



Problem solvers

Are you facing a community transport problem? Perhaps you're assessing the implications of recent legislation or considering the specifications of a new vehicle. Whatever your community transport poser, *CTA Journal* can help.

Our problem solver, Amanda Howard (pictured), is a member of the CTA's advice and information team. Every day the team members field enquiries from across the UK's community transport sector and have

a wealth of knowledge and experience to draw upon.

If you have a problem that you'd like solved on this page, please write to Problem Solvers at *CTA Journal*, 26 Gransden Avenue, London E8 3QA.

“Our small school accepts donations from parents towards our school fund. We also run non-uniform days for which the pupils pay a small amount of money. We operate a minibus to take our students out on non-educational trips. The cost of running the vehicle is subsidised by the school fund. What do we need to do to ensure we are operating legally?”

Where there is a direct fare paid by the pupil or on behalf of the pupil that allows them to travel, this is defined as “hire or reward”. An indirect fare or donation which gives the “right” to travel (whether the “right” is used or not), is still a form of hire or reward and needs an operator's licence to be legal.

If yours is a private profit-making school then any transport will need to be operated under a PSV operator's licence, following all the conditions that are related to this. Further information on this type of operation can be found in *Public Vehicle Operator Licensing Guide for Operators* (PSV 437-01) which is available from the Vehicle and Operator Services Agency (VOSA) website.

All the drivers of the minibus would need to hold a full D or D1 entitlement, which is gained by taking a second test. The minibus would need to be maintained to PSV standards and some journeys may fall under EU drivers' hours rules and would need the use of a tachograph.

However, if the school is a local authority school or one with charitable status, you can operate using the legal framework of section 19 of the Road Traffic Act 1985 which has recently been updated by the Local

Transport Act 2008. A section 19 permit allows an eligible organisation to operate MPVs (vehicles with up to eight passenger seats) and minibuses (vehicles with between nine and 16 passenger seats) although the operating rules for each are slightly different and advice should be sought from the CTA's advice and information service.

The driving licence requirements for minibuses changed in 1997 which sometimes causes confusion. Drivers who passed their car test before 1 January 1997 automatically gained a D1 entitlement with a restriction code of 101. This means they can drive a section 19 permit vehicle as a volunteer or a paid member of staff. Drivers who have passed their car test on or after this date no longer gained the D1 (101) although they can drive a section 19 permit vehicle if they meet all the following criteria:

- They are 21 or older, but no older than 70 years old unless they pass a PCV medical
- They have held their B entitlement for at least two years
- They don't tow a trailer
- They receive no payment or other consideration for driving the vehicle other than out-of-pocket expenses
- The minibus has a gross weight not exceeding 3.5 tonnes, or 4.25 tonnes including any specialised equipment for carrying disabled passengers.

The Department for Transport and the Department for Education and Skills issued guidance in 2006 for teaching staff who hold post-1997 driving licences, although this is yet to be tested in law. This states that as long as these teaching staff don't have

driving duties in their contract and receive no extra overtime pay then they meet the fourth requirement of the list above. If all the other points are also met then they can drive the school minibus. This guidance is in the advice and learning section of the CTA website.

You should be aware that as of 1 October 2009 VOSA has the power to impound a vehicle if they suspect it is being operated illegally for hire or reward. They can even sell it or have it destroyed.

VOSA can also give a fixed penalty notice if the driver is not complying with drivers' hours or if the vehicle is overloaded. The driver will be held responsible for compliance with the necessary inspections and defect reporting procedures. It is therefore very important that schools ensure their drivers undertake a documented walk-around check prior to driving the vehicle and that there is a defect reporting system in place as outlined in VOSA's *Guide to Maintaining Roadworthiness*. If your teaching staff drive an unroadworthy vehicle they could be given a range of fixed penalties up to £200.

The CTA has devised a Frequently Asked Questions advice leaflet for schools, colleges and universities operating minibuses. This can be used in conjunction with our *Annual Minibus Management Checklist*. Both of these can be found in the advice and learning section of the CTA website. ■

The CTA has a membership package designed for schools, colleges and universities called Safe and Legal Educational Transport. Joining the CTA will keep you up to date with important legislation and allows the CTA to issue section 19 permits to you. Further information on 0161 351 1475.

The CTA advice and information service

To contact an expert adviser in the CTA's advice and information service, call 0845 130 6195 (9am to 5pm) or email advice@ctauk.org. In Northern Ireland, call 028 9094 1661 or email gerry@ctauk.org. There are many leaflets available in the advice and learning section of the CTA's website www.ctauk.org. CTA Ireland manages its own service for the Republic of Ireland.