



## **Ombudsman for Children**

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A statement based on a complaint regarding the provision of school transport for 23 children.

December 2008

**Ombudsman for Children's Office**

Millennium House, 52–56 Great Strand Street, Dublin 1, Ireland

## **1. Introduction**

In August 2007 an investigation was initiated by the Ombudsman for Children's Office under Section 8 of the Ombudsman for Children's Act, 2002 (the Act). The investigation was based on a complaint regarding the provision of school transport in County Wexford.

Under Section 13 (2) of the Act, following an investigation, the Ombudsman for Children is required to produce a statement outlining the results. In accordance with the Act, this statement is for distribution to the public body under investigation, the complainant, other relevant parties involved in the investigation and any other persons to whom she considers it appropriate to send the statement.

## **2. The complaint**

The complaint was received on the 10<sup>th</sup> February 2006. It is made on behalf of 23 children whose names are included in Appendix A of this report. The complainant is a parent of two of the children and also acted as a liaison for the parents of the other 21 children involved.

The complaint relates to the provision of school transport and the issue of an alleged change of the catchment boundary between two areas in the county of Wexford.

In her complaint, Ms W raised the following concerns:

1. The VEC facilitates the School Transport Scheme by categorising pupils according to the post primary catchment area in which they reside and the school which they attend. In 2005, the relevant catchment boundary on maps held by both the Local VEC office and the Department of Education and Science individually were different.
2. The map utilised by the Department of Education and Science in its decision to refuse Fully Eligible status to the 23 children was applied incorrectly. Seven children should still have been deemed eligible as they are located within the required boundary.
3. The School Transport Scheme has not been applied on an individual basis, rather a general decision to refuse transport has been made.

4. There was a lack of clarity and evidence of miscommunication from the Planning Section of the Department in relation to the existence of, and subsequent furnishing of, a definitive map on which all decisions were based.

### **3. The investigation, analysis and findings**

The Ombudsman for Children's Office provides an independent and impartial complaints handling service. The Office aims to carry out investigations and make recommendations which are fair and constructive for both parties. In the context of an investigation, the Office is neither an adversary to the public body nor advocate to the child.

In August 2007, an investigation was initiated by the Ombudsman for Children's Office, as per section 8 of the Act, on the basis of the concerns arising from the preliminary examination in relation to:

- the possible adverse effect on the children involved; and
- the administrative functions and actions of the public bodies involved.

The investigation into this complaint involved a review of all information and files received in relation to this matter. Meetings were also held with Bus Éireann and the Wexford Vocational Education Committee (VEC).

In accordance with Section 6(2) of the Act, this Office also considered meeting with the 23 Children involved in the complaint, but decided that it was not required in these circumstances.

The focus of the investigation is centred on the administration of the post-primary School Transport Scheme with particular emphasis on:

- the integrity the maps used in the scheme; and
- the actions of the various public bodies within the scheme.

The principal concerns to be addressed by the investigation, arising from the complaint itself, or identified during the examination phase were:

1. whether those actions had or may have had an adverse effect on any or all of the children involved; and

2. whether the actions were or may have been:

- i. taken without the proper authority,
- ii. taken on irrelevant grounds,
- iii. the result of negligence or carelessness,
- iv. based on erroneous or incomplete information,
- v. improperly discriminatory,
- vi. based on undesirable administrative practice, or
- vii. otherwise contrary to fair and sound administration.

## **Analysis of information during the investigation**

### *Basic outline of post-primary School Transport Scheme*

Catchment boundaries have their origins in the establishment of free post-primary education in the late 1960s. For planning purposes the country was divided into geographic districts, each with several primary schools feeding into a post–primary education centre. These defined districts also facilitated the provision of a national school transport system.

The catchment boundaries for schools are defined by the Planning Section of the Department of Education and Science. The school transport system is underpinned by those same maps.

The School Transport Scheme is operated by Bus Éireann on behalf of the Department of Education and Science (School Transport Section).

Bus Éireann is responsible for planning routes, employing bus drivers, collecting fares and ensuring compliance with safety regulations and insurance.

The VEC is responsible for administering the School Transport Scheme in County Wexford for all the post-primary centres. The VEC assists Bus Éireann by acting as Transport Liaison Officer (TLO) for the county.

There are two types of ticket for pupils wishing to avail of the School Transport Scheme:

- Fully Eligible tickets for pupils who reside 4.8km or more from a secondary school in their catchment boundary area; and
- concessionary tickets for those who reside 4.8km or more from a school in another area. These are known as catchment boundary tickets. Their allocation is made on a concessionary basis and dependent on the available spaces on the buses.

Students with Fully Eligible status are prioritised over those who have catchment boundary status. To obtain a ticket, parents complete an application form which is signed by the relevant school principal and then forwarded to the Transport Liaison Officer (TLO) for their county.

The TLO determines eligibility by checking the information provided and categorising in accordance with the terms of the scheme. The form is then forwarded to the local Bus Éireann office which then raises an invoice if necessary and allocates the ticket. Both offices should work to catchment boundary maps supplied by the Department of Education.

According to the School Transport Section of the Department of Education and Science:

1. there has been no general review of catchment boundaries since the inception of the School Transport Scheme in the 1960s; and
2. while a local review may be possible due to certain circumstances occurring, there has not ever been a local review of the named catchment boundary area.

#### *Summary of events leading up to the start of the OCO investigation*

In September 2005, the relevant officer of the Wexford VEC deemed 23 children from the named area as being Fully Eligible for school transport to a secondary school in a town in Wexford. The officer requested that the Department of Education and Science provide another bus to cater for those pupils.

At the same time, Bus Éireann indicated to the Department that there was a discrepancy between its map and the map held by the VEC. According to the map held by the VEC at that time, the children in Placename A were located within the relevant town's boundary area and therefore, under the School Transport Scheme, fully eligible for school transport. According to the map held by Bus Éireann, Placename A is located in a different catchment area (ie that of Placename B). The clarification which was sought from the Department of Education and Science concurred with the view held by Bus Éireann that Placename A is located in the Placename B catchment area.

As a result of this, the 23 children were then deemed not Fully Eligible for school transport; rather their categorisation was changed to catchment boundary status and, as such, concessionary in nature. As there were no spaces available on the bus, no tickets were issued and any monies received in respect of same were returned. The decisions were appealed by the parents through the School Transport Appeals Board but were upheld.

An independent report on the two catchment areas concerned was commissioned at the request of the Minister for State with responsibility for School Transport at the Department for Education and Science, Mr Sean Haughey TD in 2007. This was published on the 4<sup>th</sup> of August 2007.

The report held that the area known as Placename A, as delineated on the VEC and Bus Éireann maps, conforms to the Department of Education and Science maps and is in the Placename B catchment boundary area.

Due to the proximity of the independent report date to the start of the 2007/2008 school year, bus transport for the children involved was sanctioned for that year only. This occurred as a result of the intervention of the Minister for State, Mr Sean Haughey. A similar concession was granted in 2008 for that coming academic year, pending the outcome of the Ombudsman for Children's Office investigation.

In August of 2007, the Ombudsman for Children's Office initiated an investigation into the matter.

### *Integrity of the maps*

In 2005 the Placename A catchment boundary was different on the individual maps of both the local VEC Transport Liaison Officer and Bus Éireann. The differences in the boundaries are extremely significant when viewed in the context of their exact function, ie a key criterion in the application for school transport.

The issue of which was the correct map to be used in 2005 could have been determined conclusively if the Planning Section of the Department of Education and Science had furnished the Ombudsman for Children's Office with a copy of a master map to include all catchment boundaries which was:

- identical to that held by the relevant Bus Éireann office or that which was in place in the Local VEC office in 2005; or
- as near to identical in so much as the variation was negligible.

The Department of Education and Science did not supply a map to meet this standard as required. The map provided to this Office by the Planning Section in June 2006:

1. is different to what is currently being used by Bus Éireann and the VEC;
2. is questionable as to its suitability as it appears to be incomplete;
3. appears to be a large scale map scaled on a ratio of approximately 1:62500 and, as such, does not provide the required detail to administer such a scheme effectively and accurately; and
4. contains excessive boundary thickness for the purposes of clarity and accuracy.

The Department of Education and Science has decided that the 23 children belong to the Placename B catchment area. The situation as outlined above, describing the lack of required evidence, has led to mistrust on behalf of the complainants in the administration of the School Transport Scheme.

Since the events of 2005, the VEC has attempted to resolve the issue of the diverging maps. There is evidence to show that the VEC sought, and experienced difficulties in obtaining, a master map from the Planning Section of the Department of Education and Science. Efforts that the VEC had made to reconcile the problem with the maps on a county-wide basis were frustrated by the fact that the maps which the VEC was using at local level did not line up accurately.

There is also evidence that Bus Éireann itself had differing maps throughout this process. For instance, a map which was submitted by Bus Éireann in January 2006 to the School Transport Appeals Section has both VEC and the Bus Éireann boundaries marked on it. This map is shown in Appendix B of this report. It is stated to be the official map with the VEC boundary included to illustrate the differences between them.

The official boundary as referred to above is different from those received from the Planning Section of the Department of Education and Science in June 2006 and indeed the current map as exists on the VEC website (ie photographs of the Bus Éireann Map in the Waterford office). This map is shown in Appendix C of this report. It is not clear to this Office whether the variation is due to cumulative tracing or copying errors which may have occurred over the years.

Both Bus Éireann and Wexford VEC were using different maps to administer the same scheme in 2005. To solve this problem, the relevant officer of Wexford VEC decided that they should use the same maps which the Planning Section of the Department of Education and Science provided to Bus Éireann. This would only occur if it could be shown that Bus Éireann was using the same maps as it had been originally given. Reliance was placed on the fact that the Bus Éireann map was an original and hung on the local office wall for several years. It was deemed the least likely to have been corrupted by successive copying over the years.

The VEC sought verification of the Bus Éireann map by the School Transport Section in order to advance its proposed solution. It is not clear from the investigation whether the Planning Section of the Department of Education and Science ever technically examined the Bus Éireann Map in order to verify it and subsequently approve it so that it may be copied and used. This Office has learned that the VEC maps on its website are in fact a series of

photographs taken of the main Bus Éireann map as located in its office in Waterford. The website can be accessed by members of the public wishing to know where the catchment boundaries are located. While the picture quality on the website is poor, it is evident that the VEC is now working off a Bus Éireann map.

While the decision made by the relevant officer in Wexford VEC to copy the Bus Éireann map may be seen as a short term pragmatic approach to overcoming the difficulty of the differing maps, it poses a number of problems and concerns.

The measure seems to have been taken as Bus Éireann is in effect fully administering the School Transport Scheme, albeit with the assistance of the VEC through its relevant officers. To copy Bus Éireann's map would ensure minimal disruption to the process at that stage. It did not account for the possibility of what eventually transpired, in that the Planning Section map is different to the Wexford VEC map as utilised today.

Again it should be stated that while the differences in the boundaries appear to be small, they are extremely significant when viewed as the key criterion in application for school transport. In simple terms eligibility is determined absolutely by the position of the boundary. It would appear that the Department of Education and Science has abrogated its responsibility for the drawing up of and maintaining the integrity of school boundaries by accepting tacitly or otherwise, the map held by Bus Éireann.

#### *The actions of the VEC and Bus Éireann*

During this investigation, meetings were held by this Office with the VEC and Bus Éireann. During these meetings, the role of each stakeholder in the decision making process was further defined.

The role of the VEC within the School Transport Scheme is to determine the eligibility of the applicant pupils. According to the relevant officer of Wexford VEC, it is a feature of the scheme that eligibility decisions on individual students who appeared to reside on or near the boundary line of the post-primary centre were resolved by the VEC requesting Bus Éireann to advise on the matter. These were usually queries in relation to distances and locations of houses and would sometimes necessitate an inspection by Bus Éireann of the

applicant's home location. The relevant officer also indicated that the thickness of the boundary lines contained in the maps has created difficulty in implementing the scheme.

Bus Éireann has indicated that it does not have a role in determining the eligibility of pupils. In general if eligibility was not determined by the VEC, then those particular application forms were returned to the VEC to make a decision. These viewpoints appear to be incongruent with one another.

In general, most eligibility decisions in the School Transport Scheme which are made using catchment boundaries maps can be done so with a high degree of certainty as the house locations can be seen to lie patently within the relevant catchment area.

However, children in the Placename A area reside either very close to or are in fact on this boundary line. In 2005, the eligibility of pupils residing on or very near to the catchment boundary was determined by the relevant officer consulting the VEC map which they held. Their categorisation as being Fully Eligible was questioned by Bus Éireann with the Department of Education and Science. It was at this stage that the different maps being used by both parties became apparent.

Some, none, or all of the 23 children may have been adversely affected by those actions by having incorrect decisions made with respect to them as:

1. the decisions of eligibility were made using different maps in a system that was supposed to be using the same maps and are therefore open to question; and
2. the Planning Section map used to apply the scheme and determine matters conclusively is unsuitable based on both the scale and thickness of boundary used.

The parties in this complaint have sought to rely on past eligibility decisions as a means to promoting their particular viewpoint. Bus Éireann and the VEC have sought to rely on their maps as being definitive, albeit with the latter adopting the former as a means to progress the mapping discrepancy. Past decisions regarding other children in the Placename A area as having catchment boundary status could be viewed to support this position.

The complainants have sought to rely on particular eligibility decisions made in the past to justify their position that some or all of the children are Fully Eligible.

This Office finds that the evidentiary weight to be attached to such reliance by those involved is negated by the fact that neither map has been conclusively proven by the Planning Section of the Department of Education and Science map (as provided to this Office in June 2006) as being the definitive map to be used. Successive eligibility decisions which would appear to support one particular view point over the other do not in themselves serve to correct an imperfect mapping system.

However the parents of the Placename A children sought access to the School Transport Scheme in accordance with the manner prescribed under the rules. They were unaware at the time that the VEC map which was set out to determine eligibility was different to that held by Bus Éireann. There is an onus on public bodies to provide fair and transparent procedures.

Part of the original complaint also contained a concern that the applications for school transport were not treated individually, rather a general decision had been made. This Office did not find any direct evidence of a general decision having been made in which the 23 children of the Placename A area were found to be in the Placename B area.

There is evidence of other eligibility decisions in the past which suggest that some other children from Placename A are from the Placename B catchment area. However, the 23 children in this case were entitled to have their applications dealt with on an individual basis. This Office found that each applicant was dealt with individually.

Bus Éireann is the primary provider in the School Transport Scheme and, if asked to advise on eligibility, they are afforded a high degree of discretion by having quite thick boundary lines in which to operate. The thickness of the boundary lines on some of the maps received to date can, at a conservative estimate, represent up to 0.5 miles in actual width. From this we can state that the actual line on the map itself represents an area of land which potentially could contain some, none or all of the 23 children of Placename A.

While this Office cannot state whether a general decision was made in these circumstances, the system in operation certainly allows for decisions of that type to be made.

## Conclusion of findings

The catchment boundaries for schools are defined by the Planning Section of the Department of Education and Science. The school transport system is underpinned by those exact same maps. If maps are in use that are different than those which exist at the Planning Section and decisions made in reliance of those same maps then the following applies:

1. there is maladministration within the scheme; and
2. each subsequent differing map is a *de facto* revision of catchment boundary areas. The integrity of all decisions based on those maps can legitimately be brought into question.

The 23 children of the Placename A area were entitled to apply to the School Transport Scheme. Their eligibility is entirely dependent on the true position of the boundary line. This line has been shown to be in at least 4 different positions according to the following maps:

1. the VEC map used in 2005;
2. the Bus Éireann map of January 06 ( In letter to School Transport Appeals Section), see Appendix B;
3. the Department of Education and Science map furnished to OCO in June 06, see Appendix C; and
4. the current VEC website map (which appears to be photographs of Bus Éireann map in local office), see Appendix D.

Throughout this investigation there have been instances where maps have been traced and copied resulting in variations of the original. This Office finds that each subsequent differing map is a *de facto* revision of catchment boundary areas. In the light of current technological advances in digital mapping and geo-computation which allow for an extremely high level of accuracy with respect to exact location and the ability to produce accurate copies, any resolution to the mapping problems to be undertaken by the various stakeholders should involve consultation with suitable experts in this area.

The Department of Education and Science is ultimately responsible for the School Transport Scheme. The absence of an adequate monitoring system has led to successive variations

of the maps occurring. The evolution of the maps held by Bus Éireann and the VEC went largely unchecked until the events of 2005.

This Office finds that the combined actions of the Department of Education and Science, Bus Éireann and the VEC in relation to the implementation of the School Transport Scheme are based on undesirable administrative practice and are contrary to fair or sound administration.

The 23 children have been adversely affected by those actions as:

1. their entitlement to avail of school transport has been frustrated and obstructed by the administration within that scheme; and
2. the scheme as exists currently is still utilising different maps to categorise those same children.

The adverse effect was alleviated in the short term in these circumstances as school transport for the 23 children was sanctioned on a concessionary basis for the academic school years of 2007 and 2008.

Finally, a child who wishes to attend a secondary school of their choice obtains his or her place in school based on spaces being available and in accordance with that school's particular enrolment policy. Parents and prospective pupils are entitled to make informed choices about which school they choose to attend. A fundamental component in that decision is how transport to and from the chosen school is to be arranged. Their entitlement under the School Transport Scheme is based on the geographic location of the house in which they live.

In the context of this investigation, the mapping system which is used to determine that very question is unclear, uncertain and inaccurate. It is an unnecessary impediment to the exercising of that choice.

This Office further opines that it is an undesirable administrative practice in itself on behalf of the Department of Education and Science that such an important factor in the exercising of

choice by parents and children is adversely affected by undesirable administrative practice within the School Transport Scheme.

## **Recommendations**

This Office is of the view that the current school transport system as provided is entirely dependent on a number of key principles necessary to ensure its proper implementation:

1. The Department of Education through its Planning Section devises the catchment boundary areas in relation to secondary schools.
2. These boundaries are contained in a master map held by the Planning Section and copied and distributed to the relevant stakeholders in the process.
3. These maps would not be changed unilaterally or arbitrarily by any of those parties. Any change would constitute a review into which the complainants/public would be entitled to seek an input.
4. A system of monitoring would exist to ensure proper compliance with the scheme and, in particular, the accuracy and integrity of all maps held.
5. Each stakeholder in the process would be working within their own clearly defined parameters, each with a clear understanding of the role of the other.
6. Disputes involving eligibility could be expediently resolved by consulting the relevant maps, and failing that the Department of Education would be able to determine matters conclusively.

In light of the investigation, these seem to be reasonable expectations and indeed seem to fall within good practice guidelines.

In accordance with Section 13 of the Ombudsman for Children act 2002, following this investigation and its findings, the Ombudsman for Children recommends that the following actions take place:

1. School bus transport to be provided for the 23 children who had been deemed Fully Eligible by the VEC in October 2005 (identified in Appendix A) to attend school in the Wexford post-primary catchment area. This transport arrangement is to remain in place for the duration of their schooling.
2. The current 2008 school bus transport arrangement with respect to the children of the Placename A area to remain in place pending the outcome of the mapping review as outlined below.
3. The Department of Education and Science to undertake and complete a nationwide review of the mapping procedure with respect to the post-primary catchment boundary areas.
4. This review to take place within a reasonable time frame and have due regard to best practice in the area of geo-computation and digital mapping.

### **Post Script**

In accordance with Section 13 of the Ombudsman for Children's Act, 2002, the Ombudsman for Children's Office gave the Department of Education and Science the right to reply to the findings and recommendations of the investigation. A copy of the report was sent to the Department of Education and Science and a response to the recommendations was requested and subsequently received.

The Department of Education and Science has accepted the key principles contained in the investigation statement and the need for a nationwide review of the mapping procedure with respect to post-primary catchment boundary areas. The issue of catchment boundaries is to be considered in the Value for Money review of the School Transport Scheme which is to be completed by end of 2009.

The defined scope of the required mapping review is entirely dependent on the outcome and possible recommendations of the Value for Money review.

In direct response to the recommendations contained in the investigation statement, the Department has agreed that the following interim arrangements take place pending the outcome of the Value for Money review.

The existing school transport arrangements will remain in place with respect of:

1. the 23 children identified at Appendix A of the report, a number of whom continue to avail of the service;
2. the children of the Placename A area availing of the current 2008/2009 school bus transport arrangements; and
3. additional children of the Placename A area who present for school transport provision to Wexford post-primary centre.

This Office is of the view that the proposed actions of the Department of Education and Science in response to the recommendations made are satisfactory in that:

1. the adverse effect on the children named in the complaint is being remedied; and
2. the overall administrative system which directly led to this adverse effect and the potentially adverse affect on other children is being addressed.

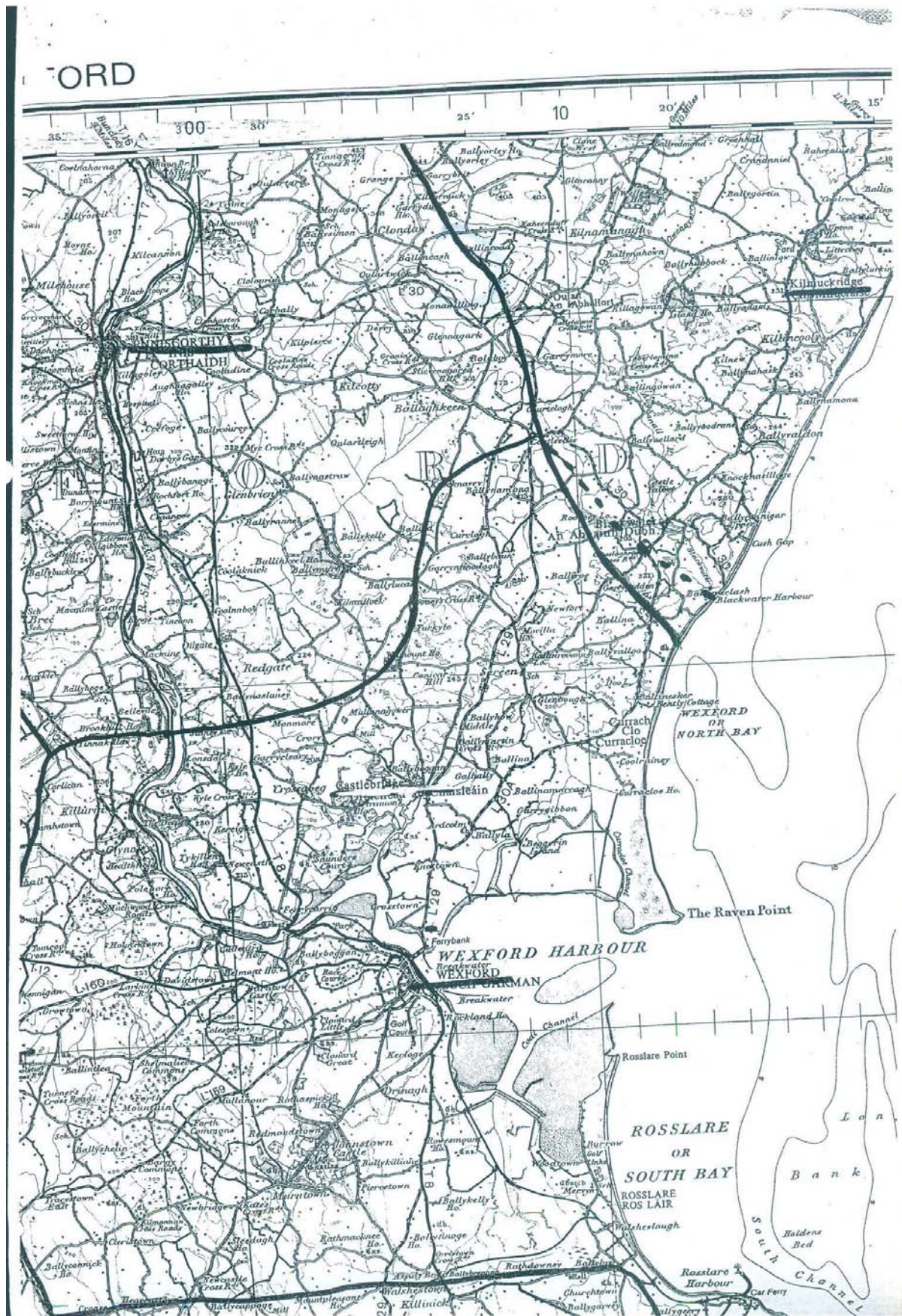
This Office shall review the progress made with respect to the Department of Education and Science's response to the recommendations after a period of 6 months.

## **Appendix A**

List of children deemed to have Fully Eligible status for transport to school in Wexford Town by the VEC in October 2005.

(names omitted to preserve anonymity of complainants)

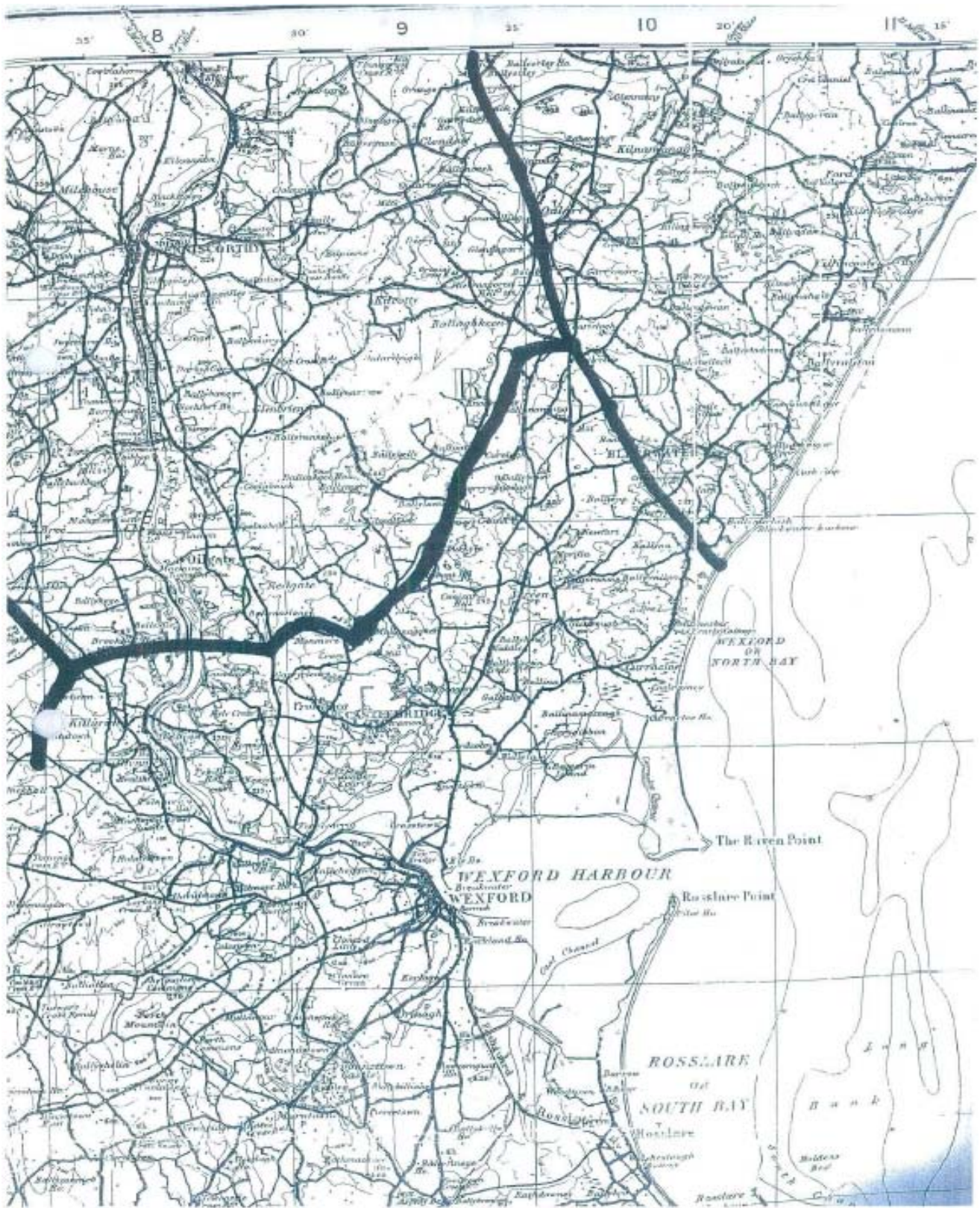
Appendix B



Appendix C



Appendix C continued



Appendix D

