



## **Changes to the treatment of penalties for careless driving and other motoring offences – response to the consultation from CTC**

CTC, the national cycling charity, was founded in 1878. CTC has 70,000 members and supporters, provides a range of information and legal services to cyclists, organises cycling events, and represents the interests of cyclists and cycling on issues of public policy.

### **Summary**

Although CTC is supportive of the creation of a Fixed Penalty Notice (FPN) for the offence of careless driving, we urge that more serious offences continue to be dealt with through the courts, and acts of dangerous driving continue to be treated as such.

CTC does not support the proposal which might see 70% of those receiving an FPN to attend a remedial training course in lieu of paying the fine. In our opinion the evidence to support the use of diversionary training is not strong enough to support such a widespread use, and, although we support the concept of remedial training, we believe it should be employed far less frequently.

Furthermore, if fines – or the revenues from FPNs – were circulated within enforcement agencies rather than sent to the Exchequer, there would be less incentive on behalf of enforcement agencies to support remedial training, from which they receive financial recompense.

CTC supports the move to increase the charge for FPNs, however, in the longer term, we would prefer if fines were income-linked, rather than a flat rate for all road users, as is the case for fines in the magistrates' courts.

### **Careless Driving**

#### **1. Do you agree with the proposed approach to make careless driving a fixed penalty offence and open to the offer of remedial training?**

The consultation reveals the startling, 50% decline in findings of guilt for careless driving over the last 10 years. CTC believes that acts of careless driving – even in the very rare occasions where they are detected – go mostly unpunished, with the consequence that the deterrent effect of the offence of careless driving has been undermined.

However, we are concerned that too many aspects of bad driving are being dealt with by diversionary courses. Already diversionary courses are being used



heavily for speeding, however, CTC is aware (and the consultation admits) that there is no evidence for diversionary training having any effect on driver safety.<sup>1</sup>

By contrast a study of those who had received speeding penalty points suggests that they do have an effect on driver behaviour, with those carrying points appearing likely to alter their behaviour to avoid disqualification through totting up.<sup>2</sup> Moreover, evidence from France has shown that where penalty points for traffic violations are expunged from licences prematurely, bad drivers continue to drive too fast and have more collisions.<sup>3</sup>

CTC is greatly concerned that it is already the case that many drivers are continuing to drive despite accruing 12 or more penalty points. It will only compound this problem if bad drivers are not receiving penalty points for acts of careless driving because they are choosing to attend diversionary courses. A combination of these two factors mean those drivers who should have been disqualified are able to stay on the road for longer, placing others at risk.

We fear that the disbursement of the proceeds of fines and diversionary training – the former to the Exchequer, the latter to the police force - may in some cases be the reason why support for diversionary training has become so widespread, with police forces (which benefit financially from diversionary training) supporting the extension of that training despite the lack of evidence as to its efficacy. It is possible that without the financial incentive to support remedial training, police support for this might be less forthcoming.

## **2. Do [you] agree that the FPN should carry 3 penalty points and a fine of £90?**

Yes, although our preferred approach would be to develop a system whereby the fine is linked to income, as is common in other European countries, and as is already partly in operation in the system for levying fines through the court system.

We strongly feel that whereas £90 may be a strong disincentive for someone on a low income, it is a trivial sum for those on higher incomes. The operation of such a scheme need not be complex – it could constitute a fee scale accompanying the FPN, with lower sums only payable on submission of evidence of the offenders' financial situation. We understand that to operate fully

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<sup>1</sup> Broughton J et al, *The effect of the National Drivers Improvement Scheme on re-offending rates*. TRL Report TRL649. 2005

<sup>2</sup> Broughton J, *Recent trends for speeding convictions and totting up disqualifications*. TRL Report PPR181. 2008

<sup>3</sup> Lagarde E et al, 'Traffic ticket fixing and driving behaviours in a large French working population' *J Epidemiol Community Health*. 2004;**58**:562-568



this would require major changes to the structure of the system of fines and FPNs, however, we strongly believe the Government should consider this approach in the interests of equality.

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

CTC supports the position that more serious incidents of ‘careless driving’ – such as where injury has occurred - continue to be dealt with by the courts, where more robust sentences can be imposed, such as full disqualification or up to 9 points on the licence.

Many of these incidents would also better be dealt with using ‘dangerous driving’, since many incidents which cause injury would seem to fit within the criteria for establishing that offence (“driving that fell far below the minimum standard expected of a competent and careful driver, and it would be obvious to a competent and careful driver that driving that way would be dangerous”).

We also disagree with the criteria with regard to police observation of the offence. As a response to the feeble level of current enforcement, many cyclists have taken to recording the behaviour of their fellow road users. CTC urge that police must be given the guidance that they can use FPNs on the basis of an offence caught on camera, so long as the quality of the footage is of a reasonable standard.

CTC is aware of recent cases in which imagery recorded by cyclists has been used successfully to prosecute offenders in court.<sup>4</sup> We believe therefore that the same standard of evidence should be used by a police officer to issue an FPN. Just as CCTV has helped deter law breaking and bring offenders to justice, we believe that the use of footage of careless driving occurring from public service vehicles and private users must be admissible evidence even when a police officer is not present to witness it first hand.

### **Levels for motoring fixed penalty notice offences**

#### **4. Do you agree we should increase the penalty levels for most endorsable plus seat belt wearing fixed penalty offences to £90?**

Yes, this must be increased to take account of inflation. However, as above, our preferred approach would be to move to income-linked fines.

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<sup>4</sup> Laker L, ‘Helmet cam brings justice for road rage victims’ *Guardian Bike Blog*, 22/2/2012 <  
<http://www.guardian.co.uk/environment/bike-blog/2012/feb/22/youtube-justice-road-rage-victims>>



**5. Do you agree we should increase the levels for non-endorsable fixed penalties to £45 (excluding parking offences)?**

Yes, for the same reason as given above.

The consultation is not correct to say that remedial training courses do not exist for these other offences. The Metropolitan Police have operated a similar system of remedial training for cyclists for several years, though again, as with motoring diversionary training, there is no evidence as to its efficacy.

There is a good case for allowing diversionary tactics for certain specific cycling offences, such as riding without lights, where allowing cyclists to purchase vouchers redeemable for a set of lights at a local cycle shop is a sensible approach to dealing with this particular problem. Similar common sense approaches have been attempted by various police forces across the country and flexibility to employ such an approach would be welcomed.

**6. Do you agree that we should increase the fixed penalty level for driving without insurance to £300?**

Yes.

**7. Do you have any views on whether to increase the fixed penalty levels for the offence of keeping a vehicle without insurance?**

No.

**8. Do you think graduated fixed penalties should be increased to the levels being proposed for the other motoring FPNs in the consultation document?**

Yes, for the reasons given above.

CTC, the national cycling charity  
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