



The Government's Response  
to the Transport Committee's  
Report on Traffic Law and  
its Enforcement





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Presented to Parliament by the  
Secretary of State for Transport  
by Command of Her Majesty  
January 2005

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# THE GOVERNMENT'S RESPONSE TO THE TRANSPORT COMMITTEE'S REPORT ON TRAFFIC LAW AND ITS ENFORCEMENT

## INTRODUCTION

The Committee said at the beginning of Chapter 8 of its Report (para. 138)

“In the response to this Report we would like to be told:

- What the Government is doing to ensure the police give roads policing the priority it needs;
- What police forces themselves are doing, and how the effectiveness of this will be measured;
- What changes the Government will propose to ensure that crimes committed with a car are properly punished, and when;
- What steps will be taken to make sure that the legal system no longer fails victims and their families.

Legislation will be necessary to bring about many of the changes we, and the public, demand. The Home Office must bring it forward urgently.”

In response to this the following comments are made.

1. The Government fully recognises roads policing as an important and valuable part of day-to-day policing. It not only helps reduce deaths and injuries on the roads, it also reduces crime that involves the dangerous and anti-social misuse of vehicles, it addresses other offending (because of the use of vehicles in crime and the demonstrated links between motoring and other offences), it provides a reassuring presence on the roads, and it promotes the free flow of traffic.

2. The first three National Policing Plans have included a clear expectation that effective roads policing will be given proper attention. We will measure how well this expectation is met by a specific measure within the Policing Performance Assessment Framework (PPAF). This looks at police performance as reflected by the numbers killed and seriously injured on the roads in a force area, compared with the number of vehicle kilometres travelled.

3. The National Policing Plan cannot go into detail on every aspect of policing and every type of offending with which it has to deal. The Home Office, the Department for Transport and the Association of Chief Police Officers (ACPO), are therefore issuing a specific Roads Policing Strategy Statement. Its purpose is to set roads policing in the context of overall police work, and identify priority road policing issues.

4. The Strategy is part of the delivery of the National Policing Plan, and is based on the intelligence-led analysis contained in ACPO's National Strategic Assessment on Roads Policing. It will be implemented through a Control Strategy which ACPO is developing and supported by ACPO's establishment of a Road Policing Intelligence Forum.

5. Under the Strategy roads policing will focus on the following five areas:
  - Denying criminals use of the roads by enforcing the law;
  - Reducing road casualties;
  - Tackling the threat of terrorism;
  - Reducing anti-social use of the roads;
  - Enhancing public confidence and reassurance by patrolling the roads.
6. No one aspect of their work can be the only concern of the police, nor can every aspect be equally a priority at all times. It is important that when allocating resources police forces should recognise public concerns and the worst problems of particular areas at particular times; they should then prioritise accordingly. We are clear however that roads policing should never be seen as work that does not matter and that can be dismissed for more important duties.
7. The importance given to road policing is not reflected simply by the number of dedicated traffic officers. The adoption of an intelligence-led approach to road policing, its integration with other core activities, the increased use of cameras and other technology, and the more effective use of resources can lead to a reduction in dedicated traffic officers without a reduction in enforcement. Moreover, any police officer can enforce road traffic legislation as appropriate when an offence is being committed. The increased numbers of officers on general beat duties will enable increased and swifter action against breaches of road traffic law.
8. Better use of resources can include transfer of appropriate work to non-police staff. That is why ACPO have welcomed the transfer to the Highways Agency of certain traffic management responsibilities on the strategic road network. The police will retain sole responsibility for law enforcement: this transfer will relieve them of work that does not require their particular expertise and powers but distracts them from their core functions of law enforcement, crime reduction and public reassurance.
9. The role of technology, supporting the police and improving their effectiveness in many different areas of work, is also important. Roads policing is one of the areas that benefit.
10. Safety cameras, for example, have a proven effectiveness in cutting speeding and accidents. Typically, serious and fatal casualties are reduced by 40% at camera sites. Cameras do not replace roads policing; they support it by their continuous deterrent effect and by enabling more effective and simpler enforcement of speeding and red-light jumping, so that police can focus their road policing function on other offending.
11. ANPR cameras provide an effective and efficient means of enabling the police to detect suspect vehicles. Offences such as unlicensed driving, uninsured driving, and driving without a valid tax disc are now much more easily detectable, but vehicles can also be stopped and checked for other purposes. The links between motoring and other offending are shown by research; investigation of vehicle related offences detected by ANPR often reveals other crimes. An ANPR enabled officer makes about nine times the number of arrests usually expected and it is estimated that by comparison with conventional policing an ANPR enabled officer will contribute over three times the number of offenders brought to justice. ANPR officers also spend more of their time out of the police station, visible to the public and available to deal with offences they encounter. The Government recently announced extra funding to the tune of £15m for the continuing development of ANPR across the country.

## RESPONSE TO RECOMMENDATIONS

### Work related road safety

- 1. We strongly support greater enforcement of the guidance on work-related road safety, better reporting of work-related road incidents, and a proper study of the case for an Approved Code of Practice on work-related road safety. (Paragraph 8)**

The guidance document *Driving at Work* published jointly by the Department for Transport and the Health and Safety Executive provides advice for employers on managing work-related road risks. Following it is not compulsory and the question of enforcement does not therefore arise. The issue of the reporting of work-related road incidents is already being considered as part of a wider review of the arrangements for reporting injuries to the Health and Safety Executive and a report on this is due to be submitted to the Health and Safety Commission in autumn 2005. The Government is committed to promoting the messages in the *Driving at Work* document. However, as it was only issued in September 2003, it is too soon to make a judgement on the need for an Approved Code of Practice.

### Departmental priorities

- 2. The Government must introduce a proportionate and justifiable system of offences and penalties. Basic principles should be established now, and need to be implemented quickly. (Paragraph 14)**

The Government has increased the penalties for the causing death offences from 10 to 14 years imprisonment (Criminal Justice Act 2003), and has also undertaken a wider review of road traffic offences. That review commenced in 2003 and the Government initially hoped that a consultation paper setting out the proposals flowing from the review would be published in late 2003 or early 2004. That has not proved possible because the legal and public policy issues raised by the review are significant and complex and require thorough consideration. The paper when published will form the basis of a package of reforms designed to establish a sensible, proportionate framework of offences and penalties. These are important matters that require a full public consultation but once the consultation process is complete the final recommendations will be implemented as soon as Parliamentary time and resources allow. In this regard it should be noted that the Government does regard this area of the law as a priority for reform.

### The Department's recent proposals

- 3. We welcome the opportunity to discuss policy intentions at an early stage. It is a creative way of attempting to bring the Committee into discussion in circumstances when the Department does not have a draft bill for pre-legislative scrutiny. We await eagerly evidence that our contribution has influenced the Department's thinking. (Paragraph 15)**

We appreciate the efforts of the Committee, whose comments on our proposals have informed the introduction of the Road Safety Bill. This report will no doubt prove informative to all those involved in matter affected by the Road Safety Bill as it passes through Parliament. We therefore anticipate further constructive discussion on the detail of the Bill to inform forthcoming debate.

## Roads policing

### **4. Roads policing must be one of the strategic priorities of police work, otherwise it will not be properly valued and resourced. (Paragraph 22)**

The Government fully recognises roads policing as an important and valuable part of day-to-day policing. We expect all police forces to share this recognition and act upon it. One of the Home Office's principal aims is to reduce crime and the fear of crime. Roads policing is about enforcement of the criminal law of which road traffic law is a part. It is of course vital to road safety and helping reduce the numbers killed and seriously injured on the roads as a result of bad driving behaviour.

The first three National Policing Plans have all referred to the importance of roads policing, with a view to ensuring the police give it the priority it needs. With ACPO we are issuing a separate Roads Policing Strategy Statement to emphasise and reinforce this message.

We welcomed the ACPO Road Policing Manifesto issued in 2003 and the subsequent National Strategic Assessment on Road Policing and establishment of a Road Policing Intelligence Forum. We look forward to a police focus on denying criminals use of the roads by enforcing the law; reducing road casualties; tackling the threat of terrorism; reducing anti-social use of the roads; and, enhancing public confidence and reassurance by patrolling the roads.

### **5. The evidence presented during our inquiry supports Her Majesty's Inspectorate of Constabulary's suggestion that "most forces saw road policing as a peripheral task, often seen by management as a repository of vehicles and officers to be redirected to 'more important work'". Some police forces are using roads policing as part of their wider strategy, and are taking the need to reduce road deaths and injuries seriously. They are leading the way. HMIC must ensure other forces follow. (Paragraph 27)**

HMIC, as part of its baseline assessment, assesses police forces on their roads policing activity. HMIC is already working closely with ACPO to ensure that the road policing and crash/collision inspection protocols take cognisance of ACPO & Government guidance to police forces. Work will continue with the police to raise the importance of roads policing in terms of other policing activities such as community safety and crime detection.

### **6. We are extremely disturbed by the reduction in the number of breath tests administered by the police. Reductions in traffic law enforcement by the police appear to be linked to the number of road casualties. Four times as many people die on the roads each year as are victims of homicide. Better enforcement would save lives. (Paragraph 30)**

The reported reduction in the number of breath tests may be apparent rather than real and does not necessarily imply a lower level of enforcement. The recording of breath tests is not comprehensive and negative tests are less well recorded than positive. Similarly, the greater number of those undertaken which are positive does not necessarily mean there is more drink driving. The Committee accepts that breath testing is now better targeted. This could mean that more of the same number of drink drivers are being caught. Moreover, while effective police enforcement is obviously important, it is not the sole determinant of the number of drink drivers. There are various factors which might influence the likelihood that people will drink-drive and, if they do, the likelihood that they will be involved in collisions. These include their reaction to drink-drive publicity,

their drinking patterns and social behaviour, the availability of alternatives to drink driving and their general driving ability.

Better targeting enables a better use of police resources information technology can provide a more effective deterrent, as drivers realise that they face this greater likelihood of being caught. The decline in drink-driving should also not be under-estimated. On the published figures, only 18% of tests in 2002 were positive or refused; in 1979, 51% of the 164,000 people required to take a test were positive, refused, or were unable to be tested.

Government plans to allow evidential as well as screening tests at the roadside will further improve enforcement. Such a provision will free up police time from having to take a suspect to a police station and catch those whose alcohol level would have fallen to a legal limit on the journey to the station.

We are, however, not complacent. The standing Drink Drug Drive Working Group brings together under Home Office chairmanship officials from all relevant Government Departments and Agencies together with senior representation from the Association of Chief Police Officers and its Scottish counter-part. The Group keeps under continuous review all aspects of drink drive enforcement. We have asked it to look carefully at current police policy and practice, including recording practice, in the light of the Committee's comments to see where there might be room for improvement.

## Civil Enforcement

**7. The Government must issue guidance under section 87 of the Traffic Management Act to local authorities about the civil enforcement of traffic contraventions. Such guidance must: require that enforcement officers are properly trained; ensure “victimless” infringements, such as overstaying at a meter, are enforced only after a grace period; and set out the circumstances in which measures such as wheel clamping or towing away are appropriate. The guidance should also set out circumstances in which enforcers could properly exercise discretion. (Paragraph 34)**

The Government fully intends to issue guidance on civil enforcement under section 87 of the Traffic Management Act 2004. In doing so it will consult widely on its content. Existing guidance on decriminalised parking enforcement<sup>1</sup> already stresses the need for parking attendants to be properly trained, includes guidelines on when it is appropriate to use wheelclamping and towing away to enforce restrictions and draws attention to the need for councils to exercise their discretion when it is acknowledged that a contravention occurred, but there were extenuating circumstances. On the latter the Government does not believe it is possible to codify each particular circumstance in which it would be appropriate for an authority to exercise discretion. The exercise of discretion must turn on the particular circumstances of the case.

The Government does not agree with the proposition that there should be an automatic grace period for “victimless” infringements such as overstaying time paid for in a parking place. Controls are there for a purpose to help road users for example in making use of parking places and need to be enforced for everyone's benefit.

The Government welcomes the initiative of the British Parking Association and its partner City and Guilds in developing a qualification for parking attendants which has recently been approved by the QCA as a national standard. It will provide a recognised route for training parking attendants. We will be looking at how best to reflect this in developing the civil enforcement guidance.

<sup>1</sup> *Guidance on Decriminalised Parking Enforcement Outside London* – Local Authority Circular 1/95.

**8. Enforcement by non-police agencies should not be an excuse for the police to reduce their work on traffic law still further. There will be many cases where a timely police warning about bad driving will be more effective than an automated demand for a large fine received after the event. (Paragraph 36)**

Pressures on police resources mean in fact that they do not have time now to enforce parking and minor traffic regulation offences. The Government sees civil enforcement as being additional enforcement capability.

**9. The police and Crown Prosecution Service should bring charges of attempting to pervert the course of justice against those who fail to stop after serious crashes, or do not report them. (Paragraph 41)**

Attempting to pervert the course of justice is a common law offence, and it is an essential pre-requisite to proving the offence, to demonstrate that a person does an act or embarks on a course of conduct which tends or is intended to pervert the course of justice.

The 2003 case of *R v Mark Grosvenor Clark* [2003] EWCA Crim. 991 is particularly pertinent to Recommendation 9. The brief facts are that Clark knocked over a cyclist whilst driving his car, after consuming a large quantity of alcohol. Instead of reporting the matter at a police station, Clark went home and reported the incident the next day. The prosecution's case was that Clark knew he was over the blood alcohol level and was susceptible to being charged with a very serious offence, so he waited for the alcohol to dissipate from his body before contacting the police. Clark maintained that he thought he had hit an animal and he reported the matter to the police when he became aware that he had been involved in a tragic accident.

The Court of Appeal held that Clark's conduct was not capable of amounting to perverting the course of justice. Attempting to pervert the course of justice necessarily means that the accused performs, or is performing, a positive act. Failure to stop and report an accident is an omission and, as such, is incapable of amounting to an 'act'. The Court also pointed out that if they accepted the prosecution argument, then all drivers who failed to stop after an accident would be guilty of a very serious offence. Such expansion in the law, they held, could not be justified.

Accordingly, when applying the Code for Crown Prosecutors, prosecutors must consider the law as it stands in relation to the offence under consideration. In respect of failing to stop after an accident, the law is unambiguous and precludes the charging of perverting the course of justice.

**10. The penalties for road traffic offences must match the penalties for other crimes against the person, and for crimes against property. Offenders must not face lower sentences, simply because their crime involved a car. (Paragraph 45)**

The Government believes that there is a need to ensure that road traffic offences are perceived as part of the criminal law. This view underpins both the completed Review of Road Traffic Penalties and the current review of offences. A sensible and proportionate framework of offences must take account of the fact that not all road traffic offences are intentional criminal conduct where the highest degree of culpability occurs. Most charges brought against an individual following a road traffic incident are dependent upon the quality of the defendant's driving, both preceding, and at the time of impact. It is the driving behaviour that is the deciding factor when considering the appropriate charge, that is, whether the driver was careless or dangerous.

The Review of Road Traffic Offences has been examining the entire framework for road traffic offences, including the recommended need for a further offence of causing death where the offender was not driving dangerously and the issue of injuries occurring as a result of illegal driving.

**11. There is an overwhelming case for a radical and urgent overhaul of serious motoring offences. We very much regret the Home Office's delay in producing proposals for change, or even in publishing the Halliday report, nearly a year after it was expected. (Paragraph 50)**

The scope of the Review of Road Traffic Offences involving bad driving is wide enough to cover all levels of bad driving and to allow the formulation of radical change if that is the most effective way of ensuring a sensible framework for the prosecution and punishment of this type of crime.

It has taken considerably longer than we had hoped to conclude the review because it has been wide ranging and embraced a number of very difficult legal and public policy issues, all of which demand full consideration before the consultation paper can be published. These issues are being given high priority and we will publish a consultation paper at the earliest opportunity.

**12. We recognise that some fatal crashes occur through no fault of the driver, and some are a tragic consequence of a momentary misjudgement. Far more crashes occur as a result of negligent behaviour. A single offence of "causing death/serious injury by negligent driving" should be created in any reform of motoring offences. Courts should have wide discretion over sentencing, which must depend on the full facts of each case. We are confident that the alleged difficulties of a broad offence can be overcome. Sensible enforcement of this offence would help secure justice for victims of negligent driving. It would also dispel the myth that road deaths are usually unfortunate accidents. (Paragraph 51)**

The Review of Road Traffic Offences examines all the feasible options for reform of the current framework of offences, the suggested solution being one of them.

**13. Any reform of motoring offences should follow three broad principles:**

- causing serious injury should be considered very serious;
- all cases which involve death or serious injury should be heard in the Crown Court, not magistrates' courts;
- the gulf between the penalties available for causing death by dangerous driving and for other dangerous or negligent driving offences should be closed. In particular, there should be far higher maximum sentences available for some of the behaviour which is now classified as careless driving.

These changes would help make the sentence fit the motoring crime. They would prevent the derisory sentences which are handed down when the CPS brings inappropriate charges, or when the current guidelines pigeon-hole certain behaviour as less serious. (Paragraph 52)

The Home Office review of road traffic offences covers all levels of bad driving and its consequences. The aim is to ensure a sensible framework for the prosecution and punishment of this type of crime that reflects the responsibilities of drivers in modern

driving conditions. All the points raised in the bullets above will be dealt with in the consultation paper when published.

**14. The increase in the maximum penalty for careless driving from £2,500 to £5,000, proposed in the Department for Transport memorandum on possible changes to road safety law, can only be an interim measure. It must be followed swiftly by a fundamental overhaul of the law relating to careless and dangerous driving. (Paragraph 53)**

As already stated, the review's scope is wide and it has encompassed the law relating to both careless and dangerous driving.

**15. Policymaking needs to be underpinned by good data. Statistics should be collected in a way which makes it possible to track not only the number of those killed and seriously injured on the roads, but the number of crashes which result in criminal prosecutions and the outcome of those court cases. This would enable at least a cursory analysis of the effectiveness of the criminal justice system. (Paragraph 54)**

Collision statistics, prosecution systems and court records are three separate systems working on slightly different inputs making cross-referencing and search very difficult. Indeed collision investigative data is in many forces held on paper records compounding the problems. Significant public investment would therefore be required to link all these databases.

However, there is work going ahead which could make this possible in future. For instance, over the next three years the police service and DfT are working together to build a computerised collision investigation and statistical database. In addition as part of the IT work to join up systems being developed by the different criminal justice agencies, thought is being given to adopting data standards to identify particular types of cases more generally to satisfy a multitude of demands on how the criminal justice system works.

**16. The Association of Chief Police Officers' Road Death Investigation Manual sets out admirable principles, which should be applied to cases of serious injury, as well as death. But the best manifesto in the world will not produce results unless individual forces and individual police officers take road deaths and injuries as seriously as they take cases of manslaughter or grievous bodily harm. From the evidence we received, it is clear that in many cases they do not. (Paragraph 58)**

The police do treat the investigation of road traffic fatalities and serious injuries very seriously. In the past the investigation of collisions resulting in a fatality may not always have been given the same level of attention as investigations into other deaths, such as those resulting from a murder. This situation has however changed. On 3 December 2001 ACPO issued to forces the Road Death Investigation Manual to which this recommendation refers. The Manual advises best practice for investigating road death and is also used in cases of serious injury. The Manual, which is in the public domain, was written in conjunction with the 'Investigating Murder Manual'. This illustrates the seriousness with which the issue is viewed. The Manual's aim is to standardise and improve the criteria observed during an investigation and promote a consistent approach. The Manual also reflects the need to investigate road deaths and serious injuries so as to serve justice. In practical terms a collision may well have the vehicles, victims and other parties involved present at the scene of death; it may therefore not require as much actual investigation as the discovery somewhere of someone killed possibly elsewhere by someone unknown. This does not mean the incident receives less concentrated attention or is seen as less important. How the principles of the Manual are best followed in any specific case is a matter for local decision at the time.

**17. The promised revision of charging standards must start from a wholesale reconsideration of the standards, not minor amendments. Some of the existing standards appear unduly lenient. For example, we believe it is unreasonable that conduct such as turning into a minor road and colliding with a pedestrian should usually be considered as the lesser offence of careless driving. (Paragraph 62)**

The revision to the Driving Offences Charging Standard is now complete. The review started from a wholesale reconsideration of the document and there have been many changes, some fundamental, to the Standard. The revision includes more examples of dangerous driving, some of which were classified as examples of careless driving under the previous Standard. Notable amongst these are driving when too tired to stay awake, and using a mobile phone to read or compose text messages. The former example reflects the decision of the Court of Appeal in *R v Cooksley and others* [2003] EWCA 996, which makes clear that falling asleep at the wheel should be treated as an aggravating factor. In addition, the section on careless driving has been revisited, and in particular, the example of careless driving relating to turning into a minor road and colliding with a pedestrian has been removed.

**18. The revision of charging standards must also ensure that more cases are brought in the Crown Court rather than in magistrates' courts. This is not just to emphasise the seriousness of the offences. In cases of causing death by dangerous driving, dangerous driving or causing death by careless driving while under the influence of drink or drugs, it is possible for a jury to find the accused not guilty of the offence charged but guilty of some other offence. A charge of careless driving means that the perpetrator is tried before a magistrate's court, and there is no opportunity for a more serious charge to be brought if the evidence suggests that it would be appropriate. More cases should be brought for juries, rather than magistrates, to decide. (Paragraph 63)**

The guidance in the revised Driving Offences Charging standard does not override the principles set out in the Code for Crown Prosecutors and does not remove the need for each case to be considered on its individual merits. It does, however, provide guidance in relation to a range of specific offences within the present framework of the law.

Whether a case can be heard in the Crown Court or a magistrates' court will depend upon the charge and, in either way cases, such as dangerous driving, the National Mode of Trial Guidelines. The revised Standard provides guidance on the selection of the most appropriate charge. The range of criminal offences include the most serious offences such as murder, manslaughter and death by dangerous driving, which can only be heard in the Crown Court, to purely summary offences such as careless driving or speeding. Each case will be considered on its own facts and evidence supporting those facts.

The circumstances of the particular case will need to be assessed to determine the appropriate charge and in accordance with the principles set out in the Code for Crown Prosecutors. The Code sets out two stages in the decision to prosecute. Firstly, there must be sufficient evidence to provide a realistic prospect of conviction. This is an objective test which means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. Secondly, the circumstances must be such that a prosecution would be in the public interest. The Crown Prosecution Service will prosecute cases when there is a realistic prospect of conviction and it is in the public interest to do so.

**19. We welcome the fact that Crown Prosecution Service is trying to improve the way in which it deals with road traffic cases. It should be extended: injured victims must also be informed how their cases will be handled. Of course, these explanations would be more acceptable if the charging standards were revised as we have recommended. (Paragraph 66)**

Under the Direct Communication with Victims scheme, the Crown Prosecution Service already communicates by letter with injured victims should there be a substantial alteration of charge, such as where dangerous driving is reduced to careless driving or where the charge is discontinued. This is an established CPS national scheme. In sensitive cases, a telephone call may also be made. The reviewing prosecutor has a discretion to offer a meeting if it is thought appropriate in the circumstances of the case. This discretion will be exercised according to the needs of the victim rather than the level of seriousness of the charge. A specific example given in the guidance to Crown Prosecutors is where the offence leaves the victim with a permanent disability and has a life changing effect upon them, such as a serious injury resulting from a road traffic incident. A letter is not required under the scheme where there is an acquittal or the court finds there is no case to answer, but the Witness Care Units (see below) will deal with this. In addition, if a person is injured and a decision made not to charge on pre-charge advice, there is an agreement between the CPS and Association of Police Officers (ACPO) that if this decision is made during a face to face discussion with the Police, then they will inform the victim. However, where this decision is made following the submission of a file to the CPS and it is considered in the absence of the Police, the CPS will provide a written explanation to the victim.

Under the 'No Witness, No Justice' programme, now rolling out across England and Wales until December 2005 as part of the Criminal Case Management Programme, Witness Care Units will deal with Prosecution Witnesses (including injured victims), providing them with a single point of contact and tailored needs assessments for victims and witnesses. This means that dedicated staff in these units, drawn from the Police and CPS, will keep victims informed of progress in their case and the victim will know whom to contact in case of any query. Further, through a needs assessment, the unit will consider what the victim's needs are up to and including the trial. For example, whether there are any transportation problems or child-care requirements. They will also look into requirements for trial as appropriate, such as pre-court familiarisation visits or special measures applications.

## **Unlicensed and uninsured drivers**

**20. We all bear the costs of uninsured driving; the insurance companies should continue to look for innovative ways to bring young people into the market. (Paragraph 71)**

The industry are actively carrying out research into the costs that young motorists face and the role that insurance plays in this. As part of this research the industry are reviewing the range of innovative products currently offered to young drivers and looking at generic issues for the future.

**21. It cannot be right that it is cheaper to drive without insurance and to be caught than it is to purchase the proper insurance in the first place, as it is now. The Government has already accepted the principle set out in the Report on the Review of Road Traffic Penalties that "all offences amenable to fixed penalty treatment should be subject in the courts to minima equivalent to the fixed penalty"; it should implement it without delay. Ultimately, however, fines need to be higher than the costs of insurance. (Paragraph 76)**

For reasons explained in the response to Recommendation 23 (below), there would be no point in imposing a fine where there was no realistic likelihood of payment.

Potentially having more impact than a fine is a proposal in the Serious Organised Crime and Police Bill, currently before Parliament. This would give the police a specific power to seize a vehicle being driven by someone who is uninsured and release it only on payment of prescribed charges and production of an insurance certificate. There is an exemption for those who can demonstrate that the vehicle was being driven by an uninsured driver without their knowledge or consent and that they could not have stopped such usage, e.g. when the vehicle had been stolen.

**22. The penalties available to deal with those who repeatedly drive without insurance or while disqualified must be increased to reflect the fact that these are not victimless crimes. Those who commit these offences are far more likely to crash than law-abiding drivers. They put other road users at risk and increase the costs borne by society. (Paragraph 77)**

That driving without insurance is a serious offence is already recognised by the penalties available: a maximum fine of £5,000, the automatic endorsement of the offender's licence with 6-8 penalty points and possible disqualification. On 1 June 2003 it became an offence for which, instead of prosecution, a fixed penalty could be offered. The level of the fixed penalty is set at £200, over three times the level of the standard fixed penalty for an endorsable offence. We are considering whether there should be a further penalty of mandatory disqualification for the offence of driving uninsured.

If an offender is caught driving after being disqualified, then it becomes an imprisonable offence with a maximum penalty of six months imprisonment as well as a possible fine not exceeding £5,000.

**23. There must be a radical overhaul of the penalties available to magistrates to deal with driving related offences tried in their courts. The community-based penalties for driving related offences promised in 2002 are still not available. But community sentences alone do not demonstrate the seriousness of the offence or deter the repeat offender. (Paragraph 80)**

When there is a prosecution, the courts have to face two key issues

- section 128(3) of the Powers of Criminal Courts (Sentencing) Act 2000 requires courts to take into account the financial circumstances of the offender when considering their sentence.
- most of the offenders have committed multiple offences, are on low incomes, and already have outstanding fines; they are therefore unable to afford an additional high level fine.

Even without the legal requirement, there would be no point in imposing a fine where there was no realistic likelihood of payment.

The introduction of the new means enquiry form should also help improve the situation. The new form, once completed by the offender, will ensure that the courts have a clearer picture of an offender's financial situation when considering sentencing. If an offender fails to respond to the court's request for information, the court will be able to make an assumption about his/her ability to pay and fine accordingly. Failure to complete the form is a criminal offence.

It is also important to realise that in a number of cases the courts choose to disqualify the offender. This additional punishment is not reflected in the level of fines and so helps fuel a false perception that the courts do not take uninsured driving seriously.

We are in discussion with the Justices' Clerk's Society about producing a JCS Circular or aide memoire on sentencing powers available to magistrates when dealing with the offence of driving without insurance. This would include the use of disqualification, Community Rehabilitation Orders and Curfew Orders. The new generic community sentence and the new powers to make imprisonment available for a breach of a community order introduced by the Criminal Justice Act 2003 will also give the courts more sentencing options to deal with the offence, as well as increased sanctions for non-compliance.

In the longer-term the Sentencing Guidelines Council will consider revising the Magistrates' Association's Sentencing Guidelines, which include guidance on the offence of uninsured driving.

**24. Courts should normally order the forfeiture of vehicles used by uninsured or disqualified drivers, except where these are taken without consent. This would reduce offenders' access to vehicles to commit repeat offences, and deter those who abet such offences by allowing the use of their vehicle. (Paragraph 81)**

The courts are already able, under the Powers of Criminal Courts (Sentencing) Act 2000, to seize goods, including vehicles, used in the commission of an offence, including imprisonable road traffic offences. This, however, does not deal immediately with a person caught driving whilst uninsured. At present, when the police detect someone driving uninsured, the only action they can take is to issue a fixed penalty notice or report for summons. This means that the person is able, albeit illegally, to continue driving. We are putting an immediate, practical, stop to this. The Serious Organised Crime and Police Bill, currently before Parliament, would give the police a specific power to seize a vehicle being driven by someone who is uninsured and release it only on payment of prescribed charges and production of an insurance certificate. There is an exemption for those who can demonstrate that the vehicle was being driven by an uninsured driver without their knowledge or consent and that they could not have stopped such usage, e.g. when the vehicle had been stolen.

Detection of the offence and therefore the possibility for enforcement is being increased significantly by the expanded police use of Automatic Number Plate Recognition (ANPR).

**25. A comprehensive data protection system is essential to protect citizens from the excesses of the state. However, the current framework is ill-suited to circumstances where there is a "family" of enforcement agencies, and many traditional police functions are carried out by civilians, or even non-police agencies. It prevents enforcement agencies from exchanging information which would increase their efficiency. The law should make clear that public authorities which enforce the law, in the widest sense, can exchange data about individuals. This is a sensible way to deal with the transfer of enforcement responsibility from the police to other public bodies. Decriminalisation should not mean that the police lose access to information they would otherwise possess. In particular, we see no reason why enforcement agencies should not share information about unpaid civil penalties. The police should also be given access to the Motor Insurance Database, since they already have the power to demand insurance documents. In particular, we see no reason why**

**enforcement agencies should not share information about unpaid civil penalties. The police should also be given access to the Motor Insurance Database, since they already have the power to demand insurance documents. (Paragraph 84)**

Law enforcement is carried out for the purpose of crime reduction. We recognise that confident and effective information exchange is the key to multi-agency crime reduction work. The Office of the Information Commissioner and the Home Office have issued the following joint statement: 'The Crime and Disorder Act 1998 provides a legal basis for data sharing whilst the Data Protection Act 1998 provides a legal framework for good practice in handling personal information. These Acts should facilitate responsible information sharing between agencies in pursuit of a reduction in crime and disorder. They should be seen as regulating rather than prohibiting.' Detailed guidance and advice is given on the Government's crime reduction website, [www.crimereduction.gov.uk](http://www.crimereduction.gov.uk).

A provision in the Serious Organised Crime and Police Bill, currently before Parliament, would give police civilian staff access to driver data when necessary in the course of their duties.

The police already have access to the Motor Insurance Database; enquiries to the Database by the police are currently running at around 25,000 per day. We are intending to make improvements in police access to information on the Database by means of a provision in the Road Safety Bill, currently before Parliament. This will allow direct ANPR access to a derived database of vehicles once insured that are insured no longer. Such access will enable the police to detect more vehicles being driven by uninsured drivers and take action as appropriate.

## Speed

**26. The Government needs to publicise more effectively the fact that drivers who receive automatic penalties for speeding have not committed a minor transgression but have significantly exceeded the speed limit. For example, the enforcement threshold means they will have been travelling at least 35mph in a 30mph zone. This difference is not trivial; it means the difference between life and death for many of those involved in collisions. The thresholds for higher speeds are even more generous. (Paragraph 87)**

Enforcement of the law is an important element in dealing with speeding. The Government's objective is to *encourage and assist people to drive and ride at safe and legal speeds*, including raising awareness of speed limits and helping people assess and adopt appropriate speed at all times, as well as dealing with the minority of people who deliberately break the law.

The ACPO thresholds are in place to take account of any discrepancies of accuracy there might be between speedometers and police equipment. The increased amount of speed enforcement described later is already having a downward effect on speeds and casualties, and the message that the Department, the police and safety camera partnerships aim to promote is that excessive speed is serious and that even minor infringements significantly increase risk of collision, injury and death. The DfT THINK! campaign aims to fuel the social unacceptability of speeding and reinforce the importance of the speed limits. A new campaign being launched this month further emphasises the importance of the 30 mph speed limit.

**27. The attempt to make speed cameras more acceptable through tough guidelines on their use has backfired. It would have been better to reiterate the simple message that speeding is dangerous, breaking the speed limit is illegal, and that those caught speeding would be punished. (Paragraph 89)**

The rules and guidelines on camera deployment within the cost recovery scheme are designed to make cameras even more effective by increasing public understanding and improving transparency. They seek to ensure as far as possible that cameras are deployed where they are likely to have the most road safety benefit. The rules on the signing and visibility of cameras ensure that drivers are alerted to the presence of camera activity so that they are given even more incentive to comply with the speed limit. Cameras, as with any road safety intervention, are targeted where they are expected on the evidence available to have greatest effect. The greater coverage of the network that has been achieved through netting-off has strengthened the enforcement of speed limits and the independent review of the first three years of the programme carried out for the Department by University College London and PA Consulting and published in June 2004 found that there was a 40 per cent reduction in the number of people killed or seriously injured at camera sites, with a 32 per cent reduction in the number of vehicles breaking the speed limit.

**28. The guidelines for use of safety cameras have had perverse effects. Cameras can only be used if “there has been a site survey by a road safety engineer and there are no other obvious, practical measures to improve road safety along this stretch of road.” We cannot think of any other case where society as a whole is expected to bear the costs of lawbreaking, and effective law enforcement is only deployed as a last resort. In addition, camera safety partnerships are prevented from taking action against speeding traffic by artificial constraints. These mean that most cameras can only be operated once several people have been killed or injured. The guidelines must be amended. (Paragraph 92)**

Cameras are limited in their application in that they can only address speeding (vehicles travelling over the posted speed limit). They cannot treat accident hotspots where speed is not a significant factor in accident occurrence, nor can they deal with vehicles moving at inappropriate speed (too fast for the conditions but within the speed limit). That is why it is vital that a road safety audit of a site, including speed measurements, is undertaken before a decision is taken to enforce using a safety camera. Appropriate criteria are essential to ensure – and demonstrate to the driving public – that cameras are being placed where there are significant problems of speed-related collisions and casualties. Where speeding is not a significant factor a more appropriate remedial treatment would have a better potential road safety effect.

**29. Breaking the speed limit is illegal for good reason, whether or not it is at a high-risk site. We believe that the criticisms motoring organisations level at speed enforcement are based on prejudice and anecdote rather than fact: the organisations create a cycle of scepticism. Playing back their members’ claims that the policies are not being properly implemented without any check on the facts gives spurious respectability to unsupported assertions. They need to produce evidence if they want their case considered seriously by this Committee. (Paragraph 93)**

This is a matter for the motoring organisations.

30. Speed limits need to be better signposted. At the very least, speed camera warning signs should indicate the speed limit in force for cars. The existence of different speed limits for other vehicles is no excuse not to do this; we believe professional drivers of buses and HGVs should reasonably be expected to know when their speed limits are different from those for cars. (Paragraph 94)

The revised Traffic Signs Regulations and General Direction 2002 introduced several additional signs to improve the information about speed limits and the presence of safety cameras. These include informatory sign, number 880, showing the 30 mph speed limit roundel and a camera symbol on a single blue backing board for use on restricted roads with 30 mph speed limits. For the avoidance of doubt, the new Regulations also introduced the requirement that in all street lit areas subject to a 30 mph speed limit no repeater signs may be placed. Also, temporary signs for use up to six months after a change of speed limit from 40 mph to 30 mph, to advise drivers of the change in speed limit. The Highway Code provides full details of speed limits applicable to all drivers and remains an essential reference for drivers uncertain about what limit applies to their vehicle and where.

31. We support the proposal that there should be a higher fixed penalty for drivers who exceed the speed limit by 25% plus 6 miles an hour allowing for speedometer error. (Paragraph 97)

32. We reject outright the Government's suggestion that there should be lower penalties for speeding in built-up areas or villages. Exceeding a low speed limit is even more serious than exceeding a higher speed limit, because it increases so significantly the risk of death in an accident: 50% of pedestrians hit at 30mph will live; 90% of pedestrians hit at 40mph will die. We do not understand how a Government which professes to practice evidence-based policy-making could even contemplate such a change. (Paragraph 99)

33. Reducing penalties for "minor" breaches of the speed limit will affect victims in two ways. First they increase the likelihood that no action will be taken if someone is killed or injured as a result of such a breach. Secondly, even if action is taken, the courts will treat the offence less seriously. The sentencing guidelines already say speed may currently only be taken into account if it is extremely excessive, despite the clear links between speed and crash severity. The courts should consider less dramatic speed infringements as aggravating factors, and increase penalties and sentences accordingly. This should be the case even if the Government persists in reducing speeding penalties. (Paragraph 101)

34. We reject the suggestion that lower penalties should generally apply to infringements of higher speed limits; the margins for enforcement are already generous enough. The exception might be relatively minor speed infringements on motorways where a lower penalty might be useful in certain clearly limited circumstances. (Paragraph 102)

The Government issued a discussion note on 1 September 2004 on its proposals for a more graduated system of fixed penalties for speeding offences inviting comments on how graduated penalties could be structured. The note prompted a significant and varied range of responses that will inform any decisions that are taken. The views of the Committee have been noted in regard to the proposals.

**35. Variable penalties are only meaningful if speed limits are in fact enforced. The Government's proposals for lowering some penalties should logically be accompanied by increased enforcement. (Paragraph 103)**

The main reason for enforcing speed limits must be to reduce accidents and save lives by encouraging motorists to drive within the law and therefore more safely. Active enforcement should therefore be concentrated at known accident hot spots or at locations where there is a history of speed related accidents.

Enforcement by camera has an important role to play and we fully support the national safety camera scheme, with its proven success. Speed cameras act as a continuous deterrent and free up police time for other duties, including other roads policing work.

Obviously, however, safety cameras cannot wholly replace the police. An adequate police presence on the road is also vital. Physical police presence is needed to deal with speeding elsewhere on the road network, including the motorways, and with other driving offences as well as to demonstrate the police's commitment to protect the public and to give them confidence that the law is being upheld. The joint HO/DfT/ACPO Roads Policing Strategy emphasises this point.

It should be noted that before the pilot scheme in 2000 in seven areas of England and Wales that led to the establishment of the safety camera programme there were a few hundred safety camera sites. There are now several thousand fixed and mobile sites in 35 areas in England and Wales, plus those in Scotland. As a result the number of fixed penalties issued for speeding offences has increased more than four fold since 1999. The effect of this greatly increased enforcement effort has been to reduce both the speed of traffic and the number of casualties suffering fatal and serious injuries in the vicinity of camera sites by 40%. In addition the incidence of speeding in 30 mph urban areas, where most enforcement activity is carried out, as measured by the Transport Statistics Bulletin Vehicle Speeds in Great Britain, shows that the percentage of cars exceeding the speed limit has reduced from 69% in 1999 to 58% in 2003.

**36. We consider that more use of speed awareness courses as a police disposal would be a better means of dealing with speeding than changing the penalty system to reduce the number of drivers who find themselves facing disqualification as a result of "totting up" fixed penalties. (Paragraph 104)**

It is not clear that many more drivers are facing disqualification, although more will have points on their licences. The Government believes that the increased enforcement is having the deterrent effect of reducing speeding, as evidenced by fewer casualties and lower speeds at safety camera sites. The offer of speed awareness courses is already available in a few police force areas and will be launched as a national disposal option available to the police in 2005. It is a matter for the individual police forces to decide on whether they are offered.

**37. The more that drivers can be educated to understand the effects of their speed the better. We therefore support the Government's proposal "to make provision for magistrates to offer approved driver re-training courses to the more serious speed offenders which come to court, in return for a reduction in disqualification or penalty points", as long as the courses are more rigorous than those offered as police disposals. (Paragraph 105)**

The Government welcomes the Committee's endorsement for the rehabilitation approach for speed offenders who come to court. The form and content of such programmes will have to be worked up but it envisaged that the requirements for participants should be no less demanding than is currently the case for Drink Drive Rehabilitation Course participants.

**38. We support the proposal to bring the penalties for failing to identify who was driving a vehicle in line with those for speeding. The Government should ensure that the penalty for failing to identify the driver is never lower than that for the offence in question. (Paragraph 106)**

An offence under Section 172 of the Road Traffic Act 1988 can be committed in a wide range of circumstances including, for example, where a dangerous driving offence is being investigated. A variable maximum penalty would not seem appropriate and offences of aiding and abetting might be considered in the more serious situations. The most common use of S.172 by far is in association with speeding offences so it seemed reasonable to align the penalty to the maximum for the speeding offence.

**39. We strongly support Mr Jamieson's proposal that devices which detect or jam live speed cameras should be banned. Maps and devices showing camera locations repeat information which is already publicly available, but enforcement agencies should ensure they take action against motorists whose driving is impaired when they try to use a mapping device. (Paragraph 107)**

The Government welcomes the Committee's support for a possible ban on the use of speed enforcement detection devices. Their use puts at serious risk the ability of the police to undertake effective speed enforcement, and in the Road Safety Bill announced in the Queen's Speech on 23 November the Government proposes to introduce legislation that would ban the carriage and use of certain jammers and detectors. The use of other positional and map based devices that could distract drivers and that do not comply with Construction and Use Regulations is already subject to prosecution.

**40. Since the medical and other emergency services are not adequately covered by the definitions in the current legislation, we support the proposal to allow the Secretary of State to grant exemptions from the law relating to speed on a case by case basis. When such exemptions are granted, the drivers of the vehicles must be adequately trained, and the vehicles must be clearly marked and have emergency lights. The Highway Code must make clear how other drivers should respond when all emergency vehicles approach. (Paragraph 110)**

The Road Safety Bill announced in the Queen's Speech on 23 November includes a new provision that enables the Secretary of State to make Regulations to allow additional vehicles to exceed the speed limit. It also provides additional provision to ensure appropriate training standards are reached by those allowed to exceed the limit. Rule 194 of the current edition of the Highway Code explains clearly how to react when emergency vehicles are present.

## The strategic road network

**41. We remain concerned that the transfer of incident management responsibilities to non-police traffic officers will reduce the police presence on the strategic road network. We also fear that too much priority will be given to minimising the disruption accidents cause other motorists, and too little to proper investigation of offences which may have been committed. (Paragraph 118)**

As regards the Committee's concern about the availability of police manpower on the strategic road network the reality is that the activities of Highways Agency Traffic Officers will free up police time from duties not requiring police expertise or powers. This time can then be used for more appropriate police work, including road policing. It should also be borne in mind that the importance given to road policing is not reflected simply in the number of dedicated traffic officers. As pointed out earlier in this document, the adoption of, amongst other things, an intelligence-led approach to road policing and the increased use of cameras and other technology can lead to a reduction in the number of police officers dedicated to traffic duties without a reduction in enforcement.

With regard to accident investigation it should be emphasised that the police will remain entirely responsible for law enforcement and the investigation of accidents. All accidents will be properly investigated in accordance with the advice outlined in the Road Death Investigation Manual (for further information please see response to Recommendation 16).

**42. We would need very robust evidence to convince us that the hard shoulder could be used as a running lane. Not only is it necessary to have a safe refuge in case of a sudden breakdown, but the hard shoulder also provides access for emergency services. Most proposals suggest that the hard shoulder could be used to provide extra capacity at peak periods; the weight of traffic would give great difficulty to emergency vehicles trying to reach incidents at such times. Motorways are the safest roads in Britain; the Government should ensure they remain so. (Paragraph 119)**

We too will need robust evidence that there has been no increase in the number or severity of road traffic casualties on the M42 pilot site or on the surrounding road network before we give the go-ahead for wider usage of the hard shoulder as a running lane. We will also need to consider the impact of the use of the hard shoulder as a running lane on emergency vehicles, maintenance and traffic management generally. The Highways Agency is gathering evidence about the way traffic on the road functions before and after the introduction of the pilot.

Both the Department for Transport (central) and the Highways Agency have always been aware of the potential safety issues and have devoted considerable effort to the development of a robust safety management and analysis process, formalised through a safety strategy and more detailed safety plans. A comprehensive safety case is being prepared for the consideration of England's Chief Highway Engineer. As the recent NAO report has highlighted, there is good evidence from abroad that hard shoulder running can be made to operate safely but we want to assure ourselves on that score.

**43. Vehicles on the hard shoulder are at risk themselves, and put other road users at risk. The presumption should be that if recovery services can only reach them by use of the hard shoulder the police or Network Manager would usually consent. (Paragraph 120)**

We agree that the motorway hard shoulder is not somewhere that motorists should stop be unless in an emergency and this principle is embedded in the Motorway Regulations. Under the regulations a police officer in uniform can give permission to recovery services to drive on the hard shoulder and amendments to the regulations which came into force on 1 January 2005 also allow traffic officers in uniform to give such permission.

## **The Government's road safety proposals**

**44. We support the Government's proposal to make driving without proper control and using a mobile phone while driving endorsable offences. The prospect of penalty points on their driving licence should make people more careful in their own driving, and less tolerant of these behaviours in others. However, these offences must be enforced properly in order to capitalise on these effects. (Paragraph 125)**

The Government notes the Committee's support for increasing the penalties for these offences. Appropriate provisions have been included in the Road Safety Bill currently before Parliament. The offences will be enforced during routine policing and special exercises can be mounted as necessary. The introduction of intercept teams linked to the operation of Automatic Number Plate Recognition systems can improve the likelihood of detection for these offences. During the recent ANPR pilot in 23 forces (for 7 months of which the specific mobile phone offence was in place), there were 2,127 stops for using a hand-held mobile phone while driving.

**45. The Government should use any legislative opportunity this session to make community sentences generally available for driving offences. (Paragraph 128)**

For the most serious motoring offences the courts can impose community or custodial sentences, if they feel that this is warranted because of the facts of the particular case. Fines are an appropriate penalty for many less serious driving offences as they are not always the result of deliberately violent or potentially dangerous behaviour, but can be committed in circumstances where tiredness, impatience, a moment's carelessness or haste result in a temporary drop in the standard of driving.

However, the Criminal Justice Act 2003 introduces changes that allow the courts to impose the full range of community sentences for offences that are not imprisonable, again where the court considers the offence serious enough to warrant a community punishment. The new structure for community sentences will be available to courts from April next year.

**46. We agree in principle that it is worth improving standards of driver training. We suspect, however, that the way in which this is done will be worthy of great scrutiny, and expect that this will be in secondary legislation. (Paragraph 129)**

The Government is pleased to note that the Committee agrees in principle with the proposals to improve standards of driver training.

In accordance with the commitment given in the Road Safety Strategy, the Government recognises that improved driving skills and behaviour will make an enormous contribution to reducing the number of road casualties. Key to that is making learning to drive more relevant to today's road conditions and those of the future. The contribution of skilled and motivated driving instructors is seen as central to delivering those objectives. Proposals to modernise the way driving instructors are trained and supervised have been included in the Road Safety Bill which was introduced in the House of Commons on 30 November 2004.

The main proposal is to extend the current statutory scheme covering instruction in driving a motor car to all types of motor vehicle (e.g. lorry, bus and motorcycle). The tuition will cover differing circumstances (e.g. off-road, full licence holders driving as part of their every day job or those driving emergency response vehicles whilst under blue lights). Extending the registration system to all forms of paid driving tuition will help to create a more professional driver training industry capable of delivering an enhanced and more uniform standard of training.

We also want to make sure the public has access to information about the performance of individual instructors. Powers sought in the Bill will enable the Secretary of State to make available information, but not sensitive personal details, about instructors. This information will enable customers to identify local trainers offering the services they require and provide information about their qualifications and performance. It will also help high quality instructors to promote their services.

The powers sought in the Bill will enable the Secretary of State to introduce the changes by regulation. Public consultation will take place before the regulations are laid. And the Government will welcome the promised scrutiny of such regulations.









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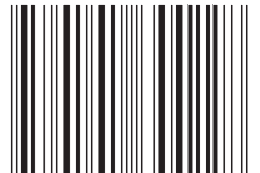
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