

20 July 2018

Brake, the road safety charity's, response to the Home Office's consultation on police pursuits

1. *To what extent do you agree or disagree that the emergency service exemptions from certain aspects of road traffic law (including any restrictions to the exemptions) should be reviewed and, where necessary, amended so that they are set out in similar terms?*

Answer: Strongly agree

Brake comment: It is clear that the current law and guidance for police drivers is leading to confusion and detrimental unintended consequences (as detailed in the consultation document). Brake therefore fully supports a review of these exemptions. However, any review, and in particular any amendment of restrictions, must have safety as the foremost concern. For example, the consultation document refers to the restriction that: "...in the case of a red traffic light, a police "...vehicle must not proceed beyond the stop line in such a manner or at such a time as to be likely to endanger any person or to cause the driver of another vehicle to change its speed or course in order to avoid an accident.""", referencing that this is a restriction which may require amendment. It may be the case that further clarity is required on such a measure, however, the overall sentiment behind this restriction should remain firmly the same – no police action should endanger the general public.

2. *To what extent do you agree or disagree that a police officer should be accountable for the standard of driving of a suspected criminal who is attempting to avoid arrest by driving in a dangerous manner?*

Answer: Neither agree or disagree

Brake comment: Clarity on this area of the law is needed to deter suspected criminals from driving dangerously to avoid arrest. For this reason, Brake understands the rationale behind the Government's view in the consultation that *'it is, in general, not in the interest of the general public to hold a police officer liable for the standard of driving of a suspected criminal who is attempting to avoid arrest by driving in a dangerous manner'*. A police officer's behaviour should, however, still be considered in circumstances where pursuing a suspected criminal leads them to attempt to avoid arrest by driving in a dangerous manner and which results in the general public being placed in danger.

3. *To what extent do you agree or disagree that a police officer in pursuit or responding to an emergency should be held to the driving standard of a 'careful and competent' motorist (i.e. a member of the public), despite the various exemptions to road traffic law?*

Answer: Disagree

Brake comment: For a police officer to be able to do their job effectively, Brake appreciates that the exemptions to the law for emergency services described in the consultation are necessary. To compare the standard of driving by a fully trained police officer in pursuit or responding to an emergency to that of a 'careful and competent' motorist will inevitably cause conflict in the law and is not entirely appropriate. This issue is well demonstrated by the example in the consultation that *'a police driver carrying out a pursuit might well need to break the speed limit and drive on the wrong side of the road to pass traffic before passing through a red traffic light... However, given that it would be likely that any member of the public doing this would certainly fall well below the standard expected of a careful and competent motorist, such driving would be likely to constitute dangerous driving under the Road Traffic Act 1988 as it currently stands.'*

That is not to say, however, that a police officer should have free reign to drive how they wish in a pursuit or whilst responding to an emergency, and a comparable standard should be still required in the interests of the safety for all road users.

4. *To what extent do you agree or disagree that a police officer in pursuit or responding to an emergency should be compared to the driving standard of a careful and competent police driver of a similar level of training and skill?*

Answer: Agree

Brake comment: As touched upon briefly in Brake's comment to question 3, it is important that a police officer in pursuit, or responding to an emergency, is still compared to an appropriate standard in the interests of safety. Therefore, a comparison to the driving standard of a careful and competent police driver of a similar level of training and skill is a sensible proposal. We concur with the comments in the consultation that *'this standard would allow investigators, prosecutors and the courts to take account of the driver's level of training and skill, not only to make allowance for driving beyond that expected from the public but also if manoeuvres or tactics are employed that the driver is not trained or authorised to carry out.'* This is particularly important in ensuring members of the public are not placed in danger by police officers carrying out manoeuvres that they are not trained to do and to ensure those that do go beyond what is proportionate can still be penalised.

5. *To what extent do you agree or disagree that a police officer in pursuit or responding to an emergency should be required to drive in such a way that is both necessary and proportionate to the circumstances?*

Answer: Strongly agree

Brake comment: Police officers in pursuit or responding to an emergency should always have consideration for the safety of all other road users at the forefront of their decision making. Brake therefore strongly agrees that police officers should be required to drive in such a way that is both necessary and proportionate to the circumstances. Those that do not, and drive in a manner that could be considered dangerous, should still be able to be investigated and prosecuted, as any member of the public would be, for dangerous driving.

6. *To what purposes do you consider that the reforms proposed in this document should apply?*

Answer: Police pursuits and response

Brake comment: Any reforms to the law should not be taken lightly and the potential impact and pitfalls should be fully considered. In this case, however, Brake believes that the reforms proposed in this document should apply to both police pursuits and response because it is likely that police officers responding to an emergency or engaging in a pursuit will face similar driving scenarios where they may be required to break the law. Therefore the necessary updated protections should be in place to enable the officer to do their job effectively whilst also ensuring that any action they take is proportionate to the circumstances and does not endanger the public.