

delay. The learning difficulties of our students include typically an individually complex diagnosis encompassing Autistic Spectrum Disorders, Moderate Learning Difficulties, ADHD, mental health issues and a range of other specific physical and medical conditions. All of our students are vulnerable in terms of safeguarding and may present a risk to themselves and/or to others. Many of our students are unable to travel independently. A number require 1:1 support workers. It would discriminate against young people with learning difficulties to withdraw transport to College for them.

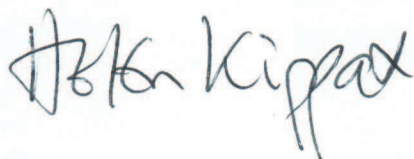
One of our main objectives for all our students is to provide education and care that enables students with learning difficulties to progress to more independent living and to independent travel during their three years at Freeman College. We succeed with this for many students, although for some, independent travel is not a realistic prospect and will never be achievable.

Your letter also stated that post-16 transport funded by the Council is discretionary and there is no statutory duty on the Council to provide this. In our view, that argument is fundamentally flawed. The Government has placed Local Authorities under a duty to provide education and care to 16-25 year olds with learning difficulties and disabilities. The relevant statutory provisions are Section 2 and 3 of the Learning & Skills Act 2000, as amended. There is also a duty to ensure all young people up to age 18 are in continuing learning, as part of raising the participation age, as required by the Education & Skills Act 2008. Section 41 of the Apprenticeships, Skills, Children & Learning Act 2009 goes on to place an explicit duty on local authorities to ensure there is education provision for young people under 25 with learning difficulties.

Rotherham Metropolitan Borough Council is therefore necessarily under a clear duty to provide the means to enable students with learning difficulties up to age 25 to access the educational placement provided. The Council is also under a duty to publish a post-16 transport policy and is under an obligation to observe Government statutory guidance on that policy. If the Council takes action by withdrawing transport for some learners which effectively denies them access to appropriate education, then, in our view, the Council would be in breach of a range of statutory provisions. That position is certainly legally challengeable and may be subject to judicial review.

I am copying this letter to Fiona Featherstone and Helen Barre at Rotherham MBC.

Yours sincerely

A handwritten signature in black ink that reads "Helen Kippax". The signature is written in a cursive, slightly slanted style.

Helen Kippax

Principal, Freeman College