

Faith Schools: School Transport

Discrimination on grounds of religion and belief is prominent in the provision of both discretionary and statutory home to school transport. The National Secular Society seeks equitable school transport policies, free from religious privilege, fair to all families and fair to taxpayers.

Statutory Transport

Local authorities are under a duty to ensure suitable travel arrangements for “eligible children” – primarily families whose children are entitled to free school meals or who are in receipt of their maximum level of working tax credit.¹

Assistance with travel costs to church schools was enshrined within the 1944 Education Act in which local authorities had discretion to provide free home to school transport to denominational schools for pupils 5–16 attending the nearest suitable school beyond walking distance from their home.

The Education and Inspections Act 2006 introduced a new duty on local authorities to provide free transport for some of the most disadvantaged pupils. This extended provision was over and above the existing arrangements whereby local authorities had discretion to provide free home to school transport to denominational schools for pupils 5–16 attending the nearest suitable school beyond walking distance from their home. Regrettably, following successful lobbying from the Catholic Education Service, this new duty gave preferential treatment to those attending the nearest school preferred on the grounds of religion and belief.

Under the 2006 Act, eligible secondary pupils (11–16) are entitled to free transport between two and six miles – as long as there are not more than three nearer schools. However, eligible children attending the nearest school preferred on the grounds of religion and belief are entitled to free transport between two and fifteen miles.²

Discretionary Transport

In addition to their statutory duty towards eligible children, many local authorities offer discretionary assistance to children who do not qualify for statutory free travel. This applies

¹ Other eligible children include those who live beyond statutory walking distance (for children under 8 the distance is 2 miles. For older children the distance is 3 miles), those unable to walk because of SEN, a disability or mobility problem or unsafe walking route.

² Schedule 35B of the Education Act 1996 (inserted by [Schedule 8](#) of the Education and Inspections Act 2006) entitles secondary-age pupils in the lowest income groups to free home to school transport to their nearest suitable school on the grounds of religion or belief between two and 15 miles from their home, providing that there is no nearer suitable school with a suitable religious character. Any other eligible secondary pupils (11–16) get free transport between two and six miles – as long as there are not more than three nearer schools.

almost entirely to children attending schools on the grounds of religion and belief³. Such discretionary provision often comes at significant cost to the taxpayer. Research carried out by the National Secular Society suggests that around £70 million a year is spent on discretionary transport – from public funds⁴.

Discrimination

Provisions of the Equality Act 2006 which place a duty on local authorities not to discriminate against a person on the grounds of their religion or belief do not apply to the exercise of an authority's functions in relation to school transport.⁵ The National Secular Society considers such exemptions as unfair, unwarranted and unjustifiable.

During its legislative scrutiny of the Equality Act, the Joint Committee on Human Rights agreed with our position and expressed concern that the existence of the exemptions would encourage authorities to treat the religious and the non-religious differently.⁶ It was the view of the Joint Committee that the Government has not demonstrated the necessity for the exception from the prohibition on discrimination on grounds of religion or belief for school transport.

We consider it unfair that parents who choose to send their children to faith schools are supported, when other parents do not receive the same support for sending their children to schools that specialise in other areas, such as sport, mathematics, drama, science, art or technology and have to meet the total cost of transport.

We appreciate that some parents wish to send their children to a school with a particular 'faith ethos', but we regard the associated transport costs as a parental responsibility, not the responsibility of the state. We consider it indefensible that parents sending children to schools on the basis of faith are supported while other parents who choose not to send their child to a local school for reasons other than that of religion have to pay the full transport costs.

A number of local authorities around the country have opted to end discretionary school transport subsidies as part of their cost-cutting measures. This has provoked claims that Catholics in particular are being discriminated against. Catholic activist Lord Alton has even suggested that there is a human rights issue at stake⁷ and that expecting parents to pay is a 'faith tax'⁸. Rather than a genuine grievance, this should be seen as a natural reaction to the removal of religious privileges. The discrimination clearly exists in the fact that subsidised transport to faith schools is frequently more generous than transport to other schools.

Victims of religious discrimination

Each religious privilege has its victim. There are examples of parents who have been charged for transport to a school of a religious character, while other children attending that school and using the same bus are not charged – purely on the basis of the parents' religion. Some children have been denied access to school buses, even though their

³ Section 508C of the Education Act 2006 provides local authorities (LAs) with discretion to make travel arrangements where they deem it necessary to facilitate attendance. LAs have discretion to pay all, or some, of the child's reasonable travelling expenses.

⁴ Data from FOI requests.

⁵ SCHEDULE 3 Services and public functions: exceptions (Part 2)

<http://www.legislation.gov.uk/ukpga/2010/15/schedule/3> Para 9 Section 29, so far as relating to age discrimination, does not apply in relation to anything done in connection with: (a) the curriculum of a school, (b) admission to a school, (c) transport to or from a school, or (d) the establishment, alteration or closure of schools.

⁶ Legislative Scrutiny: Equality Bill – Human Rights Joint Committee

<http://www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/169/16910.htm>

⁷ <http://www.secularism.org.uk/catholic-leaders-panic-as-more-c.html>

⁸ <http://davidalton.net/2011/11/16/faith-tax-now-imposed-on-catholic-parents-and-their-children/>

neighbours can use them, or are charged more for transport, on the basis of their parents' claimed religious beliefs – or lack of them⁹.

Garry Symonds had a 13-year-old son at De Lisle Catholic College in Loughborough and an 11-year-old son about to move from St Winefrides Primary to De Lisle the following year. He was told by Leicestershire County Council that he would have to pay a rate of £400 per child for buses to school. If the family were Catholic, the charge would be subsidised at £240 for each child. Garry said *'It should be the same for everybody who uses the transport. My children attended St Winefrides primary school, which was in our catchment area. However the nearest secondary school linked to the primary school — De Lisle — is classed as outside our catchment area. We accept we have to pay, but once children are accepted into a school should they not receive the same subsidy as all other pupils?'*

In 2008, Herefordshire Council told 15-year old Jess Millest that she could not travel free on the school bus to the Catholic school she attended, St Mary's RC High School in Lugwardine, because she is non-Catholic. Pupils at the school from Catholic backgrounds could travel free.

Choice and diversity of provision argument

Supporters of enhanced transport subsidies for children attending 'faith' schools often claim the removal of such privileges would be a breach of human rights. Some point to the European Convention on Human Rights. Article 2 Protocol 1 provides that:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

The Protocol does not say that States (or local authorities) must provide schools of any religion or denomination, far less that running costs should be entirely paid from public funds or that transport costs be subsidised.

Making statutory provisions equitable and the removal of discretionary transport to denominational schools would not affect parent's rights to express a preference for their child to be educated according to their religion or belief. It would simply mean it is the parents' responsibility to get their child to and from school unless they have a legal right to free transport.

Furthermore, when the UK ratified the European Convention and the First Protocol, it entered a reservation to the education article, stating that it is accepted 'only in so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure'.

Cost

Our arguments are based on principle rather than cost, but the cost implications are significant.

Expenditure on home to school transport is currently running at around £1 billion per year and is spiralling above the rate of inflation.

In 2010 the National Secular Society sent out freedom of information requests to local authorities to discover the cost of transport to schools of a religious character. Around half (90) of local authorities in England and Wales responded. Between them they spent a total

⁹ <http://www.secularism.org.uk/leicestershire-man-is-penalised.html><http://www.secularism.org.uk/onlycatholicscanrideontheschoolb.html>

of almost £35 million of public money on transport to 'faith' schools in 2008/09, suggesting a cost to the public purse of around £70 million across England and Wales.

Many local authorities facing major pressure on their budgets are now either cutting (or proposing to cut) free or subsidised transport in an attempt to save money.

In some areas, the majority of free transport is to faith schools, for example in Rochdale, of 1,448 pupils that received discretionary bus passes from the council, 1,141 of them attended faith schools – nearly 80 per cent¹⁰. Proposals to scrap discretionary assistance there will save the local authority £250,000 a year.

According to figures obtained through a Freedom of Information request by the Campaign for Better Transport (CBT) in 2011, 38% of councils were reviewing or cutting discretionary transport to faith schools.¹¹

Despite discretionary funding of transport to faith schools being above legal requirements, in its Home to School Travel and Transport Guidance¹², the Government expressed its "hope" that local authorities will continue to think it right not to disturb well established arrangements.

Religious groups, faith schools and those privileged by the discretionary spending have reacted angrily to proposed cuts and many local authorities that have attempted to end discretionary assistance have been forced to back down in the face of fierce opposition. For example, proposals by Leicestershire County Council to withdraw subsidies for transport to and from faith schools were shelved following a storm of protest from parents with children at faith schools. After dropping the proposals Council leader David Parsons said the authority would now have to make cuts elsewhere in as a result of the u-turn, but said it was not yet clear where the axe would fall.

Other local authorities have robustly defended their actions. Cheshire East Council took the decision to end discretionary free or subsidised transport to faith schools despite fierce opposition from Catholic families who said they were being discriminated against. In setting out the justification for the cuts, Council leader Wesley Fitzgerald said: *"Why should parents who choose to send their children to faith schools be supported, when other parents do not receive the same support for sending their children to a school that specialises in, say, maths or music, outside of their immediate catchment area?"*

*"This is an unfair subsidy and we must divert any available funds where they are desperately needed – supporting vulnerable adults and young people who need our support more than ever in these times of economic austerity."*¹³

Clr Hilda Gaddum, Cabinet member for children and families, added: *"I believe that we made the only decision available to us – to prioritise services that are statutory and make changes to policies that are by no means fair and good value for taxpayers."*

Following the decision, the council issues a statement stating: *"The fact is free transport for faith schools represented a huge inequality and we stand by the cabinet's decision to support this change in policy."*¹⁴

Birmingham City Council, another local authority proposing to cut funding of transport to faith schools, has described its discretionary spending as "more than generous".

If parents feel strongly about children attending a distant school of a religious character, it is reasonable to expect them to pay for the transport and for public funds to be channelled

¹⁰ <http://www.rochdaleonline.co.uk/news-features/2/news-headlines/61239/plan-to-end-home-to-school-transport-could-hit-faith-students>

¹¹ <http://www.bettertransport.org.uk/media/2-dec-school-transport-cuts>

¹² <https://www.education.gov.uk/publications/eOrderingDownload/DFES-00373-2007.pdf>

¹³

http://www.cheshireeast.gov.uk/council_and_democracy/council_information/communication/press_releases/previous_press_releases/press_releases_for_may_2012/school_transport_decision_made.aspx

¹⁴ <http://www.crewechronicle.co.uk/crewe-news/local-crewe-news/2012/07/11/cheshire-east-council-defends-school-bus-funding-cuts-96135-31366299/>

where they are most needed. If parents are unable to afford the travel to the faith school of their choice, the Church or other place of worship could fund children rather than the tax payer.

This point was made succinctly by Hampshire County Council's Executive Lead Member for Children's Services, who said: *"I do respect the work faith schools are doing and the right of parents to choose faith schools. If parents want to send their children further away to a faith school that is their choice. I welcome that, but it has to be at their expense."*¹⁵

The alternatives are a nearby school of another denomination or a community school where a daily act of non-denominational Christian collective worship is mandatory.

Ecological argument

The ecological argument is in favour of not bussing children thousands of unnecessary miles every year.

Children attending faith schools typically travel further than other children, particularly to single-gender faith schools¹⁶. Average distances travelled are 1.5km for children attending schools without denominational affiliations, compared with 2.6km and 2.7 km for those attending Church of England and Roman Catholic schools respectively¹⁷.

The alternative to bussing children longer distances is much more eco-friendly: attending local schools, often within walking distance. Being able to walk or cycle to schools also provides obvious health benefits to pupils. Furthermore, transporting a child long distances to a school could have a knock-on effect by preventing a local child attending that school so that they too have to use transport to another school further away.

Local authorities should therefore be promoting more ecological and sustainable travel to school rather than subsidising transport to faith schools further from home.

Campaign: What next?

During the passage of the Education Bill (now Act) in 2011 an attempt by the National Secular Society to make discrimination in school transport on the grounds of religion and belief unlawful was resisted by the Government.¹⁸ We will however keep the pressure on the Department of Education and continue to campaign for more equitable school transport arrangements. We will also continue to publicly support Councils who are proposing cuts to free transport to save money, despite opposition from religious organisations.

What you can do

Please look out for and respond to consultations in your area about changes to free school transport.

There is often discussion about transport in local papers when cuts are proposed; you can join the discussion to add a secular balance either by emailing the paper or adding comments to an article.

If your local authority is cutting vital services but continues to provide discretionary assistance to children attending faith schools, complain to your local councilors and ask them to take up the issue on your behalf.

¹⁵ <http://www.secularism.org.uk/despise-protests-hampshire-cuts.html>

¹⁶ For example, Table 15 onwards <http://www.education.gov.uk/rsgateway/DB/SBU/b000951/b02-2010.pdf>

¹⁷ <http://seis.bris.ac.uk/~ggrji/current-papers/segregation/segregation22.pdf>

¹⁸ <http://www.tes.co.uk/article.aspx?storycode=6063006>

The Department for Education is currently carrying out an efficiency and practice review of home to school transport¹⁹. Ask your MP to make your views about the discriminatory nature of both statutory and discretionary transport provision to the relevant Minister.

If you support our work, please consider joining us. The NSS receives no funding from government or outside bodies – our campaigning is wholly supported by our members and supporters. Visit our website at www.secularism.org.uk.

¹⁹ <http://www.education.gov.uk/schools/adminandfinance/travelandtransport/a0077797/efficiency-and-practice-review-home-to-school-transport>