

Learner Travel (Wales) Measure 2008

15 April 2008

Ieuan Wyn Jones AM, Deputy First Minister and Minister for Economy and Transport

I am very pleased to announce that today, in accordance with Standing Order 23, I have laid before the Assembly a draft of the Learner Travel (Wales) Measure 2008, accompanied by an Explanatory Memorandum and Explanatory Notes.

I believe that the Measure represents an important opportunity for the National Assembly to bring about improvements for learners. In Wales we know from tragic results that poor behaviour whilst travelling to and from school is a real threat to safety. Thus a strong theme of the Measure is providing the framework to improve safety by tackling unacceptable behaviour. The Measure also features sustainability as well as bringing together the legislation on school transport arrangements and increasing the entitlement of primary school pupils to free transport.

In June 2007 the Assembly Government published draft proposals for this Measure for consultation and a summary of consultation responses was published in December 2007 [Welsh Assembly Government | Proposals for a Learner Travel \(Wales\) Assembly Measure](#). In July 2007 the Enterprise and Learning Committee also began a scrutiny of the Measure proposals and the Committee published its report on 21 November 2007 <http://www.assemblywales.org/cr-ld6874.pdf>.

After carefully considering the views of consultees and the recommendations in the Enterprise and Learning Committee report, I have made several changes and additions to the Measure. I am grateful to all those who commented and I hope that there will be a general welcome for these improvements flowing from the consultation.

The main developments are:

- to ensure a consistent approach across Wales, Welsh Ministers will be required to make a behaviour code to apply to all travel connected with learning by those under 19, whether or not arrangements are made by the local authority. This includes travel during the day. The code will become part of a school's general behaviour policy and compliance with it will be compulsory for school pupils;
- local authorities will be primarily responsible for investigating all incidents during travel to and from school and, where incidents involve pupils benefiting from arrangements made by the local authority, for enforcement of the behaviour code. The local authority will, if appropriate, be able to withdraw for specified periods entitlement to transport it has arranged. Guidance will clarify this further and also deal with incidents involving pupils who are walking, cycling, being taken in private transport or otherwise not benefiting from travel arrangements made by the local authority. In those cases, enforcement action will rest with the head teacher as compliance with the code will become part of the school's general behaviour policy;
- a requirement on local authorities and Welsh Ministers, when undertaking their functions under the Measure, to promote access to Welsh medium education;
- local authorities must have regard to the needs of 'looked after' children and 'former looked after' children when they assess learner travel needs in their area;

- local authorities must provide transport for looked after children if they live beyond two miles (in the case of primary schools) or three miles (in the case of secondary schools) from their school even if there is a nearer school they could attend; and
- clarification of responsibility for travel costs for a ‘looked after’ child where travel arrangements are made in another authority’s area;

On behaviour, whilst recognising that several local authorities already have codes of conduct in place to cover behaviour whilst travelling, I noted the concerns that they can and do vary from one area to another. There was also concern that the codes only apply in relation to travel arrangements made by local authorities and for journeys to and from places of learning at the start and end of the day. I see a need for consistency across Wales and for the behaviour code to apply to all journeys connected with learning and regardless of whether the learner’s travel is supported by the local authority. I have, therefore, decided that Welsh Ministers should make and periodically review, what is in effect an all Wales code, setting out the standards of behaviour required of learners while travelling in connection with their learning (section 12 of the Measure). Without prejudice to the scrutiny of the proposed Measure by the Assembly, I have asked my officials to begin working closely with key stakeholders on developing such a code.

I want local authorities to take the lead in investigating incidents, but they will need to work closely with schools and transport providers. Detailed guidance on this will be issued under section 15 of the Measure.

Turning to enforcement, section 14 of the Measure empowers local authorities, subject to conditions, to withdraw travel arrangements for specified periods if they are satisfied that a learner has failed to comply with the travel behaviour code. Section 13 of the Measure amends section 89 of the Education and Inspections Act 2006 to place a duty on head teachers to determine disciplinary measures which will also require pupils at relevant schools in Wales to comply with the travel behaviour code made by Welsh Ministers. This means that even school pupils who do not have travel arrangements made for them by the local authority can be subject to disciplinary action for failing to comply with the travel behaviour code.

I have been eager to encourage the continued provision of transport to Welsh medium schools whilst recognising that, given the varied patterns of provision of Welsh medium education and the differing conditions that apply throughout Wales, there cannot be a one size fits all answer. I am also mindful that all local authorities, in accordance with the Welsh Language Act 1993, prepare, as part of their Welsh Language Schemes, Welsh Education Schemes which set out how they will promote the learning of Welsh generally, whether through Welsh medium schools or second language teaching in other settings. I have decided to complement the above with a new duty (section 10 of the Measure) on local authorities and on Welsh Ministers, when exercising their functions under the Measure, to promote access to education and training through the medium of Welsh.

Consultees had suggested that the Measure could be clearer on, and explicitly refer to, ‘looked after’ and ‘former looked after’ children. Local authorities already have responsibilities for these children and young adults under legislation such as the Children Act including ensuring continuity, stability and promoting education and educational achievement. However, I decided that this Measure should also ensure this vulnerable group are considered in terms of their learner travel needs. Section 2 of the Measure requires local authorities to include them when assessing travel needs in their area, section 3 specifically sets out the criteria and conditions for the local authority’s duties to make travel arrangements for them and section 4 places a duty on local authorities to make other travel arrangements for these children if that

is necessary. Section 18 clarifies the arrangements between authorities for the payment of travel costs.

Other key provisions and objectives in the proposed Measure remain unchanged. It will:

- provide a separate, simplified legislative framework for Wales which can be developed to support education and transport policies as they evolve;
- require local authorities to assess the travel needs of all learners under 19;
- make more primary school pupils eligible for free travel - if they live two miles or further from the nearest suitable school;
- maintain the current distance threshold of 3 miles for secondary school pupils to qualify for free transport;
- provide the means to implement in future any changes in travel entitlement for children in nursery education and for post-16 students;
- require local authorities and Welsh Ministers to promote sustainable modes of travel;
- require head teachers, local authorities, governing bodies of schools and of further education institutions to cooperate with each other;
- empower local authorities to change school session times to make transport arrangements more effective, efficient and environmentally sustainable. Guidance will ensure that local authorities, in considering this, should also have regard to educational needs and school operational needs; and
- enable Welsh Ministers to issue directions and statutory guidance.

The Enterprise and Learning Committee and others raised issues about travel in relation to the '14-19' Pathways. The Measure does, of course, provide for assessing and meeting the travel needs of 'Pathways' students at the start and end of the day but, I have agreed with my colleague, the Minister for Children, Education, Lifelong Learning and Skills that it would be appropriate to look at transport issues alongside comments on the Learning and Skills Measure on which the Assembly Government is currently consulting.

Several of the issues raised by consultees and the Committee concerned bus regulation and safety issues. Members will be aware that the Measure cannot deal with these as they are not within the legislative competence of the Assembly. However, I will be seeking more powers in this area. In the meantime, I am today issuing new guidance to local authorities on such matters. For example as well as encouraging checks on drivers and consideration of the benefits of CCTV and use of escorts, I am discouraging the use of the three for two seating concession and of double deck buses for travel to and from school.