



Northern  
Ireland  
Office

# Road Traffic and Driver Disqualification

**A Consultation**

Criminal Law Branch  
Northern Ireland Office  
Massey House  
Stoney Road  
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## 1: Introduction

1.1 Bad driving is a significant issue in Northern Ireland. While deaths and serious injuries on the roads have declined significantly in the last 20 years, there is still much to be done to improve road safety. Figures for the period 2005/2006 reveal a total of over 8,000 casualties as the result of road traffic collisions, including 134 fatalities and 1,115 serious injuries. Many of these collisions are attributable to driver behaviour. PSNI statistics show that among the most frequent causes of road traffic collisions in Northern Ireland during 2004/2005 are inattention (1,157 injury collisions, 12 fatalities), speeding (645 injury collisions and 34 fatalities) and road users under the influence of alcohol or drugs (321 injury collisions, and 26 fatalities).

1.2 The Government has recently introduced a series of road safety measures for England and Wales via the Road Safety Act, which received royal assent in November 2006. In particular this Act contains measures to contribute to and improve the framework of offences and penalties that deal with bad driving and driving unlawfully. Also included are new powers and penalties designed to deal with the worst and most persistent of offenders.

1.3 Given this context the Government proposes that similar measures also be considered for introduction in Northern Ireland. This is in line with the Northern Ireland Road Safety Strategy 2002-2012, which sets out a vision of safe road use for the whole community through *education, enforcement and engineering*.

1.4 The proposals outlined in this consultation are primarily designed to replicate measures either already in place in England and Wales before, or introduced via the Road Safety Act. The Government welcomes consideration of these proposals for application to Northern Ireland.

## 2: Overview: Criminal law and road safety

### Background

- 2.1 The Government's aim is that the criminal law should work as effectively as it can in support of road safety, good driving, the reduction of deaths and injuries, and the wider road safety strategy. It believes that the criminal law has an important deterrent effect on bad driving, and that offences and their penalties need to be commensurate with the gravity and culpability of the underlying behaviour. Bad driving and taking vehicles unlawfully onto roads are areas of concern, and the Government wishes to ensure that the police and the courts have suitable powers to deal with these issues.
- 2.2 The Government believes that road safety is an equally important issue throughout the UK. As such, one of the Government's aims is to standardize laws affecting drivers on all UK roads. For this reason, many of the proposals in this consultation document are about introducing legislation to Northern Ireland which is already present in England and Wales, including that which has been recently introduced in England and Wales via the Road Safety Act. This will ensure that a driver will be treated fairly and equally no matter where they are driving within the UK.

### Bad Driving

- 2.3 Bad driving may or may not be deliberate. A driver may exceed a speed limit deliberately or inadvertently (for example, as a result of failing to see a sign). However, all drivers owe a duty of care to other road users, and, as such, the law currently treats both cases equally, regardless of the reason or motivation. For example, a driver who exceeds a speed limit, whether deliberately or not, is in either instance failing in his duty of care to other road users. It is enough to prove that the driving was bad, as judged objectively, regardless of the state of mind of the driver. It is the driver's negligence that is culpable. Proposals in relation to offences of bad driving are discussed at **section 3** of this paper.

### Vehicles

- 2.4 Offences that involve taking a vehicle onto the road unlawfully put road users at risk. The Government is therefore concerned about how to best deal with people who drive while disqualified from driving, drive without an appropriate driving licence, or who drive while uninsured. These issues are discussed at **section 4** of this paper.

### Police and Court Powers

- 2.5 Motoring offences range from quite minor offences, for which the maximum penalty is a level 1 fine (maximum £200), to others, such as causing death by dangerous driving, for which the maximum penalty is 14 years imprisonment, an unlimited fine, and disqualification from driving for the rest of the offender's life. In the most serious cases, killing someone on the roads can result in a charge of manslaughter, for which the maximum penalty is life imprisonment, the same penalty as for murder. Proposals in

respect of police and court powers to deal with road traffic offenders, and measures to tackle the worst and most persistent law breakers, are discussed at **section 6** and **section 7** of this paper.

### **Driver Disqualification**

2.6 In line with the UK-wide effort to standardize laws affecting drivers, **section 5** of this paper contains new proposals for the courts to disqualify drivers. These proposals allow the courts to disqualify drivers for offences unrelated to road traffic offences or to motor vehicles. These powers are already available to courts in England and Wales.

2.7 A summary of the proposals is contained in this document at **Annex A**.

### **3: Offences of bad driving**

#### **Proposal 1: Statutory definition**

- 3.1 Currently the legal framework in Northern Ireland consists of a mix of two general offences of bad driving (“dangerous” and “careless” driving) and several other specific offences. The two general offences rest on objective tests of bad driving, for which any mental element on the part of the driver is irrelevant. The culpability lies in the breach of the duty of care to other road users.
- 3.2 While the offence of “dangerous” driving is clearly defined in statute, as driving in a manner which causes danger of injury to any person, or of serious damage to property, the offence of “careless” driving is less clearly defined as driving without due care and attention, or without reasonable consideration for other persons using the road or public place.
- 3.3 The Government believes that a more detailed statutory definition of “careless” driving would be of benefit to police, to the courts, and to road users themselves. The Government does not wish to change the law, but rather to define careless driving more clearly by drawing on both the common law and the definition of dangerous driving set out above.
- 3.4 The offence of “dangerous” driving is described as driving which falls “far below” that expected of a competent driver. The Government wishes to modify the lesser offence of careless driving to encompass driving which falls “below” that expected of a competent driver.
- 3.5 In order to more clearly define driving which falls below the standard of the competent and careful driver, the Government now proposes that the offence of driving without due care or reasonable consideration (“careless driving”) should be defined in more detail in statute. This will bring Northern Ireland in line with legislation in England and Wales introduced via the Road Safety Act 2006.

#### **Proposal 2: Causing death or grievous bodily injury by careless driving**

- 3.6 It is important that the fatal and serious consequences of careless driving are properly taken into account. This may need to involve imprisonment.
- 3.7 The Government does not believe, however, that it would be right to make all unimpaired careless drivers liable to imprisonment, irrespective of the consequences of their bad driving. Nevertheless, when careless driving results in death, the Government believes that a custodial sentence should be available. It is therefore proposed that a new offence be created that would be triable on either indictment, or summarily with a maximum penalty on indictment of 5 years imprisonment.
- 3.8 The Government now proposes that there should be a new offence of causing death or grievous bodily injury by careless driving; triable either on indictment or summarily; and carrying a maximum of 5 years imprisonment

on indictment. A similar provision was introduced in England and Wales in the Road Safety Act 2006.

### **Proposal 3: Manslaughter**

3.9 Relatively few cases of bad driving which result in death are charged as manslaughter. The absence of an alternative verdict; the substantial penalties available on conviction of causing death by dangerous driving; and the more likely possibility of a conviction for the latter offence have all led to reluctance regarding the use of the manslaughter offence.

3.10 If juries believe that the evidence is insufficient to convict of manslaughter they should instead be able to convict of causing death by dangerous driving, or death by careless driving while impaired; or of careless driving. Such a range of possibilities might leave some uncertainty on the part of the defendant about the offence charged, but might be preferable to the current “all or nothing” nature of the manslaughter offence. The government also wishes the offence of causing death by careless driving (proposal 2) to be considered as an alternative conviction to manslaughter.

3.11 The Government now proposes that when the offence of manslaughter is charged in a case of bad driving, provision should be made to allow for alternative verdicts if the manslaughter offence is not proved. This will bring Northern Ireland in line with legislation in England and Wales introduced via the Road Safety Act 2006.

### **Proposal 4: Wanton and Furious driving**

3.12 Whilst the charge of manslaughter may be brought with regard to driving offences on both public and private land, the offences of “dangerous” and “careless” driving apply to public, but not to private places. Where bad driving occurs on private property the offence of “wanton and furious” driving under section 35 of the Offences Against the Person Act 1861 is the only one that may be used. (This offence may, in fact, be committed anywhere and also applies to the driving of non-motorised vehicles.) At present the offence may only be tried on indictment and carries a maximum penalty of 2 years imprisonment.

3.13 The Government now proposes to allow disqualification and endorsement penalties to apply following conviction for the offence of “wanton and furious driving”. This will bring Northern Ireland in line with legislation in England and Wales introduced via the Road Safety Act 2006.

## **4: Taking a vehicle unlawfully onto the road**

### **Proposal 5: Causing death by driving: unlicensed, disqualified or uninsured drivers.**

4.1 As well as offences of bad driving there are concerns about the ways in which other drivers may put road users at risk. In particular three unlawful activities cause concern:

- Driving while disqualified;
- Driving without an appropriate driving licence; and
- Driving whilst uninsured.

4.2 In each case there is a basic offence of driving unlawfully, regardless of the standard of driving which creates additional risks for other road users. The Government believes that the criminal justice system ought to be able to take appropriate account of the culpability of the driver, where such unlawful driving results in death or serious injury.

4.3 Under existing arrangements, where the driver was driving carelessly or dangerously, the offences of careless and dangerous driving, or of manslaughter can apply. However, where a disqualified driver was driving inappropriately, but was not under the influence of drink or drugs, currently no account may be taken of the deaths or injuries that may have resulted from having taken the vehicle unlawfully on to the road.

4.4 Unlicensed drivers also clearly pose a threat to the safety of other road users as without a license the driver cannot show the required level of competence.

4.5 Uninsured drivers pose another threat, and there are grounds for believing that uninsured drivers are more likely to be involved in collisions, and to disregard road traffic obligations, than the general driver population. In addition, they add to the costs of other road users by inflating insurance premiums.

4.6 The Government believes that it is reasonable to hold disqualified, unlicensed, or uninsured drivers to greater account for any deaths or injuries that may result as a consequence of their decision to drive unlawfully.

4.7 The Government now proposes that anyone convicted of driving while disqualified, unlicensed or uninsured, whose vehicle was involved in a collision that resulted in death, should be guilty of a new offence carrying a maximum penalty of 2 years imprisonment. This will bring Northern Ireland in line with legislation in England and Wales introduced via the Road Safety Act 2006.

## **5: New powers for courts to disqualify drivers**

### **Proposal 6: Driving disqualification for any offence**

- 5.1 This proposal will give courts in Northern Ireland the power to disqualify a driver, for such a period as it thinks fit, from holding or obtaining a driving license. It will not be necessary for the offence committed to be in any way connected to road traffic offences or to motor vehicles. This power may be employed either instead of, or in addition to, dealing with the offender in any other way.
- 5.2 This proposal replicates powers already given to courts in England and Wales via the Powers of Criminal Courts (Sentencing) Act 2000.
- 5.3 The proposed legislation may be used in cases of kerb-crawling for instance, or even as punishment in cases where a motor vehicle played no direct or indirect part in the offence.
- 5.4 The Government now proposes to allow a convicting court for any offence to disqualify a driver, in addition to or instead of dealing with him in any other way.

### **Proposal 7: Fine defaulters: driving disqualification**

- 5.5 This proposal is similar to proposal 6. This proposal will allow a court dealing with a person who defaults on the payment of a fine or other sum of money to disqualify him from driving rather than committing him to custody in default of payment.
- 5.6 It will not be necessary for the fines or payments due to be connected to road traffic offences or to motor vehicles. Rather, this is a generic power that may be used in lieu of a custodial sentence for any fines or payments where the court considers this to be a more suitable penalty.
- 5.7 This proposal replicates powers already given to courts in England and Wales via the Criminal Justice Act 2003.
- 5.8 This proposal provides courts with an additional power to punish fine defaulters, without committing them to prison – a punishment which may do more harm than good, which contributes to an already substantial prison population, diverts prison and staff resources, and which costs the tax payer more money.
- 5.9 The Government now proposes to allow courts dealing with a person who has defaulted on the payment of a fine or other sum of money to disqualify him from driving instead of committing him to custody.

## **6: Police Powers**

### **Proposal 8: Power of police to stop a vehicle**

- 6.1 The Government believes that the penalty for failure to stop for a police officer should be increased, to recognise the serious risks to other road users of drivers trying to evade the police or seeking to escape detection (e.g. for driving under the influence). The penalty should more accurately reflect the offending behaviour, and as such the Government propose an increase from a level 3 fine (maximum £1000), to a level 5 fine (maximum £5,000).
- 6.2 The Government now proposes to increase the penalty for failure to stop when required by a constable, from a level 3 fine to a level 5 fine.

### **Proposal 9: Failure to allow a specimen to be tested**

- 6.3 At present a constable may take a blood sample from a suspect who is not capable of consenting (e.g. because he is unconscious). Such a sample must only be tested however, once the person concerned has been informed that it was taken and has given permission for it to be tested. In general it is an offence to fail to give consent for the specimen to be tested without reasonable excuse. However, such a failure is not currently an offence in cases of causing death or grievous bodily injury by careless driving while under the influence of drink or drugs.
- 6.4 The Government wishes to amend Article 14 of the Road Traffic (Northern Ireland) Order 1995 in order to make this an offence. The proposal is to make it an offence for failure, without reasonable excuse, to give permission for a specimen to be subjected to a laboratory test.
- 6.5 The Government now proposes to extend the offence of failing, without reasonable excuse, to give permission for a specimen to be subjected to a laboratory test, to include cases where death or grievous bodily injury has been caused by careless driving while under the influence of drink or drugs. This will bring Northern Ireland in line with legislation in England and Wales introduced via the Road Safety Act 2006.

### **Proposal 10: Breath specimens at the roadside**

- 6.6 The Government proposes amending the Road Traffic (Northern Ireland) Order 1995 to replicate Section 154 of the Serious Organised Crime and Police Act 2005 which provides the police with additional powers to require specimens of breath at the roadside or in hospital. These provisions will strengthen police powers in relation to the arrest of persons in cases where drivers wish to exercise their option of replacing breath samples, where drivers refuse to supply a preliminary breath test, or where the constable issuing the test has reason to believe that the testing device is faulty.
- 6.7 The Government now proposes to provide the police with additional powers to require specimens of breath at the roadside or in hospital.

## **Proposal 11: Vehicles causing alarm, distress or annoyance**

- 6.8 The Government proposes to introduce measures giving the police new powers to deal with the anti-social use of motor vehicles on public roads or off-road. These measures would replicate those already in place in England and Wales via the Police Reform Act 2002.
- 6.9 This would give police the power to seize motor vehicles causing a nuisance both on road, off road, and in other public places where they were being used without due care and attention or consideration for other members of the public. Failure to stop when required to do so by a police officer will also be an offence in relation to this power.
- 6.10 Police will be required to warn the person before seizing the vehicle, to allow the driver to put an end to his or her antisocial use.
- 6.11 One specific application of the proposed legislation is that it gives police additional powers to target members of the public who ride mini-motorbikes and motorised scooters in an antisocial manner. These vehicles are often driven contrary to existing legislation; however the proposals give police more suitable powers for dealing with offenders.
- 6.12 Under existing legislation, these vehicles generally breach the regulatory standards required of motor vehicles, e.g. no MOT, no speedometer, no number plates, no tax. Rather than charging drivers with these offences though, the drivers – who are most commonly young teenagers – may, after receiving a warning, face the arguably more suitable penalty of having their vehicles seized and destroyed.
- 6.13 The Government now proposes to provide the police with the power to seize motor vehicles causing alarm, distress or annoyance.

## **7: Regulating Drivers and Vehicles**

### **Proposal 12: Road Freight Operators Licences**

- 7.1 The law in Northern Ireland makes it a requirement for all road haulage operators to obtain and hold a Road Freight Operator's Licence. Currently the Department for Environment may refuse or revoke such a licence if there is evidence that the driver is not of "good repute". This means in effect that the Department takes account of the existence and number of convictions relating to that person. As many offences are now dealt with by way of fixed or civil penalties rather than by conviction there are a number of offences that the Department cannot currently take into consideration.
- 7.2 The Government now proposes to ensure that any civil penalties or road traffic fixed penalties are taken into account when considering the "good repute" of road freight operators.

### **Proposal 13: High Risk Offenders: Medical enquiries following disqualification**

- 7.3 A High Risk Offenders Scheme operates in Northern Ireland under which offenders are required to satisfy the Department of Environment, with evidence from a registered medical practitioner, as to their medical fitness to drive, before being re-issued with a driving license. Under current legislation, high risk offenders are able to drive again immediately when their driving disqualification ceases, but before medical enquiries have been completed. The Government wish to amend the law to ensure that such offenders are not permitted to drive again until the Department is satisfied that they do not have a medical condition amounting to a relevant or prospective disability.
- 7.4 The Government now proposes to ensure that high risk offenders are not permitted to drive again until the Department is satisfied that they do not have a medical condition amounting to a relevant or prospective disability. This will bring Northern Ireland in line with legislation in England and Wales introduced via the Road Safety Act 2006.

### **Proposal 14: Speed Assessment Equipment Devices**

- 7.5 The Government proposes replicating in Northern Ireland provisions in the Road Safety Act which make it possible to prohibit a vehicle from being fitted with Speed Enforcement Detection Devices, and to prohibit the usage of such a vehicle. A Speed Enforcement Detection Device is defined as a device, the purpose, or one of the purposes of which is to detect, or interfere with the operation of equipment used to assess the speed of motor vehicles. These devices can allow a person to speed and yet avoid detection. As such they could be a threat to road safety and on this basis the Government firmly believes that fitting a vehicle with, or a person using a vehicle carrying such a device, should be prohibited.

7.6 There are three main types of Speed Enforcement Detection Device: diffusers, simple radar detectors and GPS systems.

- **Diffusers:** A diffuser is a piece of equipment – a sort of ‘black box’ small enough to be placed on a vehicle dashboard and plugged into its cigarette lighter, or attached directly to the number plate which detects and then interferes with the radar beam emitted both by speed cameras and by other police radar equipment, including mobile equipment assessing the speed of passing vehicles. It has no other purpose.
- **Simple radar detectors:** These are similar in size and general nature to diffusers. They do not interfere with radar beams but merely detect the proximity of beams, from both fixed and mobile equipment, and alert the driver by bleeping in time to enable him to reduce speed to the appropriate level. Many of these devices can detect mobile police radar enforcement equipment. Again they have no other purpose.
- **GPS systems:** A GPS (Global Positioning System) device is different in nature from the other two. It is a computerised system operating through a link to a satellite which is either carried on some part of the vehicle or integral to its construction and hold information as to the position of the vehicle in relation to known speed cameras. Like the simple radar detector it alerts the driver by bleeping him in time to reduce speed to an appropriate level. Such devices are however, unable to detect mobile police equipment. The stored information can be updated at regular intervals. Unlike simple detectors these systems may serve other purposes such as providing route information.

7.7 The Government can see no possible justification for the use of either diffusers or simple radar detectors. A speed limit is either a well known standard, such as the maximum 70 mph on the motorway, or else it is clearly displayed. While there is no objection to people being made aware of the location of fixed cameras, drivers should not be able to know the location of mobile equipment.

7.8 The Government are therefore proposing to make it an offence for a person to carry on a motor vehicle or a trailer on a road, either a diffuser (whether a ‘stand alone’ device or one incorporated in a GPS device) or a simple radar detection device. It will not be an offence to carry a GPS device which does not incorporate a diffuser.

7.9 The Government now proposes to make it an offence to carry certain Speed Enforcement Detection Devices in a motor vehicle.

### **Proposal 15: Alcohol Ignition Interlocks**

7.10 The Government proposes replicating in Northern Ireland provisions in the Road Safety Act which gives the courts power to offer offenders the opportunity to participate, at their own expense, in an alcohol ignition interlock programme. The provision will apply to a person who is convicted of a second drink driving offence within 10 years of a first conviction. Where an offender agrees to this their overall period of disqualification may be reduced. Research into alcohol interlock

programmes reveals that they are effective in discouraging re-offending rates – in some cases by up to 90%. An Alcohol Interlock consists of a small box which is attached to a sample head and mouth piece which can then be fitted to a vehicle. The Alcohol Interlock ensures that the driver is sober before they can start the vehicle.

7.11 The Government now proposes to allow the courts the power to offer those offenders convicted of drink driving offences the opportunity to participate in 'alcohol ignition interlock' programmes.

## **8: Impact assessment**

8.1 This chapter examines the impact of these proposals for Northern Ireland and looks specifically at the impact on equality of opportunity and the regulatory impact of any scheme.

### **Equality Impact**

8.2 Under Section 75 of the Northern Ireland Act 1998, public authorities are required to have due regard to the need to promote equality of opportunity between:

- Persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- Men and women generally;
- Persons with a disability and persons without; and
- Persons with dependants and persons without.

8.3 In addition to this obligation public authorities are required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. These obligations are designed to ensure that equality and good relations considerations are made central to policy development and have the potential to make a real difference to the lives of the people most likely to be affected, by consulting with and taking into account how policy development may impact on them.

8.4 The Northern Ireland Office is fully committed to promoting equality of opportunity and good community relations in all its policies.

8.5 An initial screening exercise of this policy has been conducted in line with the Equality Commission's guide to the Statutory Duties and has one potentially impacted group.

8.6 In general young males are more likely to commit crime than any other group and this includes road offences. The offences and penalties proposed will therefore bear predominantly on young males though solely by virtue of the fact that they are the most likely demographic to commit criminal offences. The policies on which we are consulting are gender neutral and age neutral.

### **Regulatory Impact**

8.8A Regulatory Impact Assessment (RIA) is a tool that informs policy decisions. It provides a basis for identifying potential impacts and highlights the costs, benefits and risks of a set of proposals. It is Government policy that all Departments and Agencies where they exercise statutory powers and make rules that will have a general effect on others should produce RIAs. This initial RIA highlights the sectors affected by a licensing scheme and identifies the principal costs and benefits of any scheme.

8.9 Certain proposals may have an impact on equipment manufacturers and suppliers. Proposal 11 may impact on suppliers of mini-motorbikes and

similar motor vehicles. Proposal 14 may have an impact on the suppliers of diffusers or radar detectors. Only those consumers who would use such equipment or vehicles illegally would be affected – the proposals would ensure that they are in compliance with the law.

## **Conclusion**

8.10 The substance of the overall policy initiative is to improve road safety and crime prevention, and the proposed legislation is designed to benefit all in society not just particular groups. Therefore, whilst some more stringent regulations are being introduced, the proposals will have a positive and equal impact for all Section 75 groups.

8.11 These are issues that will be developed further during this consultation exercise. Others may emerge and we will of course reconsider our findings and finalise our screening document at the end of this process when all responses have been considered.

8.12 We would now welcome your comments on the equality implications of this policy, particularly with regard to the following criteria that our screening has taken account of:

### **Consultation questions**

- 1. On which equality categories if any do you consider the policy will have an impact?**
- 2. Is there any evidence of higher or lower participation or uptake by different groups in relation to the policy within any of the nine categories?**
- 3. Is there evidence that different groups have different needs, experiences, issues and priorities in relation to the main policy areas?**
- 4. Is there an opportunity to better promote equality of opportunity or good relations by altering the policy, or by working with others, in Government or the community at large?**
- 5. Are there any other potential costs or impacts that have not been stated but which merit inclusion?**
- 6. If there are such potential impacts can you quantify them and provide evidence to support your view?**

## 9: Responding to this consultation

Queries regarding, and responses to the proposals set out in this consultation document should be sent to:

### **Road Traffic Offences Consultation**

#### **Criminal Law Branch**

#### **Northern Ireland Office**

#### **Massey House**

#### **Stoney Road**

#### **Belfast BT4 3SX**

**Fax: 028 9052 7507**  
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**Responses must be received by Monday January 15<sup>th</sup>, 2007.**

For analysis purposes it would be helpful if consultees could respond to specific points using the same numbering as that contained within the consultation document. A summary of the proposals upon which we invite views has been included for ease of reference.

If you are responding on behalf of a group or organisation please make this clear. Unless confidentiality is requested, it will be assumed that responses can be made available to others. However, if comments are made publicly available, they will not be attributed to individual respondents.

An electronic version of this document is available at [www.nio.gov.uk](http://www.nio.gov.uk)

**If you have any complaints or comments about the consultation process, you should contact:** Donna Knowles, Central Management Unit, Northern Ireland Office, Stormont House, Stormont Estate. Belfast BT4 3SH.

**Email: [donna.knowles@nio.x.gsi.gov.uk](mailto:donna.knowles@nio.x.gsi.gov.uk)**  
**Tel: 028 90 527 015**

## **10: Responses: Confidentiality & Disclaimer**

The information you send us may be passed to colleagues within the Northern Ireland Office, the Government or related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations (2004)).

*If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.*

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The department will process your personal data in accordance with the DPA – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## **ANNEX A**

### **Summary of proposals**

#### *Proposal 1: Statutory definition*

- In order to define driving which falls below the standard of the competent and careful driver, the Government now proposes that the offence of driving without due care or reasonable consideration (“careless driving”) should be defined in more detail in statute.

#### *Proposal 2: Causing death, or grievous bodily injury by careless driving*

- There should be a new offence of causing death or grievous bodily injury by careless driving; triable either on indictment or summarily and carrying a maximum of 5 years imprisonment on indictment.

#### *Proposal 3: Manslaughter*

- When the offence of manslaughter is charged in a case of bad driving, provision should be made to allow for alternative verdicts when the manslaughter offence is not proved.

#### *Proposal 4: Wanton and furious driving*

- To allow disqualification and endorsement penalties to apply following conviction for the offence of “wanton and furious driving”.

#### *Proposal 5: Causing death by driving: unlicensed, disqualified or uninsured drivers*

- Anyone convicted of driving while disqualified, unlicensed or uninsured, whose vehicle was involved in a collision that resulted in death, should be guilty of a new offence carrying a maximum penalty of 2 years imprisonment.

#### *Proposal 6: Driving disqualification for any offence*

- To allow a convicting court for any offence to disqualify a driver, in addition to or instead of dealing with him in any other way.

#### *Proposal 7: Fine defaulters: driving disqualification*

- To allow courts dealing with a person who has defaulted on the payment of a fine or other sum of money to disqualify him from driving instead of committing him to custody.

#### *Proposal 8: Power of police to stop a vehicle*

- To increase the penalty for failure to stop when required by a constable, from a level 3 fine to a level 5 fine.

*Proposal 9: Failure to allow a specimen to be tested*

- To extend the offence of failing, without reasonable excuse, to give permission for a specimen to be subjected to a laboratory test, to include cases where death or grievous bodily injury has been caused by careless driving while under the influence of drink or drugs.

*Proposal 10: Breath specimens at the roadside*

- To provide the police with additional powers to require specimens of breath at the roadside or in hospital.

*Proposal 11: Vehicles causing alarm, distress or annoyance*

- To provide the police with the power to seize motor vehicles causing alarm, distress or annoyance.

*Proposal 12: Road Freight Operators*

- To ensure that any civil penalties or road traffic fixed penalties are taken into account when considering the “good repute” of road freight operators.

*Proposal 13: High Risk Offenders: medical enquiries following disqualification*

- To ensure that high risk offenders are not permitted to drive again until the Department is satisfied that they do not have a medical condition amounting to a relevant or prospective disability.

*Proposal 14: Speed Assessment Equipment Devices*

- To make it an offence to carry certain Speed Enforcement Detection Devices in a motor vehicle.

*Proposal 15: Alcohol Ignition Interlocks*

- To allow the courts the power to offer those offenders convicted of drink driving offences the opportunity to participate in ‘alcohol ignition interlock’ programmes.

## **ANNEX B**

### **Impact assessments**

1. On which equality categories if any do you consider the policy will have an impact?
2. Is there any evidence of higher or lower participation or uptake by different groups in relation to the policy within any of the nine categories?
3. Is there evidence that different groups have different needs, experiences, issues and priorities in relation to the main policy areas?
4. Is there an opportunity to better promote equality of opportunity or good relations by altering the policy, or by working with others, in Government or the community at large?
5. Are there any other potential costs or impacts that have not been stated but which merit inclusion?
6. If there are such potential impacts can you quantify them and provide evidence to support your view?

## **ANNEX C**

### **List of consultees**

The Office of the Lord Chief Justice of Northern Ireland  
The Council of Her Majesty's County Court Judges in Northern Ireland  
The Northern Ireland Resident Magistrates Association  
The Northern Ireland Juvenile Courts Association  
The Office of the Director of Public Prosecutions  
The Crown Solicitor's Office  
The Northern Ireland Court Service  
The General Council of the Bar of Northern Ireland  
The Law Society of Northern Ireland  
The Office of Law Reform  
The Legal Secretariat to the Law Officers  
The Northern Ireland Legal Services Commission  
The Office of Legislative Counsel  
Queen's University Belfast Law School  
University of Ulster Law School  
The Law Centre (Northern Ireland)  
The Police Service of Northern Ireland  
The Northern Ireland Policing Board  
The Police Ombudsman for Northern Ireland  
The Probation Board for Northern Ireland  
The Northern Ireland Prison Service  
The Compensation Agency  
Youth Justice Agency  
Criminal Justice Inspection Northern Ireland  
The Criminal Cases Review Commission  
The Association of Chief Police Officers  
The Police Federation for Northern Ireland  
The Superintendent's Association for Northern Ireland  
The Northern Ireland Affairs Committee  
Northern Ireland Westminster MPs  
Westminster Party Spokespersons on Northern Ireland  
The British-Irish Intergovernmental Secretariat  
Northern Ireland Government Departments  
Northern Ireland Councils  
Northern Ireland Health and Social Services Boards  
Northern Ireland Education and Library Boards  
The Northern Ireland Human Rights Commission  
British Irish Rights Watch  
Human Rights Watch  
Justice  
The Equality Commission  
The Northern Ireland Citizen's Advice Bureaux  
The Association of Chief Officers of Voluntary Organisations (ACOVO)  
Community Relations Council  
The Committee for the Administration of Justice (CAJ)  
The General Consumer Council for Northern Ireland  
The Northern Ireland Council for Ethnic Minorities (NICEM)  
Employment Services Board  
Northern Ireland Committee of the Irish Congress of Trade Unions

Community Foundation for Northern Ireland  
The Federation of Small Businesses  
The Institute of Directors Northern Ireland  
The Northern Ireland Chamber of Commerce and Industry  
The Confederation of British Industry  
The Institute of Business Advisors  
Include Youth  
Youth Council for Northern Ireland  
Royal Society for the Prevention of Accidents  
Ulster Automobile Club  
Amalgamated Transport and General Workers Union  
Child Accident Prevention Trust  
Road Haulage Association (NI)  
Driver and Vehicle Testing Agency  
NI Transport Holding Company  
NI Road Transport Association  
Driver and Vehicle Licensing Northern Ireland  
Campaign Against Drink Driving  
Road Safety Council of Northern Ireland  
Road Trauma Support  
British Motorcyclists Federation  
Disabled Drivers Association  
Institute of Advanced Motorists  
Freight Transport Association  
Road Safety Adviser Northern Region  
Translink  
Road Policing Development Branch