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**Children's Commissioner for Wales  
Response to Legislation Committee 3 – The National  
Assembly for Wales (Legislative Competence)  
(Transport) Order 2010 relating to learner transport and  
concessionary travel**



January 2010

## **Introduction**

The Children's Commissioner for Wales is an independent children's rights institution established in 2001 in line with the Paris Principles<sup>1</sup>. The Commissioner's principal aim is to safeguard and promote the rights and welfare of children.<sup>2</sup> In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC).<sup>3</sup> The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare and they may also make representations to the National Assembly for Wales about any matter affecting the rights and welfare of children in Wales.<sup>4</sup>

The UN Convention on the Rights of the Child (UNCRC) is an international human rights treaty that applies to all children and young people aged 18 and under. It is the most widely ratified international human rights instrument and gives children and young people a wide range of civil, political, economic, social and cultural rights which State Parties to the Convention are expected to implement. In 2004, the Welsh Assembly Government adopted the UNCRC as the basis of all policy making for children. This response has been developed using the framework of the UNCRC.

The Children's Commissioner for Wales published a report, *As Long as I Get There Safe* in 2005 and has been actively engaged in recent years with the development of the Learner Travel Measure.

## **Contact details**

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<sup>1</sup> <http://www2.ohchr.org/english/law/parisprinciples.htm>

<sup>2</sup> Section 72A Care Standards Act 2000

<sup>3</sup> Regulation 22 Children's Commissioner for Wales Regulations 2001

<sup>4</sup> Section 75A (1) Care Standards Act 2000

## Response

The Children's Commissioner for Wales has been very involved over a number of years in school transport matters. Children and young people told him of both their positive and negative experiences of home to school transport. In 2004, we published *As Long as I Get There Safe*<sup>5</sup>. This report highlighted many of the concerns that children in Wales experience when travelling to school as well as the enjoyment and positive social interaction that can take place during journeys to and from school.

In recent years the Children's Commissioner for Wales has followed closely the development of the Learner Travel Measure and subsequent development of the all Wales Learner Travel Behaviour Code.

It is within this context and the principal aim of the Commissioner which is to safeguard and promote the rights and welfare of children that we will focus this response solely on issues relating to learner transport and will not respond in relation to concessionary travel.

## Consultation questions

### **1. What are your views on the general principle that legislative competence in the areas identified in Matter 10.2 be conferred on the National Assembly?**

Our view is that legislative competence as set out in the order should be conferred on the National Assembly in order to try and ensure the highest possible safety standards for home to school transport. During the debates relating to the development of the Learner Travel Measure, the Deputy First Minister recognised that the competence of the National Assembly at the time did not allow him to address some of the issues raised during its development.

We therefore welcome the proposal to confer the proposed competence on the National Assembly for Wales.

The issue of safety on school transport was highlighted in the 2005 report *As Long as I Get There Safe* which stated:

*'School buses should be safe, clean and reliable. Single decker vehicles would appear to have much to recommend them over double deckers in terms of both safety and behaviour management. Facilities available on newer rather than older vehicles also have impacts which improve safety and behaviour'*

There are clear cost implications of changing home to school buses from double deck to entirely single deck vehicles however this issue should be overcome by additional funding allocated for this purpose and a real commitment from Welsh Assembly Government, operators and local authorities to improve the quality of school transport that children in Wales receive.

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<sup>5</sup> *As long as I get there safe* <http://www.childcomwales.org.uk/uploads/publications/66.pdf>

We are however concerned that there is a risk that in response to the increasing calls for the use of single decker buses a number of coaches will be used which have been redesigned to seat 70 children where 50 would have been seated. We would welcome a discussion as to how these vehicles are able to provide sufficient space for the children carried on those buses along with their equipment. Additionally, in the event of an emergency evacuation the extra numbers of children may lead to extended evacuation times and an increased risk to children.

*As Long as I Get there Safe* highlighted:

‘Storage space should be considered by those commissioning or providing a school bus service. Heavy school bags, sports kits and musical instruments all have to be transported. The school bus should be a safe environment for equipment and they should be stored in such a way that they cannot fall and injure pupils’.

The issue of the use of CCTV needs to be considered in light of a child’s right to privacy which is enshrined in Article 16 of the UNCRC. As Peter Clarke stated in his report;

*‘Some school bus companies have installed CCTV systems. While this might be a useful tool to identify perpetrators of serious incidents the routine monitoring of such tapes is NOT something the Children’s Commissioner would encourage’.*

We recognise the arguments that are put forward in terms of the use of CCTV, however, we must ensure that children are not subject to invasion of their privacy through the use of such systems.

**2. What are your views on the terms of the proposed Order? For example, are they too narrowly or too broadly drawn?**

We are aware that in the Minister’s evidence on 10 December 2009, it was recognised that the powers which are being sought will be applicable only to contracted home to school transport vehicles and not other vehicles such as public service vehicles and trains which may transport a child or young person to school. However, given this restriction we do welcome the proposal for the description of the vehicle to be laid down which will ensure a national minimum standard for a large part of the home to school journeys. This can be seen as ensuring an entitlement to children which we would welcome.

**3. Do you have any additional comments relating to the proposed Order?**

No