



Lings Primary School

Minibus Policy

Date of Last Review: July 2016

Date of Next Review: July 2017

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1 Rationale

The School Minibus is a valuable school resource, which helps to provide Students with access to school and residential visits, as well as to numerous other extra-curricular activities. It is essential that all users of this resource are aware of all legal and procedural responsibilities pertaining to its use.

1.1 Aims

- To provide clear procedures relating to use of the School Minibus.
- To ensure that all users of the School Minibus are aware of their legal responsibilities.

1.2 Those eligible to drive the School Minibus:

- Those permitted to drive the School Minibus must be at least 21 years of age with a full (preferably clean) driving licence. Any endorsements incurred should be disclosed as these may affect eligibility to drive the vehicle.
- Only drivers who have passed an independently assessed MIDAS test will be eligible to drive the minibus. These tests can be arranged through the member of staff appointed to be responsible for the school minibus.
- It is recommended that all eligible drivers should be re-tested every 5 years to ensure high levels of competence and skill.
- Drivers who passed their driving test after January 1997 are required to hold a D1 PCV driving licence in relation to the use of the minibus UNLESS the licence has been held for 2 years, driving the minibus is not for hire and reward and they are receiving no payment directly for such

driving. However, if the minibus weighs over 3.5 tonnes, these exemptions do not apply.

2 Procedures

- The School Minibus should not be used unless the named driver meets the eligibility requirements above.
- Those wishing to use the School Minibus should book it out by speaking to the office/Bursar and putting the event in the School Diary.
- The Head Teacher has overall responsibility for the School Minibus and final powers of authorisation over its use. This responsibility may be devolved to the staff member with responsibility for the minibus.
- Drivers of the School Minibus must complete a Vehicle Check/Log Sheet before every journey. These can be found aboard the minibus. This is to allow careful monitoring of the minibus, its condition and its general use.
- The School Minibus should be collected from and returned to the school grounds and keys should be returned to the member of staff responsible (School Office) at the end of the journey, or as soon as is possible thereafter.
- Any defects noted should be reported to the member of staff responsible as soon as possible. More serious defects **MUST** be reported **IMMEDIATELY**. Minor defects can be reported after the journey has taken place. However, if the driver is in any doubt the vehicle **MUST NOT** be taken onto the road.

3 Maintenance/Licencing of the School Minibus

- Overall responsibility for ensuring that the School Minibus is properly maintained and licenced lies with the Head Teacher. However, this responsibility may be devolved to a member of staff responsible for the minibus.
- The School Minibus should be regularly serviced at least every 6 months. The member of staff responsible for the minibus is responsible for arranging this servicing with a reputable and suitable qualified organisation/company.
- Minor checks of the vehicle (oil, water, tyres etc.) will be completed at least every 21 days by the responsible member of staff.
- Prior to any journey, the named driver must complete a visual check of the vehicle. This must be completed using a Vehicle Check Sheet kept in a Log Book on board the vehicle. They should remember that as driver, they will be held legally responsible for driving with any defect.
- Licencing of the School Minibus is the responsibility of the member of staff responsible for the minibus, who must ensure that all Road Tax, Insurance and MOT certificates are up to date.

4 In the event of an accident

- The driver should inform the Head Teacher as soon as is reasonably possible.
- Insurance details should be exchanged with a third party as soon as is possible. However, NO LIABILITY should be admitted.
- Where it is safe and necessary to do so pupils should be removed from the vehicle and taken to a safe area away from the accident site, where they should be fully supervised.

- A visual check of the Vehicle should be undertaken before the journey resumes.

5 Health and Safety of Drivers and Passengers

The Driver should state the following to Students

- Seatbelts must be worn at all times. This is a legal requirement (It is the driver's responsibility to check this)
- Everyone should remain seated at all times.
- Which entry and exit doors are to be used (it is recommended that side doors be used except in emergencies)

5.1 Other Considerations

- If at any time the pupils distract the driver, s/he should stop the bus until the pupils are settled. Do not try to continue. Remember that they may also be distracting other drivers.
- Where possible park the bus with the side doors to the kerb. Where this is not possible, Students should remain seated until staff are able to supervise them from the road.
- Drivers **MUST** not drive for longer than 2 hours without taking a break for at least 15 minutes.
Remember tiredness kills.
- It is essential that all journeys in the School Minibus be staffed by the driver and at least one escort. Under no circumstances should pupils be taken on a journey on the minibus accompanied by only one adult.

Appendix 1 MINIBUS SAFETY: A CODE OF PRACTICE Amendment, June 2006 (DCSF)

Driver Licences

Section 3.6.3 to 3.6.6 (page 9) of "Minibus Safety: A Code of Practice" are replaced with the following sections

3.6.3 Volunteer Drivers

The EU's exemption for volunteer drivers was designed to cater for charities who use minibuses but who would not have been able to provide training for all their volunteer drivers. Unfortunately, the term "volunteer driver" was not defined and has not been tested in law. Therefore, there have been differing views and conflicting advice as to whether or not teachers driving a school minibus are 'volunteer' drivers and so exempt from the need to have a D1 PCV driving licence.

3.6.4 It is the Operator's and individual driver's responsibility to ensure that the driver is appropriately licensed to drive the minibus. The DVLA does not rule on specific cases, as this is a matter for the Police and courts. If challenged, an individual driver and the Operator would have to show that they were complying with the Motor Vehicles (Driving Licences) Regulations 1999 correctly.

3.6.5 In April 2006, the Department for Education and Skills (DfES) published its policy statement entitled "Licensing for Incidental Drivers of the School Minibus." This states that teachers or other school staff are mostly exempt from having to hold a D1 PCV driving licence to drive the school minibus because they are not being paid specifically to drive, i.e driving is not mentioned in their contract of employment. For the exemption to apply, the following conditions from section 7(6) of the Motor Vehicles (Driving Licences) Regulations 1999 must be met:

- drivers are aged 21 years or over
- they have held their category B driving licence for at least 2 years
- the minibus is being used by a non-commercial body¹ for social purposes, but not for hire or reward²

- drivers are not being paid to drive the minibus, other than out-of-pocket expenses
- the minibus does not exceed 3.5 tonnes (or 4.25 tonnes if specialised equipment for the carriage of disabled passengers is included)
- no trailer is towed.

However, the DfES Statement also states that it would be "bad practice for school staff to drive the minibus solely on the basis that they have held a class B licence for 2 years". It sets out good practice options for exempted school staff and encourages schools to ensure that staff who drive the school minibus receive appropriate training. It also includes a paragraph on the Certificate of Professional Competence.

1 Independent schools that do not have charitable status should seek legal advice to check if they would be viewed as a non-commercial body for these purposes.

2 Unless the minibus is operated under a section 19 bus permit (see section 2.3). 6

3.6.6 Therefore, it is now government policy that if a teacher's contract of employment states that driving a minibus is part of their job, the teacher must hold a D1 PCV licence to drive a school minibus. If they drive a minibus with a Maximum Authorised Mass greater than 3.5 tonnes, or 4.25 tonnes if specialised equipment for the carriage of disabled passengers is included, (and this includes most newer minibuses) they must hold a D1 PCV licence. If the contract of employment does not refer to driving, or the Maximum Authorised Mass of the minibus does not exceed 3.5 tonnes (or 4.25 tonnes) they do not need to hold a D1 PCV licence, but it would be good practice to do so.

3.6.7 The DfES statement sets out Government policy. Only a court can issue a legal ruling

3.6.8 RoSPA's advice is that irrespective of the legal requirements, teachers and other school staff who drive a school minibus should

receive specific minibus driver training, and preferably hold a D1 PCV licence. Schools that wish to adopt the exemptions for teachers and other staff on the basis that their contract of employment does not refer to driving, should also check if driving is included in the job description. If so, the school should seek legal advice to check if the job description forms part of the contract of employment. The school may also wish to seek legal advice on whether a teacher who is subject to school rules and discipline when driving the school minibus out-of-hours can be regarded as a volunteer - even if their contract does not specify driving.

3.6.9 The DfES policy statement is available at

www.teachernet.gov.uk/wholeschool/healthandsafety/visits/

Information is also available in "Driving a Minibus" (INF28) from the DVLA or "Driver Licensing for Minibuses" from the CTA.

BEST PRACTICE

ENSURE THAT ALL DRIVERS HAVE TAKEN APPROPRIATE TRAINING IN A MINIBUS AND HAVE THE APPROPRIATE DRIVING LICENCE

Appendix 2 DCFS statement on qualification to drive school minibuses 2006

Licensing Incidental Drivers of the School Minibus

This Statement updates Chapter 6 "Planning Transport" in *Health and Safety of Pupils on Educational Visits* (DfES 1998, supplemented 2002.)

Summary. *In most circumstances, minibus drivers must hold a D1 PCV (Passenger Carrying Vehicle) licence. However, school staff who hold a car (Class B) licence can legally drive a school minibus without a D1 PCV licence as long as certain conditions are met. The most significant requirement is that staff are not specifically remunerated for driving through their contract of employment or otherwise. The other conditions are set out and explained later in this Statement.*

It would, nonetheless, be bad practice for school staff to drive the minibus solely on the basis that they have held a Class B licence for 2 years. There are a range of options for further training, including the D1 PCV licence and other courses established by employers and others to secure a high level of competence for incidental minibus drivers. The statutory risk assessment process should help an employer choose which good practice option is most appropriate.

The exemption is only for a minibus weighing no more than 3.5 tonnes. In the medium term, when a school replaces its minibus, it is likely to lose exemption because newer minibuses tend to weigh more than 3.5 tonnes, and the Government has no plans to change the weight limit on the exemption. Therefore, we advise schools to consider investing in D1 PCV training over the next few years, since the law will require it in the longer term, if or when they move to a heavier minibus.

1. Car driver licences issued before 1997 carried an entitlement to drive a minibus not for hire or reward. Car driver licences issued since then (B category) do not. A category B licence-holder driving a

minibus must now also hold a D1 Passenger Carrying Vehicle licence (D1 PCV), unless they meet conditions for exemption which are:

- the driver is 21 or over and has held a car driver (B) licence for not less than 2 years;
- the vehicle is being used by a non-commercial body for social purposes but not for hire or reward; and
- the minibus driver receives no consideration for driving other than out of pocket expenses.

3. It follows that car drivers are exempt from the D1 PCV licensing requirement when they drive a minibus in the course of their employment and are not paid for doing so. This means that most teachers and other school staff may legally drive the school minibus on their category B car driver licence because their contract of employment does not expressly require them to drive a PCV. See also paragraph 7.8

4. Some independent schools which lack charitable status could be viewed as commercial bodies and we advise such schools to seek their own legal advice. There are also restrictions on the minibus weight and on towing a trailer - details available at the DVLA website as below.

Good Practice Options

5. Education employers must ensure, so far as is reasonably practicable, the health and safety of staff and anyone else who may be affected by their activities, including pupils participating in off-site visits. Advanced driver training mitigates the risks to staff and pupils when school staff drive in the course of their work. Acquiring the D1 PCV licence is a good practice option for exempted staff, but there are other options, for example MiDAS (Minibus Driver Awareness Scheme) certificates, awarded on a 4-yearly cycle of training and assessment. The Department for Education and Skills understands there are other training arrangements provided by the Royal Society for the Prevention of Accidents (RoSPA) and that individual local authorities have their own in-house training and

assessment schemes. Local authorities and other education employers could consider such training/assessment programmes as these. Chapter 1 of *Health and Safety of Pupils on Educational Visits* (DfES) sets out the legal requirement about risk management.

Non-Exemption

6. The exemption does not apply where a driver's employment contract expressly states that driving a PCV vehicle is part of the job. Employers of, for example, support staff hired as drivers, or of instructors at outdoor education centres, should check the contracts of these categories of staff carefully before concluding whether or not a D1 PCV licence is required. Employers of part-time teachers working extra hours and being paid additionally for driving a PCV should also check their contract(s) to establish whether a D1 PCV qualification is needed.

7. The exemption does not apply where a minibus exceeds 3.5 tonnes or where a trailer is attached.

Out-of-Hours Driving

7. There are a number of other situations in which the exemption does not apply. These include:

- driving in other European Member States;
- driving in the UK during out-of-hours-situations (for example, during school holidays) where pupils or parents have to pay for carriage (unless the bus has a section 19 permit allowing not for profit charging);
- when a teacher is being remunerated under the Teachers' Pay and Conditions Document for driving the minibus on an out-of-school-hours learning activity.

Hire or Reward

8. Where passengers pay for transport, in most cases the driver must hold a D1 PCV licence. The exemption from the D1 PCV requirement applies where the vehicle is used for a non-commercial purpose, for example by a maintained school, *and* where the pupils are carried not for hire or reward - that is, where pupils are not obliged to pay in exchange for the right to be passengers. It can be argued that independent schools are non-commercial bodies for this purpose. In such schools the minibus is not generally used for a passenger service on a commercial basis but rather to take pupils off-site for curricular purposes. Charitable status assists this argument. Schools who admit pupils on a fee-paying basis may wish to take their own legal advice.

Permits issued under Section 19 of the Transport Act 1985

9. If, however, the school offers the minibus to pupils for a charge but on a non-profit basis under a section 19 bus permit i then the driver is exempt from the D1 PCV requirement. This is because the section 19 permit exempts the employer from holding a PSV operator licence and exempts the driver from the D1 PCV requirement.

Other Guidelines & Further Details

10. The Department for Transport is publishing its own guidance for incidental drivers of minibuses, which addresses the generality of PCV driving situations. It focuses on the PCV test - both as a legal requirement and as the good practice option for exempted drivers - and does not discuss the wider range of good practice options available for school staff. The Driver and Vehicles Licensing Agency provides advice (0870 240 009 or

<http://www.dvla.gov.uk/drivers/drvmibus.htm>) on D1 PCV or section 19 requirements, and the Driving Standards Agency (0115 901 2500) on the PCV test. Schools and local authorities can 'shop around' the PCV training providers; anyone who has had a D1 licence for three years can be an instructor for the PCV test; and there is no requirement to attend a full-time course. For details of other training/assessment contact, for example, RoSPA at www.rospace.com

or MiDAS at <http://www.communitytransport.com/midas/midas.htm>
Local authorities and schools may wish to discuss exemption from holding a D1 PCV licence with their insurer. They may also wish to bring this Statement to the attention of other local agencies including the police.

Certificate of Professional Competence.

11. From September 2008 all new professional bus drivers must also pass an initial qualification to obtain a Certificate of Professional Competence (CPC) ii. This will be on top of the D1 requirement though it is likely that the training for the acquisition of a D1 licence could be combined with the initial qualification CPC training. All professional bus drivers will have to take periodic retraining on a five-yearly cycle. The Driving Standards Agency consulted to February 2006 on the regulations that will implement this requirement in the UK. Most school staff, whether they hold a D1 PCV licence or not, will be exempt from this requirement. This is because the regulations will exempt drivers of vehicles used for the non-commercial carriage of passengers. 10 Harlington Community School Minibus Policy 2008

Relevance of this Policy Statement

12. This Statement is also relevant to non-school drivers who drive minibuses for non-commercial purposes incidentally in the course of their employment (for example in childcare or in colleges of further education) or in volunteering activity.

13. The text of this Statement replaces paragraph 134 of the DfES guidance, *Health and Safety of Pupils on Educational Visits*

(<http://www.teachernet.gov.uk/wholeschool/healthandsafety/visits/>)

The Royal Society for the Prevention of Accidents is amending paragraphs 3.6.3 - 3.6.5 of *Minibus Safety: A Code of Practice* 2002 (RoSPA and others).

DfES April 2006.

Confirmatory Signatures

Signed.....Head Teacher

Signed.....Governor

Approved on.....

To be reviewed on.....