



How can it be?



I drive coaches for a living and operate a number of my own vehicles.

Approximately one month ago I was emerging out of a 'T' junction from a minor to a major road. I approached the junction, stopped the vehicle, looked left and right, left and right again and the roadway was clear in both directions. As a result I proceeded out into the major road looking to make a right turn.

I had completed all observations and was indicating correctly. As I reached the centre of the road a vehicle approached me from the left-hand side and collided with my vehicle.

Both parties were okay, nobody was injured and little damage was done to both vehicles.

I reported the matter to the Police. The issue is that my insurance company is now saying that the collision was my fault. How can it be if I was already established in the roadway and what are the options available to me?



This is a relatively common situation and it is my understanding from speaking with the driver involved that there will be no prosecution from the Police. The insurance company has taken the view that it was the CDC member's fault that the collision occurred. When emerging from minor roads on to major it is the responsibility of the driver who has conducted such a move to ensure that there is adequate room for him or her to undertake



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the manoeuvre safely and complete it and join the flow of traffic.

If the driver is adamant that he had left sufficient room I would suggest contacting the insurance company providing photographs, drawings, statements, etc, in relation to the incident and stating that you do not accept liability in this situation. It is my advice that the driver should be quite robust with the insurers in this matter.

It would be for the insurance company to determine the matter going forward - obviously should it consider that it is the driver's fault this would have an impact on premiums and no-claims bonus.

What can I do?



I am a coach driver and have recently suffered from ill health. My doctor is aware of my profession and subsequently contacted the DVLA to advise it of my condition. I have now been contacted directly by the DVLA, which has suspended my licence based on the evidence provided by my doctor. I have since recovered from the illness. What can I do to get my licence back?



This is a question that has been covered previously in Legal Jottings. However, it is a matter that comes up on a regular basis.

The DVLA has the power to revoke driving licences, whether

they belong to HGV drivers, car drivers, or Passenger Carrying Vehicle drivers, if it believes that the driver is unfit through illness.

If the driver in this situation considers he is fit to drive, I would suggest undertaking various tests with doctors approved by the DVLA to ascertain the exact nature of the illness and if it has either been fully treated or is manageable to allow the individual to drive. Once these tests have been completed to the satisfaction of the DVLA the licence would be reinstated.

If after the tests the DVLA still refuses to reinstate the licence, the driver may appeal to the Magistrates' Court to ask for the licence to be reinstated.

Must I do this?



Q: I am the Transport Manager in a small operation and have received correspondence from the local Magistrates' Court asking me to identify a driver who was involved in a particular incident, what are my liabilities if I fail or am unable to do this?

A: This is a relatively common situation. It is important that operators and drivers are

conscious that a failure on their part to use due diligence to establish the identity of a driver of a vehicle may lead to a conviction of the business, sole trader or partners individually and their personal driving licences could be endorsed with penalty points. It is worth noting that this includes directors and company staff so, in this example, the transport manager cannot avoid a personal liability by hiding behind the corporate veil.

My advice would be to employ all reasonable due diligence to investigate who was driving the vehicle at the particular time and provide the information to the relevant authorities. If it is not possible to identify the individual I would suggest the company provide reasons why this cannot be done and evidence of the fact that a search has been made. Further, it would be worth putting in place procedures within the business to ensure that this does not occur again in the future.

I don't own vehicle

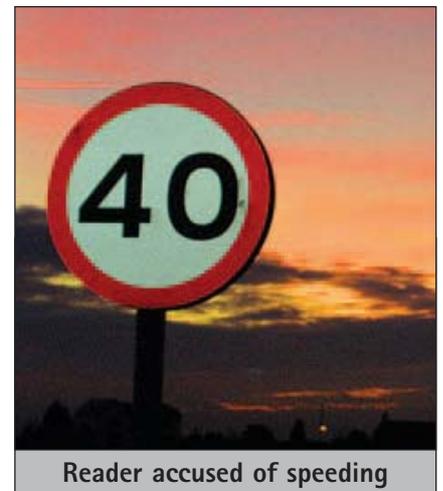
Q: I am an owner driver and only have two vehicles which I operate. I have received a Notice of Intended Prosecution with regards to an alleged speeding offence. The vehicle that is identified in the documentation is not a vehicle that I own and operate and, indeed, on the date in question, I was away on the continent driving. What should I do?

A: In certain circumstances, the Notice of Intended

Prosecution can be mistakenly sent to the wrong vehicle owner due to a fault in the system operated by the police and/or DVLA for identifying a particular vehicle. In this situation, I suggest the driver contact the DVLA to ensure that his vehicle records are correct then contact the prosecuting authority whether that is the police or alternatively the court.

On contacting the authority it is essential that the owner provides evidence of the vehicles that he owns and states the arguments why he does not own this particular vehicle.

Once the situation has been cleared up, I would suggest that the driver ask for notification confirming that the prosecution has been ceased.



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