
HIGHWAYS AND TRANSPORT UPDATE

Purpose

1. This report provides an update on highways and transport issues of Wales-wide significance including the Public Service Vehicle Accessibility Regulations and on proposals to introduce a 20mph default speed limit and impose restrictions on pavement parking.

Background

2. There are a number of important developments taking place in relation to highways and transport that will impact on all local authorities. This report looks at each of these in turn and highlights key issues.

Public Service Vehicle Accessibility Regulations

3. The Public Service Vehicle Accessibility Regulations (PSVAR) were introduced in 2000 to improve access to buses for people with disabilities. The Regulations apply to all new public service vehicles (buses or coaches):
 - introduced since 31 December 2000
 - with a capacity exceeding 22 passengers
 - used to provide a local or scheduled service.
4. Part of the definition of both local and scheduled services is that a fare (direct or indirect) is paid to travel. Any service provided without charge is excluded from the Regulations. It has been common practice, however, for local authorities to offer, for a fare, spare seats to those not entitled to free home to school transport. This has been seen as providing benefits all around: pupils can get a bus to school, congestion and emissions are reduced and income is generated for local authorities. Significantly, the transport needs of pupils requiring accessible vehicles have generally been met through bespoke arrangements.
5. The Regulations have come into force for different categories of PSV at different time (e.g. new buses and coaches were required to have wheelchair access since 2005; older buses by 2016). All coaches are required to be compliant by 1st January 2020.
6. Section 175 of the Equality Act 2010 makes a breach of the Regulations a criminal offence and states that a person commits an offence by:
 - contravening a provision of the PSVAR

- using on a road a regulated public service vehicle which does not conform with a provision of the regulations with which it is required to conform
 - causing or permitting such a regulated public service vehicle to be used on a road.
7. It was widely believed by local authorities – across England and Wales - that home to school services operated by coaches with a capacity exceeding 22 passengers were exempt from the Regulations, regardless of whether spare seats were being sold. However, a case has been brought in North Yorkshire involving a private prosecution against a named officer of the Council. The claim is that allowing home to school transport services that are not compliant with the Regulations is an offence under S175 of the Equality Act.
 8. North Yorkshire Council has taken legal advice on the issue. They have been told that there is a legal argument that by charging for spare seats on home to school transport, coaches used on those journeys may be brought within the requirements of the Regulations. Whilst there has been no case law regarding this point the courts could take the view that they are in breach of the legislation.
 9. The Council considered four options: (a) do nothing (b) use compliant vehicles on routes where at least one child is paying (c) cease transporting non-entitled students or (d) cease charging. Options (a) to (c) were seen variously as exposing the council to risk, impractical, uneconomic or having a negative impact on pupils, parents and the environment. The Council has therefore selected option (d) and will stop the current practice of charging for spare seats pending further clarification and/or guidance from Government.
 10. Local authority transport officers, via the Association of Transport Co-ordinators (ATCO) in Wales, are concerned it has only recently come to light that the PSVAR are to be applied to home to school transport. They now have very little time to procure new contracts and, in any case, the companies providing the transport do not currently have vehicles that meet the accessibility requirements. In many cases these companies would be unable to afford new, compliant vehicles and this could put their businesses at risk.
 11. WLGA has been in close contact with the LGA on this issue. LGA have been in dialogue with the UK Government's Department for Transport (DfT), which is responsible for the Regulations. DfT argue that as the Regulations were introduced in 2000 local authorities have had almost 20 years to prepare. However, the reason why there has been no preparation is that, until now, no-one interpreted the regulations as applying to home to school transport provision.
 12. DfT also argue that the Government is committed to supporting an inclusive transport network: children with disabilities should not be prevented from travelling with their non-disabled peers by the inaccessibility of the vehicles providing services. Whilst this inclusive approach is laudable and hard to argue

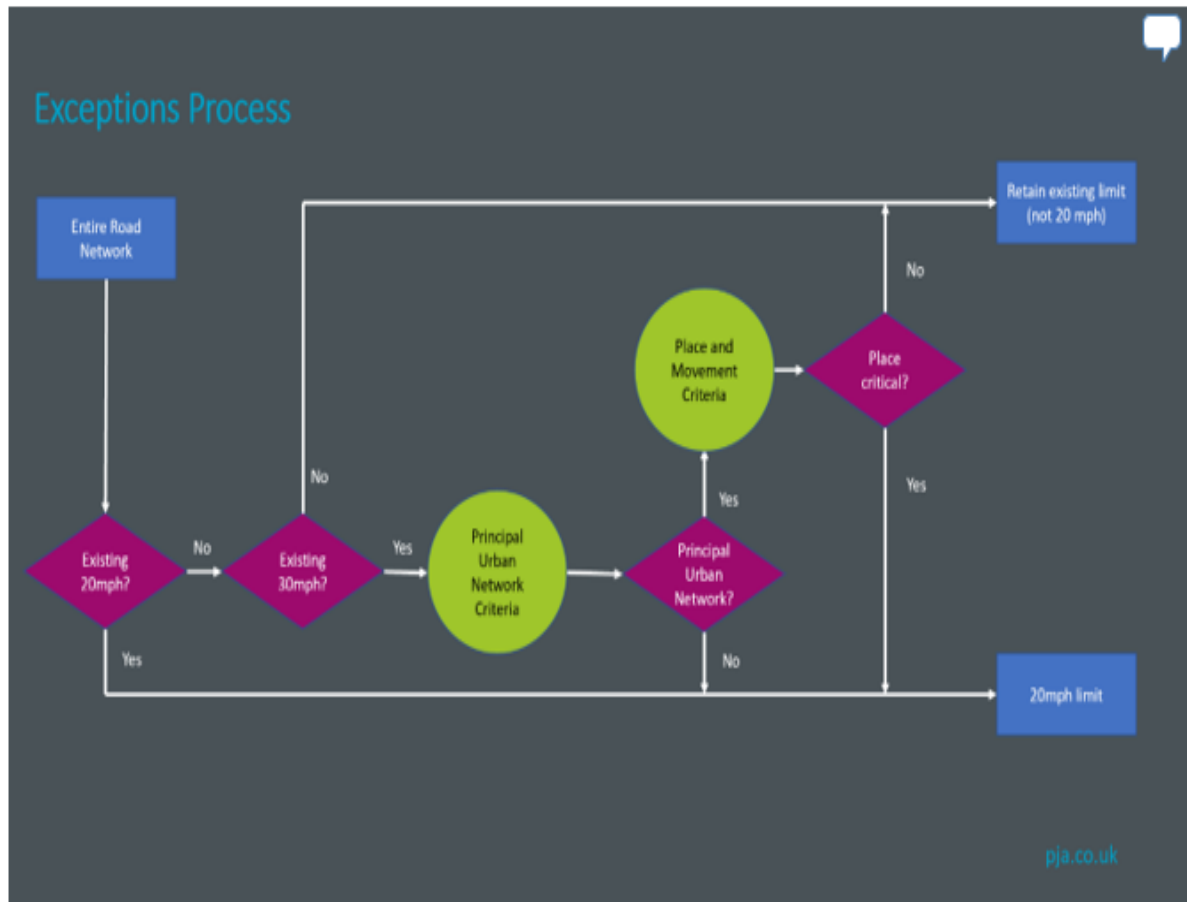
against, local authorities report that in many cases parents and children themselves prefer, and want to retain, their bespoke arrangements.

13. WLGA has taken these matters up directly with the DfT, highlighting the potential for perverse and negative effects associated with loss of a current service, more trips by car and the impact of reduced income on service provision. The point has also been made that this will impact in some areas on Welsh medium and denominational schools, where non-entitled pupils depend on this form of transport to get to their school of choice. Furthermore, in some cases, local authorities have reported that coach transport to schools has been arranged by schools/parents directly, not via the local authority. These services would be affected in the same way.
14. In light of all the above, WLGA asked the DfT for a derogation to exempt contracted school transport journeys that are closed to the general public. However, the response we have received is that they are more likely, instead, to use their exemption powers to provide a transitional period between the current situation and full compliance.
15. With the recent calling of a General Election it is currently difficult to progress this any further. Indeed, a major concern is that the default 'business as usual' civil service stance will be that the regulations come into force on 1st January 2020. Consequently, the LGA has written to DfT asking if they will be making a decision on this soon or if it is likely to be after we have a new government. If there is any feedback or any further developments, a verbal update will be given at the meeting.

20mph default speed limit

16. In Mark Drakeford's 2018 Labour Leadership Manifesto he pledged to: "*encourage a presumption of 20mph speed limits in residential areas*". Lee Waters, Deputy Minister for Economy and Transport, is leading work on this for Welsh Government. He called for a Task and Finish Group to be established with the remit to come forward with a clear plan for how a default 20mph limit (as opposed to more limited 20mph zones) can be introduced.
17. WLGA has worked with Welsh Government to help convene the Group, with local authority representation from each region, along with a range of groups supportive of the proposals. The Group has set up four sub groups charged with looking at:
 - Outcomes, evaluation and monitoring
 - Legislation and Policy
 - Exceptions, Engineering and Enforcement
 - Promotion and Communications.
18. The intention is that 20mph would become the new default speed limit, instead of 30mph in residential areas. A process has been proposed to agree exceptions, enabling some routes to retain existing speed limits – see Fig 1.

Fig1. Proposed process for determining exceptions from a 20mph limit



19. The key to this would be, first, how the 'Principal Urban Network' is defined (e.g. using criteria such as whether the route is: a trunk road; dual carriageway; an A and B Classified Road; an Abnormal Load Route; Motorway Diversion; long distance bus/coach route).
20. Second, would be a decision as to whether a road that is included as part of the Principal Urban Network is 'place critical'. In other words, do the characteristics of the place the road is passing through warrant a 20mph speed limit – e.g. what land uses are adjacent to the route? (residential? industrial? retail?); are there active travel routes alongside or crossing the road? What is the evidence regarding local collisions? poor air quality? Noise levels? What is the existing average speed of traffic? What are the engineering considerations relating to the stretch of road – is it straight with good visibility? already traffic calmed? etc. Discussions have taken place with Transport for Wales to look at a GIS-based methodology for putting the above process into practice across Wales, drawing on a wide range of data.
21. The group's aim is to take a set of recommendations on how to implement the proposals to the Minister and Deputy Minister for Economy and Transport next Summer. If agreed, the intention would be to mount a substantial

communications campaign to raise awareness of the proposals. Intensive work would be needed with local authorities and local communities to review initial suggestions as to where the 20mph limits would be applied and where exceptions would be allowed. Traffic Regulation Orders would need to be introduced in a co-ordinated way across Wales to apply exceptions. Given the time all of this will take, it is likely that implementation will not occur before 2023.

22. A change-over to 20mph default would almost certainly have to take place on a specific date across the whole of Wales. All necessary steps, including changes to signage would need to be in place by that time. This preparatory period would also provide time for necessary communications work to be undertaken to raise public awareness. Communications will be especially important in terms of cross-border traffic.
23. Enforcement of 20mph limits once introduced would be a critical issue, for local authorities and the police. There are already numerous complaints about excessive speeds on 30mph residential streets. There could also be an increase in demand for hard infrastructure if speeds do not reduce.

Pavement parking

24. Pavement parking poses several problems for local authorities:
 - Inconsiderate parking creates potentially dangerous hazards for pedestrians, particularly those who are vulnerable, such as older people, disabled people and families with pushchairs
 - Damage to paths and pavements creates trip hazards and is costly to repair
 - The general public frequently report cases of vehicles causing an obstruction and assume local authorities can take enforcement action. In fact, authorities currently have only very limited powers and it is generally a matter for the police.
25. Pavement parking is already illegal in London and a nationwide ban has recently been introduced in Scotland. In September, the UK's Transport Select Committee published a report on pavement parking in England, calling on the UK Government to introduce a ban and provide stronger, clearer laws.
26. For Wales, at an Active Travel Conference on 4th July, the Deputy Minister for Economy and Transport, Lee Waters, announced plans to set up an expert group to explore ways of clamping down on illegal parking, including pavement parking.
27. More recently, he has stated: "*Pavement parking is a real problem for our communities and acts as a barrier to encouraging active travel. I want people of all ages and abilities to feel confident and safe when making every day journeys by walking or cycling, which can help us tackle obesity, air pollution and the climate emergency. Our expert group is considering the options*

available to us as we look to tackle pavement parking and redress the balance of power in our urban environment”.

28. The Group that has been formed includes a wide range of stakeholders and interest groups. For local government, officers from local authorities in each region of Wales are invited along with WLGA.
29. The Group’s view is that pursuing a specific nation-wide ban on pavement parking would be inappropriate for Wales at this time. It would require primary legislation and that would introduce a significant delay. Furthermore, it could create major challenges for communities, especially where there are narrow residential streets that necessitate pavement parking. There would be significant immediate costs, too, as Traffic Regulation Orders and signage would be needed to *permit* pavement parking where it is unavoidable. It would be more practical to allow local authorities to introduce these over the longer term, where they are considered necessary.
30. The Chief Adjudicator of the Traffic Penalty Tribunal and a representative from the joint local government committee PATROL (Parking and Traffic Regulations Outside London) sit on the Group. They are advocating an alternative, quicker approach. This would involve secondary legislation, adding obstruction of the highway to the list of contraventions where civil parking enforcement (CPE) can be used (contained in Part 1 of Schedule 7 of the Traffic Management Act of 2004). As all local authorities in Wales now undertake CE this proposal has considerable merit. It is being explored further by the group – if only as an intermediate measure to enable other approaches to be considered at some point in the future.
31. The Group has set out a number of actions that would be key to the success of the proposals outlined in para 28:
 - Production of statutory guidance on CPE to reflect the additional power
 - Meaningful local consultation with stakeholders and local publicity ahead of changes to local enforcement policy
 - Public information to reinforce that inconsiderate pavement parking is not acceptable
 - The development of enforcement policies by local authorities that are proportional to need
 - Use of warning notices on the first occasion a vehicle is identified as causing an offence.
32. This approach would have the advantage that CPE could be undertaken on a prioritised basis, focusing on those areas that cause the greatest problems, whilst allowing local authorities to implement measures to permit unavoidable pavement parking over the longer term. Clarity for the public will be essential, though, or else enforcement will be problematic.
33. Civil Enforcement Officers are already working across Wales on a range of enforcement issues. The Group has suggested it would be useful if they could be asked, for an agreed period, to keep a record of pavement obstructions they

encounter where they *would* impose a penalty if they were able to. This would help to assess the scale of the problem.

34. As with the 20mph work, the intention is to take recommendations to the Minister/Deputy Minister to get agreement on the way ahead for managing pavement parking. Before such recommendations can be made, though, the views of local authorities and the police are sought to gain approval in principle. If approved by the Minister, then a formal consultation will take place before adding obstruction to the list of parking contraventions.

Recommendations

35. Members are asked to:

- 33.1 note the latest situation regarding PSVAR and agree any further action required**
- 33.2 give their views on the current proposals in paras 18-20 for taking forward the default 20mph proposals**
- 33.3 confirm if they support, in principle, the proposal on pavement parking to add obstruction of the highway to the list of contraventions where civil parking enforcement (CPE) can be used.**

Report cleared by:

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