



## Member Communication

### Roadside Recovery Guidance – Removals to place of safety

27<sup>th</sup> May 2020

In response to the COVID-19 Pandemic and the resulting pressures on standard roadside recovery procedures on the 30<sup>th</sup> March 2020 AVRO issued guidance, entitled COVID-19 (Coronavirus) Roadside Recovery Guidance (30<sup>th</sup> March 2020). This guidance was produced drawing from industry best practice, training guidance, standard procedure, and regulation.

It has now come to AVRO's attention that this guidance, as with others, is now being called into question by several UK Police forces. This includes calling into question SURVIVE best practice, which has been industry standard for a considerable time.

Questions of legality are being asked in respect of the carriage of vehicle occupants whilst they remain in the casualty vehicle whilst being transported on the rear of a flatbed recovery vehicle. Prior to the COVID-19 situation and in line with SURVIVE best practice guidelines, it has been industry standard that when, for a small number of exceptional circumstances, the occupants of a casualty vehicle are unable to either exit the casualty vehicle or enter the recovery vehicle and are in a location or situation that prevents safe transfer of the vehicle occupants that they remain within the casualty vehicle, which is then loaded on to a recovery vehicle (flatbed), secured and removed to the nearest place of safety where alternative arrangements can be made in a safe environment.

AVRO has been in consultation with the Department for Transport (DfT), Driver & Vehicle Standards Agency (DVSA), Health and Safety Executive (HSE) and National Police Chiefs Council (NPCC) regarding this matter. What is apparent is that there are several pieces of legislation that are not applicable to this procedure.

There is a duty on an operator under section 3 of the Health & Safety at Work Act 1974 to take reasonably practicable steps to ensure the health & safety of members of the public. That means that, if there is a safer way of removing people from the scene, you should use it. In any case any operator must have in place a written safe system of work, risk assessments and method statements to cover any such activity. Further guidance can be found from HSE publication [HSG136 Workplace Transport](#)

At this stage however this procedure could contravene both The Road Vehicles (Construction and Use) Regulations 1986 (section 100) and Road Traffic Act 1988 (section 40a). Both sections of the legislation related to the carriage of passengers in a safe manner and it is these sections AVRO believes several Police forces have raised issue with and believe the procedure contravenes.

UK Government Guidance: Running a vehicle recovery business: driver and vehicle safety rules (updated 2018) states:

*9.9 Carrying passengers in towed vehicles: Passengers can be carried in a broken-down vehicle if the speed does not exceed 30 mph*

We are now advised that the definition of a towed vehicle is one that is towed by means of a physical tow such as tow rope or straight bar. This does not include the loading of a casualty vehicle onto a flatbed recovery vehicle.



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This situation has come to prevalence due to the ongoing COVID-19 pandemic and the need for our industry to adapt its policies and procedures, in a quick reactionary environment, regarding the carriage of passengers. A fundamental part of the work undertaken by our industry is as well as the removal of a casualty vehicle, is the safe and effective removal of vehicle occupants, usually in conjunction with their vehicle, However COVID-19 has prevented usual procedures i.e. carrying of passengers within a recovery vehicle but it cannot be denied that a duty of care still falls on the roadside recovery operator to safely and effectively facilitate the removal of vehicle occupants, where safe and possible to do so. Which is why AVRO in producing its guidance of 30<sup>th</sup> March 2020 took SURVIVE best practice guidance and recommended its application to the case of persons with suspect COVID-19.

To be clear at this stage, AVRO has given positive guidance that this procedure, in that carrying passengers within a casualty vehicle, while being transported on a flatbed must only be to the nearest place of safety and at no more than 30 mph. We are aware of other organisations that are permitting the carriage of passengers, within a casualty vehicle, past a place of safety and to destinations of varying distance and travelling more than 30 mph. We believe this practice to be incorrect and not permitted under current legislation, including legislation relating to Health & Safety.

AVRO firmly believes that the procedure laid down within SURVIVE best practice in regards to attending incidents where vehicle occupants need to be moved to a place of safety first is the best procedure along with removal by means of a flatbed recovery vehicle is the safest and most practical course of action. As such the industry must be given the necessary legal protection to undertake this procedure for which its operators have the required skills, knowledge, and experience to undertake safely.

However, currently this procedure has not been tested in court and due to the lack of clarity within current legislation it cannot be guaranteed that adopting the procedure as laid down in SURVIVE best practice in respect of removal of passengers remaining within a casualty vehicle while being transported on a flatbed recovery vehicle, and its application under COVID-19 situations will not result in a prosecution.

In a situation where an operator finds themselves with no other available option to safely remove vehicle occupants from a casualty vehicle and at this stage would usually apply the SURVIVE best practice procedure to load a casualty vehicle with the occupants remaining whilst being transported to a place of safety it must be taken into consideration that firstly application of this procedure at present may risk prosecution and secondly if it were to be applied it must only be undertaken following a dynamic risk assessment supported by written safe system of work, risk assessments and method statements to cover any such activity.

All roadside recovery operators must make an individual operational assessment based on their individual assessments and taking into consideration the risk of possible prosecution. AVRO will be reviewing and re-issuing the guidance released on 30<sup>th</sup> March 2020 to consider this situation.

We fully appreciate that this now adds to what is already a difficult and confusing situation, but I am sure you will agree that it is key that all AVRO members, as well as the wider roadside recovery industry fully complies with current legislation. The matter is further confused in that SURVIVE best practice, which has been industry practice for a considerable time and used daily by roadside recovery operators is now being brought into question.

AVRO continues to be in regular dialogue with Department for Transport (DfT), Driver & Vehicle Standards Agency (DVSA), Health and Safety Executive (HSE) and National Police Chiefs Council (NPCC) and is lobbying for a resolution to this situation, however to be clear this is a fluid situation and it may be a case that a change in legislation is required to rectify this matter, that process could take months.

This is a priority for AVRO and in representing its members, will lobby vigorously to ensure that this situation is resolved at the first opportunity.

If you require any further information on this matter, please contact the AVRO office on 01788 572850 or e-mail [sara@avrouk.com](mailto:sara@avrouk.com)