



**A Guide to lifesaving rule  
investigation:**  
*Always obey the speed limit*

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## **Purpose of this Guide**

This guide is intended to provide support to both lead investigators and Independent Review Panels on sources of evidence available when investigating breaches of the lifesaving rule “always obey the speed limit” and to indicate how this evidence should be used to determine the route through the fair culture flowchart.

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 overview [Guide to Using the Fair Culture Flowchart](#).

## **Scope of lifesaving rules**

The lifesaving rules apply:

- whilst at work;
- whilst using any company provided equipment.

In addition to all potential breaches directly related to work activities an investigation would be required for example where a company mobile phone was used whilst driving off duty (company equipment) or where a speeding fine was received using a personally allocated vehicle (company equipment) being used for a private journey.

## **Who should investigate?**

Our fair culture principles commit us to:

- Undertake an **independent** investigation
- Investigate using a trained staff member
- Investigate all breaches of lifesaving rules.

Therefore an investigator needs to be appointed who is:

- independent of the driver i.e. no personal or direct professional relationship
- trained in investigation.

The [accident investigators competence list](#) on Connect identified staff competent to conduct investigations up to levels 2 and 3. Level 1 investigations may additionally be undertaken by staff who have attended the Preliminary Investigation and Reporting training.

## **Level of investigation**

The majority of speeding incidents may normally be investigated at level 1. All of the above requirements must be met

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 Designated Competent Person (DCP) as soon as the Notice of Intended Prosecution (NIP) is received.

The Safety Reporting Team will also need 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.

### **Always obey the speed limit**

Our lifesaving rules have been designed to protect us from the type of accidents that most often kill or seriously injure our staff. It is therefore never acceptable to break them.

Between June 2013 and September 2015 at least eight colleagues have died in road accidents. Speed and/or seatbelt use has been a factor in the majority of these.

The Department for Transport reports that:

- Speed is one of the main factors in fatal road accidents
- In 2013, 3,064 people were killed or seriously injured in crashes where speed was a factor
- The risk of death is approximately four times higher when a pedestrian is hit at 40mph than at 30mph

Yet, Brake and Direct Line's 2013 survey of 1,000 drivers across the UK has found that nearly all drivers (99%) think they are at least as safe as the average driver. More than two thirds (69%) admit breaking traffic laws; a third (35%) say they break laws because they believe they can handle it, while another third (33%) admit it's down to not paying attention.

If we want to keep ourselves and other road users safe we need to make speeding unacceptable behaviour within Network Rail and understand that often we believe we are much safer than in reality we are.

### **20mph and above the speed limit**

There are special arrangements for speeding incidents of 20mph or above the speed limit. For these incidents a slip in concentration or a lapse in judgement is not a reasonable conclusion for such an excessive breach and where there is no valid mitigating circumstance as shown in the table below then this will be deemed a 'reckless contravention'. We do not believe that any of us driving over 20 mph in excess of the speed limit would not know.

Drivers who have been identified as being involved in a speeding incident of 20mph or above the speed limit should be suspended from driving duties. It is the line manager's responsibility to do this and the lead investigator should check that this has been done.

### **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 a behavioural cause of an incident without interviewing the driver and any other witnesses. This should be done **after** the other sources of evidence have been reviewed so that these can be used to inform the interview.

**Site visit:** where possible the investigator should visit the location where the speeding event took place. If this isn't reasonable then the investigator can use 'street view' or equivalents to determine:

- what the road layout is (single carriageway, dual carriage way, motorway)
- road category A road, B road etc
- road signage – present, visible
- street lighting
- speed bumps
- cars parked on street
- driveways in front of houses on the street
- the area – rural, residential, city or town centre, etc.

The road conditions should give a driver cues concerning the expected speed limit on the road even if they forget or do not see a sign for some reason.

Investigation prompts are provided at the end of this document to aid the investigator with some of the specific issues that need considering during the investigation.

### **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 questions "was the action deliberate?" and "was the action well intentioned?" A critical review of all of the sources of evidence available from those listed in step 1 above should inform these.

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 is simply one of these pieces of evidence.

Answering "was the action well intentioned?" requires an assessment of the responses to the prompts at the end of this document. 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. In these circumstances particular attention should be given to the consequence for the line manager concerned.

Where there is no evidence of 'company benefit' then it is likely that the action is not well intentioned and therefore a 'reckless contravention'.

One difficulty in applying the fair culture flowchart to speeding offences is that speeding is still acceptable amongst much of the UK population and that the main witness (the driver) often considers it easy and acceptable to state that they were unaware that they were speeding, so resulting in a 'slip/lapse' behavioural cause. It is the role of the lead investigator to determine whether this evidence is valid.

### *Repeat incidents*

Where the breach of the lifesaving rule is a repeat of a similar breach within a timeframe of 3 years then a review of the previous investigation and the actions completed should be undertaken. Where the actions have been completed effectively then this may indicate that the action is not well intentioned i.e. speeding is routine behaviour.

Where the current investigation determines that actions from a previous investigation have not been completed then an action should be created for the reason for this to be explored in a coaching conversation between the line manager and their manager. The manager's manager should consider following this conversation whether this inaction should have an impact on the line manager's annual performance review.

### **Determining the behavioural cause for 20mph and over speeding incidents**

It is not normally credible for drivers to claim they did not know they were speeding where the speed is this far over that permitted.

As a speed 20 mph or above over the speed limit significantly increases the risk of an accident and the severity of the consequences then this cannot normally be considered well intentioned, therefore without verified, mitigating circumstances the behavioural cause will normally be 'reckless contravention'.

Valid mitigating circumstances for 20 mph or above over the speed limit incidents are limited to mechanical failure of the vehicle leading to the individual not being able to control the speed (action is not deliberate) or where a perception of 'company benefit' can be evidenced (and therefore well intentioned).

This approach should **not** be confined to such extreme cases as 20mph and over the limit. 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 the same, ie 'reckless contravention'.

### **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. Developing our managers to respond appropriately reduces the risk of repeat incidents.

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 required.

Where more than one option is suggested then one or all of the actions may be appropriate, it is for the investigation to determine this. So, for example if the behavioural causes is identified as 'poor judgement' then actions for the individual may be one or both of speed awareness course and driver risk assessment and the actions for the line manager may be one or both of coaching conversation and management training.

Possible actions to be taken with the individual:

	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		X	X			
Poor judgement		X	X			
Routine – personal		X	X			
Routine - others		X	X	X		X

Possible actions to be taken with the manager:

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

## Resources

There are a number of resources available to manage road risk. These may form part of the actions made for the individual involved in the speeding incident.

The following can be booked via NSC Road Fleet:

- Speed awareness training (particularly useful where the police do not offer this to the driver)
- UK driving induction and familiarisation

Details are here: <http://www.automotional.com/nsc/courses>

Effective Time Management course (available on Oracle OLM)

Attention and Awareness e-learning (available on Oracle OLM)

\* The management training referred to is either the Active Safety Management or Managing Safety Conversations training (available to book on Oracle OLM)

## Investigator prompts

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.

Prompt	May be a factor	Discounted factor
<b>Driving conditions:</b> what were the driving conditions at the time?	The driver just pulled out of a junction turning into faster flowing traffic.  <i>Not relevant to 20+ incidents</i>	Statements that the driver was keeping up with the traffic flow or that they overtook slower traffic as they considered this safer.
<b>Vehicle condition and faults:</b> e.g.: was cruise control (if fitted and being used) working correctly?	Any faults or condition issues that could either have caused the speeding or significantly distracted a driver.	
<b>Journey length:</b> how long was the journey? Did the driver take any breaks? Could their concentration have been affected?	Longer journeys without breaks may lead to an increase in the propensity for distraction.  <i>Not relevant to 20+ incidents</i>	This would not normally be a concern with shorter journeys or those planned to include suitable breaks.
<b>Time in shift/body clock:</b> what time did the journey take place and when did the speeding incident happen in their shift?	Drivers who have just moved from day to night shifts may be more prone to tiredness and therefore distraction.  <i>Not relevant to 20+ incidents</i>	This would not normally be a concern with staff on regular rosters/working hours.
<b>Fatigue index:</b> the investigator should determine the fatigue risk and safety index for the driver.	Drivers who exhibit a high risk of fatigue will be more prone to distraction.	Where shifts are properly planned to reduce the risk of fatigue this is less of a problem.
<b>Amount of excessive speed:</b> On what type of road was there excess speed? Was it on a residential road or motorway/dual carriageway? Was there a recent change in speed	42mph in a 30mph limit in an urban environment would probably be more 'obvious' to a driver than 79mph on a motorway.  <i>Not relevant to 20+ incidents</i>	The greater the speed over the normal speed for the type of road the greater the cues to the individual that they are travelling at excessive speed.

<p><b><i>Planned versus reactive work (including emergencies):</i></b></p>	<p>Drivers responding to a fault or other situation where they believe they can help by being at their destination quickly are prone to driving faster.</p> <p><i>Not relevant to 20+ incidents</i></p>	<p>The investigation should explore any related issues and the validity of any beliefs and cultural aspects associated with responding quickly.</p>
<p><b><i>Response to any previous incidents</i></b></p>		<p>Where the driver has been involved in previous lifesaving rule breaches check what action was determined from that investigation and whether it was effectively implemented, not just for the driver but also the other actions resulting from the investigation. This check should not be confined to driving related rule breaches. This information may be held in SMIS or by the HoRSHE.</p>
<p><b><i>Local description of individual</i></b></p>	<p>Is locally known as the person who is quickest, most available, may have nicknames that are a clue to behaviours.</p>	