



Llywodraeth Cymru  
Welsh Government

POLICY AND STRATEGY

# Learner Travel (Wales) Measure (2008) review 2021

We are reviewing our school learner travel measure including free transport.

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## **The Learner Travel Measure (Wales) 2008**

The Learner Travel Measure (Wales) 2008 (the ‘Measure’) sets out the legal framework specifically related to travel and transport provisions for learners travelling from home to school in Wales and enables Welsh Ministers to make regulations in relation to learner travel in Wales.

This currently includes the making of regulations prescribing the circumstances and conditions in which children of compulsory school age are entitled to free transport to a place of learning. It also gives the Welsh Ministers powers to make

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regulations about travel arrangements for post-16 learners who live in Wales and are attending courses in Wales or elsewhere where the education or training is funded by the Welsh Ministers.

The Measure also enables the Welsh Ministers to make provision by regulations about the travel arrangements for nursery age children. In each case, the regulations would need to be made using the affirmative resolution procedure and would be subject to scrutiny by the Senedd.

The Measure sets out the duties on local authorities, Welsh Government and head teachers to provide safe transport for learners, children and young people to get to their place of learning. Local authorities must make transport arrangements based on age, distance, aptitude and safety criteria for learners of statutory school age. In addition, local authorities have the power to make additional transport arrangements otherwise known as discretionary transport arrangements.

Under the current legislation, the Welsh Ministers must:

- make an All-Wales Travel Behaviour Code. (This element of the Legislation is not part of this review);
- promote access to Welsh speaking education; and
- promote sustainable types of travel.

Local authorities must:

- assess the travel needs of learners in their authority area
- provide free home to school transport for learners of compulsory school age attending primary school who live 2 miles or further from their nearest suitable school
- provide free home to school transport for learners of compulsory school age attending secondary school who live 3 miles or further from their nearest suitable school
- assess and meet **the needs of “looked after” children** in their authority area
- promote access to Welsh medium education; and
- promote sustainable modes of travel.

Under the current provisions, local authorities do not have to provide free transport to learners outside of compulsory school age. This includes learners over the age of 16, and children under the age of 5. However, several authorities do exercise discretionary powers to provide free travel for these age groups.

## Scope of the review

Following correspondence from Assembly Members and concerns raised by members of public, the Welsh Language Commissioner and the Children's Commissioner, the Learner Travel review was expanded in August 2020 to include:

- learners within the statutory age group 5 to 16;
- learners in the 4 to 5 years age group;
- consideration of the distance threshold of 2 miles for primary school learners and 3 miles for secondary school learners;
- post-16 learner transport.; and
- transport for learners attending Welsh medium and faith schools.

Therefore, the principal aim of the review was to revisit provisions 2-10 of the Measure, namely:

1. duty to assess learner travel needs;
2. local authority duty to make transport arrangements;
3. local authority duty to make other travel arrangements;
4. limits of learner travel duties;
5. power of local authorities to make learner travel arrangements;
6. travel arrangements for learners in post-16 education or training;
7. travel arrangements to and from nursery education;
8. learner travel arrangements not to favour certain types of education or training; and
9. promoting access to education and training through the medium of the Welsh language.

In reviewing the above we have gathered evidence and views from stakeholders

to explore the following potential changes to the Measure:

- reducing the distance thresholds for free school travel of 3 miles for secondary pupils and of 2 miles for primary pupils;
- introducing a statutory requirement to provide free travel for post-16 learners and children of nursery age;
- introducing a statutory requirement to provide free travel for learners attending their nearest Welsh medium school and faith school; and
- revision of the guidance provided for in the Measure.

This review has not come to a conclusion on what the level of reduction of the distance thresholds should be.

In reviewing the Measure and suggesting changes there is also a need to pay due regard to Equality Act 2010, the Socio-Economic Duty and the [Well-Being of Future Generations \(Wales\) Act 2015](#).

## Synopsis

The transport needs of learners are complex, as are the networks, tools and resources required to deliver effective services for home to school transport. Much of the framework for this is contained within the Measure, which is the subject of this review.

Much has changed in the 13 years since the Measure came into force. Major pieces of legislation need to be taken into consideration such as The Equality Act (2010), The Welsh Language (Wales) Measure 2011 (and subsequent regulations), The Rights of Children and Young Persons (Wales) Measure 2011 and The Well-being of Future Generations (Wales) Act 2015.

Policy has also moved on, with a focus on greater participation in post-16 education and a new Wales Transport Strategy that seeks to integrate the principles of fairness and equality to address the impacts of deprivation.

The original scope of this informal review was to consider

- learners within the statutory age group 5 to 16;
- learners in the 4 to 5 years age group;
- consideration of the distance threshold of 2 miles for primary school learners and 3 miles for secondary school learners;
- post-16 learner transport; and
- transport for learners attending Welsh medium and faith schools.

From discussions and engagement with stakeholders, it has become apparent that there are other issues with the Measure's current provisions. These include:

- the guidance and supporting documentation needs to be updated to ensure greater consistency;
- the **Travel behaviour code** needs to be revisited; and
- more clarity is needed on parental responsibility, cross boundary provision and dual residency.

The review has also found that there are wider issues to consider that extend beyond the scope of the legislation such as:

- the needs of older Additional Learning Needs (ALN) pupils are not currently served by the current measure, as ALN pupils often attend further education beyond the age of 19;
- further Education Colleges are outside the jurisdiction of local authorities, therefore there is sometimes a mismatch between provision for sixth forms in schools and these institutions; and
- the networks, provision and school infrastructure are not all currently equipped to deal with increases in mandatory provision.

## Recommendation

There is not time within the current administration to begin a formal process to change the Measure before the pre-election period begins. Therefore, options for next steps would need to be considered in the next Senedd Term.

Given the ministers' commitment to reviewing learner travel, the option of 'do

nothing' is not considered appropriate. The 2 options below would require public consultation, rigorous cost benefit analysis and consideration of budget implications (this review included high-level estimates of costs, but these should not be relied on without further more detailed analysis and testing).

Colleagues in education have advised that home to school transport is the fastest growing cost in the Education budget and ministers will need to be satisfied that costs related to proposed changes to the Measure can be provided for.

- option 1: to take forward changes to the Measure in the next Legislative Programme as outlined in the original scope of the review.
- option 2: to take forward a wider programme of work that encompasses consideration of a complete revision of the Measure alongside work to;
  - improve operator provision and the environment in which it can deliver greater provision under the measure; and
  - consider better integration with related policies, such as the needs of ALN pupils and provision to Further Education establishments.

Officials recommend option 2: undertaking a limited programme of work as outlined in option 1, could run the risk of only attending to some of the issues and leaving other areas exposed to further criticism and the need to do more work in the future to address this.

Ministers may wish to consider how this work might be packaged and coordinated with other work being developed in the Public Transport policy area. There are related pieces of work being undertaken on fare concessions and subsidies and flat or low-cost fare structures where an integrated approach could be beneficial.

Changes to the Measure will have significant cost implications for Local Authorities and Welsh Government. These are currently unfunded.

However, changes to the Learner Travel Measure Review are progressed, there is no doubt that for a number of reasons Learner Travel needs to be subject to a formal process of change. To not take this forward risks further inequality, inconsistency in provision and further outdated codes and guidances.

With either option it is necessary to develop an evidence base to identify:

- pupil numbers/demographics
- geographic spread of learners and current service provision
- catchment areas
- Welsh medium education provision
- mapping out where specialist post-16 education provision is delivered (this would include specialist schools offering post-16 education, specialist units in maintained schools that provide post 16 education and post-16 specialist colleges),
- alternative transport availability
- public transport availability
- travel training
- the financial impacts of any proposals
- practical barriers associated with any proposals.

## Summary of issues raised

Officials have considered the issues raised, predominantly contained in correspondence with Welsh Government over the last year.

There are consistent themes that appear. These are:

- nearly 60% of the correspondence related to issues around the 3 and 2 mile radius, with concerns stemming from child welfare, (safety and musculoskeletal problems in particular for secondary school children);
- the lack of dedicated school transport for post-16 learners (this varies across Wales, in many local authorities this is provided);
- nearly 1 in 5 related to Public Service Vehicle Accessibility Regulations 2000 (PSVAR) implications but it is important to note that the underlying issue here was the socio-economic impact of learners having to pay for their transport which was again linked to the distance policy contained within the current Measure;
- nearly 10% related to the eligibility criteria, mainly in terms of children transferring to another school; and



- the remaining 10% sought clarity of funding, expressed concerns about driver behaviour and the distance to the nearest bus pick up point.

Feedback from local authorities shows that there is inconsistency in provision of many aspects of discretionary travel across Wales including in:

- the mileage thresholds used: several authorities already offer reduced thresholds;
- the extent of provision of discretionary travel for individuals living within mileage threshold: some authorities appear to be more generous than others in their appeals processes and criteria for providing discretionary travel;
- the extent of nursery travel provision: some local authorities provide this on a discretionary basis but many don't; and
- extent of post 16 travel provision: some charge for this, some don't. Some include Further Education settings (colleges) in post-16 travel provision, others don't.

The above concerns expressed, the age of the legislation, changing public attitudes and the highly likely travel behaviour change that will result from Covid-19 justifies a comprehensive review of the Measure.

In addition, the Children's Commissioner requested that the review take into consideration travel to Faith schools and particular attention to ALN pupils. The Welsh Language Commissioner has requested that the review take into consideration travel to Welsh medium schools for all ages within the Measure.

Correspondence from the Welsh Language Commissioner raised issues about learner transport arrangements that fall outside the local authority statutory duties for learners attending Welsh medium education.

Previous correspondence and the **2018-19 annual report from the Children's Commissioner** raised issues about learner transport arrangements that fall outside the local authority statutory duties for learners with Additional Learning Needs (ALN), particularly post 16 learners. The report called for Welsh Government to review the Measure.

Ministers acknowledged that the concerns raised by both the Commissioners

were reasonable and initially asked officials to conduct a targeted review of the discretionary provision of the Measure, in particular post 16 provision to ensure equality of access for all learners up to the age of 19.

The Coronavirus pandemic affected progress on conducting the review, but it also allowed for further reflection on the issues raised by Commissioners, Assembly Members and members of the public as well as time for further gathering of evidence to consider whether the initial scope of the review was sufficient.

The issues raised, predominantly contained in correspondence with Welsh Government, were reviewed and it was found that issues with the Measure were raised that were outside the initial scope of discretionary provision. There were consistent issues raised.

Both the Welsh Language Commissioner and Children's Commissioner supported the post 16 review but also, requested the Measure in its entirety to be reviewed.

## School transport statistics

From a mapping exercise undertaken with all 22 local authorities across Wales in July 2020 the following data was obtained:

- there are approximately 108,455 pupils transported to school each day in Wales;
- from this global total approximately, 70,203 (64.73% of the global total) learners are eligible for school transport in accordance with the Measure and travel on dedicated home to school transport;
- approximately 10,278 (9.48% of the global total) learners who are not eligible for school transport travel daily on dedicated home to school transport;
- of those that are statutory entitled, approximately 6,022 travel on local bus services: 5.55% of the global total and 8.58% of all those who are eligible for dedicated home to school transport;
- approximately 9,288 are within the ALN (previously SEN) category: 8.56% of

the global total. However, provision of school transport to ALN pupils accounts for a higher proportion of local authorities' spend;

- the approximate number of dedicated home to school transport vehicles across Wales is around 3,500; and
- dedicated home to school transport drivers are generally of a retiring age due to the nature of the work being on a part-time basis: unless combined with other off peak (sometimes called in-fill) work in normal times (pre-Covid) such as school swimming bath transport agreements or other forms of private hire work.

## Current financial costs for Welsh Government

The Welsh Government provides funding to local authorities for pre-16 provision in schools mainly through the Local Government Revenue Settlement in the form of the Revenue Support Grant (RSG). This is approximately £106m a year for learner travel.

The RSG is not ring-fenced; the funding allocated to each authority is available to the authority to spend as it sees fit on the range of services for which it is responsible, including school transport and ALN. This is in line with the Welsh Government's policy that local authorities are best placed to judge local needs and circumstances and to fund schools accordingly. Local authorities are accountable to their electorates for the decisions they make.

Local authorities report on the elements spent within education in their section 52 returns. Local authority budgets for school transport remain under constant pressure to provide contracted school services over and above their budget to meet their statutory duties.

We have been unable to estimate costs for post-16 free travel due to a lack of data in relation to travel to further education colleges. This may be significant component of future financial commitments, but is unknown. The little data we did get suggests that could be considerably more expensive per pupil than current sixth form travel (as sixth form pupils share buses with secondary school pupils).

Colleagues in education have advised that home to school transport is the fastest-growing cost in their annual budget. School transport is reported as the largest budget pressure on school spending, and has risen by 7% over the last 5 years.

The issue of school transport is raised in [Review of school spending in Wales](#). It reports that home to school transport currently accounts for a quarter of all local authority direct spending on education, equating to approximately £250 per learner. This varies by authority, with some rural authorities reporting an average spend of over £400 per learner. There are also differences due to local strategic decisions such as numbers of schools, as well as supply constraints.

The report states that “it is important to review school transport spending and how costs can be contained”.

The report concludes with a number of recommendations to Welsh Government covering a number of areas. Recommendation 9 specifically refers to school transport.

The Welsh Government should draw more lessons from comparisons of spending, models of spending and outcomes across local authorities, particularly on ALN and school transport. This would only be possible with more consistent and detailed data, but there are a number of opportunities. Local authorities differ markedly in terms of how much ALN spending and provision is delegated to schools and how much is retained centrally. The Welsh Government and local authorities should seek to draw more lessons on the impact on outcomes from these different approaches. More lessons could also be learnt about means to control growing school transport costs.

There are also recommendations around providing clear expectations on future costs throughout the system.

The Green Book provides detail on the information used to calculate the revenue settlement to local authorities.

# Key review findings

## Crosscutting themes

A consistent message from the local authorities relates to the weaknesses in current networks and infrastructure that make implementing an expansion of provision difficult. Most often cited are issues with the physical space for buses at school premises and the likely lack of suitable vehicles and drivers to accommodate a required increase in pupils eligible for free school transport. Many local authorities noted that many operators are at their limit with licenses and depot capacity and some have gone out of business in the last year.

These issues cannot simply be solved with a budget, and changes to statutory provisions should not be made without putting in place measures to mitigate these risks.

Some local authorities even in relatively deprived areas are offering an excellent service on a discretionary basis. In making changes to the legislation authorities who have made extra provision in their decreasing budgets should not be penalised. This means that local authorities that already mandate generous local policy and fund from their own budgets are likely to come to WG for funding of these existing 'hidden' costs should changes to The Measure be made.

Due to practical challenges associated with the changes being explored, many Local Authorities strongly recommended a phased approach if multiple changes to The Measure are to be made.

Lack of consistency across the local authorities is a common theme across many aspects of learner travel provision including in:

- the mileage thresholds used: several authorities already offer reduced thresholds,
- the extent of provision of discretionary travel for individuals living within mileage threshold: some authorities appear to be more generous than others in their appeals processes and criteria for providing discretionary travel
- the extent of nursery travel provision: some LAs provide this on a

discretionary basis but many don't

- extent of post 16 travel provision: some charge for this, some don't. Some include Further Educations settings (colleges) in post-16 travel provision, others don't
- potential benefits which could be realised through increased travel provision as outlined in the changes above include positive effects on child poverty and wellbeing, possible carbon savings and reductions in congestion, supporting Welsh language Cymraeg 2050, increased equality, removal of barriers to accessing education for post 16 learners and creation of jobs within the school transport industry and supporting industries (e.g. maintenance). Further work will be needed to fully quantify these potential benefits.

## Changes to the mileage threshold

Based on evidence provided, we estimate that reducing the mileage threshold across Wales from 3 miles to 2 miles for secondary and post 16 sixth-form travel and from 2 miles to 1.5 miles for nursery and primary travel is likely to incur additional spend in the region of 20 - 40 million per annum (this assumes that changes to The Measure have already been made to require provision of free post-16 and nursery travel but this figure does not include the cost of making these additional changes [as it is only intended to represent cost of reducing mileage thresholds]).

However, due to variable quality of data received and the incomplete response from LAs there is a very high degree of uncertainty in this figure. This figure also does not changes to mileage threshold associated with potential provision for FE colleagues, for reasons outlined below there was little data available in this area, but the limited information available suggests that this cost could be considerable.

As outlined above there are significant practical as well as cost barriers associated with reducing the mileage threshold, including vehicle and driver availability and availability of parking at schools. Should ministers decide to reduce thresholds further work will be needed with the local authorities to fully evaluate these issues and to develop a plan to address them.

All local authorities, including those who already operate at reduced mileage thresholds, advise that any further reduction in mileage thresholds below 2 and 1.5 miles respectively would be unfeasible given extent of practical challenges at lower thresholds.

## **Revision of guidance**

There appears to be inconsistencies in the provision of discretionary travel within current mileage thresholds. Some local authorities appear to be more generous than others in their appeals process, whilst some authorities don't have an appeal process at all. There also appears to be some inconsistency in the eligibility criteria for discretionary travel (e.g. some cite social inclusion).

Local authorities also suggest a number of other potential improvements to guidance, common themes raised include:

Strengthening the "Travel Behaviour Code" to support local authorities more in making decisions to suspending transport, and particularly where serious incidents happen on school transport.

- increased emphasis on parental responsibility
- clarity on dual Residency
- further clarity on walking routes assessment
- potential for annual assessment of a 'walking routes network' rather than individual assessments
- clarity on cross boundary provision

## **Provision of travel for nursery age learners**

Very young learners present a specific range of challenges

- half day provision changes logistics and reduces economies of scale
- some authorities reported that take up for this service is low. There may be insufficient room to accommodate additional vehicles at school sites.
- there are safeguarding issues and a chaperone is required.

- younger pupils are unable to fit their seatbelts, require booster seats, can't get onto vehicles unaided and some are not toilet trained.

We have not been able to effectively gauge the demand for free school transport for nursery age children at this point and further work is required before arriving at a policy recommendation.

## **Provision of post 16 travel**

Quite a few Local Authorities provide free travel to sixth forms, but not Further Education Colleges as they are not under local government control. As noted above there is no consistency in this approach, however this is understandable with post 16 education provision varies hugely across Local Authority areas. For example, Blaenau Gwent has no sixth form provision.

We believe FE travel provision is not in scope of the measure and other ways to improve consistency may need to be considered with legal advice and input from colleagues in FE and Education departments.

In terms of equity, we would like to consider the demographics and socio economic status of learners attending an FE setting as opposed to a sixth form. For example, **UK statistics indicate a higher proportion of black students attend Further Education**. We believe this merits further consideration if a lack of free school transport to FE impacts ALN students, groups sharing protected characteristics or low-income households.

There are also issues where authorities currently charge for concessionary or post 16 seats on buses and the loss of income to the authorities if this becomes free.

There are only 15 FE Colleges in Wales. Given the scale and geographical spread of the required transport service, along with the differential in course start and finish times, the number of operators which could deliver this service is likely to be

restricted. Therefore, it is highly likely that the provision would be



accommodated by public transport providers.

It has become clear that there are issues specific to young people with additional learning needs (ALN) that are not provided for in the scope of the current measure. Many special school pupils transfer to college at 19 and will attend programmes for around two years, therefore they can be older during their attendance at an FE college. The exclusion of these young people from being supported with travel to college is likely to continue to create significant issues for parents and young people and may lead to some being unable to attend their local college. This also results in increased applications to ISPIs (specialist colleges) as parents don't normally have to consider transport due to the residential option at these placements.

Should ministers agree, consideration of the specific needs of older ALN pupils can be incorporated into the wider work on Learner Travel provision.

## **Provision of travel for Welsh medium and faith schools**

LA's mostly provide free transport to Welsh medium and faith schools through their own local policy when learners meet criteria around age, mileage and catchment

The number of Welsh medium and faith schools vary considerably across Wales from urban availability to rural which impacts on logistics and costs. More challenging in rural areas of low availability in terms of distance, cost and travel time involved, e.g. Gwynedd stating only one faith school to the north of a large county. Cost estimations vary considerably across Wales.

## **Acknowledgements**

We would like to thank all those that have contributed to this review; in particular colleagues in local authorities, and the Commissioners who have given their time to provide evidence and share their experiences.

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