

HEALTH AND SAFETY POLICY

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REVISIONS

Issue Number	Date Issued	Revision /Change

Cheshire East Council

Driving Minibuses

1.0 INTRODUCTION

As an employer, Cheshire East Borough Council has to comply with a number of general and specific duties to protect the health, safety and well being of both its employees and those who may be affected by its activities. These duties are set out in section 2 of the Health and Safety at Work etc Act 1974 and in the Management of Health and Safety at Work Regulations 1999. The Council is required to:

- Lay down safe systems of work.
- Provide a safe workplace.
- Provide safe plant and equipment.

The Council therefore has a duty to ensure the safety of:

- all employees whose job involves the transportation of people (e.g. those employees driving Social Services minibuses and school buses)
- all passengers carried
- any other persons who may be affected by the operation of the vehicles concerned.

In order to comply with these responsibilities the Council will have to:

- Investigate the competence of the employee.
- Provide safe systems of work, even when in transit.
- Examine the fitness for purpose of all minibuses operated by Council employees or other authorised persons on its behalf.

In addition, under the Management of Health and Safety at Work Regulations 1999, the Council must assess the risks to employees and other person such as passengers and ensure that effective planning, organisation, control, monitoring and review systems are in place.

Other transport related legislation that may be relevant when investigating minibus driving activities includes:

- Road Traffic Acts 1988 and 1991
- Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007
- Provision and Use of Work Equipment Regulations 1998
- Transport Act 2000

Where transporting hazardous loads, then additional legislation such as the Control of Substances Hazardous to Health Regulations 2002 may also apply.

This policy supplements Cheshire East Council's policy 'Driving at Work' and outlines the health, safety and licensing requirements for the operation of minibuses by employees and non-employees on behalf of Cheshire East Council.

2.0 POLICY STATEMENT

The Council recognises that there are specific risks such as those related to driver competence, fitness of vehicle for purpose, shift working and hours worked, lone working and the nature of the goods being transported that may arise when driving motor vehicles. The Council is therefore committed to developing, implementing, and maintaining all reasonable measures to protect the health and safety of those driving on Council business and those who may be affected by the activities of the Council.

This policy is a supplement to the Cheshire East Council policy 'Driving at Work' and outlines the health, safety and licensing requirements for the operation of minibuses by employees and other authorised persons on behalf of Cheshire East Council. It should be noted that this policy **does not** cover the legal requirements for driving a minibus which has nine or more passenger carrying seats for **hire and reward**, this normally requiring the driver to have passenger vehicle entitlement (PCV) (category D1 or D). To obtain this, the driver must meet higher medical standards and take a further driving test. For additional details of relevant legal requirements, please see Appendix 1.

3.0 ARRANGEMENTS

3.1 Definitions

The following definitions apply in this policy:

Minibus	A vehicle which is adapted to carry more than 8 but not more than 16 passengers
a)	Driver Includes all persons who drive minibuses for or on behalf of Cheshire East Council. (All minibus drivers must be age 21 or over <i>with at least 2 years of regular driving experience as a qualified driver</i>);. Drivers over 70 years of age may drive a minibus subject to a medical examination / report.
Existing driver	Drivers who passed their test for car entitlement before January 1 st 1997. These drivers retain significant rights to drive small buses including the use of trailers over 750kg until their licence expires. On a licence issued since 1990 and before 1997, these are shown as B, B+E, C1, C1 +E (restriction 7) D1 (restriction 1), D1 + E (restriction 1). The restriction numbers are different on any licence issued from 1997 onwards.
New driver	Drivers who passed their first test from January 1 st 1997 onwards. On any new licence, only a category B entitlement will appear
Employee	A person who is employed either full time or part-time on a temporary or permanent contract with Cheshire East Council (or a school governing body in the case of teachers in Aided or Foundation schools)

Non-employee	A person who is <u>NOT</u> employed either full time or part-time on a temporary or permanent contract with Cheshire East Council (or a school governing body in the case of teachers in Aided or Foundation schools) and who acts on a voluntary basis i.e. receives no payment or consideration for driving the vehicle other than out of pocket expenses
PSV	Means Public Service Vehicle. PSV entitlement is the qualification gained when a further test is passed to drive buses and coaches (D1 unrestricted)
Minibus permit	These are permits (issued by Cheshire East Council – Integrated Transport Service) to organisations concerned with education, religion, social welfare, recreation or other activities of benefit to the community. The services must be provided for their own members or for groups of people whom the organisation serves.
DVLA	Driver and Vehicle Licensing Agency

3.2 Training / Assessment

All drivers who wish to drive a minibus must attend an approved driver assessment course. This will normally be the Cheshire Minibus Driver Assessment Scheme [CMDAS]. Other minibus driver assessment schemes, such as the Community Transport Association [CTA] Minibus Driver Assessment Scheme [MIDAS], may also be acceptable. Drivers are advised to contact Cheshire East Road Safety Unit for advice before driving a minibus or to arrange attendance on the Cheshire scheme

3.3 Existing Drivers – Employees

Existing drivers who are employees may drive a minibus if the following conditions are met:

- The minibus has a minibus permit (if the passengers are being charged). [*Note 1. “Being charged” includes payment in cash or kind which confers a right to travel e.g. membership fees, subscription charges, collections and the like.*]
- The driver has attended the minibus driver assessment course and passed the practical assessment
- The minibus is not being taken abroad

If the minibus does not have a minibus permit, drivers must obtain a PSV licence if passengers are being charged

3.4 Existing drivers – non employees

Existing drivers who are non-employees may drive a minibus if the following conditions are met:

- The minibus has a minibus permit (if the passengers are being charged [*see Note 1 above*])

- The driver has attended the minibus driver assessment course and passed the practical assessment
- The minibus is not being taken abroad
- The driver is not receiving any payment for driving the minibus

3.5 New drivers – employees

New drivers who are employees may drive a minibus if the following conditions are met:

- The minibus has a minibus permit (if the passengers are being charged [see *Note 1 above*])
- The driver has category D1 on their licence
- The driver has attended the minibus driver assessment course and passed the practical assessment
- The minibus is not being taken abroad
- The driver has held a full car licence for at least 2 years
- Trailers above 750kg (max authorised mass) are not being towed

If the minibus does not have a minibus permit, drivers must obtain a PSV licence (Category D1 unrestricted) if passengers are being charged [see *Note 1 above*]

3.6 New drivers – non employees

New drivers who are non employees may drive a minibus if the following conditions are met:

- The driver has attended the minibus driver assessment course and passed the practical assessment
- The minibus has a minibus permit (if the passengers are being charged [see *Note 1 above*])
- The minibus is not being taken abroad
- The driver has held a full car licence for at least 2 years
- The minibus does not weigh more than 3.5 tonnes
- Trailers are not being towed
- The driver is not receiving any payment or consideration for driving the minibus other than out of pocket expenses

3.7 Category D or D1 test

Any driver who has passed the D or D1 category test has additional entitlement to drive a minibus

3.8 Minibus permits

All establishments who operate a minibus should apply to Integrated Transport for a minibus permit. This allows the operator to charge the passengers for it's use to cover the running costs. If minibus operators are unsure about whether a permit is needed they should phone Integrated Transport on **01606 271721**

3.9 Partner organisations

Those who manage minibuses must ensure that partner organisations using Cheshire East Council minibuses have a minibus permit if passengers are being charged.

4.0 POLICY REVIEW

This policy shall be reviewed as and when necessary, but in any event , a formal review will take place by the 31st December 2010.

5.0 REFERENCES

Driver and Vehicle Licensing Agency (DVLA) Information sheet INF28 *Driving a Minibus*

Driver and Vehicle Licensing Agency (DVLA) Information sheet D100 *What you need to know about Driving Licences. Also website www.dvla.gov.uk Drivers Information page <http://www.dvla.gov.uk/drivers/drmbus.htm>*

Community Transport Association (CTA) *Driver Licensing for Minibuses* (Rev 2003)

Vehicle Operator Services Agency (VOSA) *Passenger transport provided by voluntary groups under the Section 19 or 22 permit system – Guide for Operators*

APPENDIX 1**MINIBUS DRIVING LICENCE – LEGAL REQUIREMENTS**

Before driving a minibus you must ensure that you hold a valid driving licence. The information below is a guide to the various categories of licence and any restrictions attached.

a) Category B (Car)

This entitles you to drive a minibus in the UK provided the following conditions apply:

- i. You are driving on a voluntary basis (see below for the definition of 'voluntary').
- ii. You are driving on behalf of a non-commercial body or for social purposes.
- iii. You are not driving for Hire and Reward – this encompasses any payment in cash or kind by (or on behalf of) passengers which gives them a right to be carried, unless operating under a minibus permit – see below for further details.
- iv. You are aged 21 or over and have held a category B licence for at least 2 years.
- v. The maximum weight of the vehicle is not more than 3.5 tonnes (4.25 tonnes for a wheelchair accessible vehicle)
- vi. You may not tow a trailer
- vii. Drivers aged 70 or over will need to make a special application which involves meeting higher medical standards.

b) Category D1 (Minibus) Restricted

This is defined by the numbers 1 or 101 on your licence. This category was granted to drivers who passed their car test before 1st January 1997 and gives entitlement to drive a minibus, provided it is not being used for Hire and Reward i.e. drivers with this category can drive both socially or on behalf of an employer provided passengers are not being charged (see iii above). Medical conditions as detailed in vii above also apply.

c) Category D1 (minibus)

This covers minibuses for all use, including 'Hire and Reward' operations.

d) Category D (Bus, coach and minibus)

This covers buses, coaches, and minibuses for all use, including 'Hire and Reward' operations.

Note – to obtain either a full category D1 or D licence, you must have passed and additional test to that for your car.

e) Driving minibuses abroad

A category B licence is not valid when driving abroad which means that you cannot drive under any circumstances. Category D1 Restricted is valid provided that you are not driving for 'Hire and Reward' – there are no exemptions.

If passengers are being charged in any way that confers a right to travel, drivers must hold a full category D or D1 licence. Furthermore, all drivers must comply with EU Drivers Hours

Regulations and use a Tachograph to record all periods of driving, rest and other work related duties.

f) Minibus Permits

These permits can be issued by Cheshire East Council to organisations concerned with education, religion, social welfare, recreation or other activities of benefit to the community. The services must be provided for the organisation's own members or for groups of people whom the organisation serves.

The permit allows the organisation to charge its passengers (Hire and Reward) but only cover or contribute towards the cost of running the vehicle. There must be no element of profit.

g) Voluntary Drivers

The Department of Transport has published guidelines on the incidental driving of minibuses, with reference to teachers driving a school minibus as an example. While not being a ruling in law, the guidelines make the following points with regard to a category B licence holder:

- i. **Is the organisation a non-commercial body?** In general, whether a school is a non-commercial body or not will depend on its status. It may be that some independent schools which lack charitable status could be considered to be commercial bodies. It is recommended that schools seek independent legal advice in order to determine their status.
- ii. **Is the driving for social purposes?** It is envisaged that this would encompass most types of driving which school employees could be asked to undertake.
- iii. **Can the driver be compelled to drive?**
- iv) **Is the driver being paid specifically for the driving?**

If the answer to the first two points is 'yes' and the latter two is 'no' then the driver may be considered to be driving on a voluntary basis.

Further details can be found on the Teachernet web site – www.teachernet.gov.uk