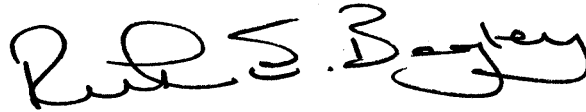


Date of issue: 9th July 2015

MEETING	APPEALS SUB-COMMITTEE (Councillors Brooker, M Holledge, Plenty and Wright)
DATE AND TIME:	WEDNESDAY, 22ND JULY, 2015 AT 10.00 AM
VENUE:	RUBY SUITE 4, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	NEIL FRASER 01753 875015

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART 1

<u>AGENDA</u> <u>ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
1.	Election of Chair		
2.	Declarations of Interest		
	All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary		

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

- | | | | |
|----|--|--------|--|
| 3. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 | |
| 4. | Minutes of the Meeting held on 23rd April 2015 | 3 - 4 | |
| 5. | Appeals Sub Committee Procedure for hearing a Transport Appeal | 5 - 6 | |
| 6. | Home to School Transport Policy | 7 - 20 | |

EXCLUSION OF THE PRESS AND PUBLIC

7. It is recommended that the Press and Public be excluded from the meeting during consideration of the item in Part 2 of the Agenda, as it involves the likely disclosure of exempt information relating to individuals as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (amended).

PART II

- | | | | |
|-----|----------------------------------|---------|--|
| 8. | Home to School Transport Appeals | | |
| 9. | TA38-1415 | 21 - 34 | |
| 10. | TA39-1415 | 35 - 44 | |



Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Special facilities may be made available for disabled or non-English speaking persons. Please contact the Democratic Services Officer shown above for further details.

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PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Appeals Sub-Committee – Meeting held on Thursday, 23rd April, 2015.

Present:- Councillors Brooker, M Holledge, N Holledge and Plenty

PART I

56. Election of Chair

Resolved – That Councillor Preston Brooker be appointed Chair for the duration of the meeting.

57. Declarations of Interest

None.

58. Guidance on Predetermination/ Predisposition - To Note

Resolved – That Members confirmed that they had read and understood the guidance on predetermination and predisposition.

59. Minutes of the Meeting held on 25th March 2015

Resolved – That the minutes of the meeting held on 25th March 2015 be approved as a correct record.

60. Appeals Sub Committee Procedure for hearing a Transport Appeal

Resolved – That the Members confirmed that the Appeals Sub Committee Procedure for hearing Home to School Transport Appeals had been read and understood.

61. Home to School Transport Policy

Resolved – That the Members confirmed that the Home to School Transport policy had been read and understood.

62. It is recommended that the Press and Public be excluded from the meeting during consideration of the item in Part 2 of the Agenda, as it involves the likely disclosure of exempt information relating to individuals as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (amended).

Resolved - That the Press and Public be excluded from the meeting during consideration of the items in Part 2 of the Agenda, as they

Appeals Sub-Committee - 23.04.15

involve the likely disclosure of exempt information relating to individuals as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (amended).

63. Home to School Transport Appeals

The Sub-Committee considered a number of appeals against the refusal by officers of applications for home to school transport. The circumstances of each case did not fulfil the necessary criteria for assistance. For each appeal, details were presented by the local authority representative of the reasons for refusal together with the grounds of appeal submitted by the parents of the pupils in question. The Appeals Sub-Committee also considered verbal representations made by Appellants at the hearing. The Appeals were considered under the general home to school transport policy.

Resolved - That the following decisions be taken in respect of the appeals for home to school transport as set out below:-

Appellant	Decision
TA36-1415	Refused
TA35-1415	Refused
TA37-1415	Refused

Chair

(Note: The Meeting opened at 10.00 am and closed at 12.55 pm)

APPEALS SUB-COMMITTEE

PROCEDURE FOR THE HEARING OF A TRANSPORT APPEAL

1. The Chair will formally open the hearing by introducing those present in the room and their status in terms of the proceedings.
2. The Chair will ask the Officer to introduce his/her Report.
3. The Chair will ask any questions that arise from the Report and will invite other Members and the Appellant to ask questions that might arise from the Report.
4. The Chair will invite the Appellant to present his/her case.
5. The Chair will ask any questions that might arise from the Appellant's presentation and will invite other Members and the Officer to ask questions that might arise from the Appellant's presentation.
6. The Chair will ask either the Officer, or the Appellant, or both, any questions for clarification of any issues in contention and invite other Members to ask such questions.
7. The Chair will invite the Officer to make a closing address. New issues and new evidence must not be introduced or presented at this stage.
8. The Chair will invite the Appellant to make a closing address. New issues and new evidence must not be introduced or presented at this stage.
9. The Officer, the Appellant, and any other persons not authorised to stay will be asked by the Chair to leave the Meeting so that the Members can deliberate and make a decision. The persons authorised to stay are the Members of the Sub-Committee, the Democratic Services Officer and the Legal Adviser.
10. The decision of the Sub-Committee will be communicated to the Appellant by letter sent within 5 working days of the Meeting.

Notes:

The Chair can at any time take advice or ask for information from the Democratic Services Officer or the Legal Adviser.

The Appellant can be represented by a Member (but not a Member sitting on the Sub-Committee), a lawyer or any other person whom s/he chooses.

If appropriate, the Chair might vary the procedure with the agreement of both parties.

If appropriate, the Chair might place time limits.

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Home to School Transport Policy and Guidance Notes 2014-2015

Education and Children's Services

Contents	Page
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2.Exceptions to the General Policy	5
3.Procedures	8
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5.Definitions	12

1. General Policy

Pupils of statutory school age attending maintained schools are provided with a free travel pass or equivalent if:

they live in the Borough of Slough **and**
they attend their catchment school **and**
they live more than 2 miles from school if they are aged under 8 (Reception and years 1 to 3) **or** more than 3 miles if they are aged between 8 and 16 (years 4 to 11)

The distance will be calculated by the Local Authority (LA) using the shortest available walking route from the child's home to the school. Catchment schools are those that serve the catchment areas as defined by the LA.

If the catchment school is full, transport will be provided to the nearest school with a place available as determined by the LA. Parents may be asked to provide evidence that they have been unsuccessful in applying for a place at their catchment school and any other schools.

Parents with children eligible for transport will be required to re-apply for transport if they move house or their child (ren) change(s) school.

Children under the age of five travel free on public transport buses therefore under this Policy transport provision is not made for pupils in this age group.

(a) Pupils from Low Income Families

Primary Pupils

Pupils aged eight to eleven years (years 4 to 6) who live more than 2 miles from their nearest qualifying school are provided with a free travel pass or equivalent if they are:

- entitled to Free School Meals **OR**
- their parents are in receipt of their maximum level of Working Tax Credit.

The 2 mile limit is measured as the shortest available walking route.

Secondary Pupils

Pupils aged eleven to sixteen years (years 7 to 11) who live more than 2 miles from one of 3 "nearest qualifying schools" are provided with a free travel pass or equivalent if they are:

- entitled to Free School Meals **OR**
- their parents are in receipt of their maximum level of Working Tax Credit.

The 2 mile limit is measured as the shortest available walking route.

Pupils aged eleven to sixteen years (years 7 to 11) who live more than 2 miles but less than fifteen miles from the nearest suitable school preferred on

grounds of religious belief, are provided with a free pass or equivalent if they are:

- entitled to Free School Meals **OR**
- their parents are in receipt of their maximum level of Working Tax Credit.

The 2 mile limit is measured as the shortest available walking route.

Publicly-funded Local Authority Maintained Schools and Academies are deemed to be suitable qualifying schools, but not independent schools.

NB For Parents applying under this criterion - a new application needs to be submitted every school year.

(b) Mileage Reimbursement for Parental Transport

In some cases, where children are eligible for free transport, parents may wish to provide transport to and from school themselves. The Council may reimburse mileage at a rate to be considered annually for the home to school journeys only, i.e. when the pupil is receiving transport. If there is a change of circumstances and parents wish to change this arrangement they must give two weeks notice to allow time for the Council to arrange appropriate transport. The current mileage rate is 15 pence per mile.

(c) Parental Duties and Responsibilities

Even though the Council offers transport assistance, it is still the responsibility of parents in all circumstances to ensure their children get to school. Even where transport is provided they still have a responsibility for the behaviour of their child when traveling to and from school.

(d) Parental Preference

It is a requirement that parental preference is considered wherever possible in allocating school places, but this requirement does not extend to the provision of transport. If parents choose to send their child to a school which is not the catchment school or nearest school, free transport will not be provided by the Council, even if the school is beyond statutory walking distance. Parents will be responsible for all arrangements and costs.

If parents later experience a change of circumstances, which prevent them from meeting their responsibility for transport, the Local Authority would expect the child to transfer to the nearest school or catchment school. The Local Authority will not assume responsibility for transport to the preferred school.

If parents request free transport to a preferred school at any time on the grounds that the nearest school or catchment area school is full, the Council will not consider the request unless parents had applied for the nearest school or catchment school during the normal admission round. This also applies to parents of children with special educational needs.

(e) Alternative schools when preferences cannot be met

Where parents have made an application for a place at their catchment school or nearest school but the local authority has been unable to offer a place, the local authority will offer the next nearest school with places. In such cases the school will be treated as a qualifying school for transport assistance, providing it is beyond the statutory walking distance.

(f) Transport Provided in Error

Where free transport has been provided in error or where there have been material changes to the route to school, transport will be withdrawn. However, transport will continue until the end of the term in which the error was notified, in order to allow parents to make alternative arrangements.

(g) Change of Home Address

Where a pupil is receiving **free** transport and parents change address, so that their school is no longer the catchment school or 'qualifying school' under the definitions set out within this policy, transport will cease and responsibility for the child's transport arrangements becomes the responsibility of the parents.

Where a pupil is not receiving transport and parents change address, they will be required to meet any transport costs arising from the decision to change address, even in cases where the new catchment school is full.

2. Exceptions to the General Policy

Slough residents may also be provided with transport to maintained schools as below.

(a) Medical Needs

If a child has a medical need which prevents them making their own way to school, when accompanied if appropriate, transport will be provided to their catchment school providing their application is supported by both their GP and Consultant. All applications made on medical grounds will be considered by the transport medical panel. The medical panel will examine each case individually. The distance criteria in the general policy above do not apply. Appropriate transport will be provided for a limited period based on the medical information available, and then reviewed taking account of any new medical information.

If the child attends a school which is not their catchment school or nearest school, parents will be responsible for transport arrangements and costs.

(b) Pupils with a Statement of Special Educational Needs (SEN)

There is no automatic entitlement to free school transport on the grounds that a pupil has a Statement of SEN. ***It is important to bear in mind that the decision to provide transport will be based not on the parents/carer's needs, but the pupils.***

Appropriate transport will be provided for pupils attending the nearest suitable school.

To be eligible for transport the pupil must attend the nearest suitable special school or resource base attached to a mainstream school and either:

- (i) meet the distance criteria in the general policy **or**
- (ii) have a medical or physical condition that prevents them walking or using public transport

Parents opting for an alternative special school or mainstream school with a special resource base will be required to make their own transport arrangements.

Pupils with a Statement of SEN attending a mainstream school, not as a pupil of a special resource base, will not be eligible for free transport unless they meet the criteria in the General Policy.

The Special Needs Team will consider whether transport is necessary using the criteria above and allocate transport from the categories below, using the highest appropriate category on the list, taking into account the

needs of the pupil. Generally the cost of transport increases from 1 to 7 below.

1. Provision of a travel pass for the pupil
2. Payment of car mileage for the pupil's parent(s)
3. Provision of a travel pass for pupil and parent
4. Provision of a shared vehicle without escort
5. Provision of a shared vehicle with escort
6. Provision of an individual vehicle without escort
7. Provision of an individual vehicle with escort

All transport provision will be reviewed as part of the annual review of needs and if appropriate as part of an early review. Transport provision may be withdrawn or amended if circumstances have changed or the SEN Panel considers the withdrawal appropriate as an encouragement to independence.

(c) Transport for Statutory Aged Pupils on Assessment Places

In exceptional cases pupils who are at a school on assessment, may be offered transport on a temporary basis. Parents should note that once the statement has been finalised, transport will be reviewed and only continue if the pupil meets the criteria in the transport policy.

(d) Transport for Pre-school pupils with a statement of educational needs.

Transport will be provided for pupils below statutory school age if they have a statement of special needs and they are attending the nearest suitable school, providing this is a special school or resource base and it is more than 2 miles from their home. In addition, transport will be provided for children attending the Chalvey Assessment Centre, providing it is the nearest suitable school and more than 2 miles from home.

(e) Safety of the Route

A travel pass will be provided if the route is considered to be unsafe in terms of traffic and highway conditions. Routes where there is a footpath of reasonable width and condition are considered to be safe. It is assumed that pupils are accompanied to and from school as appropriate. The safety of a route where there are no footpaths will be assessed by a Road Safety Officer.

(f) Post 16 Transport

Pupils and students without a statement of SEN, aged between 16 and 19 and attending a full-time course at a maintained school or college may be entitled to apply for assistance for travel. For further information pupils and students should contact the transport helpline on 01753 875729 between 1.00pm and 4.30pm each day.

Students aged between 16 and 19 with a statement of SEN continuing at school will be considered under (ii) above.

(g) Respite Care

For pupils attending Slough special schools, transport will be provided to respite care at the end of the school day and from respite care at the beginning of the school day where there are no additional transport costs. If there are additional transport costs parents or the organisations providing respite care will be required to meet these costs.

(h) Part Time Provision

A travel pass or equivalent will be provided for children attending Haybrook College if the distance criteria in the general policy are met. A taxi will be provided in exceptional circumstances if supported in writing by the Head of the School.

(i) Appeals

Parents who are unsuccessful in applying for transport can appeal if they consider there are exceptional circumstances. This includes parents of pupils with a statement of SEN. The appeal panel will consider each case on its merits.

Appeals are arranged by Democratic Services who can be contacted on 01753 875317.

3. Procedures

All applications for transport, other than for children with a statement of SEN, will be considered by the Transport Team (Education & Children's Services) following receipt of the appropriate application form. For children with a statement of SEN the provision of transport will be considered by the Special Needs Team (Education & Children's Services). If the Special Needs Team consider transport should be provided a request will be forwarded to the Transport Team. Transport will be arranged in all cases by the Transport Team in conjunction with transport contractors.

(a) Replacement Travel Passes

If pupils lose their travel passes, a replacement pass will be provided by the LA at a cost of £15 plus an additional photo. Parents should contact the Home to School Transport Team on 01753 477240 for more information.

NB. A replacement travel pass will only be issued twice in any academic year.

(b) Damaged Bus Passes

If a pass is damaged and becomes difficult to read the bus company may refuse travel. In this case the normal fare will be required until a replacement pass is issued. There is no charge for replacement of a defaced bus pass providing the old pass is returned with the application for replacement and an additional photograph. Parents should contact the Home to School Transport Team on 01753 477240 for more information.

4. GUIDANCE NOTES FOR PARENTS

These notes should be read in conjunction with the policy above.

(a) Applications

All applications for transport, other than for children with a statement of SEN, will be considered by the Transport Team in the Education & Children Services. Parents who need an application form or have any queries about transport should contact 01753 875729. The Transport Team will aim to notify parents of the outcome of their application within 10 working days of receiving a correctly completed form.

Parents of children with a statement of SEN should initially contact the Special Needs Team on 01753 787676. The Special Needs Team will decide whether or not transport is required according to the home to school transport policy above. The Special Needs Team will ask the Transport Team to organise transport, who will let parents know of the arrangements.

(b) General Policy

Pupils without a statement of SEN, who are eligible under the general policy, will be provided with either a train or bus pass or there equivalent, not both. Pupils will be offered the most appropriate according to their home address and the location of their school.

Information on the catchment areas of schools in Slough is available from the Admissions Team, Education & Children Services. The admissions helpline is 01753 875728 and is open Wednesday & Thursday between 1pm- 4.30pm. If the school attended is closer than the catchment school but more than the qualifying distance in the general policy, transport will be provided.

(c) Pupils with a statement of Special Educational Needs (SEN)

The Local Authority (LA) recognises the responsibility of all parents to ensure their child attends school regularly. The policy of Slough Borough Council LA is that, wherever possible, children with a statement of special educational need should be treated no differently from children who do not have a statement. This includes the provision of transport. ***It is important to bear in mind that the decision to provide transport will be based not on the parents/ carer's needs, but the pupils.***

If transport is necessary, the LA will arrange transport in the most cost effective way bearing in mind the reasonable needs of the child. This may be by minibus, taxi or by issuing a bus pass or its equivalent.

If transport is agreed but the school place is available before transport can be arranged parents/guardians may be asked to provide transport on a temporary basis.

It is recognised that transport requirements may vary as a child develops and a review of transport requirements forms part of the annual review of a pupil's statement of special educational needs.

Transport will be provided for children with special educational needs when the school recommended by the LA is beyond the statutory distance of the LA policy (See General Policy).

Transport will be provided in the following circumstances:

- If the pupil fulfils the eligibility criteria irrespective of the statutory mileage condition. (**See general policy section (ii)**)
- Pupils who are in care and have been accommodated by the Local Authority outside the borough, and attend special school.
- Where pupils are placed in residential schools, termly placements and weekly placements outside the Local Authority. However parents are encouraged to take and collect their children from such provision as a means of establishing regular contact with the school.
- For pupils in termly placements transport will only be provided to school and home at the beginning and end of the term and half term.
- For pupils in weekly placements transport will only be provided to school and home on the Friday and Sunday/ Monday.
- In exceptional circumstances transport will be provided for pupils to return home, who become unwell and attend an out of borough school.

Where a child has been assessed as entitled to transport and a mobility car has been provided to assist in access for education purposes, parents may be asked to accept responsibility for transport to and from school, with the LA paying a mileage allowance.

Where possible we would expect parents of children with special educational needs to transport their child as an important means of communication with the school. When agreed they can claim mileage at the agreed rate.

Transport will not be provided in the following circumstances:

- If the pupil does not fulfill the criteria as stated in the General Policy or the exceptions to the General Policy of this document.
- If the parent/guardian request a place that is not the nearest appropriate school at which a place is available.
- For after school clubs or school trips.
- To work experience placements or other extra curricular activities.
- To dental or hospital appointments.
- To clinical, medical or non-educational appointments.
- In the event of detention.
- To attend school meetings following exclusion from school.
- To attend open days and 'taster sessions' at school.
- Following persistent misbehaviour occurring on transport. Transport may be withdrawn following written warning.

(d) Pupils from low income families

Parents need to make a new application at the beginning of every school year (Autumn Term).

Only children whose parents receive the following support payments are entitled to receive free school meals:

- Income Support (IS)
- Income Based Jobseeker Allowance (IBJSA)
- Employment & Support Allowance (Income Related) (ESA(IR))
- Support under part VI of the Immigration and Asylum Act 1999
- **Child Tax Credit**, provided they are not entitled to Working Tax Credit and have an annual income as assessed by Her Majesty's Revenue & Customs (HMRC) that does not exceed the income threshold set by the Treasury. The HMRC will automatically issue a **Tax Credit Award Notice (TC602)** to you.
- Guarantee element of State Pension Credit

(e) Documentary Evidence

Parents must provide clear proof of current (i.e. valid at the point of application/renewal) receipt of support by showing one of the following:

For Income Support or Income Based Job Seekers Allowance:

- Your benefit book
- A letter confirming that you are to receive this benefit
- A current GIRO payment which will state 'Inc Supp' or similar abbreviation

For support under part VI of the Immigration and Asylum Act 1999:

- A letter of confirmation from the National Asylum Support Service (NASS)

For Tax Credits:

- A TC602 Tax Award Credit Notice – issued by H.M Revenue and Customs (If you have lost your copy, please contact the Tax Credit Helpline 0845 300 3900)

For State Pension Credit:

- You Pension Credit M1000 Award Notice

5. Definitions

- Catchment Area School – All Community, Voluntary Controlled and Foundation schools with the exception of Grammar schools in Slough have a defined geographical area known as their catchment area. There is no guarantee of a place for pupils who are resident within a catchment area or for pupils who subsequently move at a later date. Living in a catchment area can, however, give pupils a higher priority for admission to a school over pupils who live outside the catchment area.
- Preferred schools – Parents have a right in law to state a preference for a school for their children, but that does not carry with it a right to free transport. The responsibility of getting the pupil to and from school will always be that of the parent or carer.
- Qualifying schools are
Community, Foundation or Voluntary Controlled schools
Community or Foundation special schools
Non-maintained special schools
Pupil referral units
Maintained nursery schools; or
City technology colleges (CTC), City colleges for the technology of the arts (CCTA) or Academies.
- Low Income families – children entitled to free school meals or whose parents are in receipt of the maximum level of Working Tax Credit.
- Home Address – Approved transport is normally from the pupil's **permanent home address only**.
- Travelling Distance and Nature of Route – The traveling distance is the shortest available walking route which a child, **accompanied as necessary**, can walk with **reasonable safety** to school and is measured from your home to the nearest available school entrance. This may not necessarily be the same as the route driven by a vehicle.
- Statutory School Age - commences the term after the child's fifth birthday.

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