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Stage 1 Report on the Seat Belts on School Transport (Scotland) Bill 2017



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Rural Economy and Connectivity Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Economy and Connectivity.



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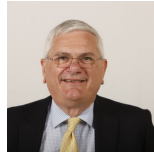
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Executive Summary

- The Bill has a single purpose which is to introduce a legal requirement for seat belts to be fitted on all dedicated home-to-school transport in Scotland. The Committee welcomes the introduction of the Bill by Gillian Martin MSP and notes the broadly positive response received from stakeholders and witnesses with regard to fitting seat belts and improving safety.
- Whilst the Bill's purpose is specific and narrow, the Committee's consideration at Stage 1 has highlighted several additional issues related to the provision and use of seat belts on school transport, which are not covered by the Bill.
- The Committee believes that the safety of children should be paramount and that no distinction should be made between travel on dedicated home to school transport and that on a school excursion. Therefore, the Committee strongly recommends that the Bill's provisions should be extended to cover excursions or trips organised by schools.
- The Committee was surprised to discover there is currently no legal requirement for children aged 3 to 14 to wear seat belts where they are fitted on buses and coaches. It strongly encourages the Scottish Government to work closely with the UK Government and other stakeholders to seek an early resolution in this matter.
- The Committee considers that a package of guidance and practical support should be provided to supplement the Bill's provisions, covering such issues as behavioural change, monitoring of seatbelt use and duty of care. The Committee recommends the Scottish Government engages with young people and seeks their views on the development of this guidance and any educational materials.
- The Committee remains unconvinced that the £8.92m cumulative costs of implementing the Bill's provisions, as outlined in the Financial Memorandum, are justified.
- Overall, the Committee supports the general principles of the Bill and recommends to Parliament that they be agreed to.

Introduction

Membership changes

The membership of the Committee changed during the course of this piece of work. Fulton MacGregor joined the Committee on 30 March 2017, replacing Mairi Evans.

Parliamentary scrutiny

1. The Seat Belts on School Transport (Scotland) Bill was introduced to the Scottish Parliament by Gillian Martin MSP (the "Member in Charge") on 28 February 2017 and was referred to the Rural Economy and Connectivity Committee as lead committee at Stage 1. The Committee is required to report to the Parliament on the general principles of the Bill.
2. The Bill is a Members' Bill, under Standing Orders Rule 9.14. The Member in Charge received support, including drafting assistance, from the Scottish Government. The Bill is accompanied by a Policy Memorandum, Explanatory Notes and Financial Memorandum.

Committee consideration

3. In order to inform its scrutiny of the Bill, the Committee issued a call for written evidence on 8 March 2017 and this resulted in 16 responses. Links to the submissions received are available at Annexe B.
4. The Committee also took oral evidence from key stakeholders in March and April 2017. Links to the Official Reports of those meetings are available at Annexe A.
5. The Committee felt that it was important to engage with school pupils who would be directly impacted by the proposed legislation. The Scottish Parliament's Inward and Outward Education Teams used school visits to the Parliament and external visits to schools to discuss the legislation with pupils and gauge their views on the aims of the Bill. 326 pupils participated in a workshop and completed a survey. A further 969 pupils voted on whether they thought seat belts should be fitted on school buses using a ballot box. A list of the schools who completed a survey on the Bill is available at Annexe C.
6. The Committee would like to thank everyone who provided written and oral evidence as well as all the schools who participated in the pupil workshops and ballot vote.
7. At its meeting on 14 March 2017, the Delegated Powers and Law Reform Committee (DPLRC) considered the single power in the Bill conferred to Scottish Ministers. The Committee determined it was content with this power and agreed it did not need to bring the Bill to the Parliament's attention on any grounds within its remit.¹

Policy and financial memoranda

8. The lead committee is required under Rule 9.6.3 of Standing Orders to report on the Policy Memorandum, which accompanies the Bill. The Committee considers the level of detail provided in the Policy Memorandum on the background and objective of the Bill was helpful in assisting its scrutiny of the Bill.
9. The same rule requires the lead committee to report on the Financial Memorandum. Time restraints on the timetable for Stage 1 scrutiny meant that the Finance and Constitution Committee was unable to consider the Financial Memorandum, as would ordinarily be the case. The Rural Economy and Connectivity Committee, therefore, incorporated scrutiny of the financial implications of the Bill in its Stage 1 inquiry. The Committee's findings are set out later in the report at paragraphs 89-100.

Background to the Bill

10. On 9 November 2007, Lynn Merrifield, on behalf of Kingseat Community Council, lodged petition [PE1098: School Bus Safety](#). She called on the Scottish Parliament to urge the Scottish Government to make provision for every school bus to be installed with three-point seat belts. During consideration of the petition it became clear that the power to compel school authorities to require seat belts in dedicated school transport was reserved to the UK Government. The Scottish Government announced its intention to legislate on this issue once the necessary powers were devolved to Scotland.
11. In 2015, the Scotland Act 1998 (Modification of Schedule 5) Order 2015 (S.I. 2015/1379) devolved the legislative competence to regulate the description of vehicles used for school transport to the Scottish Parliament. The introduction of the Seat Belt on School Transport (Scotland) Bill follows the devolution of this power.

Purpose of the Bill

12. The Bill has a single purpose which is to introduce a legal requirement for seat belts to be fitted on all dedicated home-to-school transport in Scotland.²
13. As stated in the Policy Memorandum, the Bill's main objective is to improve safety. Section 1 creates an obligation on a "school authority" to ensure a seat belt is fitted to each passenger seat of all motor vehicles which the authority provides, or arranges to be provided, for a "dedicated school transport service".³
14. Whilst the Bill's purpose is specific and narrow, the Committee's consideration at Stage 1 has highlighted several additional issues related to the provision and use of seatbelts on school transport. Certain of these are reserved to the UK Parliament and others are non-statutory. These are discussed later in the report.

Scottish Government consultation

15. In 2014, Transport Scotland formed the Seat Belts on School Transport Working Group with representatives from the bus industry, education, local government and parents. The Group's discussions enabled the Scottish Government to better understand of the current provision of school transport services in Scotland and develop proposals that would be practicable and workable across the country.
16. The Scottish Government ran a three-month national public consultation from March to June 2016, with an analysis report published on 26 August. The consultation posed 10 questions, which aimed to explore whether respondents thought the mandatory provision of seat belts on school transport was desirable; the role of schools and parents in encouraging seat belt use; whether the requirement should apply to independent schools; and whether there were any equality or financial impacts. Almost all respondents thought that having seat belts on school buses would make a positive contribution to safety, with a small number commenting that the impact may be marginal given that buses are generally a safe mode of travel.

Objectives of the Bill

17. Overall, evidence received by the Committee was supportive of the principal objective of the Bill, with many witnesses expressing surprise that the fitting of seat belts on school transport was not already mandatory.
18. The Committee gathered views from a variety of stakeholders including parent and teacher representative groups, school pupils, local authorities and bus operators and the majority fully endorsed the Bill. Parent and teacher groups were understandably keen to advocate any measure that could make their children safer and highlighted the discrepancy between car travel, where an adult could supervise the wearing of seat belts, and school bus travel, where children were generally unaccompanied. In evidence, the Scottish Parent Teacher Council (SPTC) stated—

” The principle [of the bill] is absolutely right that when parents send their children off to school and entrust them to the local authority, the local authority is in loco parentis. I cannot take my children anywhere in the car without strapping them in, and it is completely unreasonable to suggest that local authorities should be in any other position.

Source: Rural Economy and Connectivity Committee 19 April 2017 [Draft], Eileen Prior (Scottish Parent Teacher Council), contrib. 123⁴

19. The Committee received no negative responses from local authorities on the content of the Bill and COSLA informed the Committee that it fully supported the Bill as drafted.⁵ The most recent returns from local government show there are currently 18 local authorities in Scotland that stipulate a requirement for seat belts in all dedicated school transport contracts and a further six that require it for some contracts. The Committee received written evidence from nine of the local authorities who have taken these voluntary measures. They all felt that the fitting of seat belts had made a positive change in their areas and that it should be required of all local authorities in Scotland. It is estimated that there are around 110 buses

currently providing dedicated school transport that are not fitted with seat belts. This is a significant reduction from the 323 buses operating without seatbelts in 2014, which illustrates that many local authorities have been putting changes in place in anticipation of the proposed legislation.³ Alex Scott, representing SPT, told the Committee—

” bus operators have been aware—probably for some time—that this was the general direction of travel on the seat belts question and, over the years, they have gradually been refreshing their fleets. This year, all our local authorities will specify that seat belts are a requirement.

Source: Rural Economy and Connectivity Committee 29 March 2017 [Draft], Alex Scott, contrib. 396⁶

20. During Stage 1 scrutiny, the Committee sought information on the number of local authorities who are currently actively working towards including a stipulation that seatbelts be provided in all dedicated school bus contracts. The Scottish Government confirmed in writing that, in addition to the 18 local authorities currently doing so, Dundee City Council, East Lothian Council, Orkney Islands Council, Renfrewshire Council, West Dunbartonshire Council and West Lothian Council also require it on some contracts.
21. When giving evidence to the Committee on 10 May, the Minister for Transport and Islands indicated that he would provide further information to the Committee on those local authorities who are voluntarily working towards making this a contract requirement.
22. The Committee calls on the Scottish Government to provide this further information before the end of the Stage 1 debate on the Bill.
23. While witnesses agreed with the policy objective, some questioned whether legislation was necessary given the increased voluntary uptake of these measures. COSLA supported the legislation and saw it as a formalisation of good practice. The Committee heard that legislation raises the profile of the issue and eliminates the potential for any inconsistency or disagreement across the 32 local authorities.⁷
24. An average number of 45 children are injured per year on buses and coaches, but the number of injuries that occur on dedicated school transport is not recorded.⁸ Given this relatively low casualty and lack of specific data, some witnesses were sceptical about the Bill's impact on safety. Others commented that buses are already a very safe mode of transport making it difficult to quantify improvements to safety.
25. The Committee asked the Member in Charge if she felt that the proposals are appropriate and proportionate given the low level of incidents. Ms Martin replied that seat belts are proven to reduce injuries when there is a collision of any type. She also felt that, as seat belts are already provided on dedicated school transport in over half of the local authority areas, this could have already contributed to the relatively low number of incidents. Ms Martin claimed that, with regards to injuries, the bill should be seen as preventative.

26. Ms Martin also agreed that most parents assume that seat belts are provided on school buses. She asserted that legislation is needed to ensure that all local authorities introduce seat belts on school transport giving peace of mind to parents across Scotland.⁹

Dedicated school transport

27. Section 2 of the Bill defines a dedicated school transport service as a means of transport provided for the sole purpose of carrying pupils between home and school.¹⁰
28. Local authorities are required to arrange transport for pupils residing and attending school in their area. In practice local authorities adopt a variety of approaches to fulfil this requirement, including buses owned by the local authority itself and contracted services supplied by private bus operators.
29. The Bill's purpose is to fit seat belts on dedicated school transport only. All additional points discussed in the report relate to discussion that the Committee had around provisions that are not included in the Bill, such as the fitting of seat belts on public service buses and vehicles used for excursions, and the legal requirement to wear seat belts.

Public service buses

30. Bus services that are also available to the fare-paying general public are not covered by the Bill even if, in practice, the service mainly carries school children. Eileen Prior, representing the SPTC welcomed the introduction of the Bill, but felt that it does not go far enough given it will not protect many young people who travel to school in service buses. During evidence, SPTC suggested the Bill should be extended to include service buses—

” so that we are not saying that some kids are safe but others on service buses are dispensable.

Source: Rural Economy and Connectivity Committee 19 April 2017 [Draft], Eileen Prior, contrib. 140¹¹

31. When questioned by the Committee, Scottish Government officials explained that—

” Dedicated school transport is quite distinct from the public bus service, which some councils use to meet their statutory duties by giving pupils season tickets or paying for individual journeys. Extending the legislative measures in the bill to that provision would be outwith the scope of the powers that are devolved

Source: Rural Economy and Connectivity Committee 15 March 2017, Brendan Rooney (Scottish Government), contrib. 216¹²

32. During evidence, the Member in Charge emphasised the importance of giving local authorities flexibility to find the most appropriate transport arrangements for their locality. The Scottish Government undertook extensive consultation in order to define the term "dedicated school transport" and considers the proposals in the bill to be the best workable solution.¹³

33. The Committee is concerned that these exclusions dilute the aim of improving safety and create inconsistency between the services provided for children across different local authority areas.
34. The Committee notes that the use of public bus services for both school journeys and the general public can reduce the duplication of routes and the associated cost, congestion and environmental impact of bus travel. It acknowledges that stipulating the provision of seat belts on these services is a reserved matter, but is concerned that this means that seat belts will not be consistently provided for all young people travelling to and from school.

School excursions

35. Dedicated home-to-school transport is organised at authority level and is also distinct to transport organised for individual schools for specific trips and excursions. These journeys are currently covered by Scottish Government guidance, *Health and Safety on Educational Excursions*, which stipulates that seat belts should be provided. This includes any educational excursions in the course of the school day.⁸
36. In written evidence, COSLA informed the Committee that extensive engagement was undertaken by the Government prior to introduction of the Bill and stated its support for focussing on transport between home and school, rather than including excursions. It felt the Bill as introduced meets the aim set out by the Government.
14
37. Although Scottish Government officials assured the Committee that group leaders who organise school excursions (often teachers) comply with guidance and already use buses with seat belts, witnesses remained unconvinced by the distinction between home-to-school transport and educational excursions. There was broad agreement that excursions should be included in the Bill as it would establish consistency and allow for more comprehensive mandatory guidance. George Mair, from the Confederation of Passenger Transport (CPT) said—

” It will be far better to have one guidance document that everybody can work to. That is a more sensible approach. That has been my plea throughout the process: let us not duplicate things. If there is already guidance, it should be refreshed and made suitable to cover both eventualities so that, if kids travel on a school bus in the morning, we have the procedures to be followed and they have to wear their seat belts, and the same applies if the same bus or coach comes back to take them to the swimming baths.

Source: Rural Economy and Connectivity Committee 29 March 2017 [Draft], George Mair, contrib. 367¹⁵

38. Encouraging behavioural change is a key objective of the Bill and the Member in Charge hopes that wearing seat belts on buses will become as natural as wearing seat belts in cars. Some witnesses were concerned that by not including school excursions in the legislation, the message that seat belts are important is "diluted"¹⁶. In evidence to the Committee, the Scottish Youth Parliament (SYP) went further,

arguing the supervision by teachers and helpers on school trips to ensure seat belts are worn would reinforce the message that seat belts should also be worn when adults are not present to supervise.¹⁷

39. It is within the Scottish Parliament's legislative competence to make the fitting of seat belts mandatory on buses used for school excursions. As the section 30 order devolved power over the "arrangements for persons to travel to and from the places where they receive education or training", the Bill could be widened out to include school trips.¹⁸
40. At its meeting on 26 April 2017, the Member in Charge acknowledged the committee's concern that school excursions are not included in the bill and indicated that she was open to exploring whether the Bill could be extended to include this provision. The Member is in discussion with stakeholders to see if the addition of school excursions could be included as an amendment at Stage 2.¹⁹

41. The Committee believes that the safety of children should be paramount and that no distinction should be made between travel on dedicated transport from home to school and that on a school excursion. It welcomes, therefore the indication by the Member in Charge that she is considering with the Scottish Government whether it might be possible to bring forward an amendment to widen the provisions of the Bill to include school trips. It looks forward to considering any such amendment at Stage 2.

Technical issues

Seat belt specification

42. Section 3 of the Bill defines a number of key terms, including "seat belt". The definition, as outlined in the Bill, is prescribed by sections of the existing Road Traffic Act 1988 and includes four main belt types: three-point belts, lap belts, child restraints and disabled person's belts.²⁰ The UK legislation sets-out rules on the types of seat belt that are acceptable, the technical standard of the belt and its maintenance on buses.²¹ It is not within the Scottish Parliament's legislative competence to specify which type of seat belt should be provided on school buses.
43. The petitioner who originally highlighted the issue of seat belts on school transport specified her preference for three-point belts as she believed they would bring the most significant improvements to safety. Aberdeen City Council, one of the local authorities that stipulates a requirement for seat belts in school transport contracts, highlighted in its written evidence that it is keen to further stipulate the requirement for three-point adjustable seat belts. The Council went on to state, however that it has found many coach operators do not have vehicles with these belts and the cost of retrofitting would be prohibitive. Aberdeen City Council recommends three-point seat belts are made a requirement in the Bill to ensure that—

” "the transport industry is progressive and proactive in implementing the highest standards of safety restraints."²²

44. However, the Royal Society for the Prevention of Accidents expressed concern that three-point seat belts and lap belts are inappropriate for children under the age of 12 years or 135cm in height and, if used, could make these children more likely to sustain an injury.²³
45. When questioned on this point, Scottish Government officials assured the Committee that the Bill's provisions have been drafted to allow for young people who may need adjustable straps or special restraints.²⁴ Local authorities would be able to specify with the bus operator what type of adjustments to the seat belts would be required, rather than the same straps being arbitrarily put on every bus.
46. The Committee notes that the Scottish Parliament does not have the legislative competence to stipulate the type of seatbelt used on school transport. However, it is content that local authorities have the flexibility to ensure that the most suitable type of seat belts is provided for the passengers travelling on each vehicle.

Seat belt maintenance

47. During questioning, the Committee asked the Member in Charge if any consideration had been given to the servicing of seat belts once they have been fitted. Scottish Government officials confirmed that, as with any vehicles, buses have annual roadworthiness checks overseen by the UK-wide Driver and Vehicle Standards Agency. Internal features, such as seat belts, are therefore also checked annually. The powers, which relate to annual roadworthiness checks are reserved, however, which means the Bill cannot add any additional requirements for vehicles to be inspected.
48. Whilst the Committee acknowledges that the annual testing of seatbelts on buses is a statutory requirement under UK transport legislation, it takes the view that this represents only a bare minimum which does not necessarily recognise the importance of safety on school transport vehicles.
49. It therefore calls on the Member in Charge and the Scottish Government to consider whether guidance to local authorities on the implementation of the Bill should provide that additional regular testing of belts should be carried out at reasonable and appropriate intervals by school transport operators. Consideration should also be given as to whether a requirement for such additional checks could be included in school transport contracts.

Age of vehicle

50. Since 2001, all new-built coaches, minibuses and buses have had to be fitted with seat belts. However, buses that include room for standing passengers are exempt and there is no specification about what type of buses can be used to provide home-to-school transport.

51. East Ayrshire Council conducted a review into school transport with the aim of developing an efficient service that was both safe and sustainable. It consulted parents and pupils and found that the quality of vehicles was a key concern. As a result, the council chose to remove all double decker buses from school contracts and stipulate an upper age limit for larger buses and coaches. This automatically meant that buses were fitted with seat belts and had the additional benefit of being newer and, therefore, safer. East Ayrshire Council found that these additional requirements in contracts provided a fairer standard and ensured a more competitive market based on quality. ²⁵
 52. Moray Council told the Committee the highest incidents of pupil misbehaviour were on double-deckers and, as a consequence, they too decided to remove these from dedicated school services. The Committee heard that young people generally show more respect towards coach type vehicles than double-deckers, which are often perceived as "end of life vehicles retained purely for contract work." ²⁶
 53. When questioned on the age of school transport vehicles, the Member in Charge said that she applauds local authorities who have chosen to introduce this additional measure, but defends local authorities' flexibility to choose how they fulfil the requirement to provide school transport. ²⁷
54. The Committee welcomes the decision of some local authorities to stipulate additional contract requirements to improve safety. The removal of double-decker buses and stipulation of bus age should be commended and promoted as good practice. The Committee notes that vehicles built since 2001 are legally required to have seat belts fitted. The use of newer vehicles would therefore automatically bring additional safety and service benefits. However, the Committee acknowledges that the age and type of vehicles available for school transport will vary widely in different areas of Scotland. It is therefore content that it is appropriate for local authorities to consider whether to specify the age or type of vehicles in their contract arrangements, taking into account local circumstances.

Views of young people

Consultation

55. The Committee was keen to engage primary and secondary school pupils in its consultation as the Bill will have a direct impact on many students across Scotland.
56. The Scottish Parliament's education officers facilitate interactive workshops externally as part of the outreach education programme and internally, with school groups who visit the Parliament. The Committee agreed that these provided an ideal opportunity to engage with young people and obtain their views on the objectives of the Bill and whether they thought it would improve safety on school journeys.
57. The education officers asked around 1300 pupils for their views on the Bill and how it would work in practice. The majority of pupils thought school buses should be fitted with seat belts, but also thought that they were unlikely to be worn. Older secondary school pupils were most cynical about the likelihood of young people wearing seat belts on buses, despite some of the pupils consulted attending schools within council areas where seat belts are already provided. At a high school in one of these areas 74% of pupils said that they were "not at all likely" or "unlikely" to wear seat belts, with 26% stating they would be "likely" "very likely" or would "maybe" wear a seat belt.
58. A ballot box was also placed in the Parliament's education room to give pupils on inward visits an opportunity to vote "yes" or "no" to the question "should school buses have seat belts?" In response, 546 pupils answered yes and 423 answered no. The relatively small majority of 56% in favour highlights the challenges presented in encouraging young people to wear seat belts and the importance of having a consistent and joined-up approach to publicity of the Bill and development of guidance. Pupils must understand why they are being asked to wear seat belts and the safety benefits.

Findings from the consultation

59. Consultation with young people confirmed what many witnesses told the Committee about the behavioural change which will be needed for the seat belts provided on school buses to be used by pupils and that this process will take time. The overwhelming majority of young people confirmed they wore seat belts in cars and taxis. However, the majority also said that children don't, or wouldn't, wear seat belts on buses, illustrating that behavioural change is needed to align buses with behaviour that is already expected in other vehicles. Despite this, the majority were in favour of seat belts being provided.
60. The SYP also consulted a number of young people on the proposals of the Bill in advance of giving formal evidence to the Committee. Responses were similar to those gathered by the Parliament's education officers, with the majority of young people agreeing that seat belts should be made compulsory on school buses, but that people were unlikely to wear them. One pupil who was consulted by the SYP said—

” No one puts seat belts on my school bus as it's 'uncool' and if the driver comes round and tells people to wear them, they just get taken off again once he's driving.²⁸

61. However, the young people consulted felt that an awareness-raising campaign highlighting the danger of not wearing a seat belt may encourage seat belts to be worn. Some pupils also suggested school bus ambassadors and letters to parents could improve behaviour. SYP strongly suggests that guidance accompanying the Bill and its publicity should be co-designed with children and young people to ensure it is as effective as possible.
62. It is clear to the Committee that there is a requirement for behavioural change in relation to young people's views on wearing seatbelts on buses. This will be further addressed in the section on education and guidance below.
63. The Committee recommends the Scottish Government engages with young people and seeks their views on the development of guidance and educational materials, which will support the implementation of the Bill.

Wearing of seat belts and enforcement

64. The requirement of the Bill that seat belts are fitted, however, is very different from the requirement that seat belts should be worn. It became evident during the Committee's consideration of the Bill that, although its purpose was limited to the fitting of seat belts on school transport, many witnesses were concerned about whether the seat belts, once fitted, would actually be worn. Our consultation with young people, set out in the previous section, suggests this may be a key factor in whether the Bill fulfils its purpose.
65. If passed, the Bill would sit alongside relevant law on the wearing of seat belts, which is a reserved matter. The Motor Vehicles (Wearing of Seat Belts) Regulations 1993, as amended, requires everyone aged 14 and over to wear available front and rear seat belts in all categories of vehicle, including buses. However, with a few exceptions there is currently no legal requirement for children aged between 3 and 14 to wear seat belts where they are fitted on buses and coaches. In written evidence the Association of Directors of Education in Scotland (ADES) called for clarity from the Scottish Government about who is responsible for children under 14 wearing a seat belt.
66. The UK Government indicated to the Scottish Government that it intends to transpose elements of EU directive 2003/20/EC to address the discrepancy between the legal requirement for children over 14 to wear seat belts and the lack of legal requirement for children under 14. The EU directive would enable the UK Government to introduce legislation on the enforcement of the wearing of seat belts on buses for 3 to 14 year-olds. The Minister for Transport and the Islands sought an update from the UK Government on its intention to obtain the appropriate powers from the European Parliament to legislate on this matter. In its response, forwarded to the Committee on 24 April 2017, the UK Government confirmed its continued consideration of the issues and its efforts to consult with stakeholders to reach a resolution on how best to transpose the relevant elements of the EU Directive.
67. The response from the UK Government highlights the difficulty in determining who should be responsible for ensuring that children wear seat belts on buses. For children who are unaccompanied on school transport, it is a challenge to ensure seat belts are worn without placing an unrealistic expectation on coach drivers or operators to be responsible for all seat belts to remain fastened throughout the journey. Despite this, the UK Government indicated it does plan to pursue this issue further, but has no imminent plans to implement the EU directive.
68. The Committee was surprised to discover there is currently no legal requirement for children aged 3 to 14 to wear seat belts where they are fitted on buses and coaches. It notes from the recent exchange of correspondence between the Scottish and UK Governments that an appropriate means by which the requirements in EU Directive 2003/20/EC might be transposed, which would address this, has yet to be identified. It strongly encourages the Scottish Government to work closely with the UK Government and other stakeholders to seek an early resolution in this matter.

Education and guidance

69. As noted in the section on the Committee's engagement with young people, secondary school pupils in particular have been described as a "tough audience to convince to wear seat belts".⁸
70. Although the wearing of seat belts is a reserved area, the Policy Memorandum states that the Bill represents an opportunity to promote usage of seat belts and raise wider awareness of their safety benefits through guidance and publicity.
71. East Ayrshire Council told the Committee that when it introduced seat belts on all dedicated school transport, the Council's Road Safety Team also provided further training activity and support to schools to encourage use of seat belts as part of the implementation.²⁹
72. Moray Council supported the need for this information to be provided, highlighting the success of the hard-hitting resources contained in the *1 second 1 life* campaign hosted by the North East School Transport Safety Group. This campaign relates to safety when disembarking the school bus and could be expanded to cover safety while travelling on the bus.⁸
73. Witnesses agreed that the development of guidance and information for pupils, parents, teachers, local authorities, bus drivers and bus operators was crucial to the implementation of the Bill. There was support for a national educational awareness programme to promote the importance of seat belts and their benefits to safety. Witnesses also agreed young people had to be consulted and involved in the design of this guidance to increase its chance of success.
74. Moray Council requires the parent or guardian to sign a Parent - Pupil School Transport charter, which forms part of the transport application form and makes clear what the authority expects from young people on home-to-school transport. This outlines where responsibility lies between the parent, pupil and school. It also confirms the authority's process for exclusion from school transport if behaviour becomes an issue and attempts at resolution fail. Witnesses suggested that examples of successful measures that have been used to encourage the wearing of seat belts should be included in guidance.
75. The Member in Charge highlighted that there are already two precedents for guidance. There are examples of educational programmes from local authorities who have already voluntarily implemented the fitting of seat belts and examples from other devolved administrations, such as the National Assembly for Wales, who passed similar legislation in 2011. Ms Martin suggested that best practice should help shape the Scottish Government's guidance.⁹
76. As discussed, local authorities have been voluntarily introducing seat belts on dedicated school transport as contracts are renewed. If the Bill is passed, it is likely that seat belts will continue to be introduced incrementally until the commencement date is reached and all local authorities must comply. The Committee would, therefore, welcome the early finalisation of guidance documents by the Scottish Government to ensure all parties involved are prepared for these changes and the wearing of belts is encouraged from the outset, regardless of when local authority contracts are renewed.

77. While acknowledging that the enforcement of seat belt use is a reserved area, the Committee believes that education and behavioural change on this topic is critical if this Bill is to achieve its stated objectives. It calls on the Scottish Government to communicate and encourage good practice through guidance and practical support, where appropriate.

Monitoring of seat belt use

78. Given that seat belts are already fitted on dedicated school transport buses in 18 local authorities, a variety of methods have been tested to encourage pupils to wear seat belts, including having an additional adult on the bus who ensures seat belts are worn.
79. In correspondence to the Committee, the Scottish Government suggested a bus monitor could be a person employed by the local authority or school provider, or supplied by a private bus operator under terms within a contract, and in some cases could involve prefects or other pupils. The Scottish Government emphasised that, due to different school cultures and individual needs, it is important that bus operators and school authorities have the flexibility to adopt an approach that works for them. Sometimes bus monitors have proven detrimental, with pupils directing misbehaviour at them. A legal requirement for bus monitors would be likely to have significant cost implications.³⁰
80. Moray council found that CCTV on school vehicles proved very beneficial and generally more effective than an escort. Other local authorities found that parent-pupil charters improved behaviour on school transport, demonstrating that different methods are successful in different areas.
81. SYP felt that it is important that older children take responsibility for setting a good example to younger pupils. It was also suggested that incentive schemes and rewards would be more effective than punishment for bad behaviour.³¹
82. Using a specific example from a school in Aberdeenshire, the Member in Charge outlined the role that house captains, year heads and senior pupils had taken in helping to monitor the wearing of seat belts. The member highlighted the difference between school journeys in different geographical areas of Scotland and reiterated the importance of local authorities adapting requirements to improve safety in accordance with the particular school or area.²⁷
83. The Committee considers it to be appropriate that school authorities should have flexibility to consider the means by which the use of seat belts on school transport is monitored in their areas. It welcomes the Scottish Government's intention to highlight good practice in the use of different monitoring options in non-statutory guidance accompanying the Bill.

Duty of care

84. As there is no legal enforcement of the wearing of seat belts for children aged between 3 and 14 years, the Committee questioned who was legally responsible for children while they travel on the bus and whether there is a duty of care on the local authority.
85. In correspondence to the Committee dated 18 April 2017, the Scottish Government provided further information explaining that it is for the local authorities themselves to ensure that it complies with its legal obligations. The Education (Scotland) Act 1980 requires local authorities to have regard for the safety of pupils when arranging school transport. In addition, the Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990 impose a particular duty on local authorities to take reasonable care for the safety of pupils under their charge. Local authorities, independent schools and grant-aided schools also have a general duty of care for pupils under common law.
86. During evidence, a Scottish Government official confirmed that these regulations are contained within a broad legal framework, but liability for an accident would depend on individual circumstances.³²
87. The Committee also sought clarification on whether bus drivers have responsibilities in ensuring that seat belts are worn. CPT confirmed that announcements can be made by the driver to notify passengers that they should wear seat belts—
- ” At the start of a journey, the driver will indicate that seat belts are available and that it is a legal requirement for people to wear them if they are aged 14 or above, but he cannot monitor the situation while he is driving the vehicle. If he were to do so, that would perhaps put the folk on the coach in greater danger than would not wearing the seat belts

Source: Rural Economy and Connectivity Committee 29 March 2017 [Draft], George Mair, contrib. 349³³

88. The Committee recommends that guidance issued by the Scottish Government clearly outlines the key responsibilities placed on local authorities and bus drivers to have due regard for pupils' safety.

Financial Memorandum

89. On 15 March 2017, the Committee received a letter from the Convener of the Finance and Constitution Committee explaining that, due to the Stage 1 timetable for the scrutiny of the Seat Belts on School Transport (Scotland) Bill, the Finance and Constitution Committee would be unable to consider the Financial Memorandum accompanying the Bill.³⁴ Scrutiny of the Financial Memorandum was, therefore, undertaken by the REC Committee.
90. The Financial Memorandum indicates that requiring all dedicated school transport vehicles to be fitted with seat belts would result in increased costs for bus operators, mainly through retro-fitting seat belts, purchasing new vehicles and increased maintenance costs. It is anticipated that these costs would be passed on to local authorities through higher contract prices. As the legislative change places a new burden on local authorities, they are allocated additional funding from the Scottish Government through the wider block grant package.
91. The Financial Memorandum estimates the total additional cumulative cost between 2018 and 2031 would be £8.92m, based on an additional cost of £0.202m in 2018, £0.230m in 2019 and 2020, £0.607m in 2021 and £0.765m each year between 2022 and 2031. The Financial Memorandum states that these future costs have been informed by in-depth engagement with local authorities and the bus industry and Scottish Government officials confirmed that the figure was not calculated on a cost per bus basis given there are different levels of competition in different areas.³⁵ In correspondence to the Committee, Scottish Government officials commented—
- ” Just as there is not a standard cost-per-pupil or cost-per-journey for local authorities across Scotland, it is not possible to count individual ... units in terms of buses to quantify the financial impact of the Bill.³⁶
92. COSLA also confirmed the resource implications of the Bill have been carefully assessed and the figures presented in the Financial Memorandum represent the most accurate national estimate of costs. COSLA also acknowledges that if the Bill were to be amended, it would expect the cost to local government to change.³⁷
93. However, those witnesses with experience of tendering contracts with the additional specification for seat belts suggested changes to contract costs were not as significant as initially anticipated, particularly in areas where there was sufficient competition. For example, the Strathclyde Partnership for Transport (SPT) commented that bus operators have been refreshing their fleets in anticipation of the Bill and that SPT had not seen a significant increase in tender costs.³⁸
94. Additionally, the Committee notes from the Financial Memorandum that Aberdeenshire Council, a member of the Seat Belts on School Transport Working Group, reported that "when it moved to contract with seat belts in 2010 it did not have the impact on price they had envisaged and was not the main factor in the costs quoted from operators".³⁹
95. George Mair of CPT confirmed this, stating that—

- ” I have heard that some local authorities have made the change and that it did not turn out to be as costly as they had expected it to be.

Source: Rural Economy and Connectivity Committee 29 March 2017 [Draft], George Mair, contrib. 399⁴⁰

96. The Committee sought clarification from the Scottish Government on how this money would be distributed and whether local authorities who already contract buses with seat belts would be compensated retrospectively for any increase in contract costs. The Scottish Government confirmed that the overall cost forecasted includes compensation to those councils to ensure that they were not negatively affected.⁴¹ In correspondence, COSLA noted —

- ” The Committee has asked on how finances will be distributed to councils which have already implemented seat belt measures. The means by which funding from Scottish Government is distributed to individual Local Authorities will be subject to the established Settlement & Distribution process. This is a joint Scottish Government/local government officer group (The Settlement & Distribution Group) which makes recommendations for consideration by Scottish Ministers and COSLA Leaders. Discussions regarding distribution will take place after the legislation has been approved by the Scottish Parliament.
42

97. When similar legislation was introduced by the Welsh Government, it was estimated that it could cost £4.5 million to fit every vehicle with seat belts, but no additional funding was allocated to local authorities, as they were deemed to be given sufficient prior notification.⁴³
98. The Committee also took evidence on the proposals for non-statutory guidance, educational programmes and publicity of the Bill. However, the additional costs incurred through these programmes is not included in the cumulative costs anticipated in the Financial Memorandum. The Member in Charge clarified that those additional costs will be absorbed within road safety campaign education and awareness-raising budgets that are already in place.⁴⁴

99. The Committee notes that the £8.92m cumulative costs of implementing the Bill's provisions have been assessed through discussion between the Scottish Government and local authorities and that this figure covers a period of 14 years. However, it also notes the evidence received from some witnesses, such as SPT and the CPT, that the costs involved in meeting tender requirements may not be as high as anticipated.
100. In addition, the Committee questions whether it would be appropriate for those local authorities who have voluntarily included a requirement for seat belts to be fitted as part of school transport contracts to be compensated retrospectively as proposed. The Committee remains unconvinced that costs of £8.92m are required to implement the Bill's provisions.

Commencement dates

101. The intended lead-in time for the commencement of the Bill is 2018 for primary school provision and 2021 for secondary school provision. The Policy Memorandum highlights that these dates were arrived at through discussions with stakeholders who felt that having the same commencement date for all dedicated school transport would put the bus industry and local authorities under significant pressure. George Mair from the CPT told the Committee the commencement dates allowed time for new contracts to be processed.⁴⁵
102. When questioned by the Committee, the Member in Charge explained that a greater number of primary school buses currently have seat belts than secondary school buses, which is why the suggested lead-in time for secondary schools is longer. However, Ms Martin also suggested that incremental change is likely to continue as contracts are renewed between now and 2021.

103. The Committee is content that the commencement dates are reasonable and practicable.

Requirement to notify EU Commission of technical standards measures

104. On 4 May 2017, Humza Yousaf, Minister for Transport and Islands, wrote to the Committee to advise it that the Scottish Government has been giving consideration as to whether the Bill contains draft technical measures that require to be notified to the European Commission under EU Directive 2015/1535 (Technical Standards and Regulations).
105. This letter explained that the purpose of this Directive is to promote the freedom to provide services and to prohibit quantitative restrictions on the movement of goods between member states, It seeks to deliver transparency in respect of any national initiatives which result in the establishment of new technical standards or regulations, in order to prevent the creation of undue barriers to trade within the EU.
106. The letter advised the Committee that—
- ” “Member states proposing policies or legislation that may create such barriers are required to notify the Commission of their intentions and gain approval before proceeding. Failure to notify the Commission of draft technical measures in breach of the Directive renders such measures unenforceable.”
107. The Minister indicated that the Scottish Government has concluded that the Bill should be notified to the Commission as a draft technical measure, a process which takes three months, with potential for a three month extension to this timescale in the event of the Commission lodging a detailed opinion in response. This has significant implications for the Parliamentary scrutiny of the Bill as, during the notification period, "the relevant legislative measures must be placed in a standstill and not progress past the stage of possible amendment". In practical terms, this

means that the scrutiny of the Bill cannot proceed to Stage 3 until the outcome of the notification is known.

108. The Minister provided oral evidence to the Committee on 10 May and confirmed the suggestion made in his letter that the Committee could complete Stage 1 and Stage 2 consideration to the planned timetable. His rationale was that this would allow the Bill proposals to be notified to the Commission, via the UK Government, taking into account any amendments made at Stage 2.
109. Whilst the Committee notes that the Government now believes that such a notification process is required, it is concerned that this has only come to light towards the end of the Stage 1 scrutiny process. There was no indication of this requirement in the documents accompanying the Bill, or in oral evidence from the Member in Charge or Scottish Government officials.
110. In addition, given the indication in the letter that the Welsh Government notified the Commission when introducing similar school transport safety measures, the Committee finds it difficult to understand why, if this was known, this requirement was not clearly set out in the Bill documentation, which would have helped inform dialogue around the timetabling of the Bill.

111. The Committee is concerned that a matter which could determine whether the provisions contained within a Bill introduced in the Scottish Parliament can be implemented has only been highlighted at an advanced stage in the scrutiny process.

112. However, it also acknowledges that the notification to the EU Commission of the bill proposals might be most usefully undertaken following consideration of amendments at Stage 2. The Committee therefore agrees that Stage 1 and Stage 2 proceedings should be completed in advance of the notification process being initiated.

Committee recommendation

113. The Committee welcomes the introduction of the Bill by Gillian Martin MSP and notes the broadly positive response received from stakeholders and witnesses with regard to its single purpose. The Committee also believes that the provision of seat belts on dedicated school transport is a positive step which it supports. However, it also considers that the Bill could be more ambitious and could go further to fulfil its aim of improving safety for young people travelling on school transport. In this regard, the Committee strongly recommends that the Bill's provisions should be extended to cover excursions or trips organised by schools.
114. The Committee also considers that a package of additional non-statutory actions, as discussed in this report, should be taken forward to supplement the Bill's provisions and further enhance the safety of young people using dedicated school transport in Scotland.
115. The Committee supports the general principles of the Bill and recommends to Parliament that they be agreed to.

Annexe A

Extract from the minutes of Rural Economy and Connectivity Committee meetings

7th Meeting, 2017 (Session 5), Wednesday 1 March

3. Seat Belts on School Transport (Scotland) Bill (in private): The Committee agreed its approach to the scrutiny of the Seat Belts on School Transport (Scotland) Bill.

9th Meeting, 2017 (Session 5), Wednesday 15 March

2. Seat Belts on School Transport (Scotland) Bill: The Committee took evidence from—

- Brendan Rooney, Policy Officer, and Kenneth Hannaway, Solicitor, Scottish Government.

11th Meeting, 2017 (Session 5), Wednesday 29 March

7. Seat Belts on School Transport (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

- George Mair, Director, and Paul White, Communications Manager, Confederation of Passenger Transport;
- Alex Scott, Bus Services Manager, and Alan Hutton, Team Leader Schools, Strathclyde Partnership for Transport;
- Gary McGowan, Chairman, ATCO Scotland Education Transport, Association of Transport Co-ordinating Officers.

12th Meeting, 2017 (Session 5), Wednesday 19 April

4. Seat Belts on School Transport (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

- Cian Gullen, Convener of the Transport, Environment and Rural Affairs Committee, Scottish Youth Parliament;
- Joanna Murphy, Chair, The National Parent Forum of Scotland;
- Eileen Prior, Executive Director, Scottish Parent Teacher Council.

Written evidence

- [Scottish Youth Parliament](#)
- [Scottish Parent Teacher Council](#)

13th Meeting, 2017 (Session 5), Wednesday 26 April

2. Seat Belts on School Transport (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

- Gillian Martin, Member in charge of the Bill;
- Brendan Rooney, Road Safety Policy Officer, and Anne Cairns, Legal Adviser, Scottish Government.

6. Seat Belts on School Transport (Scotland) Bill (in private): The Committee reflected on the evidence it has heard on the Seat Belts on School Transport (Scotland) Bill.

14th Meeting, 2017 (Session 5), Wednesday 3 May

15th Meeting, 2017 (Session 5), Wednesday 10 May

Annexe B

Written evidence

- [Aberdeen City Council](#)
- [Aberdeenshire Council](#)
- [Association of Directors of Education in Scotland](#)
- [COSLA](#)
- [East Ayrshire Council](#)
- [Falkirk Council \(Children's Services\)](#)
- [Fife Council](#)
- [Moray Council](#)
- [North Ayrshire Council](#)
- [Scot Finlayson](#)
- [Scottish Parent Teacher Council](#)
- [Scottish Youth Parliament](#)
- [Shetland Islands Council](#)
- [The Highland Council](#)
- [The Royal Society for the Prevention of Accidents](#)
- [Tom Reilly](#)

Annexe C

Schools

969 pupils from schools across the country voted on whether they thought seat belts should be fitted on school buses. A further 326 pupils, from 10 schools, participated in a workshop and completed a survey. The following schools engaged in the survey—

- Bramblebrae Primary
- Westerton Primary
- Kincase Primary
- Mauchline Primary
- Ralston Primary
- Blackridge Primary
- Mauricewood Primary
- Canmore Primary
- Winchburgh Primary
- Brechin High School

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- [6] Rural Economy and Connectivity Committee 29 March 2017 [Draft], Alex Scott, contrib. 396, <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10880&c=1989784>
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