

**Government response to  
consultation on the treatment of  
careless driving penalties and  
other motoring fixed penalties**

## Introduction

1. On 14 June 2012 the Department for Transport launched a consultation on making careless driving a fixed penalty notice (FPN) offence and increasing the penalty levels for some motoring FPN offences. These proposals follow commitments made in the Strategic Framework for Road Safety (published May 2011), which sets out the Government's vision for road safety in Great Britain, and the measures and actions to achieve this.
2. Although both of the proposals are linked in that the FPN level for the proposed careless driving offence will be set at the level being proposed for motoring FPN offences, they were dealt with separately in the consultation document.
3. This document summarises the responses received for the consultation questions for each proposal and provides a short summary of key issues and comments raised by respondents. Although the document does not summarise all of the comments made by respondents, each comment was considered, whether or not it is mentioned in the summary of responses.

### *Overview of responses*

4. We received a total of 383 responses to the consultation. A breakdown of the responses received is as follows:

Business interest	3
Courts	21
Individual	310
Local Authorities	3
Police	16
Road safety interest group	13
Other interest group <sup>1</sup>	14
Other <sup>2</sup>	3
<b>TOTAL</b>	<b>383</b>

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<sup>1</sup> This category included road user representative groups such as cycling, motorcycling, motoring, vehicle rental, insurance, inland transport and age UK.

<sup>2</sup> This category included a university, civil liberties group and the traffic commissioners.

## Careless driving fixed penalty offence

5. For the proposal on making careless driving a fixed penalty notice offence, respondents were asked three questions. This section sets out the level of support and comments received for each of those questions.

### ***Q1: Do you agree with making careless driving a FPN offence and open to offer of remedial training?***

<b>Representative group</b>	<b>Agree</b>	<b>Disagree</b>	<b>No comment</b>
Business interest	2	0	1
Courts	15	6	0
Individual	188	114	8
Local Authorities	3	0	0
Police	14	0	2
Road safety interest group	10	3	0
Other interest group	9	5	0
Other	1	1	1
<b>TOTAL</b>	<b>242</b>	<b>129</b>	<b>12</b>

6. 63% of respondents supported the proposal with 34% disagreeing with the proposed approach. 12% of respondents choose not to comment on the question.

### ***Members of the public***

7. 61% of members of the public who responded to the consultation agreed with the proposal. Those respondents who provided comments, generally welcomed the fixed penalty providing it was used for minor offences and supported the offer of remedial training to help improve driving behaviour.
8. 30% of members of the public disagreed with the proposal. A large proportion of respondents said the offence was too subjective to be dealt with by fixed penalty and should only be dealt with by the courts. These respondents were also concerned that the proposed penalty would give the police too much power. Many respondents thought the fixed penalty would downgrade the careless driving offence and would lead to dangerous driving cases being treated as careless driving. A smaller proportion of respondents saw the proposal as revenue-raising by the Government. A few respondents suggested that clarity was required over what is "careless driving" and that it was unfair to punish motorists for making mistakes.

## *Organisations*

5. Of the 72 organisations<sup>3</sup>, 74% supported the principle of the proposal. This included, 87% of the police, 71% of the courts, 77% of the road safety interest groups, 100% of the local authorities and 63% of the other groups. Many of these organisations did raise specific issues and concerns with the proposal.
6. The Magistrates Association (MA) and Justice Clerks Society (JCS) who were previously against the proposal when consulted on by the previous Government in 2008<sup>4</sup>, now supported the proposal, accepting arguments presented in the consultation document. However, both organisations felt that more detailed guidance was required. This was a point echoed by a number of organisations.
7. Both the Royal Society of the Prevention of Accidents (RoSPA) and Association of British Insurers (ABI) said there needed to be robust monitoring systems in place to assess effectiveness of the approach.
8. A few of the judiciary representatives felt the proposed fixed penalty could be used inappropriately, and that a lack of resources may result in police not taking all cases to court. They also argued that the decision to offer the FPN or remedial training should not be taken at the roadside. The National Bench Chairmen's Forum (NBCF) thought the courts should be allowed to offer courses to offenders convicted of more serious careless driving offences.
9. The Association of Chief Police Officers (ACPO) indicated that low harm careless driving offences were best dealt with by either education or a fixed penalty in order to achieve longer term behaviour change.
10. The Police Federation of England and Wales welcomed the proposal but emphasised the importance of having a national overarching strategy in relation to road safety and roads policing to achieve consistency and reductions in casualties. The Metropolitan Police supported the proposal but said this may lead to an increase in contested FPNs as careless driving was not an absolute offence.
11. The Association of Chief Police Officers in Scotland (ACPOS) supported the proposed approach but highlighted differences in Scotland which the proposed operational guidance would need to reflect, in relation to criteria for issuing an FPN, court processes and the offer of remedial training.
12. Parliamentary Advisory Council for Transport Safety (PACTS) felt that without adequate enforcement and a visible police presence on the roads, the proposed fixed penalty option would largely be unused.

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<sup>3</sup> Including Police, Courts, Local Authorities, Road Safety Interest, Business Interest, and Other Interest and Other Groups

<sup>4</sup> Road safety compliance consultation, DfT, 2008.

13. The AA required clarification on how the offence would be dealt with and the occasions where it would be used and referred to their AA Populus Panel, which asked for members views about the proposal in June 2012, where 52% agreed and 19% strongly agreed
14. Brake argued that offenders should not be allowed to escape penalty points for taking courses. The Cycling Touring Club (CTC) were concerned that too many aspects of bad driving were being dealt with by educational courses.
15. Of the 72 organisations, 21% disagreed with the proposed fixed penalty. This included 28% of the courts, 23% of road safety interest groups and 30% of other groups.
16. The Association of British Drivers (ABD) were strongly against proposal because of the subjective nature of the offence, a view which was shared by some of the judiciary representatives. There were several organisations who considered the offence was being downgraded, including .Roadpeace, the Road Danger Reduction Forum (RDRF) and the National Council for Inland Transport Forum.
17. The Institute of Advanced Motorists (IAM) argued that a 'one size fits all' remedial training course would not be as effective as something more targeted on specific offences.

***Q2: Do you agree that the FPN offence should carry three penalty points and a fine of £90?***

<b>Representative group</b>	<b>Agree</b>	<b>Disagree</b>	<b>No comment</b>
Business interest	2	0	1
Courts	16	4	1
Individual	95	201	14
Local Authorities	3	0	0
Police	13	1	2
Road safety interest group	8	4	1
Other interest group	8	6	0
Other	1	1	1
<b>TOTAL</b>	<b>146</b>	<b>217</b>	<b>20</b>

18. 38% of respondents supported the proposed penalty level with 57% disagreeing. 5% of respondents chose not to comment on the question.

*Members of the public*

19. 31% of members of the public agreed that the proposed penalty should carry 3 penalty points and a £90 fine.
20. 65% of members of the public disagreed with just over a quarter of respondents considering proposed penalty levels as a revenue-raising exercising which was unfair in a time where motoring was already expensive. A smaller proportion of respondents felt £90 was too high and that £60 was more than sufficient. A number of respondents thought the fine should be higher and without penalty points.
21. A few respondents considered penalty points were more of a deterrent than the financial penalty and thought these should be higher. Some respondents said there should be a sliding scale system depending on seriousness of the offence committed, while others felt the financial penalty should be linked to a person's income.

### *Organisations*

22. 69% of those organisations agreed with the proposed penalty level and points. This included 81% of the police, 57% of the courts, 62% of the road safety interest groups and 100% of local authorities
23. A number of organisations including the courts, road safety and other interest groups, agreed with the arguments set out in the consultation document for setting the penalty at the proposed levels. There were however a number of organisations which felt the penalty should be higher to reflect the seriousness of the offence.
24. 22% of organisations disagreed with penalty proposed. There were several organisations which felt the penalty level should be higher for it to be a more effective deterrent. Some organisations said fines should be linked with income.

### ***Q3. Do you agree with the criteria for the guidance on issuing a FPN or remedial training?***

<b>Representative group</b>	<b>Agree</b>	<b>Disagree</b>	<b>No comment</b>
Business interest	2	0	1
Courts	13	7	1
Individual	157	101	52
Local Authorities	3	0	0
Police	13	0	3
Road safety interest group	9	4	0
Other interest group	6	6	2
Other	1	1	1
<b>TOTAL</b>	<b>205</b>	<b>119</b>	<b>59</b>

25. 53% of respondents agreed with the proposed criteria for the guidance with 31% disagreeing. 16% of respondents chose not to comment on the question.

#### *Members of the public*

26. 51% of members of the public agreed with the proposed criteria. Not many respondents provided additional comments but those that did thought the offer of remedial training would be more effective than the fixed penalty.
27. 32% of members of the public disagreed. Many respondents were concerned that the behaviours described could vary and were unclear on how these behaviours would be measured. Other respondents thought the criteria were too open for interpretation. A number of respondents thought remedial training should be offered in the first instance as oppose to the fixed penalty. Concerns of revenue-raising were also mentioned by a minority of respondents.

#### Organisations

28. 63% of organisations agreed with the criteria proposed. This included 62% of the courts, 69% of the road safety interest groups, 81% of the police and 100% of local authorities.
29. A number of the judiciary representatives said the guidance needed to be kept under review to ensure the FPN was being used appropriately and consistently across the country including the MA and JCS among others.
30. The NBCF thought the judiciary should be given the opportunity to comment on any draft guidance issued for the FPN. In addition, PACTS felt a high-level group should be brought together to assist ACPO in the development of guidance.
31. A number of organisations felt the guidance should mention those driving behaviours which effect vulnerable road users. RoSPA were not sure whether cases where there had been a "public complaint" should be excluded given that such a complaint may or may not be justified. The South Yorkshire Safer Roads Partnership were concerned that the guidance would exclude the use of e.g. support staff mobile camera enforcement teams and Police Community Support Officers being used to capture such offences and requested a clearer definition on what was meant by "witnessed by a police officer".
32. Brake were concerned that the guidance did not make sufficiently clear that only the lowest-level offences should be dealt with using an FPN. The ABI were concerned that the guidance did not consider repeat offending and wanted to see more clarity on the types of driving offences that would result in an offer for remedial training. This was also mentioned by the Direct Line Group.

33. The AA said that drivers should be stopped by the police after committing the offence as it was not clear that offences could be processed by post some time after the event.
34. 25% of organisations disagreed with the proposed criteria. With the judiciary, some felt that if guidance was going to be introduced, then it should reflect the sentencing guidelines, whereas others felt there was a lack of clarity with the proposed criteria. There was strong view among this group that the development of operational guidance should be subject to the involvement/agreement HMCTS, the MA, road safety interest groups and other interested parties.
35. A few road safety interest groups wanted to see a clearer distinction between careless and dangerous driving before the FPN scheme was introduced.
36. The CTC disagreed with the criteria for regarding the police having to observe the offence. They suggest that as many cyclists are recording the behaviour of other road users, the guidance should allow the use of offences caught on cameras, providing the quality is of a reasonable standard.
37. One respondent thought it was slightly premature to encourage the use of remedial training when there was no clear evidence on the effectiveness of these courses. Another respondent questioned who would be monitoring these courses and that the present system meant that training option would not be available for everyone.



## Increasing levels for motoring fixed penalty notice offences

38. For proposals to increase the penalty levels for many of the motoring FPNs, respondents were asked four questions. This section sets out the level of support and comments received for each of those questions

***Q4: Do you agree we should increase the penalty levels for most endorsable plus seat belt wearing fixed penalty offences to £90? If not, please explain your reasons why.***

Representative group	Agree	Disagree	No comment
Business interest	2	1	0
Courts	17	2	2
Individual	118	183	9
Local Authorities	2	0	1
Police	10	4	2
Road safety interest group	12	1	0
Other interest group	11	3	0
Other	1	1	1
<b>TOTAL</b>	<b>173</b>	<b>195</b>	<b>15</b>

39. 45% of respondents agreed with increasing the penalty levels for most motoring FPNs from £60 to £90, with 51% disagreeing. 4% of respondents chose not to comment on the question.

### *Members of the public*

40. 31% of members of the public agreed with the proposed increase. There were several respondents who thought the financial penalty should be higher than the proposed £90 in order to provide a deterrent effect.

41. 59% of members of the public disagreed with just under half of respondents saying this was another tax on the motorist, which would affect those on low incomes and was unjustified in the current economic climate. A smaller proportion of respondents said the penalty should be higher than the proposed £90, whilst many others thought the current levels were more than sufficient.

42. There were a number of respondents who thought the seatbelt wearing fixed penalty should not be increased. There were several respondents who did not think increasing the penalty would not act as a deterrent and that additional penalty points or placing more effort into education would be more effective. A small number of respondents thought the fines should be linked to a person's income.

### *Organisations*

43. 76% of organisations agreed with the proposal. This included 81% of the courts, 92% of road safety interest groups and 62% of the police.
44. The AA suggested that a lower rise of around £75 or £80 was considered and that the £90 is set at date in the future to reduce the linkage with revenue. The proposal did not have majority support among their members, with 49% believing a change was unnecessary, 12% thinking the increase was too large and only 28% felt the rise was needed with another 6% feeling that the proposed rise is not enough.
45. The Freight Transport Association (FTA) said they would support a review of penalties, for example, on a 2 yearly basis.
46. 15% of organisations disagreed with the proposal. The ABD and the Motorcycle Action Group saw the proposal as an attack on motorists.
47. Brake suggested the fine should be raised to £500 at the very least. Network Rail were concerned with motoring offences involving level crossings and felt these penalties should be higher due to the danger it creates for rail passengers, pedestrians and other motorists. Both Cheshire and Hampshire Police thought that the seatbelt wearing fixed penalty should not be increased, and that the current £60 fine was proportionate to the offence.

***Q5: Do you agree we should increase the levels for non-endorsable fixed penalties to £45 (excluding parking offences)? If not, please explain your reasons why.***

<b>Representative group</b>	<b>Agree</b>	<b>Disagree</b>	<b>No comment</b>
Business interest	2	1	0
Courts	16	1	4
Individual	137	151	22
Local Authorities	2	0	1
Police	11	2	2
Road Safety interest group	12	1	0
Other interest group	9	4	1
Other	1	1	1
<b>TOTAL</b>	<b>190</b>	<b>162</b>	<b>32</b>

48. 50% of respondents agreed with the proposal to increase non-endorsable FPNs from £30 to £45, with 42% disagreeing. 8% of respondents chose not to comment on the question.

*Members of the public*

49. 44% of members of the public agreed with the proposed increase. Although there were a number of respondents who felt the penalty level should be higher.
50. 49% of members of the public disagreed with the proposal. Over a third of respondents did not think the penalty level should be increased because of the current economic climate, as it would disadvantage those on low incomes, and be perceived as a government money-making scheme.
51. A smaller proportion of respondents thought the increase would not act as a deterrent. A number of respondents said the penalty level should be higher and others thought it was too high and that current level was sufficient.

### *Organisations*

52. 73% of organisations agreed with the proposal. This included 92% of road safety interest groups, 76% of the courts and 69% of the police.
53. There were a number of organisations which felt the proposed increase was too low and should be higher to act as a sufficient deterrent
54. 14% of organisations disagreed with the proposal. The ABD said the penalties should increase in line with the consumer prices index. The ACPOS suggested an alternative proposal would be to make the offences within this category more meaningful classifying them as endorsable offences with the application of one penalty point. The Scottish Justices' Association thought it was odd to determine penalty levels by the 2012 price of commercially-run driver education courses.
55. Brake did not think increase was sufficient enough to reflect the seriousness of these offences and recommended non-endorsable FPNs be set at a minimum of £500. CycleHerts noted that the consultation was not for motoring offences so cycle offences should not be included.

***Q6: Do you agree we should increase the fixed penalty level for driving without insurance to £300? If not, please explain your reasons why.***

<b>Representative group</b>	<b>Agree</b>	<b>Disagree</b>	<b>No comment</b>
Business interest	2	0	1
Courts	13	6	2
Individual	166	134	10
Local Authorities	3	0	0
Police	11	3	2
Road Safety interest group	11	2	0
Other interest group	11	3	0
Other	1	1	1
<b>TOTAL</b>	<b>218</b>	<b>149</b>	<b>16</b>

### *Members of the public*

56. 53% of members of the public agreed the FPN level for driving without insurance should be increased. Many respondents felt the penalty should be even higher than £300 as the cost of insurance was significantly higher.
57. 43% of members of the public disagreed with the proposal. Just over half of these respondents felt the penalty should be higher than £300 considering the cost of insurance was so much greater. There some respondents who felt that this would not deter motorists and a small minority thought the FPN should be dropped and only be dealt with in the courts. A few other respondents thought there needed to be greater regulation of the insurance industry to keep of the cost of insurance down.

### *Organisations*

58. 71% of organisations agreed with the proposed increase. This included 78% of road safety interest groups, 62% of the courts and 73% of the police.
59. A number of organisations considered the penalty should be even higher to provide the deterrent required for those drivers who do not purchase insurance.
60. The ABD did not object to the proposed but suggested the Government needed to tackle the rising insurance costs, which contribute to the those who drive without insurance. The AA said that many drivers felt that low penalties for uninsured driving were among the reasons why people choose to drive while uninsured.
61. 18% of organisations disagreed with the proposed increase. A number of organisations thought the penalty proposed should be higher.
62. ACPO had some concerns that the increase would lead to further cases of offender failing to pay and/or going to court where the outstanding fine is reduced and additional time given to pay.
63. PACTS felt the government should look at the factors that discourage drivers from taking out insurance and respond to these in addition to more enforcement. The JCS were not convinced of the argument for change at this time as in may in practice result in greater enforcement activity by the courts in pursuing payments.
64. Some organisations argued whether it was appropriate to have the offence as a fixed penalty and that it should be returned to the court system.

***Q7: Do you have any views on whether to increase the fixed penalty levels for the offence of keeping a vehicle without insurance? If so, or if not, please explain your reasons why.***

*Members of the public*

65. Of the 301 members of the public who responded to the question, a large proportion of respondents felt that keeping a vehicle without insurance should not be an offence because if the vehicle is off road it should not require insurance.
66. A smaller proportion of respondents agreed with the proposed increased with a similar number disagreeing with the proposal. There were a number of respondents who had no particular views about the proposal. A few respondents felt that there was a lack of awareness about the offence which needed more publicity.

*Organisations*

67. Of the 72 organisations, over a third of these organisations felt that as Continuous Insurance Enforcement (CIE) scheme was a relatively new offence, it was too soon to make changes.
68. The ABD had never seen the point of this offence as their view was only vehicles kept on the public highway should be insured. The IAM wanted to see better promotion of the CIE scheme, as some people may be unaware of the requirement to be continuously insured.

***Q8: Do you think graduated fixed penalties should be increased to the levels being proposed for other motoring FPNs in the consultation document? If not, or if so, please explain your reasons why.***

*Members of the public*

69. Of the 278 members of the public who responded to the question, more than a third of respondents agreed with increasing the levels for graduated fixed penalties. A similar proportion of respondents disagreed with the proposal saying that the current penalty was sufficient and that increasing penalty levels in this economic climate would be perceived as a revenue raising exercise by the government.

*Organisations*

70. Of the 72 organisations, more than half of these respondents agreed that graduated fixed penalties should be increased in line with other penalties. There were some respondents who thought the existing penalty should not be increased as the scheme had not been in place long enough to determine if the levels have been set fairly. This included the Road Haulage Association and FTA.

## **Government response to consultation**

71. We would like to take this opportunity to thank all respondents who have contributed to this consultation. We have carefully considered all of the comments made in response to this consultation and have decided the following:

### *Question 1-3: Careless driving fixed penalty offence*

- i. We have decided to make careless driving a fixed penalty notice offence and open to the offer of remedial training. We acknowledge the concerns raised by respondents regarding the subjectivity of the offence. However, the principal aim of the fixed penalty is to improve the efficiency of the current enforcement regime in order to tackle low level offending, therefore enabling the greater use of educational courses to address such careless driving behaviours.
- ii. We intend to set the careless fixed penalty level at £100 with three penalty points. This penalty amount is line with the Government decision taken on penalty levels for motoring FPNs and this is discussed at point (iv) below.
- iii. We have considered the comments made in relation to the operational guidance criteria on the use of the FPN. In view of the broad consensus, the Association of Chief Police Officers intend proceed with the guidance criteria but will make clearer that only the lowest levels of careless driving behaviours are to be dealt with by a fixed penalty.

### *Questions 4-8: Increasing levels for motoring fixed penalty notice offences*

- iv. We have decided to proceed with this policy but intend to increase some penalty levels by two-thirds. This would see the £60 and £30 FPN levels increase to £100 and £50. By raising the penalty amount to this level it will effectively provide built in to cover for a few more years of inflation, removing the need to review penalty levels in the longer term. Also, £100 is the maximum amount stated in the Strategic Framework for Road Safety. The increase would bring FPN levels similarly in line with other penalty notices, hence reducing the risk of these FPN offences being perceived as trivial and inconsequential. In addition, it would ensure that the cost of the fixed penalty would remain higher than the cost of remedial training (e.g. speed awareness courses are currently £90 per head) encouraging offenders to opt for remedial training courses, where they are offered. We acknowledge comments raised by respondents

regarding the unfairness of increasing penalty level in current economic climate. However, those who do not commit these offences would not need to pay the penalty;

- v. We have decided to proceed with the 50% increase for the driving without insurance fixed penalty. This will bring the penalty amount in line with the average court fine awarded in court, which is just under £300. A significant proportion of respondents felt the penalty amount should be much higher than £300. However, if the penalty is any higher it may have a negative impact on the number of offenders likely accept and pay the fixed penalty, thus reducing the effectiveness of the FPN.
- vi. For the Continuous Insurance Enforcement scheme, we have decided against increasing the penalty level. The scheme itself is relatively new, having been only introduced in 2011, and therefore agree with comments expressed that it may be too soon to change the penalty amounts.
- vii. In line with the above, Graduated Fixed Penalties and Financial Deposits, these penalty levels will also be increased by two-thirds, which will raise current levels from £30, £60 and £120 to £50, £100. However £200 level will increase by 50% to £300. This will ensure that the consistency between the penalty levels is maintained. As part of the Graduated Fixed Penalty and Deposit there are, for the worst non-UK drivers, VOSA officers issue what are termed 'Court Financial Penalty Deposits'. During the consultation Vehicle and Operator Services Agency suggested that these deposit amounts should also be increased by 50% from the current levels to ensure they still remained higher than the highest level Financial Penalty Deposit Amount (currently £200 but will increase to £300). Therefore, we have decided to increase these amounts by 50% to ensure parity with the increases to the penalty deposits."

## **Next steps**

72. We aim to bring the above changes into force by July this year. This will require changes to secondary legislation. The implementation date will coincide with the completion of the national computer system, currently being rolled to all the police forces and Magistrates' courts in England and Wales. The new computer system will be used to record and process fixed penalty notice offences, and will enable police forces to deal with these offences more efficiently.