

Transport Directorate

Bus, Road Safety and Local Roads Policy Division

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Fergus Cochrane
Clerk to the Committee
Public Petitions Committee
TG.01
The Scottish Parliament
Edinburgh
EH99 1SP

10 February 2009

CONSIDERATION OF PETITION PE1223

Dear Mr Cochrane

Thank you for your letter of 14 January 2009 seeking written responses for the Public Petitions Committee on PE1223. The Committee asked for responses on three areas, reproduced below in bold, followed by the responses.

1. Will the Government require local authorities to install safety signage and lights on school buses, to be used only when school children are on the bus and will it make representations to the UK Government and when to make it a criminal offence to overtake a stationary school bus? If not why?

- Scottish Parliament does not have power to require installation of safety signage and lights, nor to regulate their use. The use of safety signs is required by the Road Vehicles Lighting Regulations 1989, as amended by the Road Vehicles Lighting (Amendment) Regulations 1994. The signs prescribed by these UK Regulations, which show the 'children' symbol, are required to be fitted to the front and rear of buses when transporting children to and from school. Under the terms of the Road Traffic Act 1988, non compliance with the requirements in the Regulations is an offence. However, the Regulations do not require the signs to be removed when the vehicles are not being used to transport children. The Road Vehicles Lighting Regulations 1989, as amended, are made under section 41 of the Road Traffic Act 1988, the subject matter of which is reserved.
- The use of hazard warning lights by school buses is also governed by these Regulations. Vehicles displaying school bus safety signs are permitted to use hazard warning lights when the vehicles are stopped to allow children to board or alight. The Regulations do not, however, require the lights to be used under these circumstances.
- The responsibility to provide school transport rests with education authorities, who have a duty under the Education (Scotland) Act 1980 to make such arrangements as they consider necessary for the conveyance between home and school of pupils residing in their area. In considering whether to make such arrangements, they are required to have regard to the safety of pupils. They also have a general duty to take reasonable care for the safety of pupils when under their charge, in terms of the Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990. Scottish Executive Education Department Circular No 7/2003 sets out the statutory duties of education authorities, and makes clear that we consider that the general duty to take reasonable care for the safety of pupils when under their charge includes travel on school transport arranged by them. The guidance also covers both pupil and bus safety issues, and advice on contracting with transport providers who will provide the buses, coaches, minibuses or taxis that convey pupils to and from school. It also refers to the statutory provisions regarding seat belts, school bus signs and hazard warning lights, and use of vehicles that are in a fit and roadworthy condition. While the guidance itself is not mandatory, the legal requirements must be complied with.
- Although the petitioner's suggestions are not a requirement in legislation the guidance provided in Circular No 7/2003 invites education authorities to stipulate, in contracts for school transport, that the school bus signs should be displayed only when children are being transported and that hazard warning lights should be used when children are getting on or off vehicles. The Scottish Government strongly support Education authorities in doing so. Education authorities may also consider stipulating bigger signs through contracts with operators as there is no restriction by law on this – merely a minimum requirement on size.
- The Scottish Government has already approached the UK Government about school transport issues. Stewart Stevenson, Minister for Transport, Infrastructure and Climate Change, wrote on 16 December 2008 to Geoff Hoon, Secretary of State for Transport, stating that he would be interested in any proposals the UK

Parliament has for strengthening the legislation relating to school buses. The response from Mr Hoon on 23 January stated that the UK Government has no plans to strengthen legislation around school buses. Mr Hoon stated that the introduction of a ban on traffic passing a stationary school bus where children are getting on or off could well increase, rather than decrease, casualties. The reply also stated that the subject is well covered in the Highway Code in which it is emphasised that drivers need to take special care when passing buses and bus stops.

- Scottish Government is not minded to support making passing a stationary school bus a criminal offence. Expert opinion from the road safety community, including the police, road engineers and road safety officers indicate that a passing ban is unlikely to be effective. The number of school buses would make policing at every stop impractical. The constant need for traffic to stop on urban and suburban streets would generate more traffic congestion which would itself have adverse safety, environmental and economic implications particularly as the times at which children travel to school coincide with peak commuter travel. We also have concern in that a prohibition of passing a school bus law could increase the risk of children being knocked over when they alight from non-school bus services because they forget their road safety skills and simply step out in front of on-coming vehicles, expecting them to stop as would be the case with school buses.

2. The Committee sought comment on the following issues raised in the petition.

- **Lack of action by UK Government:** We note the Petitions Committee has asked for a response from the UK Government.
- **Lack of accurate statistics:** Statistical information about road accidents in which one or more people are injured is collected by the police and reported to the Scottish Government through the GB-wide 'STATS 19' statistical collection. The 'STATS19' collection can identify whether a child was injured/killed en route to/from school whilst crossing the road from driver's nearside masked by a stationary vehicle (i.e. similar scenario to crossing in front of a school bus after alighting). It does not contain an option solely related to school transport services. A forthcoming review of the 'STATS 19' collection is being launched in February 2009 with a public consultation on the Department for Transport's website - all interested parties are welcome to comment on the content and quality of the collection. The Scottish Government publishes road accident figures on an annual basis.
- **Consistency in procedure by local authorities:** School transport provision in rural areas can be vastly different to that in urban situations. The Scottish Government recognises that local authorities are best placed to determine school transport provision in their area. The Scottish Government provides guidance to local authorities on school transport, Circular No 7/2003 referred to above, but as previously stated the responsibility to provide school transport rests with education authorities, who have a duty under the Education (Scotland) Act 1980 to make such arrangements as they consider necessary for the conveyance between home and school of pupils residing in their area.

- **Use of school bus sign;** As previously stated, Education authorities may stipulate in their contracts with school bus providers that the children symbol is removed when children are not being transported.
- **Visibility of school transport and service buses when school children are on board:** Again, as stated above, contracts can stipulate use of hazard warning lights when vehicles are stopped to set down or pick up passengers.
- **Double decked buses to be prohibited from carrying school children:** The responsibility for choosing an appropriate vehicle for a particular journey must rest with those who are making the arrangements. Schools or local authorities have the option to specify within their contracts with bus operators that they will only accept particular vehicles.
- **School bus seat belt provision:** The terms of contracts for the provision of school transport are matters for individual local authorities and their contractors. It is open to local authorities to specify within their contracts that only vehicles fitted with seatbelts should be used.

3. Issues raised during the discussion on the petition.

- **Safer Routes to School:** Scottish Government issued guidance how to run safer routes to school (SRTS) schemes in 2001 and has provided over £55 million to local authorities to successfully implement SRTS schemes in their area.
- **Bus safety:** Legislation on bus standards and safety, including seat belts, is reserved to the UK Parliament.
- **Promotion of best practice among local authorities:** *School transport: survey of good practice*, was published by the Scottish government in March 2007. The *Survey* identifies examples of good practice in contracting, and covers use of seat belts, bus safety and standards, contract monitoring and pupil safety including supervision and use of CCTV. The examples of good practice serve as an important and effective aid to authorities in driving up the quality and standard of school transport provision. In practice, however, it is for authorities themselves to negotiate the terms and conditions of school bus contracts with local transport providers, bearing in mind all local circumstances. Ministers cannot intervene, and nor can they impose particular terms and conditions on authorities or their contractors.
- **Representations to the UK Government on making passing a school bus a criminal offence (what additional measures may be needed to create a more secure and safer road environment):** As stated above, Stewart Stevenson, Minister for Transport, has written to the UK Government and. The response from the UK Government stated that it has no plans to introduce a ban on passing a stationary school bus where children are getting on or off. The Scottish Government will be producing its 10-year Scottish Road Safety Strategy in Spring 2009.
- **Does the Scottish Government support the banning of overtaking a stationary school bus:** We would not support this for the reasons given above.

We have neither been presented with nor found irrefutable evidence to support a request for a change in the law to make passing a school bus a criminal offence in this country.

- **What powers the Scottish Government has to take the action called for by the Petitioner:** The Scottish Parliament does not have competence to change the legislation. As previously indicated education authorities may already use the terms of school contracts to require that signage should only be displayed and lights only to be used when school children are on the bus.
- **What evidence is there from other countries that making overtaking buses illegal has positive effects:** The evidence is mixed. Few countries world-wide have an overtaking ban (USA and Canada). The vast majority of countries operate similar to the UK. In the USA laws banning the overtaking of stationary school buses are widely reported to be central to the success of yellow school buses. However, even in the USA evidence varies greatly from state to state. An official estimate from New York State was that 50,000 vehicles pass stopped school buses illegally every day, and in North Carolina, where many school buses are fitted with cameras on the stop-arm of the buses, it is estimated that illegal passing of school buses takes place an average of 1900 times per day. The US Transportation Research Board has reported that a child is 13 times safer in a school bus than other forms of travel. However it is unclear whether this refers to safety on the bus or once the child alights or both. The position within the USA varies greatly from state to state and violations are commonplace with the most effective areas having jurisdictions that have much increased enforcement and heavy penalties including fines, points and license suspensions.
- **What is the outcome of the trial by the Yellow School Commission Bus Commission:** The Commission produced a report and recommendations in September 2008. The report represented the conclusion of a 10-month review by the Commission of school transport across Britain. The report recommended that all schools should continue to promote walking and cycling for all pupils living within one mile from primary school and two miles from secondary school. It also recommended that dedicated yellow school buses should be provided for primary school children living over one mile from school. The report stated that because of safety fears, only 5% of all primary pupils nationwide travel to school by bus and that dedicated yellow school buses would offer children and parents a safe and attractive option for commuting to and from school, would reduce local traffic congestion, benefit the environment and improve safety and well-being. The report gave the cost of roll-out of yellow school bus for primary schools as £154 million per annum and estimated a further £50-£100 million per annum for secondary schools. The report did not comment on the issue of children requiring to cross the road after alighting from the bus.
- Scottish Ministers are not considering specific funding to local authorities for any of the recommendations made in this report as it would not be appropriate for Ministers to endorse one particular school transport model. Ministers consider that to do so would be against the spirit of the Concordat agreement with local authorities.
- **Would the Government support by-laws by local authorities in relation to transport of school children:** Local authority byelaws are considered on a case by case basis. However they must directly address a genuine and specific local problem and must not attempt to deal in general terms with essentially national issues.

Jill Mulholland
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