

AMPOW Speed-Awareness Campaign - Summary

Against Misuse of Police Waivers

This campaign against the misuse of speed awareness courses (named AMPOW) was created because the actions of the police in offering such "Education Courses" as an alternative to prosecution for speeding and other offences are distorting road safety policy.. It is leading to the proliferation of speed cameras and threatened prosecutions because the police now have a direct financial incentive to maximise their activities in this area. This is wrong.

In our view there is no statutory support for this activity and it is contrary to law. In addition it is a perversion of justice for the police to waive prosecution on the basis of money being paid to them.

There is also no hard evidence that putting people through a speed-awareness course has any impact on their subsequent accident record, or behaviour in general. So what we now have is an enormous industry dedicated to raising money to pay course operators, the police and other organisations who benefit from these arrangements.

The Government has claimed that the police only recover their "administration" costs but that is not in fact true. They are actually using their proportion of fees paid by course attendees to finance more cameras and more staff to operate them plus to fund other equipment and activities from the surpluses generated. We will provide evidence on this.

We ask the Government to put a stop to these arrangements forthwith simply because Parliament has never approved these activities.

Please support this campaign.

If you agree with us, and wish to stop the financing of speed cameras by this dubious practice which has nothing to do with improving road safety, please register your interest by signing our petition here: <http://www.speed-awareness.org/join.html>

Stop the slush fund that finances more cameras - sign the petition now.

1. Background and History

Speed cameras are used to enforce speed limits in the name of road safety. The promoters of this campaign may have some doubts about the cost effectiveness of such an approach to improving road safety, and the statistics used to support these policies, but this campaign is not about the merits or otherwise of speed cameras. It is about the changes that have taken place in recent years about how they are financed.

Before 2007 the police, embodied in "Speed Camera Partnerships", could claim their costs from any fines paid (typically from fixed penalty notices) as a result speeding offences, i.e. the fines were "hypothecated" and redirected via the DfT to local partnerships. This resulted in large numbers of complaints that the cameras were being operated solely to make money - for example by locating them not at the most dangerous parts of the road network but where it was easiest to catch motorists exceeding the posted speed limit.

It seemed that the Partnership managers also had an incentive to grow their operations and hence employ more staff due to this arrangement. If the organisations actually reduced the number of speeding motorists, which would have met the claimed road safety objective, they actually lost revenue. In extremis this meant lower budgets and staff reductions. In other words this was a perverse incentive arrangement because it encouraged the entrapment of motorists rather than reducing traffic speeds and hence the number of penalties.

In 2007 the Government therefore decided that in future all fines would go directly to the Crown (the normal arrangement for all other offences). Instead they would provide specific grants from such revenue for road safety to local authorities. They could then choose to fund camera partnerships (now renamed "Road Safety Partnerships") or spend it on other road safety programmes such as education in schools. This was hailed as the end to making money out of hapless motorists in the media. Indeed this did result in some local authorities ceasing the funding of camera operations and any increase in cameras. Indeed some camera operations were "abandoned", i.e. ceased to be operated (e.g. Oxfordshire and in Swindon). But not for long!

The invention of alternative funding arrangements.

With grants being reduced, the concept of using police waivers of prosecutions in return for the "offender" paying for an "education course" was introduced. This appears to have been an invention by ACPO (the Association of Chief Police Officers, a private body, subsequently superseded by the National Police Chiefs Council - NPCC). For example, Superintendent Rob Povey of Oxfordshire Police posted a video on YouTube which is still available explaining how they had devised an innovative arrangement to enable them to switch speed cameras back on from the 1st April 2011. To our knowledge these arrangements have never been supported by legislation or regulations so there is no statutory authority for them. They were effectively introduced by police chiefs to side-step Government funding policy.

2. Why It Is Illegal

The financing of the police by the use of prosecution waivers has never been supported by legislation or regulations so there is no statutory authority for them. They were effectively introduced by police chiefs to side-step Government funding policy. And it is surely contrary to public policy for financial incentives to be given to the police in this manner. The police are using their statutory power to prosecute or issue a Fixed Penalty Notice as a means to secure extra-statutory revenue (i.e. revenue not authorised by legislation).

Note that the statutory scheme that enables the deployment of speed cameras does not authorise the recovery of police costs. Neither of course does it authorise the charges made by the course operators.

In addition using the threat of prosecution to secure payment is an abuse of police power.

This campaign is considering a legal challenge to these practices if we can raise enough funds to do so and we have already taken legal advice from a QC on this matter who supported our position.

3. A Perversion of Justice?

Is diversion of Speed Awareness Course Fees an example of Perverting the Course of Justice? In essence, in return for payments that at least part-fund the operations of speed camera partnerships, alleged offenders are diverted from the justice system.

We do not dispute that the police have the right to waive prosecution in some cases when an offence comes to their attention. This is common practice where the offence is trivial or there are extenuating circumstances. Speed awareness courses are only offered to those who are only exceeding the limit by a small amount and are not repeat offenders. However It is normally the case that if a police officer agrees to drop an offence upon payment of some money to a third party (particularly one connected to them), then it is a criminal offence however trivial the offence. A definition of “perversion of the course of justice” from the Police National Legal Database is:

“This common law offence is committed where a person or persons:-

- (a) acts or embarks upon a course of conduct
- (b) which has a tendency to, and is intended to pervert,
- (c) the course of public justice.”

Listed below are a couple of the ways where conduct is capable of amounting to an offence (there are several others):

- (a) Concealing offences;
- (b) Failing to prosecute;

In the cases of which we are complaining, some police officers are surely potentially conspiring with the organisations that run the training courses to divert drivers from the judicial system in return for payments that fund the employment of themselves, other police officers or other support staff. Hence they appear to have a direct financial interest in this matter.

Note: of course anyone who accepts such an invitation and pays the requested fee is probably guilty of being a party to this conspiracy of corruption.

Improper Exercise of Police Powers

That the exploitation by the police of their powers to waive prosecution is a corrupt practice is made even plainer by the Guidance published by the Government on the application of the Criminal Justice and Courts Act 2015 - namely in Circular 2015/01. That contains the following paragraphs:

Section 26: Corrupt or other improper exercise of police powers and privileges.

78. Section 26 of the Act makes it an offence for a police constable to exercise the powers and privileges of a constable improperly where the constable knows or ought to know that the exercise is improper. The exercise of a constable’s powers and privileges is defined as being improper where it is for the purpose of achieving a benefit for the officer or another person or a detriment to another person, and a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.

The offence also covers the situation where a constable fails to exercise a power or privilege of a constable or threatens to exercise (or not exercise) such a power or privilege and the purpose of the failure or threat is to achieve such a benefit or detriment and a reasonable person would not expect a constable to so fail or threaten for such a purpose. Exercising or not exercising the powers or privileges of a constable includes performing or not performing the duties of a constable.

80. The offence is triable only on indictment and carries a maximum penalty of 14 years' imprisonment, an unlimited fine or both. The offence supplements rather than replaces the existing common law offence of misconduct in public office.

So you can see that it is quite clear that the offer by police to waive an offence as an inducement to pay money to a third party (namely a provider of a speed awareness course) would be an offence. That is particularly the case where the police benefit in terms of the employment of themselves and other staff, or the provision of equipment, financed by kick-backs from the fees paid by motorists who accept the offer of such course.

Why the Government continues to permit such corruption is incomprehensible.

4. Profits and Where They Go

Since 2010 there has been a sustained and dramatic increase in the use of Speed Awareness Courses (SACs) - source NDORS (the National Driver Offender Retraining Scheme): www.ndors.org.uk/trends-stats. That is from about 450,000 to over 1.2 million generating an income in excess of £55 million per annum none of which would have been available directly to the police in the event of FPNs being issued.

The police receive a flat fee of £45 (increased from £35 in October 2017) out of the fee charged to "offenders" by course operators which typically range from £80 upwards and can be as much as £200. Whilst some of the £45 fee is attributable to the expenses directly associated with the issuance of an invitation to attend such a course and administration thereafter, it is undoubtedly the case that a significant surplus is generated.

In addition some police forces seem to be receiving an additional "levy" from the speed awareness course providers - see The Evidence later in this document on that.

From April 2016, NDORS, the scheme has been governed by UK ROED Ltd, a private not-for-profit company, which is operating the scheme "on behalf of the UK Police Forces". UK ROED receives £5 from each course fee paid from the course operators to fund their activities. UK ROED Ltd is owned by a charity named Road Safety Trust. The charity is chaired by Suzette Davenport, the former Chief Constable of Gloucester Police, who is also one of the directors of UK ROED Ltd. None of these organisations is controlled by the Government.

Previously NDORS was operated by NDORS Ltd, another private company. The last accounts filed with Companies House were for the year ending March 2014 and showed revenue of £44 million with profits of £2.5 million. One of the directors is Meredydd Hughes, a retired Chief Constable, who is also a director of Road Safety Support Ltd which supports traffic prosecutions and provides training. He has the distinction of being banned for speeding in 2007 for doing 90 mph in a 60 speed limit zone.

Other directors are Thomas Howes and Trevor Hall, also directors of Road Safety Support Ltd, who are also former police officers. Former police officers are also commonly employed by or are directors/owners of the course operators.

At the time of writing there are 24 accredited course operators. That includes three private sector organisations (including AA DriveTech and TTC Group), five police forces (including Lancashire, Merseyside, Humberside, Cheshire and Northamptonshire) and 15 local authorities. All of them can generate very substantial profits above the costs incurred in providing the courses. For example, Hertfordshire County Council generated a surplus of £947,000 in 2015/2016 by delivering 1,891 courses attended by 41,641 drivers giving income of £3.7 million (source: Local Transport Today and see this blog post for more information:

<https://speedawareness.wordpress.com/2017/05/22/hertfordshire-leading-in-money-generation/>).

The police and local authorities may well spend some of the surplus from running courses on road safety measures (there is no legal obligation to do so) but private sector operators can simply lose the profits in high salaries and directors fees. For example in October 2015 the Sun Newspaper ran an article that suggested the directors of AA Drivotech received £5.5 million in directors fees in 2013.

One disturbing aspect is that although the police do not set speed limits or determine the location of speed cameras, they do advise on those matters. But local authorities do directly control speed limits so they may well have a financial incentive to lower limits and introduce more cameras so as to increase the demand for speed awareness courses and hence the profits they receive.

We may provide more information on the operations and profits of course operators at a later date but it is already clear that they make large profits which they pay out in salaries or dividends to the owners of the companies.

5. The Evidence

The evidence we have so far obtained on the current practice of funding of police activities linked to speed camera operations is as follows:

a- The House of Commons Transport Committee published a report entitled "Road Traffic Law Enforcement - Second Report of Session 2015-16" in March 2016 which contains a section on "How Offences Are Dealt With".

It contains some useful information although the committee seems to have been misinformed to some extent in that they suggest some of the fees paid are "held by the police to cover the cost of referring the offender to the course". This is inaccurate as we have made clear elsewhere and the evidence is below.

b - In a note published by Norfolk County Council (Agenda for the Road Casualty Reduction Partnership Board dated 11th November 2014), it is stated that "The income received from NDORS/NCC pays for the SafeCam operation and any surplus is identified and held in reserves to be reinvested in road safety". It later says "...the Board also consider reinvesting further in the infrastructure of SafeCam to ensure that it remains operationally effective in promoting road safety". In a letter to Mr Reg Oliver dated 1st February 2016, Norfolk Constabulary also stated that:

"All income received from NDORS pays the running costs of the Safety Camera Team and associated costs, for example vehicles/equipment, etc." .

These statements make it clear that the monies received from SACs are used to finance all the operations of the Safety Camera Partnership including detection, i.e. not just administration, and are in addition used to fund more equipment such as additional cameras and camera vans.

c - North Yorkshire Police published a notice entitled "10/2016: Expansion of Safety Camera Vehicles to improve road safety and keep rural communities safer". This is a proposal to add 6 new camera vehicles (making 12 in total).

These vehicles and their equipment will be financed out of the surpluses from camera operations. In addition the equipment will include "automatic number plate recognition technology, so they can be used to tackle wider issues of anti-social road use, and cross-border criminality...". This makes it clear that the police are funding more than just road safety related activities from the SAC surpluses but their wider policing activities.

d - In the West Midlands an average speed camera project is to be launched in summer 2016, on roads in Birmingham and Solihull. Ashley Prior, Solihull's Head of Highway Services was quoted in Local Transport Today (LTT) on the 15th April 2016 as saying "It is anticipated that any future expansion of the scheme could be met from any favourable variance in the original budget together with the council's proportion of income generated from the speed awareness course fees". In other words the fees paid to the police not only generate a surplus but are being used directly to finance more cameras.

e - In 2013 Essex County Council responded to a Freedom of Information Act request on the revenue generated from the provision of speed awareness courses. It stated that "During 2012/13, the ECRB allocated two sums of money from the financial surplus that remained at the end of 2011/12. Both sums were awarded to Essex Police; one for approximately £20,000 for the purchase of two hand-held speed detection devices and the other for approximately £70,000 for the purchase of two motorcycles." In addition, it says "Essex Police are able to recover their costs for the detection and processing of offences captured which includes the highway authorities recovering the majority of the costs incurred maintaining the permanent safety camera installations within their area". So again this directly contradicts what NDORS and the Government have been saying.

f - Thames Valley Police have confirmed in a letter dated 4th January 2016 in response to an FOI Act request by solicitors acting for the ABD that "The income received by the Force in relation to AA Drivetech courses (speed awareness, rider improvement, etc) is 'ring fenced' for road safety initiatives and is spent on the following:- Administration of speeding/motor offences (fixed penalty support unit) Including staff costs and premises; Mobile camera vans (safety camera unit) including staff cost and vehicle/equipment purchase/maintenance; Road safety initiatives (staff going to schools, safe drive stay alive etc.)". That certainly makes it clear that they are using income from speed awareness courses not just for administration of those courses, but to finance speed cameras and their operation.

g - Nottinghamshire Police received £1.3 million in 2015 based on the £35 referral fees via NDORS from the fees paid by course attendees. They issued 83,853 NIPs in that year with 39,610 courses attended. They declined to provide information on where that money is spent.

h - South Yorkshire Safety Camera Partnership had an overall income budget of £1,460,266 in 2013/2014 of which £830,788 came from the "Driver Diversion Course Fees" (Source; South Yorkshire Safety Cameras Operational Plan 2013/14 to 2014/15). The rest came from Local Authorities. The budgets are similar for 2014/2015 although the Local Authority contribution was forecast to fall. When looking at the Expenditure in 2013/2014, which matched the expected income, there is £855,646 on staff costs and £353,000 on Equipment Maintenance Costs.

But when you look at page 36 of that document which gives a detailed organisation structure diagram it is clear that there are 10 staff directly involved in "Enforcement" including Camera Technicians. In other words, a very large proportion of the costs are involved in operating and maintaining speed cameras so it is very clear that the claim that the revenue from speed awareness courses is solely used on administration is nonsense.

In addition South Yorkshire do not appear to even split out administration of speed awareness course invites from other activities, but as they have more staff on "enforcement" than on "administration", and the latter includes other work than administration of speed awareness course invites, plus the "equipment maintenance costs" are clearly not administration costs, it is very obvious that speed awareness course kickbacks via NDORS are funding the installation, maintenance and operation of speed cameras.

i - This was provided in a response to an FOI Act request to Cleveland Police:

"The income from the course fee is split in several ways, including payment to the course provider- £45, payment for administration of the National Driver Offender Re-training (NDORS) scheme nationally - £5 and payment to the PCC of the Force area - £35. The £35 received by the PCC is used to fund the costs to the Force in delivery of this area of work i.e. the team who work in the Camera Enforcement Unit, the team that deal with the tickets in the Central Ticket Office and all of the administration and postage involved in administering the scheme. The £45 course fee is paid over to Hartlepool Council who run and manage the training courses on our behalf. The council use this fee to cover the costs of the training and then return £19 of this £45 to the PCC to invest in Road Safety Initiatives and Schemes.

In addition, a number of initiatives have been funded or currently progressed by this income as follows:- New Camera Equipment - £37,810; Scanner - £72,931; Replacement of camera enforcement vehicles - £59,000"

So it is clear that not only do the fees received finance enforcement activities, but they also fund camera equipment and associated vehicles. Again this destroys the claim that only administration costs are recovered from speed awareness course fees.

j - The former Bedfordshire Police and Crime Commissioner, Olly Martins (he failed to get re-elected in 2016) was reported in the Daily Telegraph on the 4th November 2015 as planning to switch on speed cameras permanently on the M1 and set them at 70 mph under a "zero tolerance" approach. This was expected to generate "up to a million pounds for his cash strapped force".

Mr Martins also spoke to the Commons Home Affairs Committee on "Reform of Police Funding" on the 3rd November 2015.

At that meeting he said, after complaining about shortages in Police funding, that: "I am now looking at things like turning on the HADECS cameras on the M1 and driving revenue from that, looking at sponsorship opportunities: does someone want to sponsor panda cars, our police officers' uniforms, so any...." at which point he was interrupted. But it is clear that he thought financing the police in general from SAC fees was acceptable.

k - As regards the additional "levy" being obtained by some police forces in addition to the £35 fixed fee, the following is a quotation from a document entitled "Decision Notice Number/Date (008/2014)" published by the Office of Police and Crime Commissioner for North Yorkshire:

"From the costs of the course a £35 central levy is recovered to cover all enforcement costs for the referring force, there is now an opportunity for NYP to consider introducing a 'local levy' to the cost of the course, something other forces have done for many years."

The above is just a sample of the evidence obtained by the ABD and by others. But the police have consistently evaded responding adequately and promptly to FOI Act requests or to complaints to them or to the IPCC (Independent Police Complaints Commission) about police activities in this area.

6. Road Safety Disbenefits

If the offer of speed awareness courses actually improved road safety then it might be justifiable subsequent to legislation being passed to authorise these exceptional practices. But in reality there is no evidence that they have any benefit. Many people argue that the statistics that claim to provide evidence that speed cameras are an effective road safety tool are defective and it is also clear that simple speed display devices are a much more cost effective device to reduce traffic speeds and accidents.

The reliance on automated devices to control behaviour on roads is deeply flawed and the ABD has consistently opposed such an approach. Traffic police officers have been substantially reduced in recent years and this has led to worse behaviour by drivers.

Speed in excess of the speed limit is a relatively minor factor in road traffic accidents. Only 5% of personal injury accidents reported by the police have a factor of exceeding the speed limit as a contributory cause (Source: RAC Foundation/DfT). The emphasis on preventing speed limit infringements detracts from lots of other road safety improvements such as improved driver education, road engineering, more police patrols and other measures.

The only reason this is happening is because of the financial arrangements which incentivises the police to detect more speeding offences. The police have no interest in supporting other road safety measures and might actively support reductions in speed limits when they are unjustified on any technical or rational grounds. These arrangements have very little to do with improving road safety and detract from other road safety priorities.

7. Harassment of Drivers

The ordinary motorist now faces on a daily basis that he might be threatened with prosecution for very minor or accidental infringements of speed limits, many of which they might consider unreasonable.

The reason why they accept taking a speed awareness course is because the alternative is a fine and points on their driving licence. Accumulating points can lead to disqualification which is a very serious matter for those drivers who rely on a driving licence for their work.

Note that drivers are often told by police that taking a course will not need to be advised to their insurers leading to a rise in their premiums whereas a prosecution/conviction or payment of a fixed penalty notice would have to be notified. So again there is a direct incentive to take the course. Such statements are not necessarily true and drivers should always advise such matters to their insurers. Some appear to consider it of no importance and will not adjust their premiums, but others will do so.

Many drivers have privacy concerns about the excessive use of cameras of all kinds which seem out of all proportion to the need to regulate sensible road use. Such use of "big brother" technology to monitor our every move is oppressive and unnecessary. Drivers have enough problems to cope with in modern road conditions without having to constantly watch their speed and look out for speed cameras - both distracting activities when they should be looking at other road users.

8. Conclusion

We hope we have shown in this document that the diversion of fees made to attendees at speed awareness courses is legally dubious and is unjustified by the claimed benefits. It has introduced perverse incentives (namely the profit motive) into police activities which has undermined their activities in improving road safety.

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See www.speed-awareness.org for more information and contact details.