

Use of Minibuses – Joint Guidance Issued by NASUWT, GMB, UNISON and Unite to Members in Great Britain

The Joint Trade Unions strongly advise members not to drive school/college minibuses. This should not be part of a teacher's or Support Staff member's contractual duty, unless there is an explicit requirement to do so within their contract of employment.



Use of Minibuses – Joint Guidance

An employer cannot indemnify a volunteer minibus driver where a court has imposed a sanction for committing a road traffic offence. This must be borne in mind before a member takes on the responsibility for driving a minibus.

This is because section 87 of the Road Traffic Act 1988 says that it is an offence for a person to drive on a road a motor vehicle of any class otherwise than in accordance with a licence authorising them to drive a motor vehicle of that class.

It also says it is an offence for a person to cause or permit another person to drive on a road a motor vehicle of any class otherwise than in accordance with a licence authorising that other person to drive a motor vehicle of that class.

Where members undertake activities that involve the use of school/college minibuses, the following advice should be considered.

If you feel you are being required, or coerced, into driving a minibus against your judgement/wishes, contact your union as a matter of urgency.

The Law Applying to Schools and Colleges

All school/college minibuses require a Section 19 Permit, which must be displayed prominently. In the absence of a permit, drivers of minibuses require a Passenger Carrying Vehicle (PCV) licence. This exempts schools from the full requirements of having an Operator Licence.

Section 19 permits do not apply outside the United Kingdom. An 'own account' certificate is required to drive a minibus in Europe/the Republic of Ireland, and a full D (or D1) licence is required. **Schools/colleges undertaking foreign trips by road should hire an appropriate vehicle with driver(s). Union members should refuse to drive minibuses abroad under all circumstances, unless there is a contractual requirement and you are suitably qualified to do so; in which case, further advice should be obtained from your Union.**

Seatbelts must, by law, be fitted to school/college minibuses. The approved school/college minibus logo must be displayed at the rear. The Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (England, Scotland, Wales) 2006 require children to wear a seatbelt where provided, and if a suitable child seat is provided then this must be used.

Driving Licence Requirements

A minibus is defined as a motor vehicle with between nine and 16 passenger seats and is described as a category D1 vehicle.

In order to drive a minibus for hire or reward, drivers must hold a full D1 (or D) PCV entitlement. Whether a teacher or support staff member may be deemed to be driving a minibus for hire and reward because they are being paid a salary is unclear, and advice on this point is contradictory.

There are, however, circumstances when a driver can drive a minibus within the UK when they hold a car (category B) licence. These circumstances only apply when driving the minibus in the UK, not if driving abroad.

Use of Minibuses – Joint Guidance (cont.)

Where an individual has passed a category B (car) driving test before 1 January 1997, they can drive a D1 minibus that is not being used for hire or reward. This means school staff with such a licence can drive a minibus carrying up to 16 passengers up to 7.5 tonnes.

More information on vehicle licence categories, as well as how you can check what vehicles your own licence covers, can be found at: www.gov.uk/driving-licence-categories

The Joint Unions strongly assert that – particularly but not exclusively due to the ambiguity around the hire/reward status – the full D1 licence is the minimum requirement, and a car licence is insufficient in all circumstances. If schools wish to train minibus drivers to D1 level, the costs of any training and testing for the D1 licence must be covered in full by the employer.

In addition to licensing requirements, employers and/or local authorities may impose additional requirements for members wishing to drive a school minibus, such as additional training (sometimes referred to as MIDAS training). Members should ensure that any local requirements are satisfied.

Safety

It is the driver of the minibus who is legally responsible for ensuring that a vehicle is roadworthy in accordance with the Road Vehicles (Construction and Use) Regulations (England, Scotland, Wales) 1986. It is also the driver's responsibility to ensure that daily/weekly checks have been undertaken and entered into the vehicle's log book.

A checklist should be available for inspection in every minibus, detailing the checks that should be made. This should be provided by the school/employer. In addition, there should be procedures to be followed in the event of an emergency and/or breakdown.

After going through the checklist, if there are defects that affect the roadworthiness of the vehicle, or if you have any other concerns that the minibus is not in a roadworthy condition, do not drive the minibus.

SHOULD YOU UNDERTAKE ANY DRIVING, REMEMBER – THE DRIVER IS LEGALLY RESPONSIBLE FOR ENSURING:

- **THEY ARE DRIVING IN ACCORDANCE WITH THEIR OWN DRIVING LICENCE PROVISIONS (INCLUDING ANY MEDICAL REQUIREMENTS IMPOSED BY THE DVLA);**
- **THEY ARE IN A FIT CONDITION TO DRIVE, FREE FROM ANY EFFECTS FROM PRESCRIPTION AND NON-PRESCRIPTION MEDICATIONS, AND NOT UNDER THE INFLUENCE OF ALCOHOL/DRUGS;**
- **THE VEHICLE THEY ARE IN CHARGE OF IS INSURED, TAXED, HOLDS A CURRENT MOT CERTIFICATE (WHERE APPLICABLE) AND IS ROAD WORTHY AT THE TIME THEY ARE USING IT.**

Use of Minibuses – Joint Guidance (cont.)

Working Hours

Frequent breaks are required on long journeys and no driver should drive continuously for more than two hours without a break away from the vehicle of a minimum of 30 minutes.

Additionally, drivers who are to travel for 50 miles or more each way must be allowed adequate time off from any other work so as to be properly rested before commencing the journey. This is particularly important if a large proportion of the travelling is to take place during the late evening, as this is when tiredness can become a serious problem. The rest time should not include time spent undertaking other duties associated with the care of, or responsibility for, pupils. Ideally, teachers should not be teaching on any day when driving more than 50 miles, and support staff should similarly be excused from normal duties.

Schools/colleges should also ensure there are other drivers to provide cover in emergencies and to minimise the risk of driver fatigue.

The Joint Unions assert that an additional adult who preferably can drive the minibus should supervise passengers, since a driver's attention may be easily distracted.

Joint Union Position

As stated above, the Joint Unions strongly advise members not to drive a school minibus, unless you have suitable and appropriate qualifications to do so, and it forms a part of your contractual obligations.

The Joint Unions also assert that the Section 19 regime is not fit for purpose for schools/colleges. Schools/colleges operating minibuses should be required to have an Operator Licence, and the Joint Unions are campaigning for Section 19 permits to be removed from schools.

Cautionary Tale – M40 Minibus Crash

In November 1993, a minibus carrying 14 children home to a Worcestershire school from a school trip to London crashed into a stationary maintenance lorry on the M40, killing 12 children and their teacher, who was driving the minibus. The trip had taken place after the school day and the crash occurred just after midnight, so it is likely that the teacher fell asleep at the wheel. The crash led to a number of improvements in minibus design, including the fitting of seatbelts, but the events underline the dangers of driving school minibuses, particularly after the school day, and the fundamental cause of the crash – a teacher driving a minibus inappropriately – has not been addressed.

Transporting Pupils in Private Cars

In addition to the guidance on minibuses, transporting pupils in private cars is fraught with serious issues, including around insurance and safeguarding. Only in truly exceptional and emergency circumstances, such as a clear and serious risk to the health and safety of the pupil, should members transport pupils in their cars. In these cases, a second adult should be present also.

Use of Minibuses – Joint Guidance (cont.)

Be safe. If you are concerned that your employer requires you to transport a group of pupils by driving a minibus, your car or other motor vehicle, contact your Union immediately for advice.

Further Information

<https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

<https://www.rospa.com/rospaweb/docs/advice-services/road-safety/practitioners/minibus-drivers-handbook.pdf>

<https://www.rospa.com/policy/road-safety/advice/vehicles/minibus-safety/drivers>