

LORD ADVOCATE'S GUIDELINES TO CHIEF CONSTABLES

DRIVER IMPROVEMENT SCHEME

(Persons Reported for Contravention of the Road Traffic Act 1988, Section 3)

Introduction

1. On 1 April 2004 the National Driver Improvement scheme was introduced in Scotland. The purpose of the scheme is to provide an alternative to prosecution for drivers charged with a contravention of the Road Traffic Act 1988, Section 3 (careless driving). In suitable cases, the Procurator Fiscal will divert the accused from prosecution by offering the opportunity of participating in the scheme by attending a driver improvement course. The course is delivered over one and a half days and includes theory, driver assessment and practical instruction. It is designed to correct poor driving behaviour arising from errors of judgement.

General Principles

2. Where a person has been charged with a contravention of the Road Traffic Act 1988, Section 3, the reporting officer will submit a Standard Police Report (SPR) in the normal manner. The report will contain the officer's opinion as to whether participation in a Driver Improvement Course would be appropriate given the circumstances giving rise to the accused being reported.

3. Where the Procurator Fiscal considers that diversion to the scheme is the appropriate disposal, the Procurator Fiscal will refer the accused to the scheme service provider. The service provider will write to the accused person, offering the opportunity to participate in a course. Should the accused accept the offer, he or she will be required to pay a fee (which will be £175 from 1 April 2007, rising to £180 and £185 on 1 April 2008 and 1 April 2009 respectively) and to attend and complete the course within 16 weeks from the date of the offence. If he or she declines to attend the course or, having accepted the offer, fails to pay or attend, the case will be referred back to the Procurator Fiscal to consider prosecution.

The Contract

4. The Scottish Executive awarded an initial fixed term contract to BSM/RAC as the service providers for the whole of Scotland. This contract was renewed for another three years on 1 April 2007. Like service providers in England and Wales, BSM/RAC are members of the Association of National Driver Improvement Scheme Providers (ANDISP), to ensure consistency in delivery and monitoring throughout the UK.

Records Held

5. An accused person will be eligible for taking part in the scheme only if he or she has not received a previous offer of participation in the scheme anywhere in the UK in the three years prior to the date of the offence. It will be the service provider's responsibility to establish whether the accused person meets this criterion by enquiring with the DVLA, which maintains a separate UK database specifically for this purpose. Where the accused person has received a previous offer within this period, the Procurator Fiscal will be informed and prosecution will

usually follow. BSM/RAC are responsible for providing DVLA with details of persons who have completed the course.

Police Procedure

6. When a person is to be reported for contravention of the Road Traffic Act 1988, Section 3 (careless driving), the reporting officer will submit a SPR which must disclose a sufficiency of evidence in respect of the charge. In addition, the officer will give an opinion as to whether he or she considers that referral to the Driver Improvement Scheme is appropriate.

7. As prosecution is an alternative to non-acceptance or non-completion of a course, it is essential that SPRs be submitted only for those cases where, disregarding the existence of the Driver Improvement Scheme, the circumstances would have merited a report to the Procurator Fiscal.

8. When speaking with an accused person, officers should not make any reference to the Driver Improvement Scheme or the possibility of referral, as the final decision regarding referral rests with the Procurator Fiscal.

9. The Procurator Fiscal may refer the accused to the Driver Improvement Scheme only where the following criteria are met:

- There is sufficient evidence to support prosecution.
- The only offence being considered for prosecution is careless driving.
- The driver holds a full DVLA driving licence.

10. Subject to these criteria, any accused person normally resident in Scotland, England or Wales is eligible for referral to the scheme. Those referred should not be required by the service provider to travel an unreasonable distance from their home to attend the course. Accused persons normally resident in England or Wales may be referred by BSM/RAC to a service provider in their home area. Such accused should be reported to the Procurator Fiscal in the normal manner.

11. Drivers (including professional drivers) of any type of motor vehicle are eligible for referral to the scheme. BSM/RAC can provide courses for drivers of motor cars and motor cycles. An accused's status as a professional driver or the type of vehicle concerned being other than a motor car or cycle should be taken into account by the reporting officer when assessing the accused's suitability for the scheme.

12. Accused whose first language is not English are eligible for participation in the scheme. The reporting officer will specify the accused's language needs in the report to allow appropriate arrangements to be made. An indication should be given of the preferred speaking language and dialect of the accused, and the preferred language for written correspondence.

13. BSM/RAC can accommodate disabled drivers and will take into account any special needs of accused persons referred, such as infirmity or a strong preference for a female instructor on cultural grounds.

Officer's Opinion

14. It is essential that the reporting officer provide an opinion as to whether the circumstances of the offence are appropriate for the accused to be offered a place on a Driver Improvement Course.

15. In the 'Remarks' section of the SPR, the reporting officer will outline the reasons for or against the accused being referred to the Driver Improvement Scheme. The section should finish with the sentence:

"In my opinion, given the circumstances of this incident, the accused is / is not suitable for referral to the Driver Improvement Scheme"

16. Factors in favour of referral may arise where the incident appeared to be due to any of the following:

- poor driving skills.
- incompetence.
- lack of basic driving knowledge.
- lack of experience.

17. Factors against referral may include the following:

- The incident appeared to result from the accused's medical condition e.g. senility.
- The incident appeared to result from deliberate and extreme risk taking by the accused.
- The accused refused to accept having been at fault.

Additional Offences

18. Where the reporting officer is submitting a report for contravention of the Road Traffic Act 1988, Section 3 (careless driving) and there are additional offences which have contributed to the manner of driving forming the basis of the charge, e.g. failure to give way or crossing a solid white line, the circumstances should be referred to in the report summary but a separate charge should not be included in the report. This will allow the Procurator Fiscal to consider diversion to the scheme.

19. However, where in addition to careless driving, documentary offences, vehicle defects or other non-contributory offences have allegedly been committed, the driver would not be eligible for referral to the scheme and the separate offences should be libelled.

Reporting Timescales

20. It is vital that reports are submitted to the Procurator Fiscal as quickly as possible and in any case no later than 28 days after the date of the offence. This is crucial because, in the event of the accused failing to attend or complete the course, the Procurator Fiscal may decide to proceed to prosecution. Proceedings must be commenced within the statutory 6 month period.

Case Category and Charge Code

21. Where the reporting officer expresses the opinion that the person charged may be suitable for referral to the Driver Improvement Scheme, the SPR will be marked with an ICSJIS case category and a specific charge code.

22. The case category is: DS

23. The charge code is:

RTA0198800030002 - RTA 1988 S3 CARELESS DRIVING (NON FATAL)(DRIVER IMPROVE)

ELISH ANGIOLINI
LORD ADVOCATE
April 2007