



## Guidance Note No. 5

Date: July 2015

### Possible Offences of Wilful Obstruction of the Highway

Section 137 (1) of the Highways Act 1980 provides that if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway, he/she is guilty of an offence and liable to a fine.

In 1983 the event secretary of an open time trial was summoned with the above offence because an obstruction of the highway was alleged to have occurred at the starting point of the event in question. Although that prosecution was unsuccessful, the following notes are issued by the Board of Directors of Cycling Time Trials in an endeavour to avoid similar prosecutions in the future.

Every case of obstruction must depend upon its own particular facts but the general law, established for a century or more, is that the highway is for "passing and re-passing" and anything done in the highway "other than to do with the passage" is unreasonable obstruction.

It will therefore readily be seen that the activities of competitors and their helpers at the start or finish can easily amount to an obstruction. Any behaviour which causes other traffic to deviate substantially from its line (particularly if that involves crossing a "double white line") or causes it to halt, is liable to be an obstruction and those causing it are liable to prosecution under 5.137 (1) of the Highways Act 1980.

For this reason, the siting of the start and finish points of time trials must be very carefully chosen by the relevant District Council but, even when properly chosen, would-be competitors and their helpers must so conduct themselves so as to ensure that no obstruction of the highway takes place.

If obstruction occurs then the fact that the event is authorised by law (provided the proper notices have been properly given) will not serve to make lawful that which is otherwise unlawful. It should be noted particularly that even where the statutory notice of the event has been given more than 28 days beforehand, if any change in the arrangements for the event is made in the meantime, then such change must be notified to the Police and actual authorisation of the event as so changed obtained.

A prosecution may be successful even where no actual obstruction is caused if the activity complained of can potentially cause an obstruction, although in such cases it may be possible to argue that the activity complained of is in fact a reasonable user of the highway.

An event promoter runs the risk of prosecution for an offence of obstruction if the arrangements which he/she makes (or fails to make) for the proper organisation of the start and finish areas of the event are unsatisfactory. A sufficient number of marshals and stewards should be appointed to ensure that the carriageway in the vicinity of the start and finish is kept clear and other road users not obstructed. The more important the event, the more comprehensive will be the arrangements which will need to be made and at events such as National Championships almost certainly some form of crowd control barrier will need to be erected to keep spectators off the carriageway. Moreover, the event should always be timed to ensure that as little other traffic as possible is using the road.