

Guidance for the provision of seat belts on dedicated Learner transport



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk



December 2012

Guidance for the provision of seat belts on dedicated Learner transport

Summary

This document provides advisory guidance on the changes to seat belt provision for contracted learner transport (made by the Safety on Learner Transport (Wales) Measure 2011¹) that will be effective from October 2014.

The Welsh Government will be updating The Learner Travel Operational Guidance 2009, which was issued as statutory guidance under section 15 of the Learner Travel (Wales) Measure 2008² to reflect changes in both education and transport legislation which have been made since the guidance was issued in 2009 as well as to capture lessons learned and best practice which has emerged since then.

What has changed?

1. The Safety on Learner Transport (Wales) Measure 2011 (“the Measure”) requires local authorities and governing bodies of maintained schools (a “relevant body”)³ to ensure that every bus used for dedicated learner transport has a seat belt fitted to every passenger seat by 1 October 2014.

“Bus” includes minibuses⁴, coaches⁵ and buses (except buses designed for urban⁶ use with standing passengers)⁷.

2. The purpose of the provisions within the Measure is to improve the quality of contracted learner transport and to ensure that standards are sufficiently high to gain the confidence of the public and parents. Learners are less likely to be seriously injured in a collision when wearing a seat belt.
3. The Welsh Government recognises that there is a need for young people/learners to wear the seatbelts provided on dedicated learner transport. Getting children and young people to wear seat belts is possibly a greater challenge to overcome than simply ensuring seat belts are fitted. Further information on ways in which to encourage young people/learners to wear seat belts when they are provided is available in paragraphs 32-36 below.

¹ Link to Measure: http://www.assemblywales.org/bus-home/bus-third-assembly/bus-legislation-third-assembly/bus-leg-measures/bus_legislation_measure_learnertransport.htm

² 2008 nawm 2.

³ See section 14N Learner Travel Measure 2008, as amended.

⁴ Definition of a Minibus - see regulation 3 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078). The definition as outlined above is also included in the Glossary provided in Annex 1 of the guidance.

⁵ Definition of a coach – see regulation 3 of the Road Vehicles (Construction and Use) Regulations 1986. The definition as outlined above is also included in the Glossary provided in Annex 1 of the guidance.

⁶ For the definition of an urban bus see regulation 47(7)(e) of the Road Vehicles (Construction and Use) Regulations 1986. The definition as outlined above is also included in the Glossary provided in Annex 1 of this guidance.

⁷ Definition of a bus: see regulation 3 of the Road Vehicles (Construction and Use) Regulations 1986. The definition as outlined above is also included in the Glossary provided in Annex 1 of the guidance.

Which vehicles are covered by the legislation?

4. The Measure requires that every bus provided or secured by a relevant body and used for learner transport has a seat belt fitted to every passenger seat. Service buses, which are used in any capacity for dedicated learner transport (even if the majority of their journeys are non dedicated learner transport service routes), will also need to be fitted with seat belts.
5. Although at the moment this provision does not extend to travel during the school day, the Welsh Government would expect the same safety standards to be used in these circumstances.
6. The provision does not cover public service buses⁸ used by learners with local authority-purchased bus passes, even if the route is mostly used by learners travelling to and from school or college.

Why public service buses are not required to have seat belts fitted in the same fashion as dedicated learner transport buses.

7. Part 1 of Schedule 7 to the Government of Wales Act 2006 sets out the subject areas in which the National Assembly for Wales may legislate, as well as the exceptions to those general subject areas.
8. The legislative competence conferred in relation to transport allows the Assembly to legislate in relation to dedicated school transport which can include buses, coaches, taxis and private hire vehicles such as minibuses.
9. The Assembly may not legislate in relation to public service vehicles. This is the responsibility of the UK government.

Are public service buses safe to use if they do not have seat belts fitted?

10. Public services buses (also known as buses designed for urban use “urban buses”) are legally required to meet the national vehicle safety standards applicable to that vehicle if they are to be used on any public highway in the UK.
11. Since 1 October 2001, seat belts have been required to be installed in all new buses other than those specifically designed for urban use with standing passengers⁹. An exemption is permitted for these vehicles because they are typically used for short journeys, in both time and distance, undertaken at moderate speeds on urban routes.
12. Some operators choose to use buses that are equipped with seat belts for urban fare-paying services, However this is not a legal requirement.

⁸ Public service buses are buses which allow members of the general public to use that service as well as learners who use the service bus to travel to and from school/college.

⁹ See regulation 46 of the Road Vehicles (Construction and Use) Regulations 1986.

How do I know whether a bus will have seat belts fitted?

13. By law, minibuses, coaches and buses (except buses designed for urban use with standing passengers) first used on or after 1 October 2001 must have seat belts fitted by the manufacturer on all forward and rearward facing seats¹⁰.
14. Minibuses first used before 1 October 2001 must have a seat belt fitted to any forward facing front seat¹¹. Coaches first used before 1 October 2001 must have seatbelts fitted to all exposed forward facing seats¹².

What do relevant bodies need to check to ensure seat belts have been properly installed on learner transport?

15. Although not a requirement of the Measure, the Welsh Government recommends that relevant bodies, such as Local Authorities or Governing Bodies of maintained schools, obtain evidence from the bus operator that a bus has been fitted correctly with seatbelts. This can be in the form of a VOSA¹³ certificate (which will confirm initial installation/retrofitting of seat belts on the bus to the correct standard) and, where applicable, a valid MOT certificate to ensure that the seat belts fitted continue to meet safety standard requirements thereafter.
16. Some local authorities routinely inspect contracted buses used for home to school/college transport to ensure the quality of the vehicles being used. These checks are undertaken by appropriately qualified personnel who carry out inspections to VOSA MOT standards. In some cases, local authorities already carry out inspections to a standard which is over and above the minimum technical requirements set by VOSA.
17. The Welsh Government will work with the local authorities to share this best practice to raise the standards of inspections.

Double Deck buses

18. The Welsh Government accepts that if double deck vehicles are correctly fitted with seatbelts, they achieve the same standards in terms of safety as single deck vehicles.

¹⁰ See regulation 47 of the Road Vehicles (Construction and Use) Regulations 1986.

¹¹ Applies to minibuses first used between 1st October 1988 and 1st October 2001. For minibuses first used prior to 1st October 1988, see regulations 46 and 47 of the Road Vehicles (Construction and Use) Regulations 1986.

¹² Applies to coaches first used between 1st October 1988 and 1st October 2001. For coaches first used prior to 1st October 1988, see regulations 46 and 47 of the Road Vehicles (Construction and Use) Regulations 1986.

¹³ A VOSA certificate ensures seat belts are fitted to the correct standard at the time of installation but does not ensure that seatbelts meet the correct standard of compliance thereafter. A MOT certificate will certify that the seat belts (where fitted) meet the standards required to pass MOT on an annual basis, once they have been installed in the vehicle. Some vehicles will not have an MOT certificate (if the bus is brand new and is within its first year of registration).

19. If a relevant body is to use double deck buses for contracted learner transport on or after 1st October 2014, those vehicles will need to have seat belts fitted to every passenger seat in the same way as single deck vehicles.

The wearing of seat belts

20. Current legislation requires that passengers aged 14 and over are legally responsible for the wearing of a seat belt where one is provided¹⁴. For children under the age of 14 it is the responsibility of the driver of the vehicle to ensure that the child is wearing a seatbelt (drivers of vehicles defined in the table below are exempt from the legal responsibility of ensuring children under the age of 14 are wearing seatbelts)¹⁵. Section 15B of the Road Traffic Act 1988 states that where a bus is equipped with passenger seat belts, an operator must take all reasonable steps to ensure that every passenger is notified that it is a legal requirement to wear a seat belt. Passengers may be notified that they must wear seat belts through any of the following means:
- An official announcement by the bus driver, escort(s) or pupil leader;
 - An audio visual presentation (made when pupils join the bus or within a reasonable time of doing so); or
 - A pictorial sign or text prominently displayed at each passenger seat equipped with a seat belt.

Vehicle type (whereby the driver is exempt from having responsibility for ensuring passengers under the age of 14 years wear seat belts).	Large buses – with 8 seats in addition to the driver
	Licensed taxis
	Small buses (less than 8 seats in addition to the driver) where seat belts are not available.
	Small buses (less than 8 seats in addition to the driver) if the vehicle is being used for a local service within the meaning of the Transport Act 1985 or the vehicle is designed or adapted for standing passengers

21. Operators face a fine of up to £2,500 where they fail to provide the necessary notification.
22. All bus and coach passengers aged 14 and above are now legally required to wear a seatbelt. The Department for Transport (DfT) is currently consulting on how to transpose a requirement of EU Directive 2003/20/EC which provides a legal requirement that children aged 3 to 13 must use the safety systems (including seat belts) provided while they are seated in a bus or a coach. The Directive does not specify the type of child restraint system that would be appropriate.

¹⁴ See section 14 of the Road Traffic Act 1988.

¹⁵ See section 15 of the Road Traffic Act 1988.

23. Once EU Directive 2003/20/EC is fully transposed, it will be a legal requirement for children aged 3 and over to wear seat belts on buses and coaches where seat belts are provided.
24. The All Wales Travel Behaviour Code¹⁵ states that learners must always wear a seat belt if one is provided. Welsh Ministers, local authorities and schools have a duty to promote awareness and understanding of the Code. Should any child contravene the Code by refusing to wear a seat belt, the local authority or education establishment may take action against that individual, e.g. withdraw transport or disciplinary action. The Welsh Government recommends that children are shown how to wear a seat belt properly (see paragraph 25 below).
25. Seat belts must be adjusted in such a way as to ensure the safety of passengers as far as possible. To ensure maximum safety passengers must ensure that:
 - seat belts sit as close to the body as possible, without any slack or twisting in the straps;
 - the lap belt goes as low as possible from hip bone to hip bone - not across the stomach;
 - a seat belt is never put around two people.

What type of seatbelt should be used?

26. The Welsh Government cannot legally specify the type of seat belt that should be used. Lap belts are used on most buses and meet all the relevant legal requirements. However, a 3-point all age seat belt is generally recommended¹⁶. Reasons to support this recommendation are provided below:
27. The 3-point all age seat belt restrains the upper and lower parts of the torso, is anchored at not less than 3 points, and includes a lap belt. In addition, the position of the shoulder strap can be adjusted to suit the size of the passenger.
28. This particular type of seat belt is rated highly for its effectiveness and ease of use. The seat belt tongue clips into the buckle, an action which can be performed with one hand. A retractor device is included as part of the seat belt system to ensure that any unnecessary slack is taken up automatically.

¹⁶ Link to TBC: <http://wales.gov.uk/topics/transport/publications/travelbehaviourcode/?lang=en>

¹⁷ 3-point all age seat belts are not suitable for double deck buses, therefore lap belts are the recommended alternative type of seatbelt that should be used on these vehicle types. The reason for this fact is that it is not structurally possible to fit 3 point all age seat belts to the upper decks which lack the main frame strength to keep these types of seat belts securely anchored.

Medical conditions

29. In some cases, there may be individuals whose doctors have decided that they should be exempt from wearing a seat belt on medical grounds. Disabled people may, for example, be exempted from wearing a seat belt on medical grounds.
30. In such cases, doctors will issue a 'Certificate of Exemption from Compulsory Seat Belt Wearing', which individuals must keep on their person and show to the police if challenged. All such certificates must specify a period of validity which can be as long or as short as medically justified.
31. There may be circumstances where it is necessary for seat belts to be specially adjusted to meet the physical or medical requirements of passengers.

Good Practice in the wearing and monitoring of seat belts

32. It is important that young people understand the importance of wearing seat belts when travelling on the bus. Road safety officers, community police officers, schools and local authorities are among the partners that can reinforce the importance of seat belt wearing.
33. There are a variety of ways in which the wearing of seat belts by children and young people could be monitored, examples of these (where available) might include:
 - the police;
 - sixth form pupils/prefects;
 - specially designated escorts (e.g. passenger assistants);
 - Inspectors (from an enforcement authority);
 - Community based projects (which can employ parents and peers to encourage young pupils/young people to wear seat belts).
34. Some local authorities work with the police to undertake spot checks of school buses to ensure that seat belts are being worn. If reinforced on a frequent basis there is evidence that this does change the attitudes of young people.
35. There are examples of good practice in relation to training learners in the importance of wearing seat belts. In 2008/2009, the Welsh Government made a grant available to the Welsh Local Government Association to fund local authority projects to bring innovations and improvements to school transport. These examples include the following:
 - Vale of Glamorgan and Monmouthshire local authorities provided in-class seat belt safety sessions to pupils, using DVDs and role play to reinforce important messages;

- Monmouthshire County Council's Passenger Transport Unit has introduced parental contracts which require the wearing of seatbelts at all times as a condition of travel on health and safety grounds. Bus passes are not be awarded to pupils unless this contract has been signed. Similar schemes have also been introduced by other local authorities in Wales;
- Denbighshire County Council has trained its staff to train pupils with special educational needs in the use and wearing of seat belts;
- SWWITCH (Pembrokeshire, Carmarthenshire, Swansea and Neath Port Talbot local authorities employ a training officer who visits schools and carries out seat belt and safety training on board school buses.

Further information on these and other school transport projects is available on the WLGA website <http://www.wlga.gov.uk/english/school-transport1/>

How to persuade pupils/young people to wear seat belts

36. There are a number of ways of encouraging and persuading pupils and young people to wear seat belts, for example:
- Rolling out a training and education programme in schools on a pan-Wales basis. The programme could be delivered by teachers or the relevant local authority officials, and might include activities like quizzes, games, DVDs and role play exercises.
 - Schools can play a role in encouraging parents to impress upon their children the importance and necessity of wearing seat belts. This could be achieved by schools raising the issue at parents' evenings, engaging with parents through Parent Teacher Association (PTA) meetings, sending information leaflets to parents or including an article on seat belts and responsibility in school newsletters.
 - Responsible older pupils/prefects can monitor the wearing of seat belts on dedicated school transport and can help enforce the regime by verbally instructing other learners to wear seatbelts and taking the names of those who refuse to.
 - Local authorities have a role to play in achieving this outcome and could work in partnership with schools providing officials to monitor and enforce the wearing of seat belts on school transport.

Criminal Sanctions

37. The Measure provides for a criminal sanctions regime where:
- a relevant body fails to ensure that the buses it provides or otherwise secures for learner transport have seat belts fitted to every seat; and
 - where a person providing the bus for learner transport fails to ensure that it has seat belts fitted to every passenger seat.

38. A relevant body or person who commits an offence listed above is liable upon conviction to a fine not exceeding level 4 on the standard scale (currently £2,500).

Enforcement Authority

39. Section 8 of the Measure provides the Welsh Ministers with power to appoint an enforcement body if they so wish. More than one person or body may be appointed, including any existing enforcement body and the Welsh Ministers themselves. Section 8 provides the Welsh Ministers with power to make Regulations, conferring powers or imposing duties on that enforcement authority. If no specific enforcement body is established, enforcement of criminal offences falls to the police.
40. The Welsh Government has considered all options available under the Measure in determining who the most appropriate enforcement body should be, and has determined that the police would be best suited to carry out this role.
41. Police officers will verify that seat belts are fitted to each passenger seat on contracted school transport as part of the routine spot checks which they currently carry out on contracted school transport vehicles. These checks may be done by the roadside during the school journey or at the school premises before or after a journey. When available, vehicle examiners of the Vehicle and Operator Services Agency (VOSA), will assist the police whenever and wherever they run school transport checks/operations in Wales.

Liability of officers and partners – who would face prosecution?

42. In the majority of cases where a prosecution for an offence is carried out under the provisions of the Measure, the relevant body as a whole would be responsible and there would be no individual liability.
43. In a case of a company, where an offence was committed and it could be proved that the commission of the offence was the result of negligence on the part of an individual within that company, or that the offence was committed with the consent of that individual, then it would be possible for that individual to be prosecuted separately, alongside the company. The same rule would apply for individuals within a partnership.
44. There would be no individual liability for members of the governing body in the same way as there would be for officers of a local authority, however. The governing body of a maintained school is a legal entity separate from its “members” so there would be collective responsibility if a governing body (of a maintained school) commits an offence under the Measure.

Annex 1

Glossary

1. **Safety on Learner Transport (Wales) Measure 2011:** A Welsh law passed by the National Assembly for Wales. This legislative mechanism, known as Assembly Measures or Measures of the National Assembly for Wales, was introduced by the Government of Wales Act which received Royal Assent in July 2006. This particular legislative mechanism has been superseded by Acts of the Assembly as a result of the “yes” vote in the referendum of 2011 on primary powers for the Assembly (in relation to devolved policy areas). The above Measure sets out that all contracted school transport must have seat belts fitted to each passenger seat by 1 October 2014.
2. **The Learner Travel (Wales) Measure 2008:** This Measure sets out the legislative framework governing the provision of school transport in Wales. Publication of the Learner Travel Operational Guidance 2009, was a requirement of the Measure.
3. **Learner Travel Operational Guidance, 2009:** This guidance sets out the national policy framework governing the provision of school transport in Wales.
4. **Maintained Schools:** Schools financially supported by the State.
5. **Governing Body:** Persons comprising a body for the purpose of administering schools.
6. **Relevant Body:** For the purpose of this advisory guidance, a relevant body refers to a local authority or the Governing Body of a Maintained School.
7. **Minibus:** A minibus is a motor vehicle which is constructed or adapted to carry more than 8 but not more than 16 seated passengers in addition to the driver.
8. **Bus:** A vehicle of any weight, with more than 16 passenger seats and a maximum speed not exceeding 60mph, or a vehicle with more than 16 passenger seats and a Design Gross Weight of less than 7.5 tonnes.
9. **Coach:** A vehicle with a Design Gross Weight of more than 7.5 tonnes and a maximum speed exceeding 60mph.
10. **Urban bus:** Buses designed for use on local bus service/rural and urban routes with standing passengers.
11. **Vehicle Operating Services Agency (VOSA):** An executive agency of the Department for Transport. The agency provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles.

12. **EU Directive/2003/20/EC:** Under the Directive, which will need to be transposed into UK Legislation, it will be a legal requirement for children aged 3 to 13 to wear seat belts on buses and coaches where seat belts are provided.