

Secretary of State for Education

The Rt Hon Gillian Keegan MP

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From the Secretary of State for
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The Rt Hon Mark Harper MP

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André Rebello OBE
Senior Coroner Liverpool and Wirral Area
Hon Secretary Coroners' Society of England & Wales
HM Coroner's Court
Gerard Majella Courthouse
Boundary Street
Liverpool
L5 2QD

15 December 2023

Dear Mr Rebello

RESPONSE TO REGULATION 28 REPORT TO PREVENT FUTURE DEATHS

This is the Department for Education's (DfE) and Department for Transport's (DfT) joint response to the Regulation 28 Report to Prevent Future Deaths dated 5 October 2023. This was issued by you following the tragic death of Jessica Evie Baker, in a coach crash on the M53, whilst on her way to school.

We would like to take this opportunity to express our condolences to the family of Jessica Baker and to acknowledge the tragic nature of this incident. We would also like to thank you for your report.

The **MATTERS OF CONCERN** are as follows:

We note that children above and below 14 years of age were not wearing their seat belts. We know that wearing seat belts can prevent some injury altogether, make injuries less severe and reduce the risk of fatal injuries. We are also aware that the driver of the coach was not wearing his seat belt.

You asked the following questions:

1. What advice does government, whether through the Department for Transport, or the Department of Education give to schools and colleges when contracting for school bus commuter contracts – about the use of seat belts?
2. What public information campaigns are being run about the additional road safety provided by the use of seat belts?

This response sets out DfE and DfT's current position and further steps that will be taken to strengthen safety on transport to and from schools.

Current advice and legislation

Seat belt wearing requirements

In general, motor vehicle passengers aged 14 and over, being driven on a road commit an offence if they do not wear a seat belt where there is one available. This offence applied to the school children aged 14 and older travelling on the bus involved in the accident.

In contrast, as regards younger children, the general rule is that *the driver* commits an offence by driving, on a road, a motor vehicle in which there is a passenger under the age of 14 who is not wearing a seat belt, and where a seat belt is available. However, there is a notable exception. In the case of large buses¹, this rule does not apply. Therefore, in this instance, the driver was not legally obliged, under road safety legislation, to ensure that the younger children on board were wearing seat belts, and the children themselves were not legally required to wear them.

This lacuna is something that the DfT has considered on several occasions over many years and has considered again upon receipt of your report. After careful consideration, it maintains the position that imposing a legal obligation on coach drivers to ensure that all children aged under 14 wear seat belts would be inappropriate. Such a requirement is seen as unfair to drivers, considering the potential number of children on a coach, and it could pose a distraction with significant road safety implications. As a result, the DfT does not intend to make any changes to the current seat belt wearing requirements.

Requirement on bus operators to notify passengers of seat belt wearing requirements

A bus operator is required to take reasonable steps to notify passengers of the requirement to wear a seat belt. This can be done through official announcements, audio-visual presentations, or prominently displayed signs at each seat. It is an offence to fail to comply with this requirement. To address this, we have requested that the Driver and Vehicle Standards Agency (DVSA) remind operators of their obligation through a communication to be sent out by the end of December 2023. This will help to ensure that passengers are properly informed about the necessity of wearing seat belts.

DfE Guidance to Schools

Within education, there are three pieces of potentially relevant statutory and non-statutory guidance: Home to school travel; Health and Safety: Responsibilities and Duties for Schools; and Behaviour in Schools.

It may help to begin by providing some background information about home to school travel. The DfE does not issue any guidance specifically directed at schools on the provision of home-to-school travel. This is because local authorities (LAs) are

¹ A large bus has more than 8 seats in addition to the driver's seat and has a maximum *laden* weight exceeding 3.5 tonnes.

legally responsible for arranging travel for eligible children. There is no expectation that schools will make home-to-school travel arrangements for their pupils, but we know that some choose to do this to support families. In this case, West Kirby Grammar School in conjunction with Calday Grange Grammar School had chosen to make such arrangements.

The DfE provides statutory guidance for LAs to support them in the performance of their duty to arrange home-to-school travel for eligible children. ([Home-to-school travel - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/home-to-school-travel)). This guidance is specifically directed to LAs, but it is stated to be 'of interest' to schools, academies, parents and travel operators. It advises that local authorities may wish to specify in their contracts with school travel providers that they will only accept vehicles fitted with seat belts. It also includes a section on behaviour on school travel which advises that local authorities and schools should collaborate to promote good behaviour on school transport, and that schools' behaviour policies should set out what the school will do in response to poor behaviour which occurs off the school premises.

The DfE separately provides schools with advice about their responsibilities under health and safety law, in its non-statutory guidance '[Health and safety: responsibilities and duties for schools](#)'. This advice makes clear schools must take reasonable steps to ensure staff and pupils are not exposed to risks to their health and safety. In doing this they are required to ensure that a risk assessment is conducted, and measures put in place to minimise any known risk that may arise in the course of the school day; including risks related to school premises, or the delivery of its curriculum, whether on or off site'.

The DfE also provides schools with separate advice to help schools understand their obligations when undertaking educational visits and other out of school activities in its health and safety on educational visits guidance. However, neither of these documents relate to Home to School transport or the wearing of seat belts on buses as these are not health and safety issues in strict legal terms.

DfE's '[Behaviour in schools' guidance](#) is directed at headteachers and school staff and covers behaviour outside of school premises. It says 'schools have the power to sanction pupils for misbehaviour outside of the school premises to such an extent as is reasonable' and 'schools should collaborate with local authorities to promote good behaviour on school transport.'

Future steps to strengthen transport safety

The safety of children and young people is of paramount importance to us. We want to take the opportunity to learn from this deeply tragic accident and we take your concerns very seriously.

Both Departments agree with the comments made in your report that education is a central feature of promoting road safety.

This is something the DfT takes very seriously and is why DfT runs its **THINK!** campaigns. The THINK! team produces educational materials for schools and dedicated advice for drivers and other road users. DfT recognises that the section of the THINK! website dealing with road safety laws would benefit from the addition of a

reference to children aged 14 plus being personally responsible for wearing their seat belt. This has now been added and DfT Officials are reviewing further opportunities to increase the presence of seat belt wearing advice for passengers and drivers. DfT will do this by the end of the year.

Your covering e-mail cited the famous “Clunk Click” advertisements on television which heralded the introduction of mandatory seat belt wearing in the late 1970s and early 1980s. Our approach to road safety campaigns has changed and now is evidence-based and targeted both in terms of material and media.

THINK! is the DfT’s long-running and respected road safety campaign. THINK! aims to reduce the number of people killed and seriously injured on the roads by changing attitudes and behaviours among those at most risk. In 2021 30% of car occupant fatalities were not wearing a seat belt compared with 19% in 2013. 17-29 year olds are over represented in fatalities: 40% v 30% of all car occupants in 2021. The team is currently working on a dedicated campaign to promote seat belt wearing; the first national seat belt campaign since 2011. It will be launched in March 2024. This campaign will be targeting those most at risk – young men. The campaign will also, however, provide an opportunity to raise awareness on a national scale and can include wider messages, for example about wearing seat belts on buses and coaches, within the stakeholder toolkit and social content.

DfE will work closely with the THINK campaign team at DfT to ensure education materials on seat belt compliance are shared with education settings and are embedded. This will include sharing DfT’s updated guidance on seat belt compliance and messaging from campaigns on seat belt safety in communications to the sector as well as across our own digital channels. This will coincide with the update to DfT’s website and campaign launch in March 2024. DfE also proposes to make a small amendment to the existing statutory guidance on home-to-school travel to state that parts of it, including the sections on promoting good behaviour in transport, will be of particular relevance to schools that arrange home-to-school transport for their pupils. DfE will aim to do this early in the New Year.

We would like to take the opportunity to thank the Coroner for bringing this matter to our attention and giving us the opportunity to respond.

Yours sincerely

**Rt Hon Gillian Keegan MP
SECRETARY OF STATE FOR
EDUCATION**

**Rt Hon Mark Harper MP
SECRETARY OF STATE FOR
TRANSPORT**

