

Seat Belts on School Transport (Scotland) Bill

Policy memorandum

Introduction

1. As required under Rule 9.3.3A of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Seat Belts on School Transport (Scotland) Bill ("the Bill") introduced in the Scottish Parliament on 28 February 2017. This Policy Memorandum has been prepared by the Scottish Government to support Gillian Martin MSP, the member proposing the Bill, to set out the policy behind the Bill. The contents are entirely the responsibility of the member and have not been endorsed by the Parliament. The Policy Memorandum does not form part of the Bill.

2. The following other accompanying documents are published separately:

- statements on legislative competence by the Presiding Officer and Gillian Martin MSP (SP Bill 7–LC);
- a Financial Memorandum (SP Bill–7FM);
- Explanatory Notes (SP Bill–7EN).

Policy objectives of the Bill

3. The protection of the nation's children and young people is a top priority for the Scottish Government, whilst reducing the risks on the country's roads also forms a key pillar of its efforts to keep people safe from harm. These priorities are evidenced by high level commitments in

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Scotland Performs.¹ Additionally, Scotland's Road Safety Framework to 2020 contains specific casualty reduction targets for children, against which significant progress is being made.²

4. The safety benefits of seat belts are well established and internationally recognised. A World Health Organisation report in 2015 found that they can reduce the risk of fatal and serious injuries by 25% and minor injuries by up to 75% for rear-seat passengers, while a wealth of other studies have also established the safety benefits.³ Research published by Sweden's Umeå

University in 2005 also helped establish the safety benefits of seat belts specifically in relation to their use on buses and coaches.⁴

5. This Bill will introduce a legal obligation for them to be fitted on all dedicated school transport in Scotland, in turn helping to promote good habits in relation to seat belt wearing among young people, and enacting a long-standing intention of Scottish Ministers which is shared by Gillian Martin MSP.

Background

6. The measures in the Bill will cover dedicated home-to-school transport provided by local authorities and independent and grant-aided school providers (collectively termed "school authorities") and relate to a former petition which was considered by the Scottish Parliament's Public Petitions Committee.⁵ The Bill is being taken forward following devolution of legislative competence to the Scottish Parliament via a Scotland Act Order specifically on the issue which was made in 2015.⁶ That Order devolved

¹ See [National Indicator: Deaths on Scotland's Roads](#); [National Outcome: We live longer, healthier lives](#); and [National Outcome: Our children have the best start in life and are ready to succeed](#)

² [Scotland's Road Safety Framework to 2020](#)

³ See, for instance, [WHO: Global status report on road safety 2015](#); [The Long Term Effect of Seat Belt Legislation On Road User Injury Patterns](#); and [Alleviation of injuries by use of seat belts](#)

⁴ [Occupant casualties in bus and coach traffic: injury and crash mechanisms](#)

⁵ [PE 01098: School Bus Safety](#)

⁶ [Scotland Act 1998 \(Modification of Schedule 5\) Order 2015 \(S.I. 2015/1379\)](#)

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legislative competence for the regulation of the description of motor vehicles used under arrangements for persons to travel to and from places where they receive education and training. It did not devolve legislative competence to set technical standards for the construction and equipment (such as the type of seat belt) different from the UK standards which might otherwise apply to them. The seat belt measures within the Bill are similar to provisions implemented in Wales from 2014 following a comparable devolution instrument.⁷

7. In the same year, former Minister for Transport Keith Brown publicly announced the Scottish Government's intention to legislate.⁸ His successor Derek Mackay outlined the aims and benefits of doing so to the Scottish Parliament's former Infrastructure and Capital Investment Committee in 2015 during the devolution of competence.⁹ The Scottish Government and Ms Martin's current intention is for the new legal requirement created by the Bill to be commenced by the beginning of the school year in 2018 in respect of primary school transport and in 2021 in respect of secondary school transport.

8. Local government returns show that there are currently 18 local authorities in Scotland which already stipulate the provision of seat belts as a requirement in all dedicated school bus contracts and a further 6 which require it on some contracts, such as services only for primary school pupils or for a particular type of vehicle. The Bill's objective is therefore to ensure such good practice becomes universal on such transport across the country. Local government responses show that the following councils currently require seat belts in all their contracts (given the overlapping and complex nature of contracts, and the high number which councils operate, this may not categorically be every bus).

⁷ [Safety on Learner Transport \(Wales\) Measure 2011 nawm 6](#)

⁸ [Transport Scotland News Release: 'Minister outlines safety plans for school transport' 18 March 2014](#)

⁹ [Official Report - Infrastructure and Capital Investment Committee, 25 February 2015](#)

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| | |
|-------------------------------|---------------------------|
| Aberdeen City Council | Aberdeenshire Council |
| Angus Council | City of Edinburgh Council |
| Dumfries and Galloway Council | East Ayrshire Council |
| East Dunbartonshire Council | Highland Council |
| Inverclyde Council | Midlothian Council |
| Moray Council | Comhairle nan Eilean Siar |
| North Ayrshire Council | North Lanarkshire Council |
| Perth and Kinross Council | South Lanarkshire Council |
| Shetland Islands Council | Scottish Borders Council |

Casualty rates

9. An average of 45 children were injured while on buses or coaches in the years between 2010 and 2015 (the latest year for which figures are available).¹⁰ This includes travel on all buses and coaches, not just those used for dedicated home-to-school transport as figures are not collated for this definition of school transport. No children were killed while on buses or coaches in these years. Minor accidents without injury are not captured in national figures.

| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2010 – 15 Average |
|----------------|------|------|------|------|------|------|----------------------|
| Slight | 47 | 49 | 42 | 48 | 28 | 40 | 42 |
| Serious | 7 | 4 | 1 | 3 | 2 | 2 | 3 |
| Total | 54 | 53 | 43 | 51 | 30 | 42 | 45 |

¹⁰ [Key Reported Road Casualties Scotland 2015](#)

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Definition of dedicated school transport

10. For local authorities, a statutory duty exists under section 51 of the Education (Scotland) Act 1980 ('the 1980 Act'), as amended, to make such arrangements as they consider necessary for the transport between home and school of pupils residing and attending schools in their area.¹¹ In general, councils use 'statutory walking distances' as defined in section 42 of the 1980 Act to calculate such entitlement (set at 2 miles and over from the pupil's home to school for those under 8 years of age and 3 miles and over for older pupils). The duty in section 51 does not apply to grant-aided and independent schools. Those schools make their own provision depending on their individual policies for eligibility for such transport.

11. 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.

12. Local authorities can also offer any remaining seats to other non-eligible pupils for free or at a discounted rate (often termed as 'grace and favour' places by councils). All such provision is generally supplied with agreed pick-up and drop-off points tailored to pupils' needs (not necessarily bus stops) which local authorities look to risk assess.

13. The Bill does not cover registered bus services available to the fare-paying general public, which some local authorities use to meet their existing duties under the 1980 Act by giving pupils season tickets or paying for individual journeys. Such measures would be beyond the legislative competence of the Scottish Parliament.

14. There are situations where pupils begin or end the school day at an institution at which they are not registered, for instance to take certain classes at another school or a college. This is considered to be home-to-school transport and is included within the definition in section 2 of the Bill.

15. The provisions in this Bill are restricted to road vehicles. Most dedicated school transport is delivered via buses or coaches. In certain circumstances taxis and minibuses are used. Although such vehicles are

¹¹ [Education \(Scotland\) Act 1980](#)

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already required to have seat belts fitted by UK law, they are covered by the provisions in this Bill for completeness.¹²

What will the new legal requirement mean?

16. The new duty will require school authorities to ensure that the vehicles provided for dedicated school transport have seat belts fitted to each passenger seat (i.e. at a ratio of one belt per pupil). This means in practice:

- (a) where a school authority contracts with a bus operator for provision of such vehicles the school authority must stipulate, as a condition of contract, that the vehicles supplied must have seat belts fitted, or;
- (b) where the school authority owns the vehicle used for dedicated school transport, they will be legally required to ensure it has seat belts.

17. The Bill does not mandate the technical specification of the seat belt which must be provided (such as three-point belts or lap belts) as doing so would be outside the legislative competence devolved to the Scottish Parliament. Existing reserved legislation governing the construction, maintenance and equipment of motor vehicles sets out the technical standards and maintenance levels required for seat belts in vehicles on UK roads. Seat belts supplied for the purposes of compliance with the Bill must adhere to such standards.¹³

18. Unlike in some countries, there is not a specific style or model of vehicle used for dedicated school transport (such as the bespoke yellow school bus common in the USA) and therefore a wide range of vehicles are used, particularly in relation to local authority provision, from double-decker buses designed for urban use to single-decker coaches.

19. Likewise, the conditions which are currently stipulated in school transport contracts such as the standard of vehicle, particular safety features and routes can vary considerably from council to council. Transport Scotland's existing national guidance 'A Guide to Improving

¹² [Road Vehicles \(Construction and Use\) Regulations 1986 \(S.I. 1986/1078\)](#)

¹³ [Road Vehicles \(Construction and Use\) Regulations 1986 \(S.I. 1986/1078\)](#)

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School Transport Safety' highlights good practice such as stipulating within contracts for the provision of seat belts or enhanced school bus signage, yet councils have autonomy in this area and are able to align their provision with their own particular needs on the ground.¹⁴

20. Although the Bill does not affect the law on the *wearing* of seat belts on dedicated school transport, which remains a reserved matter, it represents an opportunity to promote successful approaches and wider awareness of this issue. Extensive dialogue has taken place with local authorities, parenting groups and other stakeholders, and it is intended that non-statutory guidance published alongside any final Act, created following consultation with young people, will promote good practice on these matters.

Engagement and consultation

21. Due to the varied nature of provision across the country, Transport Scotland formed the Seat Belts on School Transport Working Group in 2014 to take a partnership approach in ensuring that the Bill's provisions are practical and workable nationally. The current membership of the group consists of:

- Transport Scotland road safety officials
- Scottish Government education officials
- Gillian Martin MSP
- CoSLA
- Society of Chief Officers of Transportation in Scotland
- Association of Transport Co-Ordinating Officers (ATCO)
- Confederation of Passenger Transport
- Regional Transport Partnership representatives
- Strathclyde Partnership for Transport (SPT)
- Federation of Small Businesses
- Association of Directors of Education in Scotland
- Traffic Commissioner for Scotland
- National Parent Forum Scotland

¹⁴ [A Guide to Improving School Transport Safety](#)

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- Scottish Council for Independent Schools
- Scottish Parent Teacher Council
- Aberdeenshire Council

22. In addition to this, as part of the formation of the policy behind the Bill, in-depth discussions have taken place with specific local authorities, regional transport partnerships, bus industry bodies and individual bus companies, as well as direct correspondence being sent to all 8 of Scotland's grant-aided schools and to all independent schools not represented by the Scottish Council for Independent Schools.

23. This engagement has enabled a better understanding, in particular of the interaction between local authorities and private bus companies in relation to dedicated school transport contracts. These vary in length but are generally three to five years and can range significantly in terms of the number of pupils and schools covered, the number and length of routes and the overall contract cost.

24. Moreover, the vehicles can also vary considerably, from those which are also used in registered public bus services to those kept and used only for private contractual work, such as dedicated school transport. The size and composition of bus or coach companies which undertake school transport contracts also varies, from large national operators to smaller local companies.

25. A three-month national public consultation by the Scottish Government ran from March to June 2016, with the analysis published on 26 August.¹⁵ Feedback was given from organisations and people across civic society, such as parents and schools. The consultation received 79 responses, broken down in the table below.

| Group | Number |
|-----------------------|---------------|
| Members of the Public | 59 |
| Bus Operators | 2 |
| Local Authorities | 7 |

¹⁵ [Transport Scotland: Consultation on seat belt requirements for dedicated school transport - Analysis Report](#)

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|----------------------------|----|
| Professional Organisations | 3 |
| Schools | 2 |
| Parent Councils | 6 |
| Total | 79 |

26. Almost all respondents (74) believed the plans would make a useful contribution to road safety, while a majority (69) thought that school buses having seat belts can help children formulate wider good habits in relation to seat belt use more generally, for instance when travelling in family cars. Some respondents also stated that they thought such a legal requirement was already in place and queried why it had not been implemented sooner.

27. Working group partners report that local authorities are increasingly moving towards stipulating the need for seat belts in their dedicated school transport contracts voluntarily. Information provided by local authorities showed just 4 had seat belt requirements in their contracts in 2009, but that this had increased to 12 by 2012, 17 by 2014 and 18 by 2017. This has enabled detailed discussions with stakeholders who have already made this transition, discussions which have been considered in shaping the Bill. The grant-aided and independent school sectors report that they do not see challenges in meeting the new duty as their dedicated home-to-school transport is almost universally provided with seat belts already.

28. Bus companies which own vehicles without seat belts fitted will have a range of options if they want to bid for dedicated school transport contracts following commencement of the new legal duty. This includes retrofitting seat belts to existing vehicles, re-organising their fleet to move those with seat belts on to such contracts or purchasing new vehicles. Likewise, school authorities which own vehicles used for such provision that do not have seat belts fitted will have to consider retrofitting or purchasing new vehicles.

29. Bus operators and other stakeholders report that the timescales that are given regarding future changes in contract conditions are key and that a lack of notice can pose the largest challenges in terms of them being able to adapt to new requirements (as set out in detail in the accompanying Financial Memorandum and the Business Regulatory Impact Assessment [BRIA]). The intended lead-in time for commencement of the Bill, in 2018 for primary school provision and 2021 for secondary school provision –

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after an announcement of the intention to legislate was made in 2014 – is aimed at obviating this.

30. At the time of the announcement of the intention to legislate, local authority returns via the working group showed that in 2014 there were 323 buses used for dedicated school transport which were not fitted with seat belts, the majority of which were used for secondary provision. Therefore the transition required for such primary school transport is expected to be less than that needed for secondary school transport. Additionally, there can be issues with retrofitting some models of double-decker buses due to structural limitations, and bus operators and local authorities report that such vehicles are currently more likely to be used for secondary provision. In partnership with local government, an exercise was undertaken to provide updated 2017 figures which suggests there are now around 110 buses in operation for such provision without seat belts, showing that local authorities have been moving towards compliance in anticipation of future legislation following the Ministerial announcement. Due to this being a transition phase in contracting practices, and the overlapping timing of different contracts, some contracting authorities report that there may be a slight margin of error within the 2017 figures.

31. Moreover, other factors outwith this Bill will mean that more vehicles used for dedicated school transport provision in future are already likely to have seat belts fitted. Existing UK law means that since 2001 all new-built coaches, minibuses and buses have had to be fitted with seat belts; yet urban buses which include room for standing passengers are exempt from this.¹⁶ Therefore a high number of those in use which do not have seat belts fitted are older vehicles or double-deckers designed for urban use. As such vehicles become depleted due to age and no longer roadworthy, the newer vehicles which replace them are therefore more likely to have seat belts fitted.

32. Areas with higher levels of competition amongst bus operators – where the provision of seat belts is not stipulated in contracts already – will see less impact as a result of the Bill, since the local market has greater provision to meet new requirements. The local authority returns from 2014 via ATCO gave a geographical breakdown indicating that the vast majority of the vehicles without seat belts used for dedicated school transport fell within the local authorities covered by Strathclyde Partnership for Transport

¹⁶ [Road Vehicles \(Construction and Use\) \(Amendment\) \(No. 2\) Regulations 2001 \(S.I. 2001/1043\)](#)

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(SPT), specifically all of the primary school vehicles (within South Ayrshire, East Renfrewshire and Glasgow); and the majority of the secondary school vehicles (within South Ayrshire, East Renfrewshire, Glasgow, West Dunbartonshire, East Ayrshire and Renfrewshire). SPT covers an area with high competition amongst bus companies and in-depth engagement has taken place with the Regional Transport Partnership, which reports that it has begun to add a seat belt requirement into contracts since the Ministerial announcement in 2014 and that there have been no major issues with the transition since then.

33. With regard to the consultation, a small number of respondents argued that the potential effect on road safety may be marginal. Reasons given by respondents as to why this would be the case included the low rate of accidents involving school buses and that buses are generally a safe mode of travel.

34. However, other respondents stated that wearing seat belts is perceived by most children as normal in cars and that fitting seat belts in dedicated school buses would also encourage children to wear seat belts in other vehicles. It was also felt that the habit of wearing seat belts can be further encouraged if schools, parents and carers take an active role in promoting their use from an early age: for instance, through lessons and road safety educational events. There was also a suggestion that schools could use codes of conduct to encourage parents to actively support their children to use seat belts while on dedicated school buses. Although the wearing of seat belts is a reserved area, the Bill represents an opportunity both to promote successful approaches in ensuring that children wear belts and to raise wider awareness of the associated safety benefits of doing so – guidance and publicity accompanying any final Act will include these areas.

35. The majority of respondents did not think the legislation would disadvantage groups with particular needs or protected characteristics. The majority agreed the legislation should apply to independent and grant-aided schools, citing that children should be equally protected, regardless of where they go to school, and that the legislation should encourage a single approach. These issues are explored in more detail in the Equality Impact Assessment (EQIA) accompanying the Bill.

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Alternative approaches

Taking no action

36. National guidance already outlines that seat belts should be added as a condition within dedicated school transport contracts as a matter of good practice. Given the increasing numbers of local authorities implementing such measures, there may eventually be national coverage without legislation. However, due to the importance of protecting children and young people, the fundamental policy position is to ensure that this becomes universal practice across Scotland on such transport within a reasonable timeframe. The Bill enables this to occur as a matter of law. Given the high level of support for the fundamental policy position in the public consultation and the remarks from respondents that they thought such safety measures were in place already, a legal requirement appears necessary and desirable to ensure the full realisation of the policy.

Commencement dates

37. Rather than the new legal duty created by the Bill commencing later for secondary schools (in 2021) than for primary schools, it would be possible in theory for the duty to be commenced in 2018 for dedicated school transport carrying school pupils of all ages. However, extensive stakeholder feedback has highlighted that this would significantly reduce the bus industry's ability to adapt to the new requirement and put local authorities under considerable strain as it may lead to contracts having to be renegotiated or broken.

School authority contracting practices

38. The policy intention is not to alter the flexibility which local authorities have in delivering their duties under the 1980 Act, or that of independent schools or grant-aided schools in terms of whether they provide dedicated school transport as defined in the Bill. Many local authorities pay for journeys using the registered public bus service or contract for community services which also carry fare-paying adults, particularly in rural communities. Such practices can have benefits in terms of reducing the duplication of routes and the associated cost, congestion and environmental impact. An alternative policy choice could have been to attempt to influence school authorities into contracting for dedicated school transport or to restrict the types of service provision that are used. However, where this is not the most appropriate provision for the school authority's needs, this could be counterproductive in terms of wider government policy outcomes on issues such as congestion and vehicle emissions. Additionally, any such measures would not be in keeping with

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the policy intention regarding the devolution of power via the Scotland Act Order which the Bill takes forward.

Matters not covered by the legislation

39. For local authority provision, dedicated home-to-school transport is organised at authority level and is quite distinct from the transport organised by individual schools for specific trips and excursions, whether during the school day or over a number of days. This Bill does not cover such transport, which is already overseen by Scottish Government guidance *Health & Safety on Educational Excursions* which clearly stipulates that risk assessment responsibilities centre on the group leader – often a teacher – and already stipulates that seat belts should be provided. This guidance also covers grant-aided and independent schools.¹⁷ The policy intention has always been for the Bill to apply specifically to dedicated home-to-school transport, given the tailored manner in which it is organised.

40. Although situations where pupils begin or end the school day at an institution at which they are not registered will be covered by the new duty created by the Bill, if they are transported elsewhere during the school day this is considered an educational excursion and would not be covered. Transport provided by school authorities for pupils who undertake extra-curricular activities before or after the school day will also not be covered, as this is not part of the compulsory, core education provision.

41. The definition of dedicated school transport in section 2 of the Bill refers to it being for the “sole purpose” of transporting pupils; therefore registered bus services carrying members of the public are excluded. Stakeholders report there are situations whereby a commercial registered local bus service undertakes a route collecting a high volume of school pupils and terminates at or near a school, through an informal arrangement with the local authority or purely for reasons of commercial viability. These will not be covered by the Bill. The Scotland Act Order devolving competence only relates to the regulation of school transport rather than that of commercial service buses.

42. The law on the wearing of seat belts also remains reserved.¹⁸

¹⁷ [Health & Safety on Educational Excursions](#)

¹⁸ [Motor Vehicles \(Wearing of Seat Belt\) Regulations 1993 \(S.I. 1993/176\)](#)

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Specialist provision

43. Some pupils travelling on dedicated school transport may need specialist provision, such as smaller children needing adjustable straps, or adaptations which are required because a young person has Additional Support Needs (ASN). 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.¹⁹ Therefore such specialist provision can be supplied in place of a regular seat belt to meet the terms of the Bill.

44. The duty will apply to ASN pupils. However, the Bill will not stipulate what specialist provision should be given to pupils with any particular condition or affect existing obligations which school authorities are already subject to, particularly the Education (Additional Support for Learning) (Scotland) Act 2004 and the Equality Act 2010. In practice, local authorities conduct needs assessments in such circumstances in line with their existing obligations regarding education provision more generally: they report that bus companies undertaking dedicated school transport contracts are made aware of these requirements and contracts are drafted in such a way to allow for this.

45. Regarding smaller children for whom a standard three-point belt may not be suitable, there are a range of options for councils to include in contracts such as adjustable straps, "booster seats" (considered a type of child restraint under UK law) or lap belts. The Bill is unable to prescribe the technical standard of belt and so will not mandate specific provision in different circumstances. Consequently the new legal duty will not restrict the existing flexibility open to local authorities and bus providers on these matters. The Scottish Government will look to provide examples of best practice and effective measures in this area in non-statutory guidance accompanying a future Act of Parliament.

46. These existing practices address the concerns raised on such issues in the consultation.

Procedures for non-compliance

47. The new legal duty created by the Bill falls on school authorities, rather than any bus or coach company supplying vehicles to be used for dedicated school transport under contract. Such contracts are legally

¹⁹ [Road Vehicles \(Construction and Use\) Regulations 1986 \(S.I. 1986/1078\), Regulation 47](#)

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binding and therefore represent an existing enforcement mechanism for school authorities to ensure that operators supply buses with seat belts fitted. Feedback from stakeholders indicates that local authority practice is to include remedial or punitive measures within contract conditions for any failures to meet conditions, with an ultimate option to break the contract for repeated failures. The Bill does not affect this practice.

48. In the majority of cases where an issue is raised about vehicles being provided without seat belts – such as by a parent, teacher or school pupil – this will be due to a bus operator not meeting the terms of a dedicated school transport contract and so may be dealt with in the first instance at council level.

49. Given that most local authorities already contract dedicated school transport with seat belts, and that the grand-aided and independent school sector is almost universally covered in practice, a high level of compliance with the new legal duty is expected. There has been full engagement with local government, including formal letters to all council chief executives in December 2014, ensuring widespread awareness of the Bill's proposals. The new legal duty is already seen as good practice for school authorities and there are clear precedents for how it is implemented and how it works in practice.

50. Ultimately it is not in the interest of local authorities to enter into contracts that do not comply with the law and they have established checks and balances in place for avoiding doing so. This includes taking legal advice where this is deemed necessary and internal audit procedures for their financial arrangements. Councils also take safety measures particularly seriously. Therefore the likelihood of negligence or wilful disregard of the new duty created by the Bill is considered small.

51. In general, compliance with the duty to ensure that seat belts are fitted will be a factual and binary question – as opposed to being open to interpretation – and thus easily measured. Local authorities are also subject to robust scrutiny and accountability procedures via their committee structures, made up of elected members.

52. Taking such considerations into account, it is deemed that procedures for non-compliance with the new legal requirement should be proportionate and not draconian, while also enabling issues to be dealt with quickly and at source level where possible. This approach has also been the view of the Seat Belts on School Transport Working Group.

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53. Furthermore, local authorities are already subject to investigation by the Scottish Public Services Ombudsman (SPSO) once their internal 'two-stage' complaint and investigation procedure has been exhausted. The SPSO has confirmed that this process will be applicable to the new legal duty in the Bill.

54. The independent and grant-aided school sector also have established internal scrutiny mechanisms, overseen by their boards of governors and managers respectively, which can investigate the practices of the school and whether they are compliant with duties imposed by law.

55. Additionally, it will be possible for parties to seek an order from the Court of Session under section 45 of the Court of Session Act 1988 specifically requiring a school authority to comply with the duty in the Bill in the event that there has been a failure in compliance (using the same court procedures as for judicial review). Such a failure could also form the basis of a civil action for damages if this resulted in loss or injury.

56. Given the safeguards provided by these established mechanisms, the Bill does not create a new sanction or bespoke enforcement mechanism.

57. It was explored whether the procedure for complaints against local authorities under section 70 of the 1980 Act may have been appropriate for the duties in this Bill. However this was ruled out on the basis that section 70 is a procedure designed for fundamental matters of education provision over which there are often differences of interpretation: on receipt of a complaint under that section, an in-depth investigation of the circumstances by Education Scotland will take place, with an ultimate fall-back option of a Ministerial order declaring the authority in default of a statutory duty and requiring remedial action. This approach is deemed disproportionate and inappropriate for the purposes of the Bill, when there is little room for any ambiguity of interpretation as to whether seat belts have been fitted in compliance with the new legal duty.

58. Applying the procedure under section 99 of the 1980 Act for complaints against independent schools to the duty created by the Bill (where similarly there is a last-resort option of Ministers issuing a remedial notice against a school) was deemed inappropriate for similar reasons. This approach was discussed and endorsed by the Seat Belts on School Transport Working Group.

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Self-reporting duty

59. Section 4 of the Bill does create a self-reporting duty on school authorities to publish an annual statement of compliance with the duty in section 1. In practice, this can be done on a website or in some kind of hard copy document, such as an annual report (in the case of a grant-aided or independent school) or a report which is scrutinised by a council committee (in the case of a local authority school), so long as it is in the public domain.

Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.

Equal opportunities

60. An Equality Impact Assessment (EQIA) has been carried out and it is anticipated will be available on the lead committee's website.

61. The Scottish Government has engaged with stakeholders throughout the policy development process on behalf of Gillian Martin MSP, regularly raised equalities considerations with the Seat Belts on School Transport Working Group and conducted a tailored round-table discussion specifically for the EQIA with relevant stakeholders. The EQIA did not identify any differential impacts against the protected characteristics and no changes to the legislative proposals were required as a result.

Human rights

62. It is not considered that the Bill will have any detrimental effect on human rights. Its provisions are compatible with the European Convention of Human Rights and the United Nations Convention on the Rights of the Child. Overall the Bill's 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.

Island communities

63. The provisions of the Bill apply to all areas in Scotland. Due to specific transport needs within some rural or island communities, there can be instances whereby local authorities tailor their practices so that contracts cover transport for school pupils and also fare-paying adults. These are often termed 'community contracts' or 'dual contracts', such as in Comhairle nan Eilean Siar and Orkney, and are outside the scope of the Bill as they do not come within the definition of dedicated school transport

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in section 2. However, the relevant local authorities report that such provision almost universally consists of single-decker vehicles already fitted with seat belts, so there will be little difference to the outcome in practice.

Local government

64. The effects that the provisions of the Bill will have on local government are explained in the main body of this Policy Memorandum.

Sustainable development

65. In support of Gillian Martin MSP, the Scottish Government is satisfied that the Bill has no negative effect on sustainable development. A pre-screening report confirmed that the Bill would have no impact on the environment. It is, therefore, exempt for the purposes of section 7 of the Environmental Assessment (Scotland) Act 2005 and consequently there is no need for a full Strategic Environmental Assessment to be undertaken. In terms of the UN Sustainable Development Goals, extensive stakeholder feedback has raised no significant issues regarding the Bill's impact, whilst matters such as sustainable industry, economic growth, inequalities and gender equality are explored in detail in the EQIA and BRIA accompanying the Bill.

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