



Shropshire

Fire and Rescue Service

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**Brigade Order
Operations
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Part 8

**Driving of Fire
Service vehicles
when responding to
emergency incidents**

Part 8 – Driving of Fire Service vehicles when responding to emergency incidents

Purpose

The document provides guidance to any member of the Service who may be required to drive under emergency conditions as part of their duties. It provides the driver with information on the issues which they must consider each and every time they wish to take advantage of any one of the dispensations provided to them under the Road Traffic Act. It is recommended that this Order is read in conjunction with the Safe Driver Hand Book.

Strategic aims and objectives

This Order supports:-

Strategic aim 3 - "Secure the highest level of safety and welfare for all staff by providing effective supervision, training, equipment and systems of work"

Corporate objective 8 - "Maintain and improve the health, safety and welfare of all members and employees"

Corporate objective 9 - "Ensure that all members and employees are competent and able to perform their role".

Roles, responsibilities and review

The **Head Of Operational Response** is responsible for ensuring this Order is implemented across the Brigade.

The **Driver of any vehicle responding to an incident** will be responsible for the day to day operation of the Order.

The **Head of Operational Response** will review this Order biennially in **November** and as and when organisational changes take place.

Introduction

This Order explains how Shropshire Fire and Rescue Service will implement procedures in relation to Section 87 of the Road Traffic Act 1984. This regulates the circumstances in which drivers of vehicles within the emergency services may be exempt from a finding of guilt for exceeding speed limits in a vehicle.

The public has a right to expect that public servants do not abuse their position and that public servants do not assume they have an automatic right to exemption. Similarly, staff within the emergency services have a right to guidelines on how best to undertake their work and full support when conscientiously serving within those guidelines.

This Order applies to all members of the Service who may be called upon to drive emergency vehicles. It outlines the conditions under which the enforcing authority (West Mercia Constabulary) will exercise its discretion not to pursue a prosecution in light of the statutory exemption. It is acknowledged that the final arbiters of the exemption's parameters are the courts and that it is every driver's right, when pursued for an alleged offence of speeding, to ask for a court to consider the allegation at a hearing.

General principles

Shropshire Fire and Rescue Service recognise the primacy of public safety and its responsibility in that regard. It accepts that any use of a fire service vehicle in excess of the speed limit increases the danger to other road users and to the safety of staff. At the same time the protection of public safety sometimes requires emergency vehicles to be driven in excess of the normal speed limit.

It should be borne in mind by all drivers that it is not an automatic right to exceed the speed limit simply because you are attending an incident and a robust assessment of all factors relating to the incident must be conducted **every time** prior to the vehicle starting its journey. To assist drivers in making a reasoned risk assessment Shropshire Fire and Rescue Service has a programme of driver training and assessment, which includes driving vehicles under Emergency Fire Appliance (EFAD) conditions which serves to highlight the principles and demands involved in conducting an appropriate risk assessment.

Policy statement

It is SFRS policy that any staff driving in excess of the speed limit should only do so following a clear decision based on their training and experience, and in the light of circumstances existing at the time. As a result it will be expected that, within the boundaries set by this Order, those drivers will make appropriate use of any warning equipment available together with driving skills to minimise danger to other road users. Due consideration must be given to the purpose to which the vehicle is being

used and to whether driving within the speed limit will hinder the purpose to which the vehicle is being put.

Considerations

The factors that will need to be considered when determining an appropriate risk assessment will include:

- Nature of the incident
- Is it an emergency response incident (see “non-emergency response” below)
- Road conditions
- Weather conditions
- Traffic volumes
- Time of day
- Type of vehicle being driven

This list is not exhaustive but is a guide to some of the issues that the driver will need to consider.

Shropshire Fire and Rescue Service have developed its policy following consultation with West Mercia Police and the Central Motorway Police Group who enforce the Road Traffic Act in our area; the policy also follows national Association of Chief Police Officers (ACPO) guidance.

West Mercia Police within their own Driving Policy Statement have made it clear that exemptions from prosecution for their own drivers will be considered and in all likelihood granted as long as the driver is attending a legitimate emergency and has not exceeded the speed limit by any more than 20 mph, for example the maximum speed in a 40 mph zone allowed without prosecution would be 60 mph – **clearly this does not mean that the vehicle has to be driven at that speed and it should only occur if the driver’s risk assessment determines that it is safe to do so.**

This policy mirrors that of the police. **The maximum speed that any fire service vehicle should attain when responding to any emergency is the applicable speed limit +20 mph.** Therefore, the Brigade will seek an exemption for any speeding offence on behalf of the driver if these criteria are met. At all other times the speed limits must be observed and the Brigade will not seek an exemption for any driver who has committed a speeding offence when the vehicle is being used for other purposes.

Non-Emergency response

The following incidents will not normally be considered as “Emergencies” and consequently, it is expected that no driving actions outside the law will be countenanced.

Persons locked out of premises
Persons stuck in lift cars (not injured)
Domestic flooding (no life risk)
Commercial flooding (no life risk)

Where Fire Control personnel have been able to determine without doubt that persons are not in danger as a result of the incident, they will annotate turnout instructions with “non-emergency response”.

The role of the Officer in charge of the appliance

The Officer in Charge of the appliance is responsible for the appliance and its crew. In law, however, it is the driver who is responsible for its safe passage along the public highway. Therefore, it can be seen from the outset that a driver responding to an emergency incident is deemed in law to be in charge of the vehicle.

Therefore, decisions on the speed and progress being made and the use of audible warnings etc should be left to the driver. Intervention by the Officer in Charge may disrupt the driver’s planned approach to a hazard by inappropriate use of audible warning devices. The Officer in Charge may assist the driver, when requested, to operate the audible warnings or to look and advise at junctions and roundabouts etc; particularly when turning left where vision may be restricted; even then it is still the driver’s responsibility to check before proceeding. Crew Commanders remain responsible for the health and safety of crews and therefore, if he/she is concerned that inappropriate driving is occurring, will advise the driver accordingly.

When at the scene of an incident the Officer in Charge has a responsibility to SFRS to ensure that the vehicle is parked appropriately and should assist the driver in making decisions related to appliance siting.

Procedure when a fixed penalty notice is received by the Brigade

About this procedure

This procedure explains the method by which a Section 87 exemption will be sought when a fire service vehicle is recorded exceeding the speed limit when responding to an emergency incident.

Procedure

When vehicles are recorded exceeding the speed limit via camera technology, or endorsable fixed penalty ticket, the following procedure must be undertaken in order to facilitate any appropriate exemption from the alleged offence.

A Notice of Intended Prosecution (or combined Notice of Intended Prosecution and Conditional Offer) will be sent to the Registered Keeper of the vehicle involved (for example with a fire appliance it would go to the Service, for the driver of a lease vehicle it would go to the lease company – who will forward it to the service.)The

Registered Keeper should comply with the legislation relating to the duty to provide information.

If the vehicle is identified as a vehicle being used for fire service emergency purposes, the Fleet Manager will arrange for an examination of the use to which that vehicle was being put, at the time and date of the alleged offence. If on completion of the examination, that person is satisfied that the evidence supports a request for exemption under Section 87, the request will be conveyed to the Central Ticket Office with supporting documentation.

A decision maker at the Central Ticket Office will review the evidence and consider withdrawing the Section 172 notice. If the notice is to be withdrawn, written confirmation will be sent to the Fleet Manager. This will confirm that the original offence is no longer being pursued.

When the evidence provided to the decision maker does not fit the criteria for exemption, the Central Ticket Office will provide the necessary documentation to complete the legislative process.

If the vehicle is identified as a vehicle being used for fire service purposes, the Head of Operations should arrange for an examination of the circumstances in relation to the use of the vehicle at the time and date of the alleged offence. The Head of Operations will ensure the Section 172 notice is complied with (full name of driver required) and if satisfied that the circumstances support an exemption under the criteria set out within this document he will sign an exemption certificate in support of the driver.

A copy of the evidence considered in support of the exemption plus the signed exemption certificate should be returned to the Central Ticket Office Manager. Potential evidence should include the incident report, a report from the driver giving detailed reasoning for his/her request for exemption (i.e. outlining circumstances and reasoning behind decision to exceed speed limit, along with measures taken to control the risk to the public). The Head of Operations will ensure that the driver has had support in completing the required documentation.

Where supporting evidence comprises sensitive information which would not in normal circumstances be released into the public domain, the officer supporting the exemption should clearly outline this on the certificate. The information must be retained by the officer supporting the exemption for auditing purposes. (This is unlikely to occur with Fire Service Vehicles but is included in case such an occasion arises.)

In the case of a fire service driver's request for exemption being refused at any stage, or where its initial endorsement appears inconsistent with the fire service's corporate approach, the matter may be forwarded by any party via the Deputy Chief Fire Officer for a final decision.

In cases where the exemption is not signed the Central Ticket Office will ensure the driver is in receipt of the appropriate paperwork to complete the legislative process.

In cases where the above procedure does not result in the identification of the driver the corporate body is liable to prosecution under Section 172 Road Traffic Act 1988 (as amended) which places an obligation on a corporate body to maintain accurate records of drivers for all vehicles.

Nothing in the above procedure overrides the right of the driver to request a court hearing in relation to the alleged offence.

Procedure roles and responsibilities

Depending upon the circumstances either the Fleet Manager or the Head of Operations (depending upon the circumstances) must satisfy himself that the evidence supports an application for an exemption and where applicable should supply the necessary accompanying evidence.

Nominated persons will ensure vehicle records are accurately maintained in order to identify drivers of vehicles concerned.

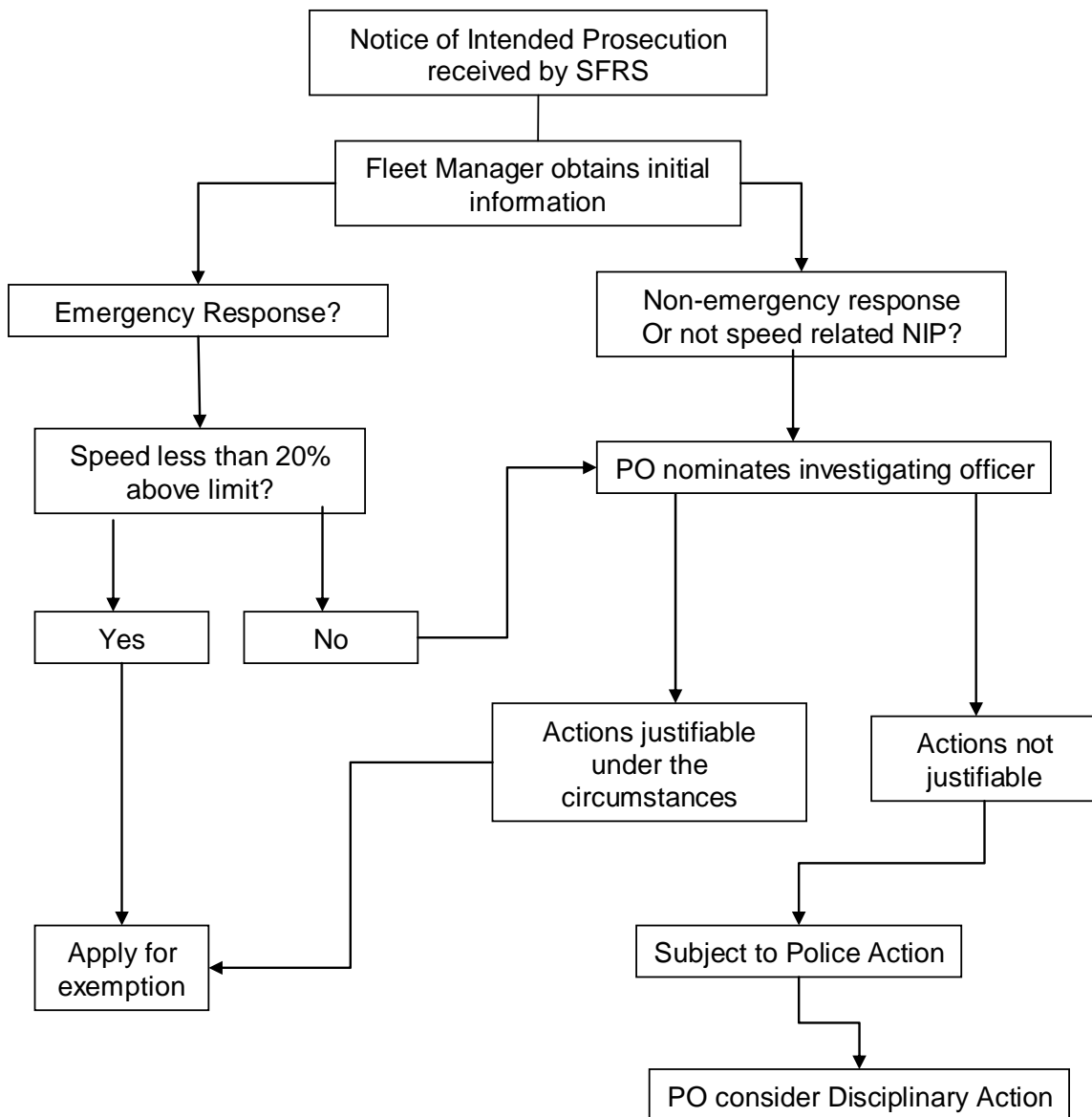
The appended flow chart shows the likely responses to a Notice of Intended Prosecution and outlines the person responsible for each stage of the process.

All drivers must remember that to exceed the posted speed limit is not a right given to emergency response drivers lightly.

Any driver who uses the dispensations given to them under the Road Traffic Act must be prepared to justify why they were using speeds over the limit, together with details of their risk assessment and what actions they took to make sure the risk to other road users and the public was kept to an acceptable limit.

Always remember:

“Drive to arrive”



Appendix A – Investigation Flowchart