

## **ROAD TRAFFIC PENALTIES – CONSULTATION**

### **1 SUMMARY**

- 1.1 Members to consider a consultation document on Road Traffic Penalties as part of the Government's Road Safety Strategy. A response has been requested by the 9 March 2001 which can be achieved by sending a 'qualified response' subject to ratification by the parent committee.

### **2 INTRODUCTION**

- 2.1 The Government's Road Safety Strategy contains wide ranging proposals to provide a safer environment for road users, passengers and pedestrians. The aim is to achieve over a ten year period:-
- a 40% reduction in the number of people killed or seriously injured
  - a 50% reduction in the number of children killed or seriously injured
  - a 10% reduction in the slight casualty rate.

By introducing higher penalties for various driving offences and other provisions such as training and re-tests the aim is to increase the drivers general level of safety awareness which it is hoped will lead to fewer accidents occurring on the road.

Against the background of 30 million drivers, 1.8 million endorsements occur each year. Some 95% of drivers, therefore, make it through the year without committing an endorsable offence. However, the aim of the strategy is to change attitudes of those drivers who are transgressors and road traffic penalties have a part to play by signalling what is dangerous, providing incentives for improvement and generally encouraging consideration for other road users, including passengers and pedestrians.

The Council's views are sought on the proposals set out in the Consultation Document, a full copy of which has been placed in the Members' Lounge. A summary of the 22 proposals is appended to this report.

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**3 CRIME AND DISORDER IMPLICATIONS**

- 3.1 The Government believe that the introduction of changes outlined in the consultation will lead to a reduction in motoring offences.

**4 RECOMMENDATION**

- 4.1 It is proposed that the Committee **RECOMMENDS**

That, subject to Member comments and approval by the Transportation & Environmental Services Committee, a response be made to the consultation document on Road Traffic Penalties. (HRHM)

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**Background Papers:**

Home Office Consultation Paper.

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Summary of Proposals

**Proposal 1 Revaluation of points**

*To provide greater flexibility to the courts in awarding points related to the seriousness of the offence, and also for proposals concerned with a new structure of fixed penalty spending offences, penalty points and endorsements in licences should be revalued.*

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**Proposal 2 Retraining**

*Those receiving an endorsement or penalty points which take their points total up to or beyond 10 points should ideally be offered automatically the opportunity to attend, at their own expense, a driver retraining and improvement programme. Successful completion of the course would mean termination of 5 points. Those disqualified for a period of over 56 days up to and including 12 months should be automatically offered the same with a reduction of 20% of the period of disqualification.*

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**Proposal 3 Topping up disqualification as a fixed penalty**

*Offenders can choose to accept a fixed penalty even where to do so would bring their penalty points up to or beyond topping up level. In that event offenders would automatically be awarded, in addition to the fixed penalty, a six month disqualification.*

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**Proposal 4 Long-life points**

*For a period of three years after resuming driving following disqualification for more than 56 days, any fresh penalty points or endorsements awarded as a result of further offences or fixed penalties would remain on the licence for six years, not three.*

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**Proposal 5 Requalifying after disqualification**

*A driver sentenced to disqualification for a substantial period of time should be required, as an automatic consequence of not being allowed to drive for such a period, to requalify (As to the appropriate period of disqualification - see below)*

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**Proposal 6 Decoupled community penalties**

*Community sentences such as community service orders, involving service particularly relevant to driving and road safety, could be made available for some offences for which imprisonment is not available.*

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**Proposal 7 Forfeiture of vehicles**

*Procedures for permanent forfeiture of vehicles should no longer involve the police, and should be contracted out to vehicle removal companies. A new penalty - temporary forfeiture - should be made available to the courts for certain offences.*

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**Proposal 8 Causing death by dangerous driving**

*Disqualification to be for a minimum of three years (or, possibly, for life). Disqualification to be for life (possibly reviewed after a substantial period of time, 10 years for example) where the defendant had previously committed an offence of dangerous driving, or causing death by dangerous driving, or causing death by aggravated vehicle taking, or causing death by careless driving while under the influence of drink or drugs. Permanent or temporary forfeiture of the vehicle would be available.*

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**Proposal 9 Causing death by careless driving while under the influence of drink or drugs**

*Disqualification to be for a minimum of three years (or, possibly, for life). Disqualification to be for life (possibly reviewed after a substantial period of time, 10 years for example) where the defendant had previously committed an offence of dangerous driving, or causing death by dangerous driving, or causing death by aggravated vehicle taking, or causing death by careless driving while under the influence of drink or drugs. Permanent or temporary forfeiture of the vehicle would be available.* 17

**Proposal 10 Causing death by aggravated vehicle taking**

*The maximum term of imprisonment increased to 10 years. Disqualification to be for a minimum of three years (or, possibly, for life). Disqualification to be for life (possibly reviewed after a substantial period of time, 10 years for example) where the defendant had previously committed an offence of dangerous driving, or causing death by dangerous driving, or causing death by aggravated vehicle taking, or causing death by careless driving while under the influence of drink or drugs. Permanent or temporary forfeiture of the vehicle would be available.* 18

**Proposal 11 Dangerous driving and aggravated vehicle taking**

*Maximum term of imprisonment increased to five years for both these offences. Disqualification to be for a minimum of three years. Disqualification to be for life (possibly reviewed after a substantial period of time, 10 years for example) where the defendant had previously committed an offence of dangerous driving, or causing death by dangerous driving, or causing death by aggravated vehicle taking, or causing death by careless driving while under the influence of drink or drugs. Permanent or temporary forfeiture of the vehicle would be available.* 18

**Proposal 12 A new penalty for a "higher level of alcohol"**

*The maximum penalty for the new "higher level of alcohol" offence would be the same as for the basic offence. But the minimum period of disqualification applying to the "drive and attempt to drive" offence would be longer than the basic offence. We invite views on the appropriate periods of disqualification. Disqualification would remain at the discretion of the court for the "in charge" offence and the minimum of 12 months would continue to apply for driving or attempting to drive whilst unfit. Permanent or temporary forfeiture of the vehicle would also be available. Offenders convicted of the new offence would always be required to undertake an extended retest before regaining their licence.* 19

**Proposal 13 Repeat drink-drive offending**

*For any second drink-drive offence within 10 years, disqualification, where applicable, should at least remain at the current minimum period of three years but could be increased. We invite views on this issue. The second drink-drive offence within 10 years would also result in a requirement to undertake an extended retest. We propose that two convictions for drink-drive offences within ten years, in which one or both of the offences is a higher level offence or failing to provide a specimen where disqualification is obligatory should attract a minimum period of disqualification in excess of that applying to repeat commission of basic offences (currently three years).* 20

**Proposal 14 Driving while disqualified**

*A wider range of community penalties to be available in addition to the existing option of six months imprisonment. Permanent or temporary forfeiture of the vehicle. A minimum two-year disqualification for a second offence within 10 years (which would always trigger a retest requirement.)* 21

**Proposal 15 Driving otherwise than in accordance with a licence, or causing or permitting a person to drive otherwise than in accordance with a licence**

*In addition to existing penalties, "decoupled" community penalties to be available in any case where disqualification is available; and permanent or temporary forfeiture of the vehicle involved in the offence.* 21

**Proposal 16 Driving while uninsured**

*In addition to existing penalties, "decoupled" community penalties, and permanent or temporary forfeiture of the vehicle, should be available to the courts.* 21

**Proposal 17 Careless or inconsiderate driving.**

*Available sentences to include requirements to undergo a driver retraining and improvement programme; "Decoupled" community penalties, and a fine at level 5 in place of level 4. A mandatory minimum award of 15 points for a second offence of careless driving within 5 years, or for a first offence of careless driving if within the preceding 5 years the driver had committed any of the more serious categories of offence. A minimum period of disqualification of whatever length necessary to require an automatic retest for a third or subsequent offence of careless driving within five years.* 22

**Proposal 18 Speeding offences**

*A new fixed penalty system for speeding offences should provide for two levels of fixed penalty, with a higher level of points awarded to those exceeding the limit by a wide margin so as to increase the risk to them of losing their licence through totting up.* 24

**Proposal 19 Fraud with parking tickets, deception with licences, MOT certificates, etc and fraudulent use of documentation**

*Imprisonment of up to six months should be made available to the magistrates' courts for these offences.* 25

**Proposal 20 Using vehicles in a dangerous or overloaded condition**

*"Decoupled" community penalties should be available to enable the courts to deal effectively with particularly serious examples of these offences. Disqualification should be mandatory for second or subsequent offences in this category within three years; and temporary forfeiture should be available.* 25

**Proposal 21 Bus lanes**

*Local authorities should be enabled to enforce bus lanes as well as the police, by the use of cameras. Local authorities should be empowered to deal with offenders by a fixed penalty notice.* 25

**Proposal 22 All fixed penalty offences**

*All offences amenable to fixed penalty treatment should be made subject to minimum sentences, if tried in court, both as to points, and to the financial penalty. The minimum penalty should be set at the fixed penalty level.* 26

**Views are invited on the following issues**

**Paragraph 9.2 (c)**

Proposal 5 above calls for retesting as an automatic consequence of a substantial period of disqualification, in addition to any other penalty. We welcome views as to what the length of this period should be.

Paragraph 9.2 (b)

The use of short term disqualifications, even for periods as short as a fortnight or a month, could give a sharp warning to drivers whose behaviour, if it did not change, would be likely to result in a much more serious penalty including a prolonged disqualification.

Paragraph 10.11

For offences involving death, dangerous driving or aggravated vehicle taking, drivers that show a high level of irresponsibility in the commission of offences will always justify a substantial preventative period of disqualification. The review proposes a pattern of minimum disqualifications for the first offence. The question of whether the "special reasons" exception on the basis of which courts may decide not to disqualify in these circumstances should be removed was considered, but there may be implications in terms of the compatibility of such a measure with the European Convention on Human Rights. We would be interested to receive views as to the merits of such a change.

*Any comments on road traffic penalties that are not explicitly mentioned within this consultation paper, are welcomed.*