

Summary: Intervention & Options

Department /Agency: DSA	Title: Compensation Arrangements - Driving Instruction Suspension Scheme	
Stage: Initial	Version: 1	Date: 8 March 2010
Related Publications: Driving Instruction (Suspension and Exemption Powers) Act 2009		

Available to view or download at:
<http://www.dsa.gov.uk>

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What is the problem under consideration? Why is government intervention necessary?

Government intervention is necessary as a consequence of The Driving Instruction (Suspension and Exemption Powers) Act 2009. The Act introduced a power for the Registrar of Approved Driving Instructors to suspend Approved Driving Instructors (ADIs) and Potential Driving Instructors (PDI) where they pose a significant threat to members of the public (e.g. learner drivers and other road users). The Act was introduced as a result of some high profile cases of assault on learner drivers by driving instructors. It allows the Registrar to suspend an instructor, and thereby protect the public, while that instructor is under investigation. It also requires the Secretary of State to establish a compensation scheme before the suspension power can be used, which will apply to instructors who have been suspended but whose permission to give paid instruction is not subsequently withdrawn and who are allowed to resume giving paid driving instruction.

What are the policy objectives and the intended effects?

To determine what sort of scheme would provide a proportionate and fair compensatory package for the affected ADI or PDI. The intended effect would be to compensate the ADI or PDI against income and non-income losses resulting from, and incurred during the period of, the suspension.

What policy options have been considered? Please justify any preferred option.

Two options have been considered for the calculation of compensation for any income losses:

- Option A - assess the actual losses incurred by the instructor.
- Option B - calculate compensation using fixed *per diem* amounts.

We recommend Option A. This fairly assesses the losses that an individual has incurred, taking into account the facts which are unique to the case and the instructor's specific working pattern before the suspension. Option B, in contrast, would disadvantage those instructors who work long hours by setting their reimbursement at the same rate as those who work part-time. Option A is therefore a more accurate and equitable system of calculating losses.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Will be reviewed in 2015.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: A	Description: Assessment of actual losses
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There is a small cost to the instructor from providing copies of documents and making an application. There is a cost to the Driving Standards Agency of: <ul style="list-style-type: none"> One off – IT set up costs, for First-tier Tribunal to hear appeals. Annual - cost of evaluating and reimbursing income and non-
	One-off (Transition)	Yrs	
	£ 3,045	1	
	Average Annual Cost (excluding one-off)		
£ 8,210	5	Total Cost (PV)	£ 38,757
Other key non-monetised costs by 'main affected groups' None			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Reimbursement to instructor of income and non-income losses as a result of suspension which did not result in removal from the Register. Based on actual losses incurred by the instructor. Also added are figures for non-income losses.
	One-off	Yrs	
	£ Nil		
	Average Annual Benefit (excluding one-off)		
£ 6,240	5	Total Benefit (PV)	£ 27,221
Other key non-monetised benefits by 'main affected groups' Establishment of a scheme which allows a suspended instructor to be reimbursed following removal of the suspension should provide reassurance that the suspension power will only be used in the most serious of cases and not used at whim.			

Key Assumptions/Sensitivities/Risks Estimate is based on one case per annum. The amount paid to the applicant constitutes a transfer of funds. It is included as both a cost to Government and a benefit to industry. Also included is the cost of employing an expert, where necessary, to advise on the award. We assume that, under this Option, the impact upon the admin baseline will be £100 per case.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV) - £11,536	NET BENEFIT (NPV Best estimate) - £11,536
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What is the geographic coverage of the policy/option?	GB			
On what date will the policy be implemented?	2011			
Which organisation(s) will enforce the policy?	DSA			
What is the total annual cost of enforcement for these organisations?	£ 8,210 per annum			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro Nil	Small Nil	Medium Nil	Large Nil
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2009 Prices)				(Increase - Decrease)
Increase of	£100	Decrease of	£ Nil	Net Impact £100

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: B	Description: Assessment of fixed amounts
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There is a small cost for the instructor from making an application. There is a cost to DSA of: <ul style="list-style-type: none"> One off – IT set up costs for First-tier Tribunal to hear appeals. Annual - cost of evaluating and reimbursing income and non-income losses.
	One-off (Transition)	Yrs	
	£ 3,045	1	
	Average Annual Cost (excluding one-off)		
£ 7,695	5	Total Cost (PV)	£36,510
Other key non-monetised costs by 'main affected groups' Reimbursing instructors' income losses on a fixed basis will have negative equity impacts as the amount reimbursed will not necessarily reflect the actual lost income			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Reimbursement to instructor of income and non-income losses as a result of suspension which did not result in removal from the Register. Income losses based on fixed amount system similar to payment of those on jury service – with rates applicable to driver training industry. Non-income losses are based on the actual loss incurred.
	One-off	Yrs	
	£ Nil		
	Average Annual Benefit (excluding one-off)		
£ 6,240	5	Total Benefit (PV)	£ 27,221
Other key non-monetised benefits by 'main affected groups' Establishment of a scheme which allows a suspended instructor to be reimbursed following removal of the suspension, should provide reassurance that the suspension power will only be used in the most serious of cases and not used at whim.			

Key Assumptions/Sensitivities/Risks Estimate is based on one case per annum. The amount paid to the applicant by DSA constitutes a transfer of funds. It is included as both a cost to Government and a benefit to industry. Also included is the cost of employing an expert, where necessary, to advise on the award. We assume that, under this Option, the impact upon the admin baseline will be £20 per case

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV) -£9,289	NET BENEFIT (NPV Best estimate) £ -£9,289
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What is the geographic coverage of the policy/option?				GB	
On what date will the policy be implemented?				2011	
Which organisation(s) will enforce the policy?				DSA	
What is the total annual cost of enforcement for these organisations?				£ 7,695 per annum	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)		Micro Nil	Small Nil	Medium Nil	Large Nil
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2009 Prices)				(Increase - Decrease)	
Increase of	£20	Decrease of	£ Nil	Net Impact	£20

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

DRIVING INSTRUCTION (SUSPENSION AND EXEMPTION POWERS) ACT

IMPACT ASSESSMENT FOR INTRODUCTION OF STATUTORY COMPENSATION SCHEME

Background

1. The Driving Instruction (Suspension and Exemption Powers) Act (“the 2009 Act”) became law in November 2009. It was introduced as a Private Members Bill in February 2009 by Willie Rennie MP (Dunfermline and West Fife), following an attack upon one of his constituents by a Driving Instructor. The 2009 Act introduces powers to prevent Driving Instructors from offering driving instruction where they present a danger to the public. However, before the 2009 Act can take effect, a statutory compensation scheme needs to be in place. The scheme aims to compensate those instructors who have been suspended, but who are subsequently allowed to resume delivering driving instruction.
2. The Registrar of Approved Driving Instructors (working within the Driving Standards Agency (DSA)) is responsible for the regulation of driving instruction in Great Britain. Only Approved Driving Instructors (ADIs), or Potential Driving Instructors (PDIs) operating under a trainee licence, are permitted to give paid instruction in car driving. Registration lasts for four years, a trainee licence for six months, although the latter can be extended by DSA. ADIs must have their names entered onto a Register which is administered by the Registrar. In order to gain entry to the Register, instructors must pass a series of examinations and be “fit and proper” persons.
3. The Registrar can remove an ADI’s name from the Register, or revoke a PDI’s licence, if he considers that the instructor is no longer satisfying the fit and proper person criterion. This would mean that the instructor can no longer lawfully give paid tuition in the driving of a motor car. An ADI or PDI can appeal to a Tribunal (the First-tier Tribunal) against withdrawal of their authorisation.
4. The 2009 Act will not affect an instructor’s right to make a defence against removal. Nor will it affect the statutory timetable that sets out when the Registrar can notify the instructor that he is minded to remove their authorisation to deliver driving instruction, or when such a notification takes effect. In most cases, the instructor will be able to continue to instruct during this period. However, in some cases it would be wrong for the instructor to be able to do so: the new power introduced in the 2009 Act will enable the Registrar to take action in such limited circumstances by suspending the instructor’s authorisation to give paid instruction pending the removal of their authorisation.

Need for a suspension power

5. The 2009 Act introduced the suspension power because there has been a number of cases of inappropriate behaviour towards pupils by driving instructors where the Registrar lacked the powers to intervene in a wholly effective manner. At present, the Registrar may remove such instructors from the Register, or revoke their licence, but there is a delay of some 45¹ days before his decision can take effect. Instructors may continue to give paid instruction during this period. The 2009 Act allows the Registrar to suspend an instructor’s registration in circumstances where the instructor presents a significant threat to the safety of members of the public, where the Registrar has informed the instructor that he is minded to remove their name from the Register or to revoke their licence. The effect is immediately to prevent the instructor from giving paid instruction.

¹ The statutory timetable allows the instructor up to 28 days to make representations against the Registrars notice of intended deregistration or revocation. It is a further 14 days before that notice can enter into effect; allowing for the postal service this can equate to around 45 days in total before an instructor can be prevented from delivering paid instruction.

6. Suspension can only be used alongside action to remove an ADI's name from the register or to revoke a PDI's licence. Suspension cannot be used as a freestanding measure. We anticipate that the power might be used in the following situations:

- Where an instructor had been convicted of a sexual or violent offence; or admitted the same in court and is awaiting sentence;
- Where periodic checks reveal that an instructor is delivering a dangerously low standard of instruction.

Compensation scheme

7. The 2009 Act requires the Secretary of State for Transport to make regulations prescribing a compensation scheme, before the suspension power can be used. The Compensation Scheme will compensate instructors in situations where they have been suspended, but where the Registrar subsequently decides against removing the instructor's name from the Register, a trainee licence is not revoked, or such a decision is overturned on appeal to the Tribunal.

8. Under provisions in the 2009 Act, an instructor is allowed to make a claim for both income losses and non-income losses. The former relates to losses incurred in respect of income during the period of suspension, by reference to the income usually earned by the instructor prior to the suspension. The latter is broader, involving the wider impact on the instructor and the driving school he operates. It is envisaged that it may entail elements such as interest paid on loans taken out to cover essential expenditure during the period of suspension.

9. Where the instructor disputes the amount awarded by way of compensation, or there is a dispute as to whether he is entitled to compensation at all, he has a right of appeal to the First-tier Tribunal. The Tribunal would have powers to:

- Refer the matter back DSA for reconsideration where new evidence had emerged;
- Reject the appeal;
- Make a replacement award of a higher or lower amount.

General provisions

10. We envisage that a number of principles would apply to all claims. These are expected to be cost-neutral from the point of view of applicants making a claim and are the subject of consultation:

- Time limit for making claims - We are proposing that it is reasonable to require claims to be submitted within two years of either suspension ceasing to apply or notification by the First-tier Tribunal of a decision to uphold a relevant appeal, whichever is later. This should not add additional costs to claimants.
- Documentation – We are proposing that to the compensation scheme will require claims for compensation to be submitted in a standard format with relevant supporting documentation. We consider it is reasonable to require the claimant to provide proof of financial loss or cost during the suspension period. Obtaining copies of documents may add a small cost to applicants, where photocopies are needed but this is considered to be negligible – probably around £20 for each claim. In most cases, it is expected that instructors will have access to a computer and will be in a position to scan and print documents at home. We will also encourage use of electronic means for submitting of claims.
- Further information – We are proposing that the submission of reasonable further information or documentation to facilitate the calculation of any sum due and its payment may also be required under the compensation scheme. The same factors apply to this proposal as the previous one. There will be some cost but this is expected to be negligible.
- Approach to third parties – We are proposing that the consent of claimants to reasonable enquiries being made of third parties may also be sought. Where such consent is not given, this may prevent whomever administers the compensation scheme from continuing to process the claim for compensation. Whilst this provision will affect the progress of a claim, it will not, in itself, incur a cost.

11. To determine the amount of compensation due, the compensation scheme administrator will take account of the available evidence provided by the claimant and resulting from enquiries. In some cases, an external expert in the assessment of compensation may be appointed who could provide advice on the correct amount that should be paid to the claimant. The final decision on the level of the award would, however, remain with the Secretary of State for Transport.

Assessment of income and non-income losses

12. In respect of income losses, two options for determining the amount due are offered for comment by consultees - these are evaluated below:

- Option A - an assessment of actual losses incurred by the instructor. This is our preferred option.
- Option B - fixed *per diem* amounts to be reimbursed to the instructor.

13. For both options, non-income losses will be calculated on the basis of a realistic assessment of the wider impact on the applicant. These can include elements such as interest on a loan taken out during the period of suspension to cover essential expenditure. As such, it would not be appropriate to be specific about the amounts applied (other than to provide an example). Each specific case will need to be assessed on its merits. Reimbursement should reflect reasonable non-income losses, necessarily incurred.

Option A – actual losses incurred by the instructor

14. This system would involve making an assessment of the actual losses incurred by the instructor. It is envisaged that when making a claim under such an arrangement, the instructor would provide DSA with evidence of loss of earnings. Depending upon the employment status of the instructor, evidence could be provided by an employer or, if the instructor was self-employed, take the form of business records showing the level of activity and income prior to suspension.

15. Under this process, it would not be possible to be prescriptive in terms of how income losses must be calculated as the circumstances of each case would differ. However, the claimant would need to clearly demonstrate the basis of the claim and produce supporting evidence. In this way it would be possible to obtain an accurate picture of the amount the instructor would have lost for each week that the suspension was in place. The level of compensation awarded would therefore reflect the number of weeks that the instructor was suspended and the level of income he had expected to receive.

16. The following is an example of what a typical claim may look like. This is for illustrative purposes only and it is accepted that there will be different scenarios.

17. The following assumptions are made.

- For income losses, an “average” amount of £20 charged by the instructor for a driving lesson. Discussions with the driver training industry indicate that average charges range between £18 and £25. A fee of £22 could therefore be seen as typical, but this is reduced to £20 for the purposes of illustration as it takes into account that there will have been no costs for petrol or wear and tear of the vehicle during the suspension as the instructor would not be delivering instruction
- 28 hours worked per week. This is based on the working patterns of driving instruction professionals across the board and has been used as an average number of hours between those who work part-time in the industry and those who work full-time.
- For non-income losses, we have taken the example of an £8000 loan taken out by the instructor to cover essential expenditure during the period of suspension and have assumed interest at 8% (based upon current loan interest rates) is payable. Again, this is for illustrative purposes only. The detail would almost certainly differ from case to case and may well comprise other elements.

18. There would also be a need for management of the process. This could be undertaken internally by DSA and we estimate that the staff cost for two days is likely to be around £870 (based on a daily rate of £276 for a DSA senior manager and £159 per day for a DSA middle manager). There may also be a

need to seek the advice of an external expert, a professional person to advise DSA in the evaluation of non-income losses. We estimate that this may cost around £1000 (two days at a rate of £500 per day). All decisions on compensation will, however, be made by the Secretary of State (acting through DSA).

19. The figures in the following table are used in the “Summary – Analysis and Evidence” table for Option A.

A	Amount charged by instructor per hour before suspension	£20.00
B	Hours worked by instructor per week before suspension	28
C	Income per week (A X B)	£560.00
D	Number of weeks suspended	10
E	Amount payable – income loss = C X D	£5,600.00
F	Non-income loss – taking facts of case into account, in this instance interest on a £8000 loan @ 8%	£640.00
H	Total payable to applicant E + F	£6240.00
I	DSA staff cost for assessment	£870.00
J	DSA cost of external expert	£1000.00
K	Applicant cost for copying papers and making claim	£100.00
L	Total cost H + I + J + K	£8210.00

20. We anticipate the volume of suspension cases to be very low, probably in the low single figures per annum. Of these we would expect even fewer to result in the initial view that an instructor should be prevented from giving tuition being altered and therefore a previously suspended person becoming entitled to compensation. For the purpose of this assessment we have anticipated that maybe 5 persons will be suspended per annum with only 1 resulting in payment of compensation. This has been estimated based upon the annual number of cases removed by the Registrar in the last year for reasons of serious sexual or violent misconduct. This number is considered to be typical. None of these were overturned on appeal so the estimate of 1 case of compensation per annum is high.

Evaluation

21. A system of assessing actual losses would have the advantage of taking into account specific circumstances and differences in working practices. As indicated above, instructors charge significantly different rates and work a wide range of hours. These differences would be reflected in an assessment of income losses made under this system. Such an approach would also incorporate a bespoke evaluation of all non-income losses. For the purpose of this illustration we have assumed that the total cost of this option would be around £8210 pa – please see the above table.

22. Such a procedure would, however, make the system more complicated to administer as income losses in each claim would need to be individually assessed. This would require submission and consideration of supporting paperwork. It would also add to the administrative process - for both the compensation scheme administrator and the instructor.

23. In addition, if amounts payable were individually assessed, there could conceivably be increased scope for disagreement from dissatisfied applicants, compared with a procedure which set reimbursement at an agreed rate.

24. However, this system is viewed as fairer and more aligned to the needs of the individual. For this reason, this is our preferred option.

Option B – fixed amounts

25. This type of system would set a prescribed amount of compensation that would be paid for income losses for each day of the suspension. This amount would be agreed with the industry and fixed in regulation. These fixed amounts could be based on an externally agreed system, similar to that paid to cover loss of earnings in other fields. We have used as a model the daily payments made by Her Majesty’s Courts Service (HMCS) to jurors. These are, based on current HMCS rates:

- £63.12 per day for the first 10 days
- £126.25 per day from 11th day onwards

26. We have taken the view that it is appropriate to tailor the amounts payable under the compensation scheme to rates which are typical in the driving instruction industry. We have based these on the same figures as in Option A:

- An average amount of £20 per hour. Again, this takes into account that there will have been no costs for petrol or wear and tear of the vehicle during the suspension
- An average of a 28 hour working week which, if apportioned over seven days, equates to a four hour working day.
- For non-income losses, we have again taken the example of an £8000 loan taken out by the instructor to cover essential expenditure with interest at 8% payable. Again, this is for illustrative purposes only.

27. This results in a standard rate of £80 per day, based on a four hour day multiplied by £20. But we would keep the method of calculating the fixed daily rate under review to ensure that the amount of compensation awarded reflected the rates charged within the Driving Instruction industry for tuition.

28. Again, there would be a need for management of the process. This could be undertaken internally by DSA and, compared with calculating actual losses, the hours required to complete the task of applying fixed amounts should be slightly less. We estimate that – unless the case was particularly complicated, or contained unusual factors – this task could be undertaken in around a day at a cost of some £435 (again based on a daily rate of £276 for a DSA senior manager and £159 per day for a DSA middle manager).

29. As claims will still be assessed on an individual basis, in some cases DSA may decide to employ an external expert to offer advice in evaluation of non-income losses. This may cost around £1000 (two days at a rate of £500 per day). All decisions on compensation, however, will be made by the Secretary of State (acting through DSA).

30. Taking a case where an instructor was suspended for 70 days, the amounts payable are as follows.

A	Amount charged by instructor per hour before suspension	£20.00
B	Hours worked by instructor per day before suspension	4
C	Income per day (A X B)	£80.00
D	Number of days suspended	70
E	Amount payable – income loss (C X D)	£5600.00
F	Non-income loss – taking facts of case into account, in this instance interest on a £8000 loan @ 8%	£640.00
H	Total payable to applicant (E+F)	£6240.00
I	DSA staff cost for assessment	£435.00
J	DSA cost of external expert	£1000.00
K	Applicant cost for making claim	£20.00
L	Total cost H + I + J + K	£7695.00

Evaluation

31. Option B establishes a fixed assessment procedure for deciding income losses. Under this illustration we estimate it could cost around £7695 pa – see above table. It could be an advantage for individual instructors to know in advance what level of payment they could expect. This could mean there was less room for disagreement and potentially less scope for objections about the amount that was awarded. Alternatively, it is possible that there could be increased disagreement as applicants believed their reimbursement was too low compared with the amount they had actually lost.

32. Another key advantage would be that such a system would be straightforward to administer for income losses and would entail lower administrative costs.

33. This approach does, however, have significant weaknesses. Whilst a standard percentage could theoretically be applied for non-income losses, it is unlikely that this would be accepted in practice. It is likely that most instructors would see their particular case as unique. Even if they accepted a standard amount for income losses, they would not for non-income losses. It would therefore almost certainly be necessary to put in place a system for evaluating non-income losses.

34. If such a system was established for non-income losses, with the associated expense of employing an external expert to offer advice, this procedure could also be applied to income losses.

35. Whilst a standard amount may be agreed with the industry and supported in consultation, it would not remove the provision for appeal to the First-tier Tribunal. In view of this, the argument that this system would lead to fewer objections may well prove to have little foundation in practice. There would always be potential for disagreement whatever system was put in place.

Other costs

36. For both options, in addition to the cost of evaluation, there will be a potential cost of IT set up for appeals at the First-tier Tribunal. This will depend on whether it is necessary for the First-tier Tribunal to make changes to its IT systems to deal with appeals. An estimate of £3000 is included from previous experience. There may also be a nominal administrative cost to government for updating the *per diem* rate set in regulations under Option B ever few years, in line with inflation.

Impact upon Admin Burdens Baseline

37. We estimate that the compliance cost to individual ADIs and PDIs should be:

- Under Option A, in the region of £100 per annum. It is anticipated that it would take each applicant around four hours to prepare the documentation required for each claim – and that there would be no more than one claim each year. With the same hourly rate of £20 as the instructor would charge for lessons, this equates to £80 in time to prepare an application for reimbursement. Copying of documentation is estimated at around £20 (see point 10 – “documentation”).
- Under Option B, in the region of £20 - the hourly rate. As this will require less work in preparing a case, and less supporting documentation, preparation should take no longer than an hour.

Recommendation

38. Option B - the fixed amount system, may appear on the face of it to have advantages. However, it is considered that these are outweighed by the advantages of Option A, the system of evaluating actual losses. The main reason is the integral fairness of assessing actual losses. A “one size fits all” approach does not take account of differences in working practices, losses to the business or the unique qualities of an individual case. Such an approach would benefit those working short hours but disadvantage those working long hours. In contrast, by making an assessment of actual losses, the amount that was reimbursed would be based on the hours that an individual instructor typically worked before the suspension.

39. In the belief that the relative benefits of more equitable reimbursement outweigh the higher administrative costs, this IA recommends Option A – an assessment of the actual losses incurred by the instructor.

Competition Assessment

40. We do not envisage that the proposal would have any effect on competition. By recommending the acceptance of Option A – the assessment of actual amounts – we consider that we are treating every instructor individually and ensuring that those suspended would be reimbursed as appropriate for their income level prior to the suspension. As such, the payment of compensation, and the system chosen to assess the amount payable, would apply to all instructors equally

Small Firms Impact Test

41. A small business is defined ² as one with:
- Fewer than 50 employees;
 - No more than 25% of the business owned by another enterprise (which is not a small business);
 - Less than £4.44 million annual turnover;
 - Less than £3.18 million annual balance sheet total;

42. Driving instructors are mainly micro businesses, with the majority traditionally running their own business and increasing numbers being franchised to larger schools. Our screening of the impact on small businesses has not identified an adverse effect on this group from introducing a compensation scheme. We expect volumes affected to be minimal. We have predicted that there will be, at the most, five cases of suspension a year out of a number of some 44,000 instructors. We expect to pay compensation on rare occasions – certainly no more than once a year.

43. More significantly, the compensation scheme will be of benefit, rather than detrimental, to those small businesses affected. Those instructors who have been prevented from operating but are subsequently permitted to resume will be recompensed accordingly. The use of actual amounts to assess income losses will ensure that reimbursement is proportionate to the impact on the business of the suspension.

Legal Aid

44. We have identified no impact on legal aid arising from the compensation scheme. Whilst there is scope for appeal to the First-tier Tribunal where an instructor disagrees with the amount awarded, we would not expect this to lead to a claim for legal aid. As is currently the case for ADIs whose names are removed from the register of Approved Driving Instructors by the Registrar, each individual can appeal to the First-tier Tribunal, and legal representation is not necessary to do this.

Other Economic Issues

45. The proposal entails payment of compensation and will not bring receipts to government. There could potentially be a small impact on costs if payment was large – but this is unlikely. There should be no effect on the public sector beyond the Department for Transport (and DSA in particular), the third sector or consumers other than driving instructors. There will be no new technologies arising from the proposal. It is unlikely that there would be a change in investment behaviour.

Carbon And Greenhouse Gas Assessment

46. We have not identified any effect on carbon emissions arising from this proposal. Whilst an instructor, by the nature of his profession, uses fuel in day to day business, the payment of compensation should not affect the levels of such emissions.

Other Environment

47. We have not identified any other significant effect on the environment from this proposal. Photocopying of financial details in support of claims will use a very small amount of additional paper. But this will be low and we will aim to exchange information electronically where this is possible.

Health Impact Assessment

48. Reimbursement of losses incurred as a result of the suspension should be a positive move and help to reassure instructors that redress will be made if they are ultimately allowed to resume delivering driving instruction.

Race Equality

49. The aim of the policy is to recompense those who had been suspended from delivering driving instruction duties and then subsequently allowed to resume said duties. This is not an issue which has

² Better Policy Making: A Guide to Regulatory Impact Assessments. Cabinet Office January 2003

race equality elements. Only where there was substantial evidence of the ADI or PDI no longer being “fit and proper”, or offering dangerously poor instruction, would the power be used. Such situations are linked to behaviour and standards, and not ethnicity, issues.

50. We have been unable to identify any disproportionate impact as a result of race, ethnicity, or colour nationality. All losses will be assessed equally, irrespective of any of these issues.

Gender Equality

51. We suspect that men rather than women will be compensated. This is due to the majority of ADIs and PDIs within Great Britain tending to be male rather than female, although the occupation is increasingly appealing more to women because of the flexible nature of the work. Compensation will be paid, based upon an individuals’ losses and not because of their gender.

Disability Equality

52. We have not identified any effect on disability equality arising from this proposal.

Human Rights

53. The First-tier Tribunal already has powers to review the Registrar’s decision to withdraw an instructors permission to give paid instruction. The inclusion of a compensation scheme is specifically intended to protect the human rights of those who are prevented from offering driving instruction.

Rural Proofing

54. It is possible, but unlikely, that suspension of the sole instructor operating in the locality could impact on the ability of learner drivers to obtain professional instruction. A compensation scheme should help to address this by offering assistance to an instructor where he was suspended – and faced going out of business – but the approval was not subsequently removed.

Children And Young People

55. The suspension power is aimed at protecting learner drivers, many of whom are young or vulnerable people. Compensating those instructors who are ultimately allowed to resume delivering instruction will have no effect on young learner drivers, other than helping to ensure that there is availability of driving instruction (see “rural proofing” above) and possibly avoiding the need for instructors to increase fees for lessons to make up for income lost during the period of suspension.

Older People

56. Demographically, fewer older people take driving tests – and therefore lessons – than young people. For the older people who do take tests, the compensation scheme will have the same effect as for young people – on potentially ensuring availability of instruction in remote areas and on keeping the fees down.

Income Groups

57. The impact of the suspension is likely to be on whether an individual relies on driving instruction for his main income. Such an instructor could be severely affected by a suspension, which underlines the need for a compensation scheme. Those instructors who have other occupations may be less severely hit.

58. Other than this, those on low incomes are likely to be most affected. Whilst the size of mortgages – and resultant re-payments - tend to be linked to the prosperity of a particular locality (see “Particular Regions” of the UK below) this does not apply to other costs such as food and utilities. An instructor in a low income group would feel the effects of the suspension quickly with devastating consequences for his livelihood. But the Registrar will only suspend instructors where there is evidence to support a concern that they pose a threat to the public, and we anticipate that cases will be few.

59. A compensation scheme will be of greatest benefit to those on low incomes and those for whom driving instruction is the main or sole income. In view of the differences in amounts charged between

income groups, it is important that Option A is adopted, which reimburses actual amounts lost.

Devolved Countries

60. Driving instruction is not devolved to the Scottish Parliament nor the Welsh Assembly. We are, however, keeping the devolved administrations informed of our plans. Driving instruction is devolved to Northern Ireland and the suspension and compensation do not impact there.

Particular Regions Of The UK

61. In the same way as for different income groups – see above - the main impact of a suspension will be on whether driving instruction is the main or sole source of income. Following this, the severity will depend on level of income, which can be linked to locality. In poorer regions, instructors will be charging less and, whilst mortgages will be lower, other costs will be much the same as elsewhere.

62. In addition, poorer areas are likely to be ones with high unemployment. Availability of alternative employment is lower.

63. This underlines the need for the compensation scheme. It also supports the argument for Option A – actual income losses being reimbursed.

Privacy

64. The Privacy Impact Screening has identified that, whilst additional financial information will be sought, this will only be undertaken to the extent that it is necessary to evaluate a claim. The alternative approach, of using a fixed payment system, would not allow an individual assessment. It is therefore considered that the proposal is reasonable from a privacy perspective.

Sustainable Development

65. We have not identified any effect on sustainable development arising from this proposal.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

