

## INDEX

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To  
HSE Inspectors

### WORK-RELATED ROAD TRAFFIC INCIDENTS: AN EXPLANATION OF CIRCUMSTANCES WHERE HSE MAY HAVE A ROLE TO PLAY

This OM clarifies HSC/E's policy on enforcement of health and safety legislation in relation to work-related road traffic incidents (RTIs). It gives guidance on the type of work-related road traffic incidents where inspectors are likely to have a regulatory role. It deals primarily with demarcation of enforcement responsibility and does not discuss application of the FOD Enforcement Management Model. The OM has been revised following experience of working to the original guidance and in the light of the Commission's response to the inter agency Task Group report on work related road safety which does not envisage any immediate change in HSE's operational role. This OM revises and updates OM 2000/124 which should now be cancelled.


### BACKGROUND

1 In spring 2000 HSE was taken to judicial review in connection with a fatal accident. A member of the public was killed when his car collided with a forklift truck on a public road. The forklift truck was operated by a company from premises allocated to a local authority for health and safety enforcement. The judicial review concerned the decision taken by HSE, as the health and safety enforcing authority for work activities occurring on public highways, not to investigate the accident. The judicial review raised a number of questions about:

- (1) enforcement of HSW Act in relation to work-related RTIs; and
- (2) the present enforcement allocation arrangements provided by the Health and Safety (Enforcing Authority) Regulations 1998.

2 At the Judicial Review, on consideration of all the available information, HSE recognised that its decision not to investigate had been incorrect and volunteered to investigate the incident retrospectively. Because HSE volunteered to investigate the incident no formal **reasoned judgement** was given by the Court. However, the need for better guidance for inspectors was recognised.

3 As part of the Government's road safety strategy, an inter-agency Task Group on work-related road safety was set up and made recommendations to the Commission and Ministers in the autumn of 2001. As a result the Commission has asked HSE to develop a programme of work over the next

3-5 years and promote best practice; raise awareness; collect data; clarify investigation/enforcement arrangements between the police, HSE and local authorities; and commission research and guidance. However, the Commission has made no bid for resource to implement the task group recommendations and work related road safety is not a priority topic in the Commission's current strategic plan. The Commission recognises that the situation will need to be kept under review as it develops its strategic plan for 2004 and beyond. Inspectors may receive enquiries about the outcome of the Task Group report. They should say that while the HSW Act applies to people who drive in the course of their work and that risk assessments should cover work related road risks HSE is not taking an active operational interest in the matter at the moment, although the situation may change in the future. Reference can be made to the policy work indicated above. HSE has issued joint generic guidance with the Department for Transport (see [Driving at work, Managing work-related road safety INDG382](#) )

#### HSC/E'S CURRENT POLICY ON WORK-RELATED ROAD TRAFFIC INCIDENTS

4 The advice in this OM complements that in the Enforcement Guide, see [HSC statement on Section 3 and 4 of the Health and Safety at Work Act](#).

5 The general duties under health and safety at work law to protect workers and others from risks arising out of work activities are very broad and overlap with other legislation and are capable of application to work related driving. It has been the policy of successive Governments that we should not **generally** seek to enforce health and safety at work legislation where public and worker safety was adequately protected by more specific and detailed law enforced by another authority.

6 This policy is not, however, intended to exclude the use of health and safety legislation in respect of **all** work-related road traffic incidents. Where safety cannot be adequately regulated by the enforcement of other more specific legislation, such as the Road Traffic Acts and the Motor Vehicles (Construction and Use) Regulations, there **may** be a need to use health and safety legislation, particularly in the cases of serious management shortcomings, eg failure to check driving licence validity or encouragement of the use of mobile phones while driving.

#### ENFORCEMENT OF ROAD TRAFFIC LEGISLATION

7 Road traffic law is enforced by the police and others, eg Highways Authorities and Traffic Commissioners. The police will in most cases take the lead in the investigation of road traffic incidents on the public highway. The police will also be responsible for enforcing road traffic legislation in public places such as hospital grounds and supermarket car parks ([OC 789/4](#) refers).

8 Inspectors should note that it is open to the police/CPS/PF in Scotland in many circumstances to prosecute employers under "cause or permit" provisions of road traffic law. Employers have been found guilty of aiding, abetting, counselling and procuring the commissioning of most road traffic offences by employees. There is also a specific road traffic regulation which creates an offence on employers who "by poor [or non-existent] scheduling, procure or incite their employees to exceed speed limits [Road Traffic Regulation Act 1984, Part VI, section 89(4)]."

#### ENFORCEMENT OF HEALTH AND SAFETY LAW ON THE PUBLIC HIGHWAY

9 The Health and Safety (Enforcing Authority) Regulations 1998 set out the enforcement allocation arrangements for health and safety in Great

Britain. The Regulations specify in Schedule 1 activities which, if they are the main activities carried on in premises, determine that local authorities (LAs) are the health and safety enforcing authority for those premises. All other activities are reserved to HSE, even if they take place in LA enforced premises. All work activities taking place on the public highway fall to HSE's enforcement, except for mobile vendors ([OC 124/9](#) refers). Local authorities have no health and safety enforcement responsibilities in relation to the public highway. They will, however, have responsibility for road traffic incidents occurring within the curtilage of premises for which they are the enforcing authority, eg car parks. LAs also have duties in relation to roads as Highway Authorities. **The consequence of these allocation arrangements is that when vehicles and workers leave LA enforced premises and pass onto the public highway HSE becomes the health and safety enforcing authority.**

10 These allocation arrangements are under review.

### RIDDOR AND ROAD TRAFFIC INCIDENTS

11 The Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) reg.10(2) places restrictions on the general reporting requirements in relation to accidents involving moving vehicles on roads, as defined in the Road Traffic Act 1988, s.192, that is to say a road to which the public has access. Accidents arising from the movement of a vehicle on the road do not need to be reported unless they involve or are connected with:

- (1) exposure to a substance being conveyed by road;
- (2) loading and unloading of an article or substance (not passengers) onto or off a vehicle;
- (3) construction, demolition, alteration, repair or maintenance activities on or alongside public roads; and
- (4) an accident involving a train.

12 RIDDOR reg.10(2)(b) limits reporting of injuries occurring during the loading and unloading of vehicles to those situations where the actual vehicle being loaded or unloaded is moving at the time. Inspectors should be mindful of this when considering formal enforcement under these regulations.

13 Work-related dangerous occurrences on public highways are covered by RIDDOR, and so too are work-related accidents and dangerous occurrences on private roads, (ie those not covered by the Road Traffic Act 1988).

14 The exemption from the reporting requirements of RIDDOR for most types of accidents on the road means that HSE will not receive large numbers of RIDDOR notifications of road traffic incidents. However, notifications of both reportable and non-reportable work-related road accidents will be received by HSE from employers, members of the public, local authorities, the police and others. The fact that a road traffic accident was non-reportable under RIDDOR would not prevent its investigation by HSE. When deciding if HSE has a role in relation to particular incidents inspectors should consider the principles and practices set out in this OM.

### **Initial 'on-road' investigations of work-related road traffic incidents**

15 Protection of workers and members of the public from traffic risks on public roads is mostly a matter for road traffic law. However, in some cases public and worker safety will not be fully covered by road traffic law and in these cases HSE will have a role. Even in these cases, the immediate “on-road” investigation will remain the responsibility of the police. Other than in some cases relating to the carriage of dangerous goods or construction activities, HSE inspectors should not have an “on the road” presence, which is a role in the initial investigation.

### **Circumstances where HSE will have a role**

16 HSE involvement in work-related RTIs should be restricted to three broad situations:

- (1) where work vehicles are engaged in specific work activities (other than travelling) on the public highway, eg, hedge-cutting, refuse collection, unloading, construction, traffic management, etc;
- (2) where workers (not in vehicles) are engaged in specific work activities (other than travelling) on the public highway, eg construction work, repairs to street furniture, refuse collection, street cleaning, etc; and
- (3) where vehicles connected with particular work premises are manoeuvring in, out and in close proximity to those work premises.

17 The [appendix](#) gives examples of circumstances where HSE inspectors should and should not have a role in relation to work-related RTIs. Where a level crossing is involved then RI are likely to have a role even if the incident occurs on the highway.

18 On occasions inspectors may receive requests from HM Coroners and the Procurator Fiscal in Scotland to investigate fatal workrelated road traffic incidents. In such cases inspectors should cooperate in line with the advice contained in the relevant Enforcement Handbook.

### **Circumstances where HSE might have a role**

19 The police, in rare cases, may ask for assistance from HSE when they are investigating RTIs in category 16(1) above. When approached by the police for help, inspectors should agree to assist where the police demonstrate with evidence that serious safety management failures have been a significant contributory factor in the incident.

20 In addition two broad circumstances will arise outside those detailed in para 16 when it might be appropriate for HSE to take formal enforcement action in relation to work-related RTIs:

- (1) when another enforcing authority, normally the police, has taken enforcement action under their legislation, eg Road Traffic Acts, but are unable to address the underlying risks caused by health and safety management failures. In these cases, the advice given in paras 22, 23 and 24 is relevant; and
- (2) when no suitable specific legislation exists, and underlying health and safety management failures create continuing risks to the health and safety of employees and/or members of the public that can only be adequately dealt with through enforcement of health and

safety law. Again, the advice given in paras 22, 23 and 24 is relevant. That said, formal enforcement action should not be taken just because there is an absence of alternative specific legislation or to fill gaps in other legislation. ([See appendix, section 9 on hours of driving](#)).

### **Circumstances where HSE will not have a role**

21 As a general principle, HSE inspectors **will not** have a role in relation to:

- (1) work vehicles travelling along the public highway as part of a road journey;
- (2) vehicle design issues where the Road Vehicle (Construction and Use) Regulations 1996 take primacy (except for design issues relating to a specific work activity); and
- (3) employees' duties under HSW Act s.7 as the more specific and detailed duties on drivers under road traffic legislation will take precedence.

### **Work-related RTIs where HSE assumes a role - action by inspectors**

22 Formal enforcement action by HSE will usually be confined to significant and demonstrable failures to manage the health and safety of work activities on or near the public highway by employers and the self-employed.

23 HSE has a dual role of preventing further harm from occurring and instigating legal proceedings where appropriate. Enforcement action should, in most instances, be confined to the service of notices to remove risks caused by underlying health and safety management failures. However, if principal inspectors consider that the circumstances of a particular incident fall within the Commission's Enforcement Policy then prosecution may also be appropriate. Care will be needed to check that action required by HSE does not conflict with other law, eg Highways Act, planning legislation.

24 HSE should not prosecute solely because road traffic offence penalties are disproportionate to the offence committed. In such instances it should be left to the Crown Prosecution Service/Procurator Fiscal in Scotland to decide whether the employer should be prosecuted under health and safety or road traffic law.

## **COMPLAINTS**

25 Complaints from workers, members of the public and others will be received from time to time. These will fall into three broad categories relating to:

- (1) the work activities described in para 16;
- (2) health issues; and

(3) work vehicles travelling along the public highway as part of a road journey.

26 The first category 25(a) is core HSE operational business and these complaints should be dealt with accordingly. Inspectors may also have a role in relation to complaints about health issues, eg, complaints relating to stress and working time should be dealt with in accordance with the instructions set out in [OC 202/3](#) and [OC 1/6](#) respectively. Otherwise inspectors should deal with complaints relating to work-related road journeys in the same way as accidents.

#### INVESTIGATIONS IN RELATION TO LA ENFORCED PREMISES

27 HSE inspectors may receive notifications of RTIs involving vehicles and workers from LA enforced premises and complaints about management of these vehicles and workers. HSE will be responsible for dealing with such incidents and complaints as the enforcing authority for work activities on the road, and inspectors will need to liaise closely with LAs. In these investigations inspectors should note that they do not have the vires to enquire about on-site activities.

#### COMMUNICATION AND LIAISON ARRANGEMENTS FOLLOWING ROAD TRAFFIC INCIDENTS

28 It is essential to avoid duplication of enforcement effort when dealing with road traffic incidents that inspectors liaise closely and fully with all those enforcing authorities that may have an interest. In most instances this will be the police and where incidents involve local authority enforced premises, or employees of such premises, the local authority as well. Other regulators may also be involved such as Traffic Commissioners or the Vehicle Inspectorate. The police will be able to advise inspectors of the interest of these bodies. Inspectors should indicate HSE interest and the areas where they might be able to assist or would want to take action.

29 HSE inspectors must ensure that they communicate clearly the action they intend to take (or not take) in relation to a road traffic incident with all relevant enforcing authorities. In most situations inspectors should confirm the action they intend to take in writing.

30 Where HSE might reasonably be expected by others to **consider** the application of health and safety legislation to a road traffic incident, it is important that they inform injured persons and/or the families of deceased persons of the action they intend to take. This should be done both when HSE is to take enforcement action and when it is decided HSE does not have an enforcement role.

#### WORK-RELATED DEATHS PROTOCOL

31 The protocol agreed between HSE, the Association of Chief Police Officers (ACPO) and the Crown Prosecution Service (CPS) entitled *Work-related deaths - A protocol for liaison* (MISC 114) sets out the principles for effective liaison between HSE, police forces and the CPS in relation to work-related deaths in England and Wales where HSE is the enforcing authority for health and safety legislation. Inspectors investigating work-related road traffic fatalities should seek to establish liaison mechanisms with the police and CPS in line with the protocol. For all road deaths there will be a designated senior investigating police officer who should be the contact. When dealing with work-related road traffic fatalities inspectors should also ensure investigations are conducted in accordance with [paragraph 21 of the HSC's Enforcement Policy Statement](#).

## CANCELLATION OF INSTRUCTIONS

32 OM 2000/124 – **cancel** and **destroy**.

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APPENDIX  
(paras 17 and 20(2))

SITUATIONS WHERE HSE MAY HAVE A ROLE FOLLOWING A WORK-RELATED ROAD TRAFFIC INCIDENT

ISSUE	HSE INVOLVEMENT	COMMENTARY
<b>Loading and unloading activities</b>		
1.General	Likely	Most incidents involving loading and unloading were intended to be reportable under RIDDOR reg.10. Where a work-related road traffic incident results from a significant failure to manage the safety of a vehicle loading or unloading work activity HSE has a role. More generally HSE involvement will be most appropriate where the incident involves routine loading/unloading activity taking place in close proximity to employers' premises. In such situations the employer will have knowledge of the risks involved and a good opportunity to ensure the safety of the activity. HSEs main interest is in the un/loading operation rather than the parking of the vehicle on the road. See also <a href="#">sections 20</a> and <a href="#">35</a> below.
2.Outside LA enforced premises	Likely	The present enforcement allocation legislation means that HSE will be the enforcing authority for loading and unloading of work vehicles on the public highway outside LA enforced premises. HSE should liaise with LAs and the Police about possible action in such cases and ensure that any underlying health and safety management failures are adequately resolved. The EA Regs are being revised.



Driving activities on public roads		
3.General	No	HSE inspectors should generally not seek involvement with work-related road traffic incidents arising from driving activities on public roads apart from the particular situations detailed below. Inspectors should generally presume that the police (or highway authority, Vehicle Inspectorate, Traffic Commissioners etc) have a better locus for dealing with the issue involved and that Road Traffic legislation is sufficient to adequately ensure safety. The majority of road traffic incidents will not be RIDDOR reportable.
4.“Other public places”, eg supermarket car parks, industrial estates, hospital grounds, dock areas, farm roads, etc. (For application of paras 6,7,15,17, 19 to house building <a href="#">see below - 47</a> ).	Yes	Police have responsibility to enforce Road Traffic legislation in “other public places”. HSE has a clear enforcement role set out in <a href="#">OC 789/4</a> . This role is a function of the fact that “other public places” are generally within the curtilage of premises subject to health and safety legislation. Where premises are local authority enforced it will be for the local authority to take action not HSE.
5.Carriage of dangerous goods	Yes	Specifically assigned to HSE.
6.Vehicles manoeuvring near to a work place.	Likely	In these situations employers have a degree of control over the activities, with site layout and vehicle management having a significant influence over road safety immediately outside work premises. CDM will be relevant for construction sites. HSE is therefore likely to have a role in relation to management of risk, for example, manoeuvring of lift trucks outside employers premises, and vehicles entering and leaving work premises.  Liaison with the police will be needed, and possibly Highways Authority.

7.Reversing activities	<p>No - on public highways</p> <p>Likely - entering and leaving work place</p>	<p>Reversing is not illegal except on motorways, etc. The Highway Code sets the standards for this activity on public roads. HSE should not prohibit reversing per se.</p> <p>However, at the entrance/exit to workplaces changes to internal road system/traffic management system might enable reversing to be reduced or eliminated. Employers should demonstrate they have done all that is reasonably practicable to protect workers and members of the public. This may involve deciding if reversing into premises is safer than reversing out of premises. Any banksman needs to be protected from traffic and should be instructed that they have no authority to stop traffic.</p>
8.Armed forces vehicles travelling on public highway <sup>4</sup>	Possibly	<p>There are some exemptions from road traffic legislation for armed forces vehicles. However, the Army replicates requirements of road traffic law in Army Regulations. Failure to comply with Regulations is an offence under the ArUmy Act etc - and individual soldiers are subject to disciplinary hearings. Accidents are not reportable under RIDDOR if the driver is on duty at the time. Inspectors should generally resist involvement with such issues and seek advice from the Crown NIG.</p>
9.Hours of driving	No	<p>Driver hours and rest regimes and tachograph requirements for HGV/PSV are set in road traffic law and enforced by the Vehicle Inspectorate, Traffic Commissioners and the police. For further information including addresses of Traffic Commissioners see <a href="#">SIM 5/2001/16</a>.</p> <p>Inspectors should resist using HSW Act to set driver hours and rest regimes for any at-work drivers as we have no suitable measure for safe hours of driving for non HGV/PSV vehicles.</p>

		Special consideration may apply when Safety Critical workers on railways are concerned.
10. Hours of work	Possibly	Working Time Regulations 1998 as amended may apply, but there are exempted sectors, and difficulties on application. See <a href="#">OCs 1/3</a> , <a href="#">1/5</a> and <a href="#">1/6</a> .
11. Shift working	Unlikely	Where persons are working long shifts and then driving home there should generally be no HSE involvement.
12. Agricultural vehicles moving on public highway	Possibly	Road traffic legislation will have primacy as the driver of the agricultural vehicle is required to ensure they travel along the road and enter/exit fields, yards, etc without endangering other road users. HSE may have a role where the vehicle is moving between agricultural premises and are subject to the Agriculture (Tractor Cab) or Agriculture (Avoidance of Accidents to Children) Regulations.
13. Newspaper deliveries by cyclists	Very unlikely	Road traffic legislation and its enforcement will in most cases adequately cover the safety of newspaper delivery staff. At present there are no legislative requirements for cyclists to wear reflective clothing or helmets. There is a disapplication under the Personal Protective Equipment at Work Regulations 1992 for PPE used while travelling on the road, therefore reflective clothing cannot be required under these Regulations. The requirements for lights and reflectors for bicycles are contained within the Road Vehicles Lighting Regulations which are enforced by the police. Local authorities are responsible for enforcement of health and safety law in newsagents shops - but not for peripatetic activities. Many local authorities have released guidance on newspaper delivery. See Printing IAC guidance 'Handling the News'.
14. Milk delivery	Unlikely	Incidents have occurred where milk delivery staff (often youngsters) travelling on the rear of delivery vehicles without proper arrangements have fallen and been injured. The safe carriage of passengers on road vehicles is primarily dealt with by the Road Vehicles (Construction and Use) Regulations and is enforced by the police. <a href="#">OC 549/3</a> deals with milk

		delivery.
15. Specialist works vehicles normally confined to site but on highway	Unlikely	Some exemptions may apply under Road Traffic legislation, eg if travelling less than 6 miles per week.  HSE cannot prohibit their use on public roads as road traffic legislation permits their use.
16. Driver training - road vehicles	No	Matter well regulated by Road Traffic legislation, Driving Standards Agency, etc.
17. Driver training - specialist works vehicles e.g. lift trucks, pallet trucks, etc driven on public highway.  (see also 6 above)	No	Drivers and employers (through cause and permit clauses) are required to comply with all aspects of road traffic legislation, including driver training and licensing when driving on public roads. The competence of drivers to operate equipment in the workplace will be relevant where road traffic incidents involving specialist works vehicles occur just outside the curtilage of premises.
19. Use of mobile phone.	Unlikely	It may be an offence under Reg. 104 of the Road Vehicle (Construction and Use) 1986 to ask employees to use a phone whilst driving. DfT have published a leaflet 'Mobile phones and driving' (Ref T/INF/451)
<b>Vehicles and objects parked on highway</b>		
20. General	No	Danger to other road users caused by positioning of vehicles is police matter.
21. Parked specialist work vehicles running away	Unlikely	If this vehicle is parked on the road then there should be no HSE involvement. If it is parked in work place then HSE should be involved.
22. Skips	No	Specifically covered by Highways Act. Refer to local Highway Authority.
<b>Passenger safety systems</b>		

24. Seat belts on buses, coaches, minibuses	No	Seat belt requirements are covered by the Road Traffic Act 1988 and Road Vehicle (Construction and Use) Regulations. The Traffic Commissioners have a remit.
<b>Vehicle integrity and maintenance</b>		
26. Security of loads	No	Load security is specifically dealt with by Section 40A of the Traffic Act and Reg. 100 of the Construction and Use Regs so police are capable of effectively dealing with the issue. HSE inspectors should generally resist taking an enforcement role in relation to this issue.
27. Vehicle emissions	No	Vehicle Inspectorate Agency have powers to deal with vehicle emissions. Complaints should be referred to them or LAs where emissions causing nuisance at particular site.
28. Road worthiness	No	It is an offence under the Road Traffic Act s.8 to use, or cause or permit the use of, a vehicle that is in a dangerous condition. Incidents involving road worthiness of vehicles are a matter for the police. The Vehicle Inspectorate Agency (VIA) also has role in enforcing Road Traffic Act provisions on the road worthiness of vehicles. <a href="#">OC 789/4</a> sets out present arrangements in relation to road worthiness issues.
29. Vehicle maintenance/servicing	No	Inadequate or defective servicing of vehicles by garages and other vehicle servicers is a consumer issue covered by Trading Standards Officers. In addition there may be scope for Trading Standards officers to prosecute for poor servicing under the Road Traffic Act S.75 (supply of unroadworthy vehicle)
30. Maintenance of vehicles not requiring MOT (ie specialist works vehicles)	No	Standards of road worthiness, causing danger to road users addressed by road traffic legislation.

31. Working at heights on tankers and lorries.	Yes	These risks are not covered by road traffic law. Employers should establish safe systems of work for such activities.
<b>Vehicles involved in on the road work activities</b>		
32. Vehicles engaged in construction demolition, alteration and repair of roads including placing and removing cones, warning signs etc.	Yes	Incidents where person injured as a result of construction, demolition, alteration or repair of the road, services and buildings/structures adjacent to roads are RIDDOR reportable. See MoU for Safety at Roadworks for demarcation. For other construction activities presumption is for some HSE involvement, if only technical support to others.
33. Hedge cutting	Yes	Incidents RIDDOR reportable. Employers should ensure safe systems of work in place.
34. Refuse collection	Yes	Safe systems of work are required to ensure safety of workers engaged in refuse collection. Injuries occurring during the loading of refuse onto refuse collection trucks will be RIDDOR reportable.
35. Stationary vehicles involved in work activities on the road e.g. breakdown recovery, gully cleaning, repairs to lampposts.	Likely	Safe systems of work should be devised by the employer to ensure safety of employees and public. In some instances vehicles and/or attachments, eg winches, cranes etc will be used as work equipment. Danger to other road users caused by positioning of vehicle is a police matter.
<b>Work on foot on public highway</b>		
36. Professional pedestrians: postal delivery workers; newspaper boys; meter readers;	No	In most cases risks involved no different to those created by normal use of highway as private user other than length of time exposed. Wearing of high visibility clothing to be encouraged. However, although high visibility clothing may be PPE under health and safety at work legislation there is a disapplication in the Regs for PPE whilst travelling on a road.

<p>public survey staff; canvassers;</p>		
<p>37. Work incidental to traffic flow: road cleaning; hedge cutting; construction workers crossing carriageway; highway inspections placing warning signs</p>	<p>Yes</p>	<p>Normal work activities for which HSE has an enforcement role. Traffic represents an additional risk that safety management arrangements should cover.</p>
<p>38. Work related to traffic flow: construction traffic control; traffic wardens; police (safety checks, road blocks etc) school crossing patrol.</p>	<p>Possible</p>	<p>The highway authority will agree temporary traffic controls at roadworks. Road traffic legislation will take precedence where the police, traffic wardens, etc are making use of their powers to stop or direct vehicles, and in relation to road users at roadworks. Where safe systems of work are not established or implemented there may be a role for HSE. (When level crossings are involved then RI may have a role)</p> <p>Crossing patrol women/men are provided with the power to stop vehicles under Section 26 of the Road Traffic Act. Road traffic legislation will have primacy in incidents involving crossing patrols. A Home Office circular provides guidance on suitable clothing for crossing patrols. RoSPA have produced guidance on crossing patrols that represents current best practice, including training issues. Where incident occurs due to failure to train crossing patrol staff in safe stopping of traffic there may be a role for HSE enforcement.</p>

39.Banksman for vehicle (where banksman provided at work place specifically to control movement of vehicles)	Yes	Activity of banksman clearly within control of employer. Risk to pedestrians and passing traffic needs to be balanced against risk to banksman. Where banksman is used there is a need to ensure they are as safe as reasonably practicable. A banksman has no power to stop traffic.
40.Banksman for individual vehicle	Unlikely	Activity largely ad hoc and remote from employers/workplace influence.
<b>Highway design, use and maintenance</b>		
41.Surface and condition of road including mud on the road	No (Except RI)	Covered by Highways Act (HA). One statutory function of highways authorities is to ensure people able to enjoy usage of roads. There is a specific requirement in HA s.161 relating to deposit of mud on the road. (The condition of the road surface at level crossings is a matter for RI)
42.Overhanging trees and other obstructions	Possibly	Generally these issues are covered by Highways Act but if the obstruction prevents safe access/egress from the workplace then discussion/action with the dutyholder will be appropriate.
43.Changes to routes and expansion of roads, eg use of hard shoulder as carriageway	No	Clear DfT (and agencies) remit. Highways Agency and police play an important role.
44.Changes to road layout, diversions and road closures	Possibly	Matters for Highway Authorities and Police. Traffic Regulations Orders issued by Highway Authority. Designers should consider the safety of those carrying out changes.
45.Speed limits, signage etc (For placing signs <a href="#">see 32 above</a> )	No	Both employees and MOP affected. Statutory function of other Departments. Traffic Signs Regs and the Traffic Signs Manual Chapter 8 detail signing and site layout requirements.



		When introducing temporary speed limits in relation to road works the Police and Highway Authority must be consulted by the principal contractor.
46. Entrance/exit of workplaces	Possibly	There may be knock on effects to internal road systems. Planning permission will normally be required which will involve LAs. CDM will apply to construction sites.
47. Road partially completed eg house building site	Possibly	Depends on when hand over takes place and actual issue involved. Even prior to hand over may still be a "road" under the Road Traffic Act s.192.
48. Re-routing of public rights of way, eg footpaths	No (Except RI)	This is a matter for the local highways authority. (Except where level crossings are concerned)
49. New roads and improvement schemes	Possibly	Routes, capacity and layout are matters for the highway authority but CDM Regs likely to apply.

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