SPEED CAMERA ACTIVATIONS BY EMERGENCY SERVICE VEHICLES POLICY

POLICY REFERENCE 06/124

This policy is suitable for Public Disclosure

Owner of Doc: Head of Department, Criminal Justice
Date Approved: September 2006
Review Date: February 2019
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1. Policy Identification Page

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| Policy implementation date: | September 2006 |
| Policy review date: | February 2019 |

| Department / Division responsible: | Criminal Justice |
| Policy owner: | Head of Department |
| Last reviewed by: | Steve Wilson/Tracy Lewis |
| Date last reviewed: | February 2017 |

Impacts on other policies / guidance / documents (list):

- ACPO National Protocol on Speeding and Red Light Offences by Emergency Service Vehicles – July 2004
- Derbyshire Review of Speed Camera Activations by Police Drivers July 2005

Disclosable under FOI Act?  YES

Policy to be published on Intranet?  YES

Is the policy suitable for Public Disclosure and publication on the Force Website?  YES
2. Legislative Compliance

This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Equality and Diversity issues have also been considered to ensure compliance with the Equality Act 2010 and meet our legal obligation in relation to the equality duty. In addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

3. Introduction

The subject of speeding is often controversial and emotive, particularly in the eyes of the public who usually comply with the law.

The Derby and Derbyshire Road Safety Partnership involving the Constabulary, Magistrates Courts, County and City Councils is established to operate the system of fixed and mobile speed cameras. The aim of this partnership is purely to reduce the number of casualties on roads with an emphasis on the proven link between speed and collisions.

The expectation is that the police should always act with total integrity and not be above the law themselves. This principle forms the bedrock of policing and generates sound public confidence.

This policy incorporates recommendations within the ACPO National Protocol on Speeding and Red Light Offences by Emergency Service Vehicles, July 2004 and the Review of Speed Camera Activations by Police Drivers conducted in Force, July 2005.

It is acknowledged that the police and other emergency services need to exceed the speed limits on occasions in order to carry out their role. This is recognised in Section 87 of the Road Traffic Regulations Act 1984 which legitimises the directives contained in this policy.

4. Policy Statement

Derbyshire Constabulary will operate a robust, transparent and consistent system for dealing with legitimate speed camera activations by emergency service and Force owned vehicles in order to maintain public confidence.

5. Procedures

Section 87 of the Road Traffic Regulations 1984 exempts’ fire brigade, ambulance and any vehicle being used for police purposes from speed limits if observance would hinder the use of the vehicle for the purpose for which it was being used on that occasion. Any occasion where the speed limit is exceeded and by what extent must be fully justifiable.

In the event of an emergency service vehicle activating either a static or mobile speed camera, the Casualty Reduction Enforcement Support Team (CREST) will examine the film.
If the film clearly shows that blue lights are displayed, then in the absence of any evidence to the contrary, it will be assumed that the exemption is valid and no further action will be taken. No paperwork will be sent to the emergency service concerned.

If no blue lights are displayed, the CREST will send a normal section 172 form and a Notice of Intended Prosecution (NOIP), together with a standard exemption form (Force Form 167 rev1/05) to the emergency service concerned. Once the driver has been identified they will decide to either claim the exemption on the form provided or not.

If the exemption is not claimed, the CREST will process as normal and the driver will be provided with the options for disposal that are available.

If exemption is claimed, the driver will be required to provide confirmation of the use of the vehicle. Ordinarily, this will be with reference to the relevant Command & Control/Control Works incident. Only in circumstances outside of this would an officer need to report more fully and seek authorisation from the Head of Department for Criminal Justice.

In circumstances where there is evidence available to challenge the claim, an investigation will be commenced and appropriate action taken. In the absence of such evidence CREST will be informed that the exemption is valid and take no further action.

**Activations by Police Vehicles**

In the interests of the safety of both officers responding to incidents in excess of the speed limit and members of the public, there are specific factors for consideration in each incident. Driver training is incrementally received and allows officers to drive competently up to certain speeds. Where these speeds are shown to have been exceeded an officer will be restricted in seeking application to apply for the statutory exception. The Police and Crime Commissioner and the Force cannot condone activity that breaches their duty of care to the public and to their employees. This duty takes primacy as the ‘police purpose’ and an untrained driver would find difficulty relying upon the circumstances to which they were responding, whilst at the time placing the lives of others at risk whilst they travelled to them. Persons authorised to drive by Derbyshire Constabulary fall into the following categories dependent upon the level of driver training received and competence displayed:

**BASIC NON-OPERATIONAL**

Basic non-operational drivers are authorised to drive the category of unmarked police vehicle for which they have the appropriate category on their DVLA driving licence and meet the required standard following an authorisation test conducted by the Force Driver Training School. Staff who do not meet the required standard when assessed will be invited to undertake a one day familiarisation which includes an authorisation test before being authorised as a Basic non-operational driver.

**BASIC OPERATIONAL**

Basic operational drivers are authorised to drive the category of unmarked or marked police vehicle for which they have the appropriate category on their DVLA driving licence and meet the required standard following a one day familiarisation which includes an authorisation test conducted by the Force Driver Training School.

Further detail on driver classification is available in the Driving Policy.
STANDARD
Standard response drivers are authorised to drive low performance police vehicles (below 125bhp) in an operational capacity. Drivers of marked police vehicles have a particular responsibility to promote road safety at all times by setting an example whether patrolling or responding to incidents. All Standard Response Drivers will have undergone response driver training and met the required level of competency. Standard drivers will have a permit issued which authorises them to drive to this standard, barring incident, for a period of five years. The permit holder must undertake a driving assessment prior to the end of the authorised period. If the assessment is successfully completed the authorisation is renewed for a further 5 years. If the permit holder does not undertake an assessment drive, or complete any remedial training identified by such a drive prior to the expiry of the authorisation period, the driver will lose their Standard authorisation on the expiry date. The authorisation will not be reinstated and the driver will not be able to claim exemption as a Standard driver, until such time as they have demonstrated their competence to Standard level to Driver Training School.

ADVANCED
Advanced drivers are standard drivers who are trained and authorised to drive high performance (over 125bhp) police vehicles in an operational capacity. They have a permit issued which authorises them to drive to this Advanced level, barring incident, for a period of five years. The permit holder must undertake a driving assessment prior to the end of the authorised period. If the assessment is successfully completed the authorisation is renewed for a further 5 years. If the permit holder does not undertake an assessment drive, or complete any remedial training identified by such a drive prior to the expiry of the authorisation period, the driver will lose their Advanced and Standard authorisation on the expiry date. The authorisation will not be reinstated and the driver will not be able to claim exemption either as an Advanced or Standard driver until such time as they have demonstrated their competence to such a level to Driver Training School.

The following restrictions based on the level of training that the officer has received will be adhered to: -

- Holders of a BASIC driving authority are allowed to drive police vehicles on enquiries only. The vehicle may not be used to respond to incidents of an urgent nature. Emergency equipment fitted to the vehicle (blue lights and sirens) may not be operated whilst the vehicle is in motion.

- Holders of a STANDARD driving authority can claim exemption under Section 87 in appropriate circumstances, but must not exceed the speed limit by more than 20 mph. Those drivers exceeding the speed limit by between 20mph – 29mph without serious justification will receive management advice. Speeds in excess of 30mph above the speed limit may be dealt with as misconduct and dependent upon the level, resolved at a misconduct meeting with the divisional Chief Inspector.

- Holders of an ADVANCED driving authority have no upper limit if responding to an emergency incident but must be able to fully justify their speed.

Where an officer becomes aware that they have activated a static speed camera or been filmed by a mobile unit whilst on duty (due to justifiable driving at speed in excess of the speed limit) they must request via the control room that the matter is recorded on the relevant incident log they are responding to or that a new incident log be created. Whilst fixed speed cameras are fully automated in the case of mobile cameras, all vehicles exceeding the speed limit will be bookmarked by the camera operator on the continual video tape.
It may be both impractical and undesirable for operational reasons for officers who are driving plain cars on specific authorised surveillance operations to contact the Force Control Room. In such circumstances, these officers will claim exemption by stating the operation name and justification for activating the camera, on Form 167. The completed form will be submitted via their Head of Department for a decision as to whether or not the exemption should be granted.

If a blue light can be seen on either film no further action will be taken. If no blue light is visible a NOIP will be forwarded to the driver. CREST will keep a copy of all NOIPs sent in respect of every police owned vehicle where no ‘blue light’ is displayed.

On receipt of a NOIP, staff claiming exemption under Section 87, must complete the form and submit with a copy of the incident log and completed Form 167 to their Head of Department/Divisional Commander. Prior to completing the Form 167, staff may wish to consult their relevant Staff Association for advice.

Very often, there are specific factors for consideration in each incident. These must be taken into account by the Divisional Commander/Head of Department when deciding whether or not to recommend exemption to the Head of Department, Criminal Justice who has responsibility for the final decision. The below table will be used as guidance when deciding whether exemption is appropriate.

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<th>Level of Driver Training</th>
<th>Permissible Excess Speed</th>
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<tr>
<td>Basic</td>
<td>Cannot exceed the speed limit or contravene road signs – no exemption should be permitted.</td>
</tr>
<tr>
<td>Standard</td>
<td>Cannot exceed the speed limit by more than 20mph. If responding to an emergency incident then can claim exemption under existing procedures.</td>
</tr>
<tr>
<td>Advanced</td>
<td>No upper limits, if responding to an emergency incident then can claim the exemption under the legislation.</td>
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**Reporting of Driving Offences**

Police officers/police staff who are driving their own vehicles in connection with their duties and activate speed cameras, go through the same process as above if they receive an NOIP and seek to claim exemption. In the event that they admit liability without seeking exemption, they must inform their line manager who will risk assess that member of staff’s suitability to continue driving and inform Professional Standards Department. In either case, a senior officer will oversee each activation whether exemption is claimed or not.

If a member of staff receives an NOIP for an off duty matter, they still have an obligation to report the matter to their Line Manager who will risk assess the member of staff’s suitability to continue driving force owned vehicles, or their own in the course of their duties and inform Professional Standards Department.

Line Managers will also consider such matters, together with any existing penalty points at the Personal Development Review interview when examining the member of staff’s driving licence and consider if further driver training is required.
Exceeding the Speed Limit for Training Purposes

There are occasions when officers need to exceed the speed limit for training purposes. This can be on a recognised driver training course or could be outside of such a course. In the former case, where the student already holds a valid Force issued Driver’s Permit, an instructor need not of necessity be present in the vehicle, but will be contemporaneously supervising the training activity (e.g. ARV training). There should be no integrity issues. For other occasions when driving at speed is necessary, a supervisor will authorise the training in advance. This is to protect the Force from any subsequent allegations that officers fall back on the ‘training exemption’ having received an NOIP. An incident report will be opened on the Force Command and Control system showing times and location of the intended driving. In such circumstances an officer may claim exemption via form 167 following any activation of a speed camera and subsequent receipt of an NOIP.

Emergency Activation by Non-emergency vehicles

There are other organisations such as Mountain Rescue, Emergency Doctors, Bomb disposal etc. who assist the police, fire and ambulance service in their duties and may have to drive in excess of the speed limit to save lives or in the investigation of serious crime.

If a vehicle being used for such ‘purposes’ exceeds the speed limit and seeks to request no further action be taken, then a letter should be sent from the relevant organisation to the Head of Department, Criminal Justice who will seek advice from the Crown Prosecution Service before deciding what action to take.

6. Monitoring and Review

This policy has been drafted in accordance with all relevant employment legislation and the Equality Act 2010. Monitoring work will be undertaken on a regular basis to ensure this is reviewed in light of monitoring results.

CREST will retain a copy file in line with their procedures for retention and use of stored data of all finalised forms 167 relating to requests for exemption for conviction and payment of fine.

The Chairman of the Derbyshire Police and Crime Commissioner’s Complaints and Professional Standards Sub-Committee will meet the Head of Criminal Justice Department on an annual basis to discuss those cases where an exemption from exceeding the speed limit is claimed by a police officer/member of police staff in the previous 12 months.

7. Appeals Process

Where the Head of Criminal Justice decides that exemption to a speeding offence should not be allowed, the driver may appeal against the decision to the Assistant Chief Constable (Operational Support).

If the ACC (OS) confirms the decision of the Head of Criminal Justice, CREST will issue, if applicable, a fixed penalty notice. Alternatively, in circumstances falling outside the remit of a fixed penalty notice, a summons for court may be issued.