

SMART MOTORWAYS: AN AFFRONT TO DEMOCRACY - DISTURBING SIMILARITIES WITH POST OFFICE SCANDAL

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The first duty of an elected government in a democracy is to keep citizens safe from enemies who would wish us harm. Following that comes the protection of life.

A government must never legislate, or implement policies, which compromise the safety of citizens to such an extent that people die or suffer life changing injuries.

So when the government implemented the so-called SMART MOTORWAY policy many years ago it was in clear breach of its democratic duty to protect life. The death toll, and an unknown number of life changing injuries directly attributable to the All Lane Running smart motorway policy, is testimony to that fact.

Ministers have continually 'signed-off' the policy authorising the removal of motorway hard shoulders, the most important safety feature for fifty years, as a cheaper way of providing an additional traffic lane.

This cost saving measure has compromised safety with horrendous consequences for so many people.

CONCERNS OVER SAFETY

Following the tragic and violent deaths of two ladies on the M25 in March 2018 I wrote to Highways England (the forerunner of National Highways) expressing my concerns about safety on smart motorways which have had their hard shoulders removed.

A part of the reply I received from the Head of Smart Motorways in May 2018 reads:-

'Categorically, it is NOT Highway's England assertion that those who use All Lane Running Smart Motorways, are not at any greater risk when stopped, than if they had stopped on a hard shoulder. Quite the opposite – we have always clearly stated that the risk related to stopping in a live lane on an All Lane Running section is significantly higher than on a traditional motorway'.

(A copy of the letter is available for those who wish to have sight of it).

Irrefutable evidence that Highways England knew of the increased risks associated with stopping in a live lane of a smart motorway.

The writer uses the words ***significantly higher*** and tragically he has been proven right.

The ALL LANE RUNNING smart motorway policy has been implemented in the full knowledge that some people who, for whatever reason, stopped in a live lane used by fast moving traffic would die.

NO NEW SMART MOTORWAYS

In April last year, Rishi Sunak cancelled all planned (new) smart motorways saying the public have no confidence in them.

The public have had no confidence in them since the first fatality many years ago but the government has stubbornly insisted smart motorways are as safe, or safer, than conventional motorways.

What caused the change of heart by the PM whose courage sadly deserted him when he failed to announce that hard shoulders would be restored to the 400+ miles of existing smart motorway?

TRANSPORT SELECT COMMITTEE

Select Committees are an important part of our parliamentary democracy because they scrutinise the work of government, looking after the interests of the people.

Sadly, the Transport Committee's most recent enquiry, *The Roll out & Safety of Smart Motorways*, proved to be a great disappointment.

Did the committee hear evidence from police officers of the rank of constable, sergeant, and inspector with years of experience and knowledge of life, and death, on motorways to provide members with a real insight into the dangers associated with these high speed roads?

No! The committee heard from a high ranking police officer *with no roads policing experience*, from the Head of The AA and from a lady from a logistics company.

Prior to a session, in which the committee was to hear evidence from a minister and from those at the top of National Highways, I wrote to the Chair with a request each witness be asked the following question,

If, late at night, you received a phone call from distraught family members telling you they were broken down on a motorway and vehicles were swerving to miss their car

Would you:-

(a) *Tell them that smart motorways without hard shoulders are as safe, or safer, than conventional motorways and they shouldn't be concerned*

Or

(b) *Be terrified that the next time you saw your family would be in a mortuary.*

Not one member of the committee bothered to ask this very pertinent question and we will never know their answers.

Shortly after publication of the Report (which can be viewed on the committee's website and includes my written evidence) the Chair of the Committee made a statement in The House of Commons, to the twenty MPs who bothered to turn up, telling them that Motorway hard shoulders are dangerous and the committee would not be recommending their reinstatement.

I know it's hard to believe but his full statement can be found in Hansard – a written record of all that is said in parliament.

As for the Chairman of the Committee? He is now a Roads Minister in this government!

LICENCE TO OPERATE

National Highways has a Licence to Operate granted by The Secretary of State and some examples of the conditions attached to this licence give rise to concern.

Manage the Strategic Road Network in the Public Interest Sec 4.1

All Lane Running smart motorways which compromise the safety of the users is not in the public interest.

Protect & Improve safety on the network Sec 4.2

Removing the hard shoulder, for fifty years considered the most important safety feature of a motorway is not improving safety – quite the opposite.

Establish a Stakeholder Advisory Panel Sec 5.1

The membership to include Environmental & Safety Groups Sec 5.2

At the meeting of the Stakeholder Advisory Panel on November 28th 2023 no member of a safety advisory group was present.

National Highways is in contravention of its Licence to Operate.

DENIAL OF JUSTICE

There are many examples of victim's families being denied justice – here are two:-

Earlier I mentioned the double fatality which occurred late at night in March 2018 on the M25 near J26 at Waltham Abbey.

The car in which a family of four were travelling suffered a puncture and the driver stopped as close to the barrier as possible.

The family was standing behind the barrier on the grass verge and the two ladies were killed instantly, and an eleven year old girl suffered life changing injuries, when a heavy goods vehicle struck their car and crossed the barrier.

The nearside lane had, for many years, been the hard shoulder.

The HGV driver pleaded guilty to Causing Death by Careless Driving at Chelmsford Crown Court (when I expressed surprise the defendant had pleaded guilty, as he had only four seconds to see and avoid the car, his barrister explained it was to save the family the ordeal of a trial)

The Trial Judge made the following statement more than once during the hearing, *'If there had been a hard shoulder this accident would not have happened'*.

I took the view that those who authorised the removal of the hard shoulder in favour of an additional traffic lane were ultimately responsible for these tragic deaths and, as well as writing to Highways England with my concerns, I asked Essex Police to refer the case to the East Of England Crown Prosecution Service for consideration to be given to prosecuting Highways England for Corporate Manslaughter.

The response of Essex Police was to **accuse me** of abuse of the complaints system for my own ends, challenging a court case and attempting to influence an ongoing or past police investigation. Essex Police refused to refer the file to the CPS – a Neglect of Duty in my opinion.

My complaint, against Essex Police Professional Standards Department was investigated by Essex Police Professional Standards Department, was rejected, the file was never submitted to the CPS and the family have never received justice.

The family are of Asian origin and I hope this had no bearing upon the unacceptable behaviour of Essex Police.

A fatality on a section of smart motorway in South Yorkshire was investigated by South Yorkshire Police who sought advice from Yorkshire & Humberside CPS as to whether *National Highways has a Duty of Care towards those who use motorways*.

In the opinion of a lawyer *National Highways DO NOT have a Duty of Care* and therefore cannot be prosecuted over deaths which occur on smart motorways.

South Yorkshire Police lost interest in the case and closed the file but the South Yorkshire Police & Crime Commissioner has, without success, tried to obtain justice for the family.

You may wonder why this opinion has not been tested in a court of law! It is certainly not for the lack of trying because Claire, who lost her husband in 2019 on a section of smart motorway in South Yorkshire, has left no stone unturned in her efforts.

DISTURBING SIMILARITIES

Whilst writing this in early January 2024, ITV broadcast a series entitled, Mr Bates V The Post Office, exposing the scandal which saw many hundreds of decent and honest Sub Postmasters and Sub Postmistresses accused of theft, false accounting and fraud.

Lives were devastated, innocent people sent to prison and many made bankrupt.

This is the biggest legal scandal in the history of our country and there are a number of disturbing similarities between the **Post Office Scandal** and the **Smart Motorway Scandal** which give rise to serious concern.

The Post Office and **National Highways** are companies wholly owned by the government.

The lives of hundreds, perhaps thousands, of people have been impacted in a terrible way by the actions of both companies.

For two decades both companies have wilfully ignored irrefutable evidence their actions were devastating lives but they couldn't care less.

The Post Office knew the Horizon computer system was to blame for shortfalls but chose to hound and prosecute those running sub post offices.

National Highways has known for years that the absence of a motorway hard shoulder has cost lives but, as the death toll steadily rose, chose to continue with the dangerous All Lane Running smart motorway policy by removing more than four hundred miles of hard shoulder from several motorways.

Both companies, if sued in the courts, have access to unlimited sums of taxpayer's money. Litigants do not have that luxury.

The huge cost of legal advice is not a problem for these companies, hardly a level playing field you may think with odds stacked against the people?

Now, thanks to the immense interest in the Post Office scandal generated by the TV program, innocent people will have their convictions overturned by the Appeal Court or by new legislation, and they will receive financial compensation.

A Public Enquiry is underway and it is hoped those responsible will be exposed, called to account and, where there is evidence of a criminal offence, sent to prison.

For the victims of the Smart Motorway policy nothing less than a Judge led Public Enquiry is acceptable if those who continue to suffer their loss are to receive justice and closure.

The Judge must have the power to compel police forces to submit details of all smart motorway collisions in which the absence of a hard shoulder was a major cause.

The Judge must compel those at the top of National Highways to produce the Minutes of ALL meetings in which the smart motorway policy was discussed – (to include those of The Highway Agency and Highways England).

Whistle blowers from National Highways, who are prepared to give evidence at the Enquiry, must be granted anonymity.

No individual should be permitted to refuse to attend the enquiry and this includes Ministers and Secretaries of State who had any involvement in the policy over many years.

Victim's families have a right to justice and to closure – nothing less will be acceptable.

THE 'SMART MOTORWAYS KILL' CAMPAIGN WILL CONTINUE UNTIL THERE IS A PUBLIC ENQUIRY & HARD SHOULDERS ARE RE-INSTATED ON ALL MOTORWAYS.

Mike Rawson

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