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Scottish Parliament  
Edinburgh  
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Dear Convener,

I am writing in response to your Committee's Stage 1 Report on the Seat Belts on School Transport (Scotland) Bill, being taken forward by Gillian Martin MSP with the Government's full support.

I am pleased that the Committee has set out in the Report that it has received a broadly positive response from stakeholders and witnesses and supports the general principles of the Bill.

The Committee has raised a number of points and recommendations in the Report and I set out the Scottish Government's response to these in Annex A in advance of the Stage 1 debate.

I am copying this letter to Gillian Martin MSP.

Yours sincerely,

  
HUMZA YOUSAF

**Scottish Government Response to the Rural Economy and Connectivity  
Committee's Stage 1 Report for the Seat Belts on School Transport (Scotland)  
Bill**

**Objectives of the Bill**

**22. *The Committee calls on the Scottish Government to provide this further information before the end of the Stage 1 debate on the Bill.***

We have sought clarification from local government on the up to date position of the number of local authorities currently stipulating that seatbelts are provided on dedicated school transport. We will provide an update before the end of the Stage 1 debate on the Bill.

**School Excursions**

**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.***

**113. *.....the Committee strongly recommends that the Bill's provisions should be extended to cover excursions or trips organised by schools.***

Transport for excursions during the school day is distinct from dedicated home-to-school transport and there are already robust measures in place in relation to seat belts. As the Committee recognises, national guidance covering such trips contains stringent risk-assessment responsibilities for the group leader – often a teacher – on a wide range of factors (not just transport). This already stipulates that seat belts should be provided. Feedback from stakeholders has been that, in practice, this is rigorously adhered to.

Dedicated home-to-school transport is organised at authority level and is different from the transport organised by individual schools, which is usually done by teachers, so the booking practices and manner of contracts are very different.

The original policy intention has been for the Bill to apply specifically to dedicated home-to-school transport, aligned to the tailored manner in which it is organised. However, in principle, there would seem no policy objection to extending the measures to this provision, although in practice this must be subject to feasibility and affordability. Scottish Government officials have therefore been in touch with teaching unions, local government and other stakeholders to ascertain what the practical implications would be of extending the legal duty to this area.

## **Seat Belt Maintenance**

**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.**

As the Committee acknowledges, the road-worthiness testing regime is reserved and undertaken on behalf of the UK Government by the Driver and Vehicle Standards Agency (DVSA). In addition to the scheduled vehicle inspection cycle, DVSA officers and the police have powers to undertake unannounced roadside vehicle inspections on buses and coaches.

Local authorities also have the option to employ or appoint their own vehicle inspectors which can monitor buses or coaches used for their dedicated school transport contracts. Additionally, school authorities can make vehicle standards or maintenance a condition of contract and include punitive measures for breaches of this.

It should be noted that school authorities treat the safety of school pupils as an issue of the utmost importance. Dedicated school transport vehicles will regularly be seen by parents, teachers, drivers and the pupils themselves and any reports of poor vehicle maintenance would be taken extremely seriously.

## **Views of Young People**

**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.**

The Scottish Government agrees that engagement with young people will be key to formulating guidance, education and awareness-raising materials and is grateful for the feedback from the interactive workshops undertaken by the Scottish Parliament's education officers, which makes a very useful contribution to this area.

We have already engaged with a range of organisations such as the National Parent Forum Scotland, the Scottish Parent Teacher Council, Scotland's Commissioner for Children and Young People and the Scottish Youth Parliament. The offers by stakeholders in Stage 1 evidence sessions to work with the Scottish Government on this are also welcome.

We will take all of this dialogue forward as we look to carry out a full schedule of engagement with young people and organisations representing and supporting them as we progress guidance to accompany implementation in 2018.

### **Wearing of Seat Belts and Enforcement**

**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.***

As the Committee acknowledges, this is a reserved matter which the Minister for Transport and the Islands sought clarity on recently. The UK Government has no firm timescale for implementation yet the Scottish Government will continue to engage and offer any support necessary to allow EU measures on this to be implemented.

However, we want to ensure we use all the levers at our disposal to promote the issue of seat belt wearing and ensure pupils use them. That's why we will be setting out comprehensive guidance, best practice and approaches.

### **Education and Guidance**

**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.***

The Scottish Government is clear that the legislation represents an opportunity to promote successful approaches and wider awareness of seat belt wearing and the associated safety benefits amongst young people.

Indeed respondents to the Scottish Government's consultation highlighted that the wearing of seat belts is perceived by most children as normal in cars and that fitting seat belts in dedicated school buses would also encourage children to wear seat belts in other vehicles. Moreover it was raised that the habit of wearing seat belts can be further encouraged if schools, parents and carers take an active role in promoting their use from an early age: for instance, through lessons and road safety educational events.

Extensive dialogue has taken place with local authorities, parenting groups and other stakeholders in relation to guidance, publicity and educational materials. Road Safety Scotland, which produces materials available to every school in Scotland, has also been engaged.

There is a wealth of good practice and innovative approaches already happening in Scotland – not least from the councils which already require seat belts on all dedicated school transport – and we will be using this as the basis to work with stakeholders and create effective materials and approaches.

### **Duty of Care**

**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.***

Local authorities have general duties of care for pupils using school transport under both statute – the Education (Scotland) Act 1980 and the Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990 – and common law and there are a range of legal duties on a driver of any vehicle.

The Scottish Government will outline duties and good practice in relation to measures in the legislation and how to promote safe practices regarding the wearing of seat belts in guidance to accompany a future Act.

### **Financial Memorandum**

**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.***

Stipulating additional features in contracts with private bus operators can lead to a cost increase. The financial forecast has been arrived at by estimating the increased costs councils will be subject to when specifying the mandated requirement for seat belts in contracts with private bus operators.

These are forecast to be £202,000 per year from 2018, rising annually to £765,000 per year in 2022 and costing this amount every year until 2031. As vehicles are supplied by private sector providers, there are a range of commercial influences which must be considered and do not make it possible for cost implications to be calculated using a linear formula simply involving a unit cost per bus multiplied by the number of vehicles provided.

Additionally, the size, scope and specification of school transport contracts varies considerably nationally, as does the availability of private sector provision across different geographical areas: factors which will also have a significant impact on

calculating the overall cost of providing seat belts in dedicated school transport services. This means there is not a standard cost per pupil or per journey across Scotland and, as such, the most appropriate way to calculate the financial implications of the Bill is to give best estimates of the impact on the overall future contract costs of the school authority, rather than counting individual binary units.

Local government has established mechanisms for calculating the financial implications of new statutory duties and the forecasts were arrived at in collaboration with CoSLA and the Scottish Local Government Partnership. The overall figure was in-line with a cost window of previous estimates by MVA Consultancy, commissioned by Transport Scotland, in 2013.

However, we note the Committee's comments and will engage with partners to assess what subsequent measures can be taken to further explore and refine the overall cost forecasts associated with the legal duty.

### **Requirement to Notify EU Commission of Technical Standards Measures**

***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.***

The Scottish Government recognises the importance of this Bill in keeping children safe on the journey to school which is why we support the measure, to ensure the approach is implemented across Scotland. We welcome the Committee's views that notification to the European Commission should take place after the completion of Stage 2 proceedings.

Notification is done by the UK Government – as the EU Member State – on behalf of the Scottish Government and we will take forward arrangements for this in line with the agreed timescale.