

# Department for Transport consultation on changes to the Fixed Penalty Notice and penalty points for the use of a hand-held mobile phone whilst driving

Response from Brake, the road safety charity, March 2015

## About Brake

[Brake](#) is a national road safety charity that exists to stop the needless deaths and serious injuries that happen on roads every day, make streets and communities safer for everyone, and care for families bereaved and injured in road crashes. Brake promotes road safety awareness, safe and sustainable road use, and effective road safety policies. We do this through national [campaigns](#), [community education](#), [services](#) for road safety professionals and employers, and by coordinating the UK's flagship road safety event every November, [Road Safety Week](#). Brake is a national, government-funded provider of [support](#) to families and individuals devastated by road death and serious injury, including through a helpline and support packs. Brake was founded in the UK in 1995, and now has domestic operations in the UK and [New Zealand](#), and works globally to promote action on road safety.

## Brake's position on mobile phones and driving

Brake welcomes this consultation and its acknowledgement that change is needed but believes none of the options go far enough to make our roads as safe as they could be.

Driving is a highly unpredictable and risky activity, so it requires full concentration at all times. From its extensive work with bereaved and injured road crash victims, Brake understands the devastation caused by people who kill and seriously injure because they couldn't wait a few more moments to make a phone call.

Evidence shows that mobile phone use at the wheel is a widespread and dangerous activity that results in needless loss of life and devastation to many families every year. Brake constantly scans international research to learn from the best practice of road safety professionals worldwide. This research, when combined with Brake's long experience in the road safety field, points to policies that can be deployed to address the problem.

## On the basis of this evidence, and Brake's experience supporting traumatised road crash victims, Brake recommends the government:

- ban use of hands-free phones at the wheel, in line with evidence that they increase crash risk just as much as using a hand-held phone, due to the distraction of the phone conversation.
- implement much higher penalties for any driver using a phone of any type at the wheel. We support an increase from the current £100 fixed penalty fine to at least £500-1,000 and at least six penalty points – so drivers take it seriously.
- work across department and with police to ensure increased and adequate resourcing for traffic enforcement, including by making traffic policing a national policing priority.

## Some key evidence supporting this position includes:

- Drivers speaking on phones are four times more likely to be in a crash that causes injury, on a hands-free or hand-held phone.<sup>i</sup> Their crash risk remains higher than normal for up to 10 minutes after the call.<sup>ii</sup>
- Drivers using phones have slower reaction times and difficulty controlling speed and lane position.<sup>iii</sup> They brake more sharply in response to hazards, increasing the risk of rear-end crashes.<sup>iv</sup>
- Some drivers mistakenly believe that talking on a hands-free kit at the wheel is safe<sup>v</sup>. Research shows hands-free calls cause almost the same level of risk as hand-held<sup>vi</sup>, as the call itself is the main distraction. Brain scanning has confirmed that speaking on a hands-free phone makes you less alert and less visually attentive.<sup>vii</sup>

- Laws that only ban hand-held phones are less effective in reducing crashes, because many drivers simply switch to hands-free phones, so are still distracted.<sup>viii</sup> A [Brake and Direct Line survey](#) found that following the UK's introduction of a ban on using hand-held phones at the wheel in 2003, between 2006 and 2014, the proportion of UK drivers using hand-held mobile phones dropped from 36% to 13%, but those using hands-free rose from 22% to 32%<sup>ix</sup>.
- Talking on a phone while driving has been shown to be worse than drinking certain amounts of alcohol. Driver reaction times are 30% slower while using a hands-free phone than driving with a blood alcohol level of 80mg alcohol per 100ml blood, and nearly 50% slower than driving under normal conditions.<sup>x</sup>
- Reading and writing messages while driving – such as texting, emailing or social networking – is even more distracting than talking on a phone. Texting drivers have 35% slower reaction times and poor lane control.<sup>xi</sup> One study found texting drivers were 23 times more likely to crash than drivers paying attention.<sup>xii</sup>
- Reaching for a mobile phone can be an irresistible temptation for some. In the UK, experts have warned of increasing levels of smartphone addiction by users who are unable to go without checking their phone for short periods or through the night.<sup>xiii</sup> Even the sound of a mobile phone ringing has been found to cause distraction and increase crash risk.<sup>xiv</sup>

[A survey of 1,000 drivers](#) in a report for Brake and Direct Line<sup>xv</sup> found that nearly half of drivers (47%) want fines for mobile phone use at the wheel increased to £500 or more, while a further 31% want the fine more than doubled to £200.

Brake also believes that further work is needed by government to address the wide issue of driver distractions, including in response to emerging technologies, and to raise driver awareness. See our [fact page](#) on the topic.

## Option 0 - Do nothing

Brake believes that Option 0 is not a viable option; as acknowledged in the DfT's own background research to this consultation, the current penalties are failing to stop many drivers from breaking the law.

According to the consultation's background information in [1.24 What is the problem section](#) *"in 2014, using a mobile phone whilst driving was a contributory factor in 21 fatal accidents (crashes), but it is broadly believed that mobile phone use is dramatically underreported due in part, because of the difficulty in proving that the driver was using a mobile phone at the time of the accident. It is clear, however, that a number of high profile accidents have mobile phone use recorded as a contributory factor."*

Behind every one of these numbers is a family and community torn apart by a sudden, violent and preventable death. Another 84 people in that year were reported as seriously injured in mobile phone crashes, some in life changing ways, taking the total reported numbers of people killed and seriously injured in mobile phone crashes to 105: two people every week.

Brake agrees with the DfT's assertion that these statistics are likely to be greatly under-reported, from both our experience supporting road crash victims, academic research on the risks of phone use at the wheel, and our own behavioural surveys. [A 2014 study](#) by Brake and Direct Line<sup>xvi</sup> found almost half of drivers (45%) admitted talking on a mobile at the wheel in the previous year. One in eight (13%) are breaking the law by using a hand-held phone. This was significantly down from 2006 when 36% admitted to doing it, three years after it was banned, but remains a significant minority. This appears to show the current penalties deter some drivers, by no means all. At the same time we found increasing use of hands-free kits, which is a major concern for reasons stated above.

Brake believes the public would support much stronger action and penalties, and respond to stronger penalties and enforcement. This is supported by the latest [British Social Attitudes study 2014](#)<sup>xvii</sup> where it states "67% of people agree that the law on using mobile phones whilst driving is not properly enforced".

## **Option 1 - Increasing the Fixed Penalty Notice by 50% from £100 to £150 for all drivers (including HGVs)**

Brake's position on Option 1 is that this level of fine is not a significantly increased deterrent. We are calling for a much higher penalty of at least £500-1,000, so drivers take it seriously. The current levels of fines for using a mobile phone behind the wheel are more comparable with parking penalties than with something like drink driving, whereas the danger is much more akin to the offence of drink-driving as outlined above.

People face much higher fines for many minor offences that pose no threat to human life. For example, the fine for not having a TV licence is up to £1,000, ten times higher than the current fine for using a mobile phone while driving. Many bereaved and injured road crash victims agree that such a low level of fine is insulting, and unhelpful to efforts to raise awareness about the seriousness of this crime. We believe that increasing the fine by just £50 is inadequate in addressing this. Recent [research by Brake and Direct Line](#), as quoted above, shows large majority of drivers support fines of above this level too.

International evidence is clear that tougher penalties pose a stronger deterrent and help to reduce traffic offending and the larger the increase in the fine the greater the drop there will be in that offending<sup>xviii</sup>

## **Option 2 - Increasing the penalty points from 3 to 4 for non HGV drivers and from 3 to 6 for HGV drivers where the offence was committed in a Large Goods Vehicle**

Brake would welcome a doubling of penalty points to six for HGV drivers caught on phones, but if this is seen as the optimum deterrent, we would question why this could not also be implemented for drivers of other vehicles. Brake would strongly recommend this move is extended to drivers of all vehicle types, to ensure the maximum deterrent and make clear this offence is unacceptable no matter what vehicle you are driving.

There appears to be strong evidence for the public favouring this move in the DfT's consultation notes in [1.22 What is the problem section, stating](#) a YouGov poll in 2014 showed 73% of drivers are in favour of doubling the penalty points for those caught using a mobile phone while driving.

## **Option 3 - Increasing the FPN by 50% from £100 to £150 for all drivers AND, raising the penalty level from 3 to 4 penalty points for non-HGV drivers and from 3 to 6 penalty points for Large Goods Vehicle licence holders who commit the offence whilst driving a HGV**

Option 3 is Brake's preferred option but we believe this still does not go far enough. As stated previously we are calling for a much higher fixed penalty notice of £500-1,000, and a substantial increase in points to help ensure a real impact on driver behaviour. We believe doubling the points to six for **all drivers** caught using a mobile phone at the wheel would be a much stronger deterrent and make our roads safer.

This is a valuable opportunity for the government to make a real and tangible difference to the safety of our roads and we would urge the DfT to carefully consider our arguments and look at strengthening Option 3 to include six penalty points and a fine of £500-1,000 for all drivers who commit this dangerous offence that has the potential to end lives. Every life saved prevents the immeasurable cost to families who lose loved ones, and saves society the financial cost of £1.84 million.<sup>xix</sup>

## **CASE STUDY**

Imogen Cauthery, from Crouch End in London, was just nine years old when she suffered devastating life changing injuries after being hit by a car in 1996. The driver, who was talking on a mobile phone at the time, didn't even stop to check if she was alive. Her life was only saved because a local doctor saw the crash from his window and rushed to provide CPR, but Imogen then remained in a coma for 10 days.

Imogen suffered long-term debilitating injuries including brain damage that affects her memory and her ability to achieve her ambitions. To this day she continues to experience epilepsy seizures caused by the crash, and almost died a second time because of the condition. The crash also deeply affected Imogen's older sister, who witnessed it.

### **Imogen, now 28, has given her comments on the consultation to Brake.**

“There is already so much evidence on the dangers of mobile phone use and the government is fully aware of stories like mine and many other people's; something has to be done. The new penalties certainly aren't tough enough. You have to give drivers more points or take their licences from them completely. There needs to be a bigger fine, as well, of at least a thousand pounds. I get so jealous of my friends now, who I went to primary school with. They are doctors or at university studying maths and I've got so many difficulties. I do exercise in the morning and then I volunteer and then I'm bored, bored, bored. I want so much more from my life that I cannot have because of my injuries. I have two lives, my first one from 1987-1996 and my second one from 1996 onwards. That's how it is now until I die and I certainly want my first life back. But that can never happen because someone couldn't wait to make a phone call.”

**For more information contact campaigns adviser Alice Bailey on 01484 550063**

**Any media requests should be directed to [news@brake.org.uk](mailto:news@brake.org.uk)**

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<sup>i</sup> [Role of mobile phones in motor vehicle crashes resulting in hospital attendance: a case-crossover study](#), University of Western Australia, 2005

<sup>ii</sup> [Association between cellular-telephone calls and motor vehicle collisions](#), Massachusetts Medical Society, 1997

<sup>iii</sup> [Using a hands-free mobile whilst driving can be more dangerous than drink driving](#), Transport Research Laboratory, 2009

<sup>iv</sup> [Stopping behaviour of drivers distracted by mobile phone conversations](#), Queensland University of Technology, 2013

<sup>v</sup> [Mobile phone use: a growing problem of driver distraction](#), World Health Organisation, 2011

<sup>vi</sup> [Using a hands-free mobile whilst driving can be more dangerous than drink driving](#), Transport Research Laboratory, 2009

<sup>vii</sup> [Speaking on a hands-free phone while driving makes you less alert and less attentive](#), University of Toronto, 2013

<sup>viii</sup> [Handheld cell phone laws and collision claim frequencies](#), Highway Loss Data Institute, 2010

<sup>ix</sup> [Driven to distraction: mobile phones](#), Brake and Direct Line, 2014

<sup>x</sup> [Using a hands-free mobile whilst driving can be more dangerous than drink driving](#), Transport Research Laboratory, 2009

<sup>xi</sup> [The effect of text messaging on driver behaviour: a simulator study](#), Transport Research Laboratory, 2008

<sup>xii</sup> [Driver Distraction in Commercial Motor Vehicle Operations](#), Federal Motor Carrier Safety Administration, 2009

<sup>xiii</sup> [The Communications Market 2011](#), Ofcom, 2011

<sup>xiv</sup> [Influence of personal mobile phone ringing and usual intention to answer on driver error](#), Aston University, 2012

<sup>xv</sup> [http://www.brake.org.uk/assets/docs/dl\\_reports/DL-Risky-Business-2013-section-3.pdf](http://www.brake.org.uk/assets/docs/dl_reports/DL-Risky-Business-2013-section-3.pdf)

<sup>xvi</sup> [http://www.brake.org.uk/assets/docs/dl\\_reports/DLreport-DrivenToDistraction-sec2-MobilePhones-2014.pdf](http://www.brake.org.uk/assets/docs/dl_reports/DLreport-DrivenToDistraction-sec2-MobilePhones-2014.pdf)

<sup>xvii</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/481877/british-social-attitudes-survey-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/481877/british-social-attitudes-survey-2014.pdf)

<sup>xviii</sup> [http://www.swov.nl/rapport/Factsheets/UK/FS\\_Penalties\\_in\\_traffic.pdf](http://www.swov.nl/rapport/Factsheets/UK/FS_Penalties_in_traffic.pdf)

<sup>xix</sup> <https://www.gov.uk/government/statistical-data-sets/ras60-average-value-of-preventing-road-accidents>