

SAFETY ON LEARNER TRANSPORT (WALES) MEASURE

Explanatory Memorandum to proposed Safety on Learner Transport (Wales) Measure

This Explanatory Memorandum has been prepared by the Department for the Economy and Transport of the Welsh Assembly Government and is laid before the National Assembly for Wales in accordance with Standing Order 23.18. It sets out the policy objectives and provisions of the proposed Safety on Learner Transport (Wales) Measure and explains its scope.

Member's Declaration

In my view the provisions of the proposed Safety on Learner Transport (Wales) Measure, introduced by me on the 20 September 2010, would be within the legislative competence of the National Assembly for Wales.

Ieuan Wyn Jones AM

Deputy First Minister and Minister for the Economy and Transport
Assembly Member in charge of the Proposed Measure

20 September 2010

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1. Description

1.1 The proposed Safety on Learner Transport (Wales) Measure aims 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.

1.2 The Measure contains broad provisions which will enable the Welsh Ministers to make regulations in relation to dedicated learner transport which will place a duty on relevant bodies such as local authorities or a governing body of a maintained school to:

- (i) fit appropriate seat belts (part 1);
- (ii) use only single deck vehicles (part 1);
- (iii) use buses manufactured after a certain date (part 1);
- (iv) fit CCTV and meet the conditions of operation set out by the Welsh Ministers (part 2);
- (v) use vehicles which meet the “yellow buses” specification and the standards of such buses (part 1);
- (vi) provide the relevant standards of driver training set out by the Welsh Ministers (part 4);
- (vii) carry out safety risk assessments set out by the Welsh Ministers (part 3);
- (viii) provide staff to supervise school buses (part 5); and
- (ix) in relation to taxis and private hire vehicles, meet the specifications set out by the Welsh Ministers (part 1).

1.3 In addition the Measure makes provision so that the Welsh Ministers have the power to:

- (i) create criminal offences for breaches of the safety regulations by providers of learner transport who fail to meet the prescribed requirements (parts 1 and 2);
- (ii) create a civil sanctions regime for breaches of the safety regulations by providers of learner transport who fail to meet the prescribed requirements (parts 1 and 2 and the Schedule);
- (iii) establish an enforcement body to enforce the regulations (parts 7, 8, 9 and 10); and
- (iv) establish a tribunal for appeals (part 6 and the Schedule).

2. Legislative background

2.1 The power to make Assembly Measures is provided by Part 3 of the Government of Wales Act 2006 (“the 2006 Act”). Section 93 of the 2006 Act allows the National Assembly for Wales (“the Assembly”) to make Measures. Section 94 requires that the provisions of a Measure come within the Assembly’s legislative competence.

2.2 The Assembly has legislative competence in relation to learner travel, covering “arrangements for persons to travel to and from the places where they receive education or training” (see Part 1, Matter 5.10 of Schedule 5). The persons referred to are:

- (a) persons receiving nursery, primary, secondary or further education or training, and
- (b) persons with learning difficulties or disabilities receiving higher education.

2.3 The National Assembly for Wales (Legislative Competence) (Transport) Order 2010 (SI 2010/1208) extended the legislative competence of the National Assembly. Articles 3 and 4 amend the general exceptions to matters under the heading “*Highways and transport*” in paragraph A1 of Part 2 of Schedule 5. The general exceptions apply to all matters in Part 1 of Schedule 5. Article 3(2) amended exception (2) under that heading, which is an exception for the regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used, apart from specified types of regulation.

2.4 The amendments allow the Assembly to make provision by Measure to regulate the description of vehicle which may be used for learner transport arrangements of the kind described in matter 5.10 (including description by reference to construction and equipment). Article 3(3) amended exception (14) under the same heading, in relation to transport security. This amendment allows the Assembly to make provision by Measure to regulate the carriage of supervising adults on vehicles used for learner transport arrangements.

3. Purpose & intended effect of the legislation

Background on Learner Travel

3.1 The Welsh Assembly Government is committed to developing a safe and efficient transport network to support economic development and to promote social cohesion and sustainability. A cornerstone of this commitment in *One Wales* is to bring forward legislation which improves the safety of home to school transport.

3.2 In Wales local authorities have a statutory requirement to provide free school transport to primary school children who live two miles or more from their nearest suitable school and to secondary school children up to the age of 16 who live three miles or more from their nearest suitable school. This requirement is extended in cases where special circumstances apply, for example, for learners with special educational needs or where there is no suitable safe route to school within the statutory distance. Free transport may be offered on dedicated school transport vehicles or on public transport services. Free school transport can also be provided by taxi or private hire vehicle; and this is particularly the case in rural areas and for those with special educational needs. Local authorities may also use their discretion to provide transport outside of this legal requirement. The Welsh Assembly Government believes that local authorities remain best placed to manage the provision of learner transport in local areas.

3.3 The Learner Travel (Wales) Measure 2008 is the legislative framework that governs the provision of school transport in Wales. The Measure, which came into force in April 2009, prescribes the circumstances in which a local authority must provide free school transport, promotes access to Welsh medium education, extends the powers of head teachers to address poor behaviour and gives local authorities powers to promote sustainability.

3.4 The National Travel Survey (NTS) 2007-08 recorded that in Wales 45 per cent of 5-16 year olds walk to school, 22 per cent travel by bus while 30 per cent are driven to school by car. Of those who travel to school by bus, the School Transport Survey, conducted by the Local Government Data Unit on behalf of the Welsh Assembly Government, recorded that at the beginning of the school year 2009 -10, 90,596 children travelled on dedicated school transport while 12,589 travelled on public service buses. A summary of the report is attached at Annex B.

3.5 In Wales, primary school children who travel to school by bus tend to use dedicated school transport vehicles, while travel on public service buses tends to be used for secondary school children particularly those travelling in more urban areas.

3.6 It is estimated that in Great Britain one car in five during the morning rush hour is taking a child to school and although this figure is clearly subject to local variation the percentage using cars for the school journey in Wales (30 per cent) is broadly comparable with that for Great Britain (31 per cent, figures

taken from the NTS 2007-08). The increasing trend towards car use not only contributes to growing road traffic congestion and air pollution but also represents an increased risk of road traffic accidents; it also contributes towards wider negative effects on children's health, independence and social interaction.

3.7 Regular exercise has proven health benefits and the Welsh Assembly Government supports a range of initiatives which aim to increase the percentage of children walking and cycling to school.

3.8 Local authorities in Wales report that learner transport is one of their biggest rising costs. School transport expenditure increased from approximately £77m in 2002/03 to more than £102.2m in 2007/08 equating to a real increase of 16.4%. The largest element of this remains transport for pupils attending secondary school, but the expenditure for special needs transport has risen from £19m in 2003/04 (£21.6m in 2008/09 prices) to over £26m in 2008/09 (Welsh Assembly Government Education and Revenue Expenditure Statistics, adjusted for inflation).

3.9 Working with the Welsh Local Government Association and Transport Consortia the Welsh Assembly Government has funded a number of pilot projects to look at innovative ways of delivering efficiency improvements in school transport. For instance, the North Wales Regional Partnership Board is looking at streamlining the procurement of school transport and other administrative issues. The project is also looking at the feasibility of changing school session times so that the same bus and driver can be used for more than one trip. This has been facilitated by changes introduced as part of the Learner Travel (Wales) Measure 2008. In order to benefit fully from 'double tripping' a collaborative approach across all schools in a region will be required. Initial recommendations for this project are expected later this year.

Policy objectives

3.10 The main aim of the proposed Measure is to address the Welsh Assembly Government's objective of improving the safety image and travel experiences of dedicated school transport, and acting to ensure that safety standards are sufficiently high for the public and parents to have confidence in collective learner transport. The proposed Measure will also contribute to the complementary objective of encouraging a modal shift away from car use towards collective school transport

3.11 The Welsh Assembly Government aims to implement these changes in the most cost effective manner and will, where required, provide additional financial support towards the introduction of specific safety features, which are affordable within existing budgets.

Improving the safety image and travel experiences of dedicated learner transport

3.12 In response to concerns about a number of accidents involving buses carrying children, resulting in the death of Stuart Cunningham-Jones and injury to several others, the Education and Lifelong Learning Committee conducted a policy review of School Transport. The policy review was published in April 2005.

3.13 The review made 30 recommendations in relation to issues of conduct and behaviour, clarity of responsibility, criminal record checks, risk assessment, procurement and contract issues and the safety and security of vehicles on the school journey. The majority of these recommendations were implemented by schools, local authorities, regional transport consortia and the Welsh Assembly Government at the time. Significant changes have included;

- (i) The introduction of the Learner Travel (Wales) Measure 2008 established a statutory Travel Behaviour Code, which set out the standards of behaviour expected of pupils travelling from home to school, and making the Code part of a school's behaviour policy. The Code was produced after extensive consultation with all key stakeholders, including children and young people, and aims to promote positive behaviour and ensure a consistency of approach and to sanctions across Wales.
- (ii) Working in partnership with its stakeholders, the Welsh Local Government Association, transport consortia and local authorities Association of Transport Co-ordinating Officers (ATCO), and transport operators, the Welsh Assembly Government developed the *Learner Travel Operational Guidance* for local authorities (April 2009). The document includes statutory advice on how local authorities can meet their duties in relation to school transport including advice on embarkation and disembarkation at school premises, the use of escorts, and criminal records checks. Part 6 of the document provided non-statutory guidance on vehicle standards, including the use of seat belts, the '3 for 2' concession, double deck buses, closed circuit television, licensing and training. The powers to legislate over these matters remained the responsibility of the Department for Transport at that time. However the publication expressed the Welsh Assembly Government's expectation that local authorities would implement the guidance although there was no legal requirement to do so.
- (iii) The South West Wales Integrated Transport Consortium developed the All-Wales Guidance on Home to School Risk Assessments for the Welsh Assembly Government (November 2009). The guidance aims to help local authorities and bus operators carry out comprehensive risk assessments of the home to school journey. The guidance covers five key areas namely: route; pick up/ drop off; school sites; driver and passenger assistants; and finally the vehicle

used. The Welsh Assembly Government expects local authorities to ensure that all home to school transport contracts are assessed using the guidance by the end of the 2010-11 school year.

- (iv) The Welsh Assembly Government in partnership with its stakeholders has also funded a number of smaller pilot projects aimed at evaluating a range of safety approaches to best practice in school travel. These have included projects to look at encouraging the wearing of seat belts by school children, the piloting of CCTV and bus escorts and other safety features. The final projects are due to report in April 2011 and it is envisaged that findings from these pilots will be used to underpin the development of a Welsh framework of safety standards and regulation.

3.14 The consultation and scrutiny of the Learner Travel (Wales) Measure 2008 by the National Assembly's Enterprise and Learning Committee did however highlight widespread concern regarding the regulation and safety standards of learner transport in Wales. At this time, the Assembly did not have legislative competence regarding vehicle safety features. This led to a cross-party call to seek additional powers and the Deputy First Minister and the Minister for the Economy and Transport gave a commitment to the Committee to seek further powers over the safety standards of vehicles used for learner transport.

3.15 The National Assembly for Wales (Legislative Competence)(Transport) Order 2010 was approved by Her Majesty in Council in April 2010. This competence enables the Assembly to legislate over the description of motor vehicle used for dedicated learner transport and over the security features of those vehicles. The competence conferred applies to dedicated school transport buses, taxis and private hire vehicles, but not to public service buses, trains, private transport, or walking and cycling. The exclusion of public service buses from the competence of the Assembly reflects the current structure of the law in the area of learner travel rather than the policy position of the Welsh Assembly Government.

Detailed proposals

3.16 A detailed description of the specific provisions is set out in the Explanatory Notes which accompany the proposed Measure. In brief the proposed Measure will address learner travel vehicle safety by enabling the Welsh Ministers to propose regulation in relation to:

The fitting of appropriate seat belts

3.17 Currently minibuses, coaches and buses (apart from those designed for urban use with standing passengers) first used on or after 1 October 2001 must have seat belts fitted by the manufacturer. The seat belts must be fitted in all forward and rearward facing seats. Minibuses and coaches registered before 1 October 2001 must have a forward facing seat for each child, fitted with a three-point seat belt, a disabled person's belt or a lap belt. Under the

Public Service Vehicles (Carrying Capacity) Regulations 1984, bus operators may use the '3 for 2' concession that permits three children under the age of 14 to occupy a bench seat designed for two adults, where there are no seatbelts fitted. In addition buses designed for urban / public service work can currently be legally used on a school contract. This allows for standing passengers (although Welsh Assembly Government officials are not aware of any local authority that does this).

3.18 In addition an outstanding element of Directive 2003/20/EC regarding the wearing of seatbelts is currently being transposed into UK law. This will make regulation regarding the wearing of seatbelts by children between the ages of 3 and 14, where they are fitted to the vehicle.

3.19 The proposed Measure will enable the Welsh Ministers to make regulation requiring the fitting of seatbelts on school buses. Such legislation would automatically remove the '3 for 2' concession since all students would be required to have a seat and a seat belt. Regulation would also prevent the use of urban buses for dedicated learner travel unless they were fitted with seat belts.

Double deck vehicles

3.20 The Education and Lifelong Learning Committee's Policy Review of School Transport 2005 recommended that the use of double deck buses on school contracts should gradually be phased out and replaced with single deck coaches, or specialist school vehicles. The Learner Travel Operational Guidance April 2009 advised against the use of double deck buses for non-exceptional reasons (this advice is discussed in paragraph 3.13 (ii) above).

3.21 The proposed Measure would enable the Welsh Ministers to phase out the use of double deck vehicles as dedicated learner transport vehicles.

Vehicles manufactured after a specified date

3.22 Buses manufactured before 1 October 2001 do not need to have seat belts fitted. The age and attractiveness of vehicles has been shown to influence take up of and behaviour on school transport. The phasing out of older vehicles has thus been seen as an important step to improving the image, quality and reliability of contracted school transport.

3.23 The proposed Measure would enable the Welsh Ministers to phase out the use of older vehicles on contracted learner transport services.

The "yellow buses" specification

3.24 Yellow school bus operations represent a standard of quality and safety, and generally include the following common features:

- dedicated and vetted drivers fully trained in both bus operation and child supervision
- a guaranteed seat for every pupil with three-point, all age seat belts

- familiarisation and safety training for pupils
- on board registers for younger pupils, giving reassurance to parents
- measures to support good behaviour ranging from CCTV to use of prefects and codes of conduct
- dedicated single-deck vehicles designed primarily for the carriage of school children and with the yellow livery in line with US practice.

3.25 The proposed Measure would enable the Welsh Ministers to regulate over the description of buses to meet the “yellow bus” specification and the standards of such buses.

The fitting of CCTV

3.26 CCTV on buses is becoming more commonplace and some authorities have already made it a contractual condition. CCTV can provide evidence to identify pupils behaving badly so that action may be taken to improve behaviour. CCTV may also have a deterrent value.

3.27 The proposed Measure would enable the Welsh Ministers to require the fitting of CCTV to learner transport vehicles and to set out in detail the operational arrangements for its use. This will include details around the confidentiality, use, storage and retention of images.

Standards of driver training

3.28 To date the Welsh Assembly Government has encouraged local authorities to make appropriate driver training a condition of contract. It has been for authorities to decide whether to arrange or fund training for drivers centrally, or require operators to make their own arrangements.

3.29 The Welsh Ministers would be able to propose regulation requiring that drivers receive national standards of training and to set out in detail the requirements for such training. For example, the training could cover customer service, equalities, working with children, child protection, seatbelt legislation, dealing with challenging behaviour, identifying hazards and emergency situations and incident reporting.

Safety risk assessment of learner travel

3.30 The proposed Measure will enable the Welsh Ministers to require relevant bodies to carry out a risk assessment and to set out in detail the requirements of such a risk assessment. The current non-statutory *Guidance on Home to School Risk Assessment* is discussed in paragraph 3.13 (iii).

Supervisors on learner transport

3.31 The proposed Measure will allow the Welsh Ministers to set out in regulations the detailed requirements for escorts on learner travel, for example, to mandate escorts on all transport provided for primary school pupils.

Taxis and private hire vehicles

3.32 The Welsh Ministers would be able to propose Regulation regarding the safety requirements for Taxis and Private Hire Vehicles used for learner travel. For example it could require the provision of booster seats where appropriate.

Sanctions and enforcement

3.33 It is proposed that the regulations will place a duty on local authorities and governing bodies of maintained schools to comply with the regulations.

3.34 In cases where there is a breach of duty, unreasonableness or poor performance on the part of a local authority, the Welsh Ministers have a power to direct local authorities under the Education Act 1996 to carry out these duties correctly. The Welsh Ministers also have an existing power under section 15 of the Learner Travel (Wales) Measure 2008 to direct local authorities and governing bodies of maintained schools. When exercising any functions under the Learner Travel (Wales) Measure 2008, institutions must have regard to guidance and direction from the Welsh Ministers.

3.35 In addition the proposed Measure makes provision enabling the Welsh Ministers to enforce the regulations against a person who provides learner transport in relation to the description of vehicles that may be used for learner transport and the recording of visual images or sound on learner transport. The proposed Measure makes it possible to:

- (i) create criminal offences for breaches to the Regulations (parts 1 and 2)
- (ii) create a civil sanctions regime to enforce the Regulations (parts 1 and 2 the Schedule).

3.36 The Welsh Ministers may appoint an enforcement body to enforce any regulations referred to in paragraph 3.35 above. This includes powers of inspection, powers of entry, and powers requiring the provision of information.

3.37 Criminal sanctions vary depending upon the severity of the offence committed. The maximum penalty for obstruction of an inspector is a level 4 fine, whereas failure to comply with a Stop Notice carries a maximum penalty of 2 years imprisonment. Civil sanctions may include fixed monetary penalties not exceeding £5,000, discretionary requirements, stop notices and enforcement undertakings or a combination of sanctions.

3.38 The Welsh Ministers may establish a tribunal to which civil appeals may be made.

3.39 The Welsh Ministers must consult with local authorities and other appropriate bodies before making regulations in relation to the above.

Exceptional operational reasons

3.40 For exceptional operational reasons (e.g. inclement weather, vehicle failure, or an emergency where pupils might not be able to get home otherwise) bus operators may provide alternative vehicles that meet MOT and VOSA inspection standards (i.e. the current legal standard standards), but are not fitted with additional safety requirements specified by the Welsh Ministers. However, it will not be permissible for any local authority to contract with a bus operator to provide vehicles for learner travel which do not comply with the duties set out by the Welsh Ministers or for an operator routinely to use such buses.

Bodies subject to the proposed measure are:

- 3.41 - A local authority
- A governing body of a maintained school
 - A person who provides learner transport secured by either a local authority or a governing body of a maintained school.

Territorial application

3.42 The proposed Measure applies in relation to Wales.

Commencement

3.43 The provisions of this proposed Measure come into force at the end of a period of 2 months beginning on the day on which the Measure is approved by Her Majesty in Council.

4. Consultation

4.1 The proposed Measure has not been subject to consultation as the Assembly Government has previously consulted on the associated proposals which gave rise to the Measure.

4.2 Specifically, the Consultation on the proposed Learner Travel (Wales) Measure ran from June to September 2007 and raised issues in relation to bus regulation and safety (<http://wales.gov.uk/consultations/transport/learnertravel/?lang=en&status=closed>). The National Assembly's Enterprise and Learning Committee also scrutinised the draft Measure and the Committee's report published on 21 November 2007 highlighted similar concerns regarding the limitations on the Assembly's competence. (<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-scrutiny-committees/bus-committees-third-els-home/bus-committees-third-els-report/bus-committees-third-el-report-el3-07-r02.htm>),

4.3 The Assembly Government also consulted on the Learner Travel Operational Guidance from 19 December 2008 to 16 February 2009. 25 responses were received from a broad range of local authorities, colleges and teaching unions. All the responses were generally supportive of the draft guidance including the non-statutory advice on vehicle safety standards.

4.4 In order to bring forward the proposed Measure during this Assembly term, further formal consultation on the proposed Measure has not been undertaken at this stage. However, a wide variety stakeholders such as the Welsh Local Government Association (WLGA), bus operators, Confederation of Passenger Transport (CPT), local authorities and the Association of Transport Co-ordinating Officers' school transport group have been kept informed of developments during the drafting of the Measure and it is proposed that any regulation made as a result of the Measure is subject to full public consultation.

5. Power to make subordinate legislation

5.1 The proposed Measure contains provisions to make subordinate legislation. The table below sets out in relation to each provision:

- the person upon whom, or the body upon which, the power is conferred;
- the form in which the power is to be exercised;
- the appropriateness of the delegated power;
- the applied procedure (affirmative, negative); and
- an explanation for any Assembly procedures that apply.

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for Procedure
Section 1 <u>Descriptions of vehicle that may be used for learner transport</u>	The Welsh Ministers	Regulations	Suitable for regulations that will provide the detail which follows the intent of the Measure and will allow future amendments if needed.	Affirmative Resolution The Welsh Ministers must consult each local authority and such other persons as they consider appropriate.	Achieves balance between ability to make regulations and/or amendments quickly if needed, and giving the Assembly control over whether proposed regulations and/or amendments are made.
Section 2 <u>Recording visual images or sound on learner transport</u>	The Welsh Ministers	Regulations	Suitable for regulations that will provide the detail which follows the intent of the Measure and will allow future amendments if needed.	Affirmative Resolution The Welsh Ministers must consult each local authority and such other persons as they consider appropriate.	Achieves balance between ability to make regulations and/or amendments quickly if needed, and giving the Assembly control over whether proposed regulations and/or

					amendments are made.
Section 3 <u>Safety risk assessment of learner transport</u>	The Welsh Ministers	Regulations	Suitable for regulations that will provide the detail which follows the intent of the Measure and will allow future amendments if needed. Additional information may be added through the provision of statutory guidance.	Affirmative Resolution The Welsh Ministers must consult each local authority and such other persons as they consider appropriate.	Achieves balance between ability to make regulations and/or amendments quickly if needed, and giving the Assembly control over whether proposed regulations and/or amendments are made.
Section 4 <u>Driver training</u>	The Welsh Ministers	Regulations	Suitable for regulations that will provide the detail which follows the intent of the Measure and will allow future amendments if needed and future information may be added to the training specification.	Affirmative Resolution The Welsh Ministers must consult each local authority and such other persons as they consider appropriate.	Achieves balance between ability to make regulations and/or amendments quickly if needed, and giving the Assembly control over whether proposed regulations and/or amendments are made.
Section 5 <u>Supervisors on learner transport</u>	The Welsh Ministers	Regulations	Suitable for regulations that will provide the detail which follows the intent of the Measure and will allow future amendments if needed and future information may	Affirmative Resolution The Welsh Ministers must consult each local authority and such other persons as	Achieves balance between ability to make regulations and/or amendments quickly if needed, and giving the Assembly control over

			be added to the use of supervisors.	they consider appropriate.	whether proposed regulations and/or amendments are made.
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6. Regulatory Impact Assessment

6.1 A Regulatory Impact Assessment has been undertaken in accordance with Standing Order 23.18 for the proposed Measure and follows at Section 7.

PART 2 – REGULATORY IMPACT ASSESSMENT

7. Options

7.1 This Assembly Measure aims to improve the safety image and travel experiences of dedicated school transport and to act to ensure that safety standards are sufficiently high for the public and parents to have confidence in school transport.

7.2 The following options are explored below:

Option 1: Do nothing or do the minimum

Option 2: Introduce non-legislative approaches to implement these changes such as encouraging best practice and voluntary codes of practice

Option 3: Introduce an Assembly Measure enabling the Welsh Ministers to implement Regulation in relation to the safety standards of vehicles used for learner transport.

Data relied on

7.3 In preparation for likely legislation in this area the Welsh Assembly Government commissioned the Local Government Data Unit to collect a range of data from each local authority on the type, age, and safety features of contracted school vehicles operating on 1 September 2009. A summary of the data, which was compiled in May 2010, is attached at Annex B.

7.4 In addition, local authorities, regional transport consortia, bus operators and industry representatives have been contacted in relation to the preparation of this regulatory appraisal. They have supplied gross costs of fitting different safety features to dedicated school transport vehicles. The Welsh Assembly Government would like to thank all those who contributed and accepts responsibility for any errors in the presentation and use of these data.

7.5 This impact assessment identifies who will be affected by the proposals, a description of the costs and benefits, and quantifies and monetarises the range of effects as far as possible.

7.6 As proposed, the Measure would enable detailed regulations to be made at a later stage and a separate impact assessment and consultation will be required for each set of Regulations proposed under the Measure. This will include a specific small firms impact test. It will only be possible fully to monetarise all costs and benefits at this stage since the regulations will specify:

- the detailed safety standards that will apply to learner transport vehicles;
- the timescales over which the legislation will be implemented;
- the definitive sanctions and enforcement regime attached to each provision.

7.7 This approach enables, all things being equal, for the proposed Measure to be introduced during this Assembly term.

Option 1: Do nothing or do the minimum

7.8 The current safety standards for buses used for dedicated school transport are those which apply to Public Service Vehicles (PSVs). The Traffic Commissioner for Wales, appointed by the Secretary of State for Transport, is responsible for the licensing of PSVs in Wales. The Commissioner's principal functions in relation to PSVs are to:

- licence PSV operators;
- register local bus services;
- take regulatory action against the holders of licences who are non-compliant;
- determine contested applications where road safety and/or environmental objections are raised;
- consider the conduct and fitness of drivers who hold or apply for passenger-carrying vehicle (PCV) driving licences; and
- hear applications for the return of vehicles detained under the impounding regulations.

7.9 The Commissioner requires licence applicants and holders to be able to satisfy the requirements of good repute, financial standing and professional competence and to make proper arrangements so that:

- the laws relating to the driving and operating of vehicles are observed;
- the rules on drivers' hours and tachographs are observed and proper records kept;
- vehicles are not overloaded by passengers;
- vehicles are kept in a fit and serviceable condition;
- drivers report defects and these are followed up; and
- appropriate records are kept.

7.10 Many of the day to day functions of the Traffic Commissioner are delegated to the Vehicle and Operator Services Agency (VOSA). A newly licensed operator receives a new operator check from VOSA and vehicles have to be presented for annual testing. Roadside random checks enable VOSA to examine the mechanical condition of vehicles and the drivers' tachograph records.

7.11 Traffic Commissioners also play a role in determining whether those who apply for, or already hold, licences to drive PCVs are fit by reason of their

conduct to do so. This means examining the conduct of the driver in relation to road transport matters, for example dangerous/ careless driving convictions, drink driving, speeding, using a mobile phone while driving. For PSVs drivers relevant considerations also include sex offences, dishonesty, acts of a violent nature and other behaviour which might be relevant to whether a person is fit to hold the licence. There are currently no legal requirements directly concerning the safety features of school transport vehicles which are distinct from those which apply to all PSVs.

7.12 The European Commission is also active in the area of road safety policy and legislation. For example legislation aimed at improving road safety through more appropriate use of child restraints has been introduced in the UK as a result of Commission Directive 2003/20/EC.

Option 2: Introduce non-legislative approaches to implement these changes such as encouraging best practice and voluntary codes of practice

7.13 Paragraphs 3.12 - 3.15 of the Explanatory Memorandum above outline the recent steps that the Welsh Assembly Government has taken to improve the safety image and travel experiences of dedicated school transport. This has included the introduction of non-statutory guidance on the safety features of vehicles used for dedicated school transport, part 6 of the *Learner Travel Operational Guidance* (April 2009), and the *All-Wales Guidance on Home to School Risk Assessments* (November 2009).

7.14 £3m over three years has been provided to local authorities and transport consortia by the Welsh Assembly Government to pilot innovative projects in the field of school transport, including safety and resource efficiency. The development of the *Guidance on Home to School Risk Assessments*, among others, is a notable success.

7.15 However, as outlined in sections 7.20 to 7.21 below, the non-legislative approach, for a number of reasons, has failed to deliver consistent all-Wales safety standards on school buses. Though action to encourage and disseminate best practice will continue through the pilot projects highlighted at section 3.13 (iv), an approach to deliver consistent standards across Wales is required.

Option 3: Introduce an Assembly Measure

7.16 As described in Section 1 of the Explanatory Memorandum.

Discussion

7.17 Public transport and particularly school transport have a good safety record when compared to private cars or walking and cycling. Bus, coach and minibus travel (both school and public) represent the safest modes of travel to school with a 1:13,340 risk of being killed or seriously injured, car travel (1:7,754) is proportionately less safe, while accident rates for cycling (1:250)

and walking (1:700) are much higher (Based on an average of 420 trips p.a. per pupil, over a 12 year school period *S, Thornthwaite Local Transport Today 500, Aug 2008*).

**Casualties involving school pupils¹ on a bus journey to or from school:
Wales: 2001 to 2009**

	Numbers		
	Killed	Seriously injured	Slightly injured
2001	0	0	97
2002	1	3	130
2003	1	0	25
2004	0	2	65
2005	1	2	51
2006	0	0	61
2007	0	0	17
2008	0	0	11
2009	0	0	18

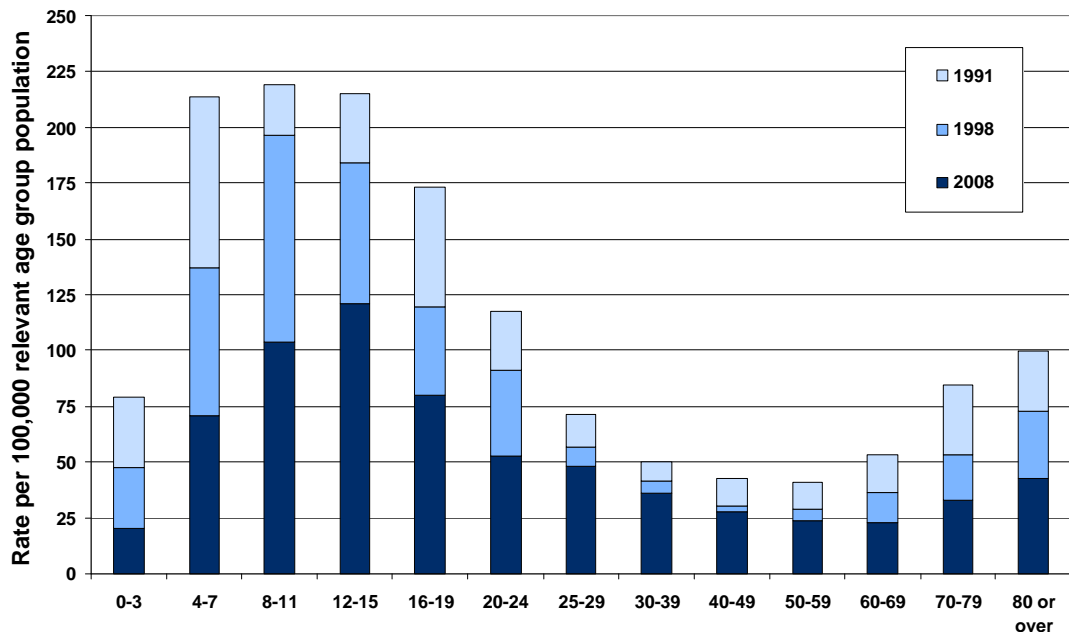
Source: Welsh Assembly Government

7.18 Despite the positive safety record of school transport there have been consistent calls for higher safety standards. Reasons for higher safety standards on school transport include:

- i) Children remain one of the most vulnerable groups of road users (figure 1) and thus require greater standards of safety than adults. This is particularly so for younger children who are less able to identify and assess hazards and respond appropriately. In addition, the size specific design of safety equipment such as seat belts is also a relevant consideration.

¹ Children aged 0-15

Figure 1 Rate of pedestrian casualties by age band: Wales, 1991 to 2008



- ii) High levels of public concern are generated by bus accidents (particularly readily identifiable vehicles). When bus accidents occur higher numbers of people on average tend to be involved, while for car accidents the numbers of people involved tend on average to be fewer and more dispersed over time. A higher reporting of accidents on school transport, and a likely under-reporting of accidents involving cars, walking or cycling on the school journey (where minor accidents may not be reported or more serious accidents may not be recorded as taking place during the school journey) further serves to compound these issues.
- iii) Parents and children often expect to see similar safety features that are fitted in cars to be fitted on buses for instance, a dedicated seat for each passenger and seat belts. Although in safety terms seat belts on bus or coaches are less significant in preventing serious injury because the forces on the passengers are less violent than in a car, seat belts are seen as important to promoting good behaviour on the school journey and act to reassure parents about child safety.
- iv) Attitudes towards acceptable levels of risk may differ between experts and the public, particularly if the public are more likely to suffer as a result of them. Furthermore, people tend to be more concerned if they feel they have no control over the risks involved and this may help to explain why some parents feel driving their children to school is the safer option when in fact it is proportionately less safe than bus travel.

- v) At a time when increased use of collective forms of transport is essential to reduce congestion and limit the adverse effects on the environment, children and parents need to have a high degree of confidence and trust in school bus transport. This can also help to establish firm habits of bus travel into adulthood.

7.19 For the reasons outlined above the Welsh Assembly Government wishes to adopt additional safety requirements on dedicated learner transport in Wales. Paragraph 3.13 of the Explanatory Memorandum outlined the non-statutory activities undertaken by the Welsh Assembly Government in partnership with its stakeholders to promote the consistent application of additional safety features to school buses. Many local authorities have made the fitting of seat belts and other safety features conditions of contract on their school transport services. However, other local authorities have not done so. For example, data gathered by the Local Government Data Unit (LGDU) recorded that on 1 September 2009 out of a total of 3,295 contracted buses:

- 2,894 were fitted with seat belts while 141 were not fitted with seat belts while for a further 260 buses it was not known whether seatbelts were fitted or not.
- 132 were double deck buses carrying 8,872 students to school.
- 663 were fitted with CCTV, 1,417 were not fitted with CCTV while the position for 1,215 was not known.

7.20 The reasons why voluntary approaches towards the provision of additional safety features are not delivering a consistent approach are complex and varied. Reasons include, the increased financial pressures facing local authorities and issues associated with the difficulties of upgrading some older vehicles. In addition the non-statutory nature of the advice often appears to affect the drive to implement recommendations, particularly against a background of increasing resource constraints and competing priorities. Some of the non-statutory advice is also contested. For example a number of local authorities provide dedicated double deck buses fitted with CCTV for the school journey and cite improved pupil behaviour and high levels of safety as a result.

7.21 In contrast to voluntary guidance, the statutory status of the Travel Behaviour Code, which sets out standards of behaviour expected of learners travelling to and from school, facilitated its consistent all-Wales application from the outset. The statutory nature of the Code and associated Guidance has also ensured that all local authorities have engaged more actively in the process of promoting the Code and ensuring that the key messages are disseminated to learners and teachers.

7.22 The Welsh Assembly Government would also like to acknowledge the exemplary efforts and improvement made by many local authorities, transport consortia and bus operators in improving the safety features of school vehicles.

7.23 On balance the Welsh Assembly Government concludes that legislation represents the only realistic option of promoting a consistent approach to additional safety features on contracted school buses in Wales.

8. Costs & benefits

8.1 The high level costs and benefits of regulations made under the proposed Measure are outlined below.

Option 1: Do nothing or do the minimum

Costs

8.2 The costs of the UK regulatory regime are met by the UK Government. There are therefore no additional costs associated with this option for the Welsh Assembly Government.

8.3 The benefits of this approach are the low accident rates associated with bus travel cited above. However, for the reasons outlined in paragraph 7.16 above, the Welsh Assembly Government wishes to promote higher safety standards on school transport in order to improve the safety image and travel experiences of dedicated school transport and to act to ensure that safety standards are sufficiently high for the public and parents to have confidence in school transport. The do nothing or do minimum option therefore fails to deliver the Welsh Assembly Government's stated objective.

Option 2: Introduce non-legislative approaches to implement these changes such as encouraging best practice and voluntary codes of practice

8.4 To date the Welsh Assembly Government has encouraged local authorities to decide whether to make the fitting of safety features a condition of contract. The annual cost of administering the voluntary approach is estimated to be £15,000 for Welsh Assembly Government staff time and a further £110,000 in administration costs for local authorities.

8.5 However as Section 7 summarises the voluntary approach has failed to deliver consistent all-Wales safety standards on school buses.

Option 3: Introduce an Assembly Measure

8.6 The estimated costs are outlined in the table below. (Annex C provides further breakdown of how the costs were calculated). It should be noted that the range of estimated costs for some categories reflect known and unknown factors. For example, the School Transport Survey records that 141 buses do not have seatbelts fitted whilst for a further 260 buses the position is not known. The estimated costs are therefore calculated on the basis of refitting 141 buses (in the region of £1.5m) and the assumption that a high percentage of the 'not known' buses would also require the fitting of seat belts (circa £4.5m).

Costs of Option elements	
Non-recurrent costs	
Fitting of seatbelts to learner transport fleet	Between £1.5m - £4.5m*
Fitting of CCTV to learner transport fleet	Between £2.2m - £4m***
Recurrent per annum costs	
Replacement of double deck fleet with single deck provision	Approximately £2.8m
To use only vehicles manufactured after 2001	Between £10.4m and £20.2m
Provision of bus escorts	Between £9.8m to £15m***
CCTV maintenance costs	Approximately £0.3m***
Administration of safety risk assessment by local authorities	Approximately £0.03m

Prescribe the 'Yellow bus' specification	
Non-recurrent costs	
Fitting of seatbelts to learner transport fleet	Between £1.5m - £4.5m*
Fitting of CCTV to learner transport fleet	Between £2.2m - £4m***
	<i>Approximately £3.7m - £8.5m</i>
Recurrent per annum costs	
Replacement of double deck fleet with single deck provision	Approximately £2.8m
Provision of bus escorts	Between £9.8m to £15.0m***
CCTV maintenance costs	Approximately £0.3m***
	<i>Approximately £12.9m - £18.1m</i>

8.7 In addition to the estimated costs outlined above the following hidden costs are likely to impact on final estimates:

*Some buses may not be suitable for seat belts due to the floor strength of vehicles, particularly older buses. We do not currently have any direct data on the number of buses not suitable for refitting however the LGDU figures record that approximately one third of the fleet was registered in the UK before 1 October 2001 and one third after 1 October 2001. This suggests that there may be significant numbers of buses in operation on school contracts which are not suitable for the fitting of seat belts.

** In calculating the final costs of prohibiting the use of double deck buses it will also be important to assess school premises to ensure that they are suitable for increases in bus numbers.

*** The costs above are calculated as independent cost items. If actions marked *** are adopted in conjunction with the replacement of the double deck fleet, the additional single deck vehicles required would incur costs over and above the estimates noted.

Bus operators would be unable to rely on the use of public service buses for learner transport as they may no longer be compliant with the regulations. This could lead to higher overall costs than those estimated for each individual provision. In addition some local authorities have specifically invested in double deck fleets for school transport which may be prohibited by future regulation.

8.8 As detailed in the Implementation Plan below (sections 8.22 to 8.25), it is intended that regulation will be brought forward in a phased approach with requirements generally coming into force as contracts are renewed. This will help to manage and spread costs over several financial years. The Welsh Assembly Government intends to meet the costs associated with regulation made under this Measure, subject to available resources. Based on implementation taking place as proposed, costs are expected to arise largely from 2012-2013 onwards. Any options which are not affordable within existing budgets would be ruled out.

Sanctions and Enforcement

8.9 In addition the Measure provides for duties on local authorities and a civil and criminal sanctions regime. The Welsh Assembly Government considers that without adequate enforcement such national standards would not be effective. The annual costs of providing an enforcement and appeals tribunal, as detailed in Annex C, section 9, are estimated as:

Annual costs - Enforcement	£160,000
Tribunal	£85,000

8.10 Local authorities may also face increased insurance costs as a result of increased civil and criminal liabilities.

8.11 The above approach will enable the Welsh Assembly Government to deliver a consistent set of safety standards for contracted school transport in Wales and help reassure parents about the safety of the school bus journey. In addition to increased levels of trust and confidence in school transport services there are likely to be a number of indirect benefits ranging from reduced road congestion, a reduction in the number of car journeys to school, reductions in CO2 emissions, and fewer road casualties.

8.12 Improving the quality and travelling experience of school transport can have beneficial educational and social outcomes for children and young people.

8.13 The introduction of some specific safety measure such as CCTV could also lead to a reduction in the amount of time spent by staff investigating incidents.

8.14 A full Regulatory Impact Assessment will be undertaken to support future proposed subordinate legislation made under this Measure and all costs and benefits will be quantified and monetarised at this stage.

8.15 The administration costs of implementing the Measure are estimated to be around £70,000 in 2010-11, and will be met from within the DRC budgets of the Welsh Assembly Government.

Risks

8.16 There are a number of risks associated with making regulations under this Measure:

- (i) The potential risk of increasing the costs and complexity of providing school transport to both local authorities and bus operators.
- (ii) The associated risk of reductions in dedicated school transport services by local authorities since the statutory requirement is to provide free school transport. This could however be achieved by enabling increased numbers of children to travel on commercial public service buses.
- (iii) The associated risk that some bus operators may withdraw from the market, leading to capacity issues particularly in areas with a limited number of operators.
- (iv) If the above risks were to be realised then this could lead to increased traffic congestion as more parents may choose to take their children to school by car.

8.17 The Welsh Assembly Government intends to manage these risks by:

- Meeting the additional costs associated with regulation made under this Measure, subject to available resources.
- Working closely with key stakeholders on the preparation of the proposed regulations to ensure that they do not place unnecessary administrative or hidden financial burdens on bus companies or local authorities.

Summary and preferred option

8.18 While the current EU and UK regulatory framework ensures that bus travel represents one of the safest forms of transport, the Welsh Assembly Government believes that additional safety requirements in relation to seat belts, seats, etc is required to improve the safety image and travel experiences of dedicated school transport and to ensure that safety standards are sufficiently high for the public and parents to have confidence in the safety of school transport.

8.19 The Welsh Assembly Government concludes that despite the success of voluntary approaches in some areas there is an unacceptable unevenness in approach to learner transport safety standards across Wales. As a result the Welsh Assembly Government believes that legislation represents the only realistic option of promoting a consistent national approach to safety standards on school transport in Wales.

8.20 It is recognised that the costs of standardising safety features are high and that it will only be possible to fully monetarise all costs and benefits at the regulation making stage since the regulations will specify: the detailed safety standards that will apply to learner transport vehicles; the timescales over which the legislation will be implemented; and the definitive sanctions and enforcement regime attached to each provision. The Welsh Assembly Government believes that subordinate legislation is a suitable mechanism to provide the detail which follows the intent of the Measure and will allow future amendments if required.

Implementation plan

8.21 The Welsh Assembly Government intends to meet the costs of implementing any regulation subject to available resources. Significant pressures on local authority budgets and the declining profits of bus operators during the recession mean that these costs cannot be met by either party.

8.22 The high costs associated with upgrading the school transport bus fleet means that it would not be prudent or immediately affordable to introduce all the regulations in one tranche although the Welsh Assembly Government's long-term aim is to legislate in the areas outlined in paragraphs 3.17 to 3.39 above.

8.23 The Welsh Assembly Government will begin by bringing forward regulation early in the next Assembly term concerning the requirement to fit seat belts on all dedicated school transport. This regulation would ensure that every child would have a seat, fitted with an appropriate all-age three point seat belt. The fitting of seatbelts to buses would prohibit the use of the '3 for 2' concession and would also make it impermissible to have standing passengers on dedicated school buses.

8.24 In order to introduce the legislation in the most cost effective manner the Welsh Assembly Government will explore a range of options for controlling costs including the use of transitional provisions so that regulations regarding the fitting of seat belts would come into force as existing school transport contracts are renewed.

8.25 In preparation for regulation on the fitting of seat belts the following analysis will be undertaken:

- A fine grained impact assessment which will fully monetise the cost and benefits of the regulation.
- A small firms impact test which will assess the likely effects of regulation on the dedicated school transport bus sub-sector.
- An equality impact test.
- A full public consultation including engagement with bus operators, local authorities, children, parents, and schools.
- Welsh Assembly Government officials will also work closely with the WLGA and CPT on the preparation of the regulations to ensure that they do not place unnecessary administrative or hidden financial burdens on bus operators or local authorities.
- To notify the European Commission, in draft, of proposed technical regulations and to observe a three month standstill period before the regulation is made or brought into force (Directive 98/34/EC (as amended by Directive 98/48/EC)).

8.26 The regulation will be subject to affirmative resolution by the Assembly.

8.27 Further analysis will also facilitate the process of bringing forward other legislation on the safety features of dedicated school vehicles in a timely manner that that can be fully costed and financially supported by the Welsh Assembly Government. Any options which are not affordable within existing budgets would be ruled out.

9. Competition Assessment

A competition filter has been applied, since regulation made as a result of the proposed Measure affects bus operators as a sub sector of public service vehicles.

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	Yes
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	Yes
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	Yes

Initial assessment of the impact of regulation made under the proposed Measure on the bus operators

9.1 As the competition filter identifies regulations made as a result of this Measure have the potential to impact differently on firms in Wales. This is likely to be the case for small firms. Small firms may find it difficult to compete for school contracts given the higher minimum safety standards and this in turn could lead to a reduction in the number of firms competing for school contracts.

9.2 In 2009 there were 11,000 buses, minibuses and coaches licensed in Wales (Vehicle Licensing Statistics 2009, DfT). The rural nature of much of Wales has led to a prevalence of small local independent firms with major bus operators concentrated in Swansea, Cardiff and Newport, the South Wales Valleys, and North Wales. This position leads to a high degree of variability between different local market conditions.

9.3 The Local Government Data Unit (LGDU) recorded that on 1 September 2009, 3,295 buses were being used for contracted learner transport. Officials estimate that in the region of 100-150 bus companies operate learner transport contracts in Wales, the majority of which are small local independent firms. In addition to company ownership some local authorities also own and operate their own school buses.

9.4 Evidence submitted to the Competition Commission reported that bus operators in Wales have traditionally earned lower profit margins than operators in England and the last four years has seen a fall in profitability which has worsened in the two most recent years of the recession².

9.5 Given the potentially significant effect of regulation on small firms it is proposed that future regulations are subject to a small firms impact test. These documents will be published as part of the Regulatory Impact Assessments and will form part of the public consultation process.

² The TAS Partnership *Competition in the UK Bus Industry* April 2010

10. Post implementation review

Given the high impact of this policy it is proposed that the Measure is subject to a full review in 2015.

Explanatory Notes

Introduction

1. These explanatory notes relate to the Proposed Safety on Learner Transport (Wales) Measure (“the Proposed Measure” or “the Measure”) as introduced into the National Assembly for Wales on 20 September 2010.
2. The notes have been prepared by the Welsh Assembly Government’s Department for the Economy and Transport to assist the reader of the Proposed Measure and to help inform debate. They do not form part of the Measure and have not been endorsed by the National Assembly for Wales.
3. The Explanatory Notes should be read in conjunction with the Proposed Measure. They are not, and are not intended to be, a comprehensive description of the Measure. Where a section or part of a section is self-explanatory, no further explanation or comment is provided.
4. The core provisions of the Measure fall within the legislative competence of the Assembly on the basis that they relate to matter 5.10 of Part 1 of Schedule 5 to the Government of Wales Act 2006 (“GOWA”) (see section 94(4) GOWA and Schedule 5 as amended³). Matter 5.10 is about arrangements for persons receiving primary or secondary education or training (and other kinds of education) to travel to and from the places where they receive it. The Measure also contains provision for enforcement of the core provisions which fall within the Assembly’s competence under section 94(5) of GOWA.

Overview of the Measure

Purpose and drafting approach

5. The broad purpose of the Measure is to provide a framework for regulating learner transport in order to ensure its safety. The Measure achieves this by amending the Learner Travel (Wales) Measure 2008 (“the 2008 Measure”).

³ A consolidated text of Schedule 5 as amended can be found at http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance/bus-legislation-guidance-documents/legislation_fields/schedule-5.htm. Alternatively, see the amendments made by article 3(2) of the National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (SI 2007/910), article 2(2) of National Assembly for Wales (Legislative Competence) (Education and Training) Order 2008 (SI 2008/1036), article 6 of the National Assembly for Wales (Legislative Competence) (social welfare and Other Fields) Order 2008 (SI 2008/3132), article 2 of the National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (SI 2009/3006), article 3(3) of the National Assembly for Wales (Legislative Competence) (Environment) Order 2010 (SI 2010/248) and article 3 of the National Assembly for Wales (Legislative Competence) (Transport) Order 2010 (SI 2010/1208).

Application

6. The provisions of the Measure, and the regulations made under it, apply only to transport that is -

- provided or otherwise secured by a Welsh local authority or the governing body of a maintained school in Wales, and
- provided to ensure the attendance of children⁴ at the places⁵ where they receive education or training.

7. The Measure is intended to apply to ‘home to school’ transport, so its provisions do not apply to transport provided for the purpose of travel during the day between the places where children receive education or training.

8. The provisions apply to transport that is provided directly by local authorities or governing bodies of maintained schools and to transport provided by others (e.g. bus operators) whose services are procured by such bodies. They do not apply to transport used by children where the only arrangement made by the authority or governing body is the payment of travelling expenses or allowances.

9. See the new section 14M inserted into the 2008 Measure by section 13 for the definition of “learner transport” which gives rise to the effects just described.

Core provisions

10. The Measure provides for the regulation of the following matters:

- the descriptions of vehicle that may be used for learner transport (section 1, which inserts a new section 14A into the 2008 Measure);
- recording visual images or sound on learner transport (section 2, which inserts a new section 14B);
- safety risk assessments of learner transport provided or otherwise secured by a local authority or governing body of a maintained school (see section 3, which inserts a new section 14C);
- action by local authorities and schools to ensure that drivers of vehicles used for learner transport have completed appropriate training (section 4, which inserts a new section 14D);
- the provision of supervisors on learner transport (section 5, which inserts a new section 14E).

⁴ For the purposes of the Measure, “children” are persons not over compulsory school age (see section 24(3) and (4) of the Learner Travel (Wales) Measure 2008, which has the effect of applying defined terms in the Education Act 1996 to the 2008 Measure (and amendments to it by the Proposed Measure) – “child” is defined in section 579(1) of the 1996 Act).

⁵ This is limited to the “relevant places” defined in section 1(4) of the 2008 Measure: maintained schools, further education institutions, independent schools named in statements of special educational need, non-maintained special schools, pupil referral units and other places where education is arranged under section 19(1) of the Education Act 1996.

Enforcement

11. The enforcement mechanisms envisaged for the core provisions of the Measure are:

- the appointment by regulations of an enforcement authority (section 7, which inserts new section 14G);
- powers of entry and inspection and the power to require information (sections 8, 9 and 10, which insert new sections 14H, 14I and 14J respectively)
- criminal offences (see new sections 14A(1)(c), section 14B(1)(c), 14I(7), 14I(5), and paragraph 10 of the new Schedule A1);
- civil sanctions (the Schedule, which inserts new Schedule A1);
- the Welsh Ministers' powers of direction and oversight by the courts of the public law obligations of the public authorities having functions under the Measure.

12. Criminal offences and civil sanctions may only be created by regulations in respect of breaches of regulations under the new sections 14A (descriptions of vehicle) and 14B (recording visual images and sound). Criminal offences are provided for in order to support the functions of the enforcement authority (for example, the offence of obstructing an inspector in section 14I(7)).

13. Regulations under section 14A and 14B may impose requirements on local authorities, governing bodies of maintained schools and persons who provide transport secured by these bodies. This means that criminal and civil sanctions are possible in respect of breaches of provisions by any of them. Regulations under the other core provisions may only impose requirements on local authorities and governing bodies of maintained schools and no criminal or civil sanctions may be applied.

14. The Welsh Ministers have powers to direct local authorities or governing bodies of maintained schools to take particular action where they are exercising their education functions unreasonably or failing to comply with an education duty (sections 496 and 497 of the Education Act 1996). These powers apply to the functions of these bodies created by the Proposed Measure under all of the core provisions. Directions of the Welsh Ministers may be enforced by mandatory order of the High Court. Furthermore, the public law obligations of the Welsh Ministers, local authorities and the governing bodies of maintained schools arising from the Proposed Measure may be enforced by the courts on an application for judicial review.

National Assembly for Wales procedures for regulations

15. The powers to make regulations under the Measure are conferred on the Welsh Ministers and must be made by statutory instrument. Statutory Instruments must be published in accordance with the Statutory Instruments Act 1946. All regulations under the Measure are subject to an affirmative

resolution procedure. This means that they must be approved by the National Assembly for Wales.

Section 1 Descriptions of vehicle that may be used for learner transport

16. This section empowers the Welsh Ministers to make regulations requiring that only particular descriptions of vehicle are used for learner transport provided or otherwise secured by a local authority or the governing body of a maintained school. The obligations arising from such provision may be placed on those bodies or any person who provides learner transport secured by those bodies (e.g. a bus operator providing services under contract with a local authority).

17. The vehicle may be described by reference to safety features such as seat belts, its age, whether it is a single deck or double deck vehicle, or other descriptions of the vehicle by reference to its construction, equipment or other characteristics.

18. Subsection (1)(c) enables the Welsh Ministers to provide for criminal offences and penalties for breaches of requirements imposed under this section. The power of the Welsh Ministers to create criminal offences under this section is subject to the limits imposed by paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006. They would not be able to use this power to create any criminal offence punishable -

- on summary conviction, with imprisonment exceeding the prescribed term or with a fine exceeding level 5 on the standard scale (currently £5,000), or
- on conviction on indictment, with a period of imprisonment exceeding two years.

19. The prescribed term is 51 weeks in the case of a summary offence and 12 months where the offence is triable either way. But before the coming into force of sections 154(1) and 281(5) of the Criminal Justice Act 2003 no term of imprisonment of more than six months is to be imposed on conviction of a summary offence created under the regulations or on summary conviction of an such an offence triable either way⁶.

Section 2 Recording visual images or sound on learner transport

20. This section empowers the Welsh Ministers to make regulations requiring arrangements to be made for recording visual images or sound on learner transport and setting out provisions about the use, storage and retention of visual images or sound. The regulations may specify the kinds of arrangements that are to be made. This could include the method of recording or ancillary matters such as providing information to parents and children about the fact that such recording is taking place.

⁶ Paragraph 52, Schedule 11 Government of Wales Act 2006.

21. Regulations under this section may confer functions on local authorities, the governing bodies of maintained schools and persons who provide learner transport secured by a relevant body.

22. The purpose of subsection (3) of the new section 14B is to make plain that this section does not authorise and cannot require covert recording.

23. Regulations may provide for criminal offences and penalties and such provision is subject to the limitations mentioned in paragraphs 18 and 19 above.

Section 3 Safety risk assessment of learner transport

24. This section empowers the Welsh Ministers to make regulations requiring a relevant body to carry out safety risk assessments on the learner transport it provides. This may include setting out the nature of the assessment, publication of reports, the manner of publication or the frequency of assessments.

Section 4 Driver training

25. This section empowers the Welsh Ministers to make regulations requiring a local authority or a governing body of a maintained school that provides learner transport to ensure that the drivers of those vehicles have completed appropriate training about safety on learner transport and working with children. The regulations may prescribe the kinds of training that need to be undertaken and specify standards that must be met.

26. Subsection (2) of the new section 14D allows the training and standards to be prescribed by reference to a document published by the Welsh Ministers.

Section 5 Supervisors on learner transport

27. This section empowers the Welsh Ministers to make regulations concerning the provision of supervisors on learner transport by a relevant body and the provision of relevant training for such supervisors.

Section 6 and the Schedule Civil sanctions

28. This section introduces the Schedule which inserts Schedule A1 into the Learner Travel (Wales) Measure 2008. The provisions of the Schedule enable the Welsh Ministers to make provision by regulations for civil sanctions for breaches of regulations under the new sections 14A or 14B (referred to in the new Schedule A1 as “safety regulations”). Breaches of safety regulations for the purposes of the Schedule include failure to comply with a requirement of the regulations and obstruction or failure to assist an enforcement authority (see section 7 for provision about enforcement authorities). All powers to impose civil sanctions must be conferred on the enforcement authority.

29. Regulations may provide for 4 different kinds of civil sanction:

- fixed monetary penalties,
- discretionary requirements,
- stop notices, and
- enforcement undertakings.

Fixed monetary penalties (paragraphs 2 and 3 of the new Schedule A1)

30. A “fixed monetary penalty” is a requirement to pay to an enforcement authority a penalty of an amount specified in the regulations. The maximum penalty that may be imposed is £5,000. Regulations may only confer a power to impose a fixed monetary penalty where the enforcement authority is satisfied on the balance of probabilities that the breach has occurred.

31. Paragraph 3 of Schedule A1 sets out the procedure for imposing fixed monetary penalties including the issue of a notice of intent, an opportunity to discharge the liability, the process of making representations and objections, a final notice, the appeals process for the person on whom the fixed monetary penalty has been imposed and the grounds of appeal.

32. The regulations should also specify the circumstances in which an enforcement authority may not decide to impose a fixed monetary penalty for example for exceptional operational reasons such as inclement weather, vehicle failure, or an emergency where pupils may not otherwise be able to get home.

Discretionary requirements (paragraphs 4, 5 and 6 of the new Schedule A1)

33. Regulations may provide for an enforcement authority to impose one or more discretionary requirements on a person who breaches safety regulations. Again the enforcement authority must be satisfied on the balance of probabilities that the breach has occurred.

34. A discretionary requirement may include a requirement to pay a penalty of an amount determined by an enforcement authority; or a requirement to take such steps specified by the enforcement authority to secure that the breach does not continue or recur.

35. A discretionary requirement cannot be imposed on a person for the same act or omission on more than one occasion.

36. Paragraph 5 of Schedule A1 sets out the procedure for discretionary requirements including a notice of intent, the process of making representations and objections, the payment of penalties in the case of a variable monetary penalty and the appeals process, grounds of appeal and the consequences of non-compliance.

37. Provision may also be made in regulations to allow an enforcement authority to impose a monetary penalty (‘a non-compliance penalty’) on a

person who fails to comply with a discretionary requirement to take step to secure that a breach does not continue or recur (paragraph 6 of Schedule A1).

Stop notices

38. The regulations may confer on an enforcement authority the power to serve a stop notice. A stop notice prohibits a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice. Before issuing a stop notice an inspector must be satisfied that the activity presents a significant risk of causing serious harm to human health and involves a breach of the regulations concerning the description of vehicles used for learner transport.

39. Regulations must make provision about compensation for loss suffered as the result of the service of a notice. But they may provide for compensation only in cases specified in the regulations or only in relation to descriptions of loss specified in the regulations. The regulations must also provide for appeals against decisions not to award compensation or in relation to the amount.

40. Where a person on whom a notice is served does not comply with a stop notice the person is guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale (currently £5,000), or imprisonment for a term not exceeding six months, or both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

41. When section 154(1) of the Criminal Justice Act 2003 is commenced the maximum term of imprisonment on summary conviction will be extended to twelve months (see paragraph 10 of the new Schedule A1).

Enforcement undertakings (paragraph 11 of the new Schedule A1)

42. The regulations may confer on an enforcement authority the power to accept an enforcement undertaking from a person where the enforcement authority has reasonable grounds to suspect that the person has breached the safety regulations. An enforcement undertaking is an undertaking to take such action as may be specified in the undertaking within a specified time period. The effect of the undertaking is that as long as there is compliance with the undertaking other kinds of enforcement action cannot be taken in respect of the act or omission to which the undertaking relates. The actions that cannot be taken during the operation of an enforcement undertaking are: proceedings for a criminal offence, a fixed monetary penalty or a discretionary requirement. Paragraph 11 of Schedule A1 also sets out the power by regulations to make provision for the procedure for enforcement undertakings, their terms, publication and variation and provision about compliance, monitoring and appeals.

Combination of sanctions (paragraph 12 of the new Schedule A1)

43. Paragraph 12 makes provision to ensure that a combination of a fixed monetary penalty, a discretionary requirement and a stop notice cannot be used in relation to the same breach of safety regulations.

Ancillary matters

44. In the case of monetary penalties the regulations may include provision for early payment discounts, the payment of interest or other financial penalties for late payment, and the recovery of penalties, interest and penalties for late payment as civil debts (paragraph 13 of the new Schedule A1).

45. Provision in the regulations may also provide for the payment of costs incurred by an enforcement authority; in particular, investigation costs, administration costs and the cost of obtaining expert advice (paragraph 14 of the new Schedule A1).

46. Provision for appeals in the regulations under Schedule A1 must provide for appeals to be made to the First-tier Tribunal or to another tribunal created under an enactment (paragraph 15 of new Schedule A1).

47. The regulations may make provision to enable the enforcement authority to require the person on whom the sanction has been imposed to publicise the fact (paragraph 16 of the new Schedule A1).

48. The regulations may provide for officers of a body corporate or a partnership to be personally liable to civil sanctions as well as the body corporate or partnership itself (paragraph 17 of the new Schedule A1).

49. Where a power is conferred on an enforcement authority, that enforcement authority must publish guidance about the enforcement authority's use of civil sanctions including the circumstances in which the penalty is likely to be imposed, the circumstances in which it may not be imposed, the amount of the penalty, how liability for the penalty may be discharged and the effect of discharge, and rights to make representations and objections and rights of appeal (paragraph 18 of the new Schedule A1).

50. Regulations conferring powers on an enforcement authority to impose civil sanctions must secure that an enforcement authority from time to time publishes reports specifying the cases where civil sanctions have been imposed (paragraph 18 of the new Schedule A1).

51. An enforcement authority must act in accordance with the principle that all regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent and that regulatory activities should only be targeted at cases where action is needed (paragraph 20 of the new Schedule A1).

52. The Welsh Ministers must review the operation of any provisions they make which confer power on an enforcement authority to impose civil sanctions. The review must happen as soon as practicable after the end of three years from the date that the provision comes into force (paragraph 21 of the new Schedule A1).

53. The Welsh Ministers may be appointed as the enforcement authority in regulations, in which case any receipts from civil sanctions will be paid into the Welsh Consolidated Fund by effect of section 120 of the Government of Wales Act 2006. Paragraph 22 of the new Schedule A1 makes provision about the payment of receipts from civil sanctions into the Welsh Consolidated Fund where the enforcement authority is a person or body other than the Welsh Ministers.

Section 7 Enforcement authority

54. This section empowers the Welsh Ministers to appoint a person or body as an enforcement authority. Regulations may confer powers or duties on an enforcement authority for the purpose of enforcing provision made by regulations under section 14A, 14B and Schedule A1. This would include (among other things) the power to authorise persons (referred to as “inspectors”) to exercise the powers of entry and inspection set out in sections 8 and 9 (inserting section 14H and 14I respectively).

Section 8 Powers of entry

55. This section sets out a power of entry which is exercisable by a person authorised to exercise it by an enforcement authority under regulations made under section 14G(3)(a). A person authorised in this way is referred to in the Measure as an “inspector”. An inspector may, at a reasonable time, enter a vehicle or premises –

- owned or controlled by a local authority or the governing body of a maintained school; or
- used or proposed to be used by any person in connection with the provision of learner transport.

An inspector may also detain a vehicle. The power of entry does not include the power to enter premises used wholly or mainly as a private dwelling.

Section 9 Powers of inspection

56. This section provides that an inspector who detains a vehicle or enters a vehicle or premises may inspect the vehicle or premises; inspect, take copies of and remove from the vehicle or premises any documents or records relating to the provision of learner transport; and inspect any other item and remove it from the vehicle or premises.

57. A person who obstructs an inspector without reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500).

10 Power to require provision of information

58. This section empowers the Welsh Ministers to make regulations to empower an enforcement authority to require a local authority or governing body of a school or a person who provides learner transport to provide information, documents, records and other items which relate to learner transport and are considered by the enforcement authority to be necessary or expedient for the purpose of its functions.

59. A person who without reasonable excuse fails to provide information, documents, records and other items is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500).

Section 11 Offences: liability of officers and partners

60. This section empowers the Welsh Ministers to make regulations whereby officers of a body corporate or a partnership may be personally liable for offences committed under sections 14A or 14B by the body corporate or partnership, as well as the body corporate or partnership itself.

Section 12 Regulations: Consultation

61. Section 12 provides that before making any regulations under the new sections 14A to 14 E, section 14G or 14K or Schedule A1 of the Learner Travel (Wales) Measure 2008 (as amended by the proposed Measure), the Welsh Ministers must consult each local authority and such other persons as they consider appropriate.

Section 14 General provisions about orders and regulations

62. This section amends section 27 of the Learner Travel (Wales) Measure 2008 which makes provision for orders and regulations to be made by statutory instrument, ancillary powers to make provision by order or regulations and Assembly scrutiny procedures.

63. Section 14(2) of the Proposed Measure amends section 27(2) of the 2008 Measure to expand the scope of the powers to make orders and regulations under the 2008 Measure to include:

- making different provision for different classes of case or different purposes,
- making provision subject to specified exemption or exceptions, and
- making provision in relation to specific classes of case.

64. The purpose of section 14(3) is to provide that all of the new powers to make regulations under the Proposed Measure include the power to make consequential amendments. And the purpose of subsection (4) is to provide that the power to make incidental, supplementary, transitional, saving or consequential provision under the new powers includes power to amend or repeal provisions of Assembly Measures, UK Acts and subordinate legislation

passed or made before the passing of the Proposed Measure. Subsection (5) is the provision which applies an affirmative resolution procedure to all regulations made under the Proposed Measure.

Section 15 Commencement

65. All provisions of the Measure come into force at the end of a period of 2 months beginning on the day on which the Proposed Measure is approved by Her Majesty in Council. But no operative change is made to the provision of learner transport until regulations are made under the Measure and come into force.

Annex B

Summary of the School Transport Survey May 2010

1. The numbers of school children in Wales in January 2009

Primary school children	258,314
Secondary school children	205,421
Pupils in special schools	4,115
Total pupils (excluding those in nursery, pupil referral units and independent schools)	467,850

2. The numbers of students travelling on following modes of transport on 1 September 2009

Contracted by local authority:	
Meeting the 'Yellow bus' specification	7,257
Minibus	10,954
Single deck, other	63,513
Double deck	8,872
Funded by local authority:	
Service bus	12,589
Taxi or private hire vehicle	6,848
Train	324
Total contracted or funded by local authority	110,357

3. The number of contracted buses used for student transport on 1 September 2009

Single deck:	
'Yellow bus'	120
Minibus	1,223
Other	1,820
Total single deck	3,163
Double deck	132
Total	3,295

4. The number of contracted buses with seatbelts fitted on 1 September 2009

	Seatbelts fitted	Seatbelts not fitted	Not known	Total
Single deck				
'Yellow bus'	120	0	0	0
Minibus	1,211	6	6	1,223
Other	1,517	53	250	1,820
Total				
Double deck	46	82	4	132
Total	2,894	141	260	3,295

5. The number of buses registered in the UK before 1 Oct 01 for each type of school on 1 September 2009

	Registered before 1.10.2001	Registered on or after 1.10.2001	Registration date not known	Total
Single deck:				
'Yellow bus'				
Primary	3	6	17	26
Secondary	19	74	0	93
SEN	0	1	0	1
Total	22	81	17	120
Minibus				
Primary	55	94	72	221
Secondary	53	65	80	198
SEN	86	201	143	430
Not known	134	150	90	374
Total	328	510	385	1,223
Other single deck				
Primary	104	49	124	277
Secondary	465	198	277	940
SEN	0	0	65	65
Not known	193	113	232	538
Total	762	360	698	1,820
Double deck				
Primary	0	0	0	0
Secondary	90	8	34	132
SEN	0	0	0	0
Total	90	8	34	132

Total	1,202	959	1,134	3,295

6. The number of contracted buses with CCTV installed on 1 September 2009

	Installed	Not installed	Not known	Total
Single deck:				
Yellow bus'	113	7	0	120
Minibus	51	669	503	1,223
Other	436	707	677	1,820
Double deck	63	34	35	132
Total	663	1,417	1,215	3,295

7. The number of contracted buses that have escorts deployed for each type of school September 2009

Single deck:	Escort deployed	Escorts not deployed	Not known	Total
'Yellow bus'				
Primary	10	29	0	39
Secondary	0	75	5	80
SEN	1	0	0	1
Total	11	104	5	120
Minibus:				
Primary	86	105	0	191
Secondary	2	199	0	201
SEN	448	45	0	493
Not known	0	0	338	338
Total	536	349	338	1,223
Other single deck				
Primary	194	84	1	279
Secondary	12	928	0	940
SEN	66	16	0	82
Not known	0	0	519	519
Total	272	1,028	520	1,820
Double deck				
Primary	0	0	0	0
Secondary	8	124	0	132
SEN	0	0	0	0
Total	8	124	0	132
Total	827	1,605	863	3,295

**8. The numbers of local authorities which require contracted bus drivers or escorts to undertake specific training to work with students
September 2009**

	Require training	Do not require training
Driver	9	13
Escort	15	7

Estimated gross costs of the main proposals

Set out below are the estimated gross costs for upgrading Welsh learner transport vehicles.

(1) Fitting of appropriate seat belts

Based on previous costs to local authorities the average cost of fitting seat belts to a 70 seat vehicle is estimated to be £11,000. This cost includes the reseating of the bus, the fitting of all-age three point seat belts, and where necessary strengthening the floor and the subsequent Certificate of Initial Fitness (COIF) by the DfT/ VOSA.

The LGDU survey at Annex B, recorded that 2,894 of the buses used for learner transport have seat belts fitted. 141 do not have seatbelts fitted whilst for a further 260 buses the position is not known. The gross installation cost of refitting 141 buses would be in the region of £1.5m (based on a cost of £11,000 per vehicle). However, if a high percentage of the 'not known' buses also required the fitting of seat belts then the gross cost could rise to £4.5m.

Potential hidden costs are discussed in paragraph 8.8.

(2) The cost of replacing a double deck vehicle with a single deck vehicle

The LGDU report recorded that out of a fleet of 3,295 vehicles, there are 132 double deck buses which carry 8,872 students. The average cost of running a school bus is estimated as £30,000 per annum.

On average double deck vehicles carry 67 students while single deck vehicles (excluding minibuses) carry on average 36 students. However, the capacity of single deck vehicles is often greater than 36, and some single deck vehicles are designed to carry up to 70 passengers.

Based on an estimate that a total of 225 single deck vehicles may be required to replace 132 double deck vehicles, the gross annual running costs of the additional vehicles is approximately £2.8m.

Detailed assessment of incremental costs that may arise from the replacement of double deck vehicles with single deck vehicles will form part of any future specific regulation proposals assessment.

Potential hidden costs are discussed in paragraph 8.8.

(3) The gross cost of ensuring that all vehicles are manufactured after 1 October 2001

The LGDU survey recorded that 1,202 buses used for contracted learner transport were registered before 1 October 2001, 959 were registered after 1 October 2001, whilst for 1,134 the position was not known. These data suggests that up to 2/3 of the dedicated learner transport bus stock may have been manufactured before 2001.

The average cost of a replacement school bus is estimated as £130,000. Assuming an operational life of 15 years, consistent with current recommendations, the gross additional operating cost charge per annum of replacement buses is estimated at £10.4m for 1,202 buses, or £20.2m for 2,336.

This estimate is a gross cost and does not take into account potential cost savings to be made on operating costs such as fuel costs.

(4) The cost of fitting CCTV to dedicated learner transport

According to the LGDU report out of a fleet of 3,295 buses, 663 have CCTV fitted, 1,417 do not have CCTV installed and for 1,215 the position is not known.

Based on an average purchase and Installation costs of £1,550, then it would cost approximately £2.2m to fit CCTV to 1,417 vehicles. If we assume that the remaining 1,215 buses where the position is not known will also require the fitting of CCTV then this cost rises to approximately £4m.

Based on the current information officials estimate the gross costs of fitting CCTV would be between £2.2m and £4m. In addition approximately £300,000 per annum would be required to maintain the cameras.

(5) Meet the conditions on the deployment of escorts on buses set out by the Welsh Ministers

The cost of employing a bus escort is estimated as £6,084 per annum. The LGDU records that 827 buses have escorts, 1,605 do not whilst for a further 863 the position is not known.

It is estimated that it would cost in the region of £9.8m to £15m to put an escort on every bus. The costs would fall if this were to be limited to putting escorts on all primary school vehicles (and excluding minibuses) 114 vehicles would cost £694,000.

These figures assume:

- one bus escort per bus per route (i.e. does not factor in double tripping or other cost saving mechanisms)
- It excludes the cost of managing the passenger assistants.

(6) Meet the specification for the standards of risk assessment on all home to school transport contracts set out by the Welsh Ministers

The annual cost for administering safety risk assessment is estimated to be £30,000. These costs do not include:

- Increased costs to the operators and schools of administrating the system of safety risk assessment.
- Cost of actions taken to mitigate identified risks in accordance with the guidelines.

(7) The cost of ensuring that all vehicles meet the “yellow buses” specification and the standards of such buses

It is important to note that the definition of ‘Yellow bus’ varies in usage. Paragraph 3.24 outlines the common features of the ‘Yellow bus’ specification which we have used to approximate the costs involved.

Non-recurrent costs	
Fitting of seatbelts to learner transport fleet	Between £1.5m - £4.5m*
Fitting of CCTV to learner transport fleet	Between £2.2m - £4m***
Recurrent per annum costs	
Replacement of double deck fleet with single deck provision	Approximately £2.8m
Provision of bus escorts	Between £9.8m to £15.0m***
CCTV maintenance costs	Approximately £0.3m***

*Some buses may not be suitable for seat belts due to the floor strength of vehicles, particularly older buses. We do not currently have any direct data on the number of buses not suitable for refitting however the LGDU figures record that approximately one third of the fleet was registered in the UK before 1 October 2001 and one third after 1 October 2001. This suggests that there may be significant numbers of buses in operation on school contracts which are not suitable for the fitting of seat belts.

** In calculating the final costs of prohibiting the use of double deck buses it will also be important to assess school premises to ensure that they are suitable for increases in bus numbers.

*** The costs above are calculated as independent cost items. If actions marked *** are adopted in conjunction with the replacement of the double deck fleet, the additional single deck vehicles required would incur costs over and above the estimates noted.

Based on these common features the estimated gross costs of specifying the "Yellow bus" features to all learner transport buses would be between £3.7m - £8.5m one off costs, and £12.9m - £18.1m annual recurrent costs.

It is assumed that no additional costs will arise due to the adoption of 'Yellow bus' operational processes such as pupil training, as these are covered by current best practice advice and guidance.

(8) Meet the standards of driver training set out by the Welsh Ministers

It is a legislative requirement for all professional drivers to attend Certificate of Professional Competence training. Some local authorities or transport consortia provide all or part of this training.

The cost of training is covered by a bus operator and is estimated to cost on average £150 per person. As this is a legal requirement there should not be any implication on the costs of contracts to local authorities.

Additional costs depend upon the extent to which Regulations may specify additional training requirements.

(9) Enforcement and administrative costs

The main costs associated with enforcement are in relation to the administration of an enforcement authority and an appeal tribunal.

Assuming the Welsh Assembly Government makes in house provision for enforcement then on the basis of five full time members of staff comprising:

- 1 Head of enforcement authority (Band D) - Cathays Park, Cardiff
- 4 Enforcement Officers (Band C) - one per Transport Consortia Area; (Taith - Llandudno Junction; TraCC - Aberystwyth - Rhodfa Padarn; SWWITCH - Penllergaer Business Park and Sewta - Cathays Park, Cardiff

The staff salary costs are estimated at £153,786 per annum.

All staff would be based in Welsh Assembly Government offices. In addition there will be cost associated with the provision of ICT and telephony, stationery, uniforms and health & safety equipment.

These costs will be calculated once the final structure of the enforcement authority has been agreed. All costs would be met from within the DRC costs of the Department for the Economy & Transport's MEG.

(10) Tribunal Costs

It is estimated that on average 100 -150 bus operators and local authorities operate school transport contracts in Wales. Evidence for the introduction of

the statutory Travel School Behaviour Code suggests that most operators are likely to comply with new regulation and that a very small number of operators are likely to breach the regulations.

The development of an appeal Tribunal will be undertaken in liaison with the Department of the First Minister and Cabinet who are currently considering the recommendations of the Welsh Committee of the Administrative Justice and Tribunals Council's *'Review of Tribunals Operating in Wales'*.

The Review highlighted considerable variation in costs of running the tribunals as a result of different administrative arrangements. The estimated support costs for the Adjudication Panel for Wales which considered 8 appeal cases in 2007/08 was £79,713, with hearing accommodation costs of £4,705.

It is envisaged that a similar caseload, administrative arrangements and therefore costs would be applicable in relation to appeals made under this Measure.