

# Drivers Legal Briefing

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## INTRODUCTION

At the moment the indications are that the policing of this Camp will not be like it was last year, so don't panic. However, if you have any hassle, stay calm, make a note of officer's numbers and their explanations for what is happening (ask if they don't volunteer it) and visit the Legal tent before you go to make a statement so we can collect evidence on their approach.

Any problems on the way in or out you can contact Legal on 07951 590378. It would be sensible to have a Bust card with you but just in case the key numbers are Arrestee Support (this the number you ask the police to contact if taken into custody) 07946 541511 and Bindmans is the recommended solicitor – do not chat, comment, or make a statement until you have spoken to them – 020 7883 4433 (out of hours 07659 136205).

## GETTING PULLED OVER

If you get pulled over by the police whilst driving a motor vehicle on a public road, they may ask for you name and address and date of birth, you must comply. Passengers don't have to give any details (unless they are a witness to a road traffic incident). We know that

vehicle recognition systems were used at Kingsnorth to decide which vehicles to pull over, so if you are pulled over, it would be worth asking whether or not and why they have used a vehicle recognition system.

They can also insist on seeing your insurance document, MOT certificate, registration document and driving license. If you don't have them on you, you can choose a police station where you must present them within 7 days. This procedure is less common than it used to be as they can now check vehicle documentation very quickly over the radio, and will often do so, even before they speak to you. So they may just want to see your driving license; on the other hand, they may be deliberately disrupting our operations (as it is clear from a recent police report, happened at Kingsnorth) and so will *not* do things the easy way. The best policy, therefore, is to be prepared. The ideal preparation is to have your driving license on you whenever you're driving, and to keep the vehicle documents together in a clear, reseal-able plastic bag, stowed safely in the glove box/overhead locker. This method is particularly useful if there are a number of drivers of the same vehicle. If it's a hired vehicle, the hire agreement can be shown in lieu of documentation, so should also be kept safe and at hand. Each vehicle should also have a pen and note pad ready to take details from the police, i.e., time, location, names, numbers, powers used/abused, etc.

## SEARCHES

There is no general power to search a vehicle or it's occupants, although there are a range of powers which allow them to do so in certain circumstances. These are: Section 1, Police and Criminal Evidence Act 1984 (PACE); Section 43, Terrorism Act 2000; Section 60, Criminal Justice and Public Order Act 1994; Section 44, Terrorism Act 2000. There is a brief explanation of each of these in the appendix. If the police want to search the vehicle ask them what power they are acting under and make a note of their explanations for their actions and the power they are using, and let the legal team know as soon as possible afterwards.

The registered owner of a vehicle can be required to tell the police who was driving it at a certain time. Otherwise they may be liable for certain actions of the driver. If they chose to tell the police who was driving, then the driver rather than the owner would usually be liable.

## CARRYING PASSENGERS

You must not carry more passengers than you have seats for. You must not take donations from passengers, even if unsolicited offers are made. If people want to give money you should explain that cash gifts will be gratefully received at the camp reception to help with general expenses, but no money must change hands in, or in relation to vehicles. The reason for this that last year the police interpreted the giving of donations as operating an unlawful taxi service; this resulted in someone being charged and a vehicle being impounded. I wouldn't put it past them to plant someone in a vehicle to make an offer of payment so they can do it again – so don't take the money!

## THE LONDON LOW EMISSION ZONE.

The London Low Emission Zone (LEZ) affects older, diesel-engined lorries, buses and coaches. It does not yet affect vans or minibus under 3.5 tonnes gross vehicle weight (GVW); see the table below:

<b>Vehicle</b>	<b>Weight</b>	<b>Date affected</b>	<b>Daily charge</b>
Lorries, motor caravans, horse boxes	Exceeding 12 tonnes	4 February 2008	£200
Buses, coaches	Exceeding 5 tonnes	7 July 2008	
Lorries, motor caravans, horse boxes	Between 3.5 and 12 tonnes		
Large vans, horse boxes	Between 1.205 unladen and 3.5 tonnes	4 October 2010	£100
Motor caravans	Between 2.5 and 3.5 tonnes		
Minibuses	Below 5 tonnes		

Having said that, you can easily check whether any vehicle complies by going to the Transport for London web-site at: [www.tfl.gov.uk/roadusers/lez/](http://www.tfl.gov.uk/roadusers/lez/) and entering the vehicle registration. You will get an answer specific to your vehicle, so there will be no ambiguity

about the matter. As it is so easy, I recommend that you do so for any privately owned commercial vehicles of any size – just to be 100% sure!

If you own a vehicle that you think does come under the current terms of the LEZ, you should most definitely check, and as soon as possible, in case your vehicle is disallowed and you need to change your plans – you don't want a £200 a day bill! If you get the OK, however, it might be a good idea to print the page and keep it as proof.

## ROAD FUEL

Any fuel in your vehicle must have the road fuel duty paid. The police can dip fuel tanks and examine a sample. Typically this involves checking the colour to make sure you're not using red diesel, but if the Customs & Excise are there they will analyse fuel in a mobile lab rather than just looking at it. So if you're using any kind of bio-diesel, it might be a good idea to have evidence of having paid the duty.

## TACHOGRAPHS

If the vehicle is fitted with a tachograph it is not required to be used during non-commercial transportation of private goods or passengers. If a policeman asks why you don't have a tachograph chart inserted, tell him that you don't need one because you are not engaged in commercial operations.

## CONSTRUCTION AND USE REGULATION

There is a wide range of road vehicle construction and use regulations in force. This is not intended to be an exhaustive discussion of all of them, but rather, as a summary of those most commonly used to impound vehicles and bring charges against drivers.

The road brakes should be adequate to stop the vehicle in an emergency (obviously). They should also be properly balanced. This means that they must not pull to one side or cause individual wheels to lock up. Unequal pressures in the front tyres can also be the cause of unbalanced braking. Grinding noises when you press the brake pedal may

indicate that the brake linings are worn and dangerous. A rhythmic pulsing when the brake pedal is pressed indicates that the discs are distorted and dangerous. Both brake lights must come on when the brake pedal is pressed. The brake pedal must have an anti-slip rubber pad. If you have any doubts about the brakes you should not drive the vehicle, regardless of the police.

In practice, the only aspect of braking that the police can readily test at the roadside is the hand brake. Usually this means they will apply the hand brake and try to push the vehicle forward; if it moves they can nick you.

All lights and indicators must be working. No red light should be visible from the front of the vehicle, and no white light should be visible from the rear, except when reverse gear is engaged. In some commercial vehicles the tail lights will have two bulbs in each lens - they must both illuminate. Commercial vehicles have 24 volt systems. Lenses must be clean and correctly fitted - not loose. They must also be free from holes. A crack in a diffusing lens (not a headlight) can pass an MOT test if the diffusing function of the lens is unimpaired, i.e., no direct, un-diffused light is visible. On this basis the police should not object, however, given their previous attitude it might be better to change it anyway.

Headlight lenses must not be cracked. Make sure full and dipped beams and side lights are all working. They may also test the hazard warning flashers with the ignition on and off. You must have two rear reflectors - these will be built into the rear light cluster on vehicles, but will be separate on trailers.

Any after-market, non standard lights (i.e., spotlights) must be working - if fitted. They're usually fitted in pairs - so they must both be present and working. If there are any dodgy/broken/incomplete supplementary lights fitted, the simplest thing is to remove them fully.

The number plates should be clean, visible and undamaged. The rear number plate illumination light/s must be working but not directly visible.

All tyres (including the spare - if you have one) must be correctly inflated and free of lumps, bulges or exposed cords. A cut in excess of 25mm or 10% of the section width of

the tyre, whichever is the greater, measured in any direction on the outside of the tyre and deep enough to reach the ply or cord is illegal. The legal minimum tread depth for cars and light trailers (including caravans) up to 3500 kgs gross vehicle weight and/or 8 seated passenger vehicles including driver, is a minimum of 1.6mm in a continuous band throughout the central three-quarters of the tread width, throughout the whole of the circumference.

On any vehicle with a gross weight or gross train weight over 3500kgs, or a motorcycle above 50cc, the grooves of the tread pattern must have a depth of at least 1 mm throughout a continuous band measuring at least three-quarters of the breadth of the tread and round the entire outer circumference of the tyre, OR, if the grooves of the original tread pattern of the tyre do not extend beyond three-quarters of the breadth of the tread (i.e. common with motorcycle tyres) any groove of the original pattern must have a minimum depth of at least 1 mm.

As you can see, the laws on tyres can be a little complicated!! and tyres are one thing they'll definitely go for. So I strongly recommend that you get them checked beforehand by a professional tyre fitter. Fortunately, pretty well any tyre-fitting place will do this for free and without an appointment.

last year one driver did get penalty points and a fine for a bad tyre; you can actually get BIG fines for each one that's defective, so if you think a tyre is borderline legal, it's best not to take the chance as experience has shown that the police probably won't give us the benefit of the doubt.

Another road-side test is for excessive free-play in the steering. This is carried out by moving the driving wheel back and forth to the maximum extent it can be without causing movement of the road wheels. This one is quite hard to quantify in that the permissible amount of free play depends on the size and type of vehicle, and to some extent, the opinion of the tester. If your vehicle has passed an MOT recently it's likely to be OK, however, if you're in the slightest doubt there are loads of places like Quick-Fit that will usually give you a qualified opinion straight away and for free on the basis that they might get some work out of it.

A test of the general condition of the steering linkage and front suspension can be carried

out by firmly grasping a front wheel at "3 o'clock" and "9 o'clock" and trying to rock the wheel from side to side. There should be no clicking or clunking, although there might be some slight, smooth movement of the steering. A similar test of the suspension linkage can be performed by grasping the top of the tyre with both hands and pulling back and forth vigorously - there should be no free play or clunking.

Although you can easily carry out these tests yourself, they are usually beyond the scope of the ordinary police (as are many things). However, if they call out the vehicle inspectorate, there will be men in overalls who know what they're doing crawling all over your vehicle looking for faults.

All mirrors must be present, clean and free from cracks.

The windscreen and windows must be clean and free of visual obstructions and cracks. The demister must be working.

The windscreen wipers must be free of breaks, splits and excessive wear; i.e., no part of the blade that wipes the screen should be detached from the back of the wiper, there should be no missing sections of the blade where it contacts the windscreen and the wiper should make a clean wipe of the swept area when in operation - it shouldn't leave visible lines. The washer jets must be operational and pointing in the direction of the screen (although they may be set up to overshoot the top of the wind screen to allow for wind pressure at high speed). It's also a good idea to check and top-up the washer bottle if necessary.

The horn must work.

The doors must shut securely.

External bodywork must not have loose or jagged areas.

The engine must not make excessive smoke - this is a real pig-puller.

There should be no oil or other fluids leaking from the vehicle.

The drivers foot-well must be free of loose items. Note: general tidiness inside the vehicle is probably a good policy.

All seats must be properly anchored.

All seats must have seat belts fitted. All drivers and passengers must wear them. They must be completely undamaged, as must the anchor points. Also, there mustn't be structural corrosion of the body work around the anchor points.

Note: last year a minibus was impounded because the plastic shroud on one of the seat belt fasteners was broken, even though the actual mechanism was undamaged.

A valid tax disc must be displayed in a holder at the near-side of the windscreen - just laid on the dash-board won't do. Commercial operators of heavy goods vehicles must also have an operators licence (indicated by a blue or green paper disc) however, we don't need them as we are not engaged in any type of commercial operation, as you may point out to a policeman, if necessary.

Goods vehicles must not be overloaded, nor must individual axle weights be exceeded. Generally speaking the rear axle has the higher load capacity, yet will be carrying less weight when the vehicle is empty. This means that the centre of gravity of the load will be between the axles, but closer to the the rear axle than the front one. Trucks and vans usually have a manufacturers plate (which is literally a metal plate riveted onto the body and often located in a front door jamb, on the inside of a door, low down on a front seat or below the dash board) which will give gross, net and axle weights. If you don't know the weight of a load, you can make a reasonable guess by weighing or estimating the weight of the individual items the load is made up of, and multiplying by the appropriate number. The load must be properly secured and not adversely affect the stability of the vehicle.

Essentially, this means that the load must not be able to fall off or cause the vehicle to tip over, i.e., if you have a box of spanners and a box of feathers, the spanners go on the bottom. Trailers must not exceed the 'gross train weight' of the vehicle (also, usually, on the manufacturers plate) and must have lights and brakes.

Loads must not overhang the front or rear of the vehicle by more than a metre measured horizontally, and must not obscure the lights, number plates or the drivers vision.

Overhangs should also carry a marker - a white rag will suffice.

#### APPENDIX:

Can the police stop and search me? The police must have reasonable grounds to suspect **you** before they can search you under either of the following two powers:

**Section 1 Police and Criminal Evidence Act 1984 (PACE).** The police must have 'reasonable suspicion' that you are carrying drugs, weapons, articles that might be used to carry out burglary, theft or criminal damage, or stolen goods. They are not entitled to read or record personal information.

**Section 43 Terrorism Act 2000.** The police must have 'reasonable suspicion' that you are a terrorist (i.e. that you have used or intend to use violence/cause serious damage to property to influence government or intimidate the public to advance a political, religious or ideological cause). They can search for anything that may be evidence you are a terrorist, including computers, cameras, phones, personal papers.

The following searches must be authorised by a senior officer, and can only take place in a specific location for a specific period of time. They are blanket search powers. The police don't need any grounds to search you under the following powers:

**Section 60 Criminal Justice and Public Order Act 1994.**

The search is only for offensive weapons and dangerous instruments. The definition of these is wide-ranging, it could include knives, bottles, a pair of scissors or an umbrella.

They are not entitled to read and record personal information.

### **Section 44 Terrorism Act 2000.**

The police can search for items connected with terrorism as for section 43 above. This search power is in force on railways, the London Underground and in central London at all times.

The following apply to all of the above stop and search powers:

You don't have to give your name and address if you are stopped and searched by the police, unless you are the driver of a vehicle.

You could be arrested if you refuse to be searched. They can use reasonable force to search you.

They can check your bags and pockets. You are only required to take off hats, coats, scarves, gloves when searched in a public place, but no other clothing e.g. religious head gear, shoes, socks unless you are taken to somewhere that is screened off. They can pat you down, but this must be done by a same sex officer.

In addition to items they have found during the search, they can also seize anything unlawful that they find e.g. drugs, weapons, items they believe are stolen.

You must be given a record of the search/seizure of your property. If your property is seized there is still no need to give your name and address, ask for the evidence bag to be numbered and the number written on the search form.