
Appeal Procedures

Introduction

If the Local Authority is unable to comply with a parent's application for travel assistance, parents have the right to request a review of the decision (stage one) and if they are unhappy with the outcome of the review, the next stage would be to put forward an appeal to an Independent Appeal Panel (stage two).

It is important to note that the Panel is both independent and impartial. It is empowered to make a final decision. However should parents/guardians feel that there was a failure to comply with procedural rules or there were other irregularities in the way the appeal was handled there is a right to complain to the Local Government Ombudsman. In addition if a complainant considers the decision of an Independent Panel to be flawed on public law grounds, a complainant may apply for a judicial review.

Guidance Notes for Parents Completing Appeal Papers

These notes are intended to assist you in submitting your request for review/appeal correctly. Firstly your concerns should be submitted **in writing**, using the form supplied (attached to the end of this guide). You may add additional information on **separate sheets** as you feel appropriate.

You will need to think about the **reason for your** request for review/**appeal** and explain **why you are not satisfied with the Local Authorities decision.**

Say why you think your child should have been given transport provision.

If you think that something has been overlooked by the Local Authority, please contact the Passenger Transport Services Team on 01429 523769 and tell us about this; and if your circumstances have changed since you originally applied and the Local Authority may not be aware of this, then include details and if appropriate, evidence of this.

Mainstream Transport Policy

Outlined below is the Authority's Home to School Transport Policy which was used when considering the application for transport assistance

Primary and Secondary aged pupil entitlement

Transport will be provided free of charge for those pupils of primary and secondary age who are travelling over the statutory walking distance to/from the main entrance of their nearest suitable school.

In Hartlepool the statutory walking distance is modified by discretionary power to achieve consistency between sectors:

- 2 miles up to the age of 11 years (primary pupils)
- 3 miles from the age of 11-16 years (secondary pupils)

Extended Rights to Free Travel (low income families)

Extended rights for children of compulsory school age commenced in September 2008. These rights extend a right to free transport to the most disadvantaged pupils of secondary school age (those entitled to free school meals and those whose parents are in receipt of their maximum level of Working Tax Credit) to include transport to any one of their:

- Three nearest schools between 2 and 6 miles from their home
OR
- To the nearest suitable school preferred on grounds of Religion or Belief up to a distance of 15 miles from their home

Distance Measuring for Free Transport for Children of Low Income Families

The 2 mile limit is measured in the same way as the "statutory walking distance". However, the 6 mile and 15 mile upper limits are not walking routes. These routes are those which are passable using a suitable motorised vehicle. In short, the two upper limits will be measured along road routes.

Change of Address

If during their school life, a pupil changes address and intends to continue at the same school, it is the responsibility of the parent to ensure that the child attends school. The terms of section 444 (4 & 5) and section 509 (1 & 2) of the Education Act 1996 places no responsibility on the Local Authority to provide home to school transport.

Parental Preference

If a child is attending a school of parental preference i.e. not the school that the Authority considers being the nearest suitable, within the terms of sections 444(4) and 509 (1 & 2) of the Education Act 1996, there is no duty to provide free transport.

Medical Cases

In circumstances where a pupil lives within the statutory walking distance but is unable to make their way to school due to a short-term medical condition (eg broken leg), transport may be provided. Parents are required to make an application in writing to the Passenger Transport Services Team, and each case will be reviewed on an individual basis and will be granted at the discretion of the Local Authority.

Transport provision for special circumstances (discretionary assistances)

Each application for discretionary assistance will be dealt with on a case by case basis and discretionary assistances may be granted for a set period of time. Discretionary award of home to school transport is subject to review more frequently than other circumstances.

Stage One – Request for a review of decision

- A parent or guardian has 20 working days from the date of receipt of the Local Authority home to school transport decision to make a written request asking for a review of the decision
- The written request should detail why the parent or guardian believes the decision should be reviewed and provide details of any personal and/or family circumstances that parent or guardian believes should be considered when the decision is reviewed.
- Within 20 working days of receipt of the parents or guardian written request a senior officer will review the original decision and send the parents or guardian a detailed written outcome setting out:
 - The nature of decision reached;
 - How the review was conducted;
 - Information about other Department or Agencies that were consulted (if applicable)
 - What factors were considered;
 - The rationale for the decision reached;
 - Information about escalation to stage two, Appeal Panel (if applicable)

Stage two - The Appeal Panel

A parent or guardian has 20 working days from the receipt of the Local Authority's stage one decision to make a written request to escalate the matter to stage two

Within 40 working days of receipt of the written request the Independent Appeal Panel will be convened to hear the parents or guardians case.

None of the members will have been involved in any previous decision on your application for assistance with travel expenses.

The administrative arrangements and secretariat support will be provided by an officer employed within the Democratic Services Team from the Chief Executive's Department. The Clerk to the Appeal Panel will be a Solicitor employed by the Council.

Before the Hearing

At least 10 days notice of the hearing will be given to parents. The hearing will be held at a convenient venue. At least 10 days prior to the hearing the Director of Child & Adult Services will supply to the Clerk to the Appeal Panel, a written statement summarising the way in which the Local Authorities transport policy was applied to the case in question and the reasons for their decision.

The Appeal Hearing

The Appeal Hearing is a two-part process:

- Part one is referred to as the general case – establishing the facts.
- Part two is called the individual case – balancing the arguments.

On the day of the hearing you will have opportunity either to have your case considered on the written reasons you wish to present to the Panel or to attend the hearing and put your case forward in person in addition to your written submission.

Every effort is made to ensure that the hearings are held in an informal way. You are entitled to be accompanied by a friend or be represented.

The procedure is a matter for the Chair of the Panel but it is likely to be as follows:

- (i) the case for the Authority
- (ii) questioning by the parent;
- (iii) the case for the parent;
- (iv) questioning by the Authority;
- (v) summing up by Authority;
- (vi) summing up by the parent

Members of the Appeal Panel may ask questions of both the parents and the Authority. If your circumstances have changed since you originally applied and the Local Authority may not be aware of this, include details and if appropriate, evidence of this.

Decision Making at Appeals

The appeal panel has to consider:

- i. whether any special and exceptional circumstances apply to this pupil.
- ii. whether the published arrangements were properly applied.

After the Hearing

It is likely that a number of other appeals will be heard by the Appeal Panel on the same day and, accordingly, no decisions will be made until all the cases have been heard. This means that you will normally be informed, in writing, of the Panel's decision and the reasons for it, by first class post as soon as practicable after the Appeal Panel has completed its business. The Clerk to the Appeal Panel will also inform the Local Authority at the same time.

The Appeal Panel Decision

Remember that the Appeal Panel is an independent and its decision is binding on the Local Authority and the parents/guardians.

If you feel that there was a failure to comply with the procedural rules or there are any other irregularities in the way the appeal was handled you have the right to complain to the Local Government Ombudsman:

LGO Advice Team

Tel: **0300 061 0614**

Website: www.lgo.org.uk

If you consider the decision of the independent panel to be flawed on public law grounds, you may apply to the Court for judicial review. You may wish to seek independent legal advice in relation to this.

Contact Details

Passenger Transport Services Team 01429 523769/284382

Email: jayne.brown@hartlepool.gov.uk

www.hartlepool.gov.uk

CHILD AND ADULT SERVICES DEPARTMENT FORM OF APPEAL – TRAVEL ASSISTANCE



Please return this form to the:

Passenger Transport Services Team, Neighbourhood Services
building, 1 Church Street, Hartlepool TS25 7DS

1 DETAILS OF STUDENT

Surname: _____

Forename(s): _____

Date of Birth: _____

Home Address: _____

Name of School / College: _____

2. DETAILS FOR WHICH FINANCIAL ASSISTANCE IS REQUESTED

Date _____

please continue overleaf :

