



Graduated Fixed Penalties and Roadside Deposits Procedure

This document is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Deputy Mayor for Policing as part of the York & North Yorkshire Combined Authority are required to adhere.

Procedure Statement

The fixed penalty system for offences in respect of a vehicle is established by Part Three of the Road Traffic Offenders Act 1988, as amended. This has now been supplemented by the Road Safety Act 2006 extending the legal framework in respect of the use of fixed penalties to include:

- Issue of graduated fixed penalty notices (GFPNs) to persons committing certain commercial vehicle offences (overweight vehicles and exceeding driving hours)
- Requiring immediate financial deposits from offenders who do not have a satisfactory UK address, whether they are resident or not, either in respect of a fixed penalty for a motoring offence or as a form of surety where a traffic offence is to be dealt with by way of summons
- Immobilise vehicles where a vehicle has been prohibited from continuing a journey, including cases in which a financial deposit has not immediately been made

GFPNs assist North Yorkshire Police (NYP) with its aim to reduce crime and the fear of crime and reduce the number of people killed and seriously injured on our roads by:

- Reducing time officers spend dealing with paperwork and court attendance reducing the burden on the courts
- Increasing the amount of time officers spend on operational duties
- Providing a cost-effective method of dealing with a range of offences

This procedure details the decision-making process to be followed when dealing with offences by way of graduated fixed penalty or roadside deposit.

As with all fixed penalty offences an officer will consider the circumstances of the offence when deciding whether to take no further action, give a verbal warning, issue a Vehicle Defect Rectification Scheme (VDRS), complete a Traffic Offence Report (TOR) or report for summons, bearing in mind any mitigating or exacerbating factors which may be present. Police action should be seen to be fair, consistent and proportionate.

Overarching Policies:

Information Security Policy
Records Management Policy
Data-protection Policy

Procedures:

Vehicle defect rectification scheme (VDRS) Procedure
Pocket Notebook Procedure
Freedom of information Procedure
Information Audit Procedure
Review, retention and disposal of information Procedure

Other Documents:

Process

The Road Safety Act 2006 extended the legal framework in respect of the use of fixed penalties. Powers will enable authorised police officers only to:

- Issue a non-endorsable notice for a Graduated Fixed Penalty offence to persons committing certain commercial vehicle offences (overweight vehicles and exceeding driving hours). This will normally apply to vehicles being used in the course of a commercial enterprise but may apply, for example, to a hire van which is being used for a private purpose but is overweight
- Issue a Roadside Deposit notices which requires immediate financial deposits from offenders who do not have a satisfactory UK address, whether they are resident or not, either in respect of a fixed penalty for a motoring offence or as a form of surety where a traffic offence is to be dealt with by way of summons
- Issue fixed penalty notices to offenders who do not hold a UK driving licence, in respect of both endorsable and non-endorsable offences but DO have a satisfactory UK address. (Where the offender has a satisfactory UK address and has committed a standard endorsable or non-endorsable fixed penalty offence any officer can deal with the offence utilising the fixed penalty notices)
- Immobilise vehicles where a vehicle has been prohibited from continuing a journey, including cases in which a financial deposit has not immediately been made (**IMMOBILISATION IS NOT CURRENTLY IN USE BY NYP**)

The procedures for GFP offences and Roadside Deposits are separate and distinct, although on occasions a graduated offence may also require the payment of a roadside deposit. This is explained as follows:

- GFP offences relate to the offence being committed in so much as they should be classified as “graduated offence”, the penalty for which is determined by the seriousness of the level of offending
- Roadside deposits relate to the residential status of the offender, rather than the particular offence. To require payment of a roadside deposit, the officer must be satisfied that the offender does not have a satisfactory UK address. It is important to note that the deciding

factor is residential status rather than the nationality or ethnicity of the alleged offender (address condition)

When issuing a GFPN or Roadside Deposit notice, officers/staff must ensure they request the Force Control Room undertake a PentiP check along with the standard NICHE and PNC checks. This is so they are aware of any related/previous notices issued.

Additionally, should the Force Control Room operator identify that information held on PentiP regarding a known nominal is different to that in NICHE, the operator must inform the officer who is then required to determine whether an intelligence submission is required. Intelligence should be submitted in line with the Management and Submission of Intelligence Information Procedure

Graduated Fixed Penalty Notices (GFPNs)

GFP offences may only be issued by authorised officers using the Traffic Offence Report (TOR). GFP offences are now incorporated within the TOR notices. There is a separate notice for Roadside Deposits.

At present GFP TORs may only be issued for commercial vehicle offences relating to drivers' hours and weight of vehicles that have been specified to be dealt with under these provisions, the penalty for which is determined by the seriousness of the violation.

Offences which are not on the published list of graduated fixed penalty offences should continue to be dealt with using the TOR process. (This is unless the offender does not have a satisfactory UK address in which case a roadside deposit can be taken).

Issue of GFPNs

When a GFP offence has come to light, the attendance of an officer authorised to deal with issue GFPs should be requested.

A list of officers authorised to deal with GFPs is obtainable from the Roads Policing Group or through contacting the Force Control Room via the 'Ops' channel.

On issue of the TOR, the offender will be contacted by NYP advising of the next stage of the process.

Payment at the time should not be requested or accepted unless the alleged offender does not have a satisfactory UK address. In this case the provisions of roadside deposits become appropriate (see roadside deposits section).

GFP offences can be issued to all UK and foreign commercial vehicles without payment of a roadside deposit. It is the residential status of the driver which determines whether a roadside deposit should be required and not the particular offence.

The authorised officer should issue the GFP using a TOR to the alleged offender.

Roadside Deposits

Roadside deposits provisions of the Act permit authorised officers to require a pre-determined amount, dependent on the offence, to be deposited at the time an offence is committed by an offender who does not have a satisfactory UK address.

The “address condition” is an absolute condition precedent to the requirement of any roadside deposit. This condition applies to any person who does not have such an address, regardless of nationality.

When any fixed penalty offence is to be dealt with and the alleged offender does not have a satisfactory UK address, the attendance of an officer authorised to take roadside deposits should be sought. The distinct booklet of notices must be used for this purpose. The officer witnessing the offence will remain the reporting officer and will be responsible for the completion of any later summons report.

A “satisfactory address” is defined as one in the UK at which, in the opinion of the constable, it is likely that it would be possible to find the person whenever necessary in connection with court proceedings or the issue of a FPN.

The provisions of this procedure do not affect the officer’s right to arrest the individual in line with the provisions of the Police and Criminal Evidence (PACE) Act 1984 providing the relevant proportionality criteria are met.

The deposit can be required in respect of a fixed penalty offence only at this stage. Deposits will not be taken for summons offences during the initial roll out of the system.

The authorised officer will follow the below procedure:

- The authorised officer will complete a new style notice which is now a standalone notice for Roadside Deposits only for each offence to be dealt with (up to a maximum of three offences)
- The authorised officer will need to confirm that the offence is one which is appropriate to be dealt with by way of a roadside deposit. In particular that the precedent of “no satisfactory UK address” is fulfilled. In making this judgement, the officer also needs to consider:
 - a) If offence is covered by fixed penalty system
 - b) If it is not so serious as to warrant a summons, in which case an alternative means of disposal should be considered
 - c) A maximum of three offences, and only one endorsable offence being considered i.e. 1 endorsable and 2 non-endorsable
- In all cases it will be necessary to issue one notice for each offence being dealt with, up to a maximum of three notices only one of which can be endorsable

There are five levels of deposit that can be taken depending on the offence alleged:

- Fixed penalty offences of £30, £60, £120 and £200
- Summons offences - £300 **(NOT YET IN USE BY NYP)**

Holding of Deposits

Deposits taken for fixed penalty offences will be credited to Her Majesty's Court Service (HMCS) and held for 28 days, unless being dealt with as a summons offence. If no request for a Court hearing is received within 28 days, the deposit will be taken as the penalty for the offence.

Deposits taken in respect of a summons offence will be held pending the issue of a summons and disposal of the proceedings at Court. The deposit in these circumstances will be set against any penalty imposed by the Court. In the event of an acquittal, the deposit will be returned to the defendant with an amount in respect of interest.

Where a deposit has been taken and a summons file submitted, either because it is a summons offence, or where a defendant has asked for the matter to be heard by a Court, the file should be clearly endorsed with the fact that a deposit has already been paid.

This information should be available to the Prosecutor and Court. It is the officer's responsibility to make sure this information is contained within the file. **(NB. The summons deposit system is not yet in use by NYP).**

In the case of a summons offence or a returned FPN where the offender is to be processed to Court, it is essential that the officer immediately submits a full summons report through the relevant prosecution team. The roadside deposit notice should still be forwarded to the Traffic Bureau as normal. The Dedicated Decision Maker (DDM) will consider all of the evidence and decide whether a summons application should be made.

In the event that a decision is made not to proceed with such an application, it is essential that the Traffic Bureau are informed immediately. This notification is the responsibility of the DDM. This notification of no further action (NFA) should be sent to the TB, quoting the relevant roadside deposit reference number, immediately a decision is made. Delay in providing this notification will result in a refund being required to be sent with daily accruing interest.

Taking of Deposits

The authorised officer will complete the RDFPN and take the appropriate level of deposit by way of:

- Valid credit/debit card number
- Cash in sterling (foreign currency is not accepted)

Credit/Debit Card Payment

If an alleged offender elects to make payment by way of a credit or debit card, the officer will telephone the 24/7 number for HMCTS. The full card number will be given together with details of the notice number and the payment will be validated by phone. An authorisation number will be given which should be recorded in the space provided on the Roadside Deposit Notice along with the full credit card number used. There will then be a clear audit trail connecting the payment to the notice.

Cash Payments

All officers authorised to take Roadside Deposits will be issued with an "Allpay" card. This enables any cash received following the issue of a Roadside Deposit Notice to be deposited almost

immediately into the HMCTS account at any Allpay point. These can routinely be found at service stations and 24-hour supermarkets. (A search facility can be found at Store Locator payzone.co.uk)

When payment by cash is received the officer receiving will:

- Ensure that the payment is in Sterling only
- Count the cash in the presence of the offender
- Place the cash in a tamper evident bag and seal in the presence of the offender
- Complete the amount taken on the Roadside Deposit Notice
- Offer the offender the opportunity to sign the Roadside Deposit Notice
- Where possible, immediately take the cash to an Allpay facility and deposit the amount received. (In any case any cash taken MUST be deposited by the end of the officer's tour of duty. It is the nominated officer's responsibility to pay in the cash received)
- A receipt will be issued which will be placed in the Traffic Bureau envelope along with the remaining copies of the Roadside Deposit Notice and the tamper evident bag and forwarded to the Traffic Bureau by internal mail

The offender will be given the recipients copy and the court hearing request parts of the Roadside Deposit notice. The office copy and court copy will be sent to the Traffic Bureau (NB the vehicle release after mobilisation copy can be discarded).

The details of the Roadside Deposit should be recorded by the officer in their workbook or by other means at the officer's operating base prior to being sent by internal mail to the Traffic Bureau.

Authorised officers should ensure that forms completed are legible, using block capitals.

Driving Licences

If the offender holds a UK licence and the offence being dealt with is endorsable, the officer will require production and seizure of the driving licence by completing a separate HORT1, if not immediately produced.

When an offender has no UK licence or driver record, a ghost driver record will be created by the DVLA, who will endorse the record when appropriate offences are committed. It will be necessary however for the officer to check, at the time, to see if a ghost record already exists. DVLA endorsements pages can be checked via the PNC Bureau (PNCB). This will require identity and date of birth to be confirmed and will enable the officer to establish whether the defendant is liable for "totting" disqualification.

If the alleged offender already has more than 8 points, the matter should be dealt with as a summons matter. It is a legal requirement that the number of existing penalty points are checked prior to the issue of any FPN.

Action by Police Station Front Counters

A UK driving licence produced at police stations following the issue of the new style notice should continue to be surrendered and sent to the Traffic Bureau.

A foreign licence should not be surrendered but details of foreign licence number and offender date of birth, recorded on a HORT2 to be forwarded to the Traffic Bureau. Foreign licences should not be seized under any circumstances.

Officer's Notes

If a notice is issued, contemporaneous notes must be recorded in the officer's pocket notebook (PNB) in line with the Force PNB procedure. The officer witnessing should include notes sufficient to prove the offence.

Key points to be recorded by the nominated officer, should include the location/time/offender and ticket number and all details of cash handling but NOT credit card details except in the space provided on the notice.

The officer in the case will record enough details for a Form 145 if the offender is 16 or 17 years old. These details are required if the circumstances lead to an appearance in the youth court, i.e.:

- Court hearing requested under Section 59 (2) of the Road Traffic Offenders Act 1988 by the driver who has been given a FPN
- Court hearing requested under Section 63 (3) of the Act where a FPN was affixed to the driver's vehicle
- Proceedings arising under Section 77(4) of the Act in relation to a conditional offer of a fixed penalty

Responsibility for completion of the Form 145 will remain with the witnessing officer in the case and not the nominated officer unless they are also the witnessing officer.

Officers completing a notice must use capital letters using a ballpoint pen to ensure legibility.

Multiple Offences

Authorised officers can issue a TOR for multiple offences up to a maximum of three, with no more than one endorsable offence within the three.

If further offences are disclosed then consider:

- Whether to issue a TOR for the most serious offence and give a verbal warning for the remainder, or
- Whether to report all the offences for summons

Prosecution Policy - Weight Offences

Offences in relation to overweight vehicles are now covered by the GFPN system. The penalty imposed is dictated by the percentage overweight that the vehicle is (see published list of graduated fixed penalty offences).

Where the driver of the vehicle is dealt with by way of GFPNRD, no proceedings will ordinarily be taken against the operator of the vehicle.

Where a vehicle is 30% or more, or 5000kg or more overweight, the offence will NOT be dealt with by way of GFPN and the offender will be reported for summons due to the seriousness of the offence. In such cases where the driver is not the owner/operator of the vehicle, proceedings should also be commenced against the owner/operator by way of summons.

All vehicles found to be 5% or more overweight in any aspect, will also be issued with a relevant prohibition notice.

Prosecution Policy - Driving Hours Offences

Fixed penalties and conditional offers will be issued for driving hours offences that are currently being committed by the driver e.g.:

- Failure to take a break (after 4.5 hrs) – current day
- Failure to take sufficient daily rest – current day
- Failure to take sufficient weekly rest – current week

The fixed penalty will be the usual penalty for driving hours offences which are currently being committed by a driver, except where the maximum number of notices which can be issued on one occasion is reached or where the offence is so serious that a fixed penalty is not suitable.

Historic offences will not be dealt with by way of GFPN and should be dealt with by way of summons.

Responsibilities

Traffic Bureau Team Leader

- Manage/monitor/allocate Roadside Deposit Notices effectively to authorised officers
- To ensure sufficient quantities are available for allocation within the Force for distribution to officers
- To ensure TORs and Roadside Deposits are issued within force procedure liaising with officers/first line supervision regarding non-compliance
- To monitor administration of TORs to ensure accuracy
- To process TORs and Roadside Deposits through PentiP
- Retaining TORs and Roadside Deposits in line with NYP Retention Schedule

Authorised Operational Officers

- Issue TORs in line with Force procedure and to return issued notices to the Traffic Bureau at the end of each shift
- Requesting a PentiP check from the Force Control Room operator and submitting intelligence when appropriate

First Line Supervision

- Dip sample issued TORs and Roadside Deposits to ensure compliance with Force procedure

Traffic Bureau Support Officers

- Administer TOR and Roadside Deposits in line with Force procedure

Central Finance Unit

- Administer and manage funds in relation to the TORs

Front Office Staff

- Process production of licences in relation to TORs in line with Force procedure

Force Control Room operator

- Undertaking a PentiP check and informing the officer/staff when information held in PentiP is different to that held in NICHE

Definition of Special Terms

GFPNRD(s) – Graduated Fixed Penalty Notices and Roadside Deposit Form(s)

VDRS – Vehicle Defect Rectification Scheme

TOR – Traffic Offence Report

FPN – Fixed Penalty Notice

PACE – Police and Criminal Evidence Act

TB – Traffic Bureau