

Transport Safety Commission Memorandum

Introduction

The Transport Safety Commission invited the Home Office to provide evidence to the Commission's inquiry: '*UK Transport Safety: Who is responsible?*'. The inquiry is into the legal framework and institutional responsibilities for transport safety (road, rail and aviation with emphasis on road). Within this context, the Home Office was asked to provide evidence on the role of the police in relation to road traffic law enforcement, roads policing and accident investigation. This memorandum sets out that evidence.

Legislation on the use of vehicles, road safety, driver and vehicle documentation, and traffic management is the responsibility of the Department for Transport (DfT), as is sponsorship of the British Transport Police and the Highways Agency. This evidence relates only to the elements of roads policing and police enforcement of road traffic law for which the Home Office is responsible.

Role of the police in relation to road traffic law enforcement, roads policing and accident investigation

Responsibilities and Accountabilities

Home Office

In England and Wales (policing in Scotland is devolved), the Home Office is responsible for policy on enforcement of the legislation and for ensuring the availability of appropriate enforcement powers, as well as the type approval of enforcement equipment. The Home Office is also responsible for police powers to:

- I. Direct traffic;
- II. Require drivers to stop their vehicles;
- III. Require drivers to undertake drink, drug and impairment tests and produce documentation as to their right to drive;
- IV. Seize/remove, store and dispose of vehicles;
- V. Deal with offending motorists other than by prosecution, e.g. by offering a fixed penalty or the opportunity to attend a remedial education course.

Police and Crime Commissioners

Police and Crime Commissioners (and the Mayor in London) are responsible for setting the strategic priorities for forces; overseeing the police budget; holding the Chief Constable to account and ensuring that the force is efficient and effective. Police and Crime Commissioners represent the needs of local people and ensure they have a voice in how their communities are policed. For example, safe and social driving is one of the Police and Crime Commission's priorities in Gloucestershire. The aim is 'that people are able move around our communities in safety and with as much ease and convenience as possible and that the police will enforce the law

when necessary, but we will all work to reduce offending and antisocial driving'¹. Work under this priority is carried out in partnership with other organisations and the Gloucestershire Chief Fire Officer is the lead for this activity.

Chief Constables

Chief Constables have responsibility for operational policing decisions. They decide how roads policing is delivered and the available resources deployed, in line with the strategic priorities set by the Police and Crime Commission and taking into account the specific local problems and demands with which they are faced.

Approach to Roads Policing and Enforcement

The *Policing the Roads – 5 Year Strategy 2011-2015* issued by ACPO in November 2011 sets out a vision for enhancing the safety and security of all road users, with strategic goals of safer roads, habitual compliance with the law and public confidence and satisfaction. The approach focuses on:

- I. Harm reduction that saves lives and prevents crime,
- II. Enforcement based on professional judgement and discretion,
- III. A visible roads policing presence on the strategic road network,
- IV. Intelligence led resources and enforcement,
- V. Education and engineering to affect and influence driver behaviour.

The priorities are:

- I. Reducing road casualties,
- II. Disrupting criminality
- III. Countering terrorism,
- IV. Patrolling the roads
- V. Combating anti-social road use.

Roads policing and motoring law enforcement is recognised as having an important part to play in promoting road safety, improving driving standards, deterring careless and dangerous driving and reducing deaths and injuries on the road. Roads policing officers have made a much valued contribution to the steady improvement in road safety over recent years. Roads policing also helps disrupt criminality, counter terrorism, combat anti-social road use and enhance public confidence.

As roads policing concerns enforcement of criminal law (whether or not specifically motoring related) and the protection of life and property, officers are performing the same service to members of the public as road users (on foot or in vehicle) as in other aspects of their lives. Those involved have therefore traditionally seen it as part of core policing business.

¹ <http://www.gloucestershire-pcc.gov.uk/>

Where there is a special need to work across force boundaries, arrangements are in place by and between local forces to meet them (for example, the Central Motorways Policing Group). Equally, work with the local community and the appropriate use of technology and personnel other than constables to assist in law enforcement is important in freeing up officers' time for the activities, including on-road activities, which need their direct and professional involvement. Road traffic offences not specifically requiring police intervention, such as routine parking infringements, have been decriminalised so that they can be dealt with under civil law by local authorities or another agency

The Home Office does not currently envisage decriminalisation for further offences. Motoring offences can amount to significant crime with actual or potential serious outcomes.

Type Approval Testing

Certain law enforcement devices used by the police are statutorily required to be of 'a type approved by the Secretary of State'. This includes roadside screeners and evidential instruments for drink driving, screeners for drug driving and speed cameras.

Type Approval testing is undertaken by the Home Office's Centre for Applied Science and Technology (CAST). This testing is required to ensure that devices and instruments are accurate, precise, reliable, and consistent so that any evidence generated can be relied upon. The type approval requirements and testing regime are amongst the most stringent in the world. This is due to the nature of the UK justice system, and to minimise the number of complex legal challenges.

Drink Driving & Mobile Evidential Breath Test Instruments (MEBTI)

The Home Office recognises that drink driving is a serious threat to road safety. The law on drink driving is enforced vigorously by the police, who have the power to carry out a breath test on any driver reasonably suspected of having drunk alcohol or of having committed a moving traffic offence or who has been involved in a road traffic collision

To help improve conviction rates, we are working to introduce mobile evidential breath test instruments (MEBTIs). This will enable evidential samples to be taken from suspected drink-drivers immediately at the roadside, without the need to take them back to a police station.

This will reduce time between the driver being initially screened at the roadside and the final evidential sample being taken, eliminating the risk of a driver providing a negative sample due to the amount of time that has elapsed between screening and evidential tests.

The devices are currently undergoing type approval testing at the Centre for Applied Science and Technology, and subject to passing type approval, should be available to police forces in due course.

Drug Driving & Mobile Preliminary Drug Test Devices (MPDTD)

It is an offence under section 4 of the Road Traffic Act 1988 to drive or be in charge of a mechanically propelled vehicle whilst impaired by a drug (legal or illegal): it is not currently illegal to drive with a drug in the body if the drug is not causing impairment. A new offence of driving with a specified drug in the body above a specified level is due to come in to force in March 2015, and will be included at section 5A of the Road traffic Act 1988.

This new offence will provide a route for drug drive prosecutions which does not require the police to collect and present evidence of impairment. The police will be able to require someone to take a preliminary drug test if they reasonably suspect that person of drug driving, committing a moving traffic offence, or being involved in a road traffic accident. The test can be required at the roadside or at a police station. The test requires provision of a specimen of saliva, and provides an indication of whether the person has a drug in their body. If the test is positive, a blood specimen can be required without medical authorisation. It is the evidence from the blood test that can be used to support a prosecution, either by itself (section 5A prosecution) or when combined with evidence of impairment (section 4 prosecution). Making drug screening devices available to the police means that there will no longer be a need for a medical practitioner to attend to advise whether a driver's condition might be due to a drug, since an evidential sample can be required on the basis of the preliminary drug test.

Having already type approved devices which can be used in police stations (January 2013), we are working to introduce mobile preliminary drug testing devices, so that greater numbers of drug-drivers can be identified and taken off our roads. These mobile devices will assist in the enforcement of both the existing section 4 and the new section 5A offence.

Conclusion

Our roads are amongst the safest in Europe. However, there is clearly more to do. Police and Crime Commissioners and Chief Constables are responsible for determining priorities in line with local needs. The Home Office is working to improve the availability of technology for police officers to identify offenders and reduce the amount of time taken to secure evidence of offences and deal with cases more efficiently.