

Legislation Committee No 4

LC4(3)-15-10 : 14 October 2010

Proposed Safety on Learner Transport (Wales) Measure

Paper 2 : BUSK Cymru

Response from Pat Harris, Director, BUSK UK

Consultation Questions

Q1. Is there a need for a proposed Measure to deliver the stated objectives of:

Improving the safety image and travel experiences of dedicated learner transport, and

Acting to ensure that safety standards are sufficiently high for the public and parents to have confidence in collective learner transport?

Based on BUSK's knowledge and experience this would suggest that there is a need for a proposed Measure to deliver the stated objectives above. Generally, most schools and local authority will, in many cases only provide the service they perceive to be appropriate and safe. This varies from authority to authority and from school to school. Policies are introduced that sometimes do not go far enough in terms of dealing with the problem to enable a positive outcome or bring about any necessary changes to benefit the users of school transport. This can and does waste time and resources.

Sometimes a local authority will understand very clearly, the best and safest way to procure transport, monitor it and introduce a code of conduct but fail to do this on the grounds that they do not have sufficient funding. If the proposed Measure requires that school transport provision must meet specific standards then the option not to meet a higher, better and safer standard is taken away.

Worryingly, many schools are not aware of their legal obligations surrounding home to school transport provision and are under the impression that if they do not contract it, that they are not responsible over how pupils behave. This includes a belief that once pupils are outside the school gate, any problems arising are nothing to do with the school. How pupils behave on the school journey home is often regarded as 'out of their control'.

The proposed Measure can only assist in bringing about the necessary changes to safeguard pupils, escorts, drivers and all other road users.

Q2. How will the proposed Measure change what organisations do currently and what impact will any such changes have?

The proposed Measure has the potential to bring about a sweeping change in what organisations currently do by requiring transport providers, local authorities and schools to work to a specific standard. By implementing a set of requirements that are not optional means that no matter what a student's postcode, they will be able to expect a level of service provision and improved safety standards. No longer will it be a postcode lottery.

The impact this should have on organisations is to become more efficient. Efficiency can result in better use of resources, free up manpower hours; for example, if fewer complaints are received by an education department because parents are happier with the service for their children, resulting in less time used to deal with the complaint, that time could be used to monitor contract compliance. If transport companies realise that they are being monitored more frequently they will be more likely to comply with their legal contractual obligations. This in turn gives more confidence to parents that the service is a good one and that safety is taken seriously and this should continue to reduce the complaints they make.

Q3. Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives? In responding to this question, consultees may wish to consider, in detail, each of the sections of and the schedule of the proposed Measure.

If the Measure intends to place a duty on relevant bodies such as local authorities and a governing body of a maintained school to fit appropriate seat belts, there is a danger here that the Measure will require bodies to undertake something they are not equipped to do. 'Appropriate' seat belts – what does this mean? Most seat belts are designed for adults and are not appropriate for children under the age of eight years for many medical and safety reasons. How would the relevant bodies know this? In fact, BUSK already knows that most of the bodies concerned in this, will not understand the subject. Perhaps a better requirement is to place a duty on the relevant bodies to use only those vehicles with appropriate safety belts fitted dependent upon the age group of passengers who will be using the belts. That would be achievable.

It must be noted that the content of 3.19 is of concern as it states that the proposed Measure will enable the Welsh Ministers to make regulation requiring the fitting of seat belts on school buses and prevent the use of urban buses for dedicated learner travel unless they were fitted with seat belts. BUSK has, on a number of occasions advised the WAG that seat belts cannot be fitted in most buses because of the design of these vehicles, their structure and the type of seats used. Even if heavier seats that had integral belts fitted into them

were used, the whole structure would need to be strengthened. It would cost so much to carry out this work properly and safely that it would become prohibitive. Another essential point to make is that manufacturers of these vehicles would refuse to carry out this work because they know these vehicles were never built to take safety belts. The only companies that would be willing to do this work are the one who are not required in law to have the necessary expertise to undertake the work and there are plenty of them around. Some even advertise that their installations have been crash tested but they then fail to expose the fact that their tests failed. The reality could be that a less scrupulous transport company would use these companies to fit belts to existing buses, making them less safe and not more safe. Therefore BUSK is not confident that the content of the proposed Measure is appropriate related to enabling Welsh Ministers to be able to regulate when it comes to requiring safety belts to be fitted into existing buses.

Placing a duty on the relevant bodies to use only single deck vehicle is only achievable if there are enough of these types of vehicles available and this would be similar for these bodies to be required to only use buses manufactured after a certain date. Some transport companies in Wales are investing specifically in double decked vehicles for school work even though they are aware of the view of all previous consultations related to Learner Transport provision for the future. Perhaps Welsh Ministers should be considering meeting with major bus companies who are still investing in a vehicle type that the WAG intends to phase out.

Fitting CCTV is an achievable requirement but any requirement would need to include a clause that the CCTV must be to a high standard so passengers and drivers can be identified clearly. It should also be made clear by the proposed Measure that CCTV is to protect children, drivers and escorts. In 3.26, it states that CCTV can provide evidence to identify pupils behaving badly so that action may be taken but equally this must apply to adults who behave badly.

Using vehicles that meet the 'yellow buses' specification is achievable over a period of time but BUSK would draw attention to the content in paragraph 3.24 which mentions a guaranteed seat for every pupils with a three point, all age seat belt. This is not the case. Not all 'yellow buses' have an all generation type safety belts. Most belts are designed for adults even in some of the yellow buses. In other words some of these belts sit in the incorrect position on younger pupils. Incorrectly fitting belts can cause serious injury to the wearer during a crash. If Welsh Ministers are able to regulate over the description of buses to meet the yellow bus specification then the proposed Measure should therefore include a clause that in dedicated school transport, no matter if it is yellow or another colour, should take into account the need for safety belts that are designed for children, to be fitted. To say or imply that generally these vehicles will provide all age belts is not true. A large proportion of pupils in schools where BUSK has delivered safety training has resulted in a significant number of children telling us that the belt on their school transport does not fit them properly and sited in many cases as one reason why they are not always worn. This is an important point, more so than the requirement that the vehicles are painted yellow in line with US practice. BUSK would guard against being seen to do anything 'in line with US practice' as a significant number of children are killed by their school bus in the US and the whole American system of transporting children in the US is regarded as sub standard by BUSK and others. It is more a case of how the US should be operating in line with the WAG standards. In Wales, we are way ahead of the system in America.

Requiring bodies to provide the relevant standards of driver training as set out by the Welsh Ministers should be achievable in view of the fact that the European Directive requires all professional drivers to undertake the CPC Training by 2013. The modules for this training could be any of the requirements set out by the proposed Measure. It is the voluntary drivers that BUSK would wish the proposed Measure to take account of. Many volunteer drivers which include school teachers are not trained to drive the vehicles with up to 16 passenger seats. BUSK is aware of schools who use the services of training companies and believe that their teachers have received training. In reality they will not have received training. What their teachers will have undergone is an assessment carried out by another driver. The assessment will not have been carried out in many cases, by a fully qualified driving instructor. Schools do not ask the searching questions they need to before using these companies usually because they trust them and believe they are being provided with a driving instructor. BSUK would like to see the proposed Measure requiring volunteer drivers to be trained to a high standard by a fully qualified driving instructor such as an ADI. This is something that BUSK believes the proposed Measure could achieve.

To require relevant bodies to carry out risk assessments as set out by the Welsh Ministers may not always be achievable in terms of getting the risk assessment actually carried out by an individual who is qualified to undertake this work. The view of BUSK is, that in order that this is requirement is achievable it should be carried out by the body that contracts the transport. That body will be aware of who the passengers are and should be deciding on matters such as routes, pick up and drop off points. It is the view of BUSK that the transport company is already legally obliged to provide transport that has to meet regulations and provide drivers who hold the relevant licenses etc. They already carry out their own checks and should keep an audit trail of this. Their own risk assessments whilst maybe overlapping the requirements of the proposed Measure should be a separate issue. To require a transport company to carry out the risk assessing of school transport is, we believe, removing a local authority or school's legal obligation.

Requiring staff to supervise school transport is an achievable objective if it is only requiring the staff to be in control where pupils are getting on and off the school bus inside or just outside the school grounds but only if the schools understand their legal obligations in this respect. As mentioned before in the response, many schools do not understand the legal obligations placed upon them.

If the requirement goes further so that staff must travel on school buses then that, in BUSK's view would not be achievable for various reasons. How this would be policed for example; how can the proposed Measure require a member of staff to travel on a school run when they have finished their school day? If a school had ten school buses servicing the school, that would be ten members of staff.

Requiring Taxis and Private Hire Vehicles used for learner travel to provide booster seats where appropriate is not something that BUSK believes is the correct way to deal with providing children with in-car safety equipment. BUSK does believe that the body contracting the vehicle should provide the equipment, taking full responsibility for the maintenance of the equipment and it's suitability for the children carried. The body contracting the vehicle must also be required to ensure that the contractor understands how to use the equipment correctly and safely and provide training for this. This is in BUSK's view the appropriate way to go.

Q4. What are the potential barriers to implementing the policy provisions set out in the proposed Measure (if any) and does the proposed Measure take account of these?

BUSK believes that the proposed Measure should not raise barriers to implementing the policy provisions apart for the section related to risk assessments. Requiring transport companies to carry out a risk assessment of school transport runs when it is legally the local authority or a school (whichever contracts the service) that has a legal duty to provide a safe journey for the pupils in their care, is wrong. BUSK also believes that there may be legal reasons why the proposed Measure may not be able to enforce this. BUSK will endeavor to obtain a legal opinion in this matter.

Q5. What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.

At short notice BUSK is unable to complete this section of the consultation process.

Q6. Are there any other comments you wish to make about the proposed Measure?

BUSK has delivered safety training in schools for some Welsh authorities. During this process it has become clear that some schools resist anything to do with attending a training day for example that is going to benefit the safety of the school children. They very much take the view that if they do not legally have to attend a training session laid on by their local authority, that they can opt out even though the subject matter would educate them in safety issues and also ensure they were up to speed with the laws that surround their transport arrangements for pupils. The bottom line is this – many schools take risks with pupil safety simply because they are unclear what the law requires of them. BUSK would like to see the proposed Measure include a requirement, that if a local authority goes to the trouble of organizing a training session for it's schools once a year, that the school is required to send an appropriate person to that session.