



Home Office

SECONDARY LEGISLATION FOR DRIVER OFFENDER RETRAINING COURSES FOR ROAD TRAFFIC OFFENCES

Proposal to Add 13 Offences to Schedule 3 of the Road Traffic Offender Act

Government response

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Introduction and contact details

This document is the post-consultation report for the consultation paper, 'Secondary Legislation for Driver Offender Retraining Courses for Road Traffic Offences: Proposal to Add 13 Offences to Schedule 3 of the Road Traffic Offender Act'.

It will cover:

- Introduction: Government approach
- the background to the consultation
- a summary of the consultation responses
- a detailed response to the specific questions raised within the scope of this consultation
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting the Roads Policing Policy team at the address below:

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Alternative format versions of this publication can be requested
NDORS_consultation@homeoffice.gov.uk.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

Background

1. The consultation paper 'Secondary Legislation for Driver Offender Retraining Courses for Road Traffic Offences' was circulated to stakeholders on 1 December 2023. It invited respondents to raise any concerns or comments on the proposal to add 13 fixed penalty offences to Schedule 3 of the Road Traffic Offender Act 1988 (RTOA 1988) prior to including them in the National Driver Offender Retraining Scheme (NDORS) Regulations. It also invited respondents to flag any risks or unintended consequences of adding these offences to Schedule 3 of the RTOA 1988.
2. The Home Office has a statutory duty to consult with representative organisations before adding further offences to Schedule 3 to the RTOA 1988.
3. The consultation period closed on 11 January 2024 and this report summarises the responses, including how the consultation process influenced the further development of the proposal consulted upon.

Background and context

4. Persons who commit certain low-level road traffic offences may, under existing powers, be offered educational courses under the National Driver Offender Retraining Scheme (NDORS). Such courses are offered as an alternative to an offer of a fixed penalty notice, and therefore a driver who successfully completes a course is not required to pay a fixed penalty amount in relation to the offence, or to have points endorsed on their driving record.
5. The operation of the NDORS allows the police the discretion to deal with low level driving offences without reference to the courts by offering training courses as an alternative to prosecution.
6. The current course fee is approximately £100 and can vary according to local course arrangements. A motorist who decides to accept a course is required to pay a fee that covers the cost of administering and providing the course.
7. NDORS is non-profit generating with any surplus used to promote road safety as defined in the Police, Crime, Sentencing and Courts Act 2022 (PCSCA 2022) as the prevention, detection or enforcement of offences relating to vehicles. The surplus may be used with road safety partnerships and on funding for speed cameras.
8. The NDORS is run by UK Road Offender Education (UKROEd), a subsidiary of the charity the Road Safety Trust, which is owned by the 43 police forces and chaired by the National Policing Lead for Roads Policing, currently Chief Constable Jo Shiner of Sussex Police.

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9. UKROEd are responsible for the course design and specification, quality assurance, national coordination and for holding a database of motorists' details and all available NDORS courses across the UK. Local forces have agreements with local course providers (local authorities, police forces, not-for-profit organisations, and private companies) who are licensed and trained as part of NDORS.
10. The UKROEd model ensures national consistency and high standards. The courses are scientifically based products and can be taken outside the force area where the offence occurred.
11. The provisions inserted into the RTOA 1988 by s.89 of the PCSCA 2022 put the existing charging regime for the educational courses offered as an alternative to prosecution on a specific statutory basis. They have not changed the way in which courses are offered or administered, although it will enable greater transparency over how the fees are calculated and used.
12. In the NDORS regulations we propose to formalise the current arrangements for the educational courses offered as an alternative to prosecution and ensure that the charging regime is followed in accordance with the current legislation.
13. We also propose to specify the fixed penalty offences for which educational courses may be offered under the NDORS, the body responsible for the approval of courses, and the level, calculation, and use of the fee. Furthermore, provision may be made to prevent courses being offered to repeat offenders.

Fixed Penalty Notices

14. The fixed penalty system for motoring offences is established by Part 3 of the RTOA 1988. It provides a quick, simple and direct way of dealing with a wide range of relatively minor road traffic offences whilst preserving the right of individuals to challenge an alleged offence in court. Fixed penalties make enforcement easier and less time consuming for the police, and substantially reduce the number of cases brought before the courts.
15. The fixed penalty motoring offences for which a fee can be charged for enrolment on an approved course are listed within Schedule 3 to the RTOA 1988. The amendments made to the RTOA 1988 by the PCSCA 2022 defined "fixed penalty offences" as being listed under Schedule 3 to the RTOA 1988.
16. However, not all Schedule 3 fixed penalty offences are appropriate to be dealt with by way of a diversionary course. The National Police Chiefs' Council (NPCC), in consultation with UKROEd, will also need to have deemed certain Schedule 3 offences as suitable for educational course as an alternative to a fixed penalty.

Proposal to add additional fixed penalty offences to Schedule 3 of the Road Traffic Offenders Act 1988 and to the NDORS regulations

17. The NDORS regulations will set out the fixed penalty offences for which NDORS courses may be offered, if it is considered appropriate to do so. Following analysis, we have determined that some relevant offences fall outside of Schedule 3 of the RTOA 1988. We consulted on 13 of these offences - which are mostly related to cycling (see the table below). These offences are minor road traffic offences which UKROED and NPCC have concluded are suitable for an educational course to be offered as an alternative to a fixed penalty or prosecution.
18. S.51(3) of the RTOA 1988 allows the Secretary of State to add further fixed penalty offences to Schedule 3 of the RTOA 1998 through secondary legislation. We therefore propose to add these further offences to Schedule 3 of the RTOA 1988.
19. Our objective is to update the list of fixed penalty offences - for which NDORS courses are allocated - under Schedule 3 in advance of laying the NDORS regulations in 2025. Adding the further fixed penalty offences to Schedule 3 of the RTOA 1988 through secondary legislation will allow us to include them in the full Schedule of all 'NDORS' offences within the NDORS regulations.

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We consulted on the proposal to add the following offences to Schedule 3 to the Road Traffic Offenders Act 1988

	Offence	Legislation
<u>SACC (Safe and Considerate Cycling)</u>		
1	Use of a pedal cycle at night without lights or reflector being fitted	S.91 RTOA 1988, regulation 23(1) Road Vehicles Lighting Regulations 1989
2	Use of a pedal cycle when the lights are not in good working order	S.91 RTOA 1988, regulation 23(1) Road Vehicles Lighting Regulations 1989
3	Use of a pedal cycle without lights at night	S.91 RTOA 1988, regulation 24(a)(i) Road Vehicles Lighting Regulations 1989
4	Use a non-motor vehicle with a lamp used to cause undue dazzle or discomfort	S.91 RTOA 1988, regulation 27 Road Vehicles Lighting Regulations 1989
5	Fail to comply with instructions on a notice from a constable regarding the use of a pedal cycle in a Royal Park	S.2(1) Parks Regulation (Amendment) Act 1926, regulation 3(9)(a) The Royal Parks and Other Open Spaces Regulations 1997
6	Riding a pedal cycle in a dangerous manner in a Royal Park	S.2(1) Parks Regulation (Amendment) Act 1926, regulation 3(10)(c) The Royal Parks and Other Open Spaces Regulations 1997
7	Using a vehicle or cycle in the dark with no lights in a Royal Park	s. 2(1) Parks Regulation (Amendment) Act 1926, regulation 3(11)(a) The Royal Parks and Other Open Spaces Regulations 1997
8	Cyclist holding on to a vehicle for the purpose of being drawn along	S.26(2) RTA 1988
9	Cyclist holding on to a trailer for the purpose of being drawn along	S.26(2) RTA 1988
10	Cycle on a road without due care and attention or reasonable consideration for other users	S.29 RTA 1988
11	Cycle on a road dangerously	s.28(1) RTA 1988

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<u>What's Driving Us</u>		
12	Fail to stop at a school crossing patrol	S.28(3) Road Traffic Regulation Act 1984 (RTRA 1984)
13	Fail to wait at a school crossing patrol	S. 28(3) RTRA 1984

A list of respondents is at Annex A.

Summary of responses

20. A total of 14 responses to the consultation paper were received. Of these responses, approximately half were from road safety organisations or cycling charities. The remainder were from the National Police Chiefs' Council (NPCC), Metropolitan Police Service (MPS)/Transport for London (TFL), UKROED, Parliamentary Advisory Council for Transport Safety (PACTS), 2 x County Councils and a Police and Crime Commissioner's Office.
21. The responses were analysed to determine the level of support for the proposal among stakeholders, and to identify any common comments and concerns within responses, including any risks or unintended consequences of implementing the proposal.
22. In summary, NPCC, Powys Council, Flintshire Council, PACTS, RAC, UKROEd, Royal Society for the Prevention of Accidents (RoSPA), Road Safety Great Britain (over half of respondents) supported the proposal to add the 13 offences to Schedule 3 of the Road Traffic Offenders Act.
23. There were some concerns about the inclusion of more serious offences which present a road safety risk as fixed penalties. The Durham PCC raised concerns about the inclusion of the offences of failing to stop at a school crossing and failing to wait at a school crossing. While the joint TFL/MPS submission and Action Vision Zero both raised concerns about the inclusion of dangerous cycling.
24. In addition to expressing views on the specific proposal, some respondents raised broader points which are outside the scope of this consultation, including on:
- Issues with the recruitment and retention of School Crossing Patrol Officers, and the suggestion to provide these personnel with Body Worn Cameras to capture evidence of motoring offences and to understand the extent of motoring offences committed at school crossings.
 - The need for the Home Office to conduct further research on the relationship between roads policing enforcement and road safety, and for the Government to progress the Road Safety Investigation Branch which would investigate such issues.
 - The need for increased enforcement and penalties against 'failure to wear a seatbelt' offences, and the observation that the Department for Transport's call for evidence on Motoring Offences is yet to be published.
 - A request for the list of fixed penalty offences for which NDORS courses are offered to be published on the UKROEd, NPCC and GOV.uk sites to ensure transparency and ease of access for partner organisations and the public.
 - That this proposal does not appear to address real priorities within roads safety or roads policing.

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- A potential new NDORS training product for drivers who commit motoring offences involving cyclists.
- A request to work with UKROEd to understand the background to proposed changes (including the provision to prevent courses being offered to repeat offenders) and to support the future development of regulations, courses and eligibility criteria.
- The suggestion that lorry drivers being offered NDORS for careless driving in urban areas should be allowed to attend a Safe Urban Driving (SUD) course instead.
- A query about the increase in price for the cycling related NDORS courses.
- To highlight the proposal's potential impact on children under the age of 18.

Responses to specific questions

1. Please let us know if you have any concerns or comments on the proposal. This could include flagging any risks or unintended consequences of adding these offences to Schedule 3 of the RTOA 1988.

Seven of the 14 respondents fully supported or raised no concerns with the proposal. Of these respondents, many cited benefits around driver and rider re-education courses, including that re-education courses encourage better and safer driving and reduce pressure on the Criminal Justice System.

Fail to stop and fail to wait at a school crossing patrol (offences 12 and 13)

Two of the fourteen respondents raised concerns with the proposal to add 'Fail to stop at a school crossing patrol' and 'Fail to wait at a school crossing patrol' to the list of offences for which an NDORS course can be offered, given the seriousness of these offences and the harm they can cause within communities, including to school crossing patrol officers and children. They felt that these offences should be fixed penalty and points endorsed offences only. One of these respondents felt that disregard for a school stopping patrol should be considered more serious than disregard for a red traffic signal, given the risks these offences pose to children.

By contrast, one respondent felt that the inclusion of the 'fail to stop' and 'fail to wait at a school crossing patrol' offences was an acknowledgement of the importance of keeping young people safe on their way to and from school. They felt that the inclusion of these offences would provide support to this area of road safety and to crossing patrol officers. They felt that including these offences is an opportunity to challenge drivers, through attending a training course, to be safer and more considerate when in the vicinity of school crossings.

Dangerous and careless cycling offences (offences 10 and 11)

Three respondents were concerned that the list of offences in the proposal included both dangerous and careless cycling offences, which they felt could set a bad precedent. They highlighted that there is already confusion and overlap between these offences and the careless and dangerous driving offences, and questioned whether any road user behaviour sanctioned as 'dangerous' should be dealt with out of court.

One respondent said it would be useful to understand the rationale for adding dangerous cycling (section 28 Road Traffic Act 1988) to Schedule 3 as suitable for a fixed penalty and a course. They questioned whether, due to its seriousness, it is suitable and proportionate to offer an out of court disposal for this offence, especially given that the Safe and Considerate Cycling (SCC) course is only a 30-minute e-learning course.

By contrast, one respondent said that the dangerous and careless cycling offences are touchstone in terms of the dangerous and ill-advised behaviours which impact on the safety of other road users. They felt that the inclusion of these offences will ensure that safety remains a fundamental part of the SCC and should, in this light, be considered as 'gateway offences' onto the SCC Course. They felt that not including

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these offences would be an opportunity missed to offer offending cyclists critical safety advice.

Government Response

In response to the feedback received to this consultation, the Government has carried out further engagement with NPCC and UKROEd to discuss the concerns which have been raised, including which offences are suitable to be added to the list of offences for which an NDORS course may be offered.

The above offences cover a range of behaviours which would impact on the nature of the safety risks presented (e.g. the dangerous cycling could have taken place on an empty road or in a busy area with lots of other vehicles and pedestrians). It is therefore right that the police officer should decide on the appropriate penalty, taking into account the circumstances of each case. Although an NDORS referral will be available it won't be the only option which the police officer could choose for a penalty. This approach is consistent with the range of other offences which are already included in the Schedule 3 RTOA.

There will be numerous motor vehicle road traffic offences listed in the NDORS regulations schedule of offences, so we can confirm that the Order will not produce an undue focus on cycling offences.

Fixed penalties make enforcement easier and less time consuming for the police, and substantially reduce the number of cases brought before the courts. Re-education is evidenced to reduce re-offending and decisions on what offences are suitable for NDORS courses are ultimately for NPCC and UKROEd, who were content with the proposal.

Following careful consideration, we have decided to go ahead with the proposal to add 9 offences to Schedule 3 of the RTOA. The list has been shortened because following further consideration, we concluded that we could cover the relevant offences and avoid any duplication in Schedule 3 RTOA with a list of 9 rather than 13 offences. The final list of offences is listed below.

Final List of Road Traffic Offences which will be added to Schedule 3 Road Traffic Offenders Act

- 1. Offences under Royal Parks and Other Open Spaces Regulations 1997:**
 - i. Failure to comply with any direction given by a constable or by a notice exhibited by order of the Secretary of State regarding the use of a pedal cycle in a Royal Park or other specified land;**
 - ii. Using a pedal cycle in manner that endangers or is likely to endanger any person in a Royal Park or other specified land;**
 - iii. Using a vehicle or pedal cycle between sunset and sunrise, or in seriously reduced visibility between sunrise and sunset, with no lights in a Royal Park or other specified land;**
- 2. Failure to stop at a school crossing patrol;**
- 3. Cyclist holding on to a vehicle while in motion on a road for the purpose of being drawn along;**
- 4. Cycling on a road dangerously;**
- 5. Cycling on a road without due care and attention or without reasonable consideration for other persons using the road;**
- 6. Offences under Road Vehicles Lighting Regulations 1989:**
 - i. Using a pedal cycle without lights between sunset and sunrise;**
 - ii. Using lamps so as to cause undue dazzle or discomfort to other persons using the road;**
 - iii. Using a non-motor vehicle with any lamp so as to cause undue dazzle or discomfort.**

Conclusion and next steps

We have considered the responses to the targeted stakeholder consultation on the proposal to add 13 fixed penalty offences to Schedule 3 of the RTOA 1988. We received 14 responses to the consultation paper from stakeholders with a direct interest in NDORS courses and road safety.

We will lay secondary legislation to amend Schedule 3 of the RTOA 1988 in January 2025. The NDORS regulations will be laid following this.

The Home Office will continue to work with the police, the Department for Transport, UKROEd and others to monitor the implementation of this Order to add offences to Schedule 3 of the RTOA 1988.

The Government has committed to delivering a new Road Safety Strategy – the first in over a decade. We will set out next steps on this in due course.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

Annex A – List of respondents

Action Vision Zero

Cycling UK

Durham Police and Crime Commissioners Office

Flintshire County Council

London Cycling Campaign

National Police Chiefs' Council Roads Policing Portfolio

Parliamentary Advisory Council for Transport Safety (PACTS)

Powys County Council

RAC Foundation

Road Safety GB

Royal Society for the Prevention of Accidents (RoSPA)

The Bikeability Trust

Transport for London and the Metropolitan Police Service

UK Road Offender Education Ltd (UKROEd)



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