

Sussex Police and Crime Panel - Public and Panel Questions to the Commissioner

25 September 2020

Report by the Clerk to the Police and Crime Panel

The table below provides a schedule of the questions received prior to this meeting and where possible responses have been included. Responses will be tabled at the meeting that were not available at the time of despatch. Written questions must be received 2 weeks before a meeting of the Panel and the Commissioner or Panel Chairman is invited to provide a response by noon of the day before the meeting.

Questions that relate to operational matters of Sussex Police will be passed to a relevant officer at Sussex Police for a response and a brief summary of the question will be provided below. For the current meeting, two questions have been received for a response by the Commissioner.

Question	Response
<p>1.</p> <p>On her personal Twitter account, the Police and Crime Commissioner gives as her email contact the Office of the Police and Crime Commissioner and references her role and positions held because of it - yet uses it to publicise Conservative Party campaigning events. Is this ethical and/or legal?</p> <p>Mr Chester of Littlehampton</p>	<p>Like many public figures, I have a personal Twitter account as well as an official Sussex PCC Twitter account.</p> <p>On my personal account, I will often have discussions with other users about my official role as Sussex Police & Crime Commissioner which requires my email address to be present for any replies.</p>

2.

Dear Ms. Bourne,

With reducing air pollution in mind, I am contacting you to request a clarification of the action that Sussex Police are prepared to take to enforce the law controlling motor vehicles parked with their engines running (and while being driven emitting excessive/smoky exhaust). I have been informed that neither Horsham District Council nor West Sussex County Council have sufficient resources to undertake enforcement at this time, despite it being a contravention of the Highway Code (number 123) and The Road Vehicles (Construction and Use) Regulations 1986.

I would like to know whether private citizens can validly warn offenders of the likelihood of police enforcement action?

Thanking you in advance, I look forward to hearing your response.

Yours sincerely,

A Horsham District resident

Thank you for sharing your concerns with me about excessive motor vehicle exhaust emissions within the Horsham district of Sussex.

As you correctly point out, Rule 123 of The Highway Code states that "you must not leave a parked vehicle unattended with the engine running or leave a vehicle engine running unnecessarily while that vehicle is stationary on a public road."

The Road Vehicles (Construction and Use) Regulations 1986 provides the following in respect of the 'Control of Emissions', as follows:

54.(1) Every vehicle propelled by an internal combustion engine shall be fitted with an exhaust system including a silencer and the exhaust gases from the engine shall not escape into the atmosphere without first passing through the silencer;

54.(2) Every exhaust system and silencer shall be maintained in good and efficient working order and shall not be altered so as to increase the noise made by the escape of exhaust gases.

I shared your concerns with Chief Inspector Michael Hodder, Head of Road Policing Unit (RPU) for Sussex Police and Surrey Police because the content specifically related to operational policy and procedure. I am pleased to confirm the following in respect of the points you have raised:

- Excessive motor vehicle exhaust emissions are generally dealt with at the Ministry of Transport (MOT) testing stage. It is worth emphasising that these results are only accurate at the moment a vehicle is under inspection and, with MOTs lasting for 12-months, it is recognised that faults to the exhaust system can develop in between this period.
- The RPU within Sussex Police will respond to any offence reported to them when presented with evidence of a breach of legislation. The Force has the power to issue a Vehicle Defect Rectification Scheme (VDRS) notification which provides owners with 14 days to rectify any fault(s) identified and/or to find a garage to approve any modification(s), in order to avoid prosecution.
- Police officers can also issue a Prohibition Notice

(PG9) which places an immediate or delayed prohibition on a vehicle under Section 69 of The Road Traffic Act 1988. This allows a vehicle to be driven a certain distance or to a specific location to modify the fault(s), ahead of returning the vehicle for further inspection to remove the Prohibition Notice (PG10).

- RPU officers within Sussex Police have recently commenced training in respect of prohibition legislation, something that will be provided to all officers within the unit. This replicates the approach taken by Surrey Police and is expected to improve the capacity and capability of officers to respond to any such offences.

It is important to recognise that this remains a collective responsibility for all partners to tackle and that a partnership-based approach to enforcement is required. Local authorities need to support the police in this work by using resources to monitor MOT testing centres to ensure that they are dealing appropriately with faults – through Trading Standards – and that an appropriate response to complaints about air pollution and air quality exists – through Environmental Health.

I am confident that Sussex Police, in partnership with the local authorities, have the collective powers and resources required to respond effectively to any reports of these types of offences.

I can also confirm that whilst it is lawful for a member of the public to share a particular view with another citizen, there is no certainty that the police would be available to respond or to take enforcement action immediately. This approach could potentially set false expectations for all parties and could result in neighbourhood disputes and conflict arising too.

Instead, members of the public or communities with any concerns are encouraged to raise these issues with their local Neighbourhood Policing Teams (NPT) in the first instance. This approach enables the NPT to undertake an assessment of any perceived issues, in liaison with the Sussex Safer Roads Partnership (SSRP), before a problem-solving response is considered. This may include tasking RPU officers to respond in an operational capacity, as required.

It is important that all incidents of anti-social driving and offending behaviour are reported because this enables Sussex Police to develop an accurate picture of intelligence regarding repeat offenders, times and locations which can be used to plan, target and deploy local policing resources to respond.

If you have any specific information about emission-based offences in Horsham, I would encourage you to contact Sussex Police by telephone to 101, email to 101@sussex.pnn.police.uk or online through the following link:

<https://www.sussex.police.uk/contact/af/contact-us/>

Additional clarification received following the meeting:

A number of the rules within The Highway Code are legal requirements and failure to comply with these constitutes committing a criminal offence.

However, the failure to comply with other rules in the Code, including Rule 123, will not necessarily result in the criminal prosecution of an individual.

This is because Rule 123 of The Highway Code is guidance rather than road traffic legislation.

Rule 123 of the Code addresses 'The Driver and the Environment' and states that drivers must not leave a parked vehicle unattended with the engine running or leave a vehicle engine running unnecessarily while that vehicle is stationary on a public road. Any breaches of this are usually dealt with by the local authority who have the power to issue a £20 fixed penalty notice for vehicle emission offences and stationary idling under The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

It is important to note that this rule would only be imposed if a motorist refuses to switch off their engine when asked to do so by an authorised person. There are also certain circumstances where it is permissible to leave an engine running, including circumstances where the vehicle is stationary in traffic or for diagnosing faults. In addition, it is worth emphasising that this law does not apply on private land, such as supermarket car parks.