

# Urgent Duty Driving

## Policy statement and principles

### What

Operating a Police vehicle, especially when engaged in urgent duty driving, including when driving above the speed limit or the natural flow of traffic and at intersections, can increase the exposure to risk of injury to Police employees and the public.

Urgent duty driving must be able to be justified in response to the threat, and wherever possible, lights and sirens are continually used unless a tactical response is undertaken.

Ensuring a continuous risk assessment (TENR – Threat – Exposure-Necessity-Response) while operating a Police vehicle, will assist in minimising risks to all.

### Why

Prioritising safety by driving with a high standard of care to minimise exposure to risk is critical to reducing road trauma, and ensuring trust and confidence in Police vehicle operation.

### How

Police ensure this by:

- prioritising Police and public safety when driving,
- enforcement officers prioritising safety by driving with a high standard of care,
- recognising that no duty is so urgent that it requires the public or Police to be placed at unjustified risk,
- enforcement officers being aware that they are individually legally responsible for their actions,
- using the Police risk assessment tool TENR, when deciding whether to commence and continue urgent duty driving
- continuously using lights and sirens, where fitted, unless a tactical approach is justified.

## Overview

### Introduction

Urgent duty driving increases risks to public and Police safety and is often subject to considerable scrutiny. Enforcement officers must prioritise safety by driving with a high standard of care, with appropriate use of warning devices, in a manner appropriate to the situation, and in accordance with the Land Transport (Road User) Rule 2004 and the Land Transport Act 1998. Enforcement officers must be able to justify their manner of driving taking into account all of the circumstances that existed at the time.

## Overriding principles

The overarching principle is that public and police employeesafety takes precedence over the necessity to undertake urgent duty driving.

Additional principles are:

- public and police employee safety must be prioritised;
- urgent duty driving must be conducted in the safest possible manner;
- enforcement officers must drive at a speed and manner appropriate to the circumstances;
- enforcement officers are individually legally responsible for their actions;
- enforcement officers will use a risk based assessment (e.g. TENR); and
- category A vehicles are preferred for urgent duty driving as they are more visible.

**Note:** Where it is necessary to use a vehicle other than a category A, enforcement officers must factor this into their risk assessment. No additional or different legal exemptions exist. The driver must be able to justify their actions based on all of the circumstances that existed at that time.

No duty is so urgent that it requires the public or Police to be placed at unjustified risk.

**Note:** Enforcement officers must assess the risk of carrying non-constabulary passengers before undertaking urgent duty driving.

## What is urgent duty driving?

Urgent duty driving is when an enforcement officer on duty is driving above the speed limit or the natural flow of traffic, and may not be complying with certain traffic rules and is:

<b>either. . .</b>	<b>and. . .</b>
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<b>either. . .</b>	<b>and. . .</b>
<ul style="list-style-type: none"> <li>• responding to a <u>critical incident</u></li> <li>• gathering evidence of an alleged offence</li> <li>• apprehending an offender for an alleged traffic or criminal offence</li> <li>• apprehending a fleeing driver</li> <li>• providing security to, and facilitating the movement of, an official motorcade as part of an operation (as established in the relevant Operation Orders)engaged in activities approved by the Commissioner in writing.</li> </ul>	<p>are relying on the defences under the Land Transport (Road User) Rule 2004 (RUR) and the Land Transport Act 1998 (LTA ()) for not complying with certain traffic rules and regulations which would prevent the execution of that duty.</p>

## What is a 'critical incident'?

A 'critical incident' includes situations where:

- force or the threat of force is involved
- any person faces the risk of serious harm
- Police are responding to people in the act of committing a crime.

## Factors to consider

Drivers must take all of the circumstances into account including the following factors when deciding to commence or continue urgent duty driving and to determine the appropriate speed and driving manner:

- time of the incident (is it in progress?)
- nature and seriousness of the incident
- proximity of incident
- proximity of other units to the incident
- environment, e.g. weather, traffic volume, road type, speed limit and pedestrians etc
- driver classification, vehicle classification and vehicle passengers
- whether warning devices are activated or a 'tactical approach' is being used
- vehicle type.

Situations may change, meaning drivers and enforcement officers who are passengers must constantly re-assess the situation considering all of the factors, including those above, in line with TENR. The manner and speed of driving must be adjusted accordingly (e.g. environmental conditions, incident seriousness or road speed limit).

## Warning devices

Police **must** use red and blue flashing lights and siren at all times (continuously) while undertaking urgent duty driving unless a 'tactical approach' is used.

Police must not rely on road users to take evasive action when warning lights and sirens are activated - they do not guarantee safety.

## What is a 'tactical approach'?

A 'tactical approach' refers to urgent duty driving without the activation of either warning lights and/or sirens. Undertaking urgent duty driving without the activation of warning lights and/or sirens increases the road safety risks to public and Police. Therefore, using a tactical approach is the exception rather than the rule. Vehicle speed and manner of driving **must** reflect and take into account the increased risks resulting from the absence of warning devices.

A tactical approach can involve:

- adjusting vehicle speed
- turning off or not activating the siren
- turning off or not activating the warning lights.

Using a tactical approach can be an advantage, allowing you to bring a patrol car closer to an offender/incident without alerting anyone of your arrival. This can also provide you with greater opportunities to gather evidence. Lights, sirens, and engine noise may alert an offender or aggravate a situation.

For example:

- approaching a scene of a serious crime in progress, or
- attending a report of a suicidal person, or
- obtaining evidence of a speeding offence, where the offender's driving is not dangerous and the risk of not using the warning devices is judged as low.

Any tactical approach must be proportional to the incident, in line with the TENR assessment, and be able to be executed safely.

A tactical approach, without lights or sirens whilst exceeding the speed limit or natural flow of traffic, can only be used in justifiable circumstances.

Notes:

- You will need to justify your decision to use a tactical approach should there be any subsequent investigation.
- If neither lights nor sirens are used, then the defences for proceeding against traffic signals or through intersections do not apply. See 'Legal provisions - defences'.

**Note:** A tactical approach cannot be used once a fleeing driver incident is initiated. Any deactivation of warning devices must be in line with the fleeing driver abandonment procedure.

## Legal provisions - defences

Police involved in urgent duty driving must familiarise themselves and comply with the law. There is no blanket legal protection when involved in these duties, and Police may need to justify their actions in civil and criminal proceedings.

Note that some of the provisions cited below require, in order for the exemption to apply, warning devices to be activated. If warning devices are required but not activated, or not fitted to the vehicle to use, the exemption will not be available.

The Land Transport (Road User) Rule 2004 (RUR) and the Land Transport Act 1998 (LTA) provide for defences, subject to these conditions.

### You may have a

#### defence for ...

#### if ...

any act or omission in breach of the RUR

the act or omission was necessary in executing your duty.

(under RUR clause 1.8)

**Note:** Where a specific exemption applies (eg proceeding against a stop sign), that exemption and associated conditions override this section.

**You may have a  
defence for ... if ...**

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exceeding speed limits you are either:

(under RUR clauses 5.1  
(3)(a), (b) and (c))

- engaged in urgent duty and to comply with the speed limit would be likely to prevent the duty being executed
- driving an emergency vehicle in an emergency and operating a red beacon or a siren, or both (see warning devices)
- your vehicle is on a road with a speed limit of 60 km/h or more and you are transporting an Executive Council member (all Ministers of the Crown) on urgent public business. (This also applies when you are transporting another person authorised by the Minister on urgent public business).

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Proceeding against a stop sign, give way sign or traffic signal

(under RUR clause 11.18)

you are:

- driving an emergency vehicle displaying blue or red beacon (or both) or sounding a siren
- not exceeding 20 km/h (see warning devices)
- taking due care to avoid collisions with pedestrians and other traffic.

**Note:** All of these conditions apply.

**You may have a****defence for ...****if ...**

Proceeding through an intersection

(under clause 11.19 of the RUR)

you are:

- driving an emergency vehicle displaying blue or red beacon (or both) or sounding a siren
- not exceeding 20 km/h (see warning devices)
- taking due care to avoid a collision with other traffic.

**Note:** All of these conditions apply.

The mandatory 28-day licence suspension for exceeding the speed limit by more than 40km/h

(under section 95(6)(b) LTA)

the vehicle is conveying Police performing an urgent duty, and to comply with the speed limit is likely to prevent or hinder that duty being executed.

**Breaches of statute**

Note that defences for breaches of the Land Transport (Road User) Rule 2004 are unlikely to be a defence for contravention of a statute. This particularly applies in respect of excessive speed giving rise to a dangerous speed charge.

**Responsibilities**

This table sets out the responsibilities of different roles when Police engage in urgent duty driving.

**Role****Responsibilities**

<b>Role</b>	<b>Responsibilities</b>
<b>Driver</b>	<ul style="list-style-type: none"><li>• Complies with the law and drives in a manner that prioritises public and Police safety.</li></ul>
<b>Enforcement officer</b> who is a passenger	<ul style="list-style-type: none"><li>• Advises the driver about the route, situational factors and risks.</li><li>• Operates the radio if communications are required.</li></ul>
<b>Field supervisor</b>	<ul style="list-style-type: none"><li>• Manages Police performance relating to driving behaviour.</li><li>• Identifies and manages health and safety risks to those staff.</li><li>• Immediately reports policy breaches to their superior.</li><li>• Investigates and reports <u>crashes involving a Police vehicle</u>.</li></ul>
<b>Manager</b>	Ensures: <ul style="list-style-type: none"><li>• Sureplan notified of Police Vehicle crashes</li><li>• monitoring of health and safety obligations</li><li>• crash files progressed to the District Road Policing Manager and District Police Professional Conduct Manager for their review.</li></ul>

**Role****Responsibilities****Controlling officer**

- Ensures units are directed to the incident as appropriate.

**Note:** The controlling officer is a shift supervisor (office of constable) at the appropriate Communications Centre.

**Related instructions**

This chapter must be read in association with these Police Manual chapters:

- 'Fleeing driver policy'
- 'Police vehicle management'
- 'Professional Police Driver Programme'
- 'TENR-Operational threat assessment'.

**More information**

For more information contact the Road Policing Support Operations Manager at PNHQ ().