

# Benefits series

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## School and college transport

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Date: March 2021

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Some children and young people with Down's syndrome may need transport from home to school or college because they live a long way from the school or because they are not able to walk as far as other children. Local authorities have a duty to provide free travel for certain groups of children.

### Compulsory school age

Compulsory school age is on 31 December, 31 March or 31<sup>st</sup> August following the child's fifth birthday, whichever comes first until age 16.

The local authority has a duty to provide free travel arrangements if the child attends the nearest suitable school and

- Lives outside the statutory walking distance (2 miles for under 8s, 3 miles for 8 and over) OR
- Lives within the statutory walking distance but there is no safe walking route OR
- Cannot walk to school because of a disability or special educational need

There are also additional provisions for children from low income families

Your local authority must publish their transport policy. From Sept 2014 this must be part of the Local Offer.

### Sixth Form Age – 16 to 18 years (England)

Your child may previously have been entitled to free Local Authority Transport to and from school. When your child becomes 16, the situation regarding their school transport may change. This is because Local Authorities do not have a duty to provide free school transport to 16 and 17 year olds. You may be asked to contribute towards transport costs.

### For information about school transport in Wales see:

Learner travel: statutory provision and operational guidance <https://gov.wales/learner-travel-statutory-provision-and-operational-guidance>

School transport: guidance for parents <https://gov.wales/school-transport-guidance-parents>

## Transport Policy statement for 16 to 18 year olds

To find out what the situation is in your area, look at your Local Authority's transport policy statement for 16 to 18 year olds.

Local Authorities must have a published transport policy statement by 31 May each year. This should be available from your Local Authority's website and your Local Offer website. The policy statement should contain information about the transport arrangements your Local Authority has in place to make sure young people can attend education or training.

*"4.236 Local Authorities are under a duty to publish a post-16 Transport Policy Statement. This must include specific provision for disabled learners. In particular, it must 'specify arrangements for persons with learning difficulties or disabilities receiving education or training at establishments other than schools maintained by the authority which are no less favourable than arrangements specified for pupils of the same age with learning difficulties or disabilities attending such schools'. The relevant statutory guidance expressly states that the overall intention of the 16 to 18 transport duty is to 'ensure that learners of sixth form age are able to access the education and training of their choice; and ensure that, if support for access is required, that this will be assessed and provided where necessary"*

Chapter 4, 'Disabled Children – a Legal Handbook' by Steve Broach et al (Legal Action Group, 2016)

*"The Local Authority must publish a transport policy statement on or before 31 May each year. The statement must include the details of the transport arrangements and the details of the financial support in respect of reasonable travelling expenses that the local authority considers it necessary to make to facilitate access to education or training for learners of sixth form age for the following academic year. These arrangements could include but are not limited to:*

- *The availability of a concessionary fares scheme*
- *A bus pass or cash equivalent of a bus pass*
- *A bus pass or cash equivalent plus a companion pass or cash equivalent*
- *Independent travel training*
- *A fixed mileage allowance*
- *Provision of actual transport"*

Post-16 transport and travel support to education and training – Jan 2019

Your Local Authority must carry out a formal consultation when drawing up/changing their transport policy for this age group. When carrying out a formal consultation, the Local Authority must follow certain general principles established in law (e.g. a consultation must be proportionate and fair). See 'Duty to consult – Supreme Court sets down what fairness requires' <https://rightsinreality.wordpress.com/2014/10/29/duty-to-consult-supreme-court-sets-down-what-fairness-requires/>

Your Local Authority's transport policy statement must comply with statutory guidance for Local Authorities 'Post-16 transport and travel support to education and training' <https://www.gov.uk/government/publications/post-16-transport-to-education-and-training>. If you think there is something wrong with your Local Authority's transport policy statement, you can make a formal complaint.

Your Local Authority's transport policy statement must comply with the Equality Act 2010 (the public sector equality duty) and it must contain information about the arrangements in place for learners with SEND.

### Financial contribution to transport costs

Local Authorities have substantial discretion around charging for transport. However, the contribution should be affordable and there should be arrangements in place to help low-income families. Contributions should be fair and they should not discriminate either directly or indirectly against young people with a SEND.

When setting contributions, Local Authorities should bear in mind that young people with SEND may remain in education/training longer than other people in their age group and that they may have to travel further to access an appropriate course. Your Local Authority should provide you with a breakdown of how the contribution has been calculated.

#### *"The cost of transport to the establishments in question*

*Local Authorities are expected to target any support on those young people – and their families – who need it most, particularly those with a low income. The transport policy statement should set out clearly the criteria used to establish a learner's eligibility to receive transport/financial support.*

*Local Authorities may ask learners and their parents for a contribution to transport costs and in exercising their discretion they should:*

- *ensure that any contribution is affordable for learners and their parents;*
- *ensure that there are arrangements in place to support those families on low income; and*
- *take into account the likely duration of learning and ensure that transport policies do not adversely impact particular groups. For example, as young people with special educational needs and disabilities are more likely to remain in education or training longer than their peers, any contribution sought from these families would need to allow for the fact they may have to contribute for longer.*

*Local Authorities can take receipt of 16-19 bursary funding into account in assessing an individual's need for financial help with transport.*

*To aid transparency, it is good practice for Local Authorities to set out the average cost per young person of post-16 transport in their area before any subsidies are deducted. Clearly setting out average costs will enable learners and parents to understand the extent of the local authority subsidy.' Post-16 transport and travel support to education and training – Jan 2019*

Local Authorities must have an appeal/complaints process in place. There should be information about the appeal/complaints process in the transport statement (or a link to this information). If you disagree with a decision made by your Local Authority about a young person's transport, you can make an appeal/complaint.

If you are unhappy with the outcome of your appeal/complaint, you may have grounds to take your case to the Local Government Ombudsman (LGO). You can take a case to the LGO after a stage 1 complaint/appeal. There is information (for parents who have been refused help from their Local Authority with their child's transport costs to school and who may be thinking about taking their complaint further) at the LGO website <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/school-transport>

#### *"Appeals process*

*Local Authorities should publish as part of the transport policy statement the process which will be followed should a complaint or an appeal against a Local Authority decision be made on behalf of, or by, a young person. Complaints and appeals must first be taken up with the Local Authority. Good practice suggests using a similar two stage complaints process as that used for pre 16 appeals and once an application has exhausted the complaints process advising that no further applications can be made within the academic year unless there has been a material change in circumstances or further supporting evidence has been obtained. If these do not result in a satisfactory outcome, it may be appropriate for young people or their families to consider contacting the Local Government Ombudsmen (LGO) or complaining to the Secretary of State for Education. The LGO is an independent organisation that looks into complaints against councils. This is a free service and information can be found online at [www.lgo.org.uk](http://www.lgo.org.uk)."*

Post-16 transport and travel support to education and training – Jan 2019

### **Seeking legal advice**

If you have concerns about your Local Authority's transport policy, an option is to seek legal advice. Whilst we are unable to recommend solicitors, Steve Broach (Barrister) has published a list of solicitors working in the field of SEN and disability

<https://rightsinreality.wordpress.com/2014/09/13/solicitors-with-expertise-in-disability-and-sen-cases/>

### **Help with transport costs – The 16 to 19 Bursary Fund**

The 16 to 19 Bursary Fund provides financial support to help students overcome specific barriers to participation so they can remain in education.

There are two types of 16 to 19 bursaries:

- bursaries for defined vulnerable groups of up to £1,200 a year
- discretionary bursaries which institutions award to meet individual needs, for example, help with the cost of transport, meals, books and equipment

You could get up to £1,200 if at least one of the following applies:

- you're in or recently left local authority care
- you get Income Support or Universal Credit because you're financially supporting yourself
- you get Disability Living Allowance (DLA) in your name and either Employment and Support Allowance (ESA) or Universal Credit
- you get Personal Independence Payment (PIP) in your name and either ESA or Universal Credit

Our Benefits Adviser, Helen Wild, writes:

*"To access the Bursary of £1,200 per year, a student would need to be in receipt of DLA/PIP and Employment and Support Allowance. They can also access this if they are in receipt of Universal Credit.*

*Some families remain on either Child Tax Credit and Child Benefit or Universal Credit and Child Benefit until just before the child reaches 20. This is because for many families they are better off doing so.*

*The problem now is that although the child receives PIP/DLA, because they are a student with parental support, they cannot simply claim Universal Credit as they could ESA.*

*To automatically qualify for Universal Credit, a student must have PIP or DLA and also have been assessed as having limited capability for work. The sticking point is that UC are under no obligation to carry out a Work Capability Assessment (WCA).*

*In order to now qualify, I am advising parents to apply for the 'new style' ESA which is a contributory benefit. The young person will not receive any payment because they have not paid contribution but they should be credited with a contribution.*

*While this runs its course, it leaves the young person in receipt of PIP/DLA only. It takes around 3 months to get the WCA done.*

*Once the WCA has been done and they are assessed as having limited capability for work, they can then claim Universal Credit and also then the 16-19 Bursary.*

## **Discretionary Bursary**

Your school or college will have it's own criteria for discretionary bursaries. They will look at your individual circumstances – this usually includes your family income.

You can apply for a discretionary bursary if you are over 19 and either:

- continuing on a course you started aged 16 to 18 (known as being a '19+ continuer')
- have an Education, Health and Care Plan (EHCP)

To find out if you are eligible contact your school or college. If you have any questions about benefits, please contact us using the details supplied below.

## Carers

We have been told by some working parents they have felt under pressure from Local Authorities to change their working hours and work more 'flexibly' so they may transport their son/daughter to and from their place of education/training. **This is inappropriate and Local Authorities should not be putting this request to parents.**

## Motability Cars

Your Local Authority should not make assumptions that you will/can use your Motability car to transport your son/daughter to and from their place of education/training. The car provided has to be for use by, or for the benefit of, the person with disabilities. This does not mean that the person with disabilities needs to be in the car for every journey. In practice, this means you may use the car for shopping and other routine activities (e.g. working to earn a living), as long as the person with disabilities will benefit.

## Carers Assessments

If the issue of transporting your son/daughter to and from their place of education/training may affect, or is affecting, the sustainability of your caring role, you can ask your Local Authority for a Carers Assessment of your needs. You can find out about Carers Assessments on our website.

This page is a quick summary of a complex area. For information, download our Education fact sheet on school transport from our website.

**Or call the DSA helpline on 0333 1212 300 or email [info@downs-syndrome.org.uk](mailto:info@downs-syndrome.org.uk).**

### **Statutory guidance relating to children of compulsory school age**

<https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

### **Post 16 travel: Statutory guidance for young people of sixth form age**

<https://www.gov.uk/government/publications/post-16-transport-to-education-and-training>

**16-19 bursary fund** <https://www.gov.uk/1619-bursary-fund>

#### **Contact us**

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