

Police Federation
Of England and Wales



Ffederasiwn Heddlu
Lloegr a Chymru

Established by Act of Parliament

Federation House, Highbury Drive, Leatherhead, Surrey KT22 7UY
Telephone 01372 352021 Fax 01372 352078
Email GenSec@polfed.org www.polfed.org

FROM THE DEPUTY GENERAL SECRETARY'S OFFICE

SS/sg

26 March 2012

JBB CIRCULAR NO : 008/2012

To: The Chairman and Secretary
All Branch Boards

Dear Colleagues

DANGEROUS DRIVING AND THE RELEVANCE OF THE DRIVER'S ADVANCED DRIVING QUALIFICATION - LATEST INFORMATION

As you are aware JBB Circular 28/2009 was issued in August 2009 as a result of the Court of Appeal case (R v Bannister [2009]) informing members of the fact that a police driver who is an advanced driver or has attained some other specialist driving skill is irrelevant when deciding whether that driver has driven dangerously under section 2A(3) of the Road Traffic Act 1991. The court ruled that taking into account the driving skills of a particular driver is inconsistent with the objective test of the competent and careful driver set out in statute.

The case made it clear that even when responding to an emergency call or when engaged in a pursuit, police officers must not themselves drive dangerously as defined by section 2A.

Recently there has been a further Crown Court case brought against an officer for dangerous driving following a Police pursuit. The Officer was thankfully acquitted by a jury following a 7 day trial. This case understandably attracted quite a bit of interest as well as concern in relation to the legal issues, which are being progressed by the Roads Policing Group of the Police Federation of England and Wales.

Represent · Influence · Negotiate

We have taken advice from Counsel in relation to drafting an exemption that imports proportionality into the decision to pursue, or respond. This would permit an officer to drive in a way that might fall within the definition of dangerous driving but, provided it was reasonable and proportionate response to the legitimate police purpose the officer was trying to achieve, no criminal liability would ensue.

We have liaised with ACPO and raised the matter with the Director of Public Prosecutions (DPP) directly. The DPP has promised to look into the matters with some urgency and comment in due course. The Police Minister has also been made aware of the legal difficulties, which have been at the centre of this case.

The ACPO (Roads Policing) leads have also been kept informed of the situation and the case in question, and understand the Police Federation position in highlighting these legitimate issues. We are working with them to find a pragmatic and common sense approach (in addition to the above) to cases whereby officers driving might be deemed to have crossed the legal threshold.

Unfortunately there is no quick fix to this, but we are doing our best. So in the meantime, there needs to be no change to any advice already given, that is, that officers are not exempt from dangerous driving. If driving beyond the 'norm' then they must always be able to justify their actions and driving decisions with proportionality, sensible justification and reasoned decision making if and/or when called to account. Officers must not drive beyond their capabilities, skills or training, without an exceptional necessity to do so. If they do then they are exposing themselves to a potential legal or disciplinary process.

As and when we get more information and a response to the areas of contact we are working with, you will be updated.

If you have any queries with regard to this circular or require more information please contact our Roads Policing Leads; Alan Jones (alan.jones@polfed.org / [REDACTED]) or Steve White (stephen.white@polfed.org [REDACTED])

Yours sincerely



STEVE SMITH
Deputy General Secretary