

## Synopsis of Responses

A consultation to consider making careless driving a fixed penalty notice offence



10 March 2022

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## Section 1:

### Introduction and Overview

A public consultation to 'Consider making careless driving a fixed penalty notice offence' issued on 23 November 2021 and remained open for a period of 8 weeks - closing on 18 January 2022.

There were a total of **622** responses to the consultation.

- **611** of the responses were received via the online questionnaire hosted in Citizen Space; and
- **11** email responses.

The consultation paper assessed the offence of careless driving in terms of behaviours, volume of offending and the number of associated deaths and injuries in Northern Ireland. It also considered the current legislative process and explored how this might be improved with the introduction of a new fixed penalty open to the offer of remedial training.

At present, drivers detected for the offence are either issued a warning by police or the case is referred to the PPS where a decision is taken as to prosecution or diversionary disposal (typically a caution, informed warning or educational training) as an alternative to prosecution. [A court conviction for careless driving could result in a fine of up to £5,000, between three and nine penalty points to the driver's licence and, at the discretion of the court, potential disqualification].

Consultees were asked to consider a new disposal option for this offence aimed at low level offending i.e. a new fixed penalty open to the offer of remedial training which would carry 3 penalty points and a fine of £100.

Views were also sought on utilising the new Fixed Penalty Notice (FPN) to encourage the submission of dash-cam footage from civilian vehicles or bike and helmet-cam footage showing irresponsible or inappropriate road use. It was noted that this would allow police to effectively deal with the footage recorded by members of the public in a safe and secure way, whilst making the investigation process simple and straightforward. To move forward with such an initiative in Northern Ireland would require a fixed penalty for careless driving to be in place.

This synopsis of response provides an overview of the **622 responses received**. It highlights recurring themes to clarify the main arguments, cited for or against the proposals. It should be noted that in some instances, total percentages may not add up due to rounding or where some questions contained multiple responses. Users should also treat the percentages given with caution as some of these are based on low numbers.

## Key Findings:

- Over three quarters of the responses received (**77%**) agree that careless driving should become a fixed penalty notice offence open to the offer of remedial training. However, some responses noted that the option for training should only be available for first offences that are relatively minor. Overall, the new disposal option was viewed as a more appropriate disposal method for lower level offending rather than dealing with the offender via the court system. Remedial training was viewed as a means to achieve longer-term behavioural changes.
- **23%** of respondents did not agree with the new FPN disposal option for careless driving. This view point was supported by a range of write-in comments which have been reflected in the synopsis under 'common themes'.
- A majority of the responses received (**68%**) agree that the careless driving FPN should carry 3 penalty points and a fine of £100. Some of the write-in comments suggested that more stringent action is required. There is also a suggestion that a sliding scale system could be applied, linked to the seriousness of the offence or an individual's personal income.
- **31%** of respondents did not agree with the proposed level of fine and number of penalty points. For many this level was seen as being too harsh. Comments suggest there is no requirement for a fine and penalty points; this was seen as punishing twice. Comments also suggested that points should only apply for repeat offences while a first offence should be dealt with by a warning only. It was also noted that the new penalty should be in line with the speeding FPN fine and set at £60.
- A majority of responses (**74%**) agreed to a fixed penalty disposal option being utilised to encourage the submission of dash-cam footage. Write-in comments were provided to support this position. The use of dash-cam footage was viewed by many as a constructive move which is long overdue. Cyclists were particularly supportive with some suggesting that this will create an enhanced sense of safety and encourage wider use of recording equipment. There was a strong emphasis on the system that would be used to upload the footage i.e. easy to use in order to encourage optimum engagement. Providing dash-cam footage in the past was viewed as a negative experience very often with poor or unclear outcomes. It was also suggested that the term dash-cam should be expanded to include other means of capturing footage e.g. helmet-cam, handlebar-cam as well as footage provided by pedestrians and/or passengers.
- **25%** of respondents did not agree with a careless driving fixed penalty disposal option being used to encourage the submission of dash-cam footage. There were strong views that the facility could be misused and provide too much opportunity for victimisation or harassment. Concerns around reliability of footage was also considered. For example, would the captured footage provide only a snapshot and not reveal other contributing factors. On a practical level it was noted that dash-cams are not calibrated or regulated and potentially content could be manipulated via a computer. Other comments centred on a possible breach of an individual's civil liberties and the reaction of road users if they realised they are being recorded.

## Section 2:

### Careless Driving – Fixed Penalty Notice (FPN) Offence

Two questions are considered in this section:

- Do you agree with the proposed approach to make careless driving a FPN offence open to the offer of remedial training?
- Do you agree that the FPN offence should carry 3 penalty points and a fine of £100?

Table 1: Question 1 - Do you agree with the proposed approach to make careless driving a FPN offence open to the offer of remedial training?		
Response	Number of Responses Received	Percentage Figures have been rounded
Yes	481	77%
No	141	23%
Not answered	0	0%
<b>Total</b>	<b>622</b>	<b>100%</b>

- The majority of the responses (**77%**) **agree** that careless driving should become a FPN offence open to the offer of remedial training. **23%** of respondents **do not agree** with the proposal.
- There were a total of **115** write-in comments received in relation to Question 1.
- The consultation encouraged comment particularly from those who did not agree with the proposal. **93** write-in comments to Question 1 provide views held against the introduction of a FPN offence for careless driving.

- Table 1b (below) highlights the four main themes from these write- in comments.

<b>Table 1b: Write-in Comments - Four Most Common Themes – Against</b>	
<b>Concerns relating to the role of the Police (23)</b>	<ul style="list-style-type: none"> <li>- too much ambiguity</li> <li>- open to abuse</li> <li>- gives too much power to police</li> <li>- too subjective</li> </ul>
<b>Proposals not substantial enough or appropriate for this offence (17)</b>	<ul style="list-style-type: none"> <li>- waters down the offence</li> <li>- build more capacity into the court system</li> <li>- this is a serious offence [should only be decided in court]</li> </ul>
<b>Revenue making scheme (11)</b>	<ul style="list-style-type: none"> <li>- run it at a loss to see if it works</li> <li>- another money making system</li> <li>- looks more like financial gain... rather than considered justice</li> </ul>
<b>Concentrate on other areas instead (8)</b>	<ul style="list-style-type: none"> <li>- resolve MOT situation</li> <li>- dangerous driving</li> <li>- physical changes / improvements to roads</li> </ul>

## Question 2 - Do you agree that the FPN offence should carry 3 penalty points and a fine of £100?

Response	Number of Responses Received	Percentage Figures have been rounded
Yes	425	68%
No	192	31%
Not Answered	5	1%
<b>Total</b>	<b>622</b>	<b>100%</b>

- o The majority of the responses (**68%**) **agree** that the careless driving FPN should carry 3 penalty points and a fine of £100.
- o **31%** of respondents **do not agree** with the proposal while 1% provided no response to this question.
- o There were a total of **148** write-in comments received in relation to Question 2.
- o Table 2b (below) highlights the most common themes from the comments.

**Table 2b: Write-in Comments - Most Common Themes**

<b>Too harsh (24)</b>	<ul style="list-style-type: none"> <li>- not both fine and penalty points; punishing twice;</li> <li>- too harsh for a momentary lapse in concentration</li> <li>- fine only</li> <li>- points only</li> <li>- no points unless repeat offence</li> <li>- first offence should be a warning</li> <li>- should be in line with speeding FPN</li> </ul>
<b>More stringent action required (18)</b>	<ul style="list-style-type: none"> <li>- remove licence</li> <li>- incremental driving bans</li> <li>- prosecution for repeat offence</li> </ul>

	<ul style="list-style-type: none"> <li>- higher points and fine</li> <li>- why not have the same level of penalty as mobile phones (6 points)</li> <li>- effectively decriminalises careless driving</li> </ul>
<b>Higher fine required (17)</b>	<ul style="list-style-type: none"> <li>- some examples included £150, £300, £500, £1,000</li> </ul>
<b>No change (17)</b>	<ul style="list-style-type: none"> <li>- current sanctions are appropriate</li> </ul>
<b>Adopt a proportional approach (15)</b>	<ul style="list-style-type: none"> <li>- link to seriousness of offence and/or subsequent offences</li> <li>- link to income / wealth</li> </ul>
<b>Money making (10)</b>	<ul style="list-style-type: none"> <li>- easy revenue collection</li> <li>- always the motorist that suffers financially</li> <li>- motorists are a soft touch for generating money whilst serious crime is rampant throughout our communities</li> <li>- already taxed for driving on substandard roads and infrastructure.</li> </ul>
<b>Lower fine (7)</b>	<ul style="list-style-type: none"> <li>- suggestions included £60, £20, £5 offender levy</li> </ul>



## Section 3:

### Dash-Cam Footage – Operation Snap

**Table 3: Question 3 - Do you agree to a fixed penalty disposal option for careless driving being utilised to encourage the submission of dash-cam footage – Operation SNAP?**

Response	Number of Responses Received	Percentage Figures have been rounded
Yes	462	74%
No	155	25%
Not Answered	5	1%
<b>Total</b>	<b>622</b>	<b>100%</b>

- o The majority of responses (**74%**) **agree** to a fixed penalty disposal option being utilised to encourage the submission of dash-cam footage.
- o **25%** of respondents **do not agree** with the proposal while 1% provided no response to this question.
- o There was a total of 166 write-in comments in response to this question. The most common themes [both for and against] are shown in the tables below.

**Table 3b: Write-in Comments - Three Most Common Themes [in support]**

**Constructive move / Long overdue (31)**

- Simplified approach to road safety
- May encourage better driving if motorists are educated on how footage may be used.
- Police can't be expected to see everything
- Finite number of policing patrols
- Good deterrent particularly for serial offenders
- Is PSNI prepared for the absolute wealth of footage they are going to receive?

<b>Cyclists (18)</b>	<ul style="list-style-type: none"> <li>- Careless driving witnessed on every cycle ride</li> <li>- Long overdue for cyclists to have more support from PSNI on close overtaking &amp; other dangerous manoeuvres</li> <li>- If a cyclist has to take evasive action there should be consideration as to whether the incident is a case of dangerous driving</li> <li>- Object to text [in document] which implies that the motorist has to make [a cyclist] swerve to be a careless driving offence</li> <li>- The awareness that detection is dramatically more likely is a reason to commend this initiative.</li> </ul>
<b>Needs to be easy for public to submit (16)</b>	<ul style="list-style-type: none"> <li>- This is essential to encourage optimum engagement and enforcement</li> <li>- Needs to be accompanied with an effective online portal for reporting and making statements</li> <li>- Will the identity of the person providing footage be kept anonymous?</li> </ul>

**Table 3c: Write-in Comments - Three Most Common Themes [against]**

<b>Misuse (23 )</b>	<ul style="list-style-type: none"> <li>- Too much opportunity for victimisation, harassment. Could become a kind of sport and hobby for some people</li> <li>- The PSNI should be the only bodies utilising cameras</li> <li>- 'Encouraging' submission is crossing an ethical line.</li> <li>- Too many average drivers reporting offences which are in fact perfectly safe and wasting police time</li> <li>- Lead to power-crazed individuals</li> <li>- PSNI will abuse this</li> <li>- People would be better advised to watch the road in front of them rather than looking for the infringements of others.</li> <li>- Could turn civilians into vigilantes - cause further road rage and danger as another motorist tries to pursue an offender to obtain footage</li> <li>- It is sometimes the camera car that is the problem – will they get a FPN?</li> </ul>
<b>Reliability of footage (14)</b>	<ul style="list-style-type: none"> <li>- Will all cars that are carrying dash cameras need to display a sign saying that they are recording footage that can be used in crime prevention?</li> <li>- Dash cams are not calibrated, regulated and the content can be manipulated via computer.</li> </ul>

	<ul style="list-style-type: none"> <li>- Often altered / doesn't reflect the entire picture.</li> <li>- I've seen many videos where the clip makes the driver out to be in the wrong, but then longer footage shows the build-up and it wasn't the case.</li> <li>- Dash cams only show one side of the story</li> <li>- No mention of protection against fake video footage</li> <li>- Will the acquisition of dash cam footage comply with RIPA [Regulation of Investigatory Powers Act 2000] as it is being gathered by an unauthorised covert camera</li> </ul>
<b>Other (14)</b>	<ul style="list-style-type: none"> <li>- Use the cameras on buses to prosecute traffic violations that are recorded.</li> <li>- Encouraging drivers to submit dash cam footage should be done at the scene when a driver is stopped or involved in an accident</li> <li>- This would potentially expose those who submitted dash-cam footage to danger should the offender find out who submitted the video</li> <li>- Disadvantages those who are unable to afford, use or setup dash-cams</li> <li>- Motorists are free to submit dash-cam footage to police for consideration. Pedestrians are afforded no such additional protection from motorists</li> <li>- Should be dealt with by the courts so that all relevant facts and witness accounts may be fully considered, including any dash or film footage, before judgement or penalties imposed.</li> </ul>

## Section 4:

### Profile of Responses

We received a total of 622 responses to the consultation. 608 responses (98%) were received from **individuals**.

14 responses (2%) were received from **organisations** – see list below.

- o Titanic Quarter Cycling Club (TQCC)
- o Cycling Ulster (2)
- o Pass Wide And Slow Campaign
- o Cycling Club
- o **Name not provided**
- o Probation Board for Northern Ireland
- o Police Service of Northern Ireland
- o Newry Mourne & Down Policing & Community Safety Partnership
- o Sustrans
- o Newry Wheelers Cycling Club
- o Cycling UK
- o Sinn Fein
- o Alliance Party of Northern Ireland

Those listed above [with the exception of the unnamed organisation] support the proposal to make careless driving a fixed penalty notice offence (open to the offer of remedial training). The unnamed organisation indicated that it did not support any of the proposals, however, no additional write-in comments were provided by this respondent.

## Section 5:

### Departmental Response

We would like to take this opportunity to thank all respondents who have contributed to this consultation. We have carefully considered all of the responses including the write-in comments. Collectively these have contributed to the following decisions:

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

In view of the broad consensus the Department has decided to move ahead with making careless driving a FPN offence, open to the offer of remedial training.

FPNs are widely seen as a straightforward and efficient disposal method for road traffic offences. In terms of careless driving we believe it will improve the efficiency of the current enforcement regime in order to tackle low level offending and, in doing so, reduce pressure on the justice system. The new FPN will also offer a more appropriate outcome for those who commit a low level offence by challenging the illegal behaviour and, if deemed appropriate, addressing it with a penalty that is proportionate, fair and speedy. Finally, greater use of remedial training will play an important role in achieving longer-term behavioural changes.

#### **We have considered the concerns raised by respondents and would clarify the following points:**

- The proposed FPN **will not apply** to more serious examples of careless driving offending. These cases will continue to be referred to the PPS for decision as to prosecution.
- Careless driving covers a range of behaviours and it is essential that police discretion is applied fairly and proportionately, To ensure this is the case, PSNI will develop **operational guidelines** to assist officers in deciding whether a fixed penalty is an appropriate disposal option, having given due regard to all the circumstances. Consideration will also be given to the development of appropriate monitoring arrangements for the new FPNs (for example, via management checks), as well as follow-up quality assurance reviews conducted jointly by PSNI and the PPS.
- There will be **circumstances where remedial training will not be offered to an offender**. These include when other endorsable offences are committed (e.g. no insurance) and the matter must be referred to the PPS , or where an offender has already attended the training within the previous 3 years.
- Anyone who currently receives a FPN has the right of appeal and can opt for their case to be referred to the PPS, if they wish. This **right of appeal** will apply to the new careless driving FPN.

## **Question 2: Do you agree that the FPN offence should carry 3 penalty points and a fine of £100?**

The Department intends to set the careless driving fixed penalty level at £100 with 3 penalty points.

While the majority of responses (69%) agreed that the careless driving FPN should be set at this level some suggested more stringent measures were required.

The Department believes that an entry level of 3 points is appropriate as the careless driving FPN will only be used to deal with the lower level of offending associated with this offence. When the mobile phone FPN was introduced in 2007 it was set at £60 with 3 penalty points; it was subsequently increased in 2021 to carry a £200 fine and 6 penalty points only when the level of offending indicated that a greater deterrent was required. The level of fine for the careless driving FPN needs to be in line with the cost of the remedial training course on offer (£110.80) otherwise it may not be viewed as a viable option and offenders would miss out on an important educational opportunity. Setting too high a level risks a negative impact on the number of offenders likely to accept the FPN and thereby undermining the aims of the new disposal method.

### **We have considered the concerns raised by respondents and would clarify the following points:**

- Some comments suggested that the proposed level of penalty was too severe. However, setting the FPN at too low a level increases the risk of the careless driving offence being perceived as trivial and inconsequential which is not the case. This offence is the main contributor to injury Road Traffic Collisions in Northern Ireland; Department for Transport 2020 statistics indicates that each road death costs society around £1.9 million and each serious injury almost £217,000<sup>1</sup>.
- Fines received in relation to a FPN are entirely paid into the Treasury Consolidated Fund – there is no benefit directly to PSNI.
- Offenders will be given the opportunity to avoid paying a penalty and receiving points if they elect to participate in a Safe & Considerate Driving Course (unless referral is not appropriate for the reasons already discussed). There is a cost attributable to this option which is payable to the course provider. Remedial training operates at no cost to the public purse and ensures offenders are aware of the causes and negative consequences of risky and inconsiderate driving.
- Like other road traffic offences, the fixed penalty will be lower than those available to the court. The current penalties available to a court will remain at their current level – including a fine up to £5,000, between 3 and 9 penalty points and possible disqualification

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<sup>1</sup> [Reported road accidents, vehicles and casualties tables for Great Britain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/reported-road-accidents-vehicles-and-casualties-tables-for-great-britain)

### **Question 3: Do you agree to a fixed penalty disposal option for careless driving being utilised to encourage the submission of dash-cam footage: Operation Snap?**

The PSNI has highlighted plans to encourage submission of dash-cam footage from civilian vehicles or bike and helmet-cam footage showing irresponsible or inappropriate road use. This form of reporting has been developed by a number of police forces across England and Wales (and called Operation SNAP). To move forward with such an initiative in Northern Ireland, we need a FPN for careless driving to be in place as a disposal option.

A question was included in the consultation seeking views on utilising a new FPN disposal option for this purpose in Northern Ireland. The response showed that 74% were in favour of such an initiative. A total of 166 write-in comments were also received in response to the question and these provide views on issues such as:

- an effective online portal;
- potential for misuse;
- reliability of footage; and
- privacy rights.

While not specifically mentioned in the consultation, footage captured on a mobile phone by pedestrians or passengers could potentially also be used but the important thing to remember is that **all** footage must be recorded by members of the public in a safe and legal manner. For example, the Department would not advocate the illegal use of a mobile phone while driving for any purpose. Also, those submitting footage need to be aware that if PSNI discern wrong doing on their part they too will be subject to investigation – and, that would include use of mobile phones by drivers to record an incident.

Any decision on implementation of Operation Snap will ultimately be for the PSNI rather than the Department for Infrastructure. However the views which have been provided as part of this consultation will be considered by PSNI as part of its decision-making process.

**Next steps:**

A change to secondary legislation will now be required to make careless driving a fixed penalty offence. This will require a set of three Statutory Rules; one of which will be subject to the affirmative resolution procedure in the Assembly and require a motion debate. This will be taken forward as soon as possible in the next mandate.