOEID Circular No. 8/96 which provides guidance on certain provision contained in the Education (Scotland) Act 1996, and I was instructed, inter alia, to bring forward a detailed report on the implications of this legislation for the Council's school transport arrangements (Article 4 refers).

The 1996 Act amends Section 51 of the Education (Scotland) Act 1980 by requiring that when education authorities consider whether to make arrangements for the provision of school transport for pupils attending schools, they must have regard to the safety of those pupils. For several years prior to its demise, Tayside Regional Council was taking safety into account when making arrangements for school transport, and this Council has continued to adopt a similar approach. Under the Council's current arrangements, any pupil attending the school designated by the education authority is entitled to have school transport provided if that pupil's normal place of residence is greater than either 2 miles (for primary school pupils), or 3 miles (for secondary school pupils). If the journey of any pupil living less than the appropriate one of these walking distances to school is deemed to be unduly hazardous, then that pupil becomes entitled to school transport. In considering the element of risk in these journeys it is assumed firstly that parents exercise their legitimate parental responsibility and accompany their child to school, or make other appropriate arrangements. Nonetheless many home to school journeys have been deemed in recent years to be unduly hazardous; attempts to develop criteria were made by Tayside Regional Council and these have been used as far as possible to undertake assessments of home-school journeys, in close consultation with officers of Tayside Police.

At present there are approximately 2,400 pupils transported to school daily, 359 of whom are entitled to this provision by virtue of the hazardous nature of the journey they would otherwise be required to undertake to and from school. Members should also be aware that part of the previous legislation still in force places an obligation on the education authority to provide free of charge places on contracted vehicles to non entitled pupils if there are spare seats on these vehicles. These "concessionary" places are offered to pupils on the understanding that if a new pupil moves into the area who is entitled to a seat on the contracted vehicle, then the concessionary place must be immediately withdrawn. Some concessionary places are offered to children living just within the statutory walking distances described above, and some to children attending a school as a result of a parental placing request.

Finally, by way of background, the Council's policy has been not to provide transport as of right to any pupil who is attending a school as a result of a parental placing request. There are currently some 2,000 primary pupils, and some 400 secondary pupils attending schools as a direct result of parental placing requests. Many of these pupils live more than the relevant statutory walking distances from their chosen schools - clearly a much higher proportion than normal, since these pupils are not attending their local schools. The 1996 Act leaves unchanged the position that education authorities have a discretionary power, rather than a duty, to provide school transport for these pupils.

COMMENTS AND CONCLUSIONS

This particular part of the new legislation has come about as a result of a fairly late government amendment to the Bill as it passed through its parliamentary process. This in turn seems to have been sparked off by difficulties experienced by some education authorities who found themselves having to review their previous school transport policies in the light of budgetary constraints.

Unsurprisingly, government ministers have been asked about the cost of these measures. The final point in the enclosed letter from COSLA summarises what I understand to be the government's position on costs.

In addition to the 359 pupils who currently receive transport on safety grounds there are several more whose parents have expressed a view that transport should be provided for them. I believe that the Council is taking all reasonable steps to safeguard the rights of these children; in addition to arranging for transport for all pupils known to have an entitlement to such transport, any parental request for transport is fully investigated and granted immediately if the child's journey is measured to be outwith the statutory walking distance or deemed unduly hazardous; thereafter it is possible for those parental requests which officers believe to be outwith the policy to be considered by the Special Cases Sub-Committee which has full delegated powers to grant such requests if it believes the circumstances are sufficiently unusual to warrant this.

Members will also be aware from their deliberations on School Transport at the meeting of the Education Committee on 27 August 1996 (Article 7 refers) that expenditure on Home - School Transport for 1996/97 is already expected to exceed the budget allocation of well over £1 million. In these circumstances, any amendments to the current policy could only be effected if the Council were to agree to a significant increase in expenditure on school transport.

In summary, the amended legislation appears to increase pressure on local councils to incur greater expenditure on school transport without providing Councils with the means of so doing. At a time when government constraints on local government expenditure are posing very serious challenges to the quality of local government services, this particular piece of legislation seems ill-timed, to say the least. That the legislation will further raise parental expectations seems self-evident, which will in turn put pressure on the Council to extend the provision of school transport even further. Notwithstanding this unsatisfactory state of affairs, I believe that the current Council policies have been carefully thought out and provide as appropriate an approach as possible, under the circumstances, to ensure that the Council meets its statutory obligations, but does so in a way which builds in sufficient safeguards for individual children.

CONSULTATION

This report has been the subject of consultation with the Chief Executive, the Director of Law and Administration, the Director of Finance and the Director of Planning, Transport and Economic Development.

JIM ANDERSON

DIRECTOR OF EDUCATION

BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

APPENDIX 1

JAA/RB

23 August 1996

Your Ref:

To: Chief Executives

Our Ref: E/17/4-SM/TM

Dear Chief Executive

EDUCATION (SCOTLAND) ACT 1996 - SCHOOL TRANSPORT

As you may be aware, the Government's amendment to Section 51 of the Education (Scotland) Act 1980 to provide that education authorities should have regard to the safety of pupils when considering whether to make school transport arrangements for those pupils was accepted and now forms part of the Education (Scotland) Act 1996. The provision relating to school transport will come into force in September.

The Scottish Office intends to issue an explanatory circular to education authorities covering those provisions in the Act of direct relevance to their interests, including the provision relating to school transport. Meantime, you may find the Scottish Office response to some of the issues raised while the amendment was going through Parliament helpful:-

1. The provision introduced is worded in broad terms, to allow different circumstances to be taken into account by authorities. It does not seek to define such matters as what constitutes safety, the responsibilities of parents, the relevance of the ages of pupils or the many other issues which may be relevant. Ultimately, it would be for the courts to determine whether an authority had acted appropriately in the circumstances of an individual case.
2. The amendment leaves unchanged the position that education authorities have a discretionary power, rather than a duty, to provide school transport for pupils attending schools following successful placing requests. All that the provision seeks to do is to require that when authorities consider whether it is necessary to make arrangements for the provision of school transport for pupils attending schools, they shall have regard to the safety of those pupils. Thus, in considering whether to exercise their power to provide transport to a placing request pupil, they would have to take into account the issue of safety and weigh it against other relevant factors.
3. /

WHEN CALLING PLEASE ASK FOR: Sylvia Murray (Tel. 0131 474 9251)

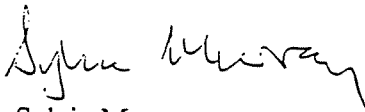
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Convention of Scottish Local Authorities
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3. The issue of costs was raised. First, Ministers did not accept that significant additional costs should arise, since the purpose of the provision is simply to make a duty what is already good practice by education authorities. They recognised that costs might arise if authorities have not been giving sufficient regard to safety issues and decide that after all certain individual pupils should now be provided with school transport, on safety grounds - but that is a separate issue.

It is not considered that the amendment means that transport is to be provided "on demand". Authorities have discretion over its provision.

Yours sincerely


Sylvia Murray