

## ADVICE NOTE: Car Usage

An employee of a Council may have use of a vehicle for use during their working hours. This may be in the form of using a private car after authorisation on official business or the use of a vehicle owned by the Council.

### Implementing a Policy

Having a Car Usage Policy is recommended to provide clarity. Any policy should distinguish between private car usage and vehicles owned by the Town Council.

Under Health and Safety legislation, employers owe the same duty of care to employees driving their own vehicles as they do to a vehicle owned or lease hired by the Town Council. The employer is therefore required to assess risks and take reasonably practicable precautions regarding the employee's use of any car. There is no need to set up an elaborate system, a simple Policy together with a system for carrying out sufficient checks is all that is required.

Any policy should consider the following areas:

#### 1. Private Car Usage

##### Suitability

Any vehicle used should be fit for the purpose it is being used for, for example, towing or delivering items. The Policy should remind employees that their vehicles may be subject to spot checks to ensure they are road worthy and that they should carry out a daily or other spot check on the vehicle before using it on Town Council business.

##### Mileage

Mileage necessarily incurred on behalf of the Council will normally mean the employee should be reimbursed for business mileage undertaken in the private vehicle. Mileage rates should be specified. The policy should make it clear that mileage rates will be subject to change.

##### Maintenance

It is a good idea to remind employees to ensure that the car is kept in good condition. This includes keeping it clean and ensuring that the tyre pressure, lights, oil, water etc are up to the required standard. Employees should not use their cars on Town Council business in an un-roadworthy condition and should undertake to service their car on a regular basis in accordance with the car's servicing requirements.

##### Insurance

Employees must ensure that any vehicle which is used on Town Council business is adequately insured for personal business usage. It is recommended that employees produce evidence of insurance every year, so that the employer can double check they are still adequately insured, along with a copy of their driving licence.

##### Offences

If an employee is an essential car driver, as specified in their contract of employment and job description, and is prosecuted or convicted for a driving offence which results in a period of disqualification, the policy should make it clear that this could result in their

## **ADVICE NOTE: Car Usage**

dismissal. However, before any such action is taken it is important to consider how long the ban is for, whether there are alternatives available and whether it is reasonable in all the circumstances to dismiss the employee. Legal advice should be undertaken before contemplating dismissal in these circumstances.

### Driving with a Mobile telephone

It is an offence to use hand-held mobile telephones whilst driving. A driver will be liable for prosecution if he/she is holding a mobile telephone and any other type of hand-held device to send or receive any sort of data, be it voice, text or pictorial image. An employee is regarded as driving if they are in charge of a vehicle with its engine running on a public road, even if the vehicle is stationary.

Therefore the Policy should strictly forbid employees using hand-held mobile telephones whilst driving. It is possible to stipulate that a mobile telephone may only be used with a hands-free device, in which case the call should be kept to the shortest possible time and only to effect essential communications. Where employees need to operate the mobile phone or need to deal with a call through a caller's hands-free device for longer than receiving or giving a short communication, before doing so the Policy should make it clear they must stop and park the car where it is safe and lawful to do so and with the engine switched off. Whilst driving, employees should not use the message facility on the mobile phone, or if available through such a phone, an image facility or internet access.

The Policy should make it clear that a breach of the Council's rule on the use of a mobile phone whilst driving will render the employee liable to action under the Disciplinary and Dismissal Procedure up to and including dismissal dependent on the circumstances.

### Inspection of Documents

It is a good idea to require employees to produce the following original documents at the request of the Town Council, on an annual basis, or at the specific demand of their line manager if applicable:

- Current MOT certificate, if required;
- Current car insurance, showing the employee is covered for personal business use; and
- Current road vehicle licence tax disc.

Employees should also sign the document to confirm they have read and agreed to the Policy so that there can be no argument about their awareness of the Policy requirements.

## **2. Driving Vehicles Owned by the Council**

Where the employee drives a vehicle provided by the Council, whether via a pool car, or one provided to them for undertaking their role, it is important to stipulate the conditions under which it is provided. Providing a vehicle may have tax implications for the employee and therefore advice should be sought via payroll about the impact on the employee's tax position. The employee's contract of employment and job description

## ADVICE NOTE: Car Usage

should stipulate whether they are an essential car user and the potential consequences if they lose their licence (as above). Clarity should also be provided as to what the car can be used for, whether it includes personal use (in which case it should be made clear that the employee is responsible for paying for their own fuel) and the extent of that personal use. It is important that insurance is adequate and covers the use of the car. Consideration also needs to be given as to where the car is kept when not in use and its security in general. It should be made clear that the car should never be left unlocked or with its keys left inside.

The Council will be responsible for ensuring the vehicle is roadworthy and taxed and insured. However, employees should be reminded to take reasonable care of their vehicle including checking fuel, oil and water levels and carrying out a visual check before driving. It should also be made clear that any fines incurred whilst driving the vehicle are payable by the employee. It may also be possible to deduct the cost of any damage incurred whilst driving a Council owned vehicle provided such deduction is reasonable and proportionate in the circumstances, the damage is due to the employee's fault and there is an express deduction clause in the employee's contract which expressly covers such a situation such as the employee paying for the insurance excess. Legal advice should be sought on such clauses as they have to be clearly drafted.

The Policy should cross reference with the Disciplinary Procedure regarding any breaches of policy.

### National Joint Council "Green Book" Provisions

Green Book guidance is that a Council should not insist upon an employee using his or her private vehicle for official use, unless the employee is at SCP 13 or above.

Where an employing authority authorises an employee to use a private car on official business, the employee will receive an allowance in accordance with the provision set out in Part 3 Section 6.

The current car allowances under Green Book provisions as of April 2010 are as follows:

	<u>451 - 999cc</u>	<u>1000 - 1199cc</u>	<u>1200 - 1450cc</u>
<b><u>Essential Users</u></b>			
Lump sum per annum	£846	£963	£1,239
per mile first 8,500	36.9p	40.9p	50.5p
per mile after 8,500	13.7p	14.4p	16.4p

## ADVICE NOTE: Car Usage

### Casual Users

46.9p

52.2p

65.0p

Under Green Book provisions, where a car is not in use as a result of either a mechanical defect or the absence of the employee through illness;

(i) The lump sum payments should be paid for the remainder of the month in which the car first went out of use, and for a further three months thereafter. For the following three months, payment should be made at the rate of 50% of the lump sum payment.

(ii) During the period when a car is off the road for repairs, reimbursement in respect of travel by other forms of transport should be made by the Council.