

Memorandum of Understanding

January 2010

This Memorandum of Understanding (MOU) sets out a framework of understanding and cooperation between The Health and Safety Executive (HSE) and The Metropolitan Police Service (MPS).

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1. Introduction and background

1.1. This Memorandum of Understanding (MOU) is made between the Health and Safety Executive (HSE) and the Metropolitan Police Service (MPS). It replaces the previous Memorandum signed in 2006 between the HSE, the MPS and Transport for London (TfL). This MOU covers the new relationship between the HSE and the MPS in respect of working together to support the reduction of work related road risk in the London Metropolitan area.

1.2. The HSE agreed to formally delegate specific enforcement powers to the MPS at their meeting on 28 April 2010. These powers authorise specific trained police officers, who form part of the Commercial Vehicle Unit (CVU), to intervene, enforce and prosecute in the Occupational Road Risk and Work Related Road Safety arena under the Health and Safety at Work etc Act 1974. The Chair of the Health and Safety Executive and the Metropolitan Police Transport Officer have signed an Agency Agreement dated 26 March 2010 to transfer these limited powers to the Metropolitan Police Service.

1.3. Being able to use delegated HSE powers and issue improvement and Prohibition notices during company visits, alongside enforcing the Road Traffic Act, puts the CVU in a compelling position to bring about positive change. This also provides a breakthrough in road traffic policing and will raise the profile of both MPS and HSE working together to address a shared vision of road safety for those driving at work.

2. Parties to the MOU

2.1. This MOU consists of the following two organisations herein referred to as the 'Partners' in this document.

2.1.1. Health and Safety Executive

Stakeholder – Simon Bland, HSE
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2.1.2. Metropolitan Police

Stakeholder – Duncan Morley, Traffic Operational Command Unit.

Contact – PS Peter Lawson

3. Purpose of this MOU

3.1. This MOU sets out a framework of mutual understanding and cooperation between the Partners in respect of working together and jointly supporting the reduction of work related road risk in the London Metropolitan area.

4. General Principles

4.1. The Partners to this MOU:

4.1.1. Commit to reviewing the effectiveness of this relationship at a frequency set in section 11 of this document;

4.1.2. Cooperate in exploiting, as far as is practicable, opportunities for raising awareness of solutions to work related road risk;

4.1.3. Give written consent on the use of each others logos for all separate activities, or group of activities, and agree to protect the use of electronic logos, as far as reasonably practicable, to deter unofficial use and misappropriation by third parties outside of this MOU;

4.1.4. Agree to involve each other in pre-publicity planning, where appropriate, to ensure maximum benefit is gained from media coverage of the initiative where mutual interests are concerned;

4.1.5. Provide each other with copies of all press releases on matters of joint interest concerning the initiative (before publication where possible) and other publicly available material if appropriate;

4.1.6. Agree that occasionally they need to develop joint messages or statements to support the specific aims created through this MOU.

5. Status of this MOU

5.1. Subject to where specifically stated, this MOU does not constitute any contractual or legally binding agreement between the Partners. The purpose of this MOU is to set out a framework of mutual understanding, cooperation and trust between the Partners in support of the reduction of work related road risk in the London Metropolitan area by using the general principles set out in section 4 above.

6. Enforcement

6.1. The Enforcement Policy Statement and the Enforcement Management Model published by the HSE set out the general principles and approach that health and safety enforcing authorities should apply when determining what enforcement action to take in response to breaches of health and safety legislation. The Partners agree that all enforcement decisions taken under this MOU shall be exercised in accordance with the Enforcement Policy Statement and the Enforcement Management Model.

6.2. MPS officers will only be issued with a warrant following successful completion of the in-house training programme devised by HSE. Only warranted officers can take enforcement action under the delegated powers.

6.3. Where MPS propose to issue an enforcement notice or initiate a prosecution in response to a breach of health and safety legislation, HSE will be consulted.

6.4. MPS will pursue prosecutions that arise out of activities conducted by MPS under the delegated powers under their normal processes; this will include handling any appeals which may arise.

6.5. MPS will use their own indemnity scheme to cover warrant officers under section 26 of the Health and Safety at work act.

For full details of the Enforcement Policy Statement and the Enforcement Management Model, please see:

www.hse.gov.uk/enforce/index.htm

7. Freedom of Information

7.1. The Freedom of Information Act covers access to information held by Public Authorities or by persons providing services for them. The Partners to this MOU are Public Authorities and must therefore conform to this act.

For full details of the Freedom of Information Act please see:

www.opsi.gov.uk/ACTS/acts2000/20000036.htm

8. Openness and Confidentiality

8.1. The Partners agree that any mutually derived advice and guidance on progressing the initiative produced as a consequence of this MOU can be shared with other appropriate and agreed parties. For these arrangements to be effective, the Partners must rely on mutual respect for the confidentiality and sensitivity of the information exchanged.

9. Strategic Alignment

9.1. This section of the MOU seeks to align the strategic commonality, synergy and potential mutual benefits between the Partners who form part of this MOU.

9.1.1. Health and Safety Executive

The HSE is supporting the MPS as a means of advancing its objective of ensuring that employers understand and fulfil their obligations under health and safety law as regards driving at work. HSE recognizes that the police are best placed initially to detect instances of unsafe driving and to consider whether these may be due to underlying failures in health and safety management. Arrangements are already in place for serious accidents to be referred to HSE where there are indications that such failures may have been a significant causal factor: guidance, agreed with ACPO, was recently inserted into the Road Deaths Investigation Manual to help inform officers' judgment.

More fundamentally, HSE sees this as a means of acquiring more robust data on the extent to which management failures actually are the significant causal factor in traffic collisions which occur in the course of driving at work.

It will be most important to ensure that close links are maintained between this initiative and other transport/road safety initiatives undertaken by the HSE.

Arrangements between HSE's Field Operations Division, London and the MPS for joint investigation of road traffic accidents will continue as required by the Road Death Investigation Manual .HSE has assigned an inspector to the initiative primarily to deliver the necessary trainer training in HSE's enforcement policy (including its Enforcement Management Model) to enable the CVU officers to exercise the powers that will be delegated to them. The assigned inspector will:

- provide training to assess when individual officers are ready to exercise the delegated powers and monitor their initial performance;
- participate in activities designed to promote the initiative and ensure that they accurately communicate HSE's approach to the enforcement of health and safety management responsibilities; and
- evaluate the effectiveness of the training in delegating HSWA powers.
- design the training manual which will form the foundation of the MPS training self sufficiency. Self sufficiency will mean that the MPS have sufficient skills, knowledge and competence to train their own officers in The Enforcement Management

Technical training on load safety will be provided by HSL resource.

9.1.2. Metropolitan Police Service

The MPS Traffic Operational Command Unit is motivated by the objective of making an innovative and measurable partnership contribution towards:

- The MPS mission statement of `Working together for a safer London`;
- Creating Safer Neighbourhoods;
- Capital City Policing; and
- ACPO National Road Policing Strategy with its key aims of:
 - denying criminals use of roads by enforcing the law;
 - reducing road casualties;
 - tackling threat of terrorism;
 - reducing anti-social use of roads; and
 - enhancing public confidence and reassurance by patrolling the roads.

The MPS role is based on using specially selected Traffic officers within a dedicated pan-London Commercial Vehicle Unit (CVU). The unit will make appropriate use of road policing skills, enforcement powers and industry expertise to promote safer working practices within the commercial sector servicing London.

The CVU role will include enforcement, together with encouragement and education, in partnership with others, in order to raise awareness of the human/social, financial and legal costs associated with a failure to implement robust occupational road risk policies and procedures.

Typically CVU Police officers will carry out the following duties:

- specialist support to the investigation of fatal and serious road injury collisions involving commercial vehicles including follow up company visits;
- follow-up company visits, resulting from the detection of on-road offences, to establish legal liability with regard to `use, cause and permit` offences;.
- on-road road traffic law enforcement activity targeting the Commercial vehicle sector regarding driver behaviour and condition of vehicles. This will include taking appropriate action with respect to detected offences compromising the safety of commercial vehicles and drivers;
- whilst undertaking company visits, taking the opportunity to raise managerial awareness of the human/social, financial and legal costs of

crashes, particularly fatal collisions, associated with a failure to secure compliance with traffic law and appropriate health & safety guidance (i.e. `Driving at Work`, HSE INDG382, & ORRMS);

- attendance at freight forums to explain police role and powers
- presentations at seminars & workshops to explain rationale behind the police investigative (i.e. Road Death Investigation) and enforcement role; and
- Submission of relevant reports to the Traffic Commissioner highlighting failures in safety systems and specified driver offences (e.g. mobile phones usage)

10. Performance Management

10.1. The effectiveness of the delegation of HSWA powers will be assessed in terms of how far it results in the CVU officers attaining the necessary competence to exercise independently the delegated powers, in accordance with HSE's Enforcement Policy Statement and the Enforcement Management Model Training.

10.2. Self sufficiency will be achieved by 31 March 2011 and will be delivered in-line with the policy attached at Appendix A.

10.3. Contact and enforcement intelligence will be sent to HSE monthly. This will be in the form of HSE standard forms which will be entered on to the COIN system and categorised data held on spreadsheet.

10.4. Any disagreements will normally be resolved at working level. If this is not possible, the key contacts in paragraph 13 below will seek to settle the issue and ensure a mutually satisfactory resolution. Senior management of the Partners will be involved as necessary.

11. Reviews of this MOU

11.1. The Partners agree that this MOU will be reviewed jointly at least annually, or earlier if the need arises or if one of the parties requests it. Any changes to this MOU will be subject to the agreement of both parties.

12. Commitment to this MOU

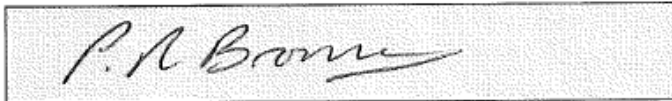
12.1. The signatories below represent the Partners who hereby commit to working within the framework of understanding and cooperation as set out in this MOU.

12.2. The Partners recognise the need for continuous innovation in the quality and effectiveness of this MOU; and agree in person, or using designated

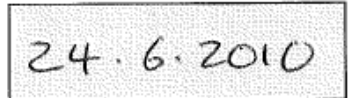
representatives, to formally undertake regular reviews of this MOU as set out in section 11 above.

Signatories

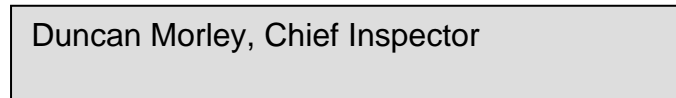
Health and Safety Executive



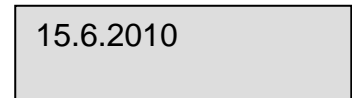
Date



Metropolitan Police Service



Date



Duncan Morley, Chief Inspector

13. Key Contacts

Health and Safety Executive

Name: Simon Bland
Position: HSE
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Press Officer: Vicky Lucas

Name: Linda Jane Rigby
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Metropolitan Police Service

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Appendix 4

Training and Development Policy for Police Officers in the Commercial Vehicle Education Unit (CVU) in relation to the Management of Work Related Road Safety (WRRS)

Introduction

CVU officers have been delegated powers to enforce the Health and Safety At Work etc. Act 1974 (HSWA) and the Management of Health and Safety Regulations 1999 for the purposes of improving standards in the management of WRRS by commercial operators in London. This training and development policy follows the HSE approach to training new inspectors of health and safety as described in the document 'Training & development of Band 4 trainee inspectors in FOD & HID' available on HSE website.

Aims and objectives

The training and development programme is designed to ensure that CVU officers meet an equivalent standard of competence in the use of their delegated powers as HSE inspectors, for the purposes of assessing, encouraging improvement and where necessary taking enforcement action. It is intended that initially the powers will be used for education and advisory purposes with some anticipated enforcement by way of serving improvement notices.

Assessment of competence

The second part of this document is a CVU officer record of training and assessment and each CVU officer should take responsibility for completing this training and recording it. The primary means of assessment are by evaluation of training courses, observation during company visits by the CVU Line Manager and by the individual officer submitting evidence and examples of how they have met the performance criteria described in the training and assessment record. The HSE assignee will also observe and monitor should they think it appropriate.

Key milestones

Each officer will attend the following training events, which are listed in the training record, and meet the learning objectives.

- Induction training – includes HSWA, Management Regs (1 day)
- Enforcement Management Model (EMM) and enforcement policy (half day)
- Legal issues and serving improvement notices (half day)
- Load safety training (1 day)

One of the most important aspects of an officers training will be to learn on the job by accompanying more experienced officers on company visits and by conducting visits themselves. Joint company visits will also be made with the HSE assignee and CVU line manager for training purposes to facilitate the transfer of essential knowledge and performance criteria described in the Appendix. The following key milestones are included in the training record and should be planned for by the officer in conjunction with their line manager:

- Observe company visit carried out by experienced CVU officer
- Lead company visit with experienced CVU officer present
- Complete unaccompanied company visit
- Assessment of company visit by CVU line manager
- Service of an improvement notice on a company

5 *Essential knowledge and performance criteria*

The individual officer training record lists the essential knowledge and performance criteria that each officer should meet in order to demonstrate that they are competent to use their delegated health and safety powers. Formal training days should be sufficient to provide most of the essential knowledge with informal discussion where there are gaps. The officer will need to gather evidence of examples where they have demonstrated competence in the areas described by the performance criteria. This will then need to be verified by the line manager through discussion and/or observation during joint company visits.

Appendix

CVU Officer Training and Assessment Record

The Management of Work Related Road Safety

Background details		
1a	Name of CVU Officer	
1b	Name of Line Manager	
1c	Date joined CVU	
1d	Date training completed (essential knowledge and performance criteria met)	

Key Milestones		Date planned	Date achieved
2a	Attend CVU induction training		
2b	Observe company visit by experienced colleague		
2c	Lead company visit with experienced colleague present		
2d	Complete unaccompanied company visit		
2e	Complete company visit with line manager		
2f	Serve improvement notice		
2g	Attend Enforcement management model and enforcement policy training half day		
2h	Attend Legal issues and serving improvement notices training half day		

Rationale from the Metropolitan Police Requesting an Extension of HSWA Powers until 31 March 2010

“Within the Metropolitan Police Service, the Traffic Operational Command Unit (OCU) has specific responsibility to maintain an effective and safe road system in London with particular regard to enabling the MPS to contribute to nationally set casualty reduction targets, London Mayoral casualty reduction targets, and additionally to support wider policing objectives.

To meet those priorities the Traffic OCU’s core objective for 2010/11 is ‘Reducing road collisions, particularly those that result in death or serious injury’; The OCU is committed to the ACPO roads policing strategy.

Traffic OCU delivers on this objective by enforcement, education and partnership working, focusing particularly on those people most at risk from death or injury on the roads, and equally on those road users who present the greatest risk to others, (including the drivers and operators of large commercial vehicles). *The road freight industry has a major influence across all parts of the Traffic OCU’s business. Goods Vehicles were involved in 20% of fatalities on London’s roads 2004 to 2008, and 13% of all collision types.*

Within Traffic OCU officers from the Commercial Vehicle Education Unit (CVU) were granted limited Health and Safety Commission powers by the Commission in December 2006, meaning that officers can enable freight companies to develop improvements in their management of work related road risks, specifically in relation to management of drivers, the roadworthiness of the fleet, journey planning, and how they approach vulnerable road users.

These powers do not extend to other workplace activities, and have helped to address situations where current Road Traffic legislation does not allow officers to follow up on an operator’s suspected safety management deficiencies after their drivers have been stopped for other traffic offences. All of the officers within the unit have specialist skills relating to Large Goods Vehicles and have a significant number of years of experience presenting evidence to the Coroner, Criminal Courts and to the Traffic Commissioner at Public Enquiries.

In 2008 officers stopped 3,000 LGVs in Greater London using traditional policing powers and visited over 250 companies using the delegated HSE powers. The use of the HSE powers has primarily been about working with freight companies to ensure they have the appropriate safety management in place so that the vulnerability of their staff and other road users can be minimised as far as possible. This has taken the form of agreed action plans (over 80), but also has included one improvement notice. The number and variety of LGVs operating within London on a daily basis is probably unique in the UK, and these powers will enhance road safety in London.

A survey of freight operators, sponsored by Transport for London at the end of 2008, included the comment that CVU are regarded as specialists in freight transport and management, trustworthy in contrast with previous experiences of police, and seen

as approachable; "Police officers that you can actually talk to, get a sensible answer out of that aren't actually going to make judgments against you. They're there to support you and help you do things right".

The CVU is currently fully funded by Transport for London until 31 March 2010 when they will be fully funded by the MPS directly. The MPS will continue to fulfil its obligations to London with regard to casualty reduction and there will continue to be a key emphasis on the involvement of vehicles being used for work in serious and fatal collisions both through prosecuting offenders and encouraging good behaviour and management practice.

By way of example on this point, the Olympic and Crossrail developments predominantly affect central and eastern London, and the increase in LGVs on the associated roads for site clearance and construction will continue to have a significant influence on all parts of Traffic OCU's core business until beyond 2016. The Olympic site and associated developments currently have at their peak times up to 100 Heavy Goods Vehicles per hour entering or leaving their site. These peak times coincide with peak hours for casualties to vulnerable road users (pedestrians, cyclists, motorcyclists). The Crossrail construction work across London brings an additional 150 Large Goods Vehicles onto London's roads per day from July 2009.

This presents a significant risk of an increase to the casualty rate but also creates the risk of an attractive environment for rogue freight operators in the capital, seeking to take advantage of the high demand for sub contractors. Enforcement in relation to these developments has been ongoing since March 2008, through operations led by the CVU. Of crucial importance, the CVU with the benefit of HSE knowledge are also in a position to provide specialist advice and support to freight operators involved in these projects and this unique engagement has contributed to fewer fatal collisions involving LGVs in east London, against a backdrop of the substantial increase in the number of heavy vehicle movements.

Traditional police enforcement by itself would not sustain that level of casualty reduction in this part of London and has none of the CVU's specialist skills and powers required to conduct meaningful engagement with freight operators at company director level.

The value of the CVU skills and qualifications are primarily the contribution that they make to casualty reduction. These are enhanced by the HSE powers and for that reason the MPS would seek to extend the current agreement with the Health & Safety Executive, limited again to officers with specialist skills and experience relating to Commercial Goods Vehicles.

Duncan Morley, Chief Inspector