EQUALITY IMPACT ASSESSMENT - RESULTS

<table>
<thead>
<tr>
<th>Title of Policy</th>
<th>Seat Belts on School Transport (Scotland) Bill</th>
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<tr>
<td>Summary of aims and desired outcomes of Policy</td>
<td>To ensure that seat belts become a legal requirement on all dedicated school transport in Scotland.</td>
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<td>Directorate: Division: Team</td>
<td>Transport Policy Directorate / Transport, Accessibility and Road Safety / Seat Belts on School Transport Bill Team</td>
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Executive Summary

1. The policy intention of the Seat Belts on School Transport (Scotland) Bill was the subject of an Equality Impact Assessment (EQIA) by the Scottish Government. Discussions to inform the EQIA were held with both Scottish Government officials and a diverse range of bodies with an interest in school transport, including equalities organisations, both through individual engagement and a collective focus group. A national consultation previously carried out on the Bill also included a specific question on equality impacts.

2. The EQIA process has helped the Scottish Government to consider the potential positive and negative impacts of the Bill on protected equality characteristics, identify gaps in its knowledge in this area and consider legal obligations and practices, such as those outlined in the Equality Act 2010. The EQIA concluded that the Bill's provisions are neither directly nor indirectly discriminatory on the basis of age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief and marriage and civil partnership.

3. Potential issues were raised in the engagement process for this impact assessment regarding the policy benefits affecting different ages of school pupils within different timescales and the need for flexibility regarding implementation for pupils with additional support needs (ASN). Neither has been deemed to be discriminatory, given the wider context relating to age and safety on home-to-school transport and aid practices already in place to meet the needs of pupils with ASN.

4. The assessment did acknowledge that in some areas there is limited formal evidence around the effect the Seat Belts on School Transport (Scotland) Bill is likely to have on specific groups with certain characteristics. In particular, the research and public consultation identified gaps around pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief and marriage and civil partnership. However, no detrimental effect to such groups was identified either.

5. Therefore the EQIA has not identified any group that would be adversely affected by the new legislation. It is not considered that any changes to the policy should be made as a result of the assessment, as the evidence and data gathered indicate that, overall the Bill provisions will have a positive impact on children and young
people who travel on dedicated home-to-school transport at the beginning and end of each school day.

Background

6. The Bill creates a legal duty for local authorities, independent school providers and grant-aided school providers (collectively termed “school authorities”) to ensure that vehicles they provide for dedicated home-to-school school transport have seat belts fitted, in order to improve safety. The new statutory requirement is scheduled to come into force in 2018 for primary school transport and 2021 for secondary.

7. The intention to legislate to make seat belts a requirement on all dedicated school transport was formally announced by Scottish Ministers in March 2014. The necessary powers were devolved to Holyrood in 2015 via a Scotland Act Order and, in February this year, Gillian Martin MSP introduced the Bill with support from the Scottish Government.

9. Local authorities have statutory duties to provide transport for pupils in certain circumstances. In practice, dedicated school transport is often supplied by way of buses or coaches which are contracted from private operators. Less commonly, it can be provided through vehicles owned by local authorities, or by grant-aided school providers or independent schools. The legal duty will apply to all motor vehicles (including taxis and minibuses) used by school authorities to provide dedicated school transport.

10. The Bill will not cover registered bus services available to the fare-paying public, including where the school authority has paid for pupil travel either through season tickets or individual journeys, as this is beyond the legislative competence of the Scottish Parliament.

Objectives

11. The Scottish Government is committed to keeping young people safe and reducing risks on the country’s roads. This is indicated from the following within the Scottish Government’s National Performance Framework:

- *Reduce deaths on Scotland’s roads* (National Indicator)
- *We live longer, healthier lives* (National Outcome)
- *Our children have the best start in life and are ready to succeed* (National Outcome)

12. *Scotland’s Road Safety Framework to 2020* sets out the Scottish Government’s wide strategic national policy on reducing the risks on Scotland’s roads. Transport Scotland’s national guidance; “A Guide to Improving School Transport Safety” is an example of a comprehensive measure that has been taken to help keep pupils safe on the journey to school.
14. More widely the Bill aligns with a number of articles of the European Convention of Human Rights (ECHR) and the United Nations Convention on the Rights of the Child (UNCRC), including:

ECHR Article 14, which states that an individual:

“can’t be denied rights for reasons including sex, race, colour, language and religion”

UNCRC Article 3:

“The best interests of children must be the primary concern in making decisions that may affect them.”

UNCRC Article 23:

“Children who have any kind of disability have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.”

Engagement

Consultation

15. A three-month national public consultation by the Scottish Government ran from March to June 2016, with the analysis published on 26 August last year\(^1\). Feedback was given from organisations and people across civic society, such as parents, schools, local authorities and the bus industry.

16. Question 6 of the consultation asked:

“Do you foresee any young people with particular needs or protected characteristics - such as physical disability, religious belief, gender or learning difficulties - being disadvantaged by the proposals to legislate for seatbelts in all contracted school buses?”

17. Responses to the consultation are detailed below;

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<tr>
<td>Yes</td>
<td>11</td>
<td>13.9%</td>
</tr>
<tr>
<td>No</td>
<td>55</td>
<td>69.6%</td>
</tr>
<tr>
<td>Don’t know / Not Sure</td>
<td>11</td>
<td>13.9%</td>
</tr>
<tr>
<td>Not Answered</td>
<td>2</td>
<td>2.5%</td>
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\(^1\) Transport Scotland: Consultation on seat belt requirements for dedicated school transport - Analysis Report
19. Most respondents who answered the question felt that the legislation would not disadvantage particular groups. However there were comments that it may have impacts for those with physical disabilities and learning difficulties. It was suggested that, due to each child’s disability being unique, additional, specialised adaptations to vehicles to accommodate equipment such as wheelchairs may be required.

20. It was also raised that carers or escorts should be present where appropriate to ensure that the child is comfortable and using the equipment safely.

21. There was also a concern that children under the age of twelve may struggle with a three-point seat due to their smaller size. The different timescale for ensuring vehicles used for primary and secondary provision were compliant was also viewed as potentially discriminating against secondary school pupils, given the later introduction date for this age group.

22. The above comments were taken into account as part of this EQIA yet it should be noted that they principally concern seat belt wearing, which remains a reserved issue and which the Bill does not affect.

23. Additionally, the Seat Belts on School Transport Working Group was formed in 2014 in order to take a partnership approach to the development of this policy. The current membership consists of:

- Convention of Scottish Local Authorities
- Society of Chief Officers of Transportation in Scotland
- Gillian Martin MSP
- Association of Transport Coordinating Officers
- Association of Directors of Education Scotland
- Aberdeenshire Council
- National Parenting Forum
- Scottish Traffic Commissioner
- Federation of Small Businesses
- Strathclyde Partnership for Transport
- Regional Transport Partnerships
- Confederation of Passenger Transport
- Scottish Council for Independent Schools
- Scottish Parent Teacher Council
- Highlands and Islands Strategic Transport Partnership

24. Discussions on equalities considerations were held during a number of working group meetings, with the consensus being that members could not foresee any of the protected groups being negatively affected as a result of the legislation.

25. In collaboration with the Scottish Government’s Equalities Unit and government social research analysts, it was decided that engagement with specific equalities bodies which represent groups within the protected characteristics would be very beneficial.
26. A focus group was subsequently held on 1 November 2016 and involved Scottish Government officials and external stakeholders from equality organisations including the Scottish Disability Equality Forum and Scotland’s Commissioner for Children and Young People. Discussions and issues raised from the focus group played a key role informing the findings in this EQIA.

27. Separate telephone consultations were held with Stonewall (an organisation which campaigns for the equality of lesbian, gay, bisexual and transgender people across Britain) and BEMIS (an organisation which looks to empower Scotland’s cultural and ethnic minorities).

28. Neither Stonewall nor BEMIS advised that legislative proposals would have a disproportionate impact on the groups they represent or indicated any gaps in the policy associated with this.

The Scope of the EQIA

Assessment

30. The internal framing exercise considered the potential positive and negative impacts of the Bill’s measures on each of the protected characteristics. The outputs were then taken forward and used as material for inclusion in the preparation of the EQIA.

31. During the focus group meeting it was suggested that, as the measures involve the safety of school pupils, more direct engagement with young people may be beneficial and a Children’s Rights and Wellbeing Impact Assessment (CRWIA) should be considered.

32. As the Bill does not affect the law on the wearing of seat belts on dedicated school transport, which remains a reserved matter, the primary impact is on school authorities who have to ensure seat belts are provided within vehicles. However, the legislation represents an opportunity to promote successful approaches in getting children to wear seat belts and wider awareness of the safety benefits (a secondary impact). As such, it is intended that non-statutory guidance and awareness-raising campaigns will accompany any future Act. A full CRWIA will be completed in advance of this, consulting with key stakeholders and children and young people themselves, rather than at this stage of Bill introduction.

CHARACTERISTIC: AGE

33. The measures do not affect people of all ages, as they are solely focussed on pupils in receipt of primary and secondary education. These are children and young people aged 4 ½ to 18 for the purposes of the Bill (aligned with the definition of ‘pupil’ in the Education (Scotland) Act 1980), who will see a benefit in terms of improved safety measures on their journey to school if they are in receipt of dedicated school transport. Adults do not travel on dedicated school transport – and were never intended to be captured within the policy proposals – so this is not considered discriminatory towards those over 18 years of age.
34. There are no national statistics on the number of young people who travel on dedicated school transport as per the Bill’s definition. Summary figures for 2016 show that in Scotland’s schools there were:

- 684,415 pupils, made up of:
  - 396,697 primary
  - 280,983 secondary
  - 6,735 special

35. National data also states that, in 2015, 14.5% of children in full-time education travelled on a 'school bus' for home-to-school provision, which equates to 99,240 children using the above pupil numbers. However, it should be noted that the definition used in this data source does not correlate precisely with the definition of dedicated school transport used in the Bill. It is envisaged that the number of children using school transport within the meaning given by the Bill, and those who reap the safety benefits, will be fewer.

36. One consideration is that, due to the staggered implementation dates of 2018 for vehicles transporting primary pupils and 2021 for those carrying secondary pupils, there will be a three year period where children of all ages do not see the policy benefits at the same time. One local authority member of the working group highlighted a specific scenario where a primary pupil who has been travelling on buses with seat belts fitted after 2018 moves to secondary school before 2021 and is transported on a bus without seat belts. It is not possible to specifically ascertain how many pupils will be travelling on dedicated school transport – broken down by primary and secondary – on the years between these dates. However the above summary 2016 figures are indicative of the ratio of primary pupils to secondary pupils in Scotland.

37. Under the Equality Act (2010), age is not a protected characteristic with regard to provisions relating to schools. Nevertheless, due to the particular provisions of the Bill and the issue raised, this characteristic was considered as part of the development of the EQIA.

38. The measures are not considered directly discriminatory in relation to secondary-aged children because:

- Children of all ages will continue to travel on public service buses without seat belts, whether journeys are paid for by local authorities in respect of their statutory duties or otherwise, on journeys to school and in their spare time.

- Bus and coach travel is considered a statistically safe mode of home-to-school transport currently.

- Secondary pupils will also see the associated safety gains within a reasonable time-frame of three years.

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2 Summary Statistics for Schools in Scotland - 2016
3 Scottish Transport Statistics - No 34 2015 Edition
CHARACTERISTIC: DISABILITY

39. The Bill’s provisions are intended to improve the safety of all children and young people using dedicated school transport, including those affected by disability or ASN. There are no national figures on the number of pupils with ASN who use dedicated school transport as defined within the Bill.

40. There are instances where pupils travelling on dedicated school transport may need specialist provision, such as adaptations for wheelchairs or mobility aids and smaller children requiring adjustable straps.

41. Stakeholders and consultees have raised that the Bill should not hinder such young people and its provisions allow for this. The definition of seat belt used in the Bill aligns with existing UK law, which includes child restraints, disabled person’s belts, lap belts and three-point belts. Therefore such specialist provision can be supplied in place of a regular seat belt to meet the Bill’s requirements. Additionally, school authorities are subject to existing obligations regarding needs assessments for pupils with ASN – particularly the Education (Additional Support for Learning) (Scotland) Act 2004 and the Equality Act 2010 – and the Bill will not affect this or stipulate what specialist provision should be given to pupils with any particular condition. In practice, school authorities inform companies undertaking dedicated school transport contracts of these requirements and contracts are drafted in such a way to allow for this. The Bill does not change this practice and is therefore not considered discriminatory in this regard.

42. Stakeholders advise that pupils with ASN can be more likely to use dedicated school transport in the form of minibuses or taxis, which are more adaptable to specialist provision for individual needs. Such vehicles are already required to have seat belts fitted under UK law and the requirements enacted by the Bill also cover such vehicles.

CHARACTERISTIC: GENDER, INCLUDING PREGNANCY AND MATERNITY

43. It is not expected that these provisions will have any positive or negative affect of anyone as a result of their gender. These measures seek road safety benefits for young people of both sexes. Given that seat belts are used in the same manner by both genders, the proposed legislation will have no adverse effect on individuals based on their sex. This was the view of the Seat Belts on School Transport Working Group.

CHARACTERISTIC: GENDER REASSIGNMENT

44. There is no evidence to suggest that these provisions will impact either positively or negatively on anyone who identifies as transgender. This was also the view of equality group Stonewall and the Seat Belts on School Transport Working Group.

CHARACTERISTIC: SEXUAL ORIENTATION

45. There is no evidence to suggest that these provisions will impact either positively or negatively on anyone based on their sexual orientation. This was also the view of equality group Stonewall and the Seat Belts on School Transport Working Group.

CHARACTERISTIC: RACE

46. There is no evidence to suggest that these provisions will impact either positively or negatively on anyone due to their ethnicity or race. This was also the view of BEMIS and the Seat Belts on School Transport Working Group.

CHARACTERISTIC: RELIGION OR BELIEF

47. There is no evidence to suggest that these provisions will impact either positively or negatively on anyone due to their religion or belief. This was also the view of BEMIS and the Seat Belts on School Transport Working Group.

CHARACTERISTIC: MARRIAGE AND CIVIL PARTNERSHIP

48. It was the opinion of the working group that the proposed legislation will have no adverse effect on young people who may be married and travelling on dedicated school transport.

Recommendations and Conclusion

49. The EQIA process has highlighted the need for the Scottish Government to continue to work with stakeholders to ensure that equalities issues are at the forefront of the policy development process and to keep abreast of new issues as they arise. The meetings held, along with the formal consultation exercise, have been informative and useful in considering the potential impacts on equality groups of the Seat Belts on School Transport (Scotland) Bill.

50. The specific input of equalities organisations has been valuable in raising the overall awareness and understanding of the key issues affecting a wide range of diverse groups and individuals.

51. The impact of the Bill on the protected characteristics has been considered as a result of the assessment. Changes are not proposed to the provisions of the Bill.