



SHROPSHIRE  
Parent  
And  
Carer  
Council

Shropshire Parent and Carer Council  
PO Box 4774  
Shrewsbury  
SY1 9EX

## **Shropshire PACC response to Contact a Family and NNPCF**

### **SEND Transport Enquiry**

#### **Background**

Shropshire is a large rural county with a wide spread population. There are only two state funded special schools in the county and the majority of children and young people with complex needs that live in Shropshire, attend the large special school in Shrewsbury. This means that a significant number of children have long journey's each day to and from school. These journeys can take a considerable amount of time not just because the distance travelled but because of the detours needed to pick up other children. It is not unusual for children and young people to have daily journeys to school of one hour or more.

In the main families of children with SEND in Shropshire appear to be able to access free school transport without any significant barriers and we are pleased to say that this is also the case in Post 16 education and in Early Years education for those with additional support needs. Transport provision has changed for nursery aged children at the main special school so that those who choose for their children to only attend for half days, have to provide transport in the middle of the day, because transport is now only offered at the beginning or end of the school day. This does not seem to have caused significant difficulties for families, but it is a situation that will be kept under observation.

Personal travel budgets have also been introduced locally although there appears to be a lack of information about these are calculated and feedback from parent carers seems to suggest there is some inconsistency in how these are calculated.

#### **Area of Concern**

While SEND families do not seem to have too much difficulty in being able to access free school transport on the whole, PACC is beeing contacted increasingly about changes being made to school transport provision without any discussion with families and seemingly without any consideration of a young person's individual needs. PACC is aware of at least

Tel: 0845 601 2205

[www.paccshropshire.org.uk/](http://www.paccshropshire.org.uk/)

[info@paccshropshire.org.uk](mailto:info@paccshropshire.org.uk)

Registered charity 1150180

two cases where this has resulted in young people being unable to attend school for significant periods of time, because of the impact of this sudden change.

There are particular concerns about the situation where contracts are re tendered. It is understandable that Local Authorities have to go through this process on occasions, to ensure that services are provided at a reasonable cost. Our concerns is however, that the only influencing factors in this process appears to be financial, despite the fact that Shropshire Council state on 0-25 SEND Transport pages of their website that;

**“We assess each child on their individual needs.”**

It is difficult to see how an individual assessment is made when families repeatedly report that they are only notified that a change is happening after the decision has been taken. Parent carers have made the following comments in relation to being notified that their children’s transport providers were being changed

**“Ive just literally got a letter too 😞 im gutted and really sad - Why do they do this . Everything was going great with the transport. My son has severe behavioural problems and his escort goes above and beyond for him”**

**“This happened to me & my son in September. Even his taxi driver was heartbroken because he'd had him for 6 years. I complained but got nowhere. I have now altered working hours and take him & collect him myself. Very upsetting for everyone involved”**

**“The transport company that have collected my son for at least the last 5 years have not been successful in getting contract so new provider after Easter.... my son will be devastated; change is his arch enemy!”**

Parent carers have raised concerns with Shropshire Council about the impact that these changes will have on their child and family, the lack of consultation or even discussion with families about these changes and the short notice given about the changes, once the decision had been made. When discussing their concerns with Shropshire Council about this matter a family wrote

**“Your representatives in Transport have also appeared to have totally failed to understand our concerns about how this change in provider will impact on our son. We are not debating the potential suitability of the proposed new provider, what we are distressed about is the lack of consideration of the importance of the existing relationship between our son and his current transport provider. This long standing relationship is core to our son’s support package and is based on years invested in developing a meaningful relationship with him, that supports other aspects of his life. This consistency of individuals in his life provides him with a security and confidence that enables the delivery of the “best possible outcomes” for him. Having people in his life who he trusts, who understand him, who know what works and doesn’t work for him, helps at the most basic level to keep him safe. Any change to this position needs to be handled carefully and with consideration. Instead we find ourselves in a position where a decision has been**

**made that will have a huge impact on our son, that is based purely on short term financial factors and with no consideration for wider issues.”**

PACC understands that in the current financial climate it is important that Local Authorities regularly review commissioned services to ensure that they are cost effective, of the standard required and delivering the outcomes expected. In other services in the lives of children and young people with SEND there is an understanding and an expectation that this will be done in partnership with parent carers and young people. This is particularly recognised in the Children and Families Act 2014 which places a function on every Local Authority to involve children and young people in all decision making. It specifically states;

*“In exercising a function under this Part in the case of a child or young person, a local authority in England must have regard to the following matters in particular—*

- (a) the views, wishes and feelings of the child and his or her parent, or the young person;*
- (b) the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;*
- (c) the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions;*
- (d) the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes.”*

This function is articulated further in the SEND Code of Practice 2015. In chapter 1, paragraph 1.3 the SEND COP states;

*“Local authorities must ensure that children, their parents and young people are involved in discussions and decisions about their individual support and about local provision.”*

Furthermore, it goes on to state that;

*“Children have a right to receive and impart information, to express an opinion and to have that opinion taken into account in any matters affecting them from the early years. Their views should be given due weight according to their age, maturity and capability (Articles 12 and 13 of the United Nations Convention on the Rights of the Child).”*

Parent carers in Shropshire have raised concerns with Shropshire Council that when they make changes to individual transport provision without discussion with the parent carers or young people affected, they are breaching the legislation laid down in the Children and Families Act 2014.

Shropshire Council’s response to this has been to state that

**“We do not believe our decision represents a breach of Section 19 of the Children and Families Act as well as the SEND Code of Practice. School Transport is not one of the**

**functions exercised under Part 3 of the Children and Families Act, which is confined to educational provision. Home to school transport is not regarded as educational provision. The statutory obligations that apply to School transport derive from Education Act 1996 as amended by section 77 of the Education and Inspections Act 2006 (in particular sections 508A –E and Schedule 35B)."**

PACC is concerned about this response on a number of levels. Firstly, it is clear that the Children and Families Act is not "confined to educational provision" and in fact covers a range of services delivered by Local Authorities and Clinical Commissioning Groups. Secondly nowhere in the legislation or associated guidance does it suggest that the functions affected by the Children and Families Act are limited to only certain function carried out by Local Authorities. The opening section of the Act is entitled '*Local authority functions: supporting and involving children and young people*'. This general reference to Local Authority Functions in relation to children and young people with SEND clearly suggests that this encompasses any function in relation to this cohort of children and young people. There is no suggestion that any specific function is exempted from this legislation.

This is also clearly the expectation and understanding of organisations such as The Council for Disabled Children, since in the *document 'The Children and Families Act 2014 Part 3: Children and young people with special educational needs and disabilities - A briefing from the Council for Disabled Children'* it states "Section 19 of the Act sets out the general principles that local authorities must have regard to when supporting disabled children and young people and those with SEN under Part 3 of the Act."

This comprehensive approach is further supported by the explanation notes on the Children and Families Act Part 3 as presented on [www.legislation.gov.uk](http://www.legislation.gov.uk) which states in regard to Section 19;

*"This section sets out the general principles that local authorities must have regard to in exercising their powers and duties under Part 3 of the Act in the case of children and young people. The principles are based on the Government's vision for reforming services for children and young people with special educational needs, as set out in the 2011 Green Paper, Support and Aspiration: A new approach to Special Educational Needs and Disability. They seek to ensure that local authorities place children, young people and families at the centre of decision making, enable them to participate in a fully informed way, and with a focus on achieving the best possible outcomes."*

Again there is no suggestion of any functions carried out, in regard to children or young people with SEND, being exempted from the Act. What is clear is that the Children and Families Act 2014 expects children and young people with SEND and their families to be at the centre of decision making both on an individual and strategic basis and that this is an expectation that covers all support provided to this cohort by Local Authorities.

The core principles of the Children and Families Act 2014 clearly apply to areas of provision where there is other legislation and builds on that legislation. This is with a view to

improving the participation of children and young people with SEND and their families in the decision making that impacts on their lives and to improve “educational and **other** outcomes”

Finally, this interpretation of the Children and Families Act by Shropshire Council leaves families and young people in the bizarre position that for some services they are acknowledged as having a right to be involved in decision making, while in some others they apparently do not. It seems a ludicrous situation that it is only seen to be important that parent carers and young people have a voice in some aspects of their lives.

In discussion with Shropshire Council about this situation they have commented that while they do not accept that they have a legal duty to engage with families when making decision about school transport for young people with SEND, they do base their decision on an assessment of individual needs. To evidence this assertion, in one case which was lodged with the Local Government Ombudsman, Shropshire Council stated in a letter to the LGA that

**“The tender was prepared obtaining relevant data regarding the passenger’s needs and transport requirement, the route details, timings, staff and vehicle requirements”.**

The family involved in this case requested a copy of the tender document via a Freedom of Information request and discovered that in fact the only reference in the tender document to their son’s needs was as follows

#### **“8. Specific Conditions**

**Escort required**

**Regular Driver required**

**This passenger has special educational needs and some may have medical conditions, full information with regarding the passenger will be given when the contract is awarded.”**

The young man that this text supposedly describes has severe learning difficulties and complex communication needs. His speech is severely impaired and he supports his communication with Makaton signing. He also has ADHD and a high level of distractibility which means that in some environments he can be at risk if not closely supervised. The young man also has physical disabilities which requires him to wear splints and means that he can be unsteady on steps or uneven surfaces. Each day this young man has an hour long journey’s to and from school, during which it is beneficial for him to be stimulated, positively engaged and well supported. It should be noted that the LGO upheld Shropshire Council’s assertion that SEND transport was not covered by the Children and Families Act 2014. The family, after the young man had been out of school for 6 weeks, finally managed to negotiate a weeks transition between the providers, so that the young man had a chance to say good bye to the people who had supported him to travel to school sucessfully everyday for 4 years. This included just one day when the new provider joined the original provider to observe how best to support the young man. The family commented;

**“ We can’t express how devastated we all feel about how our son has been treated. It makes us feel very scared for his future that someone in an office somewhere can, without discussion or any real knowledge of our son’s needs, take away something that was working so well for him. We feel that there was no consideration or respect for him as an individual who can form relationships and feel loss. The whole experience has been soul destroying.”**

In another case a young man with autism who struggles with severe social anxiety, which can result in behaviour that challenges, had changes to his transport imposed upon him at short notice. This was particularly distressing for the family who were finally entering a more settled period after years of difficulties, following the young man being in placed in a specialist education setting that was able to effectively meet his needs. With no discussion with the family, Shropshire Council decided that they would be placing an additional pupil in this young man’s taxi. Not only was this somebody that the young man didn’t know, the new pupil had difficulties of his own that also could result in behaviour that challenges and so was allocated an escort. Therefore, the original young man went from having a calm and positive journey to and from school, to one that was full of distress and anxiety, due to being forced into a social situation that his disability meant he was not able to deal with. The mother of the young man commented

**“Basically it took an age to get the LA to agree that E needed his own taxi when joined his new school but we got there and he has happily travelled back and forth with R to school for about 2 years.**

**I had a heads up that contracts were out for tender so as they had offered a personal budget, I asked about it but it was going to be nowhere near enough to cover the costs of R driving him. It just not physically possible for me to drive 4 hrs a day, around two other kids, my work and S with a full time job.**

**I heard nothing all summer, R said as far as he knew he was still transporting E. Until yesterday (second day back ) R turns up very apologetic with an escort in the car and it turns out the council have decided to add a local young man to E's route 2 days a week. Obviously E knew nothing about it, so you can imagine how that went down.**

**So aside from E's long list of needs, around needing space because of his sensory issues and dyspraxia, calm and quiet time to and from school to prepare and make sense of everything etc etc to put him in the back of the taxi with someone who he doesn’t know and who has their own difficulties..... I never put E in the front of my car, again he needs to move and stretch and particularly on long journeys he'll fiddle with stuff ... basically he is just too distracting to have in the front seat.”**

Two weeks later she further commented

**“My boy who just 4 years ago ran at about 29% attendance; with a lot of blood, sweat and tears from all, wanted to go to school today ! but his sister had an appointment at camhs and what with getting his younger brother to school, the appointment, being down to one car and hubby working I just couldn't do it. What could I do ? I either had to put him in a situation I know is not in his best interests or not send him to school ... not in his best interests either.”**

These are not isolated incidents but they are situations that directly contradict the principles of how support should be delivered for children and young people with SEND, as outlined in the Children and Families Act. This Act was intended to address years of poor support and outcomes for children and young people with SEND, but that will not happen unless the principles it promotes apply to all services and support for this group of vulnerable children and young people.

## **Conclusion**

School transport plays a key role in the lives of children and young people with SEND and directly impacts on the outcomes they achieve. Families do understand that on occasion change is unavoidable, but it seems that in relation to school transport there is little consideration of the impact any change might have, leaving parent carers feeling disempowered and building on many parent carers fear that the SEND system does not value their children.

The process for the allocation and management of SEND transport must be reviewed. This service is not an incidental add on for SEND families, it is a fundamental part of the package of support that is needed to deliver improved outcomes for children and young people with SEND. SEND Transport services need to be person centred and designed and managed with input from parent carers and children and young people with SEND, both at a strategic and individual level.

The expectations around how SEND transport services are delivered must be clarified by the Government and if they are not covered by the Children and Families Act 2014, that error should be urgently rectified to stop good outcomes for children and young people with SEND, being put at risk by poor and uninformed decision making.

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