



Gordon Clow  
Assistant Coroner for Nottingham City and Nottinghamshire

[REDACTED]

[REDACTED]  
[REDACTED]

2 July 2021

Dear Mr Clow

I am writing to you in response to your Regulation 28 Report to Prevent Future Deaths, of 12 May 2021, following your inquest into the death of Stephen John Oscroft.

I have noted the matters of concern as recorded at section 5 of your report.

The Driver and Vehicle Standards Agency (DVSA) is committed to improving road safety and recognise that every death on the road is a tragedy. When an accident or incident leads to death or injury, we review our policies and processes to identify any opportunity to improve our educative material and also enforcement activity.

We wish to express our sincere condolences to the family of Mr Oscroft.

### **Introduction**

We have placed considerable emphasis on load security over the last few years, both in terms of enforcement, education and working with industry sectors to facilitate improvements. Much of this work has been in partnership with the Health & Safety Laboratory, who have assisted in helping to present very technical requirements for advice, which is much more easily understandable, but also to help us set appropriate enforcement standards and thresholds.

Although Section 40 of the Road Traffic Act 1988 is very clear where it talks about insecure loads constituting an offence, there are no road traffic regulations which offer guidelines and requirements on specific circumstances. The Act talks about “a person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on a road when... (d) the weight, position or distribution of its load, or the manner in which it is secured, is such that the use of the motor vehicle or trailer involves a danger of injury to any person”.

What has existed for many years is the Department for Transport’s (DfT) code of practice for ‘The Safety of Loads on Vehicles’, the first edition of which was published in 1972, and

***Helping you stay safe on Britain's roads***

more recently updated in 2002. This document provides very detailed guidance on how loads should be properly secured for most transport sectors and circumstances, including sheeting and netting for bulk loads. This code of practice is based on an even more comprehensive guide in the shape of the EU publication, "Cargo Securing for Road Transport".

However, we recognise that the detailed nature of both guidance documents does not necessarily equate to helpful advice that can be easily interpreted and understood. Therefore, in conjunction with the Health & Safety Laboratory, we have drafted [load security guidance](#) available on GOV.UK which highlights the main elements of DfT and EU guidance in a more easily understood format. This guidance is constantly under review, and, we have already started further work with the Health and Safety Executive (HSE) on drafting more specific GOV.UK content on properly loading and securing bulk loose loads.

### **Enforcement Activity**

We are constantly engaged in a programme of enforcement checks throughout Great Britain. Many of these checks are conducted on the strategic road network on our major check sites, but some are also carried out on minor roads and urban areas. They are designed to ensure that operators and drivers are adhering to their responsibilities towards aspects such as roadworthiness compliance, drivers' hours, licensing, etc. A routine part of those checks is also devoted to ensuring loads are carried safely, so an emphasis on load securing has been established as one of the constituent parts of a routine vehicle check.

Where we find that a load is not secured properly, and there is a risk to other road users, we have the power to prohibit that vehicle from travelling any further. The vehicle is only released once the load has been properly secured or transferred to a more appropriate vehicle. Our enforcement policy also extends to follow-up with the operator to ascertain they have sufficient compliance systems in place to ensure no further repetition of a similar offence.

Over the last three years the number of vehicles prohibited for insecure loads is as follows:

2018/19 – 903 prohibitions

2019/20 – 639 prohibitions

2020/21 – 766 prohibitions

Looking ahead, we will start to organise specific roadside checks focussing on bulk tipper and skip operations on the strategic roads network and in more urban areas where these vehicles can be more prevalent. That focus will tackle and act as deterrence towards the type of incident we have seen here.

### **Traffic Commissioner Disciplinary Process**

Traffic Commissioners are responsible for the licensing and regulation of those who operate heavy goods vehicles, buses and coaches, and the registration of local bus services. They preside over a number of public inquiries for those operators who fail to adhere to road safety or environmental standards.

We regularly report non-compliant operators to the Traffic Commissioners for a variety of reasons, ranging from not maintaining vehicles properly to allowing or forcing drivers to break the driver' hours rules. However, one of the reasons the Traffic Commissioners will take disciplinary actions against licensed operators is failing to comply with load security

requirements. For example, if we find load security breach at the roadside, that will result in a vehicle prohibition, but will also instigate a follow-up investigation with the operator. That investigation will determine whether or not necessary compliance systems are in place and are effective. If not, then we will often submit a report to the Traffic Commissioner based on both the roadside encounter and the subsequent compliance shortcomings.

If, as the result of a public inquiry, an operator is found to be negligent towards their road safety responsibilities, Traffic Commissioners have the power to suspend, curtail or revoke a licence. This power also extends to banning owners or directors of companies from holding a licence for periods up to ten years.

Where an operator is found to be compliant, but a driver has been identified as falling below the standards expected, a Driver Conduct report will be submitted to the Traffic Commissioner for them to consider their vocational licence. Traffic Commissioners can call a driver to a Driver Conduct Hearing and have the power to suspend or revoke the vocational part of the driving licence.

### **DVSA Examiner Training/Awareness**

All our vehicle examiners undertake specific training on load security as part of their initial training. The current course was created in partnership with the HSE and designed to cover all aspects of load security, including securing methods, vehicle types and types of securing equipment. Examiners are then supported with their routine daily enforcement activities via the Enforcement Policy Team and Area subject matter experts who had additional training delivered by HSE.

Examiners also have access to the guidance via our intranet, and the enforcement sanctions policy document provides detail on what action must be taken at the roadside based on a number of factors such as the load, vehicle and type of security applied.

### **Educational Material & Operator Seminars**

All new operators are required to attend a New Operator Seminar which we have designed with the content agreed by the Traffic Commissioners. Currently the seminar is delivered remotely, via Zoom, by our examiners. The content covers all aspects of vehicle maintenance/safety and traffic management, including drivers' hours and licensing. Load security is also included, advising operators to ensure they have an effective system in place to monitor drivers' compliance and ensure that it forms part of their daily walk round check undertaken prior to commencing a journey. We also provide supporting information with links to useful information held on GOV.UK which include the DVSA Operator Guide to Load Security.

As noted in the introduction, we have worked with HSE on publishing easy-to-understand guidance on GOV.UK – providing specific advice on loading. There is a balance in how specific this should be and ensuring that the advice is not too impenetrable and lengthy. The area of loose bulk loads is one of the areas that we are working with HSE on to enhance the guidance.

### **Driver Certificate of Professional Competence (CPC)**

There are driver CPC modules which cover load security, but currently the content of these is not prepared or dictated by DVSA. We do however monitor the courses to ensure they are fit for purpose, and we are currently working with HSE to look how we can provide additional material on load security, to CPC training companies. The intention is to make

the content more useful and relevant than that currently delivered to drivers, with an emphasis on practical material based on case studies etc.

### **DVSA Action**

In summary, we do already conduct considerable positive and proactive enforcement and educative work in this area. However, the following are areas of enhancement that we are working on, that have the potential to lower the risk of repeat instances of this type of occurrence.

- Work with HSE on amending the current load security guidance on GOV.UK to include very specific narrative dealing with bulk loads. This work has already started, and we aim to have the updated guidance prepared by September 2021.
- Arrange special road checks with a particular focus on bulk trailer skip lorries, the first of which is planned for September.
- Production of dedicated communications highlighting the revised guidance and timed to coincide with the concerted checks.
- Continue to ensure load security is treated with the utmost importance during all enforcement encounters and that operator investigations always include thorough scrutiny of load security compliance systems.

I am happy for you to send a copy of this response to all the interested parties as noted at section 8 of your report. You said you were under a duty to send a copy of our response to the Chief Coroner. I confirm I do not wish to make to you any representations about the release or publication of our response by the Chief Coroner.

Yours sincerely



██████████ ██████████  
**Chief Executive**

██