

Health and Safety Executive OC 789/4

Field Operations Division

To

Agricultural, Factory and Quarries Inspectors

FCG Specialist Inspectors (Mechanical)

Railway Inspectors (for information)

OSD Operations Branch Inspectors (for information)

"ROAD TRAFFIC TYPE" ISSUES: OVERLAP WITH OTHER ENFORCEMENT AGENCIES

This OC advises inspectors on how to deal with transport-related matters where other enforcing authorities may either have an interest or should take the lead. (It does not cover construction issues involving road works and the activities of the Highways Agency.) This information is supplementary to HSEM 1990/3.

"OTHER PUBLIC PLACES"

1 The Road Traffic Act 1991 (RTA) amended the Road Traffic Act 1988 and introduced the offence of dangerous driving. It also extended the scope of dangerous driving to include "other public places" as well as "roads". HSE has been unable to obtain a definition of "other public places" either from the Department of Transport or in guidance literature on this Act. In deciding what is an "other public place", inspectors should consider whether or not the public have unrestricted access. In the absence of restrictions such places would include; industrial estates (see Coult and Szuba [1982] ICR 380), car parks, farm roads, dock areas, etc.

2 This legislative change has had the effect of emphasising the overlap between road traffic legislation and the Health and Safety at Work etc Act 1974 (HSW Act). For example, a delivery driver involved in a fatal accident while driving in a supermarket car park, or hospital grounds, could be charged with causing death by dangerous driving by the police under RTA, and/or with failing to take reasonable care for the health and safety of persons who may be affected by his/her acts at work by HSE, or a local authority (LA), under HSW Act. In addition, the driver's employer or the occupier of the premises might face action by HSE or the LA under HSW Act.

Action by inspectors

3 The enforcement of RTA in "other public places" falls to the police. It has not been possible to agree demarcation issues with the Association of Chief Police Officers on a national basis. Inspectors receiving reports of incidents in such places should be aware that the police may have taken an interest, especially where a serious injury has occurred. In such cases they should discuss the matter with their local police and agree a way forward with respect to who will take what action

and against whom. This agreement should be on a case by case basis and depend upon individual circumstances. HSEM 1990/3 contains further information on "overlapping legislation".

4 Where the police do take enforcement action, it is generally against the driver(s) of the vehicle(s) involved. This does not preclude HSE inspectors raising issues such as traffic management systems, systems of work, etc with the appropriate employers, or persons in charge of the premises where the incidents occurred, in order to effect improvements and/or prevent a recurrence.

VEHICLE INTEGRITY ISSUES

5 Inspectors have been approached to take action against garages and vehicle servicers under HSW Act s.3 where inadequate or defective servicing of vehicles has led, or could have led to accidents. The police have been reluctant to become involved, because RTA only contains sanctions against the vehicle owner, but in these circumstances it would not be appropriate to act against the owner.

Action by inspectors

6 Inspectors should resist becoming involved in investigating such incidents. In line with HSEM 1990/3, inspectors should refer the matter to other enforcing authorities with a better locus than HSE. Where garage proprietors falsely claim to have performed a service or supplied goods during the course of a service, then they may be subject to enforcement action under the Trades Description Act 1968. In such cases the matter should be referred to local trading standards officers via the existing liaison arrangements.

7 Inspectors have also been asked to take action where defective vehicles have led to injury, eg when a delivery chute has fallen from a concrete mixer on the public highway. As it is an offence under RTA s.8 to use a vehicle that is in a dangerous condition, such enquiries should be referred to local police forces as they enforce this section of the Act.

8 The Vehicle Inspectorate Agency (VIA) also has a legitimate interest in enforcing RTA provisions on the roadworthiness of vehicles and appropriate incidents can be referred to them. A list of VIA area offices is given at the appendix. As a rule-of-thumb, reports and complaints referring to specific incidents on the road should be referred to the police, while general complaints about the roadworthiness of vehicles belonging to specific vehicle operators should be referred to the VIA. Referrals should be via existing police/VIA liaison arrangements.

9 Where inspectors investigate incidents and find that the roadworthiness of road-going vehicles is an issue, they may wish to pass the information to the VIA. Alternatively, the VIA may be a useful source of expertise or advice where, for example, inspectors are involved in investigations involving non-road-going vehicles. The VIA also have powers to deal with vehicle emissions and complaints on such matters should be referred to them.

10 Additionally, any problems relating to the security of loads on vehicles, (other than the carriage of dangerous goods subject to the Road Traffic (Carriage of Dangerous Substances in Packages etc) Regulations 1992, as amended, should be referred to the police.

Annotation of instructions

11 HSEM 1990/3 - note "See OC 789/4".

12 Code IN Ja Appendix 6 - delete and note "See OC 789/4 for up-to-date information".

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ASI headings

Enforcement: enforcing authority: liaison: police: road(s): transport: vehicle(s).

APPENDIX

(para 8)

VEHICLE INSPECTORATE AGENCY

ROAD TRANSPORT ENFORCEMENT DIVISION

AREA OFFICE ADDRESSES TEL NUMBERS

SCOTLAND

AREA 1 Northern Scotland

Area Manager 01463 235505

Inverness GVTS

Seafield Road

Longman Industrial Estate

Inverness IV1 1RG

AREA 2 West and South West Scotland

Area Manager 0141 772 3405

Bishopbriggs GVTS

Crosshill Road

Bishopbriggs

Glasgow G64 2QA

AREA 3 South East Scotland

Area Manager 01506 30053

Livingston GVTS

Grange Road

Houston Industrial Estate

Livingston

West Lothian EH54 5DD

NORTH WEST

AREA 4 Cumbria and Lancs

Area Manager 01228 28106

Carlisle GVTS

Brunthill Road

Kingstown Industrial Estate

Carlisle

Cumbria CA3 0EH

AREA 5 Greater Manchester and Derbyshire

Area Manager 0161 430 7941

Bredbury GVTS

Lingard Lane

Bredbury

Stockport

Cheshire SK6 2QX

AREA 6 Merseyside, Cheshire and North

Wales

Area Manager 0151 547 4445

Simonswood GVTS

Stopgate Lane

Simonswood

Kirkby

Liverpool L33 4YA

WEST MIDLANDS

AREA 7 Staffs and Shropshire

Area Manager 01902 397722

Featherstone GVTS

Cat and Kittens Lane

Featherstone

Wolverhampton WV10 7JD

AREA 8 Central and South - West Midlands

Area Manager 0121 783 6665

Birmingham GVTS

Granby Avenue

Garretts Green Industrial Estate

Birmingham B33 0SS

SOUTH WALES

AREA 9 South Wales

Area Manager 01443 224771

Llantrisant GVTS

School Road

Miskin

Pontyclun

Mid Glamorgan CF7 8YR

WESTERN

AREA 10 Bristol and Gloucester

Area Manager 0177 661472

Bristol GVTS

Ashton Vale Road

Ashton Gate

Bristol BS3 2JE

AREA 11 South West

Area Manager 01392 79564

Exeter GVTS

Grace Road

Marsh Barton Trading Estate

Exeter

Devon EX2 8PH

AREA 12 Hampshire, Oxfordshire and Berkshire

Area Manager 01489 790540/790136

Southampton GVTS

Hillson Road

Bottings Trading Estate

Botley

Southampton SO3 2DY

SOUTH EAST AND METROPOLITAN

AREA 13 Southern Central

Area Manager 0181 665 5715

Mitcham GVTS

Redhouse Road

Croydon

Surrey CR0 3AQ

AREA 14 South East

Area Manager 01634 232541/232754

Gillingham GVTS

Ambley Road

Gillingham

Kent ME8 0SJ

AREA 15 Metropolitan

Area Manager 0181 845 9826

Yeading GVTS

Willow Tree Lane

Yeading

Hayes

Middlesex UB4 9BS

EAST

AREA 16 Herts and Essex

Area Manager 01245 263114/353475

Chelmsford GVTS

Widford Industrial Estate

Chelmsford

Essex CM1 3AE

AREA 17 East Anglia

Area Manager 01603 408172

Norwich GVTS

Jupiter Road

Hellesden

Norwich NR6 6SS

AREA 18 East Midlands

Area Manager 0116 766381

Leicester GVTS

40 Cannock Street

Barkby Thorpe Road

Leicester LE4 7HT

AREA 19 Lincs and Cambs

Area Manager 01733 263423

Peterborough GVTS

Saville Road

Westwood

Peterborough PE 6TL

NORTH EAST

AREA 20 Notts and South Yorks

Area Manager 0115 382587

Watnall GVTS

Main Road

Watnall

Notts NG16 1JF

AREA 21 Humberside

Area Manager 01472 342918

Grimsby GVTS

Estate Road No 1

South Humberside Industrial Estate

Pyewipe

Grimsby

South Humberside DN31 2TB

AREA 22 West and North Yorks

Area Manager 0113 821156

Leeds GVTS

Patrick Green

Woodlesford

Leeds LS26 8HE

AREA 23 Tyne and Tees

Area Manager 0191 236 5011

Newcastle GVTS

Sandy Lane

Gosforth

Newcastle-Upon-Tyne NE3 5HB