



# Can this person be banned?



**Q:** We are a small operator who undertakes a number of third-party contracts for various tour companies. We were recently running a tour with a group of individuals. One of the individuals on the coach was subsequently discovered to be an alcoholic. This caused major problems as the other passengers on the vehicle did not want to sit near this particular individual and there was a situation whereby she was found to be incontinent. What is our position with regard to refusing her access to the vehicle?



Passengers 'worse for wear' on coaches can cause problems



**A:** This is a very difficult situation for the operator and driver. Initially, I would suggest that the operator contacts the tour organiser and raises the concerns he or she has with regard to this individual. I would keep the driver in the loop with regard to the communications as it is the driver who would be dealing with this individual. Once the operator has contacted the tour operator it would be necessary to ascertain exactly what the terms of the contract are that they have with this particular tour operator.

If the individual is causing distress to other passengers and indeed damaging the coach, I would suggest that the individual is removed from the vehicle and refused access. It is for the tour company, as it is with it that the passenger has the contract, to arrange alternative transport or to deal with the matter accordingly. I think it would be appropriate for the tour company in this circumstance to remove the passenger from the list and deal with her accordingly.

## Can my employer make a deduction?



**Q:** My employer says he will deduct sums of money from my wages as I was involved in a collision on a coach and damage was caused to the vehicle. Is this legal and what can I do?



**A:** This is a question that has been raised on a number of occasions by various members. The simple answer is 'no'. The employer is not allowed to make a deduction from wages without consent as this would amount to an illegal deduction. I would suggest the driver, in this situation, contact his HR Manager or Transport Manager to discuss the matter further and find out the reason for the deduction.

## Am I being victimised over complaint?



**Q:** I have been called into a disciplinary hearing with my Transport Manager. This is the third

disciplinary hearing I have been subject to and I feel that I am starting to be victimised.

The circumstances in relation to this matter are that a complaint was made in relation to a coach I was driving on one day. The vehicle was returned to the yard, I cleaned it and took it out the following day. The allegation is that the coach was not cleaned by me and a complaint was made by a fellow driver. I do not understand this as I was driving the vehicle the following day.



**A:** It is important for the driver in these circumstances to deal with the situation at hand before looking at any possible victimisation. I would recommend that the driver attend the disciplinary hearing and explain and provide evidence, where appropriate (the tachographs for each day's driving, showing the vehicle and the dates driven, would be appropriate) and explain the situation to the Transport Manager.

If the driver has the evidence, it would be extremely difficult for the Transport Manager or indeed anyone else to suggest otherwise. Once the matter at hand has been resolved, I think it would be important for the driver to escalate his concerns further up the chain, whether that be to a director of the company or the Operations Director. It is important that the allegations in relation to victimisation are kept factual and I would suggest that the driver stake out the matters he wishes to complain about in writing to the appropriate person and request a meeting to deal with the situation.

### Do I have to cover these tattoos?

**Q:** I have recently had a problem with regard to my current employer as he states a complaint has been made by a passenger who objected to a number of tattoos I have on my forearms. What is my position with regard to this?

**A:** The occurrence of tattoos on an individual has arisen greatly in the last few years. Although I understand the driver's distress at being told to cover his forearms up as a complaint has been made by a passenger. However, tattoos are not every passenger's cup of tea. In the circumstances, I would suggest the driver wear a longer sleeve shirt to cover up the tattoos. If they are of an abusive or inappropriate nature for the workplace, the operator would be entitled to take action or request that they be covered at all times.

### Must there be an H&S policy?

**Q:** I currently work for an operator that has refused to introduce a health & safety policy. The operator does not consider that it is necessary or indeed important for the business. Could you please clarify the situation in relation to this?

**A:** This is a very worrying situation and needs to be addressed immediately. All operators, indeed all businesses, should take their health & safety obligations very seriously. Under the current health & safety law (ie, the Health & Safety at Work Act 1974) there is a legal requirement that an organisation, in this case the operator, must:

- Provide a written health & safety policy (if they employ five or more people);
- Assess risk to employees, customers, partners and other people who can be affected by their activities;
- Arrange for the effective planning, organisation, control, monitoring and review of preventative and protective measures;
- Ensure they have access to competent health & safety advice; and Consultant employees about their risks at work and current preventative and protective measures.

It should be noted that failure to comply with these requirements can have a very serious consequence on both the organisation as well as individuals. The sanctions that are available

including fines, imprisonment and disqualification.

Should a fatality occur because of a breach of the health & safety regulation any fine imposed by the court would start in the region of £100,000, which would represent a substantial impact to any business.

Because of the above, should the company not have a written health & safety policy which contains the rules and procedures and there were to be a reportable incident the level of any penalties would be greatly increased. Indeed it could lead to a situation whereby the company is prosecuted under the Corporate Manslaughter and Corporate Homicide Act 2007. The indications from the relevant authorities with regards to fines for breaches of the Corporate Manslaughter and Corporate Homicide Act 2007 are that fines should start in the region of half a million pounds.

Should the driver have concerns he should approach his transport manager and/or line manager and if these are not taken seriously he should escalate it to the relevant director. Making mention of the potential fines could assist in drawing the director's attention to the problem.



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