



**Community
Transport
Association**

**Response to the
Department for Transport's**

**Consultation on
USE OF SEAT BELTS & CHILD RESTRAINTS
BY CHILD PASSENGERS ON BUSES &
COACHES**

Closing Date: 30 November 2007

The Community Transport Association

The CTA is a rapidly growing national charity giving voice and providing leadership, learning and enterprise support to member organisations, which are delivering innovative transport solutions to achieve social change. CTA UK promotes excellence through providing training, publications, advice and information on voluntary, accessible and community transport.

Voluntary and community transport exists to meet the travel and social needs of people to whom these would otherwise be denied, providing accessible and affordable transport to achieve social inclusion.

The CTA is the representative body for third sector passenger transport operators in the UK. CTA Member organisations are involved in the provision of transport, especially accessible services.

The CTA is the UK's largest provider of training, advice and information on accessible, voluntary and community transport provision. The CTA is part-funded by the Department for Transport, the Scottish Government, the Welsh Assembly Government and the Department for Regional Development (Northern Ireland).

CTA's Response to Consultation

The CTA welcomes the opportunity to contribute to Department for Transport's consultation process. After reading through the consultation we have decided to respond on those specific areas that we believe would have a marked effect on our sector.

Contact Details

Any queries regarding this response should be directed to:

Brian Shawdale
Advice and Training Director
Community Transport Association
Highbank
Halton Street
Hyde
Cheshire
SK14 2NY
Tel: 0870 774 3586
Fax: 0870 774 3581
E-mail: brian@ctauk.org

Annex E

Consultation on compulsory seat belt wearing requirements in relation to child passengers on buses and coaches

PART 1 - Information about you

Name Brian Shawdale
Address Highbank, Halton Street, Hyde, Cheshire
Postcode SK14 2NY
email advice@ctauk.org
Company Name or Organisation Community Transport Association
(if applicable)

Please tick one box from the list below that best describes you /your company or organisation.

- Small to Medium Enterprise (up to 50 employees)
- Large Company
- Representative Organisation
- Trade Union
- Interest Group
- Local Government
- Central Government
- Police
- Member of the public
- Other (please describe):

If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members:

The CTA has over 1400 members, and we canvass both our members and other interested parties views by posting our draft response on our website, before final revision and despatch.

If you would like your response or personal details to be treated **confidentially** please explain why (see covering letter paragraph 5):

Do you have evidence on how many service buses have seat belts which passengers aged 14 and above are now required to use; and about the use of such vehicles by children under the age of 14 (paragraph 18 above). Yes No

Please add any additional comments you wish to make:

Are you able to provide evidence about restrictions imposed by operators of long-distance bus and coach services on the carriage of unaccompanied children aged up to 14? (paragraph 19 above)
Please add any additional comments you wish to make:

Yes No **x**

Are you able to provide information about the extent to which buses, rather than minibuses and coaches, continue to be used for organised school trips other than home to school transport? (paragraph 22)
Please add any additional comments you wish to make:

Yes No **x**

Are you able to provide information about the extent to which local authorities rely on scheduled local bus services (including dedicated routes linked to schools) to fulfil their duty to provide transport to and from school? (paragraph 30)
Please add any additional comments you wish to make:

Yes No **x**

Are you able to provide information about the extent to which local authorities insist on vehicles used for home to school transport of children being fitted with seat belts, and the reasons why they might not do so? (paragraph 32)

Yes **x** No

Please add any additional comments you wish to make:

It is established best practice that transport contract specifiers require operators to use vehicles (cars, mpvs, minibuses and coaches) that are fitted with seat belts. It is also usually a requirement that the operator ensures that children wear seatbelts, the responsibility for which is often delegated to a second crew person, who travels with the passengers to ensure that the belts remain worn during the journey. On SEN contracts where children with learning or behavioural problems are being carried, purpose designed restraints are sometimes used, instead of the standard seatbelts, as these are more appropriate to the needs of the child. The need for these restraints is determined by a passenger risk assessment, usually by the LEA and this then forms part of the contract specification, for which the transport contractor is required to use.

Are you able to provide information about the extent to which local authorities (or Boards in Northern Ireland) require escorts on vehicles used for home to school transport of children (and especially those of primary school age)? (paragraph 33) Yes No

Please add any additional comments you wish to make:

It is established best practice, to meet child protection requirements, that additional escorts / passenger assistants are provided on home to school contracts, particularly on those serving pupils with special educational needs.

Do you have any view about whether or not it would be possible to implement the requirements of the Directive insofar as they apply to school transport by means of statutory guidance? (paragraph 35) Yes No

Please add any additional comments you wish to make:

The CTA strongly believes that children under 14 should wear seatbelts where fitted and required on buses. The question is who should be responsible? It would appear that reducing the age of responsibility to make a proportion of the children under 14 legally liable for wearing seatbelts is not the solution. The CTA firmly believes that the driver of vehicles (including minibuses) over 2540 kg unladen weight should not be held responsible for ensuring that seatbelts are worn on a journey, as they are unable to perform this duty whilst concentrating on driving. The driver however could be tasked with the responsibility to ensure that children have their seatbelts on and correctly fitted / adjusted at the commencement of a journey. If a child then subsequently takes a seat belt off, without the driver's knowledge, then the driver should not be held responsible. If the driver of a vehicle over 2540 kg unladen weight cannot ensure seatbelt wearing during a journey, then another responsible person (parent, travel companion, passenger assistant) should travel on the vehicle and it is they that would be deemed to be liable and prosecuted if children under 14 were found not to be wearing their seatbelts.

Do you have any views about the option of 'doing nothing'? (paragraph 37) Yes No

Please add any additional comments you wish to make:

This is not an option. It is unthinkable to imagine that the requirement to wear seatbelts by young children (aged 3 –13) , the passenger group that can be considered to be the most vulnerable, should not be introduced and the problems that may occur in enforcement must be overcome.

We also currently have an anomalous position where the driver of a minibus, with up to 16 passenger seats, with a unladen weight of 2540kg or less, is legally responsible to ensure that children under 14 wear their seat belts, whilst the driver of a slightly heavier minibus is not. The unladen weight of a minibus should not be the determining factor for establishing driver responsibility; it should be the passenger capacity. The DfT needs to establish the number of passenger seats it deems to be reasonable in order for a driver to be held responsible. The CTA suggests that the M1, M2 and M3 vehicle type classifications would be more appropriate, with the driver's responsibility restricted to M1 vehicles (max 8 passenger seats). The responsibility for children on M2 and M3 vehicles should be that of a non-driving adult that should be present on the vehicle. This responsibility could fall on a parent or guardian, where present, other examples might include youth workers or teachers. It should be the responsibility of the driver to ensure that an accompanying adult is present.

Do you have any views about the option of placing responsibility for wearing a seat belt on the passenger on a bus or coach irrespective of age? (paragraph 38) Yes No

Please add any additional comments you wish to make:

The age when one becomes responsible for wearing a seat belt should be consistent with that currently in force for cars and buses i.e. aged 14 and over. The age of criminal responsibility, aged 10 and over, is deemed suitable to judge whether children can differentiate between right and wrong with regard to fairly simple, black and white issues, such as theft, violence to others, vandalism, etc. The use of seatbelts and where required associated child seats/restraints and the rules re when they should or need not be worn are not particularly straightforward and require a level of understanding of the seat belt wearing rules that would suggest that the current age of 14 is about right.

As stated above the driver could only be partially responsible, i.e. at the commencement of a journey and the driver could be responsible for ensuring that another responsible person is carried to ensure compliance during the journey.

Do you have any views about adjusting the present age limit of 14 for bus and coach passengers, for example moving it to the age of 11? (paragraph 39) Yes No

Please add any additional comments you wish to make:

Adjusting the age limit to 11 obviously encompasses all children at secondary school and would make them legally responsible for wearing seatbelts, which removes any enforcement responsibility from the transport operator and its drivers engaged on secondary school transport contracts. However, if choosing any age lower than 14 can only be justified on the basis of expediency then this is not a sufficient reason. The age limits that are chosen need to be consistent across the board, and must include seat belt wearing rules both in cars and buses and should be selected for the right reasons.

The problem with making children wear seatbelts when required to do so is one of education and enforcement. If there are no responsible adults on the bus in addition to the driver, how will the threat of enforcement be achieved, I doubt that the police have sufficient resources to routinely stop school transport.

A large proportion of school transport services are probably provided by buses and coaches, which when not contracted for such work, undertake local services and as

such are not fitted with seatbelts. The introduction of this legislation will have no impact on such school contracts, indeed we might see a shift from buses with seatbelts being used to those without due to the enforcement and extra crew issues discussed.

Do you have any views about the option of placing responsibility on the driver of a bus or coach for ensuring that seat belts are worn by child passengers aged between 3 and 14 years? (paragraph 40) Yes No

Please add any additional comments you wish to make:

Currently, as the law stands, drivers are only responsible for children under 14 in minibuses (up to 16 passengers) with an unladen weight of 2540 kg or less, this is deemed to be equivalent to 3500 kg maximum gross weight.

The majority of new minibuses available today, suitable for carrying up to 16 passengers, have a gross vehicle weight in excess of 3500 kg. Soon, the current position (above) will not apply for an increasingly large number of minibuses providing transport for children.

If the drivers of some minibuses (possibly 50% of those currently in use) are already responsible to ensure that children aged between 3 and 14 wear seatbelts, it could be argued that drivers of all minibuses, including those heavier than 3500kg should also be responsible.

The CTA believes that if it is unreasonable to expect drivers to be responsible for up to 16 children on minibuses, this should be extended to include all M2 minibuses not just those over the 2540kg-unladen weight.

The driver's requirement and ability to enforce the wearing of seatbelts by child passengers is not affected by the vehicle's weight, but by the number of passengers being carried. M2 vehicles only have up to a maximum of 16 passengers; the question is whether or not it is reasonable to require the driver to be responsible for between 9 and 16 passengers in all cases.

Basing the driver's responsibility on seating capacity (M2 status), not weight, simplifies the matter for drivers (they wouldn't need to know the unladen weight of the minibus they are driving) and for any subsequent enforcement by the police, etc. as it will be clear when the driver is deemed to be responsible for children aged under 14 and when they are required to ensure that another responsible adult is carried on the vehicle.

It is difficult for the driver to supervise child passengers during the journey and it would be unreasonable for a driver to be held liable where a child had removed their belt without their knowledge. The driver should certainly ensure that seat belts are correctly fitted and being worn at the commencement of the journey. If the driver identifies that children under 14 are removing seat belts during the journey, they will need to raise the matter with the responsible adult to action.

The CTA believes that where it is both distracting and unreasonable to expect the driver of a minibus to supervise the wearing of seatbelts by children aged 3 – 13), that another responsible and appropriately trained crew person is carried on the vehicle.

Do you have any views about the option of placing responsibility on the operator of a bus or coach for ensuring that seat belts are worn by child passengers aged between 3 and 14 years? (paragraphs 41 to 44) Yes No

Please add any additional comments you wish to make:

If the requirement to wear seatbelts by child passengers aged between 3 and 14 years is amended to include all minibuses (see above) and that the drivers are responsible for there being worn, minibus operators will have a duty of care to ensure that measures are put in place to guarantee this. The CTA believes that the driver can discharge this responsibility by ensuring that a responsible adult is carried on the vehicle.

Operators will have a duty to train drivers on their legal responsibilities and introduce systems to monitor compliance. For example, what should be the procedure where a child/children persistently remove their seat belt(s) on a journey?

When carrying young children in a minibus, it is common 'best' practice to ensure that another adult sits in the rear of a minibus to supervise the children's behaviour. It should be incumbent on an operator to undertake a risk assessment when carrying young children to determine what measures are required to ensure that they wear seat belts.

Do you have any views about the option of placing responsibility on any accompanying adult for ensuring that seat belts are worn by child passengers aged between 3 and 14 years on buses and coaches? (paragraph 46) Yes No

(paragraph 46)

Please add any additional comments you wish to make:

On vehicles where, because of the number of passengers, it is considered unreasonable to expect the driver to be responsible for ensuring that child passengers aged between 3 and 14 on buses and coaches wear seatbelts; the CTA feels that an accompanying adult should be responsible. The CTA would go further and suggest that where an organisation or body contracts in transport provision for young children, on a vehicle where the passenger capacity is such that a driver is deemed not to be the responsible, that they have a duty to ensure that an additional responsible person is also carried to ensure that seat belts are worn.

Do you have any views about the potential impacts on business of implementing the requirements in the Directive? (paragraph 49) Yes No

Please add any additional comments you wish to make:

The requirement to provide an additional responsible person, in addition to the driver, to oversee the wearing of seat belts by child passengers aged between 3 and 14, will have a cost impact. However, on minibus and coach transport, provided for schools, it is already best practice to carry additional person(s) to supervise child passengers already, be this on school trips, on contracted home to SEN school transport, in which case, additional costs would be negligible.

15. If you have any other general comment that you would like to make concerning this consultation, please give them here (paragraph 50)

To summarise, the CTA believes that;

- **Child passengers aged between 3 and 14 must wear seatbelts where they are legally required to be provided.**
- **That if the age when a child is deemed old enough to be held legally responsible to is reduced, that for the sake of consistency this age is adopted across all seat belt wearing legislation to encompass both cars and buses. However, where would the responsibility lie for children younger than the amended age? The CTA believe that the current age of**

responsibility should not be changed.

- **That the seatbelt wearing requirements for minibuses, above and below a gross vehicle weights of 3500kg are standardised. The drivers of all M2 and M3 vehicles should have the same responsibilities for ensuring child passengers wear seat belts.**
- **That a driver of a minibus, has a responsibility to ensure that seat belts are fitted and being worn by child passengers (3-14) at the commencement of journey and that during the journey the driver is responsible for ensuring that an additional person must be carried to ensure that the seat belts remain fitted.**

Please send this completed form to:

Terry Deere

Road User Safety Division

Department for Transport

Zone 2/11, Great Minster House

76 Marsham Street

LONDON SW1 4DR

Direct Line: 020 7944 2046

Fax: 020 7944 9618

Or E-mail: terry.deere@dft.gsi.gov.uk

The deadline for responses is: 30 November 2007