

NOT PROTECTIVELY MARKED



**North Yorkshire Police**

**Traffic Bureau**

**Frequently Asked Questions**

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## **1) Was I speeding?**

**I have just driven past the Safety Camera Van and I am not sure if I was speeding or not. What do I do now?**

If you were driving at a speed that amounts to an offence, a notice of intended prosecution (NIP) will be sent to the registered keepers address with details of the violation. The NIP has to be sent within fourteen days of the offence. The Safety Camera Team or the van operator will not be in a position to check recordings or make speculative searches on your behalf.

North Yorkshire Police Safety Camera Team use a form that combines the NIP with a Section 172 (Driver & Keeper) Statement. This is a statutory notice that must be completed under all circumstances. Every issue of the S172 notice has a copy of the original NIP to identify details of the offence.

### **Notice of Intended Prosecution**

Why have I received a notice for speeding?

You are recorded as the registered keeper of the vehicle or have been named as the driver of the vehicle at the time of the alleged offence. This is as a result of the vehicle detailed in the attached notice being detected exceeding the speed limit by a Home Office Type Approved speed detection device (mobile or fixed speed camera). Section 1 of the Road Traffic Offenders Act 1988 permits notification being posted to the registered keeper of the vehicle; an officer is therefore not required to stop the vehicle.

## **2) Notice of Intended Prosecution**

**I have received a Notice of Intended Prosecution but I can't remember who was driving at the time of the speeding offence. What can I do?**

A vehicle's keeper should, through due diligence, be able to identify who is driving, and not naming the driver is a separate offence, which can attract a greater penalty than the speeding.

You should do all you can to find out the name of the driver, for example, by checking bank statements, phone bills and receipts to try to place the possible drivers at the time of the speeding offence.

If, after investigating, you still don't know who was driving, you may have a case if you can show that you are not deliberately or negligently withholding the information.

**Will the image show the driver?**

The image is not relied upon to identify the driver, it is simply to prove the presence of a vehicle at the scene of an alleged offence, you should re-check your movements for that day and that of others who may have had access to your vehicle i.e. records, receipts, bank statements, vehicle logs etc. Evidence of the offence is recorded, and will be made available should the matter proceed to a Court Hearing where a copy of the image will be produced with the summons.

A COPY OF THE IMAGE WILL NOT BE RELEASED PRIOR TO NOTIFICATION OF A COURT HEARING. THE KEEPER SHOULD, THROUGH DUE DILIGENCE, BE ABLE TO IDENTIFY WHO IS DRIVING. WHERE THIS CANNOT BE ASCERTAINED, THE KEEPER MUST PROVE TO THE COURT THAT THEY EXERCISED REASONABLE DILIGENCE IN THEIR EFFORTS TO OBTAIN THE INFORMATION.

If following full checks, you are still unable to identify the driver at the time of the alleged offence then you should provide an explanation and full details (name, address and date of birth) of all possible drivers on a separate sheet and sign the declaration on the Section 172 (Driver and Keeper) Statement. This will allow further investigations to be carried out on the information provided.

**I have just received a speeding notice, and I already have nine points on my licence from previous speeding tickets. Does this mean I will be disqualified?**

If a driver reaches 12 penalty points on their driving licence, the court must impose a disqualification of at least six months, unless there are special reasons why it shouldn't.

You could try arguing that a ban would cause you hardship, but it must be 'exceptional' for the court to be able to take it into account when deciding a penalty - for example, losing your job is not always considered to be an exceptional hardship.

**My notice arrived more than 14 days after the alleged offence. Shouldn't I have been advised within that timescale?**

The notice must be sent to the Registered Keeper to arrive by normal post within fourteen days of the offence. If your notice arrived after this, it usually means that you have been nominated as the driver by the registered keeper or subsequent nominee (a hire company for example).

**I have received a NIP but I've sold the vehicle - what should I do?**

Provided the sale was prior to the offence, you will need to complete Part 2 of the S172 Notice (Request name and address of driver) which comes with the NIP. You must endorse the form with the name and address of the person you sold the vehicle to so a S172 notice can be sent to them.

Remember that it is your responsibility as the previous owner to notify the DVLA of any change in ownership of the vehicle, failure to do so is an offence and can result in a fine.

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Please note that the Driver and Vehicle Licensing Agency (DVLA) from time to time have a delay in updating records so this should be taken into account.

### **I was not the driver at the time of the alleged offence - can I just pass the letter to the driver?**

No, please DO NOT pass the letter to the driver. You must complete Section 2 of the notice and provide details - to the best of your knowledge - of who was in possession of the vehicle at the time of the alleged offence. You must then sign the declaration and return the notice to the Safety Camera Team.

### **What happens if I ignore this notice?**

Failure to respond to the notice will result in the matter being passed to the Magistrates Court for failure to provide the required information and any further offences that may be disclosed.

### **What if the driver is no longer in the country?**

In this instance you may be requested to provide proof that the person exists, was in the country at the time of the offence and that the driver has returned abroad or has gone abroad for an indefinite period. You may also be requested to prove that the person was insured to drive the vehicle at the time of the offence.

If you are unable to provide this information you may still be prosecuted for failure to supply the details of the driver or Permitting No Insurance

## **3) What are my options?**

### **What do I have to do now? I am the registered keeper of the vehicle but not the driver:**

As the registered keeper/owner of the vehicle you are required within 28 days, to complete part 2 of the Section 172 (Driver and Keeper) statement providing the full name, address and post code of the driver at the time of the alleged offence. You are also required to sign the declaration at the foot of that document. Failure to do so within the time limits specified on the notice may render you liable to prosecution. The maximum penalty for failing to provide the information is a fine of £1000 and 6 penalty points on your driving licence.

### **I got a speeding notice, but I'm sure I was not exceeding the speed limit at the time and place the police said I was. Can I challenge this?**

You may elect a court hearing and plead not guilty to the offence.

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**Can I pay in instalments?**

Unfortunately there is no facility for paying in instalments.

**I do not want to pay or go to court. Can I appeal any other way?**

The Safety Camera Team will consider any mitigation you may have to offer, but generally their role is not to adjudicate. That is the function of the court.

There are set circumstances and speeds which allow the offence to be dealt with by either a speed awareness course, a fixed penalty fine or a court hearing.

If you are offered a course because you are eligible it is YOUR choice to attend - you may elect to take a fixed penalty fine and points or elect a court hearing instead.

If you are offered a fixed penalty fine and points it is YOUR choice to accept - you may elect a court hearing instead.

**If I was the driver can I plead mitigating circumstances?**

You have a right to challenge the offence or to plead mitigating circumstances; if this is the case the safety camera team will initially make an early assessment of the evidence along with any mitigation provided and respond appropriately. However you also have the option to have your case heard by a Magistrates Court. If you choose to do this, you will automatically be issued with a court summons in which you can detail any mitigating circumstances that you wish the Magistrates to consider. You will have the opportunity to explain in writing without having to attend the court. You are reminded that Magistrates have the right to increase the fine and penalty points as they see fit and you may also have to pay court costs.

**Are my human rights infringed if I respond to this notice?**

No. You are still obliged to provide the information as requested. Failure to do so will result in the matter being dealt with at court.

**I want to see the evidence before I return the completed notice, is this possible?**

There is no requirement for information under Rule 21 of the Criminal Procedure Rules 2005 as these only relate to proceedings for more serious matters. However, if the matter results in a Court proceedings then following issue of a summons, and following a Not Guilty plea, you will be able to make representations to the Crown Prosecution Service for any relevant items. The Police will provide evidence to support the alleged offence to the Crown Prosecution Service.

**I want more information about this offence. Can I request this under the Freedom of Information Act 2000?**

We will respond to all requests for information in accordance with the Freedom of Information Act 2000 (FOIA). Before making a request, please be aware that any information released under FOIA will be considered published and in the public domain without caveat, and that exemptions apply to certain types of information. In general, this means that requests for information about an individual speeding offence are likely to be refused on the grounds that the information relates to an individual and is not suitable for release to the world at large. Prosecution evidence may be obtained from the Crown Prosecution Service once a summons has been issued.

**Are the authorities really going to waste the court's time if I ignore this fine?**

The police will generally follow up all cases. It is important to do this in fairness to the people who readily accept responsibility for their actions.

**Can I pay a higher fine and have no penalty points on my licence?**

No. The fixed penalty is not negotiable. If you choose not to accept the fixed penalty the matter is referred to court.

**4) I do not think the offence is valid**

**I didn't see a camera or any signs.**

There is no legal requirement to inform motorists that a speed camera is ahead, make them highly visible or locate them at sites with a history of serious crashes.

**I did not see the speed limit.**

Streetlights mean 30mph (unless signs indicate otherwise). If there are no streetlights and no repeater signs then it is likely the road is subject to a national speed limit. In all other circumstances repeater signs should be present.

**I think the police vehicle was parked illegally.**

For the purpose of law enforcement police vehicles may park legally in any location providing they do not cause a hazard or obstruction.

**I don't think the camera was justified at that location as it is not a casualty trouble spot.**

Although no longer a DfT requirement, all of our sites have been identified as suitable for safety camera enforcement. They may be sites where speed has been identified as a causation factor in

accidents, or they may be sites identified by local communities as causing concern due to vehicle speeds. The Safety Camera Team are constantly assessing and evaluating their effect on traffic speeds across the area.

**There is a mistake on the Notice.**

The Notice of Intended Prosecution must specify the nature of the alleged offence and the time and place where it is alleged to have been committed. Errors in date, time, vehicle registration or speed, which are caused through clerical error, will not automatically render the Notice invalid. Any errors should be brought to our attention immediately

**5) Likely Penalties for Speeding**

**What is the penalty?**

For an offence of speeding a driver can receive a fine of up to £1000, and between 3 and 6 penalty points on their driving licence.

Disqualification is at the Magistrates discretion.

Most offences result in a fixed penalty of £60 and 3 penalty points (pre 16August 2013 offence) or £100 and 3 penalty points for offences on or after 16August 2013. Some are issued at the roadside by Police Officers or result from conditional offers for offences detected by a fixed or mobile speed camera (some offences may lead to the driver being eligible for a speed awareness course - please see below for further details). In the event of the speed being above the guidelines for a fixed penalty then the driver may be summonsed straight to a Magistrates Court hearing.

**I was caught driving at 97mph in a 70mph zone and I've received a court summons. What kind of penalty am I likely to get?**

Magistrates treat each case on its own merits and will consider any circumstances you think are important to your case.

However, they use sentencing guidelines to help them decide what penalty to impose; as you'd expect, the higher your speed, the greater the risk of disqualification.

As well as the speed you were driving, the magistrate will take into account whether you have any previous convictions and your ability to pay a speeding fine.

You could face a fine of up to £1,000 (£2,500 if you were speeding on a motorway), having between three and six penalty points added to your driving licence, and/or being disqualified from driving.

**What is a Conditional Offer?**

A Conditional Offer of Fixed Penalty gives you the opportunity to settle the matter without having to go to court. The fine is a fixed amount of £60 (pre 16 August 2013 offence) or £100 for offences on or after 16 August 2013. You will also have three penalty points added to your driving licence.

**6) Driving Licence Questions**

**My licence is a photo card licence. Do I have to produce both parts?**

Yes, both parts are required as they hold different details. The card holds details of your entitlements and the counterpart (paper) holds details of any previous endorsements. The counterpart is required for the penalty points to be endorsed by the Magistrates' Court.

**I am a foreign licence holder resident in the UK, can I take part in the Endorsable Fixed Penalty Scheme?**

From 1 April 2009 Endorsable Fixed Penalties can be issued to a driver who does not hold a driving licence issued in Great Britain.

If you are convicted of an endorsable offence and you do not currently hold a driving licence issued by GB DVLA at Swansea, you will be allocated a GB driver number by the DVLA (on receipt of your licence details). A notification of a GB driver number will be sent to the address provided by you.

**How long will the penalty points remain on my driving licence?**

The three penalty points are valid for a period of three years from the date of the offence, but cannot be removed from your licence until four years have elapsed, after which you can apply to DVLA for a replacement licence.

**What if I have nine or more penalty points on my licence?**

You must notify the Safety Camera Team in writing that you already have too many penalty points on your licence to accept a Conditional Offer of Fixed Penalty.

**What should I do if I cannot find my driving licence?**

Complete Part 1 of the Notice and return it to the Safety Camera Team Office. Also, you should immediately apply to the DVLA for a replacement/duplicate driving licence (forms can be found at any main Post Office). You will need to produce a current driving licence - the card and the paper part - whether you wish to accept the fixed penalty or request a court hearing.

**I don't have a photo card licence. What do I send in?**

If you have an old style paper driving licence issued by the DVLA you are still able to accept the Conditional Offer of Fixed Penalty.

**I have a clean driving licence, is this taken into consideration**

No, prior driving history or clean licences are not taken into consideration. The law on speeding is clear. A clean driving licence does not necessarily indicate a safe driver, as many drivers speed and endanger themselves and others.

**I passed my driving test less than two years ago. Can I still accept a Conditional Offer of Fixed Penalty?**

If, with this penalty, you are due to have a total of six penalty points within two years of passing your driving test the Secretary of State will order the revocation and removal of your driving licence. You will then only be able to drive after you have applied for a provisional driving licence. You will have to retake both the theory and practical tests before a full licence can be issued to you. You may prefer to have the alleged offence dealt with at court rather than accept the Fixed Penalty.

**What should I do if my name/address details have changed but my DVLA driving licence has not been updated yet?**

To avoid exceeding the fixed penalty time limit you should send North Eastern Fixed Penalty Office the completed payment form, payment and your paper driving licence plus photo card where issued to comply with the fixed penalty. You must where applicable, complete the section on your licence for change of address with a signature and date. No further information or forms are required once your licence has been updated with the required penalty points, it will be returned to you and you will then need to contact the DVLA directly to obtain a replacement licence.

**I am going out of the country and need to take my licence with me. What should I do?**

You need to inform the Safety Camera Team of the time you are likely to be out of the Country and we will advise you on how best to proceed.

**I don't know what my driver number is, how would I find it?**

Your driver number is the number on your licence which begins with the first five letters of your surname, six numbers identifying your date of birth, letters identifying your initials and 3 random letters and numbers i.e. SMITH410105AA9JX. This can be located on either your paper licence/counterpart or photo card id.

## **7) Speed Limits**

### **I did not see any speed limit signs. How would I have known what speed limit was applicable?**

The most likely answer is that you were in a 30 mph limit. These are usually signified by the presence of street lighting, lit or unlit, in a built up area as described in the Highway Code. The Safety Camera sites are all checked for legal signage prior to undertaking operational enforcement.

### **I have received a NIP but it states that I was doing less than the speed limit for that road. Has it been issued in error?**

No, you were probably driving a vehicle that has a speed limit that is lower than the limit for the road. Some vehicles have speed restrictions that vary according to the road being used.

### **Who sets the speed limits?**

On motorways and trunk roads, speed limits are set by the Highways Agency. On all other roads it is the local authority. Before a speed limit is set, the police are consulted and a traffic regulation order is issued where required. A restricted road where there is a system of street lighting has a default speed limit of 30 miles per hour unless another limit is indicated. A Traffic Regulation Order is not required for most 30mph limits.

### **Is it illegal to have a speed camera detector in my car?**

There are two types of speed detectors. The type, which simply alerts you as to the location of speed cameras, is legal. The other type which sends a laser signal to the laser speed detector preventing it from taking a reading are illegal and you could face prosecution for perverting the course of justice (among other things) which carries a maximum sentence of life imprisonment.

### **How can I tell what the speed limit is?**

In most places the speed limit is displayed on circular signs displayed on both sides of the carriageway and if there are signs indicating speed limits these should be followed.

If there are no signs and it is in a built up area and there are street lights present (the street lights must be no more than 200 yard apart whether they are on the same or opposite sides of the road) the speed limit is 30mph.

If there are no street lights and it is not in a built up area (i.e. a country road) then the speed limit is 60mph, or 50mph if the vehicle is a goods vehicle such as a non-car based van or a passenger vehicle with more than 8 passenger seats.

**What is the national speed limit?**

The national speed limit varies depending on the type of road you are on and the category of vehicle you are driving. The national speed limit is depicted by a white circular sign with a black stripe diagonally across it from right to left.

If you are on a dual carriageway and driving a car or motorcycle the national limit is 70 mph.

If you are on a single carriageway and driving a car or motorcycle the national speed limit is 60mph.

The national speed limits for goods vehicles, such as non-car based vans, and also for vehicles with more than 8 passenger seats are 10mph less than the limits mentioned above.

Remember that in adverse conditions it will be necessary to drive below these national speed limits.

**8) Is it all about raising money?**

**Why is there so much attention focussed on detecting speeding offences - it's all about the money isn't it?**

Certainly not. More than 3,000 people are killed on Britain's roads every year. Excessive speed not only increases the risk of collision, but in the case of a collision, increases the severity of injuries sustained. By enforcing speed limits, we aim to make our roads safer for all road users.

Tackling speeding through enforcement is just one element of our Force's overall casualty reduction strategy that also encompasses education.

**9) Company and hire vehicles**

If a company or Hire company has received the NIP, it is the responsibility of the Company Director / Secretary to complete this document, not the driver concerned, **DO NOT PASS THE FORM TO WHO YOU THINK WAS DRIVING**. If you are the company director or Secretary then you will need to complete Part 2 nominating who was driving at the time of the alleged offence, sign the declaration and return the form, a new notice will then be issued to the nominated driver.

You should supply the residential address of the individual and not a c/o address. Please check that your address records are correct before completion of the document.

**The vehicle was being driven by one of my employees. What do I do next?**

As a responsible employer, you have a duty to identify the driver of the vehicle in question. Your company car log or records should assist you in this. Failure to do so may result in your company being taken to court.

**I was driving a company vehicle**

The registered keeper of a vehicle has a legal obligation under section 172 of the Road Traffic Act 1988 to provide the identity of the driver at the time of an alleged offence. This also applies to a company, which is the registered keeper of a vehicle and it is your company that will receive the initial notice. They will provide details of you if you were the driver and return the form to us. We will then re-issue the notice to you. It is important you are not passed the notice to complete by the company. They must complete it themselves and return it to us in order to comply with the law on providing details

**10) Safety camera equipment**

**How can you prove the camera is accurate?**

All our equipment is Home Office Type Approved for use. The equipment is independently checked and calibrated on an annual basis in accordance with Home Office regulations. Once completed the equipment is issued with a calibration certificate. This forms part of Police evidence and can only be produced in court.

Each individual offence is subjected to a secondary check before a Notice of intended Prosecution is sent out.

**Can I see operator training records?**

No, all operators/trainers hold certificates of competence to evidence they have attended the relevant training and these certificates may be produced in court as prosecution evidence.

All operations are carried out in accordance with the ACPO Guidelines for the use of enforcement equipment and the operating manuals issued by the manufacturers and/or trainers.

**Why was the camera there?**

The cameras are there to reduce and prevent road traffic collisions and casualties. These camera locations either have a history of injury collisions or are a concern for public safety.

**Are your cameras accurate?**

All speed and detection equipment is type-approved by the Home Office and calibrated annually in accordance with the manufacturers' guidelines. Each device also has a built-in self-diagnostic check to ensure that the calibration is correct every time it is used.

**Can I have a copy of the photograph?**

There is no requirement for information under Rule 21 of the Criminal Procedure Rules 2005 as these only relate to proceedings for more serious matters. However, if the matter results in a Court proceedings then following issue of a summons, and following a Not Guilty plea, you will be able to make representations to the Crown Prosecution Service for any relevant items. The Police will provide evidence to support the alleged offence to the Crown Prosecution Service.

**I do not know who was driving, will the photograph show the driver?**

The photograph is not relied upon to identify the driver, it is simply to prove the presence of a vehicle at the scene of an alleged offence, you should re-check your movements for that day and that of others who may have had access to your vehicle i.e. records, receipts, bank statements, vehicle logs etc. Evidence of the offence is recorded, and will be made available should the matter proceed to a Court Hearing where a copy of the image will be produced with the summons. A copy of the image will not be released prior to notification of a court hearing. The keeper should, through due diligence, be able to identify who is driving. Where this cannot be ascertained, the keeper must prove to the court that they exercised reasonable diligence in their efforts to obtain the information.

**11) Speed Awareness Course**

**Am I eligible to attend a speed awareness course?**

North Yorkshire Police, in association with our approved service provider, recognise the benefits of educating drivers as an alternative to prosecution. We believe educational schemes are a major influence on driver attitudes and behaviour. As part of our overall driver/rider diversion schemes North Yorkshire Police may offer drivers/riders who are caught speeding the opportunity to attend a speed awareness course as an alternative to a fine and penalty points.

You will only be offered a speed awareness course if:

- You have admitted to being the driver of the vehicle at the time of the alleged offence and returned the documentation within the 28 day period calculated from the date the notice was sent to you.
- No more than 12 weeks have elapsed since the date of the alleged offence.

- There were no further offences committed at the time of the alleged offence.
- You have not attended a speed awareness course within the 3 years prior to the current offence.
- You were driving at a speed which qualifies as per the table below

Speed Limit MPH	Speed range MPH
30	35 - 42 inclusive
40	46 - 53 inclusive
50	57 - 64 inclusive
60	68 - 75 inclusive
70	79 - 86 inclusive

Please do not request to attend a speed awareness course if your speed does not fit the above criteria your request will be refused.

**How will I be notified if I am eligible for a speed awareness course?**

If the speed recorded falls into the table above then upon receipt of your fully completed and signed Section 172 (Driver and Keeper) statement admitting to being the driver of the vehicle at the time and date of the alleged offence, we will carry out a number of checks to determine your eligibility to attend a speed awareness course. If eligible a speed awareness course offer will be sent to you by post. This will give you the option of booking a course or if you do not wish to do so the form also allows you to elect to pay a fixed penalty fine with three penalty points.

**Speed Awareness Course details**

This is a classroom based course lasting approximately 4 hours at various venues within North Yorkshire at a cost of £85 and does not incur any further fine or penalty points on your licence. It may be possible to book a course in another area closer to your home, however as these are outside of our area the cost of courses may vary - this information will be made available to you once you receive the course offer and booking details. We DO NOT require any payment at this time.

**Will there be a test? Can I fail?**

There is no test to pass, but you are required to complete the course in a satisfactory way. This means you must make a positive contribution to the course by participating fully.

**Under what circumstances might I not complete the course?**

If you fail to attend, arrive late or display a negative attitude likely to disrupt the course.

**Do I have to do any driving?**

No, this is a classroom only based course.

**Is the course a lecture?**

No, it is a chance to look at some habits that you might have developed, discuss them with others in a relaxed atmosphere and to explore some good driving tips with an experienced trainer.

**Do I have to complete coursework?**

No. There is no coursework required, you just have to attend and actively participate in the course.

**12) Useful links**

- <http://www.dvla.gov.uk/> - Information relating to driving licences.
- <http://www.hmcourts-service.gov.uk/> - Information relating to Court matters
- [www.acpo.police.uk/policies.asp](http://www.acpo.police.uk/policies.asp) - Information relating to type approved speed detection devices and their use.