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Dear Colleague

HOME TO SCHOOL TRANSPORT AND ACCESSIBILITY REQUIREMENTS

I am writing to make you aware of a recent challenge to the provision of home to school transport that may have implications for your school.

The County Council contracts with transport operators to provide home to school transport for entitled pupils. We then make spare seats available to non-entitled and post 16 pupils for a charge. The majority of home to school transport for mainstream schools is provided using coaches which are typically not accessible for pupils using wheelchairs, and the County Council then makes separate arrangements for any disabled pupils who are entitled to free home to school transport as necessary. The Public Service Vehicles Accessibility Regulations 2000 (PSVAR) exist to improve accessibility of buses and coaches for disabled passengers, and in general terms apply where the vehicle is more than 22 seats and a fare is paid to travel. The County Council, together with most other councils, had understood that PSVAR did not apply to home to school transport but we have received a complaint from a campaigner for disabled rights that has caused us to review our position.

It is alleged that where the Council sells spare seats on home to school transport it is, in effect, charging a fare and therefore PSVAR will apply and the vehicle used should be accessible to wheelchair users, regardless of whether any pupils travelling use wheelchairs.

An officer of the Council is currently subject to a private criminal prosecution for an alleged breach of the Equality Act 2010 for allowing this practice to happen. Needless to say the Council is supporting the individual concerned and strongly arguing that it is not in the public interest to pursue the case, however it does not wish schools to be put in the same situation. As a result of the complaint the Council has taken legal advice and reviewed its practices. A report has been considered at the County Council's Executive Committee on 3rd September 2019 and the executive approved to temporarily cease charging to transport non-entitled and post 16 pupils on Council organised home to school transport. Unless we are able to secure a change in law, or other clarification that will enable the Council to reintroduce charges, it is proposed to cease transport for these pupils entirely from the beginning of the 2020/21 academic year. The report is available at

<https://democracy.northyorks.gov.uk/committees.aspx?commid=18&meetid=4032> if you wish to read it.

I am writing to make you aware of the issue as it may affect your school if you arrange your own home to school transport for pupils. If you do make your own arrangements, and recover a contribution to your costs from pupils, then you are advised to take your own legal advice and consider how to respond. If you already provide transport on accessible vehicles then you are unlikely to be affected, but if the vehicles you use are not accessible then you may want to consider trying to secure an accessible one, as well as the other options detailed in the report to the Executive committee highlighted above. Finally, I need to emphasise that this issue has arisen from a legal challenge to the way the Council provides home to school transport from an individual not directly affected, and without regard to the implications. Our interpretation of the law and practices are common with most other councils, particularly rural ones, however this has not been reviewed in light of the challenge.. Unless we secure a change in the law or other clarification to enable us to reintroduce charges the likely cost to the County Council will be in excess of £400k p.a. with the irony being that the challenge will do little to improve accessibility and will significantly inconvenience over 900 pupils who will have to make their own arrangements to get to school or college. I have limited intelligence on the potential impact on schools who arrange their own transport but I anticipate that overall it will be greater than the impacts on the Council.

We are in discussion with DfT to try to seek a clarification or a change in law that will enable us to continue the past practice of selling spare seats, but in the meantime it would be helpful to know from you if your school is likely to be affected, and what response you are proposing. Please contact the Integrated Passenger Transport Team at County Hall by emailing IPT.compliance@northyorks.gov.uk when you have had time to consider your response.

If you require any further information regarding the Council's consideration of the legal interpretation of the above, please e-mail barry.khan@northyorks.gov.uk

Yours sincerely

A handwritten signature in black ink, appearing to be 'Barry Khan', written in a cursive style.

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