



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

## Response to Consultation

**Moving Britain Ahead**

November 2016

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# 1. Executive summary

## Introduction

- 1.1 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.
- 1.2 On the 26 January 2016 the Department for Transport (DfT) issued a consultation<sup>1</sup> entitled "*A consultation on changes to the Fixed Penalty Notice and penalty points for the use of a hand-held mobile phone whilst driving*" and invited responses from members of the public and organisations interested in road safety.
- 1.3 The consultation set out proposals to increase the fixed penalty for drivers from 3 to 4 points, and for heavy goods vehicle drivers (including large passenger vehicles) from 3 to 6 points. The consultation proposed an increase in the fixed penalty fine from £100 to £150. Views were also invited on how the arrangements should apply to minibuses.
- 1.4 The consultation closed on the 15 March 2016 and 4347 responses were received. This was comprised of 4191 online responses, 155 emailed responses, and 1 postal response. 67 responses were on behalf of organisations with the remaining responses being answered on an individual basis.
- 1.5 The consultation allowed responses to be made online. This proved to be the most popular way of responding with over 96% of responses received via this method.
- 1.6 In our analysis of the responses, all have been considered irrespective of the method used to respond. Many of the emailed and postal responses did not follow the numbered question format making it more difficult assess their responses against the questions asked. Therefore, in order to present the findings in an easy to read and visual way, the numbers and percentages provided in the diagrams in this document are taken from the 4191 online responses. The majority of the emailed and postal responses were broadly in favour with the proposals and some comments and thoughts from these responses are included in question summaries below.
- 1.7 There was overwhelming support for increasing the fixed penalty fine and also for increasing the penalty points for the offence, both showed 94% of online respondents in favour.
- 1.8 Additionally, opinions were sought on the use of remedial training for first time offenders driving HGVs. 65% of online responses were against this.
- 1.9 Ideas for how the mobile phone industry and insurance industry could contribute to improving road safety were invited; the largest number of online responses did not

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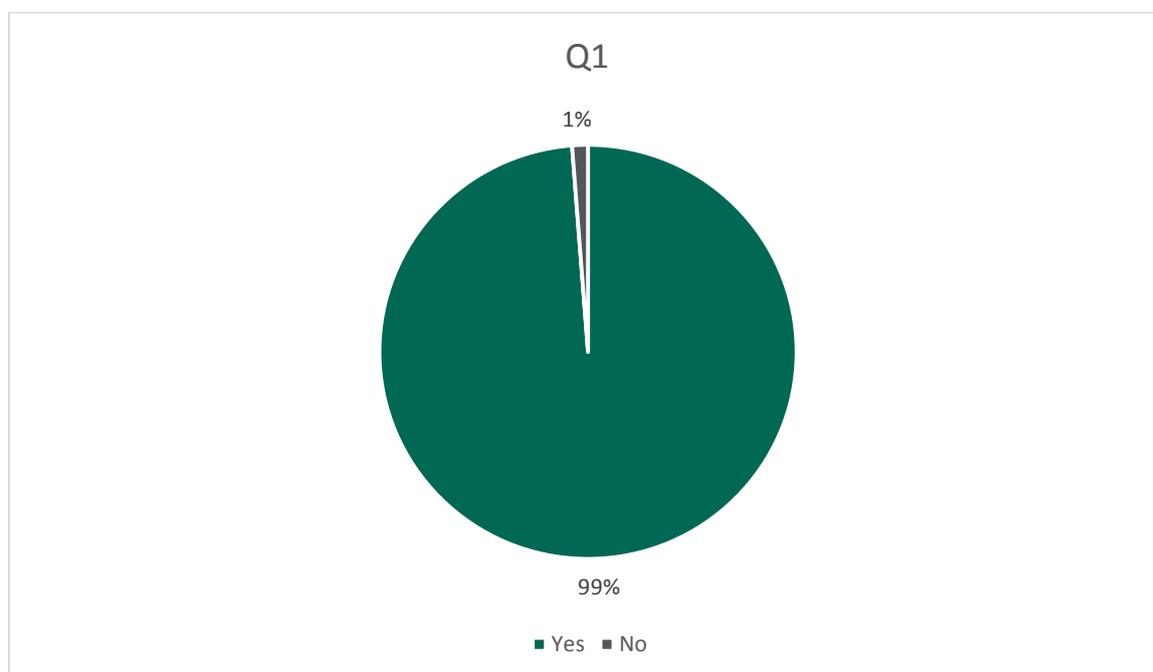
<sup>1</sup> <https://www.gov.uk/government/consultations/hand-held-mobile-phones-changes-to-penalties-for-use-while-driving>

provide an answer. However, a minority said drive safe mode should be encouraged and a smaller minority suggested that the offence was not the responsibility of the industries concerned.

- 1.10 The Department for Transport would like to thank all those who responded to the consultation. On the basis of the response, we propose to make changes to legislation which would increase the fixed penalty points and the penalty fine for using a hand held mobile phone when driving.

## 2. Analysis of questions asked in the consultation

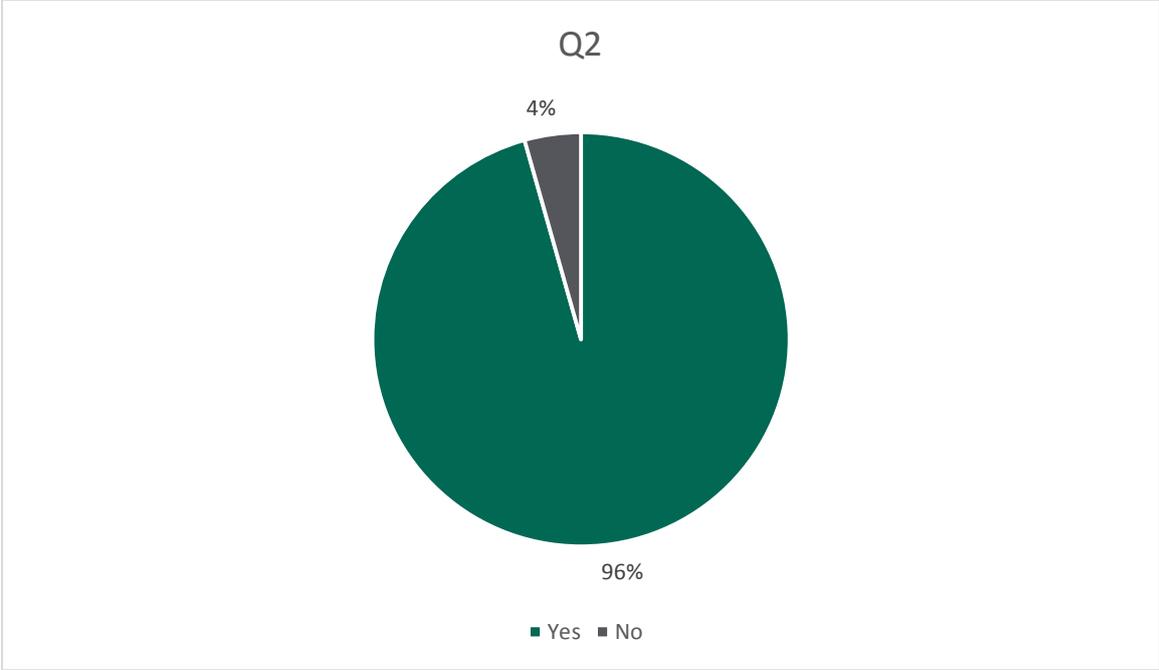
Q1. Do you agree that driving whilst using a hand-held mobile phone is a dangerous activity?



- 2.1 The overwhelming majority of responses, both from the general public and from organisations, agreed that it is dangerous to use a hand-held mobile phone whilst driving.
- 2.2 Of the organisations which responded, the RAC stated that *"there is a substantial body of evidence from around the world that confirms that using a hand-held mobile phone whilst driving is a major distraction and can increase the chances of a road traffic accident"*
- 2.3 The Royal Society for the Prevention of Accidents (RoSPA) noted *"that using a mobile phone, whether hand-held or hands-free, while driving is dangerous. It is also unnecessary. Drivers can switch off their phone and let it take messages, and return messages, make calls or send texts when they have stopped in a safe place."*
- 2.4 The National Police Chiefs Council (NPCC) reported that *"In 2014 the use of a mobile phone was a factor in 21 fatal accidents and 84 serious accidents. McEvoy et*

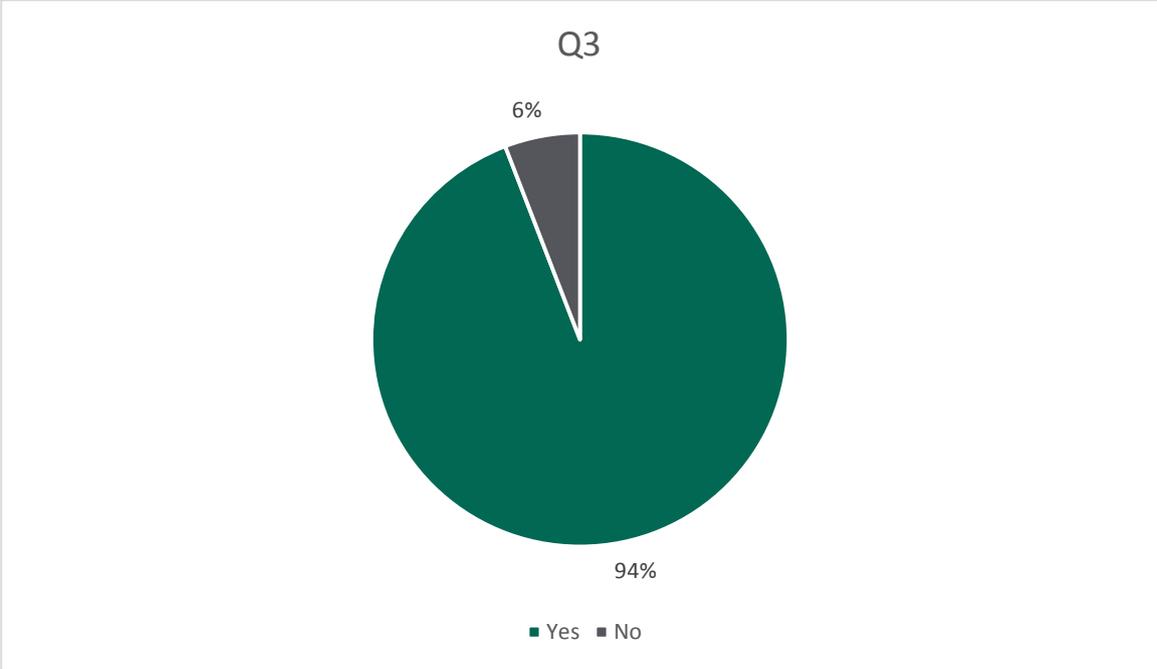
al (2005) studied the mobile phone use of drivers in motor vehicle crashes. Driver's use of a mobile phone up to 10 minutes before a crash was associated with a fourfold increased likelihood of crashing."

**Q2. Generally, are you in favour of increased sanctions for this offence?**



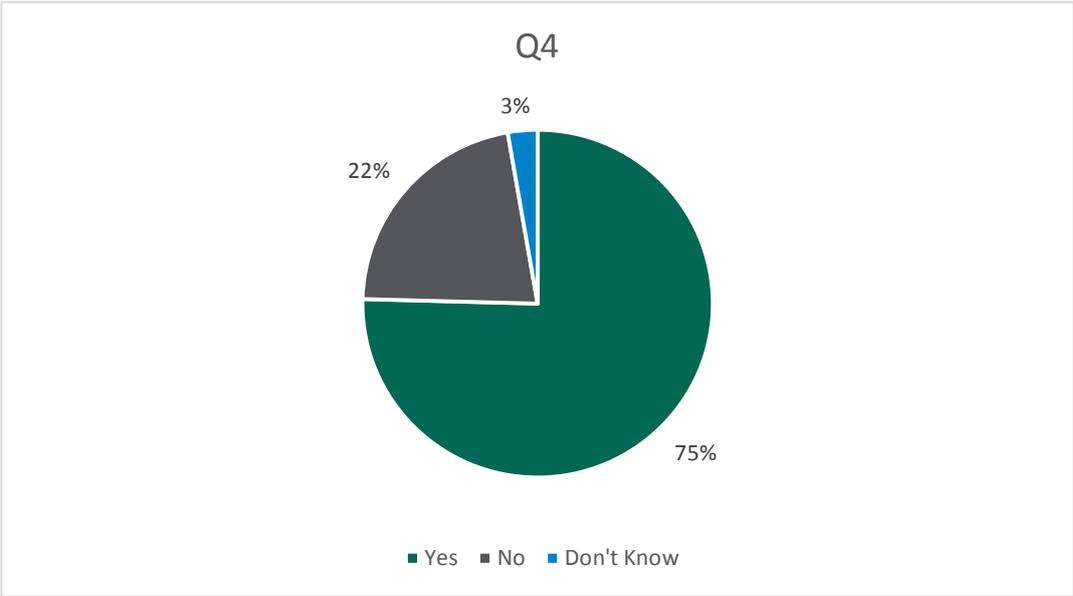
- 2.5 There was overwhelming support in favour of increased sanctions for the offence from both organisations and individuals who responded to the consultation
- 2.6 As an example, Police Scotland said *"Yes. It is clear that an element of drivers still exist who are prepared to take the risk of undertaking this behaviour. This suggests that current penalties may not be having the desired deterrent effect."*
- 2.7 The RAC quoted its Report on Motoring in which *"more than a third (34%) say the use of mobile phones whilst driving is one of their top four areas of concern"*
- 2.8 The NPCC stated *"Yes this would be supported as it may lead to behavioural change and reduced risk."*

Q3. Do you support an increase in the FPN for this offence?



- 2.9 Again the vast majority of responses supported an increase in the fixed penalty for this offence.
- 2.10 The AA quoted an AA-Populus survey from 18 - 25 January 2016 which had 26,463 respondents. It stated that "88% of members support the increase (70% support strongly)."
- 2.11 The RAC said that "it supports the increase because of their deterrent value but urges the Government to compliment this with better enforcement, and a THINK! campaign to make drivers aware of the changes. The RAC believes that all organisations that promote Road Safety, including the RAC, have a role to play alongside government in educating and informing drivers of the dangers of using hand-held phones whilst stationary or on the move."
- 2.12 Question 4 of the consultation went on to explore the amount of fixed penalty fine which would be appropriate for this offence.

Q4. 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.

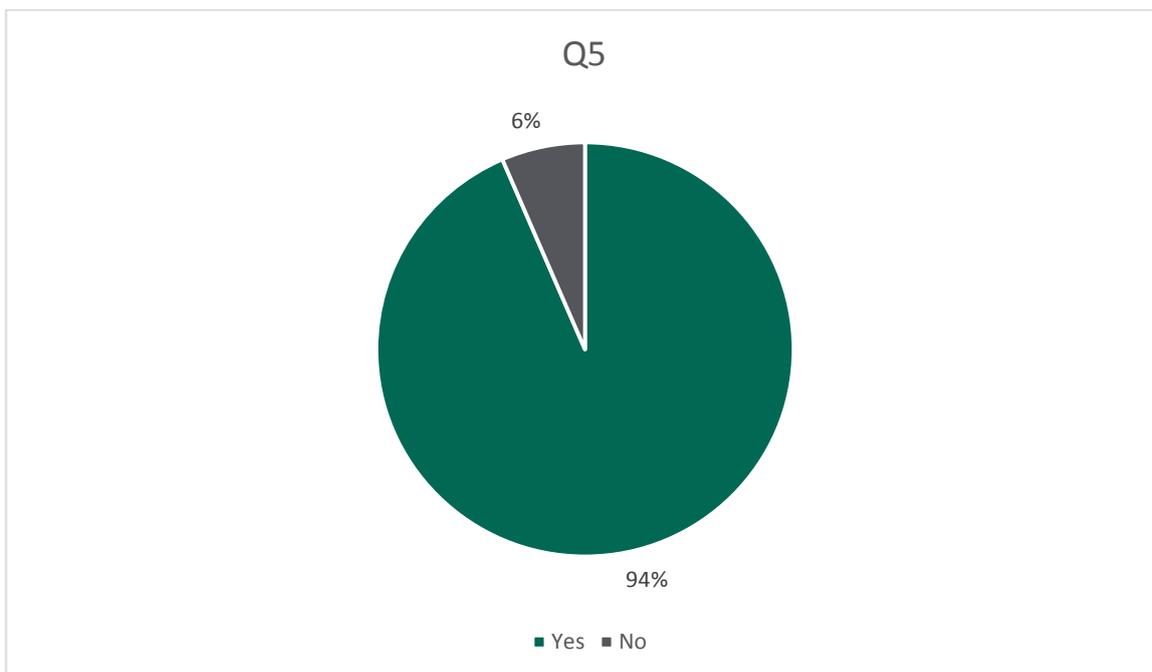


Three Most Common Themes	
General agreement to increase in penalties	2054 (49%)
Still not high enough	1514 (36%)
Enforcement needs to be more effective	224 (5%)

- 2.13 Many respondents thought that proposals did not go far enough. Respondents clearly took different views as to whether the penalties should be considered as a 'punishment' or a 'deterrent'. However they were united in this group in wishing penalties to be higher.
- 2.14 Suggestions for harsher penalties varied from higher fines (ranging from £250 up to £10,000), and higher penalty points to outright driving bans.
- 2.15 There was some acknowledgement that many drivers use phones whilst driving due to work commitments and therefore there was support for employers to take on more responsibility/liability in this area.

2.16 Respondents raised that enforcement was a key concern and the current perceived lack of enforcement of offenders and the likelihood of being caught would undermine attempts to increase the penalties for this offence.

### Q5. Do you support an increase in the Penalty Points for this offence?



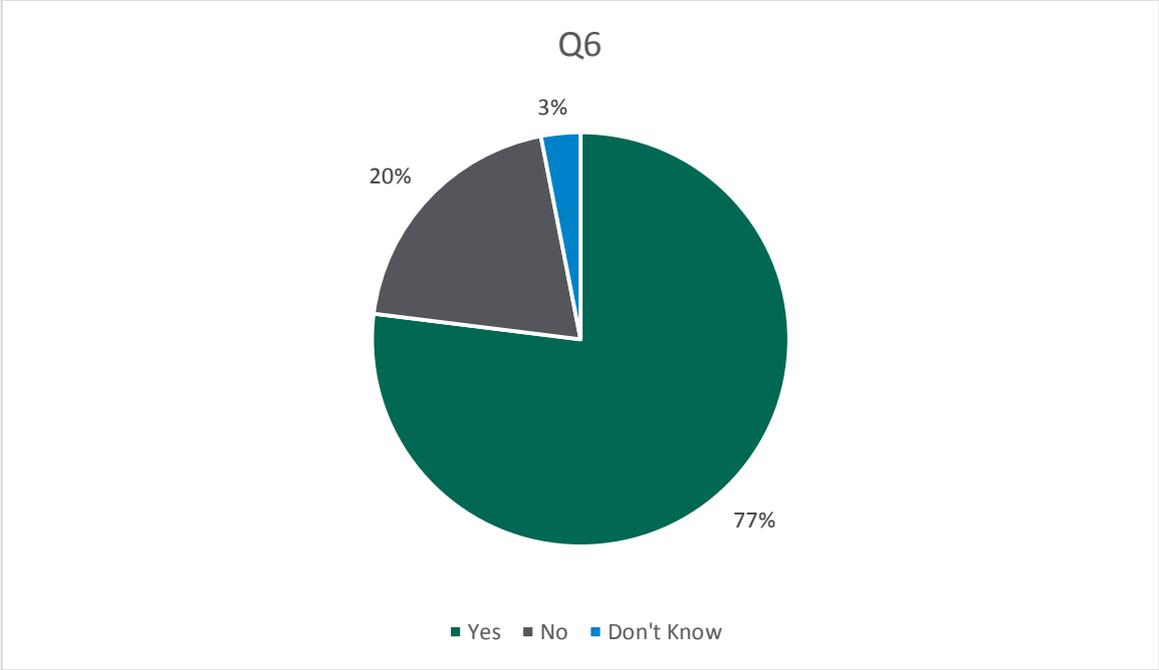
2.17 The majority of respondents supported an increase in the penalty points for this offence. Question 6 of the consultation went on to explore the level of points believed appropriate for the offence.

2.18 Examples of the organisations who responded, RoSPA said *"Yes, RoSPA supports the proposal to increase the number of penalty points for using a hand-held mobile phone while driving, as well as the fine, to provide a stronger deterrent."*

2.19 Police Scotland said *"Yes. Our view is that an increase in penalty points will serve to reinforce to all drivers the potential impact and level of risk attached to the use of mobile phones whilst driving."*

RoadPeace stated *"Yes. This is believed to have a greater deterrent effect than increasing the fine, with research showing behaviour change happens when drivers have 9 penalty points and are approaching disqualification."*

**Q6. 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**



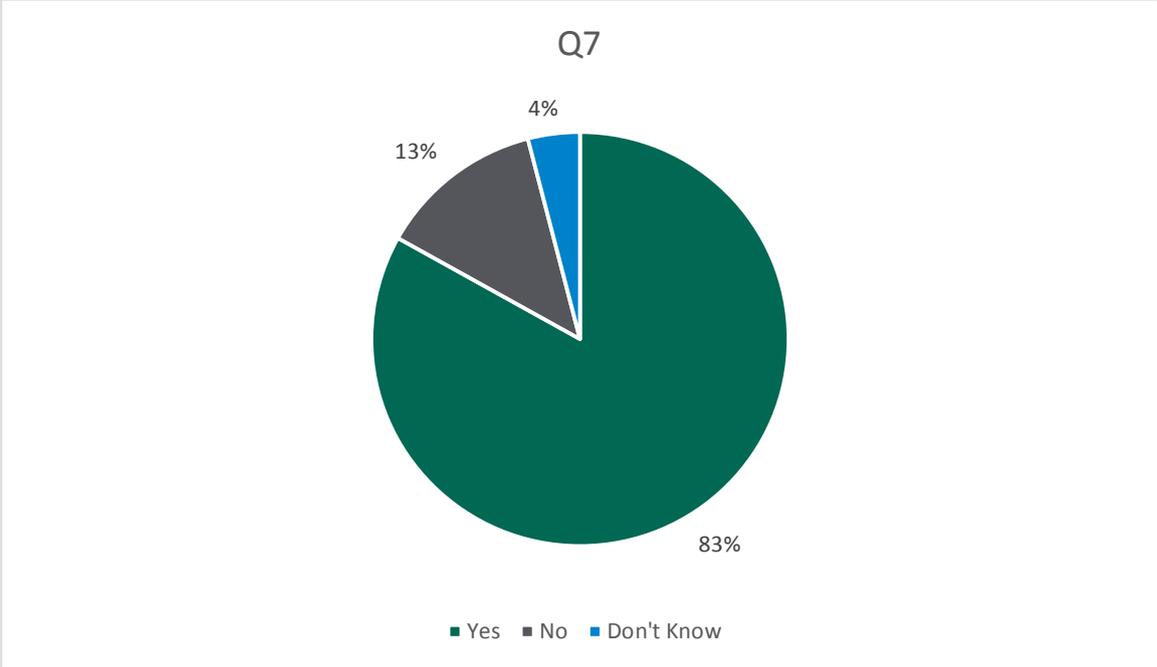
Three Most Common Themes	
<b>General agreement</b>	2628 (63%)
<b>Still not high enough</b>	1099 (26%)
<b>Against penalty point increase</b>	191 (5%)

2.20 Many respondents felt that points were a far more effective deterrent or punishment compared to fines. It was also felt that points, especially for professional drivers, have a greater impact on future behaviour. Numerous respondents pointed out that the majority of phones used to commit these offences are likely to cost in the region of £500 compared to a fine of just £150.

2.21 Some highlighted the inconsistency between the evidence that distraction when driving is more detrimental to driving standards than low-end alcohol or drug toxicity, but the penalties for mobile phone use were significantly lower in comparison.

2.22 Further to the general points on enforcement as outlined above, a number of respondents mentioned perceived instances of drivers obtaining 12 points on their driving licence but not having their licence revoked, therefore undermining increases in penalty points.

# Q7. Do you support a specific offence for drivers for Large Goods Vehicles (HGVs)?



2.23 The majority of both individual and organisational respondents were in support of this proposal.

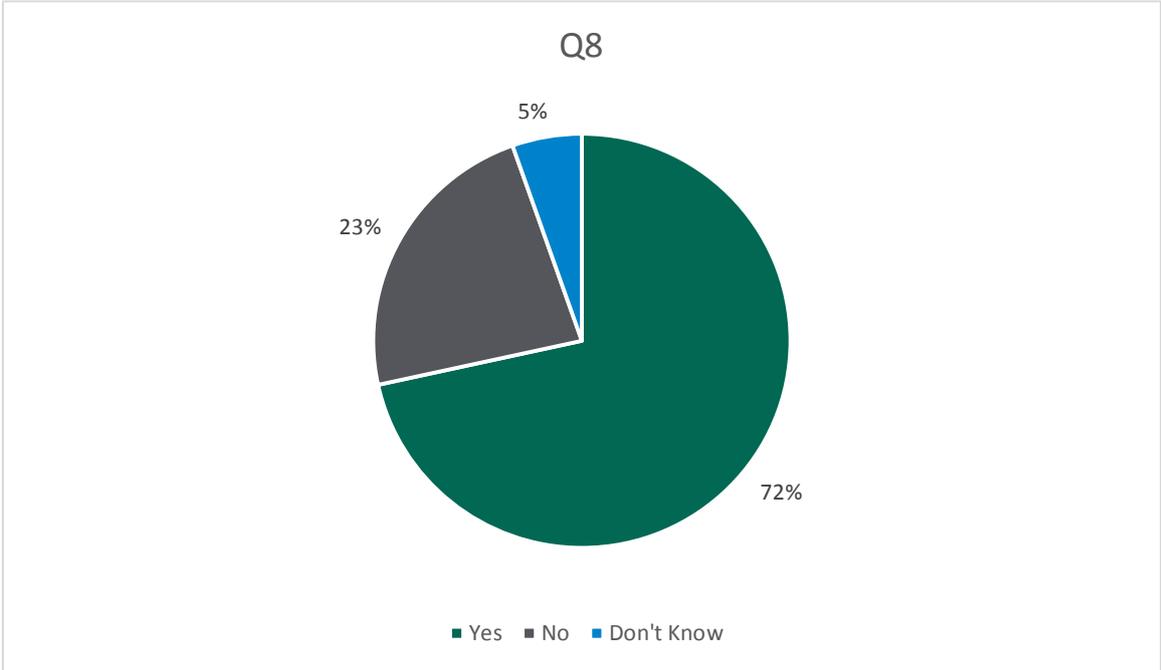
2.24 The AA stated the *"Yes, there was even stronger support for this from AA members with 92% in support (78% strongly in support)."*

2.25 The Freight Trade Association said *"The Association has clearly stated that it supports an increase in the penalty and fixed penalty notice for HGV's of 6 points and £150.00."*

2.26 The Traffic Commissioners said *"Heavy goods vehicles (HGVs) are driven by a professional vocational licence holder. The reason for this is in recognition of the greater risk to road safety that they present. Thus it is proportionate that the offence of driving whilst using a hand held mobile phone in an HGV is deemed to be of greater significance. In doing so, this has the benefit of reminding vocational drivers that they have a professional (and not just personal) responsibility to adhere to the law in order to retain their vocational entitlement. It is expected that the introduction of a specific offence for drivers of HGVs would raise awareness throughout industry and act as the necessary deterrent."*

2.27 Direct Line Group stated *"DLG supports a specific offence for drivers of Large Goods Vehicles. Given the size and weight of these vehicles they have the potential to cause greater damage and risk of life in the event of a collision. We believe that there should be a greater responsibility for professional drivers and they should be fully aware of the potential penalties of using a hand held mobile phone whilst driving."*

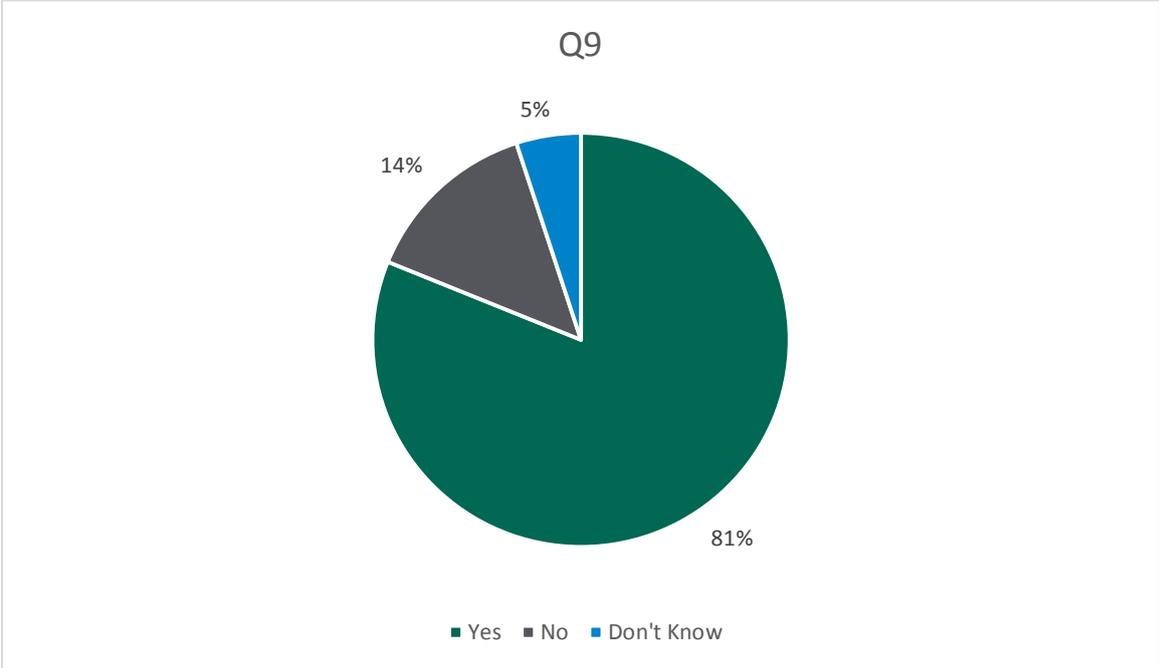
Q8. If so, do you agree that a specific offence for Large Goods Vehicle (HGV) drivers who offend whilst driving a HGV should be created which carries 6 penalty points and a £150 FPN? If not, please explain your reasons why.



Three Most Common Themes	
General agreement	2434 (58%)
Still not high enough	890 (21%)
Penalty should be the same for all vehicles	264 (6%)

- 2.28 Most respondents equated the larger size of a vehicle with a greater potential for damage if the driver was distracted using a mobile phone.
- 2.29 Comments included that as HGV drivers were professionals having undergone extensive training they should be held to a higher account.
- 2.30 However, some respondents suggested that there was no evidence that HGVs are more likely to commit the offence or more likely to crash as a result, therefore the penalty should be the same for all drivers.
- 2.31 As nearly all HGV's are driven for commercial purposes, some pointed out that the companies should take more responsibility to ensure that drivers do not use mobiles. There were suggestions that fines could also be levied against companies whose drivers were caught using a mobile phone whilst on duty and these fines should be more substantial in order to have greater impact.

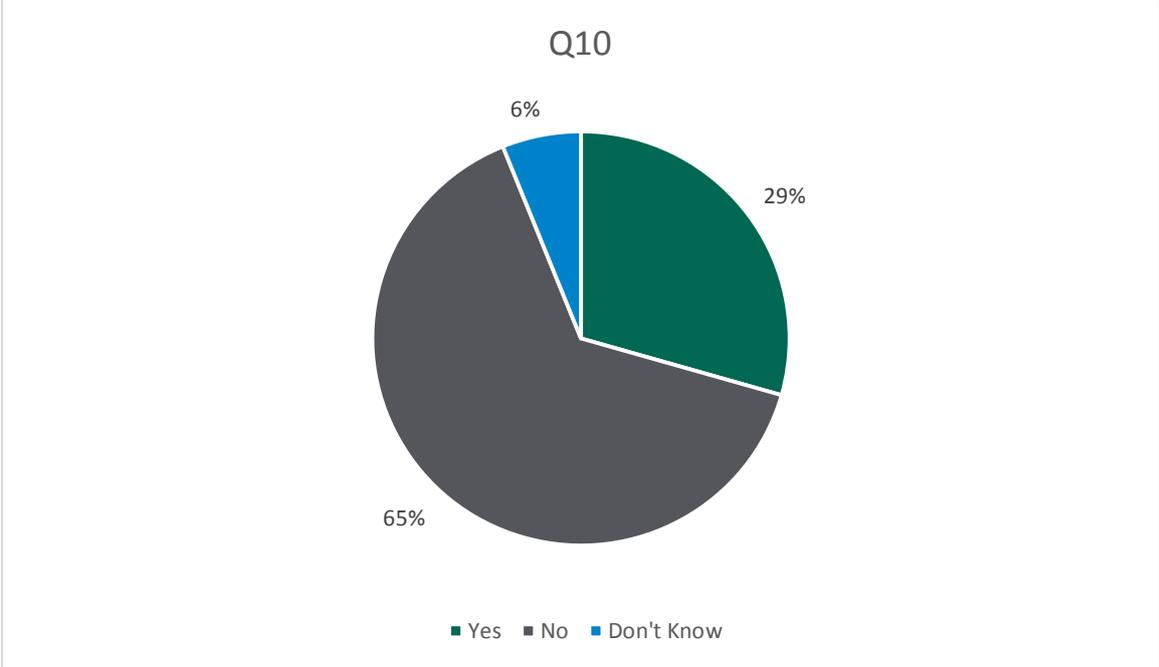
**Q9. Do you support an increase in both the FPN and Penalty Points for this offence AND a specific penalty for HGV drivers? If not, please explain your reasons why.**



Three Most Common Themes	
<b>General agreement</b>	3088 (74%)
<b>Disagree with increase</b>	278 (7%)
<b>Same penalty for all drivers</b>	246 (6%)

2.32 The re-affirmative nature of this question meant that most respondents simply provided a yes or no answer without further explanation and reasons given were very similar to question 8. Broadly, those in favour of a higher penalty for larger vehicles was because it was felt that professional drivers needed to be held to a higher standard. Of those not in favour, comments made were that penalties should be the same for all vehicles; high penalty points would have an adverse impact on professional drivers' careers.

Q10. Do you agree that HGV 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.



Three Most Common Themes	
Seen as a let off	1276 (30%)
Not appropriate	1152 (27%)
General agreement	990 (24%)

- 2.33 A number responded that as this had been an offence for 13 years there was no excuse for ignorance. There was a belief that HGV and other professional drivers would have already undertaken intensive training to a standard significantly higher than the standard driving licence requires. Therefore, HGV drivers would have already received sufficient training in this area.
- 2.34 Respondents comments ranged from there being an important distinction between first time caught versus first time offence having been committed, to the desire in offering second chances to offenders (on the basis that everyone makes mistakes).
- 2.35 Many commented on the power of education in changing behaviour including several personal examples from respondents who had attended speed awareness courses and found them very beneficial.

**Q11. What role might the mobile phone industry play in improving road safety? For example, promoting new technology with "drive safe modes".**

Three Most Common Themes	
<b>No Answer Given</b>	1207 (29%)
<b>Drive Safe Mode Encouraged</b>	784 (19%)
<b>Not the mobile phone industry's issue</b>	454 (11%)

- 2.36 The majority of respondents did not provide an answer. However, of those that did respond many believed that the mobile phone industry was not responsible for the problem nor the solution to it. Reasons for this varied between those who believed that ultimately the individual is responsible for their actions and those that believed that phone companies are solely driven by profit and therefore would never engage with developing technology that limits the usefulness of their products.
- 2.37 It was also pointed out that appropriate technology already exists within phones, i.e. Flight mode or silent mode, which remove the temptation/distraction for people to use their phones whilst driving.
- 2.38 It was acknowledged that "drive safe mode" technologies require positive action from the driver to engage them. A drive safe mode that could be engaged automatically through either motion detection or linking with in-car technology had strong support.
- 2.39 In taking this technology forward, it was recognised that a major hurdle would be distinguishing between when a person was driving versus being a passenger, travelling on public transport or being active. Applying technological solutions at a broad level would also be limited by the technical capability of an individual's car and/or mobile phone.

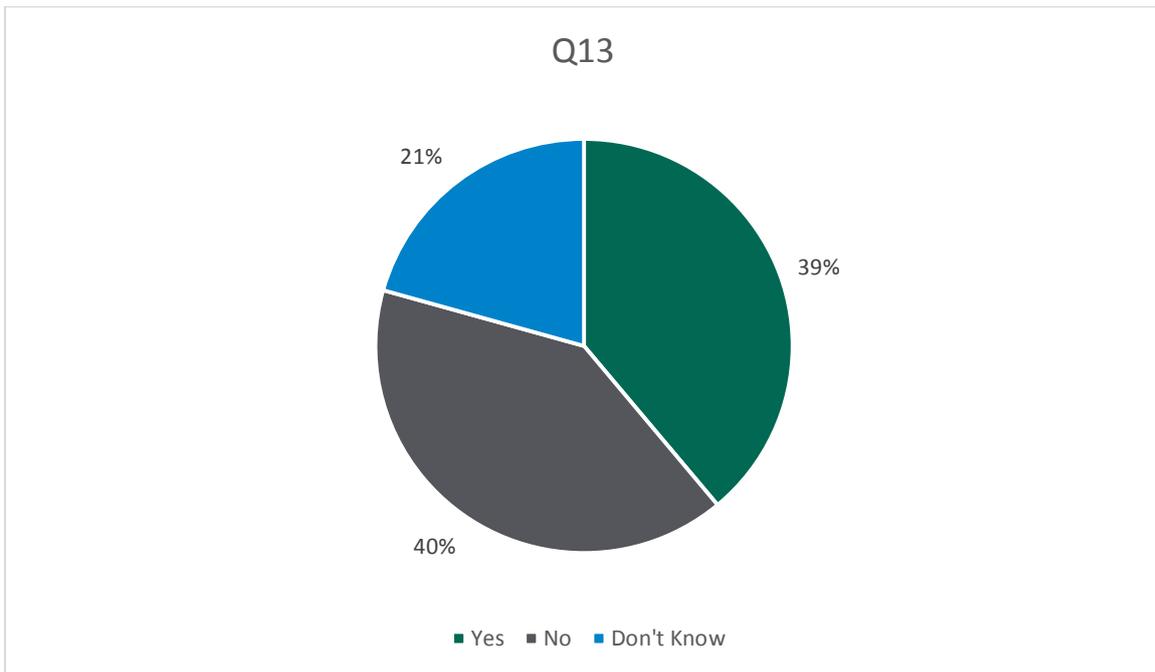
**Q12. What role might the insurance industry play in improving road safety? For example, promoting new technology with "drive safe modes"**

Three Most Common Themes	
<b>No Answer Given</b>	1541 (37%)
<b>Drive Safe Mode Encouraged</b>	854 (20%)
<b>Not the insurance industry's responsibility</b>	294 (7%)

- 2.40 The majority of respondents did not provide an answer. Many responses thought that the main role insurance could play was a punitive one by increasing costs to those drivers caught using mobile phones whilst driving. Many believed that it is not the insurance industry's issue to deal with and, similar to the mobile phone industry, insurance companies were motivated by profit.

2.41 A large number of responses believed that drivers who used safe driving technology such as dash cams, black boxes etc should receive reduced premiums. Other popular responses included refusing to insure drivers who have been convicted of this offence or refusing to pay out on claims that involve mobile phone use as a contributor.

**Q13. 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.**



Three Most Common Themes	
No Answer Given	1975 (47%)
Apply To All Drivers	990 (24%)
Agree With Examples Given	377 (9%)

2.42 The majority of respondent did not provide a response to this question.

2.43 The majority of those that did respond believed that use of mobile phones whilst driving is a pervasive issue and therefore all drivers should be targeted. Others believed that the examples given (young drivers, van drivers and those driving for work) were most likely to use phones whilst driving and should be the main focus of new technologies. Some respondents wanted any targeting to be based on evidence.

## Q14. What else would you recommend should be done regarding mobile phone offences whilst driving?

Three Most Common Themes	
Improved Enforcement	1218 (29%)
No Answer Given	1216 (29%)
Driving Ban	290 (7%)

- 2.44 The most popular answers concerned enforcement of the offence. This ranged from having more traffic police on the road, to intelligent cameras, to ensuring magistrates enforce the law in court appropriately.
- 2.45 Many people believed that the deterrent factor needs to be higher and would be achieved by having driving bans imposed on offenders.
- 2.46 Other respondents reiterated their desire to have fines and penalty points at a far greater level than those proposed in the consultation.
- 2.47 A number noted that some police forces are using the offence of "driving whilst not in proper control" to prosecute drivers as an alternative to the offence of holding a hand held mobile phone. This was based on the perception that the current offence of using a handheld mobile phone offence when driving may be difficult to prove.
- 2.48 It was also suggested that further research was required to investigate the safest way of handling calls, messages and other applications given the increasing availability of, for example, in-car Bluetooth, steering wheel mounted buttons, voice activation and that this should inform future legislation changes.

## Q15. Are you responding as an individual or on behalf of an organisation?

- 2.49 4251 responses were from individuals. 67 responses were from Organisations. 47 responses did not state whether they were responding as an individual or an organisation.
- 2.50 Of the 67 organisational responses 23 did not state which organisation they represented. The 45 organisations that did state who they were are listed below.

AA	National Police Chiefs Council
Association of British Insurers	North Wales Police
Association of Local Bus Managers	PACTS
Brake	Peninsula RSP
British Insurance Brokers Association	Police & Crime Commissioner for Northumbria
British Vehicle Rental & Leasing Association	Police Federation of England & Wales
Carmarthenshire County Council	Police Scotland

Confederation of Passenger Transport UK	Pupils 2 Parliament
CTC	RAC
Direct Line Group	RAC Foundation
Ealing Council	RoadPeace
Freight Transport Association	RoadSafe
Gloucestershire Road Safety Partnership (RSP)	Road Danger Reduction Forum
Greater Manchester Fire & Rescue Service	Road Haulage Association
Greater Manchester Police	RMT Union
Hampshire & Thames Valley Police	Rochdale Borough Council Road Safety Team
Institute of Advanced Motorists	Royal Society for Prevention of Accidents
Institute of Professional Driving Instructors	Safer Essex Roads Partnership
ISLE Drive Safe - Remember Evey	Scottish Courts & Tribunals Service
Leeds City Council	Southend-on-Sea Borough Council
Leicester, Leicestershire & Rutland RSP	South Yorkshire Safer Roads Partnership
Lincoln RSP	Support Our Road Traffic Victims
London Borough of Camden	TfL
London Criminal Courts Solicitors Association	Traffic Commissioners
Metropolitan & City of London Police	Undisclosed HGV Operator
National Farmers Union	Welsh Government

## 3. Conclusions

- 3.1 On the basis of the consultation response, there is clear support for change and increase the fixed penalty notice for using a hand held mobile phone when driving. For a number of respondents the changes proposed did not extend far enough and this has been considered carefully.
- 3.2 In 2003 penalty fines were introduced at £30. In 2007 the fine was increased to £60 and points were introduced at 3 for all offending drivers. In 2013 the fine was increased to £100. Despite this, there has been no sustained reduction in observed mobile phone use over time<sup>2</sup> Evidence also suggests that mobile phone use while driving has a worse impact on driving ability than being above the drink driving limit<sup>3</sup>.
- 3.3 In view of this and the strength of support for tougher penalties, we propose to go further than the proposals in the consultation and will double the penalty by increasing the fixed penalty fine from £100 to £200 and increasing the penalty points from 3 to 6 for all drivers – we do not propose to differentiate between cars and HGVs. To provide a strong deterrent in order to change behaviour, all drivers will face 6 penalty points regardless of vehicle type. This means all drivers using a mobile phone will be treated equally seriously.
- 3.4 We also propose that a remedial course is not offered to first-time offenders as an alternative to the FPN in order to provide a strong deterrent and change behaviour. This means that all offenders, regardless of whether this is the first time offence or not and regardless of vehicle type, will face a £200 fine and 6 penalty points. In the consultation, the majority of online responses rejected offering a remedial training course to first-time offenders who were driving an HGV, seeing this as being insufficient or inappropriate to the seriousness of the offence.
- 3.5 Given the tragic consequences which can result from any driver using a mobile phone when driving it is important that all drivers understand the consequences of their actions. For vocational drivers, the increase in the FPN points will have a higher impact as Traffic Commissioners can already revoke their HGV/PSV licence entitlement once 6 points are reached.
- 3.6 Novice drivers (those who passed their test in the last 2 years) have their licence revoked by DVLA once they reach 6 points (rather than the usual 12 points) under the New Drivers Act. To regain their licence they must reapply for a provisional licence and pass a further theory and practical driving test. The new proposals mean novice drivers will face revocation of their licence upon their first mobile phone use offence.

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<sup>2</sup> <https://www.gov.uk/government/statistics/seatbelt-and-mobile-phone-use-surveys-2014>

<sup>3</sup> TRL 2002 - Report TRL547, How dangerous is driving with a mobile phone? Benchmarking the impairment to alcohol.

- 3.7 The evidence shows that young drivers are the most likely group to be observed using a mobile phone while driving . The majority of novice drivers are young people, below the age of 25, and, although it is recognised that this group will be disproportionately impacted, they are also more likely to offend in the first place . Targeting this group with relatively higher penalties is thus likely to lead to greater behavioural change and more positive road safety outcomes.
- 3.8 Many respondents were concerned about the enforcement of the offence. Detection can be difficult as mobile phones can be used surreptitiously while driving. We will provide additional guidance or advice and consider new technology where it aids detection and ensure effective prosecution by the police.
- 3.9 Enforcement alone will not fully address the behaviour. While stronger penalties send a clear message on the seriousness of the offence and can act as a strong deterrent there is strong public concern about what has become a pervasive and unconscious behaviour by many to continue use their mobile phone for calls and texting when driving. We are willing to work with industry on technology that would encourage better and safer behaviour and we want to take full advantage rapidly developing in-car technology and where it can support safe driving behaviour. However, the consultation response is clear that even with technology such as drive- safe modes it is ultimately the driver that has to take responsibility for their actions.
- 3.10 In support of all of these measures, a THINK! campaign highlighting the dangers of using a mobile phone while driving will accompany the increased penalties in order to raise awareness of the change and to make mobile phone use while driving socially unacceptable.

## 4. Next Steps

- 4.1 The Department intends to lay legislation before Parliament as soon as possible to:
  - Increase the fine from £100 to £200 for all drivers.
  - Increase the penalty points from 3 to 6 points for all drivers.
- 4.2 The Department will work with the Police, DVLA and the courts to implement the necessary changes to IT systems and will offer guidance and advice where required.
- 4.3 In addition, the Department will launch a THINK! Campaign on the dangers of mobile phone use while driving to raise awareness of the changes in order to stimulate a change in behaviour that road users are looking for.
- 4.4 The Department is planning to conduct a roadside observational survey which monitored mobile phone use in follow up to the one previously held in 2014<sup>4</sup> to monitor the effectiveness of the changes. This will help us to consider whether further measures be taken for example further behaviour change programmes such as a larger scale awareness raising across more platforms or explore the benefits of introducing further powers to Magistrates such as a power to issue penalty points within a wider range of points if a case is referred to court.

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<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/406723/seatbelt-and-mobile-use-surveys-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406723/seatbelt-and-mobile-use-surveys-2014.pdf)