

Road Safety Compliance Consultation: The response of the Parliamentary Advisory Council for Transport Safety

SPEED

1. Do you agree that extreme speeders should receive a 6-point fixed penalty?

Before answering this question, PACTS believes that it is important in any discussion about speed to agree consistent definitions. The imposition of penalty points for speeding offences applies to those drivers guilty of excess speeding (breaking the posted speed limit). In addition, in the reviews of the effectiveness of safety cameras, researchers have used the term “excessive speeders” to describe those driving at more than 15mph above the posted speed limit. If the DfT is to use the term “extreme speeders” on a regular basis, this term will need to be defined and used consistently within government and other publications.

That said, PACTS believes this is an effective mechanism for enforcement, with punishment proportionate to the crime. The connection between speed choice and crash involvement has been highlighted by numerous research studies^{1 2} and punishing higher speeders with a 6 point fixed penalty would reflect the severity of the violation.

However, it is likely that there will need to be some serious consideration about the thresholds and the justification for where any new limit is set. The DfT will need to explain clearly to drivers and to other road users that the setting of a threshold for imposing 6 penalty points instead of 3 in no way implies that speeding up to one threshold is a minor offence and more culpable above it. On the contrary, the risk of death or injury to the driver concerned and to other road users increases progressively and more steeply for every extra mile per hour. The second threshold is therefore a practical simplification of an ideal penalty which would increase the number of points in proportion to the third or fourth power of speed, starting with 3 points at the first enforcement threshold.

2. Do you think that 20/30mph limited roads should have a lower threshold for a 6 point penalty?

Yes. The difference between 35mph and 40mph in a crash is significant. However, PACTS believes a couple of qualifications need to be made to the threshold limits. The table, which appears to assume type approval of cameras in 20mph zones, attributes a too high threshold for 6 point fixed penalties in these areas. Whilst 45mph in a 30mph represents a 50% exceeding of the limit, 35mph in a 20mph zone is a violation of 75% of the original limit. Given what we know about the increase in accident risk associated with increases in speed at these levels, PACTS believes it would be better to extend to 20mph the 50% rule that is proposed for 30mph and 40mph limits and set the 6 point threshold at 30mph for 20mph zones.

¹ Maycock, G et al (1994) Speed, speed limits and accidents, TRL 421. TRL, Crowthorne

² Nilsson, G (2004) Traffic safety dimensions and the power model to describe the effect of speed on safety, Lund Bulletin 221. Lund Institute of Technology, Lund

3. Do you think that 70mph limited roads should have a higher threshold for a 6 point penalty?

No. Notwithstanding the relative safety of roads with a 70mph limit, the 6-point threshold should not exceed the limit by more than 20mph. In addition, on these and all other roads, the police should maintain their current procedure of reviewing evidence supplied by camera to check whether a charge of careless or dangerous driving would be more appropriate.

4. Do you agree that we should not graduate speeding fines?

Yes. Graduating points is sufficient.

5. Do you agree that we should not offer 2-point fixed penalties for marginal breaches of the speed limit?

Yes. This would reduce the perceived importance of breaching the speed limit and potentially further legitimise such breaches.

DRINK DRIVING

6. Do you have any comments on the use of targeted checkpoint testing for drink drivers?

We welcome the introduction of targeted checkpoint testing. PACTS also believes that the effective practice guidelines should be given as much publicity as possible convincing the public of the validity of checkpoint testing and also emphasising the likelihood of it happening to them.

It would be useful if the data could be collected on how many police forces are actually using this option to assess its effectiveness, particularly since we are already aware that the police do not breathalyse everyone following an accident that they attend.

Furthermore, it is still the case that drink driving is not on the list of offences brought to justice that are used to measure the performance of police forces. Including drink driving on this list, and making it a performance measure, could help stimulate greater success in tackling the problem.

7. Do you think we should withdraw the statutory right to a blood or urine test as an alternative to a breath test?

Yes. Due to technological advances it is no longer necessary to use a blood or urine test as an alternative.

8. Please comment on three options in respect to the proposal to take away cover for High Risk Offenders (HROs) to drive after submitting a re-application for a licence, while medical procedures are being carried out?

In order to comment on this proposal sufficiently, it is necessary to know how many accidents occur which involve an HRO driving whilst a decision is being made on their medical fitness.

- **we move now to implement the change provided for in the Road Safety Act 2006 on the basis that we are satisfied that existing procedures allow ample time for medical examinations before a disqualification expires; or**
- **we develop further powers either to require an HRO to submit a medical report with their re-application for a licence or to give them that option, to be implemented probably after we have removed the cover to drive;; or**
- **we defer implementing the change provided for in the Road Safety Act until we also have powers either to require HROs to submit a medical report with their re-application for a licence or give them that option?**

9. Do you agree that the costs of implementing and enforcing a judicial alcohol ignition interlock scheme would be disproportionate?

Yes. Caution is clearly needed concerning the equity, effectiveness, and cost of a judicial scheme. These matters should therefore be kept under review as greater experience is gained in the European context. In the meantime, firms should be encouraged to use alcohol ignition interlocks as a fleet management tool. In addition, some individuals might wish to use an interlock for self-management or management of driving within their household.

10. What priority do you think should be given to a change in the prescribed alcohol limit for driving?

PACTS' believes it is of utmost importance that there is a reduction to not more than 50mg/100ml BAC in the prescribed alcohol limit for driving. The choice of this level is based on the evidence of the proven link between alcohol and crash risk. The move to a lower BAC would send out a clear message to road users about the risks associated with drinking and driving.

11. What evidence are you able to offer – and what further evidence do you consider should be obtained – to support a fully-considered decision on whether or not to change the limit?

In order for a fully-considered decision on whether or not to change the limit to be made, evidence on the proportion of people who record a BAC limit between 50mg/100ml and 80mg/100ml would be helpful. This will be achieved through the current introduction of improved recording equipment for screening and post-accident breath testing and through the roadside survey planned for this year, followed by rapid interpretation of the resulting data. However, there is a body of evidence already available which indicates the casualty savings which could be made if a change in the prescribed limit occurred. The number of lives which could be saved as a result of lowering the limit from 80mg to 50mg/100ml of

blood is estimated at 65 whilst serious injuries could also be reduced by 230 on the basis of annual numbers between 1994 and 2006³.

DRUG DRIVING

12. Do you agree that a new offence of driving with an illegal drug in the body is required to make the regulation of drug driving more effective?

We agree that creating a new offence of driving with an illegal drug in the body may be required to make the regulation of drug driving more effective.

13. Do you think that a new offence should apply to illegal drugs only and not those that have been legally prescribed or obtained?

Any new offence should focus on the issue of impairment. Where impairment can be proven, predominantly this relates to illegal drugs. Any attempt to tackle drug driving should focus on drugs which have the ability to impair driving. Evidence suggests that 95% of the problem with drugs producing impairment relates to illicit drugs, principally cannabis, opiates, amphetamines and cocaine. However, there is also a significant problem with benzodiazepines which can be legally prescribed but are widely abused.

14. How do you think we should identify the drugs that would be the subject of the proposed offence? How should we incorporate new drugs under the proposed offence?

As commented upon above, the identification of the drugs that should be the subject of the proposed offence should be based upon their impairing ability. The easiest way to implement this may be to focus on the five main groups of impairing drugs in the UK.

PACTS suggests that the assessment of the potential for new drugs to be incorporated could be conducted by an organisation such as the Advisory Council for the Misuse of Drugs. Combining their knowledge with that of road safety experts should ensure a rigorous process of assessment.

15. Do you have any other comments about the proposed new offence?

Considerable care and attention will need to be given to the issue of enforcement. It will be important to ensure that the procedures for identifying illegal drug driving are achievable. Current screening devices for testing drugs at the roadside (via saliva) only identify drug groups and not individual drugs. In order to identify the presence of specific drugs, a blood testing procedure will be required, making the process of evidential testing longer and more complicated.

³ Allsop, R (2005) PACTS Research Briefing: Reducing the BAC Limit to 50mg – what can we expect to gain? PACTS, London.

16. Do you have any other comments about our drug driving proposals?

CARELESS DRIVING

17. Do you agree that we should make careless driving a fixed penalty offence?

Whilst PACTS agrees with the principle of the proposal, in that it seeks to reduce bureaucracy and paperwork for the police force, it has a number of reservations.

Currently, a decision to prosecute for driving without due care and attention is a matter for an individual police officer and the Crown Prosecution Service. This decision is based on the evidence gathered and a judgement about the likelihood of conviction and the public interest of the case.

Under the new proposal, a careless driving fixed penalty notice (FPN) will be a matter of judgement by the police officer. This exercise of judgement is in marked contrast to the current fixed penalty offences, most notably speeding and red light running, which are clear cut. In the proposed new regime, an appreciable proportion of FPNs may result in drivers wishing to defend themselves in court because they question the judgement of the police as to whether they were indeed driving carelessly. To move careless driving into the fixed penalty offence regime suggests a significant change in legal process that should be the subject of Parliamentary debate. If approved, there will also need to be very clear guidance to the police about the issuing of FPNs and the maintenance of enforcement activity in relation to the kinds of careless driving that are blatant or serious enough to warrant prosecution without the option of a fixed penalty.

There may also potentially be unintended consequences of such a policy which need to be considered. It would be unfortunate in the extreme if fixed penalties for careless driving offences became equated in some sections of the media or public mind with penalties for speeding offences, thereby potentially devaluing the severity of both offences.

Lastly there will be an issue over whether to issue a fixed penalty notice to a driver or to instead offer them the chance to attend a driver improvement scheme (DIS). The consultation does not make clear how the existing protocol, of offering the chance to attend a DIS in less serious careless driving instances, will be integrated with the FPN proposals. If it becomes the case where the use of FPNs becomes widespread we may well be losing a key educational opportunity. Even though evaluation of the DIS thus far has proved mixed, the chance to attend such a course remains a rare chance to offer further education to drivers and the introduction of the FPN for careless driving should not come at the cost of this.

18. Do you agree that the fixed penalty for careless driving should be £60 and 3 penalty points?

Yes, this would be appropriate in the road safety context. However, at the moment the range of penalty points for a careless driving offence is 3-9 with a maximum £5000 fine. Although this fine and the upper end of the points scale are rarely awarded the

DfT should consider the use of variable penalties dependent on the seriousness of the offence, unless the use of FPNs is strictly confined to the least serious occurrences and the more serious ones continue to lead to prosecution.

19. Do you have any further comments about our careless driving proposals?

PACTS believes that, given the issues highlighted previously concerning penalties, there may need to be a review of civil and criminal fines across all motoring offences to ensure that they are appropriate.

DRIVER RETRAINING AND RE-ASSESSMENT

20. Do you think we should specify a retraining course for cases where a vocational licence has been revoked on the advice of the Traffic Commissioners?

Yes. We know buses, coaches and HGVs pose significant risk thus specifying a retraining course is a good idea.

21. Do you think that disqualified drivers who are subject to a re-test should be required to take remedial training first?

Yes, but not in all cases. The decision to require remedial training should be based upon a series of factors perhaps most importantly the nature of the offence. Before such a decision is made discussion with magistrates needs to occur to discover how appropriate they think such a provision would be and how often they would utilise this. Research into re-offence data would help to indicate the number of cases where the similar types of offences are committed on successive occasions.

22. Do you agree that we should develop a course for people who incur penalties while subject to the New Drivers Act, linked to a new assessment for the recovery of a revoked licence?

The issue here may actually be one of insurance as a significant proportion of new drivers who lose their licence do so through being uninsured. In these instances, it may not be appropriate or cost-effective to offer a new assessment or re-training course for those who have lost their licence. It may be more sensible to have further discussions with the insurance industry about the best methods for encouraging New Drivers to take out insurance.

23. Please comment on the three options for the proposal in question 22:

- **it could be a mandatory step to recovering a revoked licence;**
- **it could be offered as an alternative to revocation – a driver accepting remedial training would be allowed not to incur points for the offence which would otherwise trigger a revocation (this option would require primary legislation);**

- **it could be available to other new drivers incurring points that were not of sufficient number to trigger revocation.**

The suggestion that further training courses should be developed to act as both pre- and post-court disposals is an interesting but very complex one. In principle, PACTS agrees that education and training interventions offer a positive alternative to the loss of licence with the potential outcome that a driver falls out of the legal licensing system.

Initial evaluation of the Driver Improvement Scheme, however, suggests that such courses do not always achieve the desired outcomes. In addition, until Speed Awareness courses become widely available, there will be no evidence about the effectiveness of such interventions.

PACTS therefore believes that the three alternatives set out in the question ought all to be properly evaluated since they offer different approaches to separate (but overlapping) client groups.

24. Do you think we should change the rules relating to designated countries in the New Drivers Act? If so, how?

PACTS has no view on this question.

25. Do you have any further comments on our proposals on driver retraining and re-assessment?

See above in answer to question 23.

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