

# REPORT PC25.151(f) Driving for Council Business Report

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## 1. REPORT SUMMARY

A report to Councillors about the Draft Driving for Work Policy and associated matters surrounding its need and implementation. Please note the draft policy before you has been amended in one crucial detail from the version approved by the FGP Committee on 2<sup>nd</sup> December 2025. That change is explained below.

## 2. BACKGROUND

Driving for work is a recognised work activity. HSE states: 'Health and safety law applies to work activities on the road in the same way as it does on a fixed site.'<sup>1</sup> Employers must manage these risks via risk assessment covering the journey, driver/rider, and vehicle (including grey fleet<sup>2</sup>). Commuting is excluded.

HSE's guide '[Employers - driving and riding safely for work](#)' emphasises that driving for work is one of the most dangerous things workers will do. A substantial proportion of road incidents involve someone driving for work and that on-the-road work should be managed within the organisation's H&S management system.

A WorkNest action requirement after their audit visit was to formalise driving risk management, specifically via a risk assessment. The wider policy itself is considered good practice and goes towards our requirement to safely manage driving at work. The current draft includes an appended risk assessment (dated 19 November 2025).

Note that many other councils at parish, town and above levels already have a similar policy in place though the actual contents vary. A few include Councillors in their policy requirements. I have done so for the reasons explained below - related to s.3 of the HSWA 1974.

## 3. LEGAL DUTIES AND ENFORCEMENT

### 3.1 Health and Safety at Work etc. Act 1974 (HSWA)

Section 2(1) - employer's general duty to employees:

'It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.'

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<sup>1</sup> <https://www.hse.gov.uk/roadsafety/employer/index.htm>

<sup>2</sup> The term 'grey fleet' refers to privately-owned vehicles that employees use for business purposes. These vehicles are not owned, leased, or managed by the organisation, but their use for work-related journeys means they fall under the employer's legal responsibilities, particularly regarding health and safety.

Section 3(1) - duty towards persons other than employees:

'It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons **not** in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.'

### *3.2 Management of Health and Safety at Work Regulations 1999 (MHSWR)*

Regulation 3(1) - risk assessment:

'Every employer shall make a suitable and sufficient assessment of— (a) the risks to the health and safety of his employees...; and (b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking....'

### *3.3 Road Traffic Act 1988 (RTA)*

Section 143(1)(a) - compulsory insurance:

'A person must not use a motor vehicle on a road or other public place unless there is in force... a policy of insurance... as complies with the requirements of this Part of this Act.'

### *3.4 Corporate Manslaughter and Corporate Homicide Act 2007*

Section 1(1) — the offence:

'An organisation... is guilty of an offence if the way in which its activities are managed or organised— (a) causes a person's death, and (b) amounts to a gross breach of a relevant duty of care...'

#### Summary

- Without licence/MOT/insurance checks appropriate to the journey purpose (and retained records), the Council cannot demonstrate a suitable and sufficient approach to managing work-related road risk.
- Road Traffic Act exposure: If a driver is not insured for the actual use, they may commit an offence (RTA s.143), and collision handling may require production / reporting of insurance (RTA s.170).
- Vicarious liability: Where an employee travels between workplaces or on employer's time, negligent driving may attract employer liability (Smith v Stages).
- Corporate manslaughter (worst case): A fatal incident with *gross* breach of duty in how driving risks were managed could engage the 2007 Act.

## **4. INSURANCE POSITION: EMPLOYEES and COUNCILLORS**

*Employees (grey fleet):* Staff using their own vehicles on Council business should hold Class 1 business use insurance (as our draft policy requires). Licence/MOT/tax checks retained on file. This has been confirmed as necessary by HSE guidance, WorkNest advice and specific SLCC advice (Clerk spoke to their advice line on this subject).

*Councillors:* Insurers may cover Councillors for Council duties under volunteer driver provisions<sup>3</sup>. Councillors must obtain written confirmation from their own insurer that

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<sup>3</sup> Again, notified by SLCC Advice.

Council-related journeys are covered (either as a volunteer or specific business use cover). Note that not all policies specifically state cover is provided as a volunteer, but it may be automatically in their terms. Please do consult with your provider. Providers' approaches to charging for this volunteer cover vary. Many do not impose any charge.

The Association of British Insurers has issued helpful advice on this which also includes a list of the main UK insurance companies and their approach to volunteer cover<sup>4</sup>.

However, when you consult with your provider, it is important that you provide them with details of the upcoming Councillor Allowance to ask them if, by taking it, that impacts your status as a 'volunteer' and therefore may require specific business driving cover.

Also note that claiming business mileage expenses does not automatically negate any possible 'volunteer' status<sup>5</sup>. Again, please check with your insurer.

## **5. AMENDMENT DETAILS (Before/After)**

After this further advice, I have amended the Draft Policy from the original version (as seen by F&GP) in this one regard:

### *FGP Version:*

'Employees and Parish Councillors who wish to claim Mileage Rates are to produce the following original documents at the request of the Council, on an annual basis, or at the specific demand of the Clerk if applicable: Current MOT certificate, Current car insurance, showing the employee / Councillor is covered for (Class 1) business use; and Current driving licence.'

### *Amended section:*

'Employees and Parish Councillors must produce the following original documents at the request of the Council, on an annual basis, or at the specific demand of the Clerk if applicable: Current MOT certificate, current driving licence, and current car insurance. For employees, the insurance must confirm cover for (Class 1) business use. For Parish Councillors, their insurance must show they are covered for driving on council business. In all cases, councillors must obtain written confirmation from their insurer that they are covered for driving on council business. The Clerk must have sight of the policy document or a cover note specifying the level of cover to ensure the Council meets its health and safety obligations.'

## **6. PRACTICAL SUPPORT AND IMPLEMENTATION**

The Clerk has begun to implement the H&S elements of this policy as they are required to ensure compliance with various statutory and regulatory duties, namely obtaining copies of

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<sup>4</sup> <https://www.abi.org.uk/products-and-issues/choosing-the-right-insurance/motor-insurance/volunteer-drivers/>

<sup>5</sup> <https://www.saga.co.uk/car-insurance/volunteer-car-insurance>

driving licenses, MOTs, and insurance cover. This is not complete and a minority of staff are currently not compliant with this requirement.

It is important to note that failure to produce these documents potentially leaves the Council exposed in law.

Recognising that purchasing appropriate insurance cover may be financially unachievable for some staff due to their personal circumstances, the Clerk is proposing that the Council consider one or more mechanisms to mitigate this.

(a) Ongoing financial support

The current draft policy contains this provision (highlighted in yellow in the draft policy document):

‘Where an employee uses their own vehicle for Parish Council business, the Council will reimburse the additional cost of upgrading from standard personal motor insurance to Business (Class 1) cover. This reimbursement will be up to a maximum of £50 per year, based on evidence of the difference in premium between the two levels of cover.’

(b) One off financial support

Remove that provision from the policy and make a one-off ex-gratia payment of £50 to any staff member that requests it this year to cover the likely admin fee an insurer may impose for a mid-policy amendment and the likely uplift in cost for extending cover to business use. Note that there will be a further cost to Council of a NIC payment – likely Class 1A at 15%.

(c) Interest free loan

Offer staff an interest free loan to cover the difference between standard and business class insurance. The amount would vary between staff members depending on their personal circumstances. Note that Loans of up to £10,000 are tax-free from the company to the employee. There is no reporting required, and no tax or national insurance to pay by either side. Further note that one staff member has been quoted a fee in excess of £400 to make a policy adjustment adding Class 1 business cover.

(d) Council leases a pool vehicle

Note that most leases incur an initial upfront payment, monthly fees, and have specific annual mileage limits, after which the lessee pays a mileage rate for additional miles. As an example, one national leasing company, is currently offering a Vauxhall Corsa on an 18-month lease, with a 5k per annum mileage allowance. Terms are £1,799.88 upfront payment, £650 additional fees, £149.99 per month. Total lease cost over the term is £4,999.71. This is towards the low end of total lease costs, as far as the Clerk is aware.

Additional unspecified costs for this approach would include annual vehicle insurance plus fuel. Road tax is included. Council would also save an unspecified amount of mileage expenses.

If this approach is taken, the Clerk suggests we remove the current financial support text (highlighted yellow in the draft policy) in its entirety and the Clerk approaches a leasing company for terms, proposing them to full Council asap.

## **7. RECOMMENDATIONS**

That Full Council:

- (a) Resolves to adopt the draft driving for work policy in its current form, including the ongoing financial support section, OR...
- (b) Resolves to adopt the draft driving for work policy without the ongoing support paragraph, OR...
- (c) Resolves to adopt the draft driving for work policy without the ongoing financial support paragraph but with financial support mechanism 6(b) - one off payment to the value of £50, OR...
- (d) Resolves to adopt the draft driving for work policy without the ongoing financial support paragraph but with financial support mechanism 6(c) – interest free loan of up to £500 per annum. The value of which to be determined by the staff member evidencing via two insurance quotes the difference between standard driving (commuting) insurance and Class 1 business insurance, OR...
- (e) Resolves to adopt the draft driving for work policy without the ongoing financial support paragraph but authorising the Clerk to explore financial support mechanism 6(d) – the Council entering in a lease agreement for a pool vehicle. Clerk will return to Council asap with a lease recommendation specifying actual costs.