



**RESPONSE TO
THE DEPARTMENT FOR TRANSPORT'S
CONSULTATION PAPER**

**“CHANGES TO THE FIXED PENALTY NOTICE AND PENALTY
POINTS FOR THE USE OF A HAND-HELD MOBILE PHONE
WHILST DRIVING”**

8 March 2016

INTRODUCTION

This is the response of the Royal Society for the Prevention of Accidents (RoSPA) to the Department for Transport's consultation paper, "Changes to the Fixed Penalty Notice and Penalty Points for the Use of a Hand-Held Mobile Phone Whilst Driving".

Our response has been prepared following consultation with RoSPA's National Road Safety Committee.

RoSPA thanks the DfT for the opportunity to comment on the proposals.

INTRODUCTION

It is illegal to use a hand-held mobile phone whilst driving. This includes holding a mobile phone to read a text, check social media, take a photo or any other interactive communication function, and applies even when a driver has stopped at traffic lights is queuing in traffic.

Driving ability is clearly impaired by using a mobile phone and studies have found that talking on a hand-held mobile phone impairs driving more than driving above the drink drive limit. During the period 2009-2014, 3,611 reported accidents occurred where at least one driver was using a mobile phone, although this is likely to be significantly under recorded as many drivers may have put away their phone before the police arrived.

During a 2014 survey in England and Scotland, 1.6% of car drivers were observed using a hand-held mobile phone whilst driving, a similar rate to a survey in England in 2009. Due to the seriousness of potential consequences of this offence, the Department for Transport propose to increase the penalties to act as a further deterrent for offending behaviour.

Currently, the penalty for using a hand-held mobile phone while driving is a Fixed Penalty Notice (FPN), which incurs a £100 fixed penalty and 3 penalty points. A driver who receives 12 penalty points within a three year period could be disqualified by the court for at least six months. Most first time offenders will not incur a FPN or penalty points but will instead continue to be offered a remedial educational course. Whether to invite a motorist to a course is at the discretion of the police.

First-time offenders who hold a Large Goods Vehicle (HGV) vocational licence receive a warning letter from the DVLA on top of the FPN, and if they commit a second offence, they are called to a hearing with the Traffic Commissioner who has the power to suspend or revoke their vocational licence. If the offender was driving a commercial vehicle at the time of the offence, they may be called to a hearing on their first offence. Between August and October 2015, 1,151 holders of a HGV/Passenger Service Vehicle (PSV) licence received a warning letter from the DVLA for committing their first offence. Within the same period, 201 drivers reoffended and were subsequently called to a hearing with the Traffic Commissioner.

This consultation seeks views on proposals to increase the FPN fine from £100 to £150 for all drivers and to increase the penalty points from 3 to 4 for non-HGV drivers and from 3 to 6 points for those that hold a Large Goods Vehicle (HGV) licence who commit the offence whilst driving a HGV.

Consultation Questions

Question 1

Do you agree that driving whilst using a hand-held mobile phone is a dangerous activity?

RoSPA Response

RoSPA agrees that using a mobile phone, whether hand-held or hands-free, while driving is dangerous. It is also unnecessary. Drivers can switch off their phone and let it take messages, and return messages, make calls or send texts when they have stopped in a safe place.

A substantial body of research shows that using a hand-held or hands-free mobile phone while driving is a significant distraction, and substantially increases the risk of the driver crashing.

Drivers who use a mobile phone, whether hand-held or hands-free:

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

They are also more likely to crash, injuring or killing themselves and other people.

In 2014, 24 people were killed, 111 seriously injured and 634 slightly injured in road crashes involving drivers using mobile phones.¹ It is likely that this is an under-estimate as some drivers will have been able to put their phones away before the police arrived at the crash scene.

Using a hands-free phone while driving does not significantly reduce the risks because of the mental distraction and divided attention, caused by taking part in a phone conversation or texting (some hands-free phones can do voice activated texts) at the same time as driving.

Question 2

Generally, are you in favour of increased sanctions for this offence?

RoSPA Response

Yes, RoSPA supports increased sanctions for this offence.

However, while this may strengthen the deterrent against using a hand-held mobile phone while driving, it is unlikely to have a long term effect on its own. Without consistent enforcement and education, the deterrent will wear off over time. If drivers do not think they are likely to get caught if they use their phone while driving, they are not going to worry about the penalty."

¹ Reported Road Casualties Great Britain 2014, Table RAS 50007, Department for Transport, 2015

Question 3

Do you support an increase in the FPN for this offence?

RoSPA Response

Yes, RoSPA supports the use of fixed penalty notices for this offence. It is an efficient and cost-effective sanction that enables many more drivers to face legal consequences for their actions, without overwhelming police and court resources.

Without fixed penalty notices, it is likely that the level of enforcement for this offence would substantially decrease due to the resourcing costs and time it would take the police and courts to process drivers who previously would have been issued with a fixed penalty notice. This, in turn, would reduce the deterrent against using a mobile phone while driving as drivers would think there is even less likelihood of getting caught.

However, more serious cases of poor driving due to the use of a mobile phone, or collisions involving drivers using mobile phones should result in a court prosecution.

Question 4

If so, do you agree that we should increase the FPN from £100 to £150 for all drivers (including HGV)? If not, please explain your reasons why.

RoSPA Response

Yes, RoSPA supports the proposal to increase the fixed penalty fine from £100 to £150 to provide a stronger deterrent to using a hand-held mobile phone while driving.

Question 5

Do you support an increase in the Penalty Points for this offence?

RoSPA Response

Yes, RoSPA supports the proposal to increase the number of penalty points for using a hand-held mobile phone while driving, as well as the fine, to provide a stronger deterrent.

Question 6

If so, do you agree that we should increase the penalty points for non-HGV drivers from 3 to 4 penalty points? If not, please explain your reasons why.

RoSPA Response

Yes, RoSPA supports the proposal to increase the number of penalty points for non-HGV drivers who use a hand-held mobile phone while driving from 3 to 4 penalty points.

Research suggests that penalty points are more of a deterrent than the level of the fine due to the risk of disqualification. A 2008 study² found that drivers who had penalty points and were at risk of losing their licence if they were caught again, were about half as likely to be subsequently convicted than drivers with no penalty points or with only one conviction. The 2013 Think! Annual Survey also found that the introduction of penalty points for hand-held mobile phone use in 2007 resulted in the number recorded offences dropping significantly.³ Therefore, the increase in penalty points will act as a stronger and quicker deterrent to such drivers, and if they fail to respond, will lead to their disqualification more quickly, hopefully before their driving kills or injures somebody.

² Does the Threat of Disqualification Deter Drivers from Speeding?, Road Safety Research report 96, C Corbett et al, DfT, 2008

³ Think! Road Safety Survey 2013, TNS BMRB, 2013

Question 7

Do you support a specific offence for drivers of Large Goods Vehicles (HGVs)?

RoSPA Response

Yes, RoSPA agrees that there should be a specific offence for Large Goods Vehicle (HGV) drivers who for use a hand-held mobile phone while driving an HGV, and that the fixed penalty notice for this offence should be increased from 3 to 6 penalty points and a £150 fine.

We note from the consultation paper that first-time offenders who hold an HGV or PSV vocational licence receive a warning letter from the DVLA in addition to their FPN, and if they commit a second offence, they are called to a hearing with the Traffic Commissioner who has the power to suspend or revoke their vocational licence. We are not sure whether the Traffic Commissioners are automatically advised about fixed penalty notices issued to first time offenders, but if not, doing so would help the Traffic Commissioner to identify potential problem drivers and operators earlier.

Question 8

If so, do you agree that a specific offence for Large Goods Vehicle (HGV) drivers who offend whilst driving a HGV should be created which carries 6 penalty points and a £150 FPN? If not, please explain your reasons why.

RoSPA Response

The penalties for using a hand-held mobile phone while driving an HGV should be more severe than doing so while driving a car because HGVs are larger and weigh much more than cars and so crashes involving them can be more severe. There is an argument for the fine also being higher than that imposed on car drivers.

Question 9

Do you support an increase in both the FPN and Penalty Points for this offence AND a specific penalty for HGV drivers? If not, please explain your reasons why.

RoSPA Response

Yes, RoSPA supports the proposal to increase the number of penalty points for HGV drivers who use a hand-held mobile phone while driving an HGV and to impose a specific penalty for HGV drivers. We support the additional penalties of HGV drivers also being sent a warning letter from the DVLA for their first offence with a hand-held mobile phone, and for a second offence (or their first offence if it occurred while driving an HGV rather than a car) being called to a hearing with the Traffic Commissioner who has the power to suspend or revoke their vocational driving licence.

Question 10

Do you agree that HGV drivers who commit their first mobile phone offence whilst driving a HGV should be offered a remedial training course as opposed to a FPN? If not, please explain your reasons why.

RoSPA Response

In general, RoSPA supports remedial training as an alternative to a fixed penalty notice for first time offenders. This helps offenders to recognise and understand why (in this case) using a hand-held mobile phone while driving is dangerous and illegal and aims to help them to change their behaviour and avoid re-offending. It is, of course, important that remedial training courses for this offence are evaluated to be sure that they do reduce re-offending.

However, RoSPA disagrees that HGV or bus/coach drivers who use a hand-held mobile phone while driving an HGV or a bus or coach should be offered an educational course. They have already received 35 hours of educational training as part of their Certificate of Professional Competence (CPC), which will have covered the dangers of distraction, including the use of mobile phones. They should already know the potential consequences; we believe that the fixed penalty notice would be a stronger deterrent.

Question 11

What role might the mobile phone industry play in improving road safety? For example, promoting new technology with "drive safe modes".

RoSPA Response

RoSPA welcomes moves by the mobile phone industry to develop technology to discourage drivers from using their mobiles while driving, such as a "drive safe mode" in which the phone will not ring or alert the owner that a call or text is coming through, it detects that it is moving more than, say, 5 - 6 mph. It may also automatically respond to the caller or the person sending a text to say that the recipient is driving and will return the call once they have reached their destination. This type of technology could help drivers by removing the (often powerful) temptation to respond to a ringing phone or text beep.

However, it will probably be necessary for people to be able to switch off the "drive safe mode" in certain circumstances, for example, if they are travelling as a passenger in a vehicle or a train. Allowing a passenger to take calls and messages is itself a useful way of removing the need for drivers to do so.

As drive safe modes are likely to be an optional for drivers, those who are most likely to be tempted to use their phones are those who will not activate this facility. Therefore, it will be useful to assess whether an override ability is used by people when they are driving, as this would negate the benefits.

Question 12

What role might the insurance industry play in improving road safety? For example, promoting new technology with "drive safe modes".

RoSPA Response

The insurance industry could certainly promote this type of technology if it proves effective in reducing mobile phone use by drivers. It may be difficult for them to incentivise use of the technology through insurance premiums.

In addition to promoting new technology such as drive safe modes, the insurance industry should also be proactive in highlighting to people the insurance implications if they are found to be using a mobile phone prior to crashing. This could be stressed when new insurance details are issued.

Question 13

Do you think it would be beneficial to target new technologies at certain groups of drivers? For example, young drivers, van drivers or those driving for work.

RoSPA Response

RoSPA believes that it would be beneficial to target groups of drivers who may be more likely to use mobile phones, while driving, as well as targeting all drivers.

For example, employers could help by ensuring that they have effective policies and procedures to prevent their staff from using mobile phones while driving for work, including making sure that managers do not expect staff to respond to calls or messages while they are driving. When selecting vehicles for their fleets or hire vehicles, employers could avoid models that have in-vehicle systems that encourage and enable hands-free calls. Those employers who provide a mobile phone to certain staff for work purposes, could ensure that they come with a drive safe mode.

Question 14

What else would you recommend should be done regarding mobile phone offences whilst driving?

RoSPA Response

As stated at the start of our response to question 2 above, consistent enforcement is needed to support the increased penalties otherwise their deterrent effect is likely to wear off over time. If drivers do not think they are likely to get caught if they use their phone while driving, they are not going to worry about the penalty.

Consistent education is also important to support the law, and RoSPA believes that this is a message that should be promoted through the DfT's Think! Campaigns, as it has been previously.

Motor manufacturers also have a role to play by not designing built-in communication and entertainment systems that enable and encourage drivers to make and receive calls and texts, surf the internet and use social media while they are driving. In RoSPA's view, the fact that these systems are hands-free does not significantly reducing the risk; the mental distraction they create distracts drivers, impairs their driving and increases the risk of crashing.

The Police and courts could treat switching off a drive safe mode as an aggravating factor when deciding on the most appropriate charge and penalty on conviction.

Question 15

Please provide your contact details, the most frequent mode of transport you use, and whether you are responding as an individual or on behalf of an organisation.

RoSPA Response

This is RoSPA's response, and has been prepared following consultation with RoSPA's National Road Safety Committee. Personally, my most frequent mode of transport is a car.

RoSPA thanks the DfT for the opportunity to comment on the proposals. We have no objection to our response being reproduced or attributed.

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