

# THE MAGISTRATES' ASSOCIATION

## ROAD TRAFFIC COMMITTEE

### **Response to the Scheme of Continuous Enforcement of Motor Insurance Consultation by the Department for Transport**

The Magistrates' Association welcomes the opportunity to respond to this consultation. We are happy for copies of this response to be made available to other parties on request.

This response is on behalf of  
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We represent Magistrates in England and Wales, and we have c.28,000 members.

Congratulations are due to the Department on the care that has gone into considering the detailed operation of Continuous Enforcement of Motor Insurance (CIE) set out in the consultation, which addresses the problems and issues that were apparent when the scheme was first mooted.

Our answers to the questions posed are as follows:

**Q Do you have any views on the process for warning those who appear from the record to be uninsured?**

As the consultation recognises, neither the DVLA database nor the MID are 100% reliable, and can never be so, although the process of CIE will itself improve their accuracy. "Soft evaders" will include the disorganised and forgetful keepers of vehicles. We therefore welcome the proposal to commence the process of enforcement with a warning letter, giving a chance for a database to be corrected, insurance organised or the vehicle SORNed before any punitive action is taken.

**Q Are the exceptions we have proposed appropriate?**

We believe that they are. We suggest that there should also be an exception in the situation where a vehicle has been taken off the road, SORN properly declared and insurance cancelled, so it falls within the list of exceptions proposed. However, a year later when the SORN falls to be renewed, the keeper fails to do that. There is no indication that the vehicle has been used on the road, or that there is any intention to do

so. The keeper will of course anyway be liable for a penalty for failing to renew the SORN, but also under the proposals to a penalty for not having insurance in force, unless an exception is provided. The position of becoming liable for two penalties from a single act of omission would be somewhat unfair.

**Q Our proposal is that if an individual fails to respond and to take action, in spite of a warning letter, a £100 penalty is payable, which will be reduced to £50 if paid within 21 days. Do you think this is appropriate?**

Yes, we do.

**Q Do you have any comments on the proposed regulations for immobilisation, removal and disposal of vehicles?**

Para 30 proposes that charges for the removal, storage and disposal of an unclaimed vehicle may be recovered from the vehicle's owner. This seems inequitable since the offence is committed by the keeper, and all previous enforcement action will have been against the keeper, while the owner may know nothing about the matter. We suggest that these charges should be payable by the keeper. Nothing is said about any possible surplus on disposal; we suggest that any surplus after deducting charges should be payable to the owner. We welcome the ultimate appeal to the Magistrates' or Sheriff's Court, and ask that the court should have a wide discretion when hearing such an appeal.

**Q Do you have any views on what would be reasonable in dealing with persistent offenders in such circumstances?**

Immobilisation or removal can only be carried out if the vehicle is located in a road or other public place, and is found there by enforcement officers. This would require a degree of good fortune, so it may be that prosecution of the s.144A offence through the courts is a more certain route. The question arises of how persistent offenders are to be identified, this would seem to require entries to be made on the DVLA database, but that is not mentioned in the consultation.

### **Additional Comments**

We note that it is said in para 20, "An integral part of the scheme would be to publicise and raise awareness before the scheme came fully into force to allow motorists a period of time to adjust to the new arrangements." We welcome this commitment, because we feel that motorists accustomed to requiring insurance only if their vehicle is used on the road will require education concerning this new obligation.

We endorse the comments made in para 38 about displacement of evasion by the adoption of CIE and the need for continuing enforcement on the road by police. To the examples given, we would add the risk of increased cloning of number plates. If cloned from a similar vehicle, this offence is difficult to detect even on the road, using ANPR equipment. Clearly CIE will make the DVLA and MID databases even more

tempting targets for hackers, so computer security must remain a top priority for both systems, as we are sure it is currently.

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