

TACKLING MINI-MOTO MISUSE: A GUIDE



Give respect Get respect

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Miniature motorbikes, commonly known as ‘mini-motos’, are becoming an increasingly popular pastime in the UK. The term ‘mini-moto’ and the problems associated with their anti-social use are a relatively new phenomena. Many members of the public are generally unaware of the anti-social behaviour (ASB) that they can cause, the health and safety implications of these bikes and the legislation governing their use. The Department for Transport recently confirmed that mini-motos are classed as ‘motor vehicles’ and therefore must comply with road traffic and vehicle taxation law.

This step-by-step guide is designed for the police and local authorities to meet this growing challenge and offers practical advice on how to take action to stop their misuse.

MINI-MOTOS: THE PROBLEM

Capable of travelling at high speeds – with loud, potentially disruptive engines – mini-motos are anti-social, and dangerous to both the rider and members of the community if not used responsibly and legally.

Mini-motos are frequently ridden on roads and pavements and in other public places such as parks. This is almost always illegal, and, more importantly, such activity is very intimidating and dangerous to pedestrians and residents. The nuisance it causes contributes to fear of crime, and if groups of individuals are riding them together, residents can feel like prisoners in their own homes.

Riding on the road can cause even more danger as drivers of roadworthy vehicles have to contend with illegal bikes ridden by those who have no concern for road safety laws, and which sit so low on the ground that they are barely visible.

These problems are not isolated incidents: complaints received by some police force basic command units have exceeded 4,000 in the last 12 months. In certain areas, more than 40 per cent of calls to the ‘It’s Your Call’ reporting line have been about mini-motos. Serious injuries and fatalities can and have resulted from misusing mini-motos, and many crime and disorder reduction partnerships have identified them as a problem.

SECTION 1:

MINI-MOTOS AND THE LAW

The misuse of these vehicles is dangerous and anti-social. Riding them anywhere but off-road with permission is illegal and should be tackled appropriately.

Where can mini-motos be ridden legally?

On private land? Yes, but with exceptions. Mini-motos can be ridden legally on privately owned land, where permission from the owner has been given, as long as it doesn't cause harassment, alarm or distress, or a statutory nuisance. In most cases this would be land owned by private individuals, such as gardens, and would not include parks and housing estates where permission has not been given. This could also include land owned by private companies or local authorities which is used as a legal site for riding mini-motos. Please see the 'Legal sites' section for further details.

On pavements? No. It is illegal to ride mini-motos and any other vehicles (including pedal cycles) on the pavement, under section 72 of the Highways Act 1835. The only exceptions are invalid carriages which can be ridden on the pavement or the road.

On the road? No. In virtually all cases, it is illegal for mini-motos to be ridden on the road. The Government regards mini-motos to be 'motor vehicles', as defined by section 185 of the Road Traffic Act 1988 (RTA 1988), and therefore would need to meet the mandatory European construction requirements to be ridden on roads. The majority of mini-motos are not manufactured in such a way that allows them to meet these requirements, and would need to be modified significantly to do so. Reported instances of this occurring are incredibly rare, meaning that it is very unlikely that mini-motos can actually be registered for road use. Full details of construction requirements are available on the Department for Transport website at www.dft.gov.uk.

Consequently, for a mini-moto to be legally used on roads, not only would it need to meet construction requirements, but it would also require the following:

- registration with the DVLA;
- road tax; and
- a driver aged **17 or over** (or 16 if the vehicle meets the definition of a moped – see section 108 of the RTA 1988) with:
 - o a suitable safety helmet;
 - o appropriate insurance; and
 - o a driving licence that authorises the use of that vehicle.

SECTION 2: IDENTIFYING AND TACKLING THE PROBLEM

Tools and powers are a critical element of tackling mini-moto-related ASB. However, their impact will be far greater if they are used as part of a larger campaign that seeks to educate and divert, whilst focusing on ASB hotspots with targeted enforcement.

Hotspots

Often, certain areas suffer from particular types of ASB. By collecting incidents of mini-moto misuse into a database, it is possible to identify areas which seem to have the largest problems.

Once the areas have been identified, use a combination of education and enforcement to tackle the problem. You may find that all that is required is the intermittent use of low-level measures such as acceptable behaviour contracts (ABCs) and penalty notices for disorder (PNDs) to have a significant impact. In other cases, the problem may be more ingrained and may form one part of a wide spectrum of ASB that is taking place. In these instances, stronger powers may be appropriate such as anti-social behaviour orders (ASBOs).

Parents and guardians must be encouraged to play a role and take responsibility for their children's behaviour, and, if necessary, they can be coerced to do so through the use of parenting orders.

Do not hesitate to seize mini-motos where appropriate (using the legislation described in later paragraphs), especially if they are being used in a manner that may cause alarm, distress or annoyance. Remember, these vehicles can be dangerous to the users and others around them, and can cause very serious injuries.

Education and engagement

Young people and their parents are often not aware of the legal issues that surround mini-motos. Educating parents and children so that they know where mini-motos can be used legally should have a positive impact on reducing their misuse in public places such as roads and parks.

- **Undertake a leaflet campaign** in areas with a problem, explaining what will and what will not be tolerated, including locations of any legal sites that exist locally. Include information about the safety risks, driving home the message that mini-motos are not toys and can be very dangerous.
- **Get teachers on board** and attend local schools, presenting lessons that express the same messages as those articulated in the leaflets.
- **Run anti-social behaviour awareness days** with schools, and incorporate mini-moto messages as part of the work.
- **Engage with the local motoring community**, who may be keen to work with young people, letting them know how they can get the best out of mini-motos safely and legally.
- **Use diversionary activities** such as directing young people into mechanical and maintenance courses to channel their energy into a legitimate activity.
- **Run a mini-moto proficiency course** to ensure that young people know how to ride them safely and where they can go to do it.
- **Arrange local competitions** with motoring groups to direct people to legal sites.

Any success stories you have should be communicated back to the community, so they know that you are acting on their concerns. This can be done either as part of your leaflet campaign or by working with the local press. Don't miss an opportunity to demonstrate that you have set your stall out and are determined to respond to the demands of the community.

SECTION 2: **IDENTIFYING AND TACKLING THE PROBLEM**

Legal sites

It is always the responsibility of the individual to ensure that they (or their children) use mini-motos legally; there is no specific obligation for local authorities to provide individuals with a facility to do this. The provision of well managed legal sites is an excellent way to tackle mini-moto misuse. Providing a place where mini-motos can be ridden safely and without breaking the law may reduce the motivation to use them on roads, estates, parks and other public places.

The location of the site should balance convenience for users and the concerns of residents. If it is too far from hotspots of activity then it will not be used. Conversely, considerations such as noise should be taken into account when locating it near residential areas. A good idea is to involve MPs, councillors, the local community and motoring clubs early in your decision making process. In all cases, the police and local authorities should be vigilant to ensure that individuals are not riding their mini-motos to and from the site illegally.

Legal sites should be used in conjunction with any enforcement/education campaign that is run. Ensuring that people are aware of legal sites should reduce the number of people misusing mini-motos, and will remove the excuse of ignorance from those who wilfully persist in riding dangerously and illegally.

If you wish to find out more about operating legal sites, the motoring community will be a likely information resource. The Auto Cycle Union (ACU) has produced detailed guidance notes for local authorities and charitable organisations who are looking to run a mini-moto project, which are available by contacting the ACU on **01788 566400** or **dw@acu.org.uk**.

SECTION 3: TAKING ACTION AGAINST THE MISUSE OF MINI-MOTOS – TOOLS AND POWERS AVAILABLE

It is critical to ensure that users are aware of the law and informed so that they understand what is acceptable and what is not, and can remain within the law. However, there will always be a minority who have no regard for the law, their own personal safety, or whether they are acting anti-socially. This is why the protection of the community may sometimes depend on the use of robust enforcement powers.

Seizing vehicles

Seizing vehicles is one way in which the police can take swift action against mini-moto misuse. It not only removes the offending vehicle from the street, but also provides a strong deterrent to owners. There is a range of legislation available that allows their seizure in different situations.

Option 1: Seizing and crushing vehicles from unlicensed drivers

Section 87(1) of the Road Traffic Act 1988 (RTA 1988) makes it an offence for a person to use a motor vehicle of any class on a road unless they hold a driving licence authorising them to use a motor vehicle of that particular class.

Therefore, under section 163 of the RTA 1988, a uniformed police officer may stop a vehicle on a road, who may seize it under section 165A of the RTA 1988 if he has reasonable grounds to believe that it was being ridden in contravention of section 87(1) of the RTA 1988. Therefore, as the vast majority of mini-motos cannot be used on the road, there is not a licence that can authorise their use, and it is usually possible to seize them using this power.

Option 2: Seizing and crushing vehicles from uninsured drivers

Section 143 of the RTA 1988 makes it an offence for a person to use a motor vehicle on a road or public place (including pavements, parks and housing estates) unless they have proper insurance. Again, section 165A of the RTA 1988 makes it possible to seize a vehicle if a police officer has reasonable grounds to believe that it was being ridden in contravention section 143 of the RTA 1988. So, even if driving licence details can be provided which authorise the use of that vehicle, it still may be seized if it is not correctly insured.

Option 3: Seizing and crushing vehicles used in a manner causing alarm, distress or annoyance

If a mini-moto is ridden in contravention of either section 3 (on roads or public places without due care and attention) or section 34 (off-road, e.g. footpaths, bridleways, common land etc.) of the RTA 1988 in a manner that causes alarm, distress or annoyance, it may be seized, after a warning has been given, by a police officer under section 59 of the Police Reform Act 2002 (PRA 2002).

This power can be applied to the misuse of any mechanically propelled vehicle and is therefore not reliant on mini-motos being defined as motor vehicles to be used. Mini-motos can be seized on roads and public places such as pavements, car parks and housing estates. If the perpetrator fails to stop when requested to do so, they may be prosecuted under section 59(6) of the PRA 2002 and are liable to a fine of up to £1,000.

Once a vehicle has been seized, they may be disposed of after being retained for the minimum storage period, or returned after the owner has provided the requisite documentation and paid the appropriate fees. For further details on seizure, retention and disposal of vehicles, please see SI 2005/1606 Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 for **options 1 and 2**, and SI 2002/3049 Police (Retention and Disposal of Motor Vehicles) Regulations 2002 for **option 3**.

Case study – Coventry

Prosecutions: driving with no insurance

Coventry Police operate an off-road motorcycle strategy to deal with this problem. In particular, one of their operational command units specifically prosecuted riders for 'driving with no insurance' and seized their bikes. Using this policy, they have managed to seize and crush more than 140 bikes since the summer of 2005. The success has meant the roll-out of the policy to the other two operational command units in Coventry.

SECTION 3: TAKING ACTION AGAINST THE MISUSE OF MINI-MOTOS – TOOLS AND POWERS AVAILABLE

Prosecution

It should always be remembered that it may be possible to prosecute for the offence, in addition (or as an alternative) to using the seizure powers available. Depending on the offence, a successful prosecution can result in a fine, endorsement of the rider's licence (even though they are not riding vehicles covered by a licence) or, for more serious offences, disqualification or even a jail sentence. The threat of these penalties alongside the seizure of any vehicle should act as a deterrent to many users. When deciding whether to prosecute, the police should give consideration to many factors, including the seriousness of the incident and whether the offence is one of a series, or is in isolation.

Remember, endorsement of a perpetrator's licence should act as a deterrent, even if the perpetrator does not have a licence at the time of the offence (e.g. the rider is under 16). Section 45(1) of the Road Traffic Offenders Act 1988 (RTOA 1988) provides that the order for the endorsement shall take effect once the perpetrator obtains a licence.

Endorsement points on a future licence

Sections 44 and 45 of the RTOA 1988 deal with the endorsement of licences. When a person is convicted for a mini-moto offence the court orders the endorsement of the offender's licence. If the person (for example a child) does not currently hold a licence then any licence that the person may subsequently obtain is still endorsed.

In practice, where a court notifies the DVLA of the endorsement of a licence and no match can be found for the driver on the DVLA records (for example because the offender is a child), a skeleton record is created using the name, address and date of birth of the offender, and the record is marked as being a 'non-licence holder'. When that person subsequently applies for a licence, the details on the application will match to the non-licence holder record, and any 'live' endorsements will be attributed to the licence. 'Live' endorsements are any endorsements which have not expired under section 45 of the RTOA 1988.

Other interventions

Penalty notices for disorder

Penalty notices for disorder (PNDs) under the Criminal Justice and Police Act 2001 are targeted at low-level offending and ASB. PNDs are fines which can be issued for certain offences that would normally need to be tried in court.

A PND of £80 (this will be increased to £100 from 2007) can be issued to anyone aged 16 and above for behaviour likely to cause harassment, alarm or distress (which is an offence under section 5 of the Public Order Act 1986), by uniformed police officers and police community support officers (PCSOs) (who have been designated with this power).

These powers can effectively tackle misuse of mini-motos that causes harassment, alarm or distress. They offer a fast, on-the-spot alternative to prosecution or seizure, and also allow PCSOs to take immediate action rather than rely on police officers.

Noise related anti-social behaviour caused by mini-motos

Mini-motos do not simply cause driving-related ASB. They often have very loud engines. Whether it be caused by driving these vehicles, or simply by people 'revving' their engines on a repeated basis, this can be anti-social and distressing, and is something that local authorities should take action to tackle. Often, noise problems are a result of thoughtlessness rather than malicious intent, and can be resolved by informal discussion between parties rather than resorting to enforcement action. However, there are powers available that can be used when dialogue fails.

Noise abatement notices

If members of the community are experiencing noise that is coming from either premises or a vehicle in the street that is prejudicial to health or a nuisance, this can be a 'statutory nuisance' under section 8 79(1)(g) and 79(1)(ga) of the Environmental Protection Act 1990 (EPA 1990).

SECTION 3:

TAKING ACTION AGAINST THE MISUSE OF MINI-MOTOS – TOOLS AND POWERS AVAILABLE

If a local authority is satisfied that a statutory nuisance does or may occur, and attempts to reason with the perpetrator have failed, a noise abatement notice (NAN) under section 80 of the EPA 1990 should be served on the person responsible (or, in certain circumstances, on the owner or occupier of the property). The abatement notice may specify steps that must be taken by the perpetrator to prevent recurrence of the nuisance.

Failure to comply with a NAN without reasonable excuse is an offence, with the perpetrator liable to a fine of up to £5,000 for nuisance on domestic premises, and with a further fine of up to £500 for each day on which the offence continues after the conviction. The maximum fine for offences committed by industrial, trade and business premises is £20,000. The local authority also has the power to seize and remove any equipment which is causing the noise nuisance.

Case study – Doncaster

Using the noise powers

Doncaster Metropolitan Borough Council have been monitoring the problem of mini-moto nuisance for some time, and during the period 2004/05, they received more than 1,500 complaints regarding motorcycle nuisance. Using the noise mini-moto powers under the Noise Act 1996, they served 640 noise abatement notices, 45 mini-moto were seized by environmental health officers and a further 100 were seized by South Yorkshire Police. Ten people were prosecuted for noise offences.

Other anti-social behaviour powers

Remember, misuse of mini-motos may be part of a person's wider pattern of ASB and this should be considered when deciding what action you take. There are a range of other tools and powers that may be suitable for tackling vehicle-related anti-social behaviour. Anti-social behaviour contracts (ABCs), anti-social behaviour injunctions (ASBIs), and anti-social behaviour orders (ASBOs) are just some of the other measures that can be used to help protect the public from all anti-social behaviour. Parental responsibility must also be encouraged and can be

enforced with the use of parenting contracts and orders. You can find out more information on general ASB powers at www.respect.gov.uk.

PURSUING VEHICLES

Whilst it is anticipated that perpetrators will comply with the requirements of the police in the majority of cases, sometimes perpetrators will, of course, not co-operate with these demands. Because of the vulnerable nature of mini-moto riders and the fact that many of them will be underaged, in general it is not recommended that vehicle pursuit should be attempted as it could be very dangerous. The ACPO Guidelines for the Management of Police Pursuits are available online at www.acpo.police.uk.