



# **A Guide to lifesaving rule breaches**

*Always obey the speed limit*

## Purpose of this Guide

This guide is intended to provide support to Lead Investigators, on sources of evidence available when investigating breaches of the lifesaving rule “always obey the speed limit” Including 20mph and over the speed limit incidents.

It is the role of the investigator to assess these sources of evidence and to explain the bearing they each have on the outcome.

This guide gives lifesaving rule specific guidance and should be read in conjunction with the Investigations Handbook and the guide to the 10 Incident Factors.

## Scope of lifesaving rule “Always obey the speed limit”

The lifesaving rules apply to Network Rail employees and contractors:

- while at work;
- while using any company provided equipment;
- while using any company provided equipment and not “at work”.

For example: where a speeding fine was received using a personally allocated vehicle (company equipment) being used for a private journey.

## Who should investigate?

Only trained investigators should undertake safety investigations and should be fully conversant with the relevant company policies:

- Undertake an **independent** investigation i.e. no personal or direct professional relationship, such as the line manager
- Investigate using a trained staff member (trained to the appropriate level in safety investigation)

The [Investigator Competence List](#) on Connect identifies staff able to conduct investigations at level 1 level 2 and 3.

## Level of investigation

For speeding incidents that involve a speed 20 mph or above in excess of the speed limit for the road (including variable speed limits) or speed limit for the vehicle a level 2 investigation must be undertaken. This should be remitted by the [Investigation Manager/DCP](#) as soon as the following is received:

- a Notice of Intended Prosecution (NIP); or
- notification of a VSWS speeding incident (as defined in the national principles consultation document – vehicle tracking system data collection and usage 07/11/16).

Where a NIP has been received and the individual is challenging this through the legal process our investigation should be suspended pending the outcome of the legal challenge. It is the individual’s responsibility to provide evidence of the outcome of this challenge.

All persons identified as being involved in a speeding incident of 20 mph or above shall be suspended from driving duties whilst the investigation is ongoing, including where a NIP is being legally challenged. The Lead Investigator should check that this has been done.

The Safety Reporting Team will also need the initial sections of the level 1 form to be completed as this captures the data required for the incident; this should be done in parallel with the level 2 investigation. Please follow the [SMIS reporting instruction](#).

Our lifesaving rules have been designed to protect us from the type of accidents that most often kill or seriously injure our staff. As an employer the company also has a duty of care, and in the context of driving; to consider the safety of other road users it is therefore never acceptable to break them or the speed limit.

- Speed is one of the main factors in fatal road accidents.
- Last year, 3,064 people were killed or seriously injured in crashes on UK roads where speed was a factor.
- The risk of death is approximately four times higher when a pedestrian is hit at 40mph than at 30mph.

**This guide is structured in four steps:**

1. Evaluate the sources of evidence
2. Identify the unsafe act
3. Use the evidence to determine the behavioural cause
4. Identify suitable actions to manage the risk

**Step 1 – evaluate the sources of evidence you have available to you**

In a speeding investigation the question that the investigator should seek to answer is whether the driver intended to speed at the location? To do this the investigator should consider a range of evidence starting with whether the driver was aware of the speed limit and the speed of their vehicle.

**Witness statement:** it is not possible to determine intent without interviewing the driver and any other witnesses or passengers. This should be done as soon as possible and in conjunction with any other sources of evidence available.

Witnesses are required to participate in the investigation process and their Line Manager must release them to attend as soon as is practicable. Where witnesses are reluctant to participate in the investigation the witness and/or the Line Manager must be informed of their obligations to co-operate with the investigation and that refusal will be escalated to a senior manager.

Evidence should be gathered from a number of sources.

**Location:** the investigator should plot the journey from starting location through to end location pinpointing where the speeding event took place along with the time allowed and time taken to complete the journey. This can normally be done using Google 'street view' 'AA Route Planner' or equivalents. Google street view should then be used to assess and record in the report the following location information:

- what the road layout is (single carriageway, dual carriage way, motorway)
- road category A road, B road, etc.
- road signage – present, visible
- variable speed limits/smart motorway
- street lighting
- speed bumps and condition of the road
- cars parked on street/obstructions
- driveways in front of houses on the street
- the area – rural, residential, city or town centre, etc.
- traffic conditions, contraflows, traffic management
- has the road layout changed recently
- were there any roadworks or significant traffic incidents

The national traffic websites can provide detailed information regarding roadworks/incidents/traffic flow:

[Traffic England](#)

[Traffic Scotland](#)

[Traffic Wales](#)

The investigator may also choose to drive the route and this can be useful in verifying any of the above information and in particular any specific mitigation proposed by the driver or if Street View appears to be inaccurate.

Once you have established the location of the speeding incident it is important to understand, how far into the speed limit the driver was and what speed indicators have been passed leading up to the incident. For example number of speed signs, change in road signage/colour/chicanes.

The investigation of speeding incidents other mitigating factors need to be considered such as fatigue, time of day, time during shift, shift length, environment, road condition, variation in speed limits, mechanical condition of vehicle, company benefit/pressure of job, speed signage was unclear or incorrect, data held in the VSWS was incorrect and did not correspond to signage on the road, cases of genuine emergency.

The factors in the table below are all relevant in providing cues to the driver as to the likely speed limit for the road. The site conditions can give a good indication of what speed limit the driver might be reasonably expecting.

### Interpreting Vehicle Speed Warning System (VSWS) data

A Vehicle Speed Warning System is fitted into Network Rail vehicles and provides alerts where a speed of over either 10mph or 20mph above the speed limit is recorded for one minute. The speed recorded in the VSWS alert is the actual speed 60 seconds after the start of the speeding incident.

The Lead Investigator should request the VSWS log for the journey that the speeding incident occurred in to assess the driving behaviour exhibited for the journey.

Vehicle Registration: XXXX XXX

The speed reported was: 68

Please copy and paste the latitude and longitude numbers into google maps and this will display the location of the event.

Week	Vehicle Registration	Lat/Long	Vehicle Type	Direction Of Travel	Date	Event Time	Vehicle Speed	Road Speed Limit	MPH Exceedance	% Exceedance	Driver ID	Vehicle Telematics Team Validation Action	Vehicle Telematics Team Validation Comments	Validated Exceedance Level	Budget Holder	Vehicle Contact Name	Escalation Contact (if Applicable)
33	XXXXXXX	51.826572 -0.440533	VAN	A5183	XXXXXXX	05:17:07	68	50	18	38%	No log in	VALIDATED	Road Speed Correct (50) - Street View dated Jul 2016	10mph+	XXXXXXXX	XXXXXX	N/A

  

Date	Status	Speed	Road Speed Limit	Lat	Lon	Mileage	Driver
12/11/2017 05:17:07	Drive	68	50	51.826572	-0.440533	119138	NO LOG IN
12/11/2017 05:17:23	Drive	66	50	51.82925	-0.446333	119139	NO LOG IN
12/11/2017 05:17:34	Drive	65	50	51.831169	-0.44993	119139	NO LOG IN
12/11/2017 05:17:51	Drive	67	50	51.834541	-0.454886	119139	NO LOG IN
12/11/2017 05:18:05	Drive	67	50	51.837276	-0.459106	119139	NO LOG IN
12/11/2017 05:18:22	Drive	65	40	51.840092	-0.464726	119140	NO LOG IN
12/11/2017 05:18:32	Drive	69	70	51.842216	-0.467305	119140	NO LOG IN

In the example alert above the speed of 68mph was at the start of the speeding incident. The road speed was 50mph so the incident is recorded as 18mph over the speed limit and a 10mph+ incident. This is shown in the main box at the start of the alert and is then repeated in the data in the second box. The first line of the second box shows the same data as the main box. It then shows the subsequent speeding events that are part of the same record. At 05:17:23 (16 seconds after the initial speed was recorded) the vehicle is travelling at 66mph, 11 seconds later at 65mph, 17 seconds later at 67mph, then 14 seconds later at 05:18:05 67mph. The vehicle then travels into a 40mph speed limit at 65mph and is therefore speeding by 25mph. 10 seconds later however the vehicle is in a 70mph zone travelling at 69mph and the speeding event is over.

As the 20mph and over event did not occur for 60 seconds then this is not a 20mph+ event but the 10mph+ event shown in the first box.

If a Vehicle Speed Warning System (VSWS) is fitted to the vehicle and where the speed exceedance was for a period in excess of 60 seconds without appropriate response from the driver, this will be regarded as the most serious type of speeding exceedance. Where this is contested the driver will need to provide compelling evidence to demonstrate that they were not aware they were speeding where VSWS is fitted.

Consideration of speeding exceedances notified by the police which may have been momentary and not in the same category as above.

### Step 2 - identify the unsafe act

It is important to get this right so that the fair culture flowchart is used correctly. For speeding investigations this will usually be “driving in excess of the speed limit”.

### Step 3 – use the evidence to determine the behavioural cause

The main challenges with applying the fair culture flowchart to speeding are the question “was the action deliberate?” and “was the action well intentioned?”

Answering “was the action deliberate?” is about determining whether the driver intended to speed. A critical review of all of the evidence available should help determine whether it was likely that the driver was aware of the speed limit. The witness statement/s is simply one of these pieces of evidence.

Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Road</u></b></p> <p>Could the road layout have confused the driver?</p>	<p>Road is ambiguous, lack of clear signage or speed indicators.</p> <p>Road does not appear to have indicators typical of its speed.</p> <p>Variable speed limit.</p>	<p>Road is typical for the speed limit – e.g.</p> <p>70mph, clear motorway/dual carriageway signage/lane structure/entry and exit slips, centre reservation.</p> <p>50mph – rural single carriageway, limited junctions, sharp bends.</p> <p>30mph – Residential properties, lighting, zebra crossings, school/community amenities.</p>
Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Vehicle</u></b></p> <p>NR owner vehicles are fitted with a range of driving aids to help the driver maintain their awareness of the road, including their speed.</p> <p>Were there significant mechanical faults with the vehicle at the time of the offence?</p> <p>Were any of the safety systems disables, faulty or missing at the time of the offence?</p> <p>NR has car hire contracts with Europcar and van hire contracts with SHB.</p>	<p>Vehicle has proven mechanical fault that has contributed to speeding incident.</p> <p>No Speed Limit Sticker clearly displayed.</p> <p>Car derived van not obvious to the driver as <u>not</u> ordered through SHB.</p>	<p>No faults or conditions identified and evidenced.</p> <p>VSWS – full working order.</p> <p>Speed Limit Sticker in situ.</p> <p>Familiar with type of vehicles being driven.</p>

Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Journey</u></b></p> <p>NR requires that all journeys are planned and take the travel hierarchy into account when choosing the most appropriate form of transport. The investigation should establish how this was achieved.</p>	<p>Longer journeys without breaks may lead to an increase in the propensity for distraction.</p> <p>Length of journey not considered. Time allowed was not sufficient for the planned journey postcode to postcode.</p> <p>Unfamiliar with the area.</p> <p>VSWS data indicates good speed awareness for whole journey.</p>	<p>This would not normally be a concern with shorter journeys or those planned to include suitable breaks.</p> <p>Time allowed was sufficient for the planned journey postcode to postcode.</p> <p>Regular use of route/known area.</p> <p>VSWS data indicates lack of speed adherence throughout journey.</p>
Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Time in shift/body clock</u></b></p> <p>What time did the journey take place and when did the speeding incident happen in their shift?</p>	<p>Drivers who have just moved from day to night shifts may be more prone to tiredness and therefore distraction.</p>	<p>This would not normally be a concern with staff on regular rosters/working hours.</p> <p>Where shifts are properly planned to reduce the risk of fatigue this is less of a problem.</p>
Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Fatigue</u></b></p> <p>How did fatigue effect judgement?</p>	<p>Hours regularly exceeding 14 hours door to door.</p> <p>No fatigue risk assessments or conversations with line manager completed.</p> <p>Drivers who exhibit a high risk of fatigue will be more prone to distraction.</p> <p>Disturbed repeatedly during on-call.</p>	<p>Timesheets are accurate and reflect hours and sleeping habits.</p> <p>1-2-1s are completed discussing hours/fatigue.</p>

Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Repeat incidents</u></b></p> <p>Where an individual has been involved in a similar breach or breaches within a timeframe of 3 years, then a review of the previous investigation(s) and the actions completed should be undertaken.</p> <p>The driver's licence should be checked to determine whether there is a history of speeding convictions. This should be done using the government's driving licence check site:</p> <p><a href="https://www.gov.uk/view-driving-licence">https://www.gov.uk/view-driving-licence</a></p> <p><a href="https://www.gov.uk/check-driving-information">https://www.gov.uk/check-driving-information</a></p> <p>Only driving incidents while at work, while using any company provided equipment or while using any company provided equipment and not "at work" should be considered.</p>	<p>Actions from previous investigations not followed through.</p>	<p>Actions from previous investigations completed.</p> <p>Where the actions have been completed from the previous incident then this may indicate that the action was not effective and the reason for this needs to be investigated further.</p>

Answering “was the action well intentioned?” requires an assessment of the responses to the prompts above. In speeding incidents the key test in determining whether the action was “well intentioned” is whether there was a perceived company benefit e.g. the individual had good reason to believe that they needed to get somewhere fast “no matter what”, for example their line manager has instructed them to reach a destination in an unreasonable time.

Factor	More Likely to Indicate/Promote Error	Unlikely to Indicate/Promote Error
<p><b><u>Driving Intent</u></b></p> <p>Why was the driver speeding?</p> <p>What was the driver doing to monitor their speed? What are you consciously doing to prevent zoning out and what are you doing to maintain your awareness of the road speed and driving conditions</p> <p>Driver experience</p> <p>Completion of vehicle, log book being accurate and timely, vehicle condition, clean and looked after, history of driving and familiarity with the vehicle, are pre use driving checks carried out and can this be evidenced?</p>	<p>Reaction to a genuine and evidenced emergency.</p> <p>Was not aware of the road speed limit? Signage not visible, road markings not clear, length of time within the speed limit, gantry setting times.</p> <p>Evidence presented - selection of evidence e.g. VSWS journey logs detailing speed adherence over sustained periods. DVLA check.</p> <p>New driver, limited commercial and or goods vehicle driving.</p> <p>Driver is able to provide documentation to support his compliance with being a diligent and safe driver.</p>	<p>To overtake traffic/join traffic flow/following the vehicle in front. Passed under several overhead gantries, clear signage or road layout obvious.</p> <p>No evidence supplied.</p> <p>Driver is unable to describe in any detail their journey, road conditions.</p> <p>Experienced driver of both car or commercial/Goods vehicles.</p> <p>Not logged into VSWS or log books are partially complete, mileage and journey times are inaccurate or do not match verbal account.</p>

In considering speeding incidents, the full range of Fair Culture outcomes is possible. But where a VSWS is fitted to the vehicle, it is verified as functioning correctly, and the exceedance is beyond 60 seconds, it is likely that driving at a speed in excess of 20mph above the speed limit, the finding of ‘reckless contravention for personal benefit’ would be within scope and disciplinary charges may arise. Or where there is evidence that the driver intended to break the lifesaving rule and there are no valid mitigating circumstances then the outcome should be reckless contravention’.

There are a number of questions you will need to ask that will help you to establish how the driver was managing their speed. It is not simply a case of accepting the driver’s word for it and it will be necessary to determine their driving behaviour using the factors in the tables above.

The judgement of whether the speeding was intentional should be made on the balance of evidence. The greater the degree of speeding the greater the weight of evidence that is required.

Once you have established the Behavioural Cause this will need to be verified by the Independent Review Panel. The Lead Investigator or DCP **must not** disclose the outcome to the individual involved at this stage. The IRP may not agree or require further evidence before agreeing.

**Repeat Incidents**

Where the current investigation determines that actions from a previous investigation have not been completed then the reasons for this shall be thoroughly investigated and relevant actions created.

**Step 4 – identify suitable actions to manage the risk**

The behavioural cause should lead to actions for both the individual involved and their line manager. The matrices below indicate the actions that may be suitable for each behavioural cause for the individual (first matrix) and their manager (second matrix).

The actions for line-managers are in recognition of their role in both supporting the individual and condoning or reinforcing the speeding through their own actions.

Other actions such as improving processes and equipment might also be appropriate to address some of the underlying causes.

**Using the tables**

The tables below indicate with an X, appropriate actions for each behavioural cause. So, for example where the behavioural cause is identified as ‘reckless contravention’ an action for the individual will be to progress a disciplinary investigation and for their line manager a coaching conversation with their line manager is require.

In considering speeding incidents, the full range of fair culture outcomes is possible.

	Disciplinary investigation	Speed awareness course	Driving risk assessment	Time management course	Coaching conversation with manager	Attention management training
–						
Sabotage/malicious	X					
Reckless contravention	X					
Contravention		X	X	X		
Slip/lapse		X	X			X
Mistake caused by system		X	X			
Poor judgement		X	X			
Routine – personal		X	X			
Routine - others		X	X	X		X

Where ‘reckless contravention for personal benefit’ or ‘sabotage/malicious intention’ is the finding the matter will be escalated to the disciplinary procedure.

Where issues are escalated to the disciplinary procedure each hearing manager will consider all relevant mitigation put forward by the employee or their representative, and make a decision based on the facts of the case. The decision will be the hearing manager’s alone. The full range of outcomes and penalties remain available to the hearing manager.

Possible actions to be taken with the manager:

	Disciplinary investigation	Coaching conversation with manager	Management training *
Sabotage/malicious			
Reckless contravention			
Contravention	*		
Slip/lapse		X	X
Mistake		X	X
Poor judgement		X	X
Routine – personal		X	X
Routine - others		X	X

\* Where the balance of evidence demonstrates that the supervisor/manager influenced the speeding then the investigation should create an action for this to be subject to the HR processes. The IRP Chair should refer this to HR Direct.