



PRESS RELEASE

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Magistrates' Association vehemently opposes proposal for careless driving as a fixed penalty offence

There is every indication that the government is preparing to follow the urging of the police and make careless driving a fixed penalty offence, carrying three points and a penalty of £60, as speeding does. The Magistrates' Association strongly opposes this proposal.

Existing fixed penalties for road traffic offences, which we support, are for black and white matters of objective fact. A driver was speeding and his speed was measured, a lorry was weighed and found to be overloaded by a certain amount, there was no insurance in force for a vehicle, and so on. Careless driving is entirely different; it is a subjective matter of judgement whether a piece of driving was bad enough to amount to careless driving and how bad it was. The Magistrates' Association believes strongly that matters that require a judgement to be made, are matters that should be brought to court for the purpose.

Chris Hunt-Cooke, Chairman of the MA's Road Traffic Committee said,

“Police officers may have seen the incident themselves, in which case they will be acting as witness, prosecutor, judge and jury, deciding on guilt and then sentencing the offence. Alternatively, they will be relying on the evidence of others, which the driver may not have the opportunity to challenge properly, and they may be deciding whether or not to issue a fixed penalty at the roadside in the highly charged atmosphere of the immediate aftermath of an accident. The MA believes that such a decision should be made in the calmer conditions of a court hearing, when the evidence for each side can be presented and considered by those trained and experienced in doing so.”

Drivers who choose to appeal against the fixed penalty by going to court would risk a higher number of penalty points or a disqualification, and a very much higher fine, so there would be quite disproportionate pressure not to dispute the penalty notice, regardless of whether they really accept their guilt. Drivers who may have a reasonable defence should not be coerced in this way; it is simply unjust.

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Careless driving covers a wide range of behaviour from minor inattention to driving that is only just below the level of dangerous, and the penalties available in court reflect this, having a wider range than those for any other road traffic offence. The Government itself has said that prosecuting careless driving involves a heavy burden of paperwork and is resource-intensive for the police, resulting in an unwillingness to prosecute. Faced with the choice between the heavy burden of taking the matter to court and the simplicity of issuing a fixed penalty, it is certain that many police officers will opt for a fixed penalty, however bad the driving may be. No one will know if this happens in a particular case, as the offender is hardly likely to complain. Regrettably, recent experience with out-of-court disposals shows that the police cannot be relied on to use them appropriately or as intended. Once they have been given these powers, the police will misuse them, that is a certainty, and careless driving will generally be treated as a minor offence, unless serious injury is involved.

This is a proposal that places the convenience of the police above what is right in principle, may coerce innocent drivers into accepting a fixed penalty, and is certain generally to downgrade careless driving in terms of offence seriousness.

The Department of Transport is well aware of the Magistrates' Association's often repeated and consistent view that careless driving is an unsuitable offence for the offer of a fixed penalty. It is therefore very disappointing that this was ignored in a DfT consultation paper earlier in the year, and a statement made that in 2002 "seven out of eleven magistrates and six out of ten judges surveyed were in favour of the idea" How these eleven magistrates were selected and what precisely they were asked is not stated. Judges do not deal with careless driving offences, except a limited number on appeal. To prefer a six year old unreferenced and frankly meaningless survey to the currently expressed views of a magistrates' specialist committee is seriously to mislead readers of the document about the views of magistrates, and it is difficult to regard this as anything other than deliberate.

END

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