

**Date:** 23<sup>rd</sup> October 2020

**Our Reference:** FOIA-2020-126

**RE: Your request for information under the Freedom of Information Act 2000**

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated **13/10/2020** in which you requested:

"Would it be possible to send me the policy/guidance and/or home office guidance that police forces and officers receive about Section 59 Police Reform Act (Anti-social driving)."

**Decision**

When a request for information is made under the FoIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a general obligation to communicate that information to the applicant.

After conducting careful searches for any information relevant to your request, under section 1(1), I can confirm **there is information held**, which is relevant to your request.

Please find attached to the email, disclosure document 1 and 2.

The Personal and Public Safety: Policing the Roads in the Community, guidance document can be found at disclosure document 1.

Disclosure document 2 is comprised of:

- A relevant page from the National Policing Curriculum, Module Specification – Vehicles and Related Offences; and
- The Personal and Public Safety: Vehicles and Related Offences, guidance document.

For clarification, the redactions in disclosure document 2 are not because of an exemption, but due to irrelevancy.

Your rights are provided at the end of this letter.

Yours sincerely,

**Kate Kaufman | Legal Researcher**  
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Under the Freedom of Information Act 2000 you have a right to request an internal review if you are dissatisfied with our handling of your request. Review requests should be made in writing (by email or post) within **40 working days** from the date of our original response. We will aim to respond to your review request within **20 working days**.

### **The Information Commissioner's Office (ICO)**

If, after lodging a review request you are still dissatisfied, you may raise the matter with the ICO. For further information you can visit their website at <https://ico.org.uk/for-the-public/official-information/>. Alternatively, you can contact them by phone or write to them at the following address:

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**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**

**Phone: 0303 123 1113**



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# Personal and Public Safety:

Policing the Roads in the Community

Version 2.3

College of Policing Limited  
Leamington Road  
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## Authorised Professional Practice

These notes are aimed at learners completing their Initial training to meet the learning outcomes specified on the National Policing Curriculum. The primary source of content is the Authorised Professional Practice (APP) and the supporting evidence based research of “what works” in policing.

APP can be found at: <http://www.app.college.police.uk/>

The Roads Policing APP is comprised of the following modules:

- Training
- Disrupting criminality
- Management of incidents
- Police pursuits
- Investigating road deaths
- Partner agencies.

# 1. Introduction

These notes are for Pre-Join, Police Officers and IL4SC Phase 2.

Policing the roads in local communities helps to develop effective communication channels between the police and community members. This leads to the growth of mutual trust and assists in gathering information and intelligence that can help in identifying offenders and therefore reducing crime. This chapter includes information on:

- Common roads-related anti-social behaviour
- How danger can be caused to road users
- The groups of people who are especially vulnerable in the roads environment
- The impact of roads-related offences on the public
- The role of the Roads Policing Family Liaison Officer.

## 1.1 The more prevalent forms of road related anti-social behaviour

There are many forms of behaviour that could be construed by members of the public as anti-social; the roads environment is no exception. Some of the more common forms of anti-social behaviour associated with the roads environment include:

- Misuse of mini-motos (which includes motorised scooters and go-peds). They are small, petrol-driven motorcycles and scooters which can reach speeds of up to 60 miles per hour. Mini-motos cannot be used in public parks, open spaces, or on footpaths, pavements, cycle routes and bridleways or on a footpath between pieces of private land. A mini-moto can be used on the road providing that:
  - It is registered with DVLA and taxed and insured
  - It has a number plate, brake lights, an audible warning instrument (such as a horn) and indicators
  - It has working lights fitted if used at night
  - Its exhaust is not too loud or altered in any way
  - The rider has the correct driving licence - 'L' plates must be displayed if the rider's licence is provisional
  - The rider wears an approved protective helmet.

- Abandonment of vehicles. It is the responsibility of local councils under the Clean Neighbourhoods and Environment Act 2005 to remove abandoned vehicles from their land (including land that forms part of the highway). Abandoning a vehicle on private land is a criminal offence, carrying a maximum fine of £2,500 or three month imprisonment or both.
- Illegal dumping of waste. This is sometimes known as fly-tipping and is dealt with under section 33 of the Environmental Protection Act 1990.

In addition to the above offences, there are other behaviours and practices that can be construed as anti-social behaviour:

- Road rage - while this is not defined in law, road rage can take a number of forms, including:
  - Physical attack (assault - most assaults are dealt with under the Offences Against The Persons Act 1861; common assault is dealt with under section 39 of the Criminal Justice Act 1988)
  - Threatening unlawful violence (affray - Public Order Act 1986)
  - Threatening, abusive or insulting words being used (fear or provocation of violence - Public Order Act 1986)
  - Damage being caused to property (criminal damage - Criminal Damage Act 1971).
- Cruise events and gatherings of young drivers in public areas - these are not defined offences in themselves, but there are specified offences and anti-social related behaviours that can be associated with such gatherings, including:
  - The continual revving of a loud engine
  - Sounding a car horn on a restricted road between 11.30pm and 7am
  - Motor racing on public ways - an offence contrary to section 12 of the Road Traffic Act 1988
  - Careless and inconsiderate driving - contrary to section 3 of the Road Traffic Act 1988 (covered in the “drivers and related offences” chapter).
- Obstruction and illegal parking - whilst also construed as anti-social, there are specific offences created that are described in the chapter on “vehicles and related offences”.

- Illegal off-road driving - section 34 of the Road Traffic Act 1988 prohibits the driving of mechanically propelled vehicles elsewhere than on roads; this means:
  - Common land, moorland or land of any other description, not being land forming part of a road, or
  - Any road being a footpath, bridleway or restricted byway
  - This also includes using a footpath to travel from one area of private land to another.
- Use of electric and motorised skateboards - these can create safety issues for pedestrians when used in public places.
- The use of electrically assisted pedal cycles - this is regulated by section 32 of the Road Traffic Act 1988: one of the main points of the section is that they cannot be used by a person who is under fourteen.

### 1.1.1 Causing danger to road-users

There are many ways to cause danger to other road users, whether that user is on foot or in another vehicle. Section 22A of the Road Traffic Act 1988 defines the offence of “causing danger to other road users” and describes the actions that can be construed as dangerous: as with the majority of criminal acts, these actions become offences when they are carried out intentionally and without lawful authority or reasonable cause.

The dangerous actions described in the Act include those which:

- Cause anything to be on or over a road
- Interfere with a motor vehicle, trailer or cycle
- Interfere (directly or indirectly) with traffic equipment, in such circumstances that it would be obvious to a reasonable person that to do so would be dangerous.

In this section of the Act it is important to understand what is meant by two key terms:

- ‘Dangerous’ refers to danger either of injury to any person while on or near a road, or of serious damage to property on or near a road.
- ‘Traffic equipment’ refers to anything lawfully placed on or near a road by a highway authority; a traffic sign lawfully placed on or near a road by a person other than a highway authority or any fence, barrier or light lawfully placed on or near a road.

N.B. For the purposes of this offence, footpaths and bridleways are not included.

### 1.1.2 Tampering with motor vehicles

A common form of anti-social behaviour associated with the roads is that of tampering with vehicles. Section 25 of the Road Traffic Act 1988 creates this offence that can be committed while a motor vehicle is on a road or on a parking place provided by a local authority. The offence is committed when a person (without lawful authority or reasonable cause) gets on to a vehicle or tampers with the brake or other part of its mechanism.

### 1.1.3 Holding or getting on to vehicle in order to be towed or carried

Section 26 of the Road Traffic Act 1988 creates the above offence. A person commits an offence if he takes or retains hold of, or gets on to, a motor vehicle or trailer while in motion on a road.

Again, to be an offence the action must be carried out without lawful authority or reasonable cause.

An example of this offence would be where a cyclist takes hold of a lorry in a town and allows the lorry to pull him along the road, to save peddling.

## 1.2 Powers to deal with roads-related anti-social behaviour

The more prevalent forms of road related anti-social behaviour can be dealt with under the Police Reform Act 2002, which creates the offence of “Vehicles used in a manner causing alarm, distress or annoyance”.

Section 59 of the Police Reform Act 2002 states the following:

1. Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which:
  - a. contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving), and
  - b. is causing, or is likely to cause, alarm, distress or annoyance to members of the public, he shall have the powers set out in subsection (3).
2. A constable in uniform shall also have the powers set out in subsection (3) where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner falling within subsection (1).
3. Those powers are:

- a. power, if the motor vehicle is moving, to order the person driving it to stop the vehicle
  - b. power to seize and remove the motor vehicle
  - c. power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be
  - d. power to use reasonable force, if necessary, in the exercise of any power conferred by any of paragraphs to (a) to (c).
4. A constable shall not seize a motor vehicle in the exercise of the powers conferred on him by this section unless:
- a. he has warned the person appearing to him to be the person whose use falls within subsection (1) that he will seize it, if that use continues or is repeated; and
  - b. it appears to him that the use has continued or been repeated after the warning.
5. Subsection (4) does not require a warning to be given by a constable on any occasion on which he would otherwise have the power to seize a motor vehicle under this section if:
- a. the circumstances make it impracticable for him to give the warning
  - b. the constable has already on that occasion given a warning under that subsection in respect of any use of that motor vehicle or of another motor vehicle by that person or any other person
  - c. the constable has reasonable grounds for believing that such a warning has been given on that occasion otherwise than by him; or
  - d. the constable has reasonable grounds for believing that the person whose use of that motor vehicle on that occasion would justify the seizure is a person to whom a warning under that subsection has been given (whether or not by that constable or in respect the same vehicle or the same or a similar use) on a previous occasion in the previous twelve months.

## 1.3 Groups who are especially vulnerable in the roads environment

### 1.3.1 Personal injury accidents statistics on public roads in Great Britain

“Reported Road Casualties in Great Britain: Quarterly Provisional Estimates” is published by the Department of Transport and provides estimates of personal injury road accidents and

casualties. The following figures, released on 6 February 2014, cover the year ending September 2013 and include accidents on public roads (including footways) in Great Britain, which became known to the police within 30 days.

#### **A summary of the key findings from the Quarterly Provisional Estimates Q3 2013:**

- For reported road accidents in the year ending September 2013: 1,730 people were killed, a 2 per cent drop from 1,761 in the year ending September 2012. The number of killed or seriously injured casualties fell to 23,380, a 6 per cent decrease compared with the previous year.
- For the year ending September 2013 there were 184,010 reported road casualties of all severities, 7 per cent fewer than the 197,700 for the year ending September 2012.
- Total reported child casualties of all severities fell by 11 per cent to 15,730 for the year ending September 2013 compared with the previous year, with those killed or seriously injured down 15 per cent to 1,990.
- Between July and September 2013 (the latest available quarter), 470 people were killed in reported road accidents, unchanged from the same period for 2012. Serious and slightly injured casualties fell by 3 and 4 per cent respectively. These figures resulted in an overall decrease in casualties of 3 per cent.

### **1.3.2 Factors contributing to road traffic accidents**

- Inappropriate (including excessive) speed accounts for 13% of collisions in which someone is injured and 24% of collisions which result in a death.
- Approximately 66% of all crashes in which people are killed or injured happen on roads with a speed limit of 30 mph or less. At 35 mph a driver is twice as likely to kill someone as they are at 30 mph. At 30 mph vehicles are travelling at 13.41m (44 feet or about 3 car lengths) per second: this is about the same time it takes someone to blink. In good conditions the difference in stopping distance between 30 mph and 35 mph is an extra 6.4m (21 feet or about 2 car lengths); about half a blink.
- Pedestrians are more at risk of being killed when they are hit by cars that are speeding excessively. The risk increases slowly until around 30 mph; it then increases rapidly, so that a pedestrian who is hit by a car travelling at 30-40 mph is between 3.5 and 5.5 times more likely to be killed than if hit by a car travelling at below 30 mph.

Police officers should be aware of the impact that speeding vehicles can have. This is especially important in areas inhabited or used by those groups of people who may be more vulnerable when in the vicinity of the roads environment. These groups include:

- Older people who may have more difficulty with their perception of the speed of traffic and who may have impaired mobility, meaning that it takes longer for them to cross the road. Older people are also more at risk of suffering fatal injuries than other age groups.
- Young children have not yet developed the ability to judge the speed of traffic. They are also likely to be easily distracted by things like ice-cream vans and footballs rolling into the road.
- People with disabilities:
  - Visually-impaired pedestrians and cyclists
  - Hearing-impaired pedestrians and cyclists
  - People with reduced mobility
  - Wheelchair users.

Cyclists and motor-cyclists are both vulnerable, due to their vehicles being smaller than most other road users, and therefore being more difficult to see; this can be exacerbated by bad weather conditions and different times of day.

- Individuals experiencing mental ill-health or severe emotional distress may find themselves in vulnerable situations on the roads. If people in an emotional state are presenting a danger to themselves, police officers, emergency service personnel and other members of public the following actions should be considered, dependent upon the circumstances and the seriousness of the incident:
  - Approaching the person with extreme caution and maintaining a safe distance from them
  - Initiating and maintaining a dialogue with the individual until further support arrives; utilising local advice re the types of things to say and topics to avoid
  - If the person is on a bridge over a road, extra ambulances may be required, so that medical assistance is available both on the bridge and the carriageway below
  - Calling in the assistance of trained negotiators.

- The vulnerability of people can be exacerbated through a combination of location and the events taking place, for example at road junctions, bus stops, schools and playgrounds. The arrival or proximity of ice cream or burger vans etc. can also have an effect.

## 1.4 Crossings and related offences

There are a number of offences that relate to pedestrian crossings; these are dealt with by section 25 (5) of the Road Traffic Regulation Act 1984, which simply states that “A person who contravenes any regulations made under this section shall be guilty of an offence”.

The Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 contain regulations that when contravened, create the above offence. These are:

- Regulation 18 - Prohibition against the stopping of vehicles on crossings
- Regulation 19 - Pedestrians not to delay on crossings
- Regulation 20 - Prohibition against the stopping of vehicles in controlled areas
  - There are exceptions to this regulation that are contained within regulations 21 and 22
- Regulation 23 - Prohibition against vehicles proceeding across Pelican or Puffin crossings
- Regulation 24 - Prohibition against vehicles overtaking at crossings
- Regulation 25 - Precedence of pedestrians over vehicles at Zebra crossings
- Regulation 26 - Precedence of pedestrians over vehicles at Pelican crossings.

School crossing patrols do a vital job in seeing children safely across the road; as stated above, children are one of the most vulnerable groups using the road and can often need assistance in doing so safely.

Patrols not only protect children from the danger of traffic, they also pose a visible deterrent to potential offenders (including non-road offences): in addition, they can be useful sources of community information that can be passed onto police officers.

Sections 26 and 28 of the Road Traffic Regulation Act 1984 provide the legislation that empowers school crossing patrols to stop and control traffic for children to cross at a school crossing. This legislation has since been amended by the Transport Act 2000; this now

provides for school crossing patrollers to stop and control traffic for **any** pedestrian who wish to cross the road during the patroller's duty times.

School crossing patrollers wear a distinctive, highly visible uniform, the standards for which are regulated by section 28 of the Road Traffic Regulation Act 1984. This has undergone some change and a new standard will come into effect on 1 April 2015.

## 1.5 The impact of roads-related offences on the public

Some offences committed in the roads environment are directly linked to an incident occurring (e.g. driving without due care and attention). Where a collision has taken place and has resulted in the death or serious injury of someone (including the suspect), the impact can potentially be felt by a large number of people, including victims and their families, witnesses and indeed suspects and their families.

Every day in the UK families learn the news that their loved one will never come home again because they have been killed on the road. In addition, there are families that have to come to terms with a family member suffering a serious injury, many of these being life-changing.

Death and serious injury caused by collisions on the road can cause considerable financial hardship to victims and their families in various form, for example:

- Reduced/lost wages due to a victim not being able to work.
- Reduced/lost wages for family members who need to take time off work to care for victims.

The economy of the country is also affected due to the costs of police and other emergency services involvement in the investigation of collisions and the potential medical treatment of people who are injured. The table below, sourced from the Department for Transport 2011 Report: Reported Road Casualties in Great Britain, illustrates this.

Casualty related costs (in millions)				Accident related costs (in millions)			
Accident severity	Lost output	Medical and ambulance	Human costs	Police costs	Insurance	Damage to property	Total
Fatal	1, 116	10	2, 195	32	1	21	3,374
Serious	521	313	3,548	43	4	108	4,537

Casualty related costs (in millions)				Accident related costs (in millions)			
Accident severity	Lost output	Medical and ambulance	Human costs	Police costs	Insurance	Damage to property	Total
Slight	404	171	1, 924	69	15	394	2,977
All injuries	2, 041	494	7, 667	144	20	523	10, 889
Damage only	0	0	0	79	128	4, 461	4, 668
All accidents	2, 041	494	7, 667	223	147	4, 984	15, 557

## 1.6 The role of the Roads Policing Family Liaison Officer

In the unfortunate event that a person is killed on the road, a Family Liaison Officer (FLO) is often appointed whose main purpose is to act as a link between the investigation team and the family of the deceased. In the event of multiple deaths, the FLO may work in a team managed by a Family Liaison Coordinator (FLC). In broad terms, the role of a FLO revolves around ensuring families are treated appropriately, professionally and with respect for their needs, whilst maintaining close liaison with the Senior Investigating Officer (SIO). The duties of the FLO include:

- Identification of the deceased
- Notification to family/next of kin
- Provision of information in a timely manner
- Where appropriate, obtaining statements from family
- Return of property/arranging disposal of property
- Provision of information regarding support services
- Facilitating, where appropriate, any scene visits (taking into account safety issues etc.).

A FLO is not there to counsel a victim's family, even if they are qualified to do so. However, they are able to provide information about the sources of support a family can seek; some of these are described below.

## 1.7 Agencies/groups providing support to those affected by roads-related incidents

### 1.7.1 Independent Advisory Groups

Over the last eleven years Independent Advisory Groups (IAG) have developed nationally within both police forces and police authorities to assist the police service in understanding the role and impact the service has, especially within diverse communities. There are also IAGs that relate to roads policing; these fall into two sub-groups:

- Those that provide support to those affected by road incidents
- Those that campaign in relation to road safety.

IAG members come from the public and are free to provide constructive feedback to the police from a community perspective.

Furthermore, the groups described below are a useful and invaluable source of support and information for those affected by injury and death, both public and police officers.

**Brake** - the charity says that every 30 seconds someone, somewhere is killed in a road crash. Brake campaigns to stop carnage on the roads and supports victims. It is funded by donations and grants. They use paid workers and volunteers to support bereaved and seriously injured people in their homes and over the phone. They provide emotional support and practical advice and advocacy. They also train professionals including the police and nurses to work with families bereaved and injured on the road.

**RoadPeace** - this is a national charity for road crash victims and is an independently funded membership organisation. Membership is open both to those who have been bereaved or injured in road crashes and also those who are concerned about road danger. The organisation is a member of the European Federation of Road Crash Victims (FEVR) and has a mutual assistance agreement with partner organisations in other countries. RoadPeace are also able to assist victims speaking French, Spanish, German, Polish, Hindi and Urdu.

**Support and Care After Road Death and Injury (SCARD)** - an organisation set up to help relieve distress amongst people who have lost a loved one, been injured or affected by drunk or reckless driving. They provide emotional and practical support through a telephone helpline, support groups, personal support system and offer free counselling at their offices. SCARD also works closely with their sister charity CADD (Campaign against Drink Driving) to build awareness of the dangers on our roads and campaign for changes to the current legislations relating to incidents.

**The Child Death Helpline** - provides a freephone service to anyone affected by the death of a child of any age. Callers to the Helpline might be parents, grandparents, siblings, other family members, friends or involved professionals. They offer a confidential, safe environment within which a caller can talk openly about the child's life and death. Callers are given the opportunity to freely express their worries and emotions. They provide support not only at times of crisis but also for ongoing needs of callers over their lifetime.

**Trauma Aftercare Trust (Tact)** - helps people suffering from post-traumatic stress, which can result from a wide variety of incidents and disasters, from a car crash to warfare. The trust aims to help sufferers find the appropriate treatment for their symptoms: many of them need psychiatric help and Tact on occasion helps by paying for the treatment.

**Victim Support** - is a national charity that gives free and confidential help to victims of crime, witnesses, their family, friends and anyone else affected across England and Wales. They also speak out as a national voice for victims and witnesses and campaign for change.

**Samaritans** - provide confidential emotional support, 24 hours a day for people who are experiencing feelings of distress or despair, including those that may lead to suicide; people don't have to be suicidal to call. Samaritans are there for those who are worried about something, feel upset or confused, or just want to talk to someone.

**Cruse Bereavement Care** - provides support for people after the death of someone close. Face-to-face and group support is delivered by trained bereavement support volunteers across the UK. They also offer information, publications, and support for children.

**The Compassionate Friends (TCF)** - a charitable organisation of bereaved parents, siblings and grandparents dedicated to the support and care of other bereaved parents, siblings and grandparents who have suffered the death of a child/children. They provide support both directly to bereaved families and indirectly by fostering understanding and good practice amongst professionals concerned with child death and by increasing public awareness.

**The National Association of Bereavement Services** - the national coordinating body for independent bereavement services. A membership organisation which promotes networking, training and standard of care together with an awareness of bereavement issues.

## 1.8 Revision Questions

- List four offences that can be construed as being roads-related anti-social behaviour.
- What are the three actions described as dangerous in Section 22A of the Road Traffic Act 1988?
- Which groups of people are considered more vulnerable when in the vicinity of the roads environment, and why?
- What are the main duties of a Roads Policing Family Liaison Officer (FLO)?

## 2. Key Legislation

It is essential that police officers have knowledge and understanding of the following key pieces of legislation applicable to the subjects described above:

- Section 3, 12, 22, 25, 26, 32, 34 of the Road Traffic Act 1988
- Section 33 of the Environmental Protection Act 1990
- Offences Against The Persons Act 1861
- Section 39 of the Criminal Justice Act 1988
- Section 3 and 4 of the Public Order Act 1986
- Section 1 of the Criminal Damage Act 1971
- Section 59 of the Police Reform Act 2002
- Section 25, 26, 28 of the Road Traffic Regulation Act 1984
- Regulation 18-26 of the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997



# National Policing Curriculum Module Specification

## Module Title:

Vehicles and Related Offences

## Programme Title:

Roads Policing and Police Driving

IPLDP, IL4SC and Pre-Join

Curriculum Code: ENPSX403

## 1. Introduction

### Module Overview:

This module develops learners to be able to explain offences relating to vehicle registration, insurance, test certificates and Hackney carriages. It will also cover the more common offences relating to construction and use and the placement of vehicles. Also, learners will be able to explain the legislation and procedures used for stopping, seizing and recovering vehicles.

### Target Audience:

#### Required:

All officers and staff involved in policing the roads

#### Optional:

None

**12. Outline the general considerations to be taken into account when stopping a vehicle on a road**

- 12.1. The arm and hand signals that should be used when stopping a vehicle
- 12.2. Minimising risk of obstruction by removal of vehicle from carriageway
- 12.3. Conducting dynamic risk assessments
- 12.4. Additional considerations where the vehicle is suspected of being involved in terrorism or believed to be carrying firearms, drugs or vulnerable people

[REDACTED]

**14. Explain the powers and responsibilities of the police to seize or recover a vehicle on a road**

[REDACTED]

- 14.3. Section 59 of the Police Reform Act 2002 allows the police to seize motor vehicles which are being driven inconsiderately or carelessly on a road or other public place

[REDACTED]

## 4. Learning Resources Available

Trainer Resources	No
Learner Resources	Yes



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# Personal and Public Safety:

Vehicles and Related Offences

Version 2.4

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## Authorised Professional Practice

These notes are aimed at learners completing their Initial training to meet the learning outcomes specified on the National Policing Curriculum. The primary source of content is the Authorised Professional Practice (APP) and the supporting evidence based research of “what works” in policing.

APP can be found at: <http://www.app.college.police.uk/>

# 1. Vehicles and Related Offences

These notes are for Pre-Join, Police Officers and IL4SC Phase 2.

## 1.1 Introduction

Many offences are committed on the UK's roads on a daily basis. Some offences are committed by a driver not adhering to the required standards set by law and other guidance. Some offences are committed because a vehicle does not conform to legal requirements. This chapter deals with the more common of those vehicle-related offences and the methods that can be employed to deal with them. Information is included on:

- Vehicle registration and licensing requirements
- Vehicle insurance requirements
- Identifying vehicles
- Vehicle test certificates
- Hackney carriages and private hire vehicles
- Construction and Use Regulations
- Offences in relation to placement of vehicles
- Powers to stop a vehicle
- General considerations when stopping a vehicle
- Vehicles that fail to stop
- Powers to seize or recover a vehicle.

As previously, the information contained in this section functions as a summary of relevant legislation and regulations, and should therefore be retained as an aide-memoire.

## 1.2 Vehicle registration and licensing requirements

There is a difference between the owner and keeper of a vehicle; it is important to differentiate between these two terms for reasons including responsibility for the payment of fines etc.

A registration certificate (V5C) is not proof of ownership: the registered keeper should be the person who is actually using/keeping the vehicle and is responsible for the vehicle in so far as official communications from the police/DVLA etc. are concerned.

The keeper of the vehicle may also be the owner, but not always. The owner of the vehicle is the person who has paid for it (or is paying for it) or was given the vehicle as a gift.

The difference between the keeper and owner can be seen in the following examples:

A car is owned by a company. But the car is used on a day-to-day basis by an employee; the employee's name should be on the V5C as the registered keeper.

A person buys a vehicle from a dealer and pays for it by means of a hire purchase agreement with a finance company. Although the buyer will be registered as the keeper, the hire purchase company owns the vehicle until all payments have been made.

A police officer is entitled to ask a driver (or keeper) to produce the V5C for a vehicle (at any reasonable time) so that the certificate can be inspected; failure to produce this certificate is an offence contrary to regulation 12 of the Road Vehicles (Registration and Licensing) Regulations 2002.

### 1.3 Notification of change of name or address (registered keeper)

If the registered keeper of a vehicle changes his name or his address, he must notify the new name or address to DVLA using the relevant part of the V5C. Where the V5C has been lost, stolen or destroyed, an application for a new V5C should be made.

One of the more common situations where DVLA are not notified of change of details is when the criminal fraternity are involved: there is a growing correlation between those engaged in crime and a desire on their part not to have any documentary connection between them and a vehicle. Many hide under the guise of being a motor trader and/or having/using trade insurance to avoid such a recorded connection being made.

There is also a widespread misconception that traders do not need to register a vehicle (notify DVLA of change of address or name). A trader must inform DVLA immediately when they use, cause or permit the use of a vehicle on a road otherwise than under a Trade Licence (covered later) or, otherwise, 30 days after acquisition.

## 1.4 Vehicle Excise Duty (VED)

Vehicle Excise Duty (VED) is an annual tax on the use of road vehicles, frequently referred to as “car tax”, although it applies equally to vans, lorries and motorcycles. Unless subject to an exemption (see below), it is an offence for a person to use or keep a motor vehicle on a public road (in England and Wales and Northern Ireland this means a road which is repaired at public expense) in the UK for which VED has not been paid.

Up until 30 September 2014 DVLA issued a paper “tax disc”, displayed on the vehicle, to show that VED had been paid: from 1 October 2014, that system ceased to be in effect. The display of a tax disc made it easy for police officers and others involved with traffic enforcement, to see if a car had valid VED: this is now done electronically, e.g. ANPR and via PNC.

### 1.4.1 Exemptions from VED

An exempt vehicle is a vehicle for which vehicle excise duty is not chargeable i.e. no fee is payable.

There are a number of exemptions from paying VED including:

- Vehicles used by a disabled person and disabled passenger vehicles (vehicles apart from ambulances which are used by organisations providing transport for the disabled).
- Mobility scooters, powered wheel chairs and invalid carriages: these must have a maximum speed of 8mph on the road and be fitted with a device limiting them to 4mph on footways.
- Historic vehicles: vehicle tax is not payable on vehicles made before 1 January 1974.
- Electric vehicles: the electricity must come from an external source or an electric storage battery not connected to any source of power when the vehicle is moving.
- Vehicles with CO<sub>2</sub> emissions up to 130g/km (at first registration only) and CO<sub>2</sub> emissions up to 100g/km (for subsequent licensing).

- Mowing machines: the mower must be designed, constructed and used just for cutting grass. It does not include tractors used to tow gang mowers.
- Steam vehicles: vehicle tax is not payable on any steam-powered vehicle.
- Vehicles used just for agriculture, horticulture and forestry: this includes tractors, agricultural engines and light agricultural vehicles used off-road.

### 1.4.2 VED offences

Section 29 (1) of the Vehicle Excise and Registration Act 1994 makes it an offence for a person to use or keep on a public road a vehicle (which is not exempt) for which VED has not been paid.

Section 44 of the Act deals provides offences where a person forges or fraudulently uses, alters, lends or allows to be used by another person, a:

- Trade licence
- Registration mark or registration document
- Trade plate (including a replacement trade plate).

### 1.4.3 Registration requirements for foreign registered vehicles

European Union (EU) vehicles which are circulating temporarily within or between community Member States are allowed under EC Directive 83/182 to be used on public roads without the need to register or pay duties in the host country. These provisions limit visits to six months in a twelve-month period and the vehicle must comply with the registration and licensing requirements of its home country. To qualify for this exemption, the visitor must have their normal residence outside the host country.

If at any time a vehicle displaying foreign registration plates is stopped by the police, the keeper is responsible for demonstrating that they are eligible to use the vehicle in the UK without registering and licensing it in this country.

Any vehicle used in Great Britain for more than six months in any twelve must be registered and licensed with the DVLA. In addition, where the keeper of the vehicle becomes resident in Great Britain, the vehicle must also be immediately registered and licensed with the DVLA.

Please note that only police forces with the Driver and Vehicle Licensing Agency's (DVLA) devolved powers are able to take direct enforcement action on foreign registered vehicles (FRV).

If an FRV is sighted a CLE 2/9 can be completed and returned to Workflow Team D12 DVLA Swansea SA99 1AH.

#### 1.4.4 The role of the DVLA in the enforcement of excise offences

The DVLA maintains a register of vehicles and their associated keepers. This register is able to show which vehicles are untaxed and allows enforcement action to be taken from the record, as well as 'on-road' through wheel-clamping, impounding and disposal. Enforcement action from the DVLA record takes the form of reminder letters and penalties through to court prosecution.

Enforcement is carried out on behalf of the DVLA by their national wheel-clamping contractor (currently NSL). This service covers all of the UK, including NI police forces and local authorities with devolved DVLA powers can also take enforcement action against untaxed vehicles.

#### 1.4.5 Method of reporting

When reporting a vehicle licence offence, there are two types of forms:

- A CLE2/6 must be completed when reporting a UK registered vehicle for a VED offence.
- A CLE2/9 must be used when reporting a foreign vehicle for a VED offence.

The forms will be held in police stations; guidance on how to complete them is included on the form.

### 1.5 Statutory Off-Road Notification (SORN) and related offence

A Statutory Off-Road Notification (SORN) can be made by a vehicle owner/keeper when the vehicle is not kept (permanently or temporarily) or used on the public road, i.e. is kept in a garage, or on a driveway or private land.

Schedule 4 of the Road Vehicles (Registration and Licensing) Regulations 2002 provides the guidance relating to making a SORN. Once a SORN is made it will have effect indefinitely, until such time as a vehicle licence or nil licence is taken out for that vehicle or until the DVLA is notified that it has been sold, transferred, scrapped or exported.

A SORN is not transferable: this means that when an unlicensed vehicle changes hands (owners) and the new vehicle keeper wishes to keep that vehicle unlicensed and off the public road, he/she will have to make a new SORN.

There are different rules applying to motor traders. Traders do not need to make a SORN on a vehicle if **all** the following apply:

- The vehicle is only temporarily (specified as 30 days) in their possession, i.e. until they sell it. The vehicle must also be kept at their business premises.
- The vehicle is being kept off the road (except to and from a licensed station for a pre-arranged MOT, vehicle identity check, or weight or emissions test).
- The registered keeper has notified DVLA that the vehicle has been sold or transferred to the motor trader.

For the purposes of a SORN, a motor trader means a:

- Motor dealer.
- Motor auctioneer.
- Vehicle dismantler.
- Vehicle insurer looking after a vehicle while a claim is being settled.
- Finance company licensed to temporarily hold a vehicle following an order for repossession.

Where it is necessary, a police officer may ask for information regarding the identity of the driver of a vehicle or someone who has used the vehicle. The requirement to supply that information is provided by section 46 of the Vehicle Excise and Registration Act 1994.

### **1.5.1 Offence committed**

A person using a vehicle otherwise in accordance with the rules described above, commits the offence contrary to section 29 (1) of the Vehicle Excise and Registration Act 1994.

## **1.6 Identifying vehicles**

Vehicles can be visibly identified by two principal means: a registration mark/vehicle registration number (VRN) and a Vehicle Identification Number (VIN).

## 1.6.1 Vehicle registration number (VRN)

Vehicle registration numbers (VRN), also known as registration marks must be displayed on all vehicles as defined at section 23 (1) of the Vehicle Excise and Registration Act 1994.

The Road Vehicles (Display of Registration Marks) Regulations 2001 specify the font, colouring and character size that number plates must comply with. They also identify the British Standard (BS AU 145d) that number plates must conform to.

All vehicles manufactured and registered since 1 January 1973 must display a number plate (according to type of vehicle) made of a reflective material which must be white at the front and yellow at the rear with black letters and numbers. There are specific requirements for the size and spacing of the characters that can be obtained from the DVLA.

It is an offence to alter, rearrange or misrepresent letters or numbers in order to form names or words or in such a way that makes it difficult to read the registration number. For example, NR51 TPW must not be displayed as NR5 1TPW or NR 51TPW.

There are specific rules for the VRN on motorcycles. If the motorcycle was registered on or after 1 September 2001 there is only a requirement for a number plate to be displayed on the rear. If the motorcycle was registered before 1 September 2001 a number plate can also be displayed on the front, but this is not compulsory.

A vehicle registration number contains information that is easily identifiable to officers: it includes the year of first registration and where it was first registered.

Prior to 2001, registration numbers looked like this:

R123PCV

The information contained in that example is:

- R - year of registration; in this case, 1997
- 123 - unique number
- PCV - where registered; in this case, Cornwall.

Since 2001 the appearance has changed; however the information is the same, as shown below:

AA05XHY

The information contained here is:

- AA - area first registered; in this case, Anglia
- 05 - the year of registration
- XHY - unique identifier.

The full list of identifiers can be accessed on the DVLA website.

Regulation 16 of the Road Vehicles (Display of Registration Marks) Regulations 2001, allows for the optional display of national flags and emblems on number plates, as follows:

The Union Flag, Cross of St George, Scottish Saltire or the Red Dragon of Wales with the accompanying identifiers, i.e. Great Britain or GB, United Kingdom or UK, England, ENGLAND, Eng or ENG, Scotland, SCOTLAND, Sco or SCO, Cymru, CYMRU, CYM or Cym, WALES or Wales.

The display of any other flag or symbol is not allowed.

## 1.6.2 Offences relating to registration marks

There are two main offences relating to registration marks, both detailed by the Vehicle Excise and Registration Act 1994:

Fixing of registration plates: section 42 states:

1. If a registration mark is not fixed on a vehicle as required by virtue of section 23, the relevant person is guilty of an offence.

Regarding registration marks not being easily distinguishable: section 43 states:

1. If a registration mark fixed on a vehicle as required by virtue of section 23 is in any way:
  - a. obscured, or
  - b. rendered, or allowed to become, not easily distinguishable,
 the relevant person is guilty of an offence.

In addition, Regulation 19 of the Road Vehicles (Display of Registration Marks) Regulations 2001 states:

1. For the purposes of section 59(1) of the Act (regulations: offences), the person responsible for complying with these Regulations is the person driving the vehicle or, where it is not being driven, the person keeping it.

### 1.6.3 Vehicle identification numbers (VIN)

All vehicles registered in the UK must have a unique vehicle identification number (VIN): this is usually found stamped onto the chassis of the vehicle, but is sometimes also on a plate on the dashboard which is visible through the windscreen (usually the nearside).

The relationship between the registration mark and the VIN is especially relevant where a registration mark may be changed or the vehicle may change owner during any investigation.

### 1.6.4 Trade plates

Trade (licence) plates are used by those in the motor industry, specifically motor traders and vehicle testers. The plates are constructed in a similar way to normal registration plates, but with red letters and numbers on a white background.

Trade plates are only to be used when a vehicle is in the temporary possession of the trader or tester holding the licence, and they are using it in the course of their business. Traders can use plates on occasions including demonstrating or delivering a vehicle to a customer, while vehicle testers use them while testing a vehicle on a public road.

There is no automatic right to the issue of a trade licence and only those that can fully comply with the specified criteria will be eligible to become a trade licence holder. To be eligible to apply for a trade licence they must either be:

- A motor trader, defined as:
  - A manufacturer or repairer of, or dealer in, mechanically propelled vehicles
  - A dealer in vehicles, if they carry on a business consisting wholly or mainly of collecting or delivering mechanically propelled vehicles and not including any other activities except those of a manufacturer or repairer of or dealer in such vehicles. This includes hire and leasing companies and also finance/HP companies.
- Vehicle testers, defined as:
  - A person other than a motor trader who regularly in the course of their business engages in the testing on roads of mechanically propelled vehicles belonging to other people.

## 1.7 Stopping vehicles

### 1.7.1 Instances when a vehicle can be stopped

There are various instances why a police officer would want/need to stop a vehicle. These include:

- When either the vehicle or its occupants are suspected of being involved in criminal activity
- To carry out a breath test where there is reasonable suspicion that the driver has consumed alcohol or other drugs
- When a fault is suspected with the vehicle.

Section 163 of the Road Traffic Act 1988 states that a person driving a mechanically propelled vehicle on a road must stop the vehicle on being required to do so by a constable in uniform or a traffic officer. This section allows for the random stopping of vehicles, when an officer can use the powers vested in them by the following sections of the Road Traffic Act 1988 to require certain information to be divulged:

- 164 - Power of constables to require production of driving licence and in certain cases statement of date of birth
- 165 - Power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates.

In addition to the above, power to stop a vehicle is also provided by section 4 of the Police and Criminal Evidence Act 1984 in relation to finding out if the vehicle is carrying a person:

- Who has committed an offence other than a road traffic offence or a vehicle excise offence
- Who is a witness to such an offence
- Who is intending to commit such an offence
- Who is unlawfully at large.

## 1.7.2 What to consider when stopping a vehicle on a road

Once the decision has been made to stop a vehicle on the road, a number of things need to be considered, all of which should be underpinned by a dynamic risk assessment. The main factors to think about and act on are:

- Using the correct arm and hand signals to stop the vehicle
- Minimising the risk of the vehicle obstructing other traffic and road users; consider removal from the carriageway.

There are additional considerations where the vehicle is suspected of being involved in terrorism or believed to be carrying firearms, drugs or vulnerable people: specialist advice should be sought in these situations.

## 1.7.3 When a driver or rider fails to stop when required to do so

There are occasions when drivers/riders do not stop when requested to do so. Failing to stop is an offence under section 163(3) of the Road Traffic Act 1988. Also to be considered are the occasions when drivers/riders fail to stop when requested and subsequently enter a house or other premises. In these cases, constables have a power under section 17(1) (c) of the Police and Criminal Evidence Act 1984, to enter the premises to arrest the person.

# 1.8 Powers to seize or recover a vehicle

## 1.8.1 The powers available to seize or recover a vehicle on a road

Vehicle can be seized for a number of reasons, from having no insurance to being driven carelessly on the road or without a valid driving licence. The power to seize and recover vehicles is derived from a range of legislation.

The most commonly used (and most useful to police officers) is detailed in section 99 of the Road Traffic Regulation Act 1984; this defines the power to remove vehicles that are illegally, obstructively or dangerously parked, or abandoned or broken down. This power is widely used to clear collisions and to resolve issues of abandonment and obstruction or in an unlawful position. When removing such vehicles, it is worthy of note that the owner/keeper is liable for any charges levied.

In addition to the above and depending on the circumstances, the other commonly used legislation that can facilitate the seizure and recovery of vehicles is:

- Section 59 of the Police Reform Act 2002: this legislation provides the police with the power to seize motor vehicles which are being driven inconsiderately or carelessly on a road or other public place
- Section 64 of the Criminal Justice and Public Order Act 1994: this power allows the police to enter land and seize vehicles in relation to rave events.

### 1.8.2 Offences relating to unnecessary or wilful obstruction and leaving a vehicle in a dangerous position

Problems are caused by vehicles that have been left in dangerous positions on or near a road and vehicles that cause an obstruction to other road users. These issues can cause inconvenience and danger, but are usually dealt with easily using the legislation provided.

The offence of causing an unnecessary obstruction is dealt with under Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986. Again, it must be noted that this offence can be committed not only by the driver, but someone who “causes or permits” the vehicle to cause unnecessary obstruction of the road.

The offence of wilful obstruction is provided by section 137(1) of the Highways Act 1980. As with all offences specified in legislation, there are points to prove; in this instance, the main ones are:

- Without lawful authority or excuse - for example, where someone has permission from the chief officer of police or the local authority to set up a stall on the highway to distribute leaflets, etc. Or it was necessary to cause the obstruction in order to save life or limb or prevent injury.
- Wilfully obstructs - this means ‘intentionally or recklessly’ i.e. a person must have either intended to obstruct the highway or was reckless as to whether they were doing so. Reckless relates to where the person foresaw that there was a risk that their actions may amount to obstruction and went on to take that risk.
- Free passage - this is as simple as preventing people from passing along the highway or making them having to take an alternative route.

Section 22 of the Road Traffic Act 1988 provides the offence of ‘leaving a vehicle in a dangerous position’. One of the main ingredients of this offence is that the circumstances must involve danger of injury to other persons using the road. This offence can be committed

when the vehicle is stationary or where the vehicle is moving, e.g. the handbrake has not been correctly applied and the vehicle rolls down a slope.

## 1.9 Vehicle insurance requirements

Section 143 (1) of the Road Traffic Act 1988 requires motor vehicles that are used on roads and in other public places to be adequately insured. The minimum form of insurance is that of a “third-party” policy. This means a policy that provides cover for damage or injury to any other person, vehicle, animal or property involved in an accident, but NOT the driver or vehicle covered by the policy. It should be noted that a third party policy issued in accordance with section 143 often provides much less compensation than the third party insurance sold by most insurers.

A person who uses a vehicle in contravention of this commits an offence contrary to section 143 (2) of the Act.

When carrying out enquiries, officers should be aware that there are statutory defences to having no insurance (section 143 (3)), if the person proves:

- That the vehicle did not belong to him and was not in his possession under a contract of hiring or of loan
- That he was using the vehicle in the course of his employment, and
- That he neither knew nor had reason to believe that there was not in force in relation to the vehicle such a policy of insurance or security as is mentioned in 143 (1).

There is also an offence that is contrary to section 144A of the Act where a person who keeps a vehicle which does not meet insurance requirements, is guilty of an offence.

The minimum information required on a certificate of insurance is:

- Registration mark (number) of the vehicle
- Name of the policy holder (not always the keeper)
- Effective date of the commencement of the insurance and the expiry date
- The people or classes of people entitled to drive under the policy
- Any limitations as to the use e.g. business use etc.

Some types of vehicle are exempt from needing insurance; these include:

- Where the car belongs to a public authority, including the police, National Health Service and HM Forces
- If the vehicle has been declared 'off the road' and is subject to a SORN.

Where the requirement to have valid insurance is contravened, the powers used to seize and retain the vehicle are provided by the Road Traffic Act 1988:

- Section 165A - Power to seize vehicles driven without licence or insurance
- Section 165B - Retention etc. of vehicles seized under section 165A.

All details relating to insurance can be obtained from the PNC and the MIB 24 hour advice line.

### 1.9.1 Open policies

An open policy, sometimes referred to as a trader policy, provides insurance for a multitude of vehicles owned by a trader and for a number of different drivers allowed to use the vehicle e.g. for test drives, road test after servicing etc.

Most open policies are used with an honest purpose; however, evidence shows that an increasing number of open policies are being misused. This misuse is most common amongst small businesses or sole traders. Organised Crime Groups (OCG) also use open policies. In some instances sole traders are not legitimate motor traders and are abusing an open certificate of insurance that may have been obtained inappropriately or does not cover the specific use that the vehicle is being used for.

In the event that a driver is stopped and is found to be using an open policy, the following must be established:

- Ownership of the car
- Who the open certificate was issued to
- The driver's relationship to the policy holder
- The circumstances in which the car is being driven.

## 1.10 Vehicle test certificates

Section 47 of the Road Traffic Act 1988 requires all private motorcars, small goods vehicles, motorcycles, mopeds, dual purpose vehicles (private and goods) and motor caravans to be

tested annually to ensure that they comply with specific safety requirements relating to (amongst others):

- Seatbelts
- Tyres
- Brakes, etc.
- Steering
- Exhausts
- Wipers and washers
- Horn.

The test must be carried out three years after the date of first registration; however, there are some vehicles that need to be tested after one year, for example:

- Motor vehicles having more than eight seats (excluding the driver's seat) which are used to carry passengers
- Taxis
- Ambulances
- Large goods vehicles.

Certain vehicles are exempt from the requirement to have a test certificate. These include:

- Invalid carriages
- Pedestrian controlled vehicles
- Vehicles temporarily in Great Britain for a period not exceeding 12 months
- Vehicles manufactured before 1 January 1960
- Police vehicles maintained in approved police workshops.

Certificates are now computer-generated as opposed to handwritten. A certificate will be printed on plain paper in a landscape format. An exception to this is where there is a computer malfunction at an MOT Testing Station that will necessitate the certificate to be handwritten: where this happens, a computerised certificate should be issued as soon as possible.

A test certificate is issued annually and is normally valid for 12 months. However, a vehicle can be retested within one month prior to the existing certificate expiring, allowing the new test certificate to expire on the anniversary of the expiry date of the old certificate. For example, if a test certificate expires on 1 April 2015 and the vehicle was retested within the previous month, for example, 2 March 2015, the new test certificate will expire on 1 April 2016.

### **1.10.1 Use, cause or permit a vehicle to be used without a test certificate**

Section 47(1) of the RTA 1988 states:

A person who uses on a road at any time, or causes or permits to be so used, a motor vehicle to which this section applies, and as respects which no test certificate has been issued within the appropriate period before that time, is guilty of an offence.

### **1.10.2 Offence of failing to produce a test certificate**

Section 165 of the Road Traffic Act 1988 states that a driver of a motor vehicle must produce a test certificate when requested to do so by a police officer. Failure to produce will lead to summary conviction, unless it is produced at a specified police station within seven clear days.

## **1.11 Regulations applying to the use of Hackney Carriages and private hire vehicles**

### **1.11.1 What is a hackney carriage (i.e. taxi)?**

In general terms, a Hackney Carriage is a vehicle that has on it a numbered identification plate, issued by a licensing authority; that vehicle being licensed to carry passengers (not for separate fares) from one place to another. Licences to drive and operate hackney carriages are granted by local councils.

There are some differences between Hackney Carriages and private hire vehicles, including:

- A Hackney Carriage can be “hailed” in the street, where a Private Hire Vehicle cannot
- Hackney Carriages can operate from a taxi rank; Private Hire Vehicles cannot
- A Hackney Carriage must be fitted with a meter.

To be granted a licence to operate as a Hackney Carriage driver, the person applying must be deemed to be a 'fit and proper person'. That means they must pass a:

- Disclosure and Barring Service Check (DBS)
- Medical Examination
- Driver and Vehicle Standards Agency Taxi Driving Test
- Knowledge Test.

Once granted a licence, drivers of Hackney Carriages and Private Hire Vehicles (both referred to as taxis) are required to display the licence on their person or in their vehicle.

A passenger riding in either of the above vehicles must wear a seatbelt if one is provided (and there are very few instances where one is not provided), unless exempt. Drivers of Hackney carriages are exempt from wearing a seatbelt, while drivers of Private Hire Vehicles must wear a seatbelt when not carrying a passenger.

## 1.12 Offences relating to Construction and Use

There are a number of problems and associated offences that are concerned with vehicles and how they are maintained: most of these are referred to as construction and use offences.

In circumstances when a vehicle is used on a road with a defect, more than one person may commit an offence. An example would be a company vehicle that is not properly maintained by the owner. In this case, some responsibility must be held by the driver and by the owner when they are not the same person. All persons who are potentially responsible for an offence should be reported. These circumstances are referred to as use, cause or permit.

### 1.12.1 Use

The term 'use' needs to involve an element of controlling, managing or operating the vehicle. The offence of using a vehicle is said to be an absolute offence, meaning that it only needs to be proved that the person used the vehicle on a road and that it did not comply with the regulations.

The using of a vehicle generally applies to the driver of a motor vehicle. The employer, when the employee drives a vehicle in the course of his (the employer's) business may also commit the offence of using the motor vehicle if it contravenes these regulations.

The following examples illustrate this:

A builder's company van has a defective tyre; the van is driven by an employee in the course of their normal work. Both the employee and the builder are using the vehicle with a defective tyre.

### 1.12.2 Cause

This is not an absolute offence; it will need to be proved that the suspect had the authority to 'cause' the use of the vehicle, and that he:

- Knew the vehicle was being used on a road
- Was aware of the facts of the offence
- Had authorised or ordered another person to use the vehicle.

To 'cause', a person must know what it is the principal offender is doing or failing to do; there doesn't need to be an intention to offend. The knowledge of the facts is the only guilty knowledge required.

Example

An employer informs an employee that they will lose their job unless they drive a vehicle with a defect and the employee then drives the defective vehicle.

### 1.12.3 Permit

'Permitting' happens when one person gives another person permission to use a vehicle and it can be shown that the person permitting was aware, or should have been aware, of the facts of the offence committed in relation to the use of the vehicle.

The person giving the permission must be the owner of the vehicle or the person who has control of the vehicle.

The employee uses the vehicle to take his family out for the weekend; the owner would not be using the vehicle but could be permitting the use. This is because the vehicle is no longer being used in connection with the employer's business.

## 1.12.4 Using a motor vehicle or trailer in a dangerous condition

Using vehicles in a dangerous condition or using one where it causes a danger are both problematic. Section 40A of the Road Traffic Act 1988 provides the offence of using a vehicle in a dangerous condition. It is defined as follows:

A person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on a road when:

- a. the condition of the motor vehicle or trailer, or of its accessories or equipment, or
- b. the purpose for which it is used, or
- c. the number of passengers carried by it, or the manner in which they are carried,  
or
- d. the weight, position or distribution of its load, or the manner in which it is secured,  
is such that the use of the motor vehicle or trailer involves a danger of injury to any person.

There are numerous examples of vehicles that are not properly maintained e.g:

- A car that has been involved in an accident and has its front bumper nearly falling off
- An exhaust system that is becoming unattached
- A goods vehicle that has an insecure load.

It can be seen from the first line of this section of the Act that this offence doesn't just apply to the driver of the vehicle: the offence can also be committed by a person who tells or lets someone use a vehicle in a dangerous condition.

In addition to the above power, regulation 100 of the Road Vehicles (Construction and Use) Regulations 1986 provides as follows:

A motor vehicle, every trailer drawn thereby and all parts and accessories of such vehicle and trailer shall at all times be in such condition, and the number of passengers carried by such vehicle or trailer, the manner in which any passengers are carried in or on such vehicle or trailer, and the weight, distribution, packing and adjustment of the load of such vehicle or trailer shall at all times be such, that no danger is caused or is likely to be caused to any person in or on the vehicle or trailer or on a road.

### 1.12.5 Prevalent offences relating to the construction and general condition of vehicles

Notwithstanding the offence of using a vehicle in a dangerous condition, there are also a number of offences that can be committed relating to parts of a vehicle. These include:

- Defective tyres, including:
  - Be compatible with the other tyres on the vehicle
  - Not have any bulges, lumps or tears caused by a partial failure of the structure
  - Tread depth
  - Inflated below a suitable level for use of vehicle
- Faulty seatbelts, including:
  - Must be anchored securely and the anchor points are only used for seatbelts
  - Adjusting device must be properly maintained
  - Buckle and buckle points maintained properly
  - Webbing free from cuts and frays
- Defective silencer and exhaust systems, including:
  - Must be maintained to allow exhaust gases to pass through the silencer before reaching the atmosphere
  - Must not be altered to increase the noise made by the escape of gases
- Faulty windscreen wipers and washer fluid levels, including:
  - Wipers must clear the windscreen to afford an adequate view of the road in front and at the sides
  - Washers must properly adjusted and washer fluid in the reservoir.

### 1.12.6 Use of lights on vehicles

The requirement for a vehicle's lights (also referred to as lamps in some legislation and guidance) to be lit while in use after dark seems obvious: however, during periods of reduced visibility, including heavy rain, mist or fog, vehicles should also be driven with appropriate lighting.

Vehicles **must** display lights during two specific periods:

- The period between sunset and sunrise
- The hours of darkness: this is the time between half an hour after sunset and half an hour before sunrise.

Certain offences relate to hours of darkness as opposed to sunset and sunrise. The correct wording is important when processing these offences.

Some lights on vehicles, including stop lights and direction indicators, must be available at all times, thereby providing safe and adequate notice to other road users of the intentions and actions of the driver of the vehicle. All lights that are required by law to be fitted to vehicles must, at all times, be maintained in good working order.

The law contains very detailed instructions as to the type of lights, reflectors and marking fitted, how they should work and when and how they should be used.

### 1.12.7 Obligatory lights

Regulation 18(1) of the Road Vehicles Lighting Regulations 1989 contains provisions governing the fitting of obligatory lamps, reflectors, rear markings and devices to vehicles. Obligatory lighting requirements are different for each class of vehicle: the classes of vehicle can be found at Schedule 1 to the Regulations.

Obligatory lamps and reflectors are those that a particular class of vehicle is required to have fitted by law. All vehicles require some of these obligatory lamps and reflectors, but the specifics depend on their class.

These lamps and reflectors include:

- Headlamps
- Front and rear position lamps
- Rear registration plate lamps
- Stop (brake) lamps
- Direction indicators
- Hazard Warning Signal
- Rear reflectors

- Rear fog lamps.

### 1.12.8 Optional lamps and reflectors

In addition to obligatory lamps, there are also a number of lamps and reflectors that can be optionally fitted to vehicles. Optional lamps and reflectors are those which a particular class of vehicle is not required to have fitted by law, but which can be fitted if the owner/driver wishes. However, if optional lamps are fitted, they must comply with given specifications as to their position, performance and use. Optional lamps and reflectors include:

- Reversing lights
- Front fog lights
- Optional/additional headlamps
- Side marker lamps
- Optional/additional rear lights
- Optional/additional brake lights.

### 1.12.9 Misuse of lights

Using lights in a manner for which they are not designed is a growing trend. Offences are committed contrary to the Road Vehicle Lighting Regulations 1989 by drivers who:

- Use any lights in a way which would dazzle or cause discomfort to other road users, including pedestrians, cyclists and horse riders
- Use front or rear fog lights unless visibility is seriously reduced. These lights must be switched off when visibility improves
- Use hazard warning lights while driving or being towed unless on a motorway or unrestricted dual carriageway and there is a need to warn drivers behind of a hazard or obstruction ahead.

## 1.13 Revision Questions

- What is meant by 'keeper' in relation to vehicle registration?
- What vehicles are exempt from having to have vehicle excise duty?
- What is the purpose of a Statutory Off-Road Notification (SORN)?
- What is meant by motor trader in relation to a SORN?
- What are the two means of visibly identifying a vehicle?
- What are the three instances when a vehicle can be stopped by a police officer?
- What are the statutory defences to section 143(2) of the Road Traffic Act 1988 (having no insurance)?
- Which types of vehicles are exempt from needing insurance?
- What are the four things to establish when a driver is found to be using an 'open' insurance policy?
- What are the four prevalent construction and use offences?
- What are the three instances in which a person can commit an offence involving the misuse of lights?

## 2. Key Legislation

It is essential that police officers have knowledge and understanding of the following key pieces of legislation applicable to the subjects described above:

- Regulation 12 and Schedule 4 of the Road Vehicles (Registration and Licensing) Regulations 2002
- Regulation 33 of the Road Vehicles (Registration and Licensing) (Amendment) Regulations 2013
- Section 23, 29, 33, 42, 44 and 46 of the Vehicle Excise and Registration Act 1994
- Regulation 16 and 19 of the Road Vehicles (Display of Registration Marks) Regulations 2001
- Section 22, 40, 47, 143, 144, 163, 164 and 165 of the Road Traffic Act 1988
- Section 99 of the Road Traffic Regulation Act 1984
- Section 4 and 17 of the Police and Criminal Evidence Act 1984
- Regulation 3, 100, 103 of the Road Vehicles (Construction and Use) Regulations 1986
- Regulation 18 of the Road Vehicles Lighting Regulations 1989
- Section 137 of the Highways Act 1980
- Section 64 of the Criminal Justice and Public Order Act 1994
- Section 59 of the Police Reform Act 2002
- Section 38 of the Town Police Clauses Act 1847