



Department
for Transport

A consultation on changes to the Fixed Penalty Notice and penalty points for the use of a hand-held mobile phone whilst driving

Moving Britain Ahead

January 2016

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Executive summary

- 1 The Government has a Manifesto commitment to '...reduce the number of cyclists and other road users killed and injured on our roads every year'. In support of that commitment, the Government published its road safety statement "*Working Together to Build a Safer Road System*" in December 2015. That statement sets out the context of road safety in Britain today and the overarching scope of road safety activity for the government.
- 2 This consultation seeks views on proposals announced in the Statement, namely **increasing the penalty levels and Fixed Penalty Notice (FPN) for the offence of using a hand-held mobile phone whilst driving**. Hand-held mobile phone use whilst driving is a dangerous activity which increases the risk of a collision.
- 3 This consultation considers proposals for increasing the FPN level from £100 to £150 for all drivers as well as increasing the penalty points from 3 to 4 for non-HGV drivers and from 3 to 6 points for those that hold a Large Goods Vehicle (HGV) licence who commit the offence whilst driving a HGV.
- 4 A Large Goods Vehicle (LGV/HGV) - also known as a heavy goods vehicle (HGV) - is the European Union term for any truck with a gross combination mass (GCM) of over 3.5 tonnes (7,716 lb)¹. For the purpose of this consultation, a Large Goods Vehicle (HGV) will also include Large Passenger Carrying Vehicles (PCV) capable of carrying 16 or more passengers².
- 5 These proposals ultimately aim to reduce the number of deaths and injuries on the roads.
- 6 The vast majority of first time offenders will not incur a FPN or penalty points but will instead continue to be offered a remedial educational course. Whether to invite a motorist to a course is at the discretion of the police.
- 7 The proposals outlined in this consultation apply to Great Britain but the impact assessments focus on the effects for England and Wales. We will consider further the likely impacts these proposals will have in Scotland in parallel with the consultation.
- 8 Views are invited on the proposals set out at chapter 2, consultation stage impact assessment at **Annex A** and the questions at **Annex C**. The deadline for responses is 15 March 2016 and full details of how to respond can be found at chapter 5.

¹ LGV is the acronym for Large Goods Vehicle. However LGV is also used colloquially to refer to Light Goods Vehicles. To avoid confusion, this consultation will use Large Goods Vehicle (HGV).

² Large Passenger Carrying Vehicles are vehicles that are constructed or adapted to carry 16 or more passengers.

1. Background

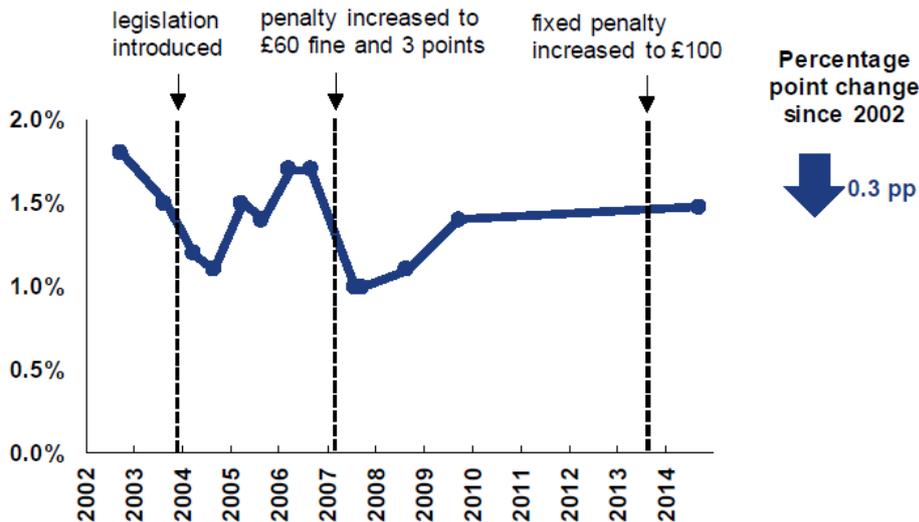
Introduction

- 1.1 Fixed penalty notices (FPNs) may be offered to many motorists for less severe offences, or less severe infringements of other offences such as lower level speeding or failing to wear a seatbelt. Whether to offer a FPN is a decision for the police to make and will depend on exact circumstances. For more serious offences such as drink driving or dangerous driving, FPNs are not available at all. They are also not used for the most serious infringements of some offences, for example for motorists speeding at well over the posted limit.
- 1.2 In many cases the police give offenders the choice of taking a remedial training course as an alternative to accepting a FPN. We would expect this to continue to be the case even with increased penalties. These courses offer an opportunity for individuals to learn and change their behaviours.
- 1.3 FPNs have been used extensively for motoring offences during the last two decades. People issued with them can elect not to accept them. However, if an offender does not respond to the FPN, they face the prospect of proceedings at a Magistrates' Court. They may also elect to challenge the FPN in court.
- 1.4 It is illegal to use a hand-held mobile phone whilst driving. This includes holding a mobile phone to read a text, check social media, take a photo or any other interactive communication function. This applies even when a driver has stopped at traffic lights is queuing in traffic.
- 1.5 Currently the police may issue a FPN, which incurs a £100 fixed penalty and 3 penalty points (increased from a £60 penalty in 2013). If a driver has 12 penalty points within a three year period, they could be disqualified by the court for at least six months. Under the Road Traffic (New Drivers) Act 1995, a driver will have their licence revoked by DVLA if they reach 6 penalty points within 2 years of passing their test.
- 1.6 First-time offenders who hold a Large Goods Vehicle (HGV) vocational licence will receive a warning letter from the DVLA on top of the FPN. For a second offence, they are called to a hearing with the Traffic Commissioner who has the power to suspend or revoke vocational licences. If the offender was driving a commercial vehicle at the time of the offence, they may be called to a hearing on their first offence.
- 1.7 Driving ability is clearly impaired by using a mobile phone and studies have found that talking on a hand-held mobile phone impairs driving more than driving above the drink drive limit³. During the period 2009-2014, our casualty data shows that 3,611 reported accidents have occurred where at least one driver was using a mobile

³ <http://www.roadsafetyobservatory.com/Evidence/Details/10900>

phone, although we believe this to be an area that is likely to be significantly under recorded as many drivers may have put away their phone before the police arrive.

- 1.8 During a 2014 survey in England and Scotland, 1.6 per cent of car drivers were observed using a hand-held mobile phone whilst driving⁴. The chart below shows that this is similar to the 1.4 per cent of car drivers observed using a hand-held mobile phone in 2009 in England and is therefore not a statistically significant change. In view of the seriousness of potential consequences of this offence, we propose to increase the FPN to act as a further deterrent for offending behaviour.



- 1.9 DVLA data shows that between August and October 2015, 1,151 holders of a HGV/Passenger Service Vehicle (PSV) licence received a warning letter from the DVLA for committing their first offence. Within the same period, 201 drivers reoffended and were subsequently called to a hearing with the Traffic Commissioner⁵.
- 1.10 New research from the Institute of Advanced Motorists (IAM) shows that 9% of drivers surveyed admitted taking a selfie whilst driving ‘in the last month’. This increases to 19% of 25-35 year olds⁶.
- 1.11 The RAC foundation report ‘Eyes on the Road’ found that 15% of younger drivers (those aged between 17 and 24) surveyed admitted that they text or check social media (or other websites) while driving⁷.
- 1.12 It is estimated that driver distraction could be a contributory factor in around 10-30% of road accidents in the EU⁸. This suggests that driver distraction is a real problem on which immediate attention should be focused.
- 1.13 An EU study on reducing road safety risks found that legislation, certification, public awareness campaigns and education during the licensing acquisition process were seen as the most effective non-technology-based approaches to address the problem of driver distraction⁹.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406723/seatbelt-and-mobile-use-surveys-2014.pdf

⁵ Data gathered from DVLA records. This data does not specify the type of vehicle the offender was driving at the time, only that they were holders of a LGV/PSV licence.

⁶ <http://www.iam.org.uk/media-and-research/media-centre/news-archive/20671-the-new-driving-dangers-selfies-video-calls-or-just-watching-the-telly>

⁷ http://www.racfoundation.org/assets/rac_foundation/content/downloadables/Eyes_on_the_road_Robbins_&_Jenkins_September_2015.pdf

⁸ http://ec.europa.eu/transport/road_safety/pdf/behavior/distraction_study.pdf

⁹ See footnote 7

- 1.14 The Department will consider further Think! Campaigns in the future to build on our previously successful mobile phones campaign¹⁰.
- 1.15 The Department is aware of a number of technological solutions to dissuade motorists from using their mobiles whilst driving. These tend to share a common feature whereby the phone detects that it is moving faster than a certain number of miles per hour and therefore diverts to a “drive safe mode”. The exact threshold for this varies, but is often around 5-6mph. These technologies can prevent the phone from ringing or otherwise alerting the owner that a call or text is coming through, thereby reducing the temptation to use a phone whilst driving. They may automatically respond to the person making the call or sending a text to say that the recipient is currently driving and will return the call once they have reached their destination.
- 1.16 If the driver does attempt to use the phone whilst driving, the screen will say that the phone is in a form of “drive safe mode” although this can often be overridden if the driver wishes. These technologies can include apps downloaded onto the phone. We are also aware of devices installed on the windscreen which can distinguish between a passenger’s phone and the driver’s.
- 1.17 A study by motoring research charity the RAC Foundation found that some 60% of motorists would be happy to switch their electronic devices into a drive safe mode if it was created¹¹.
- 1.18 We would be grateful for views on the desirability of these technologies. Much behaviour change work has shown that making it easier for people to do the right thing – in this case, not using a mobile phone whilst driving – can reap significant results. For example, putting fresh fruit and vegetables at the start of the school lunch choices has made it easier for children to pick a healthy school lunch. Similarly, it would seem logical to conclude that if a driver did not hear their phone ring, they would be less tempted to answer it. Furthermore, an app downloaded onto a phone is likely to be cheap or even free and certainly much less than a fixed penalty notice or the cost of a course, should someone be caught.
- 1.19 We can foresee difficulties, particularly between distinguishing between the passenger (who should be able to use their phone) and the driver. We can also foresee difficulties where “drive safe mode” comes into operation for passengers on trains. Is it sufficient to rely on the “drive safe mode” being turned off by a rail or car passenger or is something more sophisticated necessary? These problems can no doubt be overcome, but we would be grateful for views. If you do consider that these technologies are desirable, it would be helpful to understand how you think they might be encouraged.

¹⁰ <http://think.direct.gov.uk/mobile-phones.html>

¹¹ <http://www.racfoundation.org/media-centre/most-driver-back-car-safe-mode-for-mobile-phones-ipsos-mori-survey-shows-press-release>

What is the problem?

- 1.20 Despite the FPN increase from £60 to £100 in 2013 there was no statistically significant change to the number of drivers observed using a hand-held mobile phone from 2009-2014. Furthermore the 2013 Think! Annual Survey found that four in ten motorists knew people who practiced dangerous driving behaviours with mobile phones¹². This suggests that the current penalty does not act as enough of a deterrent to stop offenders.
- 1.21 The introduction of penalty points for hand-held mobile phone use in 2007 saw recorded offences drop significantly. This suggests that penalty points are possibly more of a deterrent than the level of the fine given the risk of disqualification. This is supported by research carried out in 2008 which found that accumulation of penalty points encourages modification of driver behaviour¹³.
- 1.22 There has been growing media pressure to increase the penalty due to a number of recorded fatalities. In 2013 the Commissioner of the Metropolitan Police, Sir Bernard Hogan-Howe, proposed doubling the penalty points. A YouGov poll conducted in 2014 for the Sunday Times showed that 73% of drivers are in favour of the move¹⁴.
- 1.23 In 2015 the RAC motoring public survey¹⁵ on road safety was published. Over a third (34%) of those surveyed say that drivers who talk on their phones without using a hands-free kit are one of their top four concerns. The 2013 Think! Annual Survey found that 37% of people regarded using a mobile phone without the use of a hands free kit to be the most important issue for road safety. Moreover the two mobile phone related behaviours of texting whilst driving and using a mobile phone without a hands free kit whilst driving were seen as extremely unacceptable by 93% and 90% respectively.
- 1.24 In 2014, using a mobile phone whilst driving was a contributory factor in 21 fatal accidents¹⁶. It is broadly believed that mobile phone use is dramatically under-reported due in part, because of the difficulty in proving that the driver was using a mobile phone at the time of the accident. It is clear, however, that a number of high profile accidents have mobile phone use recorded as a contributory factor.
- 1.25 Paul previously worked as a mechanic before he was knocked over whilst crossing a zebra crossing in January 2012. Phone work carried out on the suspect's mobile showed him on the phone at the time of the collision.
- 1.26 Four years later Paul is still massively affected by the consequences of what happened that night. He is still undergoing regular surgery for his leg injury and he has had a metal implant in his head to improve his loss of hearing. His head injury has caused coordination, concentration and loss of short term memory problems. As a result, his own driving licence has been revoked by the DVLA. He is unable to return to work as a mechanic due to his injuries. Paul states that the collision 'has totally wrecked his life'. The driver, Joe Kennard, received 18 months imprisonment.

¹²http://webarchive.nationalarchives.gov.uk/20140322101948/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251297/think-annual-survey-2013.pdf

¹³ Corbett, C., Delmonte, E., Quimby, A. and Grayson, G. (2008). The deterrent effect of penalty points on speeding drivers. In Proceedings of the Behavioural Research in Road Safety, Eighteenth Seminar, 2008, p. 175.

¹⁴ http://www.thesundaytimes.co.uk/sto/news/uk_news/article1439403.ece

¹⁵ <http://www.rac.co.uk/pdfs/report-on-motoring/rac-rom-2014-v16-compressed>

¹⁶ <https://www.gov.uk/government/statistical-data-sets/ras50-contributory-factors#table-ras50001>

- 1.27 This case highlights that using a hand-held mobile phone whilst at the wheel can potentially have life-changing consequences and all drivers should be deterred from doing so.
- 1.28 Due to the size and weight, accidents involving Large Goods Vehicles (HGVs) are often fatal. Whilst accidents involving HGVs with mobile phone use as a contributory factor are relatively rare, it is clear that drivers of vehicles the size of HGVs have the ability to cause major accidents when distracted by using a mobile phone. For this reason we are proposing a higher penalty point increase for those drivers using in a Large Goods Vehicle (HGV) given the serious potential impact of a collision involving an HGV.
- 1.29 A Large Goods Vehicle (LGV/HGV) - also known as a heavy goods vehicle (HGV) - is the European Union term for any truck with a gross combination mass (GCM) of over 3.5 tonnes (7,716 lb)¹⁷. For the purpose of this consultation a Large Goods Vehicle (HGV) will also include Large Passenger Carrying Vehicles (PCV) capable of carrying 16 or more passengers¹⁸. We would also welcome your views on whether these proposals should also apply to minibuses.

¹⁷ See footnote 1.

¹⁸ See footnote 2.

2. The proposals

Option 0 - Do nothing

- 2.1 This would involve maintaining the existing position and would not address the problem that the current penalty is not acting as enough of a deterrent. Remedial training is increasingly being offered by the Police as an alternative to the FPN to improve driver behaviour. However, the current similarity between the costs of the FPN and remedial training course is likely to reduce the incentive to attend these courses.

Option 1 - Increasing the FPN by 50% from £100 to £150 for all drivers (including HGVs)

- 2.2 Raising the FPN by 50% from £100 to £150 will show the seriousness of this offence in comparison to other motoring offences. There is a risk that raising the fixed penalty level by significantly more than this will result in more cases going to court, as drivers hope that the fine will be less, which would put additional strain on the justice system.

Option 2 - Increasing the penalty points from 3 to 4 for non-HGV drivers and from 3 to 6 for HGV drivers where the offence was committed in a Large Goods Vehicle

- 2.3 Currently a driver can be given points for offences on four separate occasions before they reach the required 12 points for disqualification. By raising the penalty points to 4, the number of times a driver has to be caught will reduce to three separate occasions.
- 2.4 DVLA records show that 399 drivers currently have 3 consecutive mobile phone offences on their record. This option would mean that those drivers would have reached the 12 point threshold and faced disqualification for their 3rd offence.
- 2.5 The fear of losing a licence is a powerful factor in motivating good driver behaviour¹⁹ and therefore penalty points are more of a deterrent than the level of the fine. The 2013 Think! Annual Survey found that the introduction of penalty points for hand-held mobile phone use in 2007 resulted in the number recorded offences dropping significantly²⁰.

¹⁹ Corbett, C., Delmonte, E., Quimby, A. and Grayson, G. (2008). The deterrent effect of penalty points on speeding drivers. In Proceedings of the Behavioural Research in Road Safety, Eighteenth Seminar, 2008, p. 175.

²⁰ See footnote 11

- 2.6 Despite the potentially serious consequence of a collision involving a heavy vehicle, HGV drivers receive the same penalty points as non-HGV drivers for using their hand-held mobile phone whilst driving.
- 2.7 We propose increasing the penalty points from 3 to 6 where a Large Goods Vehicle licence holder commits a mobile phone offence whilst driving a HGV.
- 2.8 If a Large Goods Vehicle licence holder commits an offence in a non-HGV vehicle then they will receive 4 penalty points.

Option 3 - Increasing the FPN by 50% from £100 to £150 for all drivers AND, raising the penalty level from 3 to 4 penalty points for non-HGV drivers and from 3 to 6 penalty points for Large Goods Vehicle licence holders who commit the offence whilst driving a HGV

- 2.9 This option would incorporate both Option 1 and Option 2 and would send a clear message on the seriousness of the offence as well as reducing the number of times an offender need to be caught before being disqualified.

Preferred approach

- 2.10 The preferred option is to implement the penalty level increase as set out in Option 3 of a £150 FPN, 4 penalty points for non-HGV drivers and 6 penalty points for Large Goods Vehicle (HGV) drivers.
- 2.11 The flow diagrams in **Annex B** show the process for both non-HGV and HGV drivers.
- 2.12 The primary objective is to encourage first time offenders to opt for remedial training courses where they are offered as an alternative. The secondary objectives is to act as a deterrent to offending and raise the 'fear of getting caught'. The aim of this policy is not to overly punish first time offenders who genuinely make a mistake, but come down hard on those who repeatedly offend and show no care for other road users.
- 2.13 A full list of consultation questions can be found in **Annex C**.

3. Impact Assessment

The Impact Assessment for the proposals can be found at **Annex A**.

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

4. How to respond

The consultation period began on 26 January 2016 and will run until 15 March 2016. Please ensure that your response reaches us before the closing date. Please ensure that your response reaches us before the closing date.

You are invited to respond to the consultation via the [online form](#) which can be accessed here.

Alternatively you may send your response **by email** to: mobilephone.consultation@dft.gsi.gov.uk

Or by post to:

Mobile Phone FPN Consultation
Department for Transport
RULIS Division, Zone 3/29
Great Minster House
33 Horseferry Road
London, SW1P 4DR

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

What will happen next

A summary of responses, including the next steps, will be published within three months of the consultation closing on the website at www.dft.gov.uk.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic

confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Annex A: Impact assessment

- A.1 When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.
- A.2 Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

DfT Regulatory Triage Assessment

Title of regulatory proposal	Increasing Fixed Penalty Notice and Penalty Points for the offence of using a hand-held Mobile Phone whilst driving
DfT RTA number	
Lead DfT directorate/Agency	RULIS
Expected date of implementation	July 2016
Origin	Domestic
Date	30 November 2015
Lead Policy	Stephen Yeaman
Lead Economist	Lily Tozer
Departmental Triage Assessment	Low-cost regulation (Fast Track)

Rationale for intervention and intended effects

The Government has a Manifesto commitment to reduce the number of cyclists and other road users killed and injured on our roads every year. Whilst there is a strong indication that Stats 19 data for mobile phone use whilst driving is underreported, it shows that in 2014, use of a hand-held mobile phone was a contributory factor in 21 fatal accidents (1%) and 84 serious accidents (0.5%). Use of a hand-held mobile phone device while driving has been illegal since 2003. The level of a fixed penalty notice was increased to £60 in 2007 and further increased to £100 in 2013. Despite this there was no statistically significant change to the number of drivers observed using a hand-held mobile phone between 2009-2014. A campaign using unmarked Police Vehicles called Operation Tramline found evidence of ongoing widespread non-compliance with 38% of the 462 vehicles being stopped for mobile phone offences.

Currently the police may issue a Fixed Penalty Notice (FPN), which incurs a £100 fixed penalty and 3 penalty points (increased from a £60 penalty in 2013). Once a driver has 12 points within three years, they could be disqualified by the court for at least six months. A driver within two years of taking their test will have their licence revoked by DVLA once they reach 6 points under the New Driver Act. In many cases, to improve driver behaviour, the police give first time offenders the choice of taking a remedial training course as an alternative to accepting a fixed penalty. However, the real cost of the remedial training courses offered,

when taking into account costs for travel and time, are more expensive than the current FPN which may be dissuading drivers from taking remedial training.

This proposal is being progressed as part of a wider set of policy changes which include non-regulatory changes. The Department are aware that a number of companies have developed technological solutions to prevent drivers from accessing their mobile phone whilst driving. These involve utilising various technology from Bluetooth to GPS trackers that detect the movement of a vehicle. We are open to considering these solutions amongst others, dependent on their feasibility and desirability.

Intervention is necessary, to make the roads safer through effective enforcement, dissuading offending and making offenders face the right incentives to opt for remedial training.

Alongside utilizing breakthroughs in technology, new media campaigns and effective enforcement; regulation is necessary in order to further increase the penalties to achieve the desired effects.

The primary objective is to encourage first time offenders to opt for remedial training courses where they are offered as an alternative. The secondary objectives is to act as a deterrent to offending and raise the 'fear of getting caught'. The aim of this policy is not to overly punish first time offenders who genuinely make a mistake, but come down hard on those who repeatedly offend and show no care for other road users.

Raising the penalty points will result in fewer strikes before a driver is disqualified. The intended effect is the continued use of remedial education for low level offending and setting a fairer level across the full range of fixed penalty notices for motoring and other offences.

Whilst these accidents are relatively rare, it is clear that drivers of vehicles, especially the size of HGVs, have the ability to cause major accidents when distracted by using a mobile phone. For this reason we would propose a higher penalty point increase for those drivers using an Large Goods Vehicle (HGV) given the serious potential impact of a collision involving an HGV

Viable policy options (including alternatives to regulation)

This proposal is being progressed as part of a wider set of policy changes which include non-regulatory changes such as potentially utilizing advancements in technology and a potential future media campaign.

Option 0

No change in legislation. Further consideration of feasibility and desirability of technological solutions to prevent drivers from accessing their mobile phones whilst driving. Possible future Think! media campaign.

Option 1

Increase the FPN by 50% from £100 to £150 for all drivers.

Option 2

Increase the penalty points from 3 to 4 for non-HGV drivers and from 3 to 6 for drivers of Large Goods Vehicles (HGVs) who are driving a HGV at the time of the offence.

Option 3

The preferred option is to increase the FPN by 50% from £100 to £150 for all drivers, raise penalty points from 3 to 4 for non-HGV drivers and from 3 to 6 for Large Goods Vehicle (HGV) drivers who are driving a HGV at the time of the offence.

Initial assessment of business impact

These proposals are not expected to have any significant impacts on business. Where an offender driving on business has to pay a FPN, it is the offender who is liable personally. The continued development of remedial courses, which this policy facilitates, may have a small beneficial indirect impact on businesses providing the courses.

Costs to the DVLA

The introduction of a new offence for drivers of Large Goods Vehicles (HGVs) will require set up costs from the DVLA. This is a transition cost at <£100k. There are no other costs to the

DVLA from the policy interventions as administering points and revoking licences are done electronically and would factor as a business as usual cost.

Costs to the Courts

Overall there is expected to be a reduction in court costs as more first time offenders divert to the remedial training course. It is predicted that 30% of the number of offenders currently opting for the FPN will instead choose to take the course.

Costs to the offender

Offenders may incur costs by paying FPNs or remedial training and from the addition of extra points onto their licences (increased insurance premiums); however these are not included in the monetised costs as these fines represent sanctions against illegal activity.

Police costs

The monitoring of motor offences by police is considered a business as usual cost and is not included in the impact assessment. Implicit in this reasoning is an assumption that there will be no significant change to the level of enforcement of hand-held mobile phone offences if the penalties are increased.

Familiarisation costs

Companies that operate HGVs should already be advising their drivers to comply with the law on hand-held mobile phone use. However, there may be a small one-off familiarisation cost for firms if the law changes. This impact is not yet monetised, but is not expected to be particularly burdensome. Familiarisation costs were not considered when FPNs were raised to £60 in 2007 and to £100 in 2013.

Monetised benefits

The revenue collected per FPN will increase by £50. The number of FPNs issued overall is expected to fall as more offenders opt for remedial training. Overall it is estimated that there will be a net increase in Government revenue.

Non-monetised benefits

Increased use of remedial training as an alternative with increased offender awareness of safety implications of their actions. Possible deterrence effect, particularly on repeat offences, and increased incidence of reckless drivers reaching the maximum 12 points resulting in disqualification. Overall the potential road safety benefits are not quantified and are not monetisable

One-in, Two-out status

The proposals considered in this impact assessment do not fall within the scope of the one-in-two-out rule. The measures concern changes related to sanctions for illegal activity as defined by section 1.9.9 ix of the Better Regulation Framework manual.

Rationale for Triage rating

We believe that this measure qualifies as “low cost” with confidence. We consider that in reality it will be a “zero net cost” measure. Whilst we have identified where changes to domestic legislation could in principle cause business to incur a cost, these are less than £1 million. This meets the criteria as set out in section 1.4.27 of the Better Regulation Framework Manual.

Confirmation that the proposed measure is suitable for Fast Track	
Policy sign-off:	Signature Jessica Matthew
	Date 3rd December 2015

Economist sign-off:	Signature Neil Shorten
	Date 3rd December 2015
Better Regulation Unit sign-off:	Signature Chris Simon
	Date 4th December 2015

Supporting evidence

The policy issue and rationale for Government intervention

The Government has a Manifesto commitment to ‘...reduce the number of cyclists and other road users killed and injured on our roads every year’. We expect to set out our priorities and proposals on road safety in the months ahead in support of this commitment.”

In 2014 Department for Transport and Transport Scotland commissioned mobile phone surveys and found that 1.6% of all car drivers in England & Scotland were observed using a hand-held mobile phone whilst driving. Goods vehicles and lorry drivers have been observed to have comparable rates of mobile phone use to car drivers with 1.2 per cent observed using a hand-held mobile phone in the DfT and Transport for Scotland study.

There is further evidence of a high prevalence of hand-held mobile phone use from the Operation Tramline initiative where officers used an unmarked HGV tractor unit to see into vehicles which would otherwise be too high to view. In this operation, 38% of the 462 vehicles stopped were for mobile phone use. New research from the Institute of Advanced Motorists (IAM) shows that 9% of drivers admitted taking a selfie whilst driving in the last month. Moreover, 17,437 drivers in Scotland committed a hand-held mobile phone offence whilst driving in 2014, which includes 2,648 offences recorded in the month of March 2014 alone.

Research shows that mobile phones can be a considerable distraction to drivers. One study from the Road Safety Observatory found the use of a mobile device impairs driving more than driving above the drink driving limit.²¹ According to STATS19, a database with records of road traffic incidents attended by the police, in 2014 hand-held mobile phone use was a contributory factor in 1% of fatal accidents and 0.5% of serious accidents.²² These figures are likely to be underestimates due to the difficulties in allocating a mobile phone to the driver at the site of an accident. For example; in non-fatal accidents, the drivers involved may not give accurate details of the accident and there may not be enough evidence to suggest that the driver was using a mobile phone. The frequency and severity of these incidents suggest that the road safety rationale for intervening to reduce hand-held mobile phone use is very large.

²¹ <http://www.roadsafetyobservatory.com/evidence/details/10900>

²² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406723/seatbelt-and-mobile-use-surveys-2014.pdf

Despite the FPN increase in 2013, there was no statistically significant change to the number of drivers observed using a hand-held mobile phone from 2009-2014.²³ Remedial training is increasingly being offered by police forces in England and Wales to offenders as an alternative to a fixed penalty notice or prosecution. In the locations where it is available Mobile Phone offenders can be referred to the “What’s Driving Us” course provided by the police under the National Driver Offender Retraining Scheme (NDORS). The table below shows the number of offenders who have attended the “What’s Driving Us” course, this includes people attending in relation to other reckless driving offences. There has been year on year increases in the number of attendees since the courses inception in 2012.

Year	Number of course attendees
2013	65,031
2014	99,668

These courses are designed not to punish or deter, but to reduce the likelihood that those taking them will re-offend in the future. Studies have indicated that there are improvements in attitudes, self-reported behaviour and lower recidivism rates as a result of attending remedial educational schemes²⁴.

The cost of the What’s Driving Us course ranges from £79.50 in Manchester to £97 in London, and averages £90. The course is classroom based and lasts 4 hours. The standard value of leisure time is approximately £6, according to WebTAG guidance, and attendees also incur travel costs to and from the course centres. The opportunity cost of the remedial course therefore exceeds the current £100 FPN.

The financial amounts for fixed penalty notices cannot easily be increased to reflect inflation, unless amended by a legislative order. In contrast, the cost of remedial training is likely to increase in line with general inflation (which would be passed through to the offender) and with real growth in the wages of those providing the course.

There is a risk that the disparity between the course and the FPN discourages some people from opting for the course. If the current FPN was increased from £100 to exceed the real opportunity cost of attendance (conservatively estimated at £120) it may result in a greater uptake of the remedial course. This in turn would sustain the increased use and facilitate possible further expansion of courses.

The current penalty levels associated with most motoring offences carry the same FPN which does not reflect the variance in severity and frequency, of incidents resulting from each offence:

Offence	Penalty Level
Using a hand-held mobile phone whilst driving	£100
Neglect of Pedestrian Rights (e.g. stopping within limits of zebra/pelican/puffin crossing)	£100

²³See footnote 20

²⁴ “Effective Interventions for Speeding Motorists” (Fylan, Grunfield, Conner and Lawton, DfT Road Safety Research Report No. 66, 2006); “Evaluation of the Effectiveness of the National Driver Improvement Scheme” (University of Leeds DfT Road Safety Research Report No. 64, 2005)

Research about driving improvement courses found that the most common amount participants are willing to pay as an alternative to a court appearance was between £150 and £180²⁵. This provides an indication of the payment range that some people are prepared to pay for remedial courses, as an alternative to a fixed penalty notice.

There is some evidence to suggest that a higher Penalty Point level could provide a deterrent effect. For example, with the introduction of penalty points for mobile phone offences in 2007, there was an immediate drop in the proportions using hand-held mobile phones²⁶.

Raising the penalty points from 3 to 4 will reduce the amount of time offenders can be caught before they reach the maximum of 12 and face losing their licence. This is likely to act as a deterrent in terms of repeat offences, and the removal of some reckless drivers from the road. There have been calls to increase the penalty points further to 6 points. However this may be seen to be unfairly punishing young drivers who, under the New Drivers Act, lose their licence if they incur 6 points in the first two years of driving.

Policy Objectives

The primary objective is to encourage offenders to opt for remedial training courses where they are offered as an alternative. The secondary objectives is to act as a deterrent and raise the 'fear of getting caught'. Raising the penalty points will result in fewer strikes before a driver is disqualified.

Raising revenue itself is not a policy objective of this measure, but it is a consequence of this measure that extra revenue will accrue to the Government.

The intended effect of the policy is the continued use of remedial education for first time low level offending and setting a fairer level across the full range of fixed penalty notices for motoring and other offences. Directly through influencing behaviour and via the increased use of remedial training, this measure is planned to contribute towards the Government's Strategic Framework for Road Safety (2011). Secondly the increase in penalty points emphasises the Government's aim, as mentioned in the Road Safety Plan, to take a tough stance on those who use a hand-held mobile phone whilst driving.

The groups affected by this policy are:

- Motoring offenders directly;
- Police and Courts (due to numbers not paying FPNs or opting for remedial courses changing and more people being disqualified after reaching 12 penalty points);
- Road users in general (but the possible safety effect has not been quantified and is not included in the impact assessment, as it is difficult to disaggregate from other factors).

²⁵ Fylan and Stradling 'Comparison of Driver Alertness and the National Driver Improvement Scheme' (2010)

²⁶ Seatbelt and mobile phone usage surveys: England and Scotland 2009, Louise Walter, TRL (March 2010)

Annex B: Flow Diagram for the preferred option

Fig 1. Flow Diagram showing decision making process when penalising non-HGV drivers

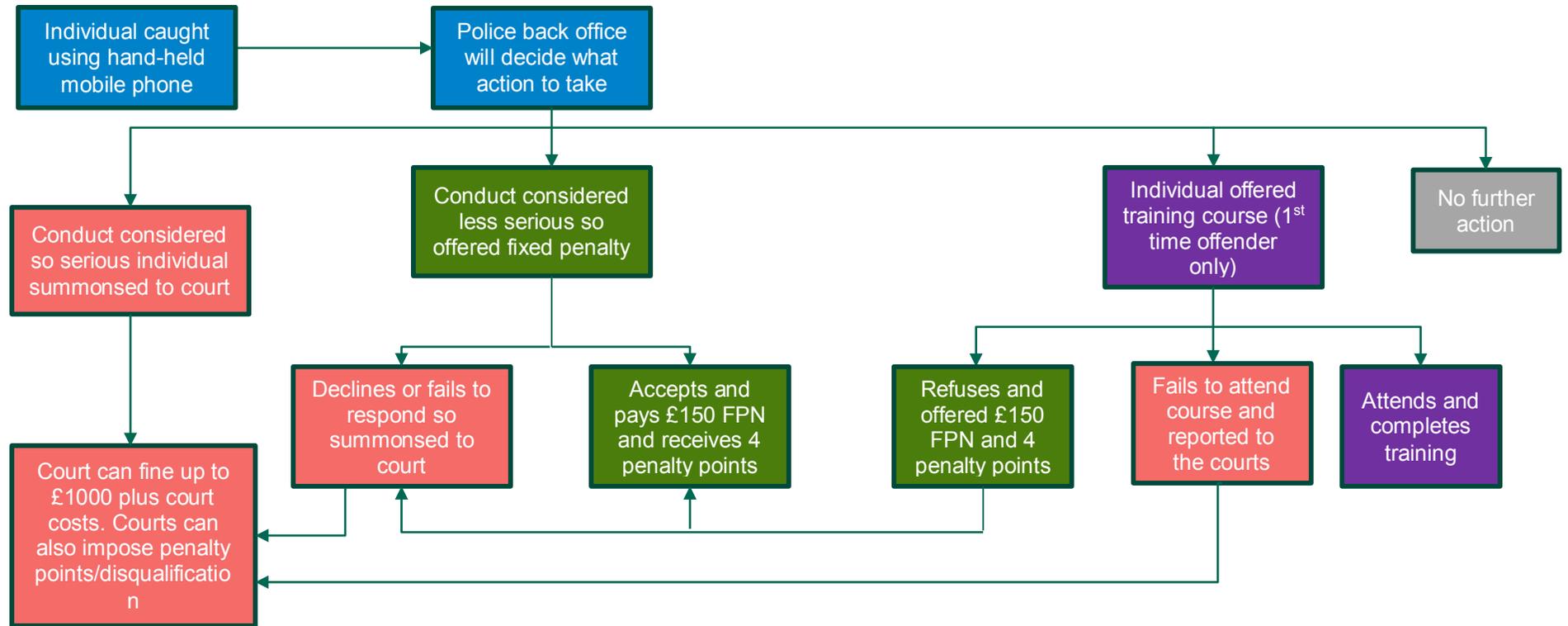
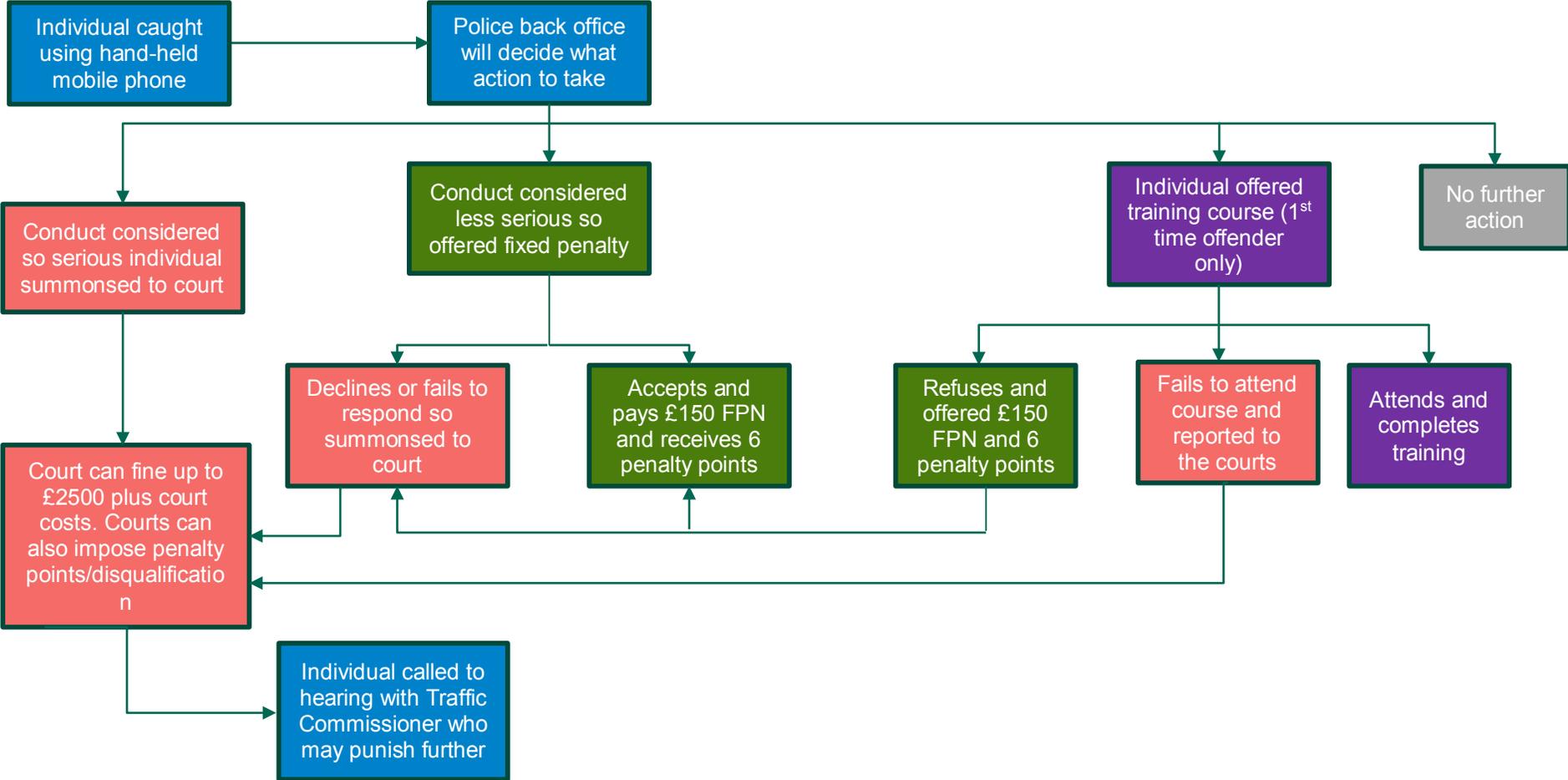


Fig 2. Flow Diagram showing decision making process when penalising HGV drivers



Annex C: Full list of consultation questions

Question 1

Do you agree that driving whilst using a hand-held mobile phone is a dangerous activity?

Question 2

Generally, are you in favour of increased sanctions for this offence?

Question 3

Do you support an increase in the FPN for this offence?

Question 4

If so, do you agree that we should increase the FPN from £100 to £150 for all drivers (including HGV)? If not, please explain your reasons why.

Question 5

Do you support an increase in the Penalty Points for this offence?

Question 6

If so, do you agree that we should increase the penalty points for non-HGV drivers from 3 to 4 penalty points? If not, please explain your reasons why.

Question 7

Do you support a specific offence for drivers of Large Goods Vehicles (HGVs)?

Question 8

If so, do you agree that a specific offence for Large Goods Vehicle (HGV) drivers who offend whilst driving a HGV should be created which carries 6 penalty points and a £150 FPN? If not, please explain your reasons why.

Question 9

Do you support an increase in both the FPN and Penalty Points for this offence AND a specific penalty for HGV drivers? If not, please explain your reasons why.

Question 10

Do you agree that HGV drivers who commit their first mobile phone offence whilst driving a HGV should be offered a remedial training course as opposed to a FPN? If not, please explain your reasons why.

Question 11

What role might the mobile phone industry play in improving road safety? For example, promoting new technology with “drive safe modes”.

Question 12

What role might the insurance industry play in improving road safety? For example, promoting new technology with “drive safe modes”.

Question 13

Do you think it would be beneficial to target new technologies at certain groups of drivers? For example, young drivers, van drivers or those driving for work.

Question 14

What else would you recommend should be done regarding mobile phone offences whilst driving?

Question 15

Please provide your contact details, the most frequent mode of transport you use, and whether you are responding as an individual or on behalf of an organisation.

Annex D: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

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London SW1P 4DR
Email consultation@dft.gsi.gov.uk