

Legislation Committee No 4

LC4(3)-16-10 : 21 October 2010

Proposed Safety on Learner Transport (Wales) Measure

Paper 1 : Response from the Welsh Local Government Association and the Association of Directors of Education in Wales

Introduction

- 1.The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
- 2.It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
- 3.This response to the Proposed Safety on Learner Travel (Wales) Measure has been written in partnership with the Association of the Directors of Education in Wales (ADEW), local authority directors of transport, and school transport coordinators. The response provides answers to the consultation questions outlined in the letter from Legislation Committee No. 4 and also some broad comments about the proposed Measure.
- 4.The WLGA and local government welcome the invitation from the National Assembly for Wales Legislation Committee No. 4 to provide evidence on the Proposed Safety on Learner Travel (Wales) Measure, (the Measure). Local authorities have a statutory duty to provide school transport, subject to certain conditions, and take safety for children and young people on school transport extremely seriously. Local authorities fully support policies and initiatives which aim to improve the safety on school transport.
- 5.The aims of the Measure are to improve the image and quality of dedicated learner transport and to ensure that safety standards are sufficiently high for the public and parents to have confidence in dedicated learner transport. The intention in the Welsh Assembly Government's One Wales agreement, however, was to improve the safety of home to school transport. There is also an additional objective for the proposed Measure of increasing the numbers of pupils using school buses, although recent figures from ATCO which show that 95% of pupils that are eligible for free school transport take up the place. Improving school transport safety is an aim which local authorities would support and this should be the overriding concern of this proposed Measure. The proposed changes to current practice within the Measure should be based on evidence that they will have an impact on the safety of the children and young people who use dedicated school transport.
- 6.Existing legislation through the Education Act 1996 and Health and Safety at Work Act 1974, states that local authorities need to act in a way that ensures that pupils are transported safely. As the Explanatory Memorandum to the Measure outlines, local authorities in Wales have a good track record with regards to safety on school transport. Bus, coach and minibus travel, both dedicated and public, represents the safest mode of transport for children and young people travelling to school. Since the publication of the Education and Lifelong Learning Committee Report on school transport in 2005, safety on school transport in Wales has improved. There have been a number of incidents across the UK, however in Wales there has been a decrease in the number of casualties involving school pupils on a bus journey, with no pupils being killed or seriously injured since 2005 and a significant decrease in the numbers that were slightly injured.
- 7.Local authorities provide school transport, either through a dedicated service, by public transport services or via taxi or private hire vehicles. This proposed legislative change covers approximately 19% of pupils that travel to school; those which travel on dedicated school transport services. There is however, no definition within the legislation as to what constitutes dedicated school transport and there could be some confusion as to whether public service buses which extend routes at school opening and closing times, purely to serve a school, would constitute dedicated transport. This could be covered in any resulting regulations issued by the Assembly Government, however, it is felt that this would be more usefully defined on the face of the Measure in order for there to be clarity on the scope of the proposals from the offset.
- 8.There is also widespread concern within local government about the costs associated with this proposed Measure. As the Explanatory Memorandum to the Measure states, school transport costs have risen significantly in recent years and these costs continue to rise, reaching £102.2 million in 2007/08. Local authorities across Wales are currently working on Assembly Government financial planning assumptions, prior to the Comprehensive Spending Review, that they will have to make savings of 3% year on year for four years, which equates to real terms cut in budgets of approximately 25%. This will clearly have a significant impact on local authorities. Councils are working hard to ensure that cuts will not impact adversely on service provision in areas like learner travel, for example through collaborative approaches to school transport and addressing the high cost of SEN transport. Although such measures are expected to make savings there are concerns that there will not be resources available, within diminishing local authority budgets, to fund the predicted £46 million cost to introduce this Measure. The cost options section of the Explanatory Memorandum outlines the anticipated costs of introducing each part of the Measure, however, it is the view of local authorities that this does not cover many hidden costs. Such costs include potential capital outlay for expanding school embarkation/disembarkation areas where removal of the use of double deckers would increase the traffic at the school gates and the ongoing costs of replacing vehicles when they become older vehicles. Local authorities are keen that if there are elements of the Measure that clearly contribute to pupil safety, then these issues are addressed. Where this is the case local government would seek to work with the Assembly Government on how proposals could be funded. There is

a concern however that some of the elements in the Measure may have a limited impact on the safety of pupils.

9. The Assembly Government has stated that they will provide "additional financial support towards the introduction of specific safety features" and this funding will be provided by them subject to available resources. This does not provide local authorities with a sufficient guarantee of funding to enable them to implement the Measure. There needs to be a clear commitment that should this Measure be implemented then it will be fully funded by the Welsh Assembly Government. The legislation is drafted so that local authorities could be liable to criminal and civil sanctions if they do not implement the safety regulations. If the Assembly Government does not find available resources then local authorities will still be responsible for implementing the legislation, this could lead to services being cut in other areas to ensure this legislation is complied with. The Assembly Government has also stated that they will seek to address this issue by a phased implementation of the regulations with costs expected to increase significantly from 2012/13 onwards. This approach is welcomed, however, there is no indication that there will be additional resources from 2012 and local authorities will have begun the implementation of the expected cuts by this time.

10. Local authorities support policies to improve safety on school transport services, however, they will find it financially very difficult to implement the proposed changes within this proposed Measure without substantial financial support from the Welsh Assembly Government. It is recommended that the evidence for each one of the detailed proposals within the Measure is examined in terms of a cost benefit analysis of the impact that it will have on safety. An assessment should then be made as to whether or when the proposal is implemented.

The Fitting of Appropriate Seat Belts

11. According to the data collected by the Assembly Government to inform this Measure, there are currently only 141 buses out of the 3,295 in use for school transport that do not have seat belts fitted. As a principle local authorities would have no objection to this part of the Measure being implemented, subject to appropriate funding being made available. There is however, existing legislation which covers the fitting of seatbelts on newer vehicles and also the EU directive regarding the use of seatbelts for children between the ages of 3 and 14, which is highlighted in the Explanatory Memorandum. The issue of a definition of what constitutes a dedicated school transport bus could impact in this area, as it could mean that some public service vehicles would have to be fitted with seat belts or not used for certain routes. There is also a lack of clarity regarding who would be responsible for ensuring the use of seat belts when they are fitted.

Double Deck Vehicles

12. This section of the proposed Measure would allow Ministers to phase out the use of double deck vehicles for school transport. There is no current evidence to suggest that the use of double deck vehicles for school transport is less safe than other buses used, although many local authorities have already discontinued their use. The costs of implementing this section could be high given some of the hidden costs that go above and beyond just replacing vehicles, such as capital costs outlined above. This could also have the implication of increasing the amount of bus traffic on the roads which is contrary to the sustainability aims in the Leaner Travel Measure 2008. The removal of double deck buses would lead to an increase in the number of buses at some school sites which could potentially increase the safety risk to children and young people. Some school sites are landlocked and do not have the capacity to manage additional numbers of single deck vehicles at the start and the end of the school day.

Vehicles Manufactured after a Specified Date

13. The Measure would enable Ministers to phase out the use of older vehicles for dedicated school transport. The supporting documentation to the Measure states that the reason for phasing out older vehicles is because they can be less attractive to pupils and thus can impact on the take up of school transport. Although this is an important issue to consider, the overriding principle of this Measure should be to improve safety on school transport. Although the age of the vehicle can have an impact on safety, this is not always the case and the safety specifications of the vehicles should be the primary concern. There is some anecdotal evidence to suggest that some newly manufactured yellow bus style vehicles, are not manufactured to the same high specification of some older vehicles. In addition there are concerns within local authorities that there is not the necessary bus stock available to implement this proposal.

14. It is particularly important to look at this area in relation to its potential impact on safety, as it is highlighted as the area that would have the greatest cost implication. Given the current financial position of both central and local government, it should be considered whether, in the absence of evidence in relation to safety, the phasing out all older vehicles can be justified for an investment of over £20 million. Many of the issues associated with safety and older vehicles would be covered in other sections of the Measure, such as the fitting of seatbelts, which would leave older vehicles to be used where they meet all the necessary safety requirements.

The "Yellow Bus" Specification

15. As there is no current standard of yellow bus specification there is some ambiguity as to the implications for local authorities of this section of the Measure. However, it seems that many of the suggested areas that are outlined in the Explanatory Memorandum are already dealt with elsewhere in the Measure, such as seat belts, CCTV and driver training.

The Fitting of CCTV

16. The use of CCTV on school transport has been found to be beneficial in some circumstances. Although many local authorities support the idea of CCTV on school buses this would be subject to resources being made available to enable a more universal approach. There are also currently a number of pilot studies that are underway to assess the usefulness of CCTV and initial reports from one project suggests that CCTV does not have a significant impact on the behaviour of pupils. The same project did state however that there CCTV

was a useful tool for driver safety and helping to identify pupils who were behaving in an inappropriate manner.

Provide the Relevant Standard of Driver Training

17. Local authorities are supportive of this proposal in the Measure. Thought will need to be given when drafting regulation in this area as to the type of training required and who provides it; whether it is the responsibility of the local authority to ensure drivers are trained or whether it is the responsibility of any contractor used by the authority to deliver learner transport. There are currently pilot projects underway which could provide a sound evidential base for national standards of training and there are already many examples of good practice in driver training used in local authorities. The costs of this training could be addressed through a collaborative approach to the delivery of training across a number of local authorities.

Safety Risk Assessment of Learner Travel

18. Again local authorities are broadly supportive of the use of risk assessment. It is expected that the current voluntary risk assessment document that has been developed in partnership between the Assembly Government and local government will be used. In some areas local authorities have experienced difficulties in encouraging contractors to effectively complete the current voluntary assessment document, if this becomes statutory then local authorities will be in a position to insist that this is done.

Supervisors on Learner Transport

19. Local authorities currently use escorts where they have made an assessment that they would be beneficial to pupil safety and behaviour on school transport and the majority of routes currently do not use escorts regularly. Escorts are usually only used for more vulnerable groups of pupils, such as those with special educational needs or younger children. They are also used, sometimes on a temporary basis, on routes that are having a particular issue with behaviour.

20. Without seeing the detail that would be contained in regulations it is difficult to make an assessment about the impact of this proposed power. It would not be ideal for all routes to have escorts and it is the opinion of the local authorities they are best placed to make an assessment as to whether an escort is needed on a particular route. A large increase in the requirement for escorts would not only be an issue for funding but also for recruitment. Local authorities find it difficult to recruit escorts at the current levels because of a lack of interest in the role.

Taxis and Private Hire Vehicles

21. Local authorities have no objection to the proposals to grant powers to Welsh ministers to regulate for safety in taxis and private hire vehicles, again this is subject to resources being made available to implement any additional requirements.

Sanctions and Enforcement

22. It is welcomed by local authorities that Welsh Ministers will have to consult with local authorities, and other appropriate bodies before making any regulations that may result should this proposed Measure be passed. There is however, some concern regarding the enforcement and sanction proposals that are outlined in the Measure. Given the serious consequences of breaches in safety standards it is understandable why the Assembly Government would seek to impose criminal sanctions with regards to parts 1 and 2 of the Measure. However, this could be seen as a heavy handed approach given the lack of clear evidence in terms of improving safety for some of the proposals in parts 1 and 2. Many of the proposals are concerned with the stated aim of the Measure to improve the image and quality of the transport provision, not primarily the safety of pupils. There needs to be clear evidence that the provisions within parts 1 and 2 of the Measure have a direct correlation to safety in order to justify the use of criminal sanctions for breaches of the regulations.

23. There is also some ambiguity regarding who would be criminally liable in certain circumstances. The criminal sanctions relate to local authorities, governing bodies of maintained schools and persons who provide transport secured by these bodies (bus contractors). It is not clear is where a local authority has contracted out a service and a breach in regulations occurs whether the council will be criminally liable alongside the contractor. What level of responsibility does the local authority have for ensuring that contractors comply with the legislation? Local authorities could potentially have an increased burden of policing the regulations with respect to their contractors to ensure compliance.

24. In terms of enforcement the current body with powers in this area is the Vehicle and Operator Services Agency (VOSA). It would seem to be a sensible approach to allow them to enforce regulation should this Measure be passed, rather than create a new inspection body. The WLGA and local authorities have consistently called for a streamlining of the regulatory system, this would in effect create yet another regulatory body for Wales.

25. It is also the opinion of the WLGA that the Assembly Government should consider a different approach to the tribunal model suggested in the Measure. The Assembly Government are currently setting up a passenger transport forum which could be an existing body through which complaints could be heard.

Conclusion

26. Local authorities in Wales are fully committed to providing safe and efficient school transport for pupils across Wales. Councils are primarily concerned with the safety of pupils on school transport, and each one of the proposals within the Measure should demonstrate what the impact will be on safety. Continuous improvement of school transport is supported by local authorities, and this should be the

main focus of this Measure.

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