

Department for Transport discussion note on graduated penalties The Slower Speeds Initiative response

Appropriate speed limits and vehicle design should be the means of controlling danger and all the other impacts of speed. For this reason they have always been the main focus of the Slower Speeds Initiative. Reliance on enforcement and highway engineering measures are indicators of failures in system design which impose avoidable burdens on society in general and on the police and local authorities in particular. Although some penalties for unacceptable driver behaviour will always be necessary, they become very much more important in the absence of the reforms we advocate.

1. **Question 1:** *Do you agree with the Government's view that there is a case for fixed penalties for speeding to be more graduated, with higher penalties for more serious categories of speeding, and lower penalties for less serious cases?*
2. While the Government may have a view that there is a case for graduated penalties, that case is not made in the discussion note. Above all, there is no discussion of the criteria according to which the 'seriousness' of speeding offences should be determined.
3. The discussion paper acknowledges the importance of appropriate speed limits and looks forward to a consultation in the near future on revised guidance on setting speed limits. It is odd that the Government should wish to revise the penalty system to better reflect the seriousness of the offence when the seriousness of the offence, in effect, is itself about to be reviewed.
4. It is also odd that the Government have decided that some speeding offences have been dealt with too harshly. In its 2000 consultation on Road Traffic Penalties, the Government recognised a relationship between penalties and road safety. They noted the need to change attitudes to speeding as an offence 'seen by some as less serious, or involving little risk to others', promising 'we must start to change any perception that [these] are mere regulatory offences.' A 'quicker route to totting up disqualification' had been expected, not a slower one.
5. We are hopeful that the consultation on revised guidance for setting speed limits will for the first time allow speed limits to be evidence-based and will also begin to integrate speed limit policy with wider policies on, especially, community safety and the public realm.
6. This consultation on graduated penalties presents no evidence in support of the proposals and no assessment of the likely impacts. It does not say what problem reduced penalties are meant to solve. It is hard — impossible — to avoid the conclusion that the proposals as outlined are part of a strategy to reduce controversy over speed limit enforcement in the run up to a general election. We realise that this is a serious charge, sincerely regret that it is an obvious conclusion and register our horror at the Government's clear willingness to jeopardise the lives of road users, particularly the most vulnerable, in a gesture to the motoring lobby and its press.
7. **Our objections to downgrading speeding offences are based on principle, the available evidence and the need for drivers to take all speeding offences much more seriously than they do at present.** The message sent by increased leniency for speeding offences would completely undermine changes in understanding, behaviour and attitudes needed in order to reduce the incidence of speeding.
8. If the seriousness of speeding offences is determined according to the degree of danger to which drivers can expose themselves and other road users through their choice of speed in the event of a mistake or conflict, then most speed limits are inappropriately high. If current speed limits and enforcement effort do not properly reflect levels of danger and communicate them to drivers, then the current penalty system is unlikely to do so. This in itself is an argument against relaxing penalties.
9. The lowest limit in widespread use is 30mph. Since impacts at this speed can result in death for up to 45% of pedestrians, it is clear that, as far as danger is concerned, legal speeds are too fast. Even minor speed limit violations make an already too dangerous network very much more dangerous. Pedestrians are the road users accounting for the highest number of deaths

on the urban road network. When differences between vulnerable and motorised road users in terms of exposure by miles travelled are taken into consideration, their casualty levels are hugely disproportionate. There can be no 'less serious' offence in the urban setting.

10. The same concern about inappropriately high speed limits applies to de-restricted roads. Average speeds on the best quality single carriageway roads are around 50mph. The speed limit of 60mph is therefore unnecessarily high and speeds in excess of the limit cannot possibly constitute a 'less serious' offence. The disproportionate frequency of crashes and their severity are already major reasons for reviewing the de-restricted speed limit.
11. **All the evidence — the physics, the speed-crash relationship, the speed injury severity relationship, casualty rates, the context and rates of speeding — indicates that downgrading the offence committed by the majority of drivers — speeding in built up areas and especially within 30mph speed limit — will significantly increase the risk of death and serious injury, especially for pedestrians and cyclists.**
12. This constitutes a very serious injustice, since these road users harm virtually no one and do no environmental damage, but instead contribute to environmental and public health.
13. The injustice is heightened by the fact that speed cameras, which detect the overwhelming majority of speeding offences dealt with by fixed penalty notices, are almost never used until very a serious crash history has been established and by the fact that this requirement is imposed by Government on safety camera partnerships and the communities they serve. The high casualty requirement prevents tens of thousands of communities from receiving protection from speeding drivers and results in totally avoidable death and injury.
14. **Speeding is treated with more leniency than any other crime which can rob people of their lives and well-being.** In addition to speed limits being too high, they are almost never enforced, and where they are enforced, thresholds are well above the already excessively high limits. This has helped to create a dangerous and threatening road environment with innumerable consequences from high burdens of fear and stress, whole lifetimes grieving over the sudden, random and very violent loss of loved ones, distortions of travel patterns and long term impacts on land uses and the environment. These impacts are not equitably distributed.
15. The fixed penalty system imposes the minimum fine and the minimum number of points possible under the law. The totting up process officially sanctions re-offending.
16. Meanwhile, there is abundant evidence that small changes in speed lead to large changes in the consequences. Both the likelihood of crashing and injury severity increase with speed, the latter disproportionately. The sensitivity of crash frequency to speed is strongest in lower speed environments — such as congested urban roads and minor country roads — which provide more opportunities for mistakes and conflicts.
17. Drivers who speed are more likely to crash. To tolerate re-offending and high levels of speeding is to knowingly impose completely unnecessary levels of risk of death and serious injury on the entire population. The indirect costs to the economy and the direct costs to the health service are enormous. There is no evidence that any benefits outweigh these costs. If they do, they are certainly not equitably distributed.
18. **The arguments against downgrading the majority of speeding offences also support harsher penalties for more severe violations.**
19. Driving styles which demonstrate total disregard for public safety and threaten extreme violence are not only tolerated but cultivated under the present enforcement regime. Low levels of enforcement and the lenient treatment of speeding offences, together with dangerously high speed limits, encourage the manufacture and sale of very excessively powerful vehicles which can then be used very inappropriately on the public highway.
20. Very excessive speeds, especially in built-up areas, have no purpose except a form of self-assertion which dominates, endangers and intimidates. Such behaviour amounts to thuggery

and it damages public order with far-reaching effects. There is no reason at all that it should be tolerated, and every reason that it should receive the same official opprobrium as other forms of violent anti-social behaviour. There is more reason: very excessive speed damages more lives, affects more people, is in many cases easy to predict and detect and there is a legal framework to address it. Furthermore, excessive speeding, especially in urban areas where it is accompanied by sudden acceleration and deceleration, leads to very excessive emissions and fuel consumption and constitutes a so far unacknowledged environmental crime.

21. **There is a case for much higher penalties for high end offences.** Repeat offending should not be tolerated. There should be a threshold for defining an automatic charge of dangerous driving to ensure that drivers who display complete disregard for the safety of others and their right to use the public highway are brought before the court. Disqualification should be a minimum and standard feature of sentences for dangerous driving.
22. **Question 2:** *If you do not agree with a graduated system, do you support the present structure of penalties, or would you wish to see an alternative approach?*
23. What is needed is a progressive approach that will result in securing maximum compliance with minimum effort in the shortest possible time, with a goal of operating the system of road traffic law to parameters that reflect the social optimum and the values of equality, justice and the abhorrence of brutality which are honoured in the rest of the legal system.
24. There is a terrible anomaly, given the rationale for speed limits, in the way that speeding, and the violent killing and maiming that too frequently results, are treated in sentencing. As we have observed, the fixed penalty process currently imposes the minimum possible penalty. This leniency does not encourage drivers to think they have done anything particularly wrong, let alone dangerous.
25. An effective policy to change attitudes to speeding, based on increased awareness of the dangers and impacts on others, should be put into place. The goal should be the understanding, shared by the police, the courts and the public, that to exceed the speed limit is by definition to drive dangerously, since speed limits are a means of curbing danger for the benefit of society as a whole. We are very far from operating the system in this way.
26. So the problem is how to get drivers to understand the realities of speed while not at the same time denying these very realities in the process of evolving the system to the appropriate state.
27. Assuming that policy will become at least more evidence based than at present and that we are already in transition to more equitable and efficient speed management, then penalty regimes should assist this transition. But they must do so in the context of appropriate enforcement levels and public education.
28. The 2000 consultation outlined the measures which, in combination, 'transformed social attitudes' towards the seriousness of the offence of drink-driving. The introduction of a new technology, the breathalyser, was accompanied by 'near-mandatory disqualification, and a substantial programme of public information about the risks'. That programme reduced drink-drive crashes by two-thirds. The change in attitudes to drink-driving is commonly cited as proof that attitudes to speeding can also be changed.
29. At present, however, the only parallel with the treatment of drink-driving is in the introduction of a new technology to assist detection of the offence. While there has been a substantial increase in enforcement due to speed cameras and a dedicated funding stream to enable their use, the Government's proposals would slow progress to disqualification. There has been no substantial programme of public information on the risks of speeding, an offence which kills far more people than drink-driving.
30. We would like to see the present penalties structure strengthened, in connection with plans, including targets, to progressively reduce thresholds and expand coverage of effective enforcement. Coverage should be expanded by abandoning the casualty requirement and

allowing safety camera partnerships to be more accountable and responsive to local communities.

31. **Effective measures to deter speeding would be a more appropriate and a more just means of controlling disqualification rates than reducing penalty points.** The most effective deterrence strategy would make drivers certain that detection is being carried out, but uncertain about where they are likely to be detected. High profile publicity about the dangers of speeding and the rationale for enforcement together with a combination of conspicuous and inconspicuous enforcement would achieve this.
32. ***We continue to urge the Government to conduct trials to compare this strategy with the present one for effects on speed limit compliance, casualty reduction, cost effectiveness and other traffic impacts which are functions of speed.***
33. There should be two phases in the development of effective enforcement based on appropriate speed limits.
34. The first phase would concentrate on preparing drivers for the second. It would tighten up the existing system. Fixed penalties should apply for offences up to some threshold over existing speed limits and an automatic charge of dangerous driving for speeds above that. For speed limits of 30 mph the threshold should be no higher than 40mph. For speed limits of 20 mph the threshold should be no higher than 30 mph.
35. We approve of speed awareness training courses for a number of reasons. First, it is clear that many drivers are ignorant of speed limits, the dangers of speeding and how to remain within the speed limit. Second, the Government did not prepare the general public for the increased enforcement effort made possible by cost recovery. Third, Government commissioned research (Corbett, C. and Simon, F., 1999, The effects of speed cameras: How drivers respond, Brunel University on DfT website) found that even drivers who believe themselves to be conformers to the speed limit in fact conform to an internal speed limit, some five to ten miles over the posted limit. These drivers need to be 're-calibrated'. Speed awareness courses would do this.
36. Speed awareness training is one way to deliver the desired messages about speeding and its impacts. The availability of speed awareness programmes should help to reassure the wider public about the purpose of enforcement.
37. We understand that recidivism rates following speed awareness training are low. However, the driver population for whom this is the case is self-selected and therefore presumably more receptive to speed awareness messages. Therefore the potential impact of the courses on overall rates of speeding and casualty reduction needs to be assessed and should, if possible, be quantified.
38. There is another problem with the option to avoid endorsements by taking a speed awareness course. It has the real effect of extending the period for repeat offending before disqualification. For that reason, the route to disqualification should be faster.
39. One way to ensure this would be to progressively raise the number of points earned for each offence. Assuming that 3 points would be traded for a speed awareness course, the first offence after speed awareness would earn 4 points, the second 5, and the third 6 points, resulting in mandatory disqualification. This would also help to communicate the social unacceptability of speeding within a system which officially sanctions repeat offending.
40. Drivers who are disqualified either through totting up or because of a conviction for dangerous driving should be required to be retrained (rehabilitated) and re-tested before being allowed on the road again.
41. The use of technology in sentencing and rehabilitation should be an option for the courts. Combinations of smart-card ignition, black box recording of speed behaviour, and speed limiters should be used to discourage and prevent re-offending.

42. Drivers who receive speed awareness training should be given incentives to equip their vehicles with black box recorders and speed limiters.
43. As noted above, this penalties regime should be accompanied by wider enforcement effort and rapid progress to uniform application of the ACPO thresholds.
44. The second stage should be to 're-calibrate' the entire system by a national review of speed limits and appropriate downward adjustment, accompanied by tightening of enforcement thresholds through technological improvements in both detection equipment and speedometers, implemented through changed construction and use regulations. The continuing pressure of effective enforcement and education would lead to a market in speed limited vehicles just as it has developed the market for speed limit warning devices.
45. This is one way to create a virtuous spiral in our transport system, which badly needs them.
46. **Question 3:** *The table below illustrates a possible structure for graduated penalties. Ministers would welcome comments on it, without prejudice to statutory consultation on future proposals, and comments which you may wish to submit on that statutory consultation.*
47. We strongly object to this proposal. See our comments in response to Questions 1 and 2. Penalty points should apply only to 'low-end' violations. A charge of dangerous driving should be brought for high-end violations.
48. **Question 4:** *It has been suggested that fixed penalties should be higher for repeat speeding offences. Do you have views on this?*
49. Yes, see our response to Question 2. The other option would be making disqualification mandatory on fewer points. This is justified because of the plans to make speed awareness courses an option for all speeders.
50. **Question 5:** *Should other factors be taken into account, such as the location where the speeding occurred, or other factors?*
51. There is no reason to tolerate speeding anywhere that it has the potential to endanger life. The vulnerability of the most vulnerable road users should be the basis for enforcement effort and thresholds, and therefore for the likelihood that speeding will be deterred as well as detected and punished.
52. **Other comments are invited on the Government's proposals for more graduated fixed speeding penalties.**
53. See our briefing, 'When Legal is Lethal'.

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