



Llywodraeth Cymru  
Welsh Government

**Number:** WG52425

Welsh Government  
**Consultation Document**

## Learner travel operational guidance 2025

Date of issue: 11 June 2025

Action required: Responses by 10 September 2025

## Overview

The Learner Travel Operational Guidance is made under section 15 of the Learner Travel (Wales) Measure 2008 which enables Welsh Ministers to issue directions and statutory guidance.

The previous version of this guidance was issued in 2014; since then there have been two reviews in to Learner Travel in Wales which identified a number of areas where amendments to the guidance needed to be made. The majority of these amendments reflect changes to legislation and policy that have taken place since the Guidance came into force or clarify requirements relating to legislation that was in place at that time.

Our main aims in revising this guidance are to ensure the guidance

- aligns with and amplifies legislative developments that have taken place since the guidance was originally published in 2014,
- provide clarity on transport provision for learners with Additional learning needs
- strengthen guidance on Section 10 (promoting access to Welsh medium education) and Section 11 (promoting sustainable travel) of the Learner Travel (Wales) Measure
- reflect some of the good practice that has been identified across Wales to encourage collaboration and partnership working between delivery partners .

We are proposing that the new guidance is published as a suite of documents to help people navigate the information but also to help with keeping the information up-to-date and relevant.

## What is the consultation about?

This consultation seeks views on the draft second edition of the Learner Travel Operational Guidance which is appended to this consultation document. The draft Guidance 2025 makes changes to the first edition of the Guidance which was published in 2014. The majority of these changes reflect changes to legislation and policy that have taken place since the first edition of the Guidance was issued.

## How to respond

Responses to this consultation should be received by **10 September 2025** at the latest.

### Online form

**EMAIL:** Download the response form.  
Complete and return to [bus@gov.wales](mailto:bus@gov.wales).

**POST:** Download the response form  
Complete and return to:

Learner Travel Consultation  
Public and Integrated Transport Division  
Transport and Digital Connectivity  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## **Further information and related documents**

Large print, Braille and alternative language versions of this document are available on request.

The legislation underpinning this guidance is the [Learner Travel \(Wales\) Measure 2008](#).

Two reviews have taken place on Learner Travel in Wales, these can be accessed from the Welsh Government's website at [gov.wales - school transport](#).

The consultation documents can be accessed from the Welsh Government's website at [gov.wales/consultations](#).

## **Contact details**

For more information:  
Public and Integrated Transport  
Transport and Digital Connectivity  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

email: [bus@gov.wales](mailto:bus@gov.wales) (subject heading: Learner Travel Consultation)

This document is also available in Welsh.

 [@WGTransport](#) [@WG\\_Education](#)

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## **UK General Data Protection Regulation (UK GDPR)**

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
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- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail:  
[dataprotectionofficer@gov.wales](mailto:dataprotectionofficer@gov.wales)

The contact details for the Information  
Commissioner's Office are:  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

# Contents

<b>Summary</b>	<b>2</b>
What are the main issues?	2
Where are we now?	2
Why are we proposing changing?	3
The Welsh Language Standards (No.1) Regulations 2015	3
Cymraeg 2050	3
The Additional Learning Needs and Education Tribunal (Wales) Act 2018	3
Net Zero/ Llwybr Newydd	4
Other changes	4
<b>Part 1 – Operational guidance</b>	<b>5</b>
Background	5
Summary	6
Who is this guidance for?	7
Key Points	8
Parents/ Carers	8
Children & Young People	8
Schools/FEIs – Headteachers and Governing Bodies	8
Local Authorities	9
Welsh Government	10
<b>Statutory Provisions</b>	<b>11</b>
<b>The Learner Travel (Wales) Measure 2008</b>	<b>11</b>
Overview	11
Statutory Duties of the Welsh Ministers under the Measure.	11
Statutory Duties of the Local Authorities under the Measure	11
Statutory duties of governing bodies of schools and institutions in the Further Education sector	12
Parental responsibility:	13
Assessing Need	14
Entitlement	16
Primary school learners	16
Secondary school learners	17
Boarding	17
Looked after children	17
Distance thresholds	17
Making Suitable Transport Arrangements	18
Unreasonable Levels of Stress	18
Journey Times	19
Safe Travel	19
Making Other Travel Arrangements	20

Nearest Suitable School	21
Available Routes	22
Admission	22
Enacting Parental Preference	23
Learner Preference	24
Attendance of Learners at School	24
Determination of ordinary residence in particular circumstances	25
No ordinary residence	25
Dual residency	25
Distance criteria	26
Transport for learners not of compulsory school age	27
Post-16 Learners	27
Learners Under Compulsory School Age (Nursery).	28
Promoting access to education and training through the medium of Welsh (Section 10)	28
Section 10, Learner Travel Measure	28
Welsh Language Standards	29
Welsh Language Promotion Strategy	30
Welsh in Education Strategic Plans	30
Transport to Denominational Schools	30
Disabled Learners and Learners with Additional Learning Needs	31
Discretionary Transport Arrangements	33
<b>Promoting sustainable modes of travel</b>	<b>34</b>
Charging for Transport	37
Powers to give Guidance and Directions	38
<b>Part 2</b>	<b>39</b>
Assessment of 'available route' to school.	39
Overview	39
Assessment Procedure – Route	40
Non-hazardous Route Definition	42
Sight lines	43
Road Crossing Assessments	43
Gap Time	43
Site Surveys & Traffic Flows	43
Collision History	44
Canals, Rivers, Ditches and Embankments	44
Lighting	45
Planned Changes in the Area	45
Level Crossings	46
Route Assessment Procedure - Social Safety	46
The nature of Social Danger	46
Social Safety assessment	46

Assessing Social Safety – Partnership working	47
Helping to Ensure the Safety of Children	48
<b>Part 2 - Annex 1a – Available Route Assessment Checklist</b>	<b>51</b>
<b>Part 2 - Annex 1b – Available Route Assessment Matrix</b>	<b>52</b>
<b>Part 2 - Annex 2 - Learner Engagement Assessment Template</b>	<b>53</b>
<b>Part 3</b>	<b>54</b>
The Learner Travel Information (Wales) Regulations 2009	54
Publication of Learner Travel Policies and Information for Parents	54
<b>Part 3 – Annex 1: Template of Learner Transport Policy</b>	<b>56</b>
<b>Part 4</b>	<b>58</b>
Safety on learner transport	58
Overview	58
Seat Belt Provision	58
The Wearing of Seat Belts	59
Criminal Sanctions	61
Liability of those who provide or secure learner transport – who will face prosecution?	62
Travel Escorts	62
<b>Consultation questions</b>	<b>64</b>



## **Summary**

### **What are the main issues?**

The Welsh Government is consulting on revised statutory operational guidance for learner travel provision in Wales. The guidance is primarily aimed at local authorities, schools and FEIs – all of whom have statutory responsibilities under the Learner Travel (Wales) Measure 2008. The guidance was last updated in 2014.

Although there have been no changes to the Learner Travel (Wales) Measure 2008, there have been various legislative changes and policy developments within Wales since the guidance was originally published.

The guidance has been updated to reflect, and amplify, these changes. It seeks to clarify statutory duties on local authorities, schools and FEIs in relation to learner travel in response to feedback from a range of interested partners.

Our principle aims in revising this guidance are to ensure the guidance

- aligns with and amplifies legislative developments that have taken place since the guidance was originally published in 2014
- provide clarity on transport provision for learners with additional learning needs
- strengthen guidance on Section 10 (promoting access to Welsh medium education) and Section 11 (promoting sustainable travel) of the Learner Travel (Wales) Measure
- reflect some of the good practice that has been identified across Wales to encourage collaboration and partnership working between delivery partners.

We are proposing that the new guidance is published as a suite of documents to help people navigate the information but also to help with keeping the information up-to-date and relevant.

Learner Travel is funded through the Revenue Support Grant provided to local authorities. There is no ring fenced monies for local authorities; this aligns with the Welsh Government's continued commitment to ensuring that local authorities have the autonomy and authority to delivery according to local needs.

### **Where are we now?**

Since the original guidance was published in 2014 there have been a number of legislative changes. Two reviews into learner travel have taken place highlighting the need to update the guidance to ensure that it amplifies and aligns with the current legislative environment whilst encouraging improved consistency of delivery across the local authorities in Wales.

The reviews can be accessed from the Welsh Government's website at [gov.wales - school transport](https://gov.wales/school-transport).

## **Why are we proposing changing?**

The majority of amendments reflect changes to legislation and policy that have taken place since the original version of the Guidance was published in 2014 or, as in the case of the Children's Rights Measure 2011, reinforce requirements relating to legislation that was in place.

A summary of these changes is set out below

### ***The Welsh Language Standards (No.1) Regulations 2015***

The Welsh Language Standards (No. 1) Regulations 2015 ("the 2015 Regulations") specify standards in relation to the conduct of certain bodies (the Welsh Ministers, county and county borough councils and National Park authorities). Standards include service delivery standards, policy making standards, operational standards, promotional standards, and record keeping standards.

Schedule 2 of the 2015 Regulations sets out policy making standards which require bodies to ensure that due consideration is given to the effects of policy decisions on opportunities to use the Welsh language and not to treat the Welsh language less favourably than English. Policy making standards 88 to 97 are relevant to learner travel provision as bodies must comply with them when making all policy decisions, including learner travel policies.

Under standards 91, 92 and 93, consultation documents must consider the impact of a policy decision on the Welsh language and also seek views on the impact of the policy decision on the Welsh language. These are separate requirements, which means that there has to be an impact assessment and then questions have to be asked about that assessment.

The Guidance has been updated to reflect the 2015 Regulations including the policy making standards.

### ***Cymraeg 2050***

The Code has been amended to align with Cymraeg 2050, the Welsh Government's strategy for a million Welsh-speakers, and the targets set within each local authority's 10-year Welsh in Education Strategic Plan (WESP) which supports that ambition.

### ***The Additional Learning Needs and Education Tribunal (Wales) Act 2018***

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ("the 2018 Act") establishes the statutory system in Wales for meeting the additional learning needs (ALN) of children and young people (the ALN system). It replaces the system for meeting the special educational needs (SEN) of children in schools and learning difficulties and/or disabilities (LDD) in further education.

Implementation of the 2018 Act commenced from 1 September 2021

## ***Net Zero/ Llwybr Newydd***

Since declaring a climate emergency in 2019, Wales has legislated to reduce greenhouse gas emissions (also referred to as carbon emissions) to net zero by 2050. As part of plans to achieve net zero Welsh Government are committed to reducing emissions from passenger transport by 98% in 2050 through demand reduction, modal shift and the uptake of low carbon technologies; and to reduce car miles travelled per person by 10% by 2030 and increase the proportion of trips by sustainable travel mode (public transport and active travel) to 39% by 2030.

Llwybr Newydd, the Welsh Government's Transport Strategy, was developed to support these aims and ambitions with modal shift being placed at the heart of delivering the strategy. This means the proportion of trips made by sustainable modes increases and fewer trips are made by private cars. Welsh Government, as well as children and young people, recognise the environmental benefits to sustainable travel, and how active travel can help physical and emotional wellbeing

## ***Other changes***

We have made some other changes to the Guidance to strengthen current requirements, to amplify the principles of the UNCRC which should be embedded throughout the delivery of learner travel by local authorities and to help to improve consistency of delivery across local authorities.

We have also taken the opportunity to restructure the guidance in to discrete sections for ease of navigation and to provide opportunities to be able to update the guidance more effectively and frequently if required.

## Part 1 – Operational guidance

### Background

1. The Learner Travel Operational Guidance (LTOG) is issued under section 15 of the Learner Travel (Wales) Measure 2008 (“the Measure”), which gives Welsh Ministers the powers to issue guidance on the Measure.
2. The first LTOG was published in 2014; this draft second edition has been produced with amendments based on feedback from delivery partners and key stakeholders over the past 10 years. This guidance supersedes previously published guidance.
3. The amendments aim to contribute to improving consistency of delivery across local authorities by:
  - providing clarity on roles and responsibilities of all partners involved in the development and delivery of learner travel provision
  - Aligning with policy and legislative developments that have taken place since 2014 and reinforcing requirements relating to legislation that was already in place
  - Promoting access to Welsh medium education
  - Promoting sustainable modes of transport
  - Exemplifying identified best practice
4. Alongside this guidance document we will be publishing a range of best practice case studies, initiated by children, young people and their schools and local authorities. These will demonstrate how by working in partnership they have been empowered to change practice, behaviours and expectations of their local communities to identify the range of travel opportunities available for our learners. This includes a specific focus on active travel and utilising public transport rather than private transport as reflected by the Welsh Government’s sustainable transport hierarchy.

## Summary

5. This guidance outlines the statutory provisions, specific duties and key responsibilities under the Learner Travel (Wales) Measure 2008 (the Measure) set within the broader legislative context.
6. This guidance relates to the Measure, but other legislation is relevant, referred to and **must** be considered when exercising functions under the Measure.
7. Consideration should be given to legislation regarding education, equality, child safeguarding, data protection, health and safety, and human rights and the environment as they are important with respect to the delivery of the Measure.
8. This includes duties arising from, but not restricted to, the;
  - Tertiary Education and Research (Wales) Act 2022
  - Additional Learning Needs and Education Tribunal (Wales) Act 2018
  - Well-being of Future Generations (Wales) Act 2015
  - Welsh Language (Wales) Measure 2011
    - The Welsh Language Standards (No.1) Regulations 2015
  - Social Services and Wellbeing (Wales) Act 2014
  - The School Standards and Organisation (Wales) Act 2013
    - Welsh in Education Strategic Plans (Wales) Regulations 2019
  - Active Travel (Wales) Act 2013 (as amended by Environment (Air Quality and Soundscapes) Act 2024)
  - Rights of Children and Young Persons (Wales) Measure 2011
  - Children and Families (Wales) Measure 2010
  - The Equality Act 2010
9. The content of this guidance has been developed to reflect the Welsh Government's legal duties as set out in the Measure to promote access to Welsh medium education and sustainable modes of travel<sup>1</sup>.
10. In addition to the statutory obligations, this document includes guidelines based on best practice which the relevant bodies should consider when developing their local policies.
11. This document does not aim to give exhaustive guidance for every eventuality. Local circumstances vary widely. We believe that local authorities, further education institutions and schools are best placed to take the lead in considering, in partnership with children and young people, how the needs of parents and learners are to be met. The guidance aims to build on and exemplify the good practice that already exists across Wales.

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<sup>1</sup> Section 10 and Section 11 of the Measure

## Who is this guidance for?

12. This guidance is for local authorities, governing bodies of maintained schools and governing bodies of institutions in the Further Education sector, who, under the terms of the Measure, must have regard to this document.
13. Senior leadership teams in schools and colleges may also want to use this guidance to understand and engage with the processes, policies and legal framework involved in determining school transport provision to see how their community can help inform and contribute to effective learner travel provision in their area.
14. Parents/ carers, organisations that advise them, as well as transport providers /operators may also want to use this guidance to understand the legal framework that underpins the provision of school transport. This guidance provides reference to other pieces of legislation that impact on learner travel provisions and the relevant responsibilities of parents/carers and transport providers.
15. This guidance is part of a suite of learner travel guidance documents<sup>2</sup>.
16. Effective delivery of this guidance will positively impact children and young people directly. The Welsh Government actively encourages learners to provide feedback on the implementation of this guidance via their schools, local authorities and through Transport for Wales' Children and Young Person's Advisory Group who work closely with the Children's Commissioner for Wales.

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<sup>2</sup> [School transport, Welsh Government](#)

## **Key Points**

### ***Parents/ Carers***

- Parents/carers are legally responsible for ensuring their child attends school. This means they must take all the action necessary to enable their child to attend school.
- For most parents/carers, this includes making arrangements for their child to travel to and from school or to a designated pick-up point.
- Parents/carers are responsible for making sure their child understands and follows the expected standards of behaviour when travelling to and from school, regardless of the mode of transportation as outlined in the All-Wales Travel Behaviour Code and their schools' Behaviour Policy.

### ***Children & Young People***

- All children have rights, without discrimination.
- All learners are responsible for ensuring they comply with the expected standards of behaviour as set out in the Travel Behaviour Code no matter how they travel to school.
- Children should have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken in to account – learners can do this through a range of mechanisms from school fora to contacting local authorities directly (contact details can be found [here](#)).

### ***Schools/FEIs – Headteachers and Governing Bodies***

- All children have the right to be safe. Schools/ FEIs should work collaboratively with families, communities and the local authority in supporting and promoting safe and sustainable travel to school/ colleges.
- Schools/ FEIs should support local authorities to deliver their learner travel functions, for example, by promoting the standards of behaviour as set out in the Travel Behaviour Code, sharing information to ensure learners needs are met, and taking travel arrangements into account when proposing changes to their school/ college day.
- Schools/ FEIs should provide appropriate participation fora and meaningful opportunities for learners to act collectively to develop ideas and proposals regarding travelling to school/ college taking into consideration the legislative framework of the Measure.
- Schools/ FEIs should work collaboratively with local authorities when procuring transport provision.
- Schools/ FEIs should support local authorities with the decisions on transport provision for learners.

- Schools/ FEIs should develop and share school travel plans in collaboration with families, local communities and local authorities to signpost active and public transport options for current and future students.

### ***Local Authorities***

- Local authorities must make arrangements, free-of-charge, for eligible learners to travel to school as per the provisions of the Measure.
- Local authorities are responsible for deciding what travel arrangements to make, provided they are suitable, as defined by the local authority's admissions criteria, for the needs of the learners for which they are made.
- Local authorities should proactively engage with children, young people and their families to encourage their participation in developing learner travel policies. Local authorities should provide appropriate participation fora and meaningful opportunities for children and young people to voice their ideas and proposals, and question decision makers regarding travelling to school. They should ensure that learner travel policies are easy for young people to find and understand.
- Local authorities have a duty to promote sustainable modes of travel. It is considered best practice for the relevant local authority teams (eg: active travel, learner travel and public transport co-ordination) to work collaboratively to ensure that intelligence and resources are maximised to provide learners with the relevant supportive infrastructure to be able to active travel<sup>3</sup>, or use public transport, where appropriate, to access their place of learning.
- Governments must do all they can to fulfil the rights of disabled children to live, as far as possible, independent lives as active members of the community. Local authority school travel/ transport and additional learning needs teams should work in partnership to ensure travel training and arrangements are considered, and suitably resourced, if a specific school is named within an Independent Development Plan.
- Local authorities have a duty to ensure any functions made under the Measure promote access to Welsh medium education. It is considered best practice for local authorities to work collaboratively at a regional level, if required, to ensure that resources are maximised to ensure that transport is not a barrier to learners accessing Welsh medium education provision.
- Local authorities must set out in their Welsh in Education Strategic Plans and their Learner Travel policies, how they, in collaboration with other local authorities as necessary, will promote access to education and training through the medium of the Welsh language in relation to learner travel in line with the duty set out under section 10 of the Measure.
- Local authorities should provide explanations for school transport decisions, (this could be on request), so that the wording and explanations are clear as to what was

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<sup>3</sup> Active Travel refers to walking, wheeling, scooting (non-electric) or cycling



considered and how the decision was reached. This should include reference to relevant policy, guidance and legislation.

- Local authorities should have a method for parents to appeal a decision about whether their child has been allocated free school travel provision for their child (local authority contact details can be found [here](#)).
- Local authorities should embed the United Nations Convention on the Rights of the Child (“UNCRC”) within their policies.<sup>4</sup>

### ***Welsh Government***

- The Welsh Government will issue guidance and monitor its implementation to support safe, sustainable and socially-just learner travel provision in Wales that promotes access to Welsh medium education and the use of sustainable modes of travel<sup>5</sup>.
- The Welsh Government, through Transport for Wales, will work with children and young people to understand their needs, listen to their collective views and opinions to inform learner travel policy through the Children and Young Persons Advisory Group.

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<sup>4</sup> [A Children's Rights Approach in Wales - Children's Commissioner for Wales](#)

<sup>5</sup> Sustainable travel is that which may improve the physical wellbeing of users and/or the environmental wellbeing of the whole or part of the local authority's area

## Statutory Provisions

### The Learner Travel (Wales) Measure 2008

#### Overview

17. This guidance is published by the Welsh Ministers under section 15 of the Measure. Under section 15, local authorities, the governing bodies of maintained schools and institutions in the further education sector **must** have regard to the guidance given by the Welsh Ministers.
18. The Learner Travel (Wales) Measure 2008 ('The Measure') sets out the legal framework specifically related to **travel and transport** provision for learners<sup>6</sup> travelling to and from the relevant places where they receive education and training<sup>7</sup>. The Education Act 1996 (as amended) sets out the law in Wales and England for the **attendance** of pupils at school.
19. Where the guidance says that something **must** be done, this means that it is a requirement in legislation and a footnote gives the appropriate provision to the relevant piece of legislation.
20. The Measure sets out specific requirements for learner transport in Wales. Its main provisions are:-

#### ***Statutory Duties of the Welsh Ministers under the Measure.***

21. The Welsh Ministers **must**:
  - make an All-Wales Travel Behaviour Code ('Travel Behaviour Code'<sup>8</sup>)
  - promote access to Welsh Medium education and training when exercising their functions under the Measure<sup>9</sup>
  - promote sustainable modes of travel when exercising their functions under the Measure<sup>10</sup>
22. The Welsh Ministers may also issue directions and statutory guidance<sup>11</sup>; it is under this provision that this guidance is issued.

#### ***Statutory Duties of the Local Authorities under the Measure***

23. Local authorities<sup>12</sup> **must**:

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<sup>6</sup> Learner is defined in the Measure as people who receive education or training.

<sup>7</sup> Relevant places are defined under Section (4) in the Measure. For the purposes of this document they will be referred to as schools or colleges.

<sup>8</sup> Section 12 of the Measure

<sup>9</sup> Section 10 of the Measure

<sup>10</sup> Section 11 of the Measure

<sup>11</sup> Section 15 of the Measure

<sup>12</sup> Local authority means **all** relevant departments within the authority and is not limited to teams responsible for planning and/ or commissioning travel arrangements for learners

- have regard to this guidance<sup>13</sup>
- assess the travel needs of learners up to the age of 19 in their authority area<sup>14</sup>
- provide free transport arrangements for learners of compulsory school age attending primary school who live 2 miles or further from their nearest suitable school<sup>15</sup>
- provide free transport arrangements for learners of compulsory school age attending secondary school who live 3 miles or further from their nearest suitable school<sup>16</sup>
- promote access to Welsh medium education when exercising their functions under the Measure<sup>17</sup>
- promote sustainable modes of travel when exercising their functions under the Measure<sup>18</sup>
- ensure that every vehicle directly contracted for learner transport has a seat belt fitted to every passenger seat<sup>19</sup>
- provide another local authority any information or other assistance that is reasonably required by the other authority for the performance of their functions under sections 2, 3, 4 and 6 of the Measure<sup>20</sup> in line with GDPR legislation.
- provide the head teacher of a relevant school any information or other assistance that is reasonably required by the head teacher about the behaviour of a registered pupil of his or her school while the pupil was taking advantage of travel arrangements made by the local authority under this Measure<sup>21</sup> in line with GDPR legislation.

24. Where learners are not entitled to free transport, local authorities have the power to provide transport, and impose a fee for it, on a discretionary basis<sup>22</sup>.

### ***Statutory duties of governing bodies of schools and institutions in the Further Education sector***

25. Governing bodies of schools and Further Education institutions **must**:

- have regard to this guidance document<sup>23</sup>
- give a local authority any information or other assistance that is reasonably required by them for the performance of the local authorities functions under this Measure<sup>24</sup> in line with GDPR legislation.

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<sup>13</sup> Section 15 of the Measure

<sup>14</sup> Section 2 of the Measure

<sup>15</sup> Section 3 of the Measure

<sup>16</sup> Section 3 of the Measure

<sup>17</sup> Section 10 of the Measure

<sup>18</sup> Section 11 of the Measure

<sup>19</sup> Section 14A of Measure

<sup>20</sup> Section 17 of the Measure

<sup>21</sup> Section 17 of the Measure

<sup>22</sup> Section 6 of the Measure

<sup>23</sup> Section 15 of the Measure

<sup>24</sup> Section 17 of the Measure

- ensure that every vehicle directly contracted for learner transport has a seat belt fitted to every passenger seat<sup>25</sup>

26. A head teacher of a school **must**

- require pupils at the school to comply with the Travel Behaviour Code made by the Welsh Ministers under section 12 of the Measure 2008<sup>26</sup>
- provide a local authority any information or other assistance that is reasonably required by the local authority for the performance of their functions under section 14<sup>27</sup> of the Measure<sup>28</sup> in line with GDPR legislation.

***Parental responsibility:***

27. The Measure does not include any statutory duties on parents/carers nor on children and young people. If a child of compulsory school age is registered at school but fails to attend school regularly, their parents may be guilty of an offence and can be prosecuted by the local authority<sup>29</sup>. Under the terms of the Measure<sup>30</sup> parents have a defence to prosecution if a local authority has failed to discharge, where required, their statutory duties under sections 3 or 4 of the Measure to make travel arrangements to facilitate the attendance of their child at school.
28. The provisions within The Measure are fundamental to realising a children's right to education, and support children reaching their potential and thriving in education once they are there<sup>31</sup>. This guidance document sets out the roles and responsibilities as outlined in the Measure to make sure that children can access their education setting in a way that is safe, environmentally friendly and reflects their needs.

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<sup>25</sup> Section 14A of Measure

<sup>26</sup> Section 13 of the Measure amended [Education and Inspections Act 2006 \(legislation.gov.uk\)](http://www.legislation.gov.uk)

<sup>27</sup> Section 14 refers to the Enforcement of travel behaviour code;

<sup>28</sup> Section 17 of the Measure

<sup>29</sup> [Section 444, Education Act 1996](http://www.legislation.gov.uk/ukpga/1996/56/section/444)

<sup>30</sup> Section 20 of the Measure amended section 444 of the Education Act 1996

<http://www.legislation.gov.uk/ukpga/1996/56/section/444>

<sup>31</sup> Articles 28 & 29, [Convention on the Rights of the Child | OHCHR](http://www.unhcr.org/refugees/article/48c4b622.html)

## Assessing Need

29. Under Section 2 of the Measure local authorities must assess the travel needs of all learners under the age of 19 who receive education or training funded by the authority and who are ordinarily resident in the authority's area. This includes those who have reached 19 but started a course when under 19 years of age and continue to attend that course.
30. Local authorities are required to assess the travel needs of learners living in their area up to the age of 19, but there is no legal duty to provide free or assisted travel arrangements for nursery or post compulsory school aged learners.
31. Learner travel needs are the needs of learners for suitable travel arrangements each day between home and school/ college. Those learners whose travel needs are assessed by the local authority also include those whose nearest suitable schools are in other local authority areas.
32. Local authorities are only required to assess the travel needs of those learners attending education provision funded by the local authority.
33. A local authority **must** make an assessment of learner travel needs for their area every academic year in preparation for the following academic year<sup>32</sup>.
34. In making an assessment, for the area, the local authority **must** have regard to<sup>33</sup>:
  - the needs of learners who are disabled persons<sup>34</sup>
  - the needs of learners with learning difficulties, additional learning needs as set out in a learner's Individual Development Plan (IDP) (paragraphs 134-145)
  - any particular needs of learners who are 'looked after' or formerly looked after by a local authority
  - the age of learners
  - the nature of the route that learners could be expected to take between home and the places where they receive education or training.
35. When assessing the travel needs of learners, local authorities should consider who the learners are in their area including:
  - where learners currently attend or are due to attend school
  - Welsh medium school provision for learners in their area, and neighbouring local authorities, including consideration of:
    - Linguistic profiles of communities
    - Policies, targets and aims in terms of increasing number of Welsh language speakers and increasing use as set out in the local authority's Welsh in Education Strategic Plans and Welsh Language Strategies.
    - faith school provision for learners in their area

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<sup>32</sup> Section 2 (2)

<sup>33</sup> Section 2 (4)

<sup>34</sup> The definition of disability can be read as that from the Equality Act 2010.

- which learners they are under a legal duty to provide with transport under sections 3 and 4 of the Measure
  - which learners they choose to provide with travel assistance on a discretionary basis under section 6 of the Measure
36. Local authorities should consider any information provided by schools and colleges when assessing learner travel needs. Schools and colleges are encouraged to develop Travel Plans<sup>35</sup>. These Travel Plans will include information that could be useful to the local authority and should be shared accordingly.
37. The Additional Learning Needs and Education Tribunal (Wales) Act 2018<sup>36</sup> requires relevant bodies to make decisions about whether a child or young person up to the age of 25 has additional learning needs (ALN). Where ALN has been identified, the body must prepare and maintain an individual development plan (IDP), describing the additional learning provision (ALP) the learner requires to meet their ALN. Those preparing or reviewing an IDP for a child or young person should, where relevant, record in the IDP any arrangements for the child or young person's travel between their home and the education institution. The body maintaining the IDP should engage with relevant officials in the local authority responsible for learner travel at the earliest opportunity to agree suitable provision as outlined in the IDP and responsibilities for resourcing the requirement, ensuring any Welsh language requirements are taken into consideration. Further information about recording travel arrangements in an IDP can be found in Chapter 23 of the Additional Learning Needs Code for Wales 2021 (the ALN Code)<sup>37</sup>.
38. Assessing the travel needs of learners does not mean providing free transport. Learners will only qualify for free transport provision if they meet the entitlement criteria in the Measure.
39. Local authorities **must** promote sustainable modes of travel<sup>38</sup> when exercising their functions under the Measure. As part of the needs assessment they **should work collaboratively** with schools and other neighbouring local authorities to share information and map out the travel options that can be developed in an efficient and effective manner taking into consideration:
- Active Travel routes in their area
  - Public transport routes in their area; and possible opportunities for harnessing these routes to support travel to school
  - Transport provided by alternative sources (e.g. contracted directly by schools/colleges)
  - School Travel Plans
40. The needs assessment should provide local authorities with information to provide suitable travel arrangements for those learners where active travel or public transport is not an option.

<sup>35</sup> [Active Travel School Plan Toolkit](#)

<sup>36</sup> [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(legislation.gov.uk\)](#)

<sup>37</sup> [The Additional Learning Needs Code for Wales 2021 \(gov.wales\)](#)

<sup>38</sup> Sustainable travel is that which may improve the physical wellbeing of users and/or the environmental wellbeing of the whole or part of the local authority's area

41. The needs assessment is required to consider travel to and from a suitable school (as determined by the local authority's school admissions policy) or relevant place of learning. The local authority is not required to consider individual learner travel needs during the day between different places of education or training, including:
- residential trips or day trips organised by schools.
  - travel between schools or between different sites of the same school
42. The local authority is not required (but they may choose to if they wish) to take account of extra-curricular activities, breakfast or after-school clubs when assessing learner travel needs. Schools and colleges are encouraged to work in partnership with local authorities and local transport providers to explore opportunities to review timetabling of local transport services to respond to passenger demand generated by their learners and staff.
43. There is no statutory duty on local authorities to take account of parents/carers income, health or work commitments when assessing learner travel needs (but they may choose to if they wish).
44. Article 12 of the UNCRC sets out that children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account; and Section 12 of the Children and Families (Wales) Measure 2010 imposes a duty on local authorities to promote and facilitate participation by children and young people in decisions that might affect them. Local authorities should have a method to engage with children and young people; this could be through established participation forums (e.g. school committees, local authority led young people fora) which could be used to provide opportunities for children and young people to contribute to the needs assessment process. Local authorities should have structures in place to ensure children and young people can access information on these mechanisms and know what influence their contribution has made or the reasons why their contributions cannot be implemented.<sup>39</sup>

## **Entitlement**

45. Section 3 of the Measure places a duty on a local authority to make suitable transport arrangements for learners who are:
- ordinarily resident in their local authority area
  - of compulsory school age in specified circumstances and subject to specified conditions as set out below.

### ***Primary school learners***

46. Learners receiving primary education are entitled to free transport if they live two miles or more from their nearest suitable maintained school; pupil referral unit; non-maintained special school or independent school or other institution named in their IDP.

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<sup>39</sup> Further information, support and resources can be accessed from the office of the Children's Commissioner for Wales- [The Right Way - A Children's Rights Approach - Children's Commissioner for Wales](#)

### ***Secondary school learners***

- 47. Learners receiving secondary education are entitled to free transport if they live three miles or more from their nearest suitable maintained school; pupil referral unit; non-maintained special school or independent school or other institution named in their IDP.
- 48. The entitlement includes transport for any learners of compulsory school age up to 16 years old who attend their nearest suitable further education institution as a full-time student if it is three miles or more from their home and the local authority has not arranged for the learner to attend a suitable institution closer than three miles from the learner's home.
- 49. The local authority is not obliged to provide transport to learners who are already 16 years of age at the beginning of a new academic year.
- 50. The entitlement includes travel between home and school, where a learner is registered at more than one school and needs to attend different schools on different days of the week.

### ***Boarding***

- 51. If the local authority has made arrangements for appropriate boarding accommodation for the learner at, or near the school, the duty to provide transport does not apply but would be expected to provide transport to and from the school at the beginning and end of each term

### ***Looked after children***

- 52. A child who is 'looked after' by the local authority has the same meaning as set out in Section 74 of the Social Services and Well-being Act (Wales) 2014 and is a child who is in its care or provided with accommodation for a continuous period of more than 24 hours by the authority in the exercise of its social services functions.
- 53. Under section 3 of the Measure, the same age and distance criteria apply to learners who are 'looked after' as to those who are not looked after. However, under section 4(8) of the Measure, there is no qualification that they must attend the nearest suitable school.

### ***Distance thresholds***

- 54. The 2 and 3 mile distance thresholds are the minimum statutory requirement. Under section 6 of the Measure, local authorities have discretionary powers to provide transport assistance to certain cohorts below this mileage threshold. This is a decision for local authorities to make based on the local needs assessment.



55. The distances are to be measured by the shortest available route<sup>40</sup> (paragraphs 76-80). Local authorities should provide information on how the route is measured.

## **Making Suitable Transport Arrangements**

56. Where sections 3 or 4 of the Measure are applicable, a local authority **must** make suitable transport arrangements to facilitate the attendance of the learner each day at their nearest suitable school.
57. When considering possible transport arrangements local authorities should develop policies and offer provision that reflect the needs of the learners in their area as determined by the needs assessment, whilst taking into consideration the sustainable transport hierarchy as set out in the Wales Transport Strategy - Llwybr Newydd<sup>41</sup> where priority is given to active travel and public transport ahead of private motor vehicles.
58. Local authorities can provide a range of suitable transport arrangements to comply with their duties under section 3 or 4 of the measure. These arrangements may include the provision of transport or the payment of the whole, but not part, of a learner's transport arrangements. This may include arrangements such as a school bus service, provision of a taxi, providing travel passes for public transport or reimbursement arrangements for parental or learner travel expenses – often called a Personal Travel Budget.
59. Schools should work with learners to ensure they understand how local authorities develop their policies which impact them and provide relevant fora for learners to voice their suggestions and comments on travel planning relevant to their local community. Schools are encouraged to utilise the support provided through Welsh Government Active Journey's Programme which also contributes to the Eco Schools Programme<sup>42</sup>, and/or NHS Wales Healthy Schools Programme<sup>43</sup> to develop School Travel Plans to help inform local authority learner travel provision.
60. Under Sections 3(5) and 4(6) of the Measure, transport arrangements are not suitable if:
- they cause unreasonable levels of stress for the learner
  - they take an unreasonable amount of time
  - they are unsafe

### ***Unreasonable Levels of Stress***

61. Local authorities must provide suitable transport arrangements to ensure that, as far as reasonably practicable they do not cause unreasonable levels of stress to the learner<sup>44</sup>. 'Stress' is not defined in the Measure, nor is there a definitive list of what

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<sup>40</sup> Section 3 (7) of The Measure

<sup>41</sup> [Llwybr Newydd: the Wales transport strategy 2021](#)

<sup>42</sup> [Eco-Schools, Keep Wales Tidy](#)

<sup>43</sup> [Welsh Network of Healthy School Schemes - Public Health Wales](#)

<sup>44</sup> Section 3(5) of the Measure.

criteria local authorities should take into account to determine if the journey causes an unreasonable level of stress. Stress is known, however, to involve a state of mental or emotional strain or tension resulting from adverse or demanding circumstances. What is an unreasonable stress will differ from learner to learner and should be considered on a case by case basis.

62. Local authorities should consider the following whilst assessing levels of stress:
- the learner's age
  - whether the learner is disabled or
  - whether the learner has ALN that need to be accounted for<sup>45</sup>

### ***Journey Times***

63. The Measure does not specify a time limit for journeys due to day-to-day variations such as traffic congestion, accidents and the different topography that exists across Wales. However, local authorities are required to assess the needs of learners when considering if a journey time is reasonable. An assessment should take into account the nature and circumstances of each journey. Decisions should be balanced against the requirement to ensure the learner is attending the appropriate place of learning.<sup>46</sup> It is recommended that local authorities consider the following whilst assessing learner journey times:-
- the learner's age
  - whether the learner is disabled
  - whether the learner has ALN that need to be accounted for<sup>47</sup>
64. As a general guide, the maximum journey time for a primary school age learner should be around 45 minutes each way, and around 75 minutes each way for a secondary school age learner, including any time taken to walk to a pick-up point, but there will be circumstances in which this is not possible, for example in rural areas where learners live in remote locations, where a learner needs to travel a long way to the school named in their IDP, to a Welsh medium school or faith based school or when journey times are extended by traffic delays. Wherever possible, a learner should not be expected to make several changes on public transport.

### ***Safe Travel***

65. Local authorities should satisfy themselves that all learner transport arrangements they provide under their duties of the Measure are safe and ensure arrangements are suitable for the learner's needs.
66. Local authorities should refer to the additional guidance, based on the Road Safety GB & ROSPA [Assessment of Walked Routes to School 2021](#), published alongside

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<sup>45</sup> This should be reported in their Individual Development Plan (IDP).

<sup>46</sup> For example, journey times may be longer in rural areas due to the topography; or learners may need to travel for longer to attend Welsh medium, faith based or specialist provision learning.

<sup>47</sup> This should be reported in their Individual Development Plan (IDP).

this document and the Home to School Transport risk assessments guidance document.<sup>48</sup>

### ***Making Other Travel Arrangements***

67. The Measure places a duty on a local authority to facilitate a learner's attendance at school - this may include transport (for example buses, taxis) but under Section 4 this can also include other travel arrangements. As outlined in Section 5 of the Measure, these travel arrangements only apply to travel to and from the learner's nearest suitable school as determined by the local authority (unless the learner is 'looked after' by the local authority) at the start and/or finish of the school day and does not include travel during the day, nor travel to and from breakfast and after school clubs.
68. It is the responsibility of the local authority to organise travel arrangements for eligible learners. There are a range of options available to them including:
- A travel pass for public service bus and/ or rail networks
  - Personal Travel Budgets
  - Independent travel training to provide skills and confidence to use public transport as part of a personalised package of support which would include a travel pass
  - Dedicated school bus (service solely for learners)
  - Taxis or private hire cars
  - Funding for buying a bike/ scooter to enable a learner to wheel to school
  - Local Authority's own transport
  - Carpool incentives
69. The travel arrangements should fulfil the minimum legal requirements; if parents/ carers are not satisfied with the offer provided by the local authority, it becomes their responsibility to arrange their own transport for the learner.
70. In considering whether travel arrangements are suitable for the purposes of section 4, the local authority must have regard to<sup>49</sup>:
- The assessment undertaken under section 2 of the Measure (outlined in paragraphs 29-44 of this document)
  - the transport arrangements they are under a duty to make under section 3 of the Measure
  - the age of the learner
  - Whether the learner is disabled
  - any ALN of the learner – for example, the local authority should consider the transport needs set out in the learner's IDP
  - the nature of the route a learner could reasonably be expected to take (paragraphs 76-80)

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<sup>48</sup> [School transport, Welsh Government](#)

<sup>49</sup> Section 4(5) of the Measure.

## Nearest Suitable School

71. A school is suitable for a learner if the “education or training provided there is suitable, having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have”.<sup>50</sup>
72. Local authorities need to consider the suitability of the school when deciding if the placement is appropriate for the learner. Deciding which suitable school is the learner’s nearest is a matter for the local authority to determine in accordance with their own School Admissions Policy and should also take into consideration their Welsh in Education Strategic Plans, and if a school has been identified in an IDP. Local authorities must set out how the nearest suitable school is identified and publish this information in their learner travel policy (in accordance with provisions outlined in the Learner Travel Information (Wales) Regulations 2009<sup>51</sup>.)
73. Parents and learners may express a preference for a particular school, a particular type of language provision or faith school, but the Measure does not place a duty on local authorities to provide free transport to the parents’ or learner’s preferred school and/or location, unless that school is determined by the local authority to be the learner’s nearest suitable school (as determined by the local authority’s School Admissions Policy) and the learner meets the distance criteria or the local authority consider that travel arrangements are necessary to facilitate the attendance of the learner each day at school.
74. Transport must be provided free of charge, to eligible learners, to a school outside a local authority’s area if that establishment is deemed to be the learner’s nearest suitable school and if the learner lives:
- further than the statutory distances specified for their age; or
  - under the statutory distance specified for their age where the prescribed route the learner is expected to travel is not classified as *available* by the relevant authority; or
  - where the local authority consider that travel arrangements are necessary to facilitate the attendance of the child each day at school.
75. Distances are to be measured by the shortest available route<sup>52</sup>. Local authorities should provide information on how the route is measured.

### Best Practice: Definition of nearest suitable school

“An appropriate school is deemed to be the nearest school which provides education for the relevant age, ability and aptitudes of a learner, the nearest Welsh medium school or the nearest voluntary aided school”

<sup>50</sup> Section 4(9) of the Measure

<sup>51</sup> <http://www.legislation.gov.uk/wsi/2009/569/regulation/4/made>

<sup>52</sup> Section 3 (7) of the Measure

## Available Routes

76. A route is available if it is “safe for a child without a disability or learning difficulty to walk the route alone, or it is safe for such a child to walk the route with an escort, if the age of the child would call for the provision of an escort”<sup>53</sup>. In this context escort refers to a responsible person to accompany the learner – this may be a parent, carer, family friend, elder sibling.
77. If this definition does not apply then a learner cannot be expected to walk to school even though the distance is less than the distance limit that applies to their age and the learner would therefore be entitled to free travel provision from their local authority.
78. When assessing whether a route is available, local authorities should consider the whole of the route. They should consider a range of risks such as volume and speed of traffic; visibility distances for drivers and pedestrians; availability of safe crossings and ‘step offs’, sufficiency of footways, footpaths and subways; adequacy of waiting areas and street lighting; rivers, canals, wooded and built-up environments; and work in partnership<sup>54</sup> to mitigate these risks if relevant.
79. Along with their local knowledge and context, local authorities should use the ‘Assessment of Walked Routes to Schools Guidelines’<sup>55</sup>, published by Road Safety GB, which provides advice to local authorities on assessing the risk posed to pedestrians by traffic, as the basis to develop a route safety assessment.
80. Local authorities should set out clearly their methodology for assessing whether a route is available and procedures for parents/ carers or learners to appeal a decision.

## Admission

81. If a learner cannot be admitted to their nearest suitable school, due to oversubscription of their nearest suitable school, which results in the learner having to attend the next available suitable school the local authority has the duty to provide free transport if the learner meets the distance and age criteria usually entitling them to free transport provision.
82. The School Admissions Code 2013<sup>56</sup> (the ‘2013 Code’) outlines in detail the statutory requirements governing school admissions. Paragraphs 2.48 – 2.55 of the 2013 Code outlines how distance between home and school can be used as a determinant for entitlement to admission at a school where demand for places means that the oversubscription criteria applies.

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<sup>53</sup> Section 3 (8) of the Measure

<sup>54</sup> This could be with other departments across the local authority, the police, private land owners

<sup>55</sup> [Assessment of walked routes to schools guidelines, Road Safety GB, 2021](#)

<sup>56</sup> [School admissions code | GOV.WALES](#)

## Enacting Parental Preference

83. Section 86 of the School Standards and Framework Act 1998 requires a local authority to enable a parent to express a preference for the school they wish their child to attend. For the purpose of this document this is defined as 'enacting parental preference'.
84. Section 9 of the Education Act 1996 states that local authorities must have regard to the general principle that learners are to be educated in accordance with the wishes of their parents so far as reasonably practicable. So far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.
85. Parental preference does not give a right to a place in their chosen school. If there are places available at the parents preferred school, the admission authority's decision should usually be to accept an application for admission. This can mean that some learners do not attend their nearest suitable school and live some distance away from the school they attend.
86. If a parent enacts their parental preference when determining which school their child attends and the chosen school is not the nearest suitable school determined by the local authority, the learner is not entitled to free transport provision – even if the learner meets the distance or age criteria usually entitling them to free transport provision.
87. Where the local authority considers that travel arrangements are necessary to facilitate the attendance of a compulsory school age learner<sup>57</sup> they will be under a duty to provide transport under section 4 of the Measure. The Welsh Government provides funding to local authorities to support school engagement and learner attendance, Family Engagement Officers and local authority officers should work collaboratively to support attendance through addressing any transport challenges, maximising available resources where possible.
88. Although under the terms of the Measure there is no duty on local authorities to provide free transport to Welsh medium or faith schools that are not considered a learner's nearest school, local authorities do, under section 6 of the Measure, have discretionary powers to include such a provision in their learner travel policy. Local authorities do, under section 10 of the Measure, also have a duty to promote access to Welsh medium education. As set out in paragraphs 119-120 there are further additional duties on local authorities through the Welsh Language Standards, and commitments made within their own WESPs and Welsh Language Strategies to increase the number of Welsh speakers in each area through education. Local authorities should therefore be using both Section 6 and Section 10 to ensure that Welsh is not treated any less favourably than English and offering free transport to the closest Welsh or English medium school (paragraph 121).

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<sup>57</sup> As defined around eligibility criteria

## **Learner Preference**

89. Involvement in decisions that affect their lives is a fundamental right for all children and young people. Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) states that every child has the right to express their views on matters that affect them and for their views to be given due weight in accordance with their age, understanding and maturity.
90. Local authorities should respect and recognise the United Nations Convention on the Rights of the Child (“UNCRC”)<sup>58</sup> and any commitments made in relation to it, including listening to learners in decisions that affect them; in this case, school preference and suitable travel arrangements if appropriate. Children and young people have a right to be provided with information or explanations explaining decisions that have been made that affect them.
91. When a learner exercises their preference for a school they would like to attend, if it is not their nearest suitable school the learner is not entitled to free transport provision, under section 3 of the Measure, even if they meet the distance and age criteria usually applied to receive free transport provision. Where the local authority considers that travel arrangements are necessary to facilitate the attendance of the child each day at school they will be under a duty to provide transport under section 4 of the Measure, and they may also provide discretionary transport provision under section 6 of the Measure.
92. Schools (senior leadership and governors) should ensure that learners have a forum to be able to voice their opinions on their journey to school providing an opportunity to harness the creative ideas of children and young people to help find innovative solutions to encouraging more sustainable travel options for their journeys to school. Sustrans, the Welsh Government’s delivery partner for the Active Journey’s Programme<sup>59</sup>, and the Eco Schools programme (delivered by Keep Wales Tidy) have developed a suite of resources for schools to use and can provide tailored guidance and support to schools; this activity also aligns with several indicators within the national quality award of the Welsh Network of Healthy School Schemes<sup>60</sup>. Schools should work in partnership with their local authority to share information and experiences from their learners to help inform and influence learner travel provision.

## **Attendance of Learners at School**

93. Section 444 of the Education Act 1996 creates the offence on the part of a parent of failing to secure the regular attendance at school of a registered pupil. Section 444 (4) of the 1996 Act (amended by Section 20 of the Measure) provides that a parent will have a defence to a prosecution if a local authority has failed to discharge, where required, their statutory duties under sections 3 or 4 of the Measure to make travel arrangements to facilitate the attendance of their child at school.

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<sup>58</sup> [Children's rights in Wales | GOV.WALES](#)

<sup>59</sup> [Active Journeys Programme in Wales - Sustrans.org.uk](#)

<sup>60</sup> [National Quality Award Indicators - WNHSS](#)

94. Welsh Government provides funding to local authorities to support school engagement and learner attendance, Family Engagement Officers and local authority officers should work collaboratively to support attendance through addressing any transport challenges, maximising available resources to identify solutions to support attendance at schools.

## **Determination of ordinary residence in particular circumstances**

95. Section 19 of the Measure sets out the provisions for determining a person's ordinary residence in particular circumstances.

### ***No ordinary residence***

96. If a person has no ordinary residence, section 19 (1) states that the person should be treated for the purposes of the Measure as being ordinarily resident at the place at which they are for the time being resident.

### ***Dual residency***

97. Dual residency is where a learner has more than one ordinary place of residence. This applies to learners whose parents are not living together with the learner living partly with each parent<sup>61</sup>, or with a parent and other carer, foster placement etc.
98. Under article 9 of the UNCRC children should not be separated from their parents unless it is for their own good. The Measure provides that where a learner has dual residence both places of residence should be regarded as the learner's ordinary residence. If a learner lives at more than two such places then only those two places nearest to their school will qualify<sup>62</sup>.
99. Sections 3 and 19 of the Measure place a duty on a local authority to provide free transport for learners (including those of dual residence) to their nearest suitable school if the learner is of compulsory school age and the residence(s) meet the statutory distance criteria. If the statutory criteria are not met local authorities must still provide transport if they consider it necessary to facilitate a learner's attendance at school and also may provide discretionary transport under section 6 of the Measure
100. Section 9 of the Education Act 1996 states that local authorities must have regard to the general principle that learners are to be educated in accordance with the wishes of their parents so far as reasonably practicable. So far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.
101. The main residence will usually be the property to which child benefit is paid and the address registered with school.

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<sup>61</sup> 'Parent' means a parent within the meaning of section 576(1) of the Education Act 1996 who is an individual and includes any person who is not a parent but who has parental responsibility, or who has care for the child.

<http://www.legislation.gov.uk/ukpga/1996/56/section/576>

<sup>62</sup> Section 19(6) of the Measure.



102. Where a learner has two places of ordinary residence which are located in two neighbouring local authorities in Wales, each of those local authorities should work collaboratively and are responsible for the learner's travel arrangements when the learner is residing in its area, in line with legislation (section 19) and the relevant local authority's learner travel and school admissions policies.
103. A local authority's duty to make transport arrangements for a child under the Measure applies only to children ordinarily resident in a local authority in Wales. Local authorities are therefore not obliged to provide free transport to and from residences in England.

## **Distance criteria**

104. Section 3 of the Measure sets out the distance criteria whereby learners are entitled to free transport to and from their nearest suitable school.
- Primary school children who live further than 2 miles from their school are eligible for free travel provision
  - Secondary school children who live further than 3 miles from their school are eligible for free travel provision
105. The statutory distances are used to determine whether a learner is eligible for free travel to school. Where a learner lives within the statutory distance (and is not eligible for free travel on any of the other grounds set out by the Measure) the parent/carer is responsible for arranging their child's travel to school. There is no expectation that the learner has to walk. It is for the parent/ carer to determine what arrangements would be suitable for their child.
106. Under section 3(7) of the Measure the distance should be measured by the 'shortest available route'. Section 3 (8) defines that a route is considered to be available if "it is safe for a learner without a disability or learning difficulty to walk the route alone or it is safe for such a learner to walk the route with an escort, if the age of the learner would call for the provision of an escort". In this context escort refers to a responsible person to accompany the learner – this may be a parent, carer, family friend, elder sibling.
107. When a local authority assesses whether the distance between a learner's home and their school is further than the prescribed statutory distance, the route they measure must be the shortest route along which a child, accompanied as necessary, may walk in reasonable safety<sup>63</sup> (paragraphs 76-80). This is not necessarily the shortest distance by road. The route may also include footpaths, bridleways, other pathways and alternative entrances to the school.
108. Local authorities should outline in their learner travel policies the methodology used for measuring the distance between school and home address. Although measurements for assessment may be taken from school property to the learner's home, local authorities are not obliged, under the terms of the Measure, to provide eligible learner with transport assistance directly from and to these addresses.

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<sup>63</sup> As outlined in the [Assessment of Walked Routes to School 2021, Road Safety GB & ROSPA](#)

109. Parents/carers may be responsible for ensuring that learners access the prescribed school transport provision from a designated safe and accessible pick up and drop off point (this could be up to 1 mile), provided they would be able to do so in reasonable safety (paragraphs 76-80), accompanied by a parent/carer if necessary. Local authorities should develop their learner travel policies to align with the Transport Hierarchy set out in Llwybr Newydd<sup>64</sup> to reduce the dependency on private cars and therefore any designated pick up and drop off point should not inadvertently increase the use of private vehicles.
110. If the local authority assesses a route to 'not' be 'available' due to it not being safe and there is no alternative 'available' route within the respective distance threshold applicable to the learner's age the learner cannot be expected to walk to their nearest suitable school (even though the distance from home to school is less than the distance limit that applies to the learner's age). In such cases a local authority has a duty to provide a learner with free transport provision to and from their nearest suitable school. If a learner does not attend their nearest suitable school and the route is not 'available' the local authority is not required to provide free transport provision.
111. It is recommended that the determination of the availability of routes to school be carried out by local authorities in accordance with Road Safety GB & Royal Society for the Prevention of Accidents (RoSPA) guidance document – *Assessment of Walked Routes to School*.

## **Transport for learners not of compulsory school age**

### ***Post-16 Learners***

112. Under Section 2 of the Measure local authorities must assess the travel needs of all learners under the age of 19 who receive education or training funded by the authority and who are ordinarily resident in the authority's area. This includes those who have reached 19 but started a course when under 19 years of age and continue to attend that course.
113. There is no statutory duty for a local authority to provide free transport to learners who are not of compulsory school age. However, in assessing learner travel needs under section 2(4) of the Measure, a local authority "must have regard in particular" to the needs of learners who "are disabled persons" and "with learning difficulties". Further information on mandatory duties and guidance in relation to transport matters in the context of preparing an IDP for young people up to the age of 24 is provided in the ALN Code<sup>65</sup>.
114. Section 6 of the Measure provides local authorities with the power to provide discretionary transport arrangements for post-16 learners. Further information on discretionary transport provisions is provided in paragraphs 146-156.
115. Local authorities should provide information on post-16 learner travel provision. This information should be easy to find and provide details on all provision and support

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<sup>64</sup> [Llwybr Newydd: the Wales transport strategy 2021, Welsh Government](#)

<sup>65</sup> [The Additional Learning Needs Code, Welsh Government](#)

available to post-16 learners (not just that provided by the local authority). This information should be included in the materials published regarding the general arrangements and policies for learner travel.

### ***Learners Under Compulsory School Age (Nursery).***

- 116. Under Section 2(1) of the Measure local authorities must assess the travel needs of learners who are below the compulsory school age attending nursery education funded by the authority and who are ordinarily resident in the authority's area.
- 117. There is no statutory duty for a local authority to provide free transport to any nursery learner who is under compulsory school age and attending nursery.
- 118. Section 6 of the Measure provides local authorities with the power to provide discretionary transport arrangements for learners under compulsory school age who attend nursery. Further information on discretionary transport provision is provided in paragraphs 146-156.

### **Promoting access to education and training through the medium of Welsh (Section 10)**

- 119. There have been a number of significant legislative developments to support the promotion of the Welsh language and Welsh medium education since the previous version of this guidance was published. These pieces of legislation, notably the Welsh Language Measure 2011, and the subsequent Welsh language standards, have imposed further duties on local authorities to ensure that opportunities are created to use Welsh and to ensure Welsh is not treated any less favourably than English. These duties enhance Section 10 of the Learner Travel Measure and **must** be complied with accordingly.
- 120. Local Authorities **must** ensure that functions exercised under the Learner Travel Measure **must** take into account relevant Welsh Language Standards<sup>66</sup> (paragraphs 123-127), the local authority's Welsh Language Strategy (paragraph 128) and their Welsh in Education Strategic Plan (WESP)<sup>67</sup>

### ***Section 10, Learner Travel Measure***

- 121. Section 10 of the Measure imposes a duty on local authorities to promote access to education and training through the medium of Welsh. This duty applies to the whole of the Measure. Local authorities **must**, therefore, **promote** access to Welsh-medium education when exercising **any** functions under the Measure.
- 122. Cymraeg 2050<sup>68</sup> sets out the Welsh Government's strategy for the promotion and facilitation of the use of the Welsh language. Accessing Welsh medium education is central to the strategic vision of achieving 1 million Welsh speakers by 2050. Local

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<sup>66</sup> [The Welsh Language Standards \(No. 1\) Regulations 2015 \(legislation.gov.uk\)](#)

<sup>67</sup> Section 84 of [The School Standards and Organisation \(Wales\) Act 2013](#)

<sup>68</sup> [Cymraeg 2050: Welsh language strategy, Welsh Government](#)

authorities are therefore expected to use all the levers, including Section 10 of the Measure, to contribute to these ambitious targets.

### ***Welsh Language Standards***

123. The Welsh Language Measure 2011 created the Welsh language standards. The Welsh language standards promote and facilitate the Welsh language, and ensure that the Welsh language is not treated less favourably than the English language in Wales.
124. Local authorities should ensure that functions exercised under the Learner Travel Measure comply with the Standards imposed within the Welsh Language Standards (No. 1) Regulations 2015 ('the 2015 Regulations')<sup>69</sup>. All standards are relevant but below are specific standards which local authorities must consider from the outset in learner travel policy formulation, review or modification.
125. Local authorities **must** comply with policy making standards 88-97, located in Schedule 2 of the 2015 Regulations, when making all policy decisions. Local authorities must ensure that 'conscientious consideration' is given to the impact on the Welsh language (more widely) of decisions made under the Learner Travel Measure.
126. This includes considering what effects, if any (whether positive or adverse) the policy decision would have on— (a) opportunities for persons using the Welsh language, and (b) treating the Welsh language no less favourably than the English language. Local authorities must also consider how the policy can be formulated to have positive, or increased positive effect or to not have an adverse effect on the (a) opportunities for persons using the Welsh language, and (b) treating the Welsh language no less favourably than the English language<sup>70</sup>.
127. The policy making standards also set out duties relating to the consultation process on proposed policy developments. Consultation documents **must** consider the impact of a policy decision on the Welsh language; the process should identify and evaluate the key issues with regards to the impact on the Welsh language; it should seek views on the impact of the policy decision on the Welsh language. A Welsh Language Impact Assessment must be undertaken when local authorities are formulating, reviewing or modifying policies emanating from the Learner Travel Measure. The Impact Assessment should consider the impact on the Welsh language including education as well as the wider community. The Assessment **must** be included as part of the consultation document or published alongside it.

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<sup>69</sup> The Welsh Language Standards (No. 1) Regulations 2015 specify standards in relation to the conduct of certain bodies (the Welsh Ministers, county and county borough councils and National Park authorities). Standards include service delivery standards, policy making standards, operational standards, promotional standards, and record keeping standards.

<sup>70</sup> Standards 88,89 and 90

## ***Welsh Language Promotion Strategy***

128. Standard 145, located in Schedule 4 of the 2015 Regulations, sets out the requirements for local authorities to develop a Welsh Language Promotion Strategy. This Strategy must set out how a local authority will promote the use of the Welsh language and increase the number of Welsh speakers in their area. Local authority learner travel policies should be developed to reflect the authority's strategic ambitions to promote the Welsh language and increase the number of Welsh speakers.

## ***Welsh in Education Strategic Plans***

129. Section 84 of The School Standards and Organisation (Wales) Act 2013 requires a local authority to prepare a Welsh in Education Strategic Plan. As set out in the Welsh in Education Strategic Plans (Wales) regulations 2019<sup>71</sup>, all local authorities must include a statement in their WESP setting out how they, in collaboration with other local authorities as necessary, will promote access to education and training through the medium of the Welsh language in relation to learner travel in line with the duty set out under section 10 of the Learner Travel (Wales) Measure 2008. Local authorities should also include information in their learner travel policies about how the travel policies are promoting access to education and training through the medium of Welsh in alignment with the statement set out in the local authority's WESP.

## **Transport to Denominational Schools**

130. Under the Learner Travel Measure, a learner is entitled to free transport to a denominational school if that school is considered by the local authority to be the learner's nearest suitable school.
131. Section 6 of the Measure provides local authorities with the power to provide discretionary transport arrangements for learners who are not attending their nearest suitable school; this could include provision for those who choose a faith school. Further information regarding discretionary transport provision is provided in paragraphs 146-156.
132. The European Convention on Human Rights (ECHR) Article 2 of Protocol 1 of the ECHR gives parents the right to have their children educated in accordance with their religious and other views. Additionally, under the UNCRC Article 14 Children have the right to think and believe what they want and to practise their religion as long as they are not stopping other people from enjoying their rights. However, this does not mean that parents have a specific right to have their children educated at such a school, or to have travel arrangements made by their local authority to and from any such school. Local authorities should, nonetheless, have regard to the provisions of the ECHR and UNCRC when considering any request made by a parent for travel assistance to a school they have selected on the grounds of their religion or belief. They should not, for example, have a blanket policy that they never provide travel assistance to schools with a designated religious character. Should they receive a request from a parent for

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<sup>71</sup> Paragraph 20 of Schedule 1 of the Welsh in Education Strategic Plans (Wales) Regulations 2019/1489

travel to such a school, they should consider whether it would be appropriate to exercise their discretionary powers under Section 6 of the Learner Travel Measure.

133. Local authorities should provide information on travel provision to denominational schools. This information should be easy to find and provide details on all provision and support available to denominational schools (not just that provided by the local authority). This information should be included in the materials published regarding the general arrangements and policies for learner travel.

## **Disabled Learners and Learners with Additional Learning Needs**

134. Under Sections 2 (4)(a) and (4)(b) of the Measure when assessing the travel needs of learners in their area, a local authority must have regard in particular to a number of factors including the needs of disabled learners and those with ALN.
135. With regard to the provision of learner transport, when determining whether a learner is attending their nearest suitable school, a local authority must take into account the suitability of that school<sup>72</sup> by having regard to (amongst other things) any ALN the learner may have<sup>73</sup> and/ or the learner's IDP.
136. The Measure provides that "learning difficulty" in respect of a person means— (a) a significantly greater difficulty in learning than the majority of persons of the same age, or (b) a disability which either prevents or hinders that person from using facilities of a kind provided at relevant places, but a person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which the person is taught or will be taught is different from a language (or form of a language) which has at any time been spoken in the person's home<sup>74</sup>.
137. Under section 3 of the Measure if a particular school or other institution named in an IDP for a learner<sup>75</sup> is determined to be a learner's nearest *suitable* school and the learner meets the eligibility criteria for free transport, a local authority is required to provide free transport provision for the learner.
138. Suitable transport arrangements for a learner with ALN will depend on the learner's individual circumstances and the route they must travel and should be considered as part of their IDP. Arrangements should be made in consultation with the learner, their parent/ carer and the relevant authority responsible for the IDP.
139. The ALN Code<sup>76</sup> provides guidance on transport considerations related to the preparation of an IDP. The relevant authority responsible for the IDP should engage at the earliest opportunity with local authority officials responsible for commissioning transport to fully understand the transport requirements, and agree roles and responsibilities around procuring and resourcing any transport requirements as set out in the IDP.

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<sup>72</sup> In accordance with the local authority's school admissions policy

<sup>73</sup> Section 3(6) of the Measure

<sup>74</sup> Section 24(1) of the Measure

<sup>75</sup> Under section 14 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018

<sup>76</sup> [gov.wales/sites/default/files/publications/2024-04/220622-the-additional-learning-needs-code-for-wales-2021%282%29.pdf](https://gov.wales/sites/default/files/publications/2024-04/220622-the-additional-learning-needs-code-for-wales-2021%282%29.pdf)

140. The Equality Act 2010 contains a number of duties which are relevant when local authorities are complying with their duties under the Measure including:
- Section 29(7) of the Equality Act 2010 places a duty on local authorities to make certain reasonable adjustments in relation to disability when providing services or carrying out public functions. An authority cannot charge for any reasonable adjustments it makes under this duty. The reasonable adjustments duty is relevant to the nature of transport or travel arrangements which the local authority make under the Measure. The local authority should ensure that the arrangements they make allow disabled learners to benefit in the same way as those who are non-disabled – for example, by ensuring that the transport provided is accessible and safe for the disabled learner.
  - The Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010 places a duty on local authorities, when carrying out their powers and duties, to *have due regard* to the need to advance equality of opportunity for people with protected characteristics and to eliminate unlawful discrimination. Local authorities should always consider whether the policies have any wider adverse impacts on protected groups and, whether it would be appropriate to take steps to mitigate the effects of those. (see Annex)
141. Local authorities do not have a duty under the Learner Travel (Wales) Measure 2008 to provide free or subsidised learner travel arrangements for learners over the age of 16, regardless of any additional learning needs (ALN). However, local authorities may use their discretionary powers in section 6 of the Measure to provide assistance.
142. Under the Additional Learning Needs and Education Tribunal Act 2018, young people up to the age of 25 with ALN may have an individual development plan (IDP). The ALN Code provides guidance on transport considerations related to the preparation of an IDP. The body responsible for maintaining the IDP should engage at the earliest opportunity with local authority officials responsible for commissioning transport to fully understand the transport requirements, and agree roles and responsibilities around procuring and resourcing any transport requirements as set out in the IDP. The legislative duties for this provision sit within the ALNET Act and the statutory status of an IDP, not the Measure.
143. Section 9 of the Measure prohibits the travel arrangements made under sections 3, 4 and 6 from discriminating between various categories of learners. Learners of compulsory school age at establishments which are not maintained schools must not be treated less favourably than learners of the same age at maintained schools. Other learners receiving full-time education or training at establishments which are not maintained schools must not be treated less favourably than learners of the same age at maintained schools. Likewise there should be no discrimination between those of the same age with additional learning needs, disabled learners or learners who are ‘looked after’ by a local authority attending establishments other than maintained schools and those attending maintained schools. It provides a safeguard to ensure that learners who benefit from travel arrangements are treated equitably.

144. Local authorities should work in partnership with schools and transport operators appropriately to ensure that only information which is made available to operators about learners is that which it is necessary for the operators to have to ensure that appropriate transport provision for the learner can be made. As part of the procurement procedures for tendering, including where they are procuring transport which may be used for disabled learners, local authorities must fulfil their duties under the General Data Protection Regulation in relation to personal data, including sensitive personal data. Tender documents should not identify learners to be transported or information that could be used to identify the learner.
145. Local authorities should have a clear and consistent policy on transport provision for learners with ALN. Local authorities should work in partnership with schools, the relevant responsible bodies for IDPs, and their neighbouring authorities when developing ALN policy to ensure alignment across authority boundaries and explore options for joined-up working and commissioning of contracts if relevant.

## **Discretionary Transport Arrangements**

146. Section 6 of the Measure gives local authorities the power to make any arrangement they think fit to facilitate the travel of learners to and from a place where they receive education or training. The power applies in relation to a learner living or studying in the authority's area.
147. The power to make discretionary transport arrangements is not the same as the duty to make transport and travel arrangements<sup>77</sup>. A local authority does not have to use their discretionary power to provide free or assisted travel.
148. Examples of when discretionary transport provision might be used include:
- Transport for learners who are not of compulsory school age (e.g.: post 16 education or training)
  - Transport for learners who are not attending their nearest suitable school (e.g. to promote access to Welsh medium education or support attendance at faith schools)
  - Transport for learners who live below the statutory distance limit relevant to the child's age, or parental income (e.g. if parents are in receipt of income support or working tax credit)
149. Section 10 of the Measure imposes a duty on local authorities to promote access to education and training through the medium of Welsh when exercising functions under the measure. Local authorities are required to promote access to Welsh-medium education when exercising any discretionary travel arrangements.
150. When a local authority uses its section 6 powers to provide discretionary travel arrangements, a charge can be made for these arrangements (paragraph 170).

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<sup>77</sup> Statutory provisions are those which a local authority **must** provide to specific learners who meet the eligibility criteria entitling those learners to free transport.



151. If a local authority does make use of their section 6 powers, in accordance with section 9 of the Measure, the authority must ensure that the provision does not discriminate between children of compulsory school age at establishments which are not maintained schools and learners of the same age at maintained schools, learners over compulsory school age receiving full-time education or training at establishments which are not maintained schools and learners of the same age at maintained schools. Likewise there should be no discrimination between those of the same age with additional learning needs, disabled learners or learners who are 'looked after' by a local authority attending establishments other than maintained schools and those attending maintained schools.
152. In accordance with the Learner Travel Information (Wales) Regulations 2009, local authorities must<sup>78</sup> publish information about their policies for providing discretionary travel within their learner travel policy.
153. If a local authority chooses to make use of the section 6 power to provide discretionary transport arrangements, local authorities should make it clear that the provision is granted as a discretionary policy and can be removed setting out the potential terms of withdrawal.
154. If a local authority chooses to make use of the section 6 power to provide discretionary transport arrangements, the local authority also has the power to remove this provision at a later date. In doing this the authority should follow the correct procedures for withdrawal of transport provision in line with their relevant policy protocols. Local authorities must consider their duties under the Welsh language measure when making any amendments to discretionary transport arrangements.
155. If a local authority decides to change or remove the discretionary transport provision it provides, it must publish the information before 1 October of the year preceding the academic year in which the changes will come into force in accordance with the Learner Travel Information (Wales) Regulations 2009<sup>79</sup>.
156. Local authorities should work in partnership with schools, and their neighbouring authorities when developing discretionary transport provision to ensure alignment across authority boundaries and explore options for joined-up working and commissioning of contracts if relevant.

## Promoting sustainable modes of travel

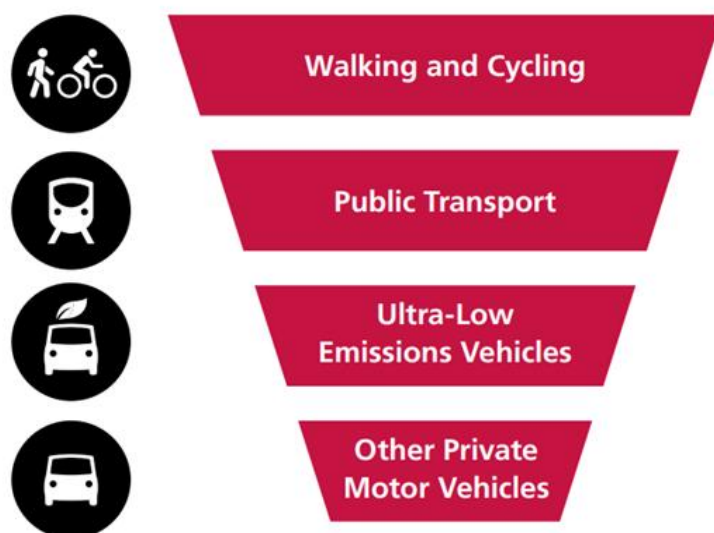
157. Section 11 of the Measure requires local authorities and the Welsh Ministers to **promote** the use of sustainable modes of travel when exercising their functions under the Measure. Sustainable modes of travel, in this context, is that which may improve either or both of the following:
- The physical well-being of those who use them
  - The environmental well-being of the whole or part of the local authority's area

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<sup>78</sup> Regulation 4 of the Learner Travel Information (Wales) Regulations 2009

<sup>79</sup> In accordance with regulation 4 of the [Learner Travel Information \(Wales\) Regulations 2009](#)

158. A local authority should, therefore, consider sustainability when assessing needs and making travel arrangements.
159. Local authorities should develop their learner travel policies using the principles of the sustainable transport hierarchy where walking, wheeling, cycling, scooting<sup>80</sup> and public transport are prioritised over private transportation options where these are available.



*Sustainable Transport Hierarchy*

160. Local authorities should work together across departments to promote sustainable and safe modes of travel; this includes working in partnership across local and regional boundaries. Authorities should work with other relevant agencies and organisations such as schools, and transport operators to consider how resources, routes and future planning could be developed most effectively to promote sustainable modes of travel to schools and other places of learning. Economies of scale can be achieved by creating communities of practice, standardizing regional contracts, and aligning policies.
161. Active Travel teams within local authorities should maximise opportunities and funding to support safe active travel initiatives from Welsh Government, and other relevant sources to increase safety for walking, wheeling, cycling and scooting to schools. These could be initiated and informed by the needs assessment undertaken under the terms of the Measure and/or through the development of School Travel Plans by the schools themselves.
162. Active Travel teams within local authorities should work collaboratively with transport and education teams to support Governing Bodies to understand the pivotal role they, and the senior leadership in a school can play in promoting sustainable travel to schools.

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<sup>80</sup> Excluding electric scooters

163. Support is available to local authorities, and schools on active travel planning<sup>81</sup> including sharing best practice, coordination of training and accessing resources through organisations such as those developed by Sustrans<sup>82</sup>, Living Streets (WOW tracker<sup>83</sup>) which contribute to the Eco-Schools accreditation and Health Schools Wales Award.
164. Local authorities should provide and promote information outlining how places of learning are served by
- Public transport routes
  - Active Travel routes (using the active travel maps developed by local authorities)
  - Safe and accessible walking, cycling routes including footways, footpaths, cycle tracks and bridleways
  - Local authority procured home to school bus routes
165. This information should include arrangements such as
- Cycle training
  - Road safety training
  - Independent travel training
  - Walking promotion schemes
  - Car sharing schemes
  - Park and stride/ ride schemes
  - Cycle and scooter parking
166. Section 21 of the Measure allows local authorities to issue a notice to governing bodies of certain schools to change school session times where it would promote sustainable modes of travel or improve the effectiveness or efficiency of travel arrangements. The Changing of School Session Times (Wales) Regulations 2009 set out the procedures to follow when the local authority intends to change school session times.
167. Sections 32A to 32C of the Education Act 2002, as amended by the Education (Wales) Act 2014, sets out who is responsible for determining:
- the dates of school terms (section 32A of the Education Act 2002)
  - school holidays
  - the times of school sessions (section 32C of the Education Act 2002)
168. Under section 32C Education Act 2002, it is the responsibility of the governing body of a maintained school to determine the times of the school sessions for the school. In exercising these duties governing bodies should consider the impact of changing the times of school sessions on making travel arrangements more effective and efficient. Section 32C (2) gives local authority's the power (through the provisions of the Measure) to issue a written notice to governing bodies to determine the school

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<sup>81</sup> [Active Travel School Plan Toolkit](#)

<sup>82</sup> [Active Journeys Programme in Wales - Sustrans.org.uk](#)

<sup>83</sup> [Living Streets Cymru | Living Streets](#)

session times in order to promote the use of sustainable modes of travel, or improve the effectiveness or efficiency of travel arrangements made or to be made. This should be carried out in accordance with the provisions of section 32C of the Education Act 2002 and local authorities are to have regard to any guidance issued by the Welsh Ministers under that section. Governing bodies and local authorities are encouraged to explore opportunities that these powers present.

169. In accordance with the Learner Travel Information (Wales) Regulations 2009, any changes to learner travel arrangements, which occur as a result of amendments to school session times must be made available and published by 1 October preceding the academic year to which the information relates<sup>84</sup>.

## **Charging for Transport**

170. Local authorities may not charge for transport arrangements that it is required to make for learners of compulsory school age under sections 3 and 4 of the Measure.
171. Where an authority is making the transport or travel arrangements for a looked after child who is looked after by another authority, the local authority can recoup costs from the placing local authority<sup>85</sup>.
172. When a local authority uses its section 6 powers to provide discretionary travel arrangements, a charge can be made for these arrangements.
173. For learners who are not of compulsory school age, there is no restriction on charging. With regard to learners of compulsory school age, charging must be in accordance with section 455 and 456 of the Education Act 1996 (as amended by section 22 of the Measure).
174. Section 6 of the Transport Act 1985 provides for the compulsory registration of local bus services with the Traffic Commissioner. Local Authorities must register all services carrying fare paying passengers under section 6 of the 1985 Act. That requirement does not apply where the service is provided pursuant to an obligation placed on a local authority to make transport arrangements and other travel arrangements under sections 3 or 4 of the Measure. Under Section 46 of the Public Passenger Vehicles Act 1981, a local authority can use a school bus to carry fare paying passengers when it is (or is not) being used to carry learners entitled to free school transport. Contracted operators must register any services where learners not entitled to free transport are carried on payment of a fare.
175. Local authorities who provide learner travel arrangements on a bus service under section 6 for which a charge is being made under The Measure must comply with the Public Service Vehicles Accessibility Regulations 2000 (PSVAR). These regulations require buses and coaches with more than 22 seats, used on local or scheduled services (including home to school journeys) that carry at least one fare-paying passenger to have features which enable disabled people to board, alight and travel

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<sup>84</sup> Regulation 4 of the Learner Travel Information (Wales) Regulations 2009.

<http://www.legislation.gov.uk/wsi/2009/569/contents/made>

<sup>85</sup> Section 18 of the Measure

in comfort and safety. When commissioning home to school services that are in scope of PSVAR, local authorities should procure compliant vehicles where possible, but may procure noncompliant vehicles where necessary if they are covered by any exemptions. Further information is available at [Bus and coach accessibility and the Public Service Vehicles Accessibility Regulations 2000 - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

## **Powers to give Guidance and Directions**

176. Under section 15 of the Measure, local authorities and governing bodies of maintained schools and further education institutions must have regard to guidance issued by the Welsh Ministers when exercising any of their functions under the Measure.
177. This guidance document is issued under section 15 of the Measure.
178. The Welsh Ministers may also issue a direction under section 15 of the Measure to require authorities to make learner travel arrangements under sections 3, 4 or 6 of the Measure. Such directions can be given to one or more local authorities or local authorities generally. It allows the Welsh Ministers to direct on individual cases or on general policy matters. The power may be exercised irrespective of whether a local authority is in default of its duties. It does not take the place of, or affect, the more general powers of direction that the Welsh Ministers have under sections 496-497A of the Education Act 1996.

## Part 2

### Assessment of ‘available route’ to school.

#### Overview

1. Section 2 of the Measure places a statutory duty on local authorities to undertake assessments of the travel needs of learners in their area, this includes assessments of the ‘nature of the routes which learners could reasonably be expected to take to the relevant places where they received education or training’.
2. Section 3 of the Measure places a duty on a local authority to make transport arrangements for learners of compulsory school age in specified circumstances and subject to specified conditions. The section makes provision for a system of entitlement to free transport defined by reference to whether learners are receiving primary or secondary education and whether they live at or further than set distances from the places at which they receive education or training.
3. The distances are to be measured by the shortest available route. A route is “available” if it is “safe for a child without a disability or learning difficulty to walk the route alone, or it is safe for such a child to walk the route with an escort, if the age of the child would call for the provision of an escort.”<sup>86</sup> In this context escort refers to a responsible person to accompany the learner – this may be a parent, carer, family friend, elder sibling.
4. This guidance has been developed to assist local authorities in determining whether a route to school is available and to provide information to parents/ carers, learners and schools on how routes are assessed.
5. Local Authorities should make ‘physical’ and ‘social’ assessments of routes to make sure they are available.
6. The criteria set out is a guide and cannot provide definitive answers to every situation that may be encountered.
7. An assessment should be undertaken by a suitably qualified local authority officer and/or suitably qualified independent consultant. They will need to be able to use their professional judgement when applying these guidelines.
8. Where the travel arrangements for eligible learners are made by local authorities require the learner to walk to and from pick up points for learner transport, it is the parent/ carers responsibility to decide on the safe means of travel to pick up / drop off points. The duty on the local authority is to provide a safe *walking* route when a learner is expected to walk from home to school (see section 3(8) of the Measure), not where they are walking from home to a drop-off/pick up point.

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<sup>86</sup> Section 3(8) of the Learner Travel (Wales) Measure 2008

9. Under Article 12 of the UN Convention on the Rights of the Child every child in Wales has a right to say what they think should happen and be listened to; local authorities should ensure that parents/ carers, learners and schools have an opportunity to feed in to the assessment process and have access to any assessments undertaken. Templates have been provided to facilitate this engagement. This guidance has been developed to support children in Wales with their right under Article 19 of the UNCRC not to be harmed and to be looked after and kept safe.
10. The Welsh Government supports the principles and route assessment procedure set out in the guidelines produced by Road Safety GB & ROSPA, <https://roadsafetygb.org.uk/wp-content/uploads/2021/04/RSGB-WRTS-04.21.pdf>.<sup>87</sup> The *Assessment Procedure – Route* (paragraphs 12-22) has been developed based on these guidelines and this guidance should be read in conjunction with the Road Safety GB guidelines.
11. There are additional ‘physical’ considerations that local authorities in Wales should take into account when making assessments as well as ‘social’ issues as outlined in paragraphs 50-59 of this document. Local authorities should also take into consideration the Walking and Cycling Route Audit Tools developed as part of Welsh Government’s Active Travel guidance and resources when considering modifications to routes.

### ***Assessment Procedure – Route***

12. The scope of this section covers the relationship between learners and traffic. As pedestrians, learners face a number of hazards which are identified below. Walking the route will enable risk assessors to identify hazards.
13. The whole route from the learner’s home to the closest school gate should be assessed at a time when they would normally be travelling to and from school.
14. When assessing the safety of a potential walking route, the following points should be considered.
  - Each case must be considered on its own merits. Where possible the assessment should be carried out on foot. Using on-line street imagery may indicate a route is hazardous, however a site survey may also be necessary. Even if it suggests a route is not hazardous a site survey must still be carried out. Note: you should be aware of how old the imagery is as it may not show recent changes to the route.
  - It is assumed that learners are accompanied as necessary by a responsible parent/carer.
  - A footway, roadside strip of reasonable width and condition, a public footpath or bridleway will all normally be assumed to provide an available route for that part of the journey.

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<sup>87</sup> The document contains a method of assessing walked routes to school and relevant extracts from Acts of Parliament and case law relating to transport to school.

- On a road with light traffic flow<sup>88</sup> a verge that can be stepped on by a learner and accompanying parent when traffic is passing can normally be assumed to provide an available route. This is known as a “step off”<sup>89</sup>.
- It is assumed that the road or side roads will be crossed to use a footway or road side strip<sup>90</sup>
- Many available routes may lie along roads that have neither a footway nor verge. On these roads the width of the carriageway, traffic speed and type of traffic (e.g. frequent long or heavy goods vehicles) as well as visibility/sight lines that may be affected by sharp bends, high hedgerows or other obstructions must be considered. It is likely that if a route is found to be lacking in ‘step offs’ then it is also likely to have issues with adequate visibility – the features that affect the availability of ‘step offs’ often impact on visibility – hedges, gradients etc. However, there may be exceptions to this.
- Where roads need to be crossed, the availability of crossing facilities such as central refuges, pedestrian crossings or traffic signals should be taken into consideration. Where no crossing facilities exist the risk assessment of the route should include consideration of each road crossing, bearing in mind traffic speed and flows, sight lines etc.
- The road casualty record along the route.
- A written record of the assessment should be kept.
- A plan showing the route should be attached to each assessment

15. If there is a need to cross roads there must also be:

- sufficient gaps in the traffic flow and sight lines to allow enough opportunities to cross safely. The gap time analysis should be used where necessary (paragraph 27) or
  - Crossing facilities eg, zebra, pelican, puffin crossing etc
  - Pedestrian phase at traffic lights
  - School Crossing Patrol
  - Pedestrians refuges

16. If a road needs to be crossed the visibility<sup>91</sup> at the location should allow a vehicle to stop, given the 85%ile speed (the speed at which 85% of the vehicles travel below)

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<sup>88</sup> Up to 400 vehicles per hour

<sup>89</sup> A ‘step off’ is where pedestrians can step clear of the roadway onto a reasonably even and firm surface such as a roadside verge

<sup>90</sup> A footway or roadside strip is one that is of adequate usable walking width for the circumstances. To be usable it should be clear of overgrowth, ie: shrubs and trees obstructing the footway. The road or side roads may need to be crossed to maintain access to the footway

<sup>91</sup> The unobstructed distance you can see when measured from the viewpoint of a driver, measured at 1.05m from the road surface. The unobstructed distance a pedestrian can see from the point at which they have to cross the road or can see traffic when walking on the roadway



of the traffic flow. Vehicle stopping distances should be taken as those given in the Highway Code<sup>92</sup>.

17. The presumption is made that all road users follow the highway code and drive to the conditions of the road.
18. In many rural areas, the exercise of continuous judgement is likely to be required. No criteria can provide all the guidance or answers to every situation that may be encountered.
19. If there is an adequate footway throughout the whole length of the journey, and there is no need to cross the road, then the route is “safe”. (Informed judgement by the professional may be necessary depending on traffic flows and the nature of the route).
20. If roads have to be crossed to use a footway or to improve sight lines then it may be necessary to give advice about safe crossing places.
21. On some country roads the footway may not be continuous. Informed judgement will have to be made about the availability of “step off” points.

### ***Non-hazardous Route Definition***

22. For a route to be classed as non-hazardous (*available*) there needs to be:-

#### **Both**

##### **A**

- A continuous adequate footway on roads which carry medium to heavy traffic or
  - “Step offs” on roads which have light traffic flow but adequate sight lines (see below) to provide sufficient advance warning to drivers and pedestrians.
- or
- on roads with very light traffic flow, no “step offs”, but sufficiently good sight lines to provide adequate advance warning.

#### **And**

##### **B**

If there is a need to cross roads there must be:-

- Sufficient gaps in the traffic flow and sight lines to allow enough opportunities to cross safely.
- or
- Crossing facilities (eg zebra, pelican crossings)
  - Pedestrian phase at traffic lights (including necessary refuges)
  - School Crossing Patrol
  - Pedestrian refuges

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<sup>92</sup> [The Highway Code - Guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

### ***Sight lines***

23. A sight line is important when crossing the road or walking along the roadway. For a route to be non hazardous:
- Lines of sight for a pedestrian must be enough for them to see oncoming vehicles and have sufficient time to safely take avoiding action. Vehicle speeds on individual roads would need to be taken into account
  - Lines of sight for a driver (measured from a height of 1.05m) must be enough for them to see pedestrians walking along the carriageway and have sufficient time to safely take avoiding action at whatever speed they are travelling. As an absolute minimum this must be the overall minimum stopping distance for traffic at the recorded 85% speed of traffic on that road (85%ile speed is the speed below which 85% of vehicles travel in normal free flow conditions – a speed survey may need to be carried out to find this information. Mean speeds may be used as an alternative to the 85%ile

### ***Road Crossing Assessments***

24. The difficulty of crossing at a site can be assessed by considering the number of gaps in the traffic flow that are acceptable to pedestrians. Free flowing traffic may provide gaps randomly and fairly frequently but speeds tend to be higher and gaps would need to be longer in order to cross the road safely.
25. An acceptable gap to cross from kerb to kerb varies with each person. It is recommended that a walking speed of 0.91m per second is used when assessing.

### ***Gap Time***

26. The survey should record the number of gaps in each 5 minute period that are longer than the road crossing time, using 0.91m per second as the walking speed. Four gaps in each 5 minute period indicate a road that can be crossed without too much delay. Longer gaps could be classified as multiple gaps rather than as just one gap. The Traffic signs manual (chapter 6 traffic control) gives further information on assessing gaps in traffic flow for road crossings<sup>93</sup>.

### ***Site Surveys & Traffic Flows***

27. Site surveys should be used to inform whether a route is deemed to be 'available'.
28. Site surveys should usually take place during the period before school starts in the morning as this is when traffic flow is generally heaviest, unless it can be shown that the afternoon flow is heavier. Further surveys should take place at the end of the school day and again at whichever period has the heaviest traffic flow, giving a MINIMUM of 3 surveys. Data should be recorded in 5 minute consecutive periods.

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<sup>93</sup> [Traffic signs manual - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338911/TSM2014.pdf)

29. Where there is an obstacle such as a narrow bridge along the route, professional judgement will have to be used to assess the relative risk of passing it. The gap criteria (paragraph 26) may be useful and assist in this type of situation
30. The traffic flow along roads should be a factor in determining the availability of a route. Traffic flow can vary from very low on some country roads to very heavy in urban areas. It will also vary on individual stretches of road depending on the time of day and in some cases time of year and day of the week,
31. Suggested definition of flow levels are
  - Low traffic flow - up to 400 vehicles per hour;
  - Medium traffic flow - 400 to 840 vehicles per hour;
  - Heavy traffic flow - over 840 vehicles per hour.
32. It is recommended that traffic counts are recorded as “passenger car” equivalent values (Passenger Car Units - PCUs), by using the following factors:

3 pedal cycles	1 PCU
2 motorcycles	1 PCU
1 Car	1 PCU
1 light goods vehicle (up to 3.5 tonnes gross weight)	1 PCU
1 Bus/Coach (over 3.5 tonnes)	2 PCUs
Goods Vehicles (over 3.5 tonnes)	2 PCUs
Goods Vehicles (over 7.5 tonnes/multi-axle lorries)	3 PCUs

33. All vehicle counts are two-way except on one-way systems. Dual carriageways are counted as one-way on each side.
34. Where the two-way (one-way of a dual carriageway) traffic flow is below 240 vehicles per hour the road is assessed as safe to cross. This is equivalent to 1 vehicle every 15 seconds, allowing a reasonable gap time to cross a 7m wide road at a walking speed of 0.91 m per second. Where traffic flow is greater than 240 vehicles per hour a local authority may wish to consider a gap count analysis

### ***Collision History***

35. It is recommended that the road casualty record at the start and end of the school day along the route is noted with special attention to accident danger spots. If the route is also used for public transport a note should be made of stopping places and the level of increased pedestrian use that could impact on foot path availability. Assessors could, for example, incorporate a 3 year collision history into the consideration of the whole route.
36. If a concern is identified, it is recommended that suitable mitigation measures are considered for example the introduction of speed humps or speed cameras

### ***Canals, Rivers, Ditches and Embankments***

37. It is important to establish:

- if the route has been subject to severe flooding
  - if this is a regular occurrence and
  - when severe flooding occurs, is there a suitable detour available?
38. It is important to ensure that routes have adequate barriers and that these are of the appropriate height to take into account the age groups of learners that may use the route.
39. Information on flood management procedures can be acquired from [Natural Resources Wales](#).
40. Safety features that may be considered include improved barriers, better signage, enhanced lighting. However, if a route cannot be made available by virtue of safety measure alternative available routes must be identified.

### ***Lighting***

41. It is recommended that street lighting is taken into account when determining availability of a route.
42. The level of natural lighting will differ over the year. Seasonal change may require a review of the route if reported conditions present difficulties for the learner and / or companion.
43. If a concern is identified local authorities should consider providing adequate lighting. Parents/ carers should also provide suitable reflective clothing to a learner.

### ***Planned Changes in the Area***

44. Proposals (both short and long term) that might impact on safety will also be relevant. Much of this information is likely to be held by the local authority, and/ or by the Corporate Joint Committees and therefore the following checks will inform the determination:
- Highways departments for proposed road works that would have a short-term impact on traffic conditions (e.g. road widening schemes)
  - Planning departments for developments that may have a long-term impact on traffic (e.g. housing or retail developments)
  - Education departments to check any proposed school reorganisations and/ or mergers

And/ or CJC's

- Strategic Development Plans
  - Regional Transport Plans
45. Where proposed changes are developed and may impact on the availability of routes, the relevant local authority department lead should consult with learner travel teams, schools, and learners to inform them of any alternative arrangements notably regarding short term impacts.

## ***Level Crossings***

- 46. There are more than around 6,000 level crossings in Britain with 1,167 (or 18%) on the rail network in Wales.
- 47. The need to use a level crossing will clearly be relevant when considering the availability of a route.
- 48. Network Rail are responsible for the operation of level crossings. They assess each crossing carefully and give them an appropriate level of protection in line with safety guidelines approved by HM Railway Inspectorate. Local authorities are encouraged to contact Network Rail who can provide advice and guidance on level cross risk assessment control measures.
- 49. Network Rail have produced a range of [educational materials](#) for schools to use with children and young people. Schools are encouraged to embed this learning within their curriculum. Parents/carers should re-enforce this learning at home.

## **Route Assessment Procedure - Social Safety**

### ***The nature of Social Danger***

- 50. 'Social Danger' is open to different interpretations and is subjective. For the purposes of this document it refers to any risks or threats that could harm the safety, well-being or sense of security during a learner's journey to and from school. The commonest interpretations provided by children and young people are as follows: stranger danger; danger(s) posed by people committing criminal offences; anti-social behaviour – bullying or harassment from peers or older children on their way to school; inappropriate adult behaviour - exposure to adults engaging in inappropriate or dangerous behaviour such as substance (alcohol/ drugs) abuse or fighting; and physical manifestations, such as discarded needles or places where drug abuse/misuse take place.
- 51. Children may experience real dangers when travelling to and from school at the start and end of the school day. Like adults, children can also perceive dangers even if none exists, and that too will understandably influence their behaviour and should be taken into account.

### ***Social Safety assessment***

- 52. The Social Safety assessment of a route should take into consideration views of children and young people ensuring they are aware of their right to say what they think should happen and be listened to (an example template for engaging with learners is at Annex 2). Schools are encouraged to take an active role in this process by providing a forum for learners to be able to discuss and contribute their views on their journeys to schools.

53. Local authorities should consider the actions they can take to alleviate concerns and/or work with schools to understand the perceived danger to reassure learners where appropriate.

### ***Assessing Social Safety – Partnership working***

54. In considering and ensuring the availability of routes, local authorities should work in partnership with organisations and agencies which have expertise in, including responsibility for, tackling and quantifying social danger. The police have responsibility for crime, disorder and anti-social behaviour whilst the Safeguarding Children Boards have responsibility for safeguarding/child protection matters. Parents/ carers should report any immediate concerns to these relevant authorities.
55. Section 25 of the Children Act 2004, places a duty on local authorities to promote co-operation between the local authority and 'relevant partners' to improve the wellbeing of children and young people. The 'relevant partners' comprise the Local and Regional Safeguarding Children Boards. Usually, these bodies include the police; the local probation board; the youth offending team; the NHS Trust; the Local Health Board; and the relevant local authorities (particularly senior Directors of Education and Social Services). The Act as amended by the Social Services and Wellbeing (Wales) Act 2014 also places a duty on local authorities to promote cooperation between officers of the authority. The Welsh Government recommends that local authority transport officials should be invited to relevant meetings.
56. In making assessments local authorities should take into consideration any relevant data available from the police or safeguarding teams on crime rates along the route; any reports or concerns from children and young people about stranger danger, or any specific areas along the route where children and young people have reported feeling unsafe.
57. Local authority assessors must work within the legal framework (including GDPR regulations) and have the necessary governance structures and sharing protocols established with partner organisations to enable the timely sharing of intelligence, information and data to effectively manage the risks posed to learners on their routes to and from school.

### **Timings of assessments**

58. In deciding how frequently to consider routes the local authority will need to take into account whether the route has previously been determined to be available and/or whether the local authority have received any representations to reassess the route.
59. It will be important to consider if any conditions have changed, for example:
- Accident record for the route over a minimum period of 3 years should be taken into consideration although the existence of an accident record does not necessarily indicate that the route is unsafe for the journey to school – this depends on the type, nature and relevance of the incidents.
    - Has there been an accident or similar incident
    - Are there high accident statistics on a route

- The opening or closure of schools on the route
- Changes made to a route – road works, infrastructure changes
- Changes to traffic composition and volumes, including cyclists
- Changes affecting the route – new builds/housing developments, large scale construction projects
- Information brought to the attention of the local authority by the school, young people's fora, the police, Local and Regional Safeguarding Children Board or other relevant body.

### ***Helping to Ensure the Safety of Children***

60. An example route assessment matrix is provided at Annex 2. It is recommended that this matrix be taken as a basis from which a local authority can develop a locally tailored assessment form if required. Local authorities should undertake safe route assessment and mapping; these documents should be made available to parents/carers, learners, schools and the broader community if requested.
61. Parents/ carers as well as the learner can request to review the risk assessment with the assessor to fully understand the conclusions of the assessment.
62. In the event of disputes between local authorities and parents, it is recommended that existing local authority dispute resolution mechanisms should be used.
  - Step 1: Complaints are referred to the relevant local authority department responsible for commissioning the Risk Assessment
  - Step 2: If unresolved, disputes are referred to the local authority's Monitoring Officer<sup>94</sup>
  - Step 3: If still unresolved, complainants should take their case to the Public Services Ombudsman for Wales<sup>95</sup>.
63. Schools should work in partnership with local authorities to provide a structure for parents and learners to be able to discuss school transport; this could include schools acting as the communication hub between local authorities, parents and learners, providing opportunities through relevant school fora (parent councils/ eco-committees) for parents/carers as well as learner input on travel/ transport suggestions/ issues/ concerns including safe routes assessments.
64. Consideration of routes enable local authorities to determine whether a route to school is 'available' to walk. Further, in cases where a route is deemed to be 'unavailable' this process can determine what safeguards could be put in place to ensure that the route is or can become 'available' to walk.

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<sup>94</sup> [Help with school transport - local authority contact details](#)

<sup>95</sup> [Public Services Ombudsman Wales](#)

65. A route assessment does not oblige the local authority to provide transport for learners. There are a variety of ways in which local authorities, schools and their wider communities can work in partnership to ensure, as far as is reasonably practicable, that learners have access to safe, well-lit and well-populated route to and from schools as well as providing learners with the skills and knowledge required to seek help if needed. Welsh Government provides a range of funding to local authorities, schools and communities that could help enhance the safety of walking routes to schools.

### **Roles and Responsibilities**

66. All delivery partners as well as parents/ carers and learners have a responsibility to help ensure, as far as is reasonably practicable, the safety of children and young people on the walked route between home and school

**Local authorities – there are a number of interventions that local authorities could consider to facilitate a safe walking route including:**

- Putting traffic calming measures in place
- Tackling pavement parking
- removing vegetation
- resurfacing or widening the available foot path
- providing a new foot path
- providing lighting
- providing relevant crossing facilities
- installing barriers
- promotion of Active Journeys Programme in schools
- Making wider provision of travel training – this is particularly useful for those learners with additional learning needs who can be taught how to walk independently between home and school. Such training has been proven to be beneficial for recipients (who develop a greater sense of independence and confidence) and cost-effective for local authorities

### **Schools/ Community**

- Participation in [Active Journeys Programme](#) which can provide access and support to
  - Develop a School Travel Plan
  - Address specific travel issues around the school
  - Develop training and incentives for the school community that promote cycling, walking and scooting
  - Training for children and young people to given them the confidence to be safer pedestrians and cyclists by taking them on to roads and showing them how the right decision-making and behaviour can help them to keep safe
  - to engage with local authorities, councillors and other organisations so they can work together in making the most of any opportunities to improve active travel within the local community
  - curriculum resources focussed on active travel



- Achieving Health Schools<sup>96</sup> and Eco-School Awards<sup>97</sup>
- Encouraging children to walk with parents/ carers, friends or groups to enhance safety
- Encouraging parents to accompany their children to school
- Supporting community involvement - encouraging parents to share the school run – such a practice could be coordinated by Parent Teacher Associations or community groups
- Educating children and young people how to recognise and respond to potential dangers, including what to do or who to tell if approached by a stranger or if they feel unsafe.
- Encouraging School Police Liaison Officers, including Police Community Support Officers, to walk the walked routes to ensure, as far as is practicable, they are safe
- Promoting awareness, understanding and implementation of the Travel Behaviour Code through own policies, lessons and assemblies.

#### **Parents/ carers**

- Walk, scoot, cycle with learners on their journey to school
  - Share journey to school with other families
  - Discuss with their children the importance of safety on the journey to school
  - Discuss with their children who they should approach on their journey to school, or once they get to school, if they don't feel safe
  - Provide suitable clothing to promote safety on the journey to school
67. Welsh Government provide grants to local authorities and delivery partners to support these ambitions and encourage ongoing partnership and collaboration between local authorities, schools, law enforcement and community groups to ensure that resources are maximised to develop, create and maintain and enhance 'available' routes to school.

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<sup>96</sup> [Welsh Network of Healthy School Schemes - Public Health Wales](#)

<sup>97</sup> [Eco-Schools - Keep Wales Tidy - Eco-Schools](#)

## Part 2 - Annex 1a – Available Route Assessment Checklist

<b>Before an assessment a local authority should ask:</b>
<ul style="list-style-type: none"> <li>When was the route last assessed? Has the route been determined to be available previously? If so, when was this and had anything changed?</li> </ul>
<ul style="list-style-type: none"> <li>Is the route safe? If not, to which category do the identified risks/dangers belong? Are the risks/dangers physical, topographical, geographic, environmental or social?</li> </ul>
<ul style="list-style-type: none"> <li>Were learners consulted during the last risk assessment? If so, what were their views?</li> </ul>
<ul style="list-style-type: none"> <li>When would be the ideal time to consider the availability of the route in question? (Note: Usually, the best time would be when learners are using the route - that is, in the morning on the way to school and in the afternoon when learners are making their way home)</li> </ul>
<ul style="list-style-type: none"> <li>In the case of social dangers, who are the relevant partner organisations/agencies?</li> </ul>
<b>During the risk assessment process, a local authority should ask:</b>
<ul style="list-style-type: none"> <li>Whether the learners/parents/persons exercising parental responsibility would like to accompany the local authority representative considering the availability of the route? (Note: This often enables learners/parents/other persons to demonstrate exactly why they consider a route to be unsafe).</li> </ul>
<ul style="list-style-type: none"> <li>Confirmation that learners have been made aware of the assessment and opportunity to feed into the assessment.</li> </ul>
<ul style="list-style-type: none"> <li>Which mechanism should be used to consult learners – for example School Councils etc.?</li> </ul>
<ul style="list-style-type: none"> <li>In relation to social dangers, what kind of evidence will be supplied by the relevant partner organisations (the Police or LSCBs)? Is the evidence qualitative or quantitative?</li> </ul>
<ul style="list-style-type: none"> <li>When will the evidence (qualitative or quantitative) become available?</li> </ul>
<ul style="list-style-type: none"> <li>If working with partner organisations, have information-sharing protocols been put in place? Have local government lawyers been consulted?</li> </ul>
<b>Following the risk assessment, a local authority should ask:</b>
<ul style="list-style-type: none"> <li>Is the local authority risk assessor satisfied that the route is 'available'?</li> </ul>
<ul style="list-style-type: none"> <li>If not, are there any short term actions to be taken immediately to make the route available? Are there any more longer term interventions that require funding/ planning (eg: for traffic lights, step off infrastructure) that could make the route available? Is there anything the school could do to help support making the route safe?</li> </ul>
<ul style="list-style-type: none"> <li>Is the learner satisfied? Is the parent/person exercising parental responsibility satisfied? If not, why?</li> </ul>
<ul style="list-style-type: none"> <li>Are the correct complaints procedures in place?</li> </ul>
<ul style="list-style-type: none"> <li>Has information relating to the determination of the availability of the route been compiled so that it can be shared with the learner/parent/carer?</li> </ul>

## Part 2 - Annex 1b – Available Route Assessment Matrix

Learner details (name, age, name of school)	Companion details (name, relationship to learner)	Local authority representative details (name, job title)

Route A to B				
	Risk severity*	Risk Level**	Control measures	Mitigated risk***
Learner concerns <ul style="list-style-type: none"> <li>- Personal issues</li> <li>- Local issues</li> <li>- Hot spots</li> <li>- Other transport issues</li> </ul>				
Traffic levels				
Footpath details				
Footways				
Crossing points				
<ul style="list-style-type: none"> <li>- Rivers</li> <li>- Canals</li> <li>- Ditches</li> <li>- Embankments</li> <li>- Vegetation</li> </ul>				
Lighting				
Planning impacts				
Social hazards				
Other(s)				

\*Scale of 1 very low → 5 very high

\*\*Likelihood (scale of 1 → 5) multiplied by severity

\*\*\*Likelihood (scale of 1 → 5) after putting in place Control measure multiplied by severity

## Part 2 - Annex 2 - Learner Engagement Assessment Template

<b>Learner details</b> <ul style="list-style-type: none"> <li>• Name</li> <li>• Age</li> <li>• Name of school</li> </ul>	<b>Parent/ carer details</b> <ul style="list-style-type: none"> <li>• Name</li> <li>• Relationship to Learner</li> </ul>
<p><b>Route to school</b></p> <p>Can you tell us which way you walk to school, including street names?</p> <p>How long does it take to walk to school?</p> <p>Have you asked us to check how safe your walk to school is before? If so, when?</p> <p>What are your main concerns about your walk to school? (eg: traffic levels, crossing points, lighting, social issues – eg: anti-social behaviour, animals)</p> <p>When would you like the risk assessment to take place? (eg: morning/ afternoon; specific day/ month)</p> <p>Any other comments?</p> <p>Thank you for telling us about your walk to school. If you would like to know what happens next please provide your e-mail / correspondence address (this can be your home or school address). By providing these details you are confirming that your parent/ carer is OK with you sharing this information.</p>	

## Part 3

### The Learner Travel Information (Wales) Regulations 2009

#### *Publication of Learner Travel Policies and Information for Parents*

1. The Learner Travel Information (Wales) Regulations 2009 (“the 2009 Regulations”) require local authorities to publish and make available information on travel arrangements made under the Learner Travel (Wales) Measure 2008 (the Measure). They set out what information local authorities are required to publish and when and how the information should be published and made available to parents, learners, governing bodies, head teachers and/or other persons.
2. Travel arrangements for learners during the school day (e.g. travel to attend courses at other places of learning) are not covered by the Regulations and are not subject to these provisions.
3. Local authorities are required under the 2009 Regulations to publish the following information<sup>98</sup>:-
  - the general arrangements and policies in respect of learner transport, including in particular in respect of:
    - providing free transport
    - any travel arrangements made for learners for whom free transport is not provided
    - the payment of reasonable travelling expenses
    - learners with additional learning needs/disabilities
  - information on how to make enquiries/complaints about travel arrangements,
  - information on local authority appeals procedure
  - any other information that the local authority considers would be useful for learners in its area about travel arrangements made by other organisations for all those aged up to 19 years old in their area (local authorities should include policies for nursery, compulsory and post-16 learners)
  - The Travel Behaviour Code made by the Welsh Ministers under section 12 of the Measure.
4. The information must be published by the 1 October preceding the academic year to which the information relates<sup>99</sup>. The information must be published<sup>100</sup>:-
  - on the local authority website
  - by copies being distributed to parents/ carers without charge on request and made available for reference by parents/ carers and other persons at:

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<sup>98</sup> Schedule 1 of the 2009 Regulations.

<sup>99</sup> Regulation 4(2) of the 2009 Regulations.

<sup>100</sup> Regulation 4(3) of the 2009 Regulations.

- the local authority's offices; and
  - every school maintained by the local authority
- by copies being available for reference in public libraries
  - by copies being distributed at any other relevant place which learners in the area may consider attending
  - by copies being distributed to parents of pupils who are in the final year of school and may transfer to another school maintained by that authority. (The local authority only needs to give the information that is relevant to the school to which the pupil may transfer)
5. Local authorities must also provide free of charge<sup>101</sup> and on request from a governing body, a head teacher, a parent of a child or any other learner in the local authority area the following information:-
- information relating to the assessment of learner travel needs carried out under section 2 of the Measure
  - information relating to decisions as to the suitability of transport or travel arrangements where the local authority has a duty to make arrangements
  - information relating to decisions as to whether a route is 'available'
  - information relating to decisions as to whether travel arrangements are necessary to facilitate the attendance of the child each day at the relevant place where the child receives education or training for the purposes of section 4(1) of the Measure)
  - information relating to decisions to make travel arrangements using their discretionary powers (section 6 of the Measure).
6. Local authorities should provide parents/ carers with information about transport arrangements alongside, or as part of, the information made available about school admissions. Local authorities should also provide copies of the Travel Behaviour Code.

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<sup>101</sup> Regulation 5 of the 2009 Regulations.

## Part 3 – Annex 1: Template of Learner Transport Policy

Learner Transport Policies should ensure consistency, clarity and accuracy of phrasing. They should be easy to understand and easily accessible.

<b>Introduction</b>	<p>Explains what the reader can expect to learn from the document, what academic year it refers to and when it was/ will be reviewed/ updated</p> <p>Policy and legislative context</p> <ul style="list-style-type: none"> <li>- LTM 2008</li> <li>- Welsh Language duties</li> <li>- Sustainable travel duties (including transport hierarchy)</li> </ul>
Free Transport Provision for compulsory aged learners	<p>The eligibility criteria for provision of free school transport including - mileage thresholds the local authority will use</p> <ul style="list-style-type: none"> <li>- definition of nearest suitable school</li> <li>- details of how routes are measured</li> <li>- details of how route safety is assessed</li> <li>- definition of 'home'</li> <li>- provision for learners with ALN</li> <li>- provision for Looked after children</li> </ul>
Provision for Welsh medium education	Statement aligned with WESP on how local authority is promoting access to Welsh medium education provision
Provision for faith schools	<p>Outline what, if any, provision is provided for faith schools.</p> <p>Information on travel options available to parents if no provision is provided by local authority</p>
Provision for nursery schools	<p>Outline what, if any, provision is provided for nursery school children.</p> <p>Information on travel options available to parents if no provision is provide by local authority</p>
Provision for post-16 learners	<p>Outline what provision is provided for post-16 learners.</p> <p>Information on travel options available to post 16 learners if no provision is provided by local authority including provision provided by colleges, schools and Welsh Government's Young Person's Travel scheme and EMA scheme</p>
Discretionary provision	<p>Provide details of all discretionary policies that sit out with the duties of section 3 and 4 of the Measure.</p> <p>Clear policy statement that these are discretionary and can be removed. Provide</p>

	details of process (how people will be notified, timescales etc for any potential removal)
Application details	<ul style="list-style-type: none"> <li>- Details on how to apply for transport</li> <li>- Information on how and when decisions on school transport provision will be communicated</li> </ul>
Policy Statements	<p>Policy statements on</p> <ul style="list-style-type: none"> <li>- Parental/ Carer and Learner preference</li> <li>- Change of address/ Moving home</li> <li>- Schools with multiple sites</li> <li>- Permanently excluded and managed moved</li> <li>- Before &amp; after school activities</li> <li>- School trips</li> <li>- Travel Escorts</li> <li>- Non-usage of transport provision</li> <li>- Dual residency</li> <li>- Temporary medical conditions</li> <li>- School reorganisation</li> <li>- Concessionary passes</li> <li>- Transport payments/ Personal Travel Budgets</li> <li>- Right to withdraw transport</li> </ul>
Behaviour on Transport	<ul style="list-style-type: none"> <li>- Travel Behaviour Code</li> </ul>
Sustainable modes of travel	<ul style="list-style-type: none"> <li>- Information on active travel routes</li> <li>- Information on initiatives to support active travel for schools/ parents/ learners</li> </ul>
Details on how to make enquiries/complaints about travel arrangements	Include departmental contact details to make enquiries and complaints and timescales that local authorities will respond
Appeals procedure	Information on LAs appeals procedure and Local Government Ombudsman



## Part 4

### Safety on learner transport

#### Overview

1. The Safety on Learner Transport (Wales) Measure 2011 (“the 2011 Measure”) amended the Learner Travel (Wales) Measure 2008 (“the 2008 Measure”). The purpose of those amendments was to make provision about safety on transport provided, or secured by local authorities or governing bodies of maintained schools for the purposes of ensuring the attendance at schools or places of learning.
2. The 2011 Measure introduced into the Learner Travel (Wales) Measure 2008 a number of provisions about vehicle specification used for dedicated learner transport.<sup>102</sup>
3. The 2011 Measure, at section 7, introduced criminal offences and penalties to be used for breaches of requirements imposed under the 2008 Measure<sup>103</sup>.
4. Section 1 of the 2011 Measure amends the 2008 Measure so that every bus used for dedicated learner transport to and from school, which has been secured by a local authority or governing body of a maintained school must have seat belts fitted to every passenger seat.

#### Seat Belt Provision

5. The 2008 Measure requires relevant bodies<sup>104</sup> to ensure that every vehicle used for dedicated learner transport has a seat belt fitted to every passenger seat.
6. Only vehicles procured by a local authority or governing body for dedicated learner transport will be subject to this requirement.
7. This provision does not cover public service buses 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. This is because the bus is not used solely for transporting learners and members of the public can also access the service.
8. Passenger seats of double deck buses used for dedicated learner transport must also be fitted with seat belts in the same way as single deck vehicles.

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<sup>102</sup> The 2008 Measure was amended by section 2 of the 2011 Measure to include section 14B

<sup>103</sup> This provision includes the use of criminal and civil sanctions.

<sup>104</sup> Statutory definition of ‘relevant body’ are each of the following ‘a local authority’ and or ‘a governing body of a maintained school’ as stated in section 14N of the 2008 Measure.

## ***The Wearing of Seat Belts***

9. The wearing of seat belts is governed by the Road Traffic Act 1988 (as amended)(“the 1988 Act”).

### **Minibuses<sup>105</sup>, buses and coaches**

10. In minibuses, buses, and coaches, passengers aged 14 years and over must use a seat belt if one is available and are personally responsible for doing so. For those aged 14 and over, failure to wear a seat belt could result in an on the spot fine of £100. If prosecuted, the maximum fine is £500.
11. In relation to passengers under the age of 14, the driver of a vehicle is responsible for making sure that those passengers are wearing seat belts<sup>106</sup>. However, the drivers of the following types of vehicles are not bound by this requirement:
- Large buses – with 8 seats in addition to the driver
  - Small buses – with fewer than 8 seats in addition to the driver and where seat belts are not available and
  - Small buses – with fewer than 8 seats in addition to the driver and where the vehicle is being used for a local service within the meaning of the Transport Act 1985 (that is a public service vehicle carrying passengers by road at separate fares) or the vehicle is designed or adapted for standing passengers.

This does not mean that the driver of the vehicles noted above has no responsibility, see paragraph 13 below.

12. Operators are not required to provide child seats because it is not practical for them to carry a range of different child seats on their vehicles. However, they may allow parents or others to supply their own child car seat for a use on a minibus journey. If parents/ carers supply their own child car seat, it is their responsibility to ensure the seat is fitted appropriately and safely.
13. Section 15B of the 1988 Act sets out that where a bus is fitted with seat belts, a bus operator must take all reasonable steps to ensure that all passengers are notified of the fact that it is a legal requirement to wear a fitted seat belt. Passengers may be notified that they must wear seat belts through any of the following ways:
- An official announcement by the bus driver, passenger assistant (s) or pupil (made when pupils join the bus or within a reasonable time of doing so);
  - An audio visual presentation (made when pupils join the bus or within a reasonable time of doing so);
  - A pictorial sign or text prominently displayed at each passenger seat equipped with a seat belt.

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<sup>105</sup> A minibus is a motor vehicle with between 9 and 16 passenger seats (the driver’s seat does not count for these purposes). It is described as a category D1 vehicle by the Driving Vehicle Licensing Authority s

<sup>106</sup> Section 15(3) of the Road Traffic Act 1988

14. Bus operators who fail to provide the required notification about seatbelt availability or fails to comply with the necessary requirements (such as not clearly informing passengers that seatbelts must be worn, or not maintaining a record of seatbelt availability) the operator can face legal consequences. .
15. Buses on registered local bus services that carry learners are not required to have seat belts. Other types of buses that were made after October 1, 2001 must be fitted with three point seat belts or retractable lap belt in all forward and rearward facing seats.
16. Those passengers with medical conditions may be exempt from wearing a seat belt, but must carry their certificate of exemption with them while travelling in conjunction with the Motor Vehicles (Wearing of Seat Belts) Regulations 1993/176.

#### **Seat belt and child restraint laws for cars, taxis, private hire cars, vans and other goods vehicles**

17. Section 15 of the Road Traffic Act 1998 requires all children travelling in the front or rear seat of any car, van or goods vehicle to use the correct child car seat<sup>107</sup> until they are either 135 cm in height or 12 years old (whichever they reach first). After this they must use an adult seat belt. There are very few exceptions. Below is a summary of requirements for cars, taxis, private hire cars, vans and other goods vehicles<sup>108</sup>

Person	Front seat	Rear seat	Who is responsible?
Driver	Seat belt Must be worn if fitted		Driver
Child up to three years of age	Correct child Restraint must be used	The correct child restraint must be used. If one is not available in a licensed taxi or private hire vehicle, the child may travel unrestrained.	Driver

<sup>107</sup> [Types of Seat | Child Car Seats](#)

<sup>108</sup> Taken from [www.childcarseats.org.uk](http://www.childcarseats.org.uk)

Person	Front seat	Rear seat	Who is responsible?
Child from third birthday up to 135cms in height (approx. 4'5") or 12th birthday, whichever is reached first	Correct child Restraint must be used	Where seat belts are fitted, the correct child restraint must be used. The child must use an adult belt in the back seat if the correct child restraint is not available either: <ul style="list-style-type: none"> <li>• In a licensed taxi or private hire vehicle</li> <li>• For a short distance in an unexpected necessity</li> <li>• If two occupied child restraints prevent fitting of a third.</li> </ul> A child three years and over may travel unrestrained in the back seat of a vehicle if seat belts are not fitted in the rear.	Driver
Child 12 or 13, or over 135 cm (approx. 4' 5") in height	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Driver
Passengers aged 14 years and over	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Passenger

## Criminal Sanctions

18. Section 14A of the 2008 Measure places a duty on relevant bodies (a local authority or the governing body of a maintained school) and persons who provide dedicated learner transport secured by a relevant body (e.g. a bus and coach operator providing dedicated services under contract), to ensure that every bus and coach used for learner transport has a seat belt fitted to every passenger seat. Subsection 14A(3) provides that a person who fails to comply with those duties commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
19. Section 14H of the 2008 Measure provides the Welsh Ministers with the power to appoint an enforcement body should they wish to do so. The Welsh Ministers have not established a specific enforcement body and have determined that the police would be best suited to fulfil the role of the enforcement authority for ensuring the seat belt provision of the 2008 Measure is enforced in Wales.

20. The police have the power to carry out spot checks, carried out by the roadside during the school journey or at the school premises before or after a journey to verify that seat belts are fitted to each passenger seat on dedicated learner transport.
21. When available, vehicle examiners of the Driver and Vehicle Standards Agency (DVSA)<sup>109</sup> assist the police whenever and wherever they run school transport checks or operations in Wales.

***Liability of those who provide or secure learner transport – who will face prosecution?***

22. Where a prosecution for an offence is committed under the provisions of the 2008 Measure, it will be the local authority or governing body of a maintained school as a whole who would be considered to be responsible and there would be no individual liability. However, section 14L of the 2008 Measure enables the Welsh Ministers to make regulations whereby officers of a body corporate or a partnership may be personally liable for offences committed under sections 14A or 14B by the body corporate or partnership, as well as the body corporate or partnership itself.

**Travel Escorts**

23. A local authority might provide a Travel Escort as part of their support for travel to school. Travel Escorts can play a vital role in ensuring learners, notably those with Additional Learning Needs and disabled learners, have a safe and pleasant journey to and from school.
24. Travel Escorts should be trained to
  - help pupils to board the vehicle and ensure they are securely fastened in their seat
  - assist the driver when using the tail lift
  - safely store any bags or other equipment/ belongs
  - ensure the pupil has handed over to the care of their school (not necessarily into the school building)
25. Travel Escorts are **not** required to
  - administer medication. There may be certain situations where escorts can be trained to administer medication as per a learner's IDP however this cannot be guaranteed and should be discussed with the learner's ALN Coordinator
  - Come to the door to collect the learner. Their duty is to remain on the vehicle for the safety of all other learners.
26. Travel Escorts are advised to sit at the rear of the vehicle so they have a good view of all the learners travelling on the vehicle

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<sup>109</sup> [Driver and Vehicle Standards Agency - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

27. If learners in wheelchairs are boarded via the tail lift, either the driver or escort will stand on the lift with the learner and support the wheelchair while boarding. Once the learner is in position the escort can assist the driver in securing the wheelchair by fitting the recommended safety restraints.
28. Where practical all ambulant pupils should enter the bus at the main entrance point. The escort will guide the pupil and settle them in their seat on the vehicle and ensure appropriate safety restraints are properly fitted. Pupils must wear their seat belts by law and it is the role of Travel Escorts to ensure that pupils wear their seat belts.
29. Travel Escorts and drivers should not be expected to lift pupils up steps or into car seats or high bus steps.
30. Local authorities who use Travel Escorts should ensure they have policies reflecting the services that the Travel Escort will provide.

## Consultation questions

1. Do you agree that the updated guidance aligns with and amplifies legislative developments that have taken place since the guidance was originally published in 2014?
2. Do you agree that the guidance provides clarity on transport provision for learners with additional learning needs?
3. Do you agree that the guidance on Section 10 (promoting access to education and training through the medium of the Welsh language) of the Learner Travel (Wales) Measure 2008 has been strengthened?
4. Do you agree that the guidance on Section 11 (promoting the use of sustainable models of travel) of the Learner Travel (Wales) Measure 2008 has been strengthened?
5. Do you agree that the guidance reflects some of the good practice that has been identified across Wales to encourage collaboration and partnership-working between delivery partners?
6. Do you agree that the inclusion of a general guide on maximum journey times will help increase consistency across local authorities?
7. Do you agree that the guidance has been strengthened to embed the 4 general principles of the UN Convention on the Rights of the Child?
8. Do you have any further comments you wish to make about part 1 of the guidance (Operational guidance)?
9. Do you have any further comments you wish to make about part 2 (Assessment of 'available route' to school)?
10. Do you have any further comments you wish to make about part 3 (Learner Travel Information (Wales) Regulations 2009)?
11. Do you have any further comments you wish to make about part 4 (Safety on learner transport)?
12. Do you agree that the update to the guidance is clear and easy to understand?
13. What, in your opinion, would be the likely effects of the draft guidance on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?

Do you think that there are opportunities to mitigate any adverse effects?

14. In your opinion, could the draft guidance be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or
- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?