

# Legislation Committee No 4

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

## Proposed Safety on Learner Transport (Wales) Measure

### Paper 2 : Joint Response from the National Association of Headteachers (NAHT) Cymru and the Association of School and College Leaders (ASCL) Cymru

#### Introduction.

The membership of ASCL Cymru and NAHT Cymru comprises the majority of Wales' school leaders. We are submitting this evidence jointly.

We welcome the opportunity to submit evidence to the Legislation Committee on the proposed Safety on Learner Transport (Wales) Measure.

#### General Comments

In the conclusion to our joint response to the consultation on the Learner Travel Measure 2008, we stated:

We regret however that the Measure makes no reference to several initiatives which we believe would significantly improve school transport safety. We hope that this will be addressed at an early date. We refer specifically to improvements such as:

- Mandatory seatbelts in all school buses
- The abolition of the 3 for 2 rule
- Escorts on school buses
- Ensuring appropriate school transport (e.g. coaches rather than double-decker buses)
- The proposed Safety on Learner Travel Measure seeks to deliver progress on these issues and thus, in general terms, we are in support of the proposed Measure.

We note and welcome the commitment, in the Explanatory Memorandum, to make progress on the introduction of regulations gradually and with due regard to the limitations set by finite budgets. We are particularly concerned as to the possible financial implications for some schools with regard to school owned transport such as minibuses which may be used for home to school travel

·Given that this is largely an 'enabling' piece of legislation, permitting the Minister to bring forward proposed Regulations in due course, the comments in this response will largely refer to the 'what if' questions that might arise in the consultation on such Regulations. We offer responses from two perspectives – from experience of interacting with the home to school transport arranged by the Local Authority and of the management of transport owned by the school.

·The Explanatory Memorandum makes clear that future regulations will apply to Governing Bodies and Local Authorities. It also refers predominantly to contractual Learner Travel services and specifies in section 13.3 that learner transport refers to home to school travel. However, we have concerns as to the potential implications for:

school owned transport which are used for home to school travel in a few schools as well as for other school activities. They are an important resource and the costs associated with conforming to regulations intended for commercial firms may prove to be prohibitive.

individual school governors and the headteacher with regard to criminal offences that might be created and the imposition of sanctions. The fact that the members of a body corporate may be held responsible for failures in their own persons rather than the corporation only being responsible might mean a loss of every governor in Wales if they think they might be held responsible for a school minibus accident.

schools of transport organised as part of the arrangements for educational visits of 2 or more days duration. Does this come within the definition of Learner Transport as given in Section 13?

#### Consultation Questions

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""

Although we have concerns regarding the volume of regulation that school leaders have to have regard to, we recognize that

establishing a framework within which appropriate and necessary regulation can be brought into being is a positive step towards achieving the objectives stated above. We welcome the provision that any proposed regulations would be subject to the affirmative procedure in the National Assembly.

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

Most school leaders have had experience of the problems caused by one or more of the following:

the use of double decker buses allied with inadequate supervision;

old vehicles that are no longer fit for commercial use;

seeking to enforce the Travel Behaviour Code as required by the Learner Travel Measure 2008, which extended a headteacher's responsibilities to include student behaviour on the journey to and from school, whether on contracted transport or in the parent's car or indeed whilst walking home;

Poor behaviour by students which has resulted from inappropriate conduct by a driver of a contracted school bus;

If the proposed Measure assists school leaders by reducing the number

and severity of these problems, then it will be warmly welcomed. A particular problem for school leaders is gaining the evidence to use in exclusion hearings resulting from incidents on the school bus. If CCTV evidence can be made available it would be helpful.

Under current guidance and good practice, the drivers of school

minibuses have to have undergone appropriate training and the vehicles are required to be serviced and maintained appropriately. Should the regulations regarding supervision, whether by a member of staff or by CCTV and safety risk assessment be made applicable to school minibuses, there would be a significant cost factor which has not been included in the estimates given in the Explanatory Memorandum.

Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives?

We have no concerns regarding the appropriateness of sections 1 to 5. They focus on the key issues of relevance to the objectives referred to in question 1.

The power to enter premises, as detailed in Section 8, is understandable in terms of commercial premises and reflects the powers of the officers of the Health and Safety Executive. However, there could be the rare circumstance where the headteacher, in fulfilling his/her duty of care for students and staff, has to restrict the access of anyone to the school site. Does the wording of this section reflect the possibility of this rare circumstance adequately?

In section 11, we reiterate our concerns regarding the implications for school governors of having a personal liability. This section seems more intended for the providers of contractual home to school transport and perhaps needs clarification that it does not apply to school governors.

Section 12 only refers to Local Authorities; if school owned transport is to be included, given that a few schools own and operate their own bus fleet, should not school governing bodies be included in the list of consultees?

Section 13 defines Learner Transport as meaning transport to facilitate the attendance of a child at any relevant place where he or she receives education or training. What will be the situation where the school minibus is used to transport students home from a school activity such as a sporting fixture or an after school activity on premises?

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?

As stated in the Explanatory Memorandum, the main barrier will be the funding implications if the regulations lead to increased costs for the service provider.

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.

See 9c) above

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

We fully support the intention to improve the safety of students and their experiences of the journey to and from school. Our comments above are not intended to obstruct or to delay progress but seek to avoid unintended consequences.

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