

A RESUME OF THREE DECADES OF AUTO SPORT LEGISLATION



International Organisation of Professional Drivers

Authorised by the Secretary of State for
the regulation of off highway auto events
under Statutory Instrument 1371 (1995)
and Section 5 (13A) of the 1991 RTA

2020 IOPD Update...nearly three decades of Authorisation

The IOPD came into being as a result of new Government legislation introduced in 1991 (and updated in 2005) meaning that independent operators now would be required to be authorised, to ensure that they would be fully compliant with these new Road Traffic Acts, Road Safety Acts and Health and Safety at Work Regulations.

The IOPD was named as one of 11 Governing Bodies who could provide statutory derogating (barring) under section 13A of the 1991 Road Traffic Act from the most serious Road Traffic Act prosecutions relating to how a vehicle is driven. Without this authorisation it is now an offence for an under aged / unlicensed person to drive, or ride on a mechanically propelled vehicle at a public attended event in a car park, on a circuit or any other fenced off area and to drive without road risk insurance cover (source: RTA, DfT, DEFRA). In other words, the Authorisation process 'permits' racing, speeding, drifting, competitive furious on the edge, unlicensed, non-road legal, under aged, auto events and driving experiences by statutory disapplication of criminal and civil charges relating to how vehicles are driven/ridden at off highway events on private land.

During the first decade from its initial Government Empowerment the IOPD quickly built a portfolio of affiliate companies and organisers to approximately 100. During the following two decades the IOPD became recognised as a friendly, accommodating, family run facilitator of best practice, compliance and inspection.

As a result, the IOPD has accrued a broad spectrum of practical operational experience not just from one area but from nigh on forty diverse forms of competitive and recreational mechanically propelled activity events. So no matter what type of mechanically propelled activity an organiser wants to run on their site; car racing, bike racing, track testing, pay and play, underage driving, testing, training or stunt shows, the IOPD is able to offer help, advice, rules and inspection. Once compliant this then leads to their events being authorised on one permit of authorisation.

Organisations affiliated to the IOPD include many manufacturers backed driving and riding programmes, including Mercedes World, Brooklands Museum, Jaguar/Land Rover. Also, Arena shows at London Motor Show Live, NEC Drift Racing, Coventry MotoFest, Bicester Heritage. The IOPD represents organisations covering some 19,300 events at over 1,000 venues for 1 million participants per year including some 100,000 under 17's and unlicensed drivers and riders. The IOPD is the chosen authorising body for the British Off-Road Driving Association and the National Tractor Pulling Register, along with many other national groups.

With the recent dramatic increase in health and safety investigations the need to have the skills of staff and volunteers formally recorded can be a crucial deciding factor as to whether prosecutions are brought against organisers. Through its licensing and accreditation process the IOPD now has over 8,000 registered personnel with certification of their abilities.

The IOPD has been particularly successful in authorising manufacturer and insurance company backed junior driver training programmes and junior driver experience programmes. This has seen nearly one million under aged drivers and riders taking part in statutory approved driving and riding activities over the last twenty years.

Other benefits of being Authorised by the IOPD are its unparalleled experience at every level of the European and UK Court systems. From the High Court and Court of Appeal to Magistrate, Coroners and Crown Courts. It has had face to face consultations with International Lawyers, Government Advisers, the Under Secretary of State for Transport, Civil Servant Advisory Groups on motor sport safety, the Head of Motor Sport for the HSE, individual HSE and EHO officers, senior Police officers and leading motor sport barristers on a regular basis.

Another aspect of the work the IOPD does, is in its official involvement in fatal and life changing investigations as it acts as an expert advisor. Over the years this has been both for the defence and

the prosecution. Charges brought have ranged from relatively minor ones to death by dangerous driving/riding and corporate manslaughter. Some for irresponsible event organisers not affiliated to the government authorising system have resulted in substantial fines, huge amounts of compensation and even substantial prison sentences.

Whereas beneficiaries of the IOPD authorising systems including manufacturers driving and riding programmes, motor racing circuits, motor museums, farmers, land owners, event organisers, club officials and participants who found themselves potentially looking at serious charges after an investigation, have had charges dropped on production of an authorisation permit, evidence of a satisfactory inspection record and an undertaking that the IOPD will closely monitor their activities in the future.

Another area where you might not expect the IOPD to have had an impact is in avoiding the potential closure of tracks following EHO Prohibition Notices. These have been as a result of perceived noise or from incidents on the sites. From its knowledge of the law relating to noise the IOPD was able to prove that the means by which the noise measurements had been taken were questionable with regards to surrounding external noises. By mediation with Local Authority personnel the IOPD was able to negotiate the reopening of the tracks with certain restrictions.

One circuit was able to continue its operation following the IOPD's intervention. The incident which caused the prohibition notice was as a result of an unauthorised person using the site for vehicle testing who crashed and unfortunately succumbed to their injuries. The IOPD was able to show that the operator of the venue had authorisation in place for their events and hence a set of rules, stipulations and inspection. After several months of discussion and losses amounting to £hundreds of thousands of turnover, the venue operators can now use this site again.

A second site had a prohibition notice served as a result of a fatal driving incident. Once again due to an unauthorised operator using the site. After much discussion, explanation of the authorisation process, proof of authorisation and an agreed set of conditions for improvement to the site in general the IOPD was able to convince the local authority that the venue could be used 'only for events authorised by Governing Bodies'. However, the land owner faced prosecution and possible custodial sentence for permitting the unregulated event on his land. A very expensive Barrister lead plea bargaining which resulted in the custodial sentence being dropped in exchange for a guilty plea on a lesser charge and a £30,000 fine. (See IOPD Guide for Landowner Venue Providers and Land Users including Testing on Private Land).

The IOPD has assisted an affiliated member in a High Court action to successfully defend charges of negligence in organising an Off-Road Endurance Activity. The claimant, an experienced off roader alleged that he had not been warned about the possibility of a submersed hazard in a deep puddle having ridden 20 miles across country.

The judgment once again reinforces the principals established in *Tomlinson v Congleton BC* (2004) and reinforced by *Poppleton* (2009) and others which perpetuates that there is no duty to warn adults against risks that are obvious or ordinarily inherent in the activity being undertaken. In these circumstances there is no duty to risk assess and warn against every feasible danger.

Graham Eklund QC and Stephen Innes (instructed by Weightmans LPP) with Bruce Ralston (Partner) acting for the defence. With IOPD support it was established that the Activity Centre was authorised (under section 13A). It was well run with a high regard for safety and the instructors were entirely competent and highly experienced.

The IOPD note there have been half a dozen challenges in the High Court since 2000 to seek to establish that organisers and landowners are negligent and therefore liable to pay compensation when participants injure themselves when participating in potentially dangerous activities. Organisers and Landowners that cannot evidence Governing Body Inspection and compliance to

high safety standards may suffer huge fines and potential custodial sentences as in the recent case involving the HSE and a Welsh Organisation (2020).

Coroners Legal Powers

Coroners now have new powers under paragraph 7 schedule 5 of the Coroners and Justices Act 2009 and Regulations 28 and 29 of the Coroners (Investigations) Regulations 2013. Without possibly any knowledge of Motor Sport Regulation, they may see serious shortcomings in control, regulation, discipline, barriers, walkways, segregation inspection and marshalling when Authorising Bodies may not. This is because Coroners in the 21st century may believe that no person should be permitted to put themselves at risk solely for thrills and excitement. Coroners can now demand urgent action within 56 days to reduce risks.

The Coroners reports sets a precedence of identifying blame and negligence there-by putting pressure on the Enforcers to prosecute and claims lawyers to obtain compensation. This means that there is more reason than ever to be fully authorised.

As future European legislation filters through from the Vnuk case into RTA updates (imminent) the requirement to be fully authorised and insured is likely to be further enforced. So, as we approach 2020 the IOPD is to formally recognise twenty motor sport recreational safety experts with 20/20 sui generis vision, perception and accuracy. These experts have endorsed and contributed to the consensus of opinion published by the IOPD in dozens of papers and guides over the last thirty years.

Citation. The following people have been listed and recorded by the IOPD as Recreational Auto Activity Safety Experts for their 20/20 sui generis vision, perception and accuracy. The following persons may only be contacted through the IOPD as it only the IOPD that may give out guidance as a Statutory Empowered Emanation of the State and is insured to do so.

IOPD Recreational Auto Activity Consultants

| Name | Specialist Field |
|------------------------|---|
| Martin Bostock | Legislation and Technical Analysis |
| Stephen Murty | Off Highway Auto Event Legislation |
| Graeme Gill | Off Road Driving and Training |
| Andrew Catlin | Driving Experience / Events SDSA Trainer & Training |
| Chris Jones Dip NEBOSH | Risk Management/ Police Liaison/ Insurance |
| Tim Foster | Rally and Street Circuit Safety |
| Lee Child | Drag Racing / Drift Experience/ Track Preparation |
| Brian Pallett | Circuit Management and Safety |
| Michael Murty | Stunt Arena, Venue Safety, vehicle construction |
| Trevor Stimson NEBOSH | Arena /Event management H&S |
| Trevor Duckworth | Motorcycle Sprint/ Drag & Speed Records |
| Edwin McKnight | International Liaison |
| Christopher Murty | Regulation & Legislation |
| Neil Fretwell | Historic Hot Rod Event Regulation |
| Colin Jebson | Track Day / Competitions |
| Steve Cox | Tractor Pulling and Sledge Safety |
| Russell Vincent | Young Drivers |
| Colin Hancock | Stock Car / Banger Racing Safety |
| Steve Ireland | Enduro/ Motocross/ Rideouts/Training & Skills |
| Dave Thorpe | Motorcycle Off Road Training |

The following two volunteer marshals are now recorded for their outstanding 20/20 vision of abnormal accuracy, clear perception and dedication under extreme challenging and arduous conditions in their relentless search for a missing enduro rider:

Harvey Pritchard and Alwyn Jones.