

PE1098/B

**THE ROYAL SOCIETY FOR THE PREVENTION OF ACCIDENTS  
RoSPA**

**RESPONSE TO THE SCOTTISH GOVERNMENT;  
PETITION NUMBER 1098  
(PROVISION OF SEAT BELTS ON BUSES USED TO TRANSPORT  
SCHOOL CHILDREN)**

**15 JANUARY 2008**

**THE ROYAL SOCIETY FOR THE PREVENTION OF ACCIDENTS**  
**Response to the DfT's Consultation Paper**  
**"Directive 2003/20/EC - Use Of Seat Belts & Child Restraints By Child Passengers**  
**On Buses & Coaches"**

**PETITION NUMBER 1098 - USE OF SEAT BELTS & CHILD RESTRAINTS BY CHILD PASSENGERS ON BUSES & COACHES**

This is the response of the Royal Society for the Prevention of Accidents (RoSPA) to Petition Number 1098 by Lynn Merrifield on behalf of Kingseat Community Council. The Petition urges the Scottish Government to "make provision for every school bus to be installed with three point seat belts for every school child passenger and to ensure that, as part of a local authority's consideration of 'Best Value' in relation to the provision of school buses, proper regard is given to the safety needs of the children."

RoSPA welcomes the opportunity to comment on the Petition.

**Introduction**

This document is based extensively on the comprehensive response submitted by RoSPA to the UK Government on issues raised by the Department for Transport's consultation paper, "Directive 2003/20/EC - Use of Seat Belts & Child Restraints By Child Passengers on Buses & Coaches". That response was produced following consultation with RoSPA's National Road Safety Committee and its Road Safety Advisory Group.

There are effectively two issues raised by the petition – one being that of seat belt provision for school children using buses and one regarding more general 'safety' issues that the writer has brought under a 'best value' umbrella. The latter is considered too non - specific to allow for a focused response since it could refer to a number of different areas such as contractor selection and supervision, the demarcation between parental and school/local authority responsibility for children and the role of the vehicle inspectorate and the police in enforcing construction and use regulations. It also implies a critical analysis of budgetary issues that would demand a scrutiny beyond the normal scope of this type of exercise. For that reason the RoSPA response to the second component of the petition is that all parties involved in the provision of transportation should adhere to the standards established by legislation and that enforcement agencies should maintain a programme of inspections sufficient to provide confidence that standards are being maintained.

The 'question and answer' nature of the bulk of this document should assist all concerned to be aware of the policies that are being considered by the Department for Transport in relation to the issues raised and the RoSPA stance regarding them.

**Background**

In Great Britain, there are about 50,000 buses and 22,000 coaches (not including minibuses). About 80% of coaches have seat belts fitted, but the proportion for buses is much lower, although some do have seat belts. In Northern Ireland there are about 1,450 buses and 1,050 coaches. Almost all coaches have seat belts fitted, but most buses do not.

In 2005, 175 children up to the age of 15 were injured (7 seriously) while standing on a bus or coach, 99 were injured boarding or alighting (eight serious), and a total of 848 were injured while seated. One child was killed, and 16 were seriously injured, while seated on a bus or coach. In Northern Ireland in 2005, 6 children were injured, none seriously, when standing on a bus or coach, 2 were injured while boarding or alighting, (none serious), and 50 were injured while seated. No children were killed but one child was seriously injured while a seated.

In September 2006, the law was changed in Great Britain to require passengers aged 14 years and above in larger minibuses, buses and coaches to wear seat belts, where they are fitted. This was in response to EC Directive 2003/20/EC that required Member States to introduce such laws. The Directive actually required the law to be applied to child passengers from the age of 3 years, not 14 years, but as it was not clear how this could be implemented, the law in the UK was restricted to passengers from the age of 14 years.

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**On Buses & Coaches"**

One significant issue is that while passengers aged 14 years and above can be made legally responsible for wearing seat belts, it is difficult to make children younger than that legally responsible for doing so. In cars, the driver is responsible for ensuring that children wear seat belts or use child restraints. However, it is impractical for drivers of buses and coaches to check whether all children in the rear are wearing their seat belts.

The DfT is now consulting on how to extend the law to younger passengers. The consultation sought views on how to implement the requirement in a practical way in the range of circumstances in which children travel on buses and coaches. The consultation paper outlined possible solutions, and identified the one that appears to be the most practicable; ***"that a responsibility is placed upon the operator of any bus or coach to ensure that child passengers use belts"***. The operator would be defined to be one of either the owner of the vehicle or any person or body contracting for the provision of a bus or coach for the carriage of children.

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**Buses and coaches used by children**

**Service buses**

Children of all ages use regular service buses, both accompanied and unaccompanied. These vehicles typically do not have seat belts. Some do have seat belts but are exempted from the seat belt requirement because their entire route is in a built up area and on "restricted roads".

**Long distance buses and coaches**

Buses and coaches used on long-distance services are likely to have seat belts fitted. One major operator will not accept children under 14 years old unless they are accompanied by somebody at least 16 years old, because they do not feel it appropriate to set children down at destinations without knowing if they will be met.

**Organised trips**

Children are involved in a wide range of organised trips on buses and coaches, sometimes mixed with adult passengers. When transporting children on an organised trip, any minibus or coach used must have forward-facing seats, and seat belts. From October 2001 (September 2002 in Northern Ireland), all such vehicles have had to be fitted with seat belts in forward or rearward facing seats. However, these rules do not apply to service buses, nor do they require that a minibus or coach with seat belts be used rather than a bus with them. There is concern that those arranging organised trips for children are free to choose between vehicles that have seat belts and those that do not. It is possible, therefore, that if a requirement to use or supervise the use of seat belts by children was considered onerous, organisers (including school authorities) would choose not to hire vehicles with seat belts to save money.

**Home to School Transport**

Buses and coaches are used by local authorities for this purpose. They must, when considering whether to make arrangements for the provision of school transport for pupils attending their schools, have regard for the safety of those pupils. Some authorities rely on local bus services to fulfill their duty to provide transport to and from school. Children may be provided with passes to use dedicated routes linked to schools, or the general scheduled bus service. Vehicles used on these services will typically not have seat belts fitted, and any that do might fall within the exemption.

Local authorities also hire buses and coaches to bring children to and from school, as do private schools. If the authority or school provides transport to take children between their homes, some other meeting place and school, they have the same duty of care for them while they are riding on the bus or coach as they do while they are at the school. Authorities are not at present obliged to specify that the contractors providing vehicles to transport children between home and school provide vehicles that are fitted with seat belts. If the vehicles are minibuses or coaches, they will have belts - because the trips are organised trips; but they are unlikely to be found where buses are used because these are exempted from the organised trip rules. In this circumstance, even where belts are fitted, there is currently no legislation that requires children under the age of 14 years to use them or for someone over that age to be liable for their not doing so.

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**On Buses & Coaches"**

**OPTIONS (AS detailed in the DfT Consultation Paper)**

**Option 1: Do nothing**

There are few casualties on buses and coaches that would be saved by having every child passenger use a safety system provided; and it is very difficult to do impose a practical requirement for them to do so. However, the UK has a clear obligation to implement the Directive and risks infraction proceedings if it does nothing.

Do you have any views about the option of 'doing nothing'?

**RoSPA Response**

*RoSPA does not view this as an option.*

*Seat belts are very effective in saving lives and reducing injuries – but only when worn. One of the main reasons that the number of deaths and injuries on Britain's roads have reduced so substantially over the last two decades is that people now survive crashes that would have killed them 20 years ago because they are wearing seat belts or using child restraints.*

*In buses and coaches, seat belts are particularly beneficial in preventing ejection through the windows and reducing the risk of being crushed by the vehicle if it overturns. Studies in the United States are ambiguous regarding how beneficial seat belts may be for children – even assuming their wearing can be assured.*

**Option 2: Place liability directly on passengers irrespective of age**

The attraction of placing a responsibility on every passenger irrespective of age is that they would all to be treated the same, and the need to place a supervisory responsibility on somebody else would not arise. However, at present, seat belt law differentiates between people aged up to and over the age of 14 years. Only those aged 14 and above can be punished for not wearing a seat belt. This limit was set in Section 15 of the 1988 Act for practical reasons, recognising that there must be an age below which children (who may be as young as three) are too small to understand - or to face - the legal consequences of not wearing a seat belt. The age of criminal responsibility in England is 10 and Scotland is 8 so it would certainly seem inappropriate to impose an obligation on children below this age.

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?

**RoSPA Response**

*RoSPA does not view this as an option. It is neither sensible nor practical option to expect children as young as three years old to understand the legal consequences of refusing to wear a seat belt. It would be extremely difficult, if not impossible, to enforce. Would we really expect a police officer to fine a small child, and if challenged in court, it seems unlikely that the court would uphold a case against a child. It would also introduce significant anomalies with the other legal age limits mentioned (14 years for wearing seat belts in cars and 10/8 years as the age of criminal responsibility).*

**THE ROYAL SOCIETY FOR THE PREVENTION OF ACCIDENTS**  
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**On Buses & Coaches"**

**Option 3: Move the present age limit to somewhere below age 14**

Consideration could also be given to adjusting the present age limit of 14 for bus and coach passengers. It would, for example, simplify the school transport issues to have a cut-off at the age at which children move to senior schools (age 11). Some children below the age of 14 are expected to have some understanding of what is lawful and what is not. But to make this change would introduce an anomaly in relation to children in cars and other vehicles, and there might still be school buses carrying children either side of a lower age limit.

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?

**RoSPA Response**

*RoSPA does not support this option. Any age limit set would be fairly arbitrary and it would not deal with the question of children between the age of 3 years and whatever age limit was chosen. We think this would simply create other problems.*

**Option 4: Place responsibility on the driver**

The argument for placing a responsibility on the driver is that this is the general rule where children under 14 are carried, and it now applies even to minibus drivers. It is the driver's responsibility to ensure that the vehicle is safe, which includes ensuring that passengers with seats are safely seated. It is open to a driver, for example, to stop a vehicle if a passenger refuses to sit down. On the other hand, it has been accepted that ensuring that child passengers on a vehicle as large as a bus or coach are seated and wearing a seat belt would create an unreasonable conflict with the duty to drive with due care and attention. Typical seat configurations make it impossible for the driver to see if a passenger is using a seat belt without getting out of his own seat and walking down the aisle.

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?

**RoSPA Response**

*RoSPA does not support this option. We believe that it is impractical for drivers of buses and coaches to be held responsible for ensuring that children wear their seat belts throughout a journey. The driver will not be able to see whether passengers in the body of the vehicle are wearing the seat belt (unless the passenger is moving around the vehicle). And it is important that the driver concentrates on driving safely, and is not distracted by having to check that all the child passengers are using their seat belts.*

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**On Buses & Coaches"**

**Option 5: Place responsibility on the operator**

The rule on making announcements about the need to wear seat belts states that the operator shall take all reasonable steps to ensure that every passenger is notified that he is required to wear a seat belt. The term 'operator' includes not only the owner but, if the bus is in the possession of any other person under an agreement for hire, hire-purchase, conditional sale, loan or otherwise, that person. The rules also contemplate that, irrespective of whoever has possession of the vehicle, there might be one of a variety of people to whom responsibilities can be assigned, for example, a conductor, a courier or a group leader.

It is an option to place the responsibility for seat belt wearing by children on buses and coaches on the 'operator', but possibly also extended to cover a wider range of cases where the hirer (e.g. a school) may not be "in possession" of a vehicle hired out by an operator with a driver. Under this option, the 'operator' and/or organiser would be required to take all reasonable steps to ensure that the seat belts were used, and it would be an offence to fail to do so without a reasonable excuse. The requirement to make announcements would extend wherever passengers aged 3 and above were present. The appropriate penalty might be the same as for a failure to make announcements - Level 4 on the standard scale (a maximum fine of £2500).

The 'operator' defined in these extended terms could include education authorities and others who procure buses and coaches to provide transport for children to and from schools, and others arranging organised trips. It is by no means a general rule that those hiring buses and coaches for school transport provide escorts, and it would remain a matter for the body concerned to assess how best to discharge its responsibilities if these were extended to cover seat belt wearing by child passengers on hired buses and coaches. Any provision of this kind would need to be accompanied by guidance. In a typical case, the 'operator' could be either the owner or the person or organisation contracting to use the vehicle. The terms of hire will have to clarify upon whom the responsibility for children using seat belts is to lie, and how it is to be discharged. This will need to cover instances where a vehicle is procured under contract by a person who does not travel on the bus themselves and has no representative who does so. The guidance will also need to address how far a requirement to use a seat belt can be made a condition of any child travelling on the vehicle concerned.

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?

**RoSPA Response**

*RoSPA believes that this is the best and most practical option, particularly if the definition of 'Operator' is extended as suggested to include whoever has hired the vehicle or organized the trip for children.*

*We recommend that guidance be developed and provided to schools and other relevant bodies to give advice on how to fulfill these responsibilities. The simplest means of ensuring that children use seat belts throughout the journey is to have at least one trained 'escort' on board. Such escorts would also be able to supervise safe boarding and alighting, stowage of luggage and appropriate behaviour throughout the journey. On most organised school trips a schoolteacher is likely to fulfill the role of 'escort'.*

**RoSPA also believes that it is inappropriate for schools and other bodies to be able to use buses that do not have seat belts as a way of avoiding this issue. We recommend that the government consider how this might be prevented.**

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**On Buses & Coaches"**

**Option 6: Responsibility of accompanying adult**

An alternative approach would be to require accompanying adults to be responsible for ensuring that any children with them wear a seat belt. The appropriate penalty in this case might be the same as if the adult concerned was not wearing a belt themselves. This solution might work for long-distance commuting, although the accompanying person might be young themselves and possibly not much more than 14 years. In the case of school and other organised trips, there is an argument that any penalties should fall on the organiser/operator rather than on individuals assigned by the organisers to a particular trip. This has been accepted in the case of the requirement to make announcements, where the liability for a penalty rests only with the 'operator', rather than also with people on the vehicle who might be given the job of making the announcement.

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?

**RoSPA Response**

*RoSPA believes this is a sensible and practical option when children are accompanied by their parents.*

*On organised trips, where an escort is provided, RoSPA believes that the responsibility should remain with the operator (as defined above) or perhaps on both the escort and the operator.*

W.Wills  
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