



Graduated fixed penalties for speeding offences - Discussion note

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Introduction

o This note explains the Government's proposal, to be implemented when the legislative opportunity arises, for new powers under which a more graduated structure of fixed penalties for speeding can be introduced and revised by statutory orders, which would be subject to formal consultation, and to discussion, approval and Affirmative Resolution in Parliament.

o The note invites comments on the way in which graduated fixed penalties could be structured.

o The note has been prepared, and comments received on it will be considered, in consultation with the Home Office, which has overall responsibility for sentencing policy, maximum penalties and fixed penalties.

o This invitation to comment does not anticipate or prejudice future formal consultations on proposals being made under the proposed new power. The objective of this invitation to comment is to give the Department an early and informal indication of public views on how more graduated penalties might be structured.

o The note and invitation to comment is being publicised through the Department for Transport and Home Office websites. The Department for Transport is also drawing the note to the attention of members of the Motoring Forum and of the Government's Road Safety Advisory Panel, who represent the key stakeholders with an interest in the issue.

- o The Department for Transport outlined its plans for new road safety legislation, including provision for graduated fixed penalties, to the Transport Committee. The Committee met the Minister David Jamieson to discuss this on 14 July. It is understood that the Committee plans to issue a report with its comments on speeding and the other proposals in the early autumn.
- o The prospective proposals discussed in the note would relate to Great Britain.

Responding to this discussion note

- o You are invited to respond, by Friday 29 October 2004, to:

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The Department will copy responses to the Home Office.

- o For further information or questions, please contact Mike Fishman.
- o Your response may be published or included in a summary of responses received to this consultation. We will assume you are content for this to be done, and that if you are replying by e-mail your consent overrides any confidentiality disclaimer generated by you or your IT system, unless you specifically include a request to the contrary in the main text of your response. Confidential responses will be included in an statistical summary of comments received or views expressed.

Discussion

- o Road safety is a Government priority, with the Department for Transport's Public Service Agreement (PSA) targets including that of reducing the number of people killed or seriously injured in road accidents by 40% by 2010 compared to the average for 1994-98. The first three year review of the Government's road safety strategy published in April 2004, *Tomorrow's roads - safer for everyone*, showed the good progress being made, with the number of people killed and seriously injured reducing steadily by over 3% a year, though the number of people killed has not gone down in line with the non-fatal casualties - an issue which the Department is actively investigating.
- o Nonetheless, around 3,500 people are killed on Great Britain's roads each year, and another 35,000 people seriously injured. This level of death and injury is not acceptable. Excessive and inappropriate speed is a significant part of the problem, threatening drivers' own and their passengers' lives and health, as well as threatening the law-abiding majority of drivers, and other road users, especially vulnerable people including young and older people.

- o So speeding remains a serious issue, calling for effective action.
- o **Appropriate speed limits** are one element in this. The Government encourages lower speed limits where these are appropriate in urban areas and in the vicinity of schools, including 20 mph zones. These have proved very successful in reducing collisions and injuries. For rural areas, the Government recommends that 30 mph should be the norm in villages.
- o The current guidance to local authorities on local speed limits is being revised and updated, covering both rural and urban roads. The Department for Transport will consult road users and other stakeholders shortly on a revised Circular advising local authorities on the setting of local speed limits.
- o **Effective enforcement** is also important, including the safety camera programme, where the independent review carried out by University College London and PA Consulting Group and published on 15 June 2004 concluded that the programme reduced the number of people killed or seriously injured at camera sites by 40%, over and above the general downward trend.
- o There must also be **effective follow-up action** on people who break speed limits. But legal penalties are not necessarily the right solution for every offender. Various police forces in the UK have been developing and offering drivers the option of **speed awareness courses** as an alternative to formal legal processes. At the national level, the Association of Chief Police Officers in England and Wales plans to work with forces to put in place a national programme of speed awareness courses. These would be offered, as a voluntary alternative to a fixed penalty, to offenders for whom the police felt this was the most productive option. Courses would not be open to offenders who had already been on a course within the previous three years.
- o The Government welcomes this initiative. It shares the view of the police forces that, appropriately used, speed awareness training can be an effective way to achieve the bottom-line objective - people who drive legally and with proper consideration for others.
- o But for other offenders - including repeat offenders who have already been on a speed awareness course - **legal action** will continue to be the appropriate action.
- o But the **level of the penalty** needs to fit the crime, and be regarded as doing so, for maintaining public confidence in and respect for the legal process.
- o For the speeding offences which the police and the Crown Prosecution Service (the Crown Office and Procurator Fiscal Service (COPFS) in Scotland) judge to be serious enough to consider a **court hearing** to be warranted, the system provides a significant degree of flexibility. Magistrates or judges may deal with speeding offenders in a number of ways, according to their judgement of the seriousness of the offence. They may endorse by between three and six penalty points, or disqualify outright, and may additionally fine up to Â£1,000 (or Â£2,500 for a motorway offence).
- o But the great majority of speeding offences are dealt with through the **fixed penalty procedure**. Here, the penalty is at present a flat rate of three penalty points and a Â£60 fine, regardless of the degree of speeding. The figure of three penalty points is determined by the minimum of the range of penalty points specified for the offence in Schedule 2 of the Road Traffic Act Offenders 1988.

o The *level of speeds at which speed limits are enforced* in England and Wales is an operational matter, at individual police forces' discretion. But the Association of Chief Police Officers *Speed Enforcement Guidelines* suggests the following **minimum** speeds at which enforcement action is taken, and at which cases should be referred for court action. But the ACPO Guidelines note emphasises that policy is for individual police forces' discretion, and that exceptional circumstances may apply to individual cases:

1. Speed limit 2. (mph)	3. ACPO Speed Enforcement Guidelines suggested minimum speed for enforcement action 4. (mph)	5. ACPO Speed Enforcement Guidelines suggested minimum speed for court proceedings (mph)
20	25	35
30	35	50
40	46	66
50	57	76
60	68	86
70	79	96

In Scotland, the level of speeds at which speed limits are enforced is a matter for the Lord Advocate who has provided guidelines to the Scottish police forces setting out appropriate thresholds. If the police set out a compelling case for enforcing levels of speed lower than the suggested thresholds then agreement can be reached between the local procurator fiscal and the police to reduce the given threshold.

Graduated fixed penalties - proposals and possibilities

o Following the Home Office Review of Road Traffic Penalties, the Government made a commitment in July 2002 to create an aggravated offence to deal with a significant problem of people willing to flout speed limits by an excessive amount, by providing for the creation of a new higher fixed penalty for such cases. This reflects the serious public concern about excessive speeding.

o At the same time, many people feel that the present flat rate fixed penalty of three penalty points is not necessarily appropriate to deal with the less severe cases of speeding.

o The Government believes that there is a need to provide for a more graduated structure of penalty points for speeding, taking better account of the severity of the crime and ensuring that the punishment reflects the degree of speeding.

o The Government therefore proposes in future legislation

n to amend the range of penalty points for speeding offences, from the present three to six, to two to six, which enables the introduction of a lower fixed penalty than the present three points;

n and to provide for powers under which the Secretary of State will be able to set the fixed penalty structure, including different level of points for different circumstances (e.g. on the basis of the level of speeding or other factors) through a Statutory Order, to be subject to formal public consultation on proposals, and to Affirmative Resolution in Parliament.

o There will be no change in the provision for automatic disqualification for repeated offences for 12 or more penalty points for speeding or other offences, contained in Section 35 of the Road Traffic Act 1988, as amended.

Points for comment

o The Department invites comments in particular on the following questions:

Question 1

Do you agree with the Government's view that there is a case for fixed penalties for speeding to be more graduated, with higher penalties for more serious categories of speeding, and lower penalties for less serious cases?

Question 2

If you do not agree with a graduated system, do you support the present structure of penalties, or would you wish to see an alternative approach?

Question 3

The table below illustrates a possible structure for graduated penalties. Ministers would welcome comments on it, without prejudice to statutory consultation on future proposals, and comments which you may wish to submit on that statutory consultation.

6.	7. Lower penalty - 8. 2 points and Â£40 fine	9. Standard penalty - 10. 3 points and Â£60 fine	11. Higher Penalty - 12. 6 points and Â£100 fine
13. Speed 14. (mph)	15. Speed up to and including 16. (mph)	17. Speed 18. (mph)	19. Speed at or above (mph)
20	No lower penalty for speeding in 20 mph zone	Up to and including 31 mph	32
30	39	40 - 44	45
40	50	51 - 56	57
50	61	62 - 69	70
60	72	73 - 81	82
70	83	84 - 93	94

These illustrative figures have been calculated on the basis that the lower penalty would apply (except for 20 mph zones) at speeds below the speed limit, plus 12.5%, plus 6 mph (to allow for the technical limitations of speedometers); and that the higher penalty would apply to speeds beyond the speed limit, plus 25%, plus 6 mph.

But note that, as at present, serious speeding cases will be subject to court proceedings and the penalties under them, at the discretion of the police and the Crown Prosecution Service (COPFS in Scotland).

The present ACPO guidance to police forces on the level of speeding at which cases are committed to court proceedings was summarised in paragraph 23 above. ACPO have indicated to the Government, however, that they would wish to review these levels, in the light of a higher level of graduated fixed penalty being introduced. The Lord Advocate in Scotland will similarly review his guidelines to Scottish police forces if a graduated fixed penalty is introduced.

Question 4

It has been suggested that fixed penalties should be higher for repeat speeding offences. Do you have views on this?

Question 5

Should other factors be taken into account, such as the location where the speeding occurred, or other factors?

o **Other comments are invited on the Government's proposals for more graduated fixed speeding penalties.**

**Road Safety Division
Department for Transport**

August 2004