

IMPORTANT: The Notice is a legal document that has been served on the person or company it is addressed to. Only a reply by them will be accepted and must be sent to the CTO within 28 days of the Notice Issue Date or the addressee may be liable for prosecution for Failure to Supply Driver's Details.

You can find more information on the CTO website: www.thinksaferroads.org.uk

Q. Why have I been sent this Notice of Intended Prosecution?

A. Either the DVLA database has you recorded as the vehicle's registered keeper or last known keeper or you were nominated as being the vehicle's keeper during the alleged offence by the recipient of a previous Notice.

Q. I used to own the vehicle but sold/scrapped it before the offence. Why have you contacted me?

A. Your contact details will remain on the vehicle's DVLA record until they receive the V5C vehicle registration document from the new owner and update their database. This is the case even if you have received a letter from the DVLA saying you are no longer the "registered keeper". Section 172 of The Road Traffic Act 1988 gives the CTO the right to require any person, not just the current owner, who may know who was driving during the alleged offence to provide that information. You must therefore reply to the Notice nominating the person or company you sold the vehicle to.

Q. I didn't receive the Notice within 14 days of the alleged offence is it invalid?

A. A Notice of Intended Prosecution must be served on the vehicle's DVLA registered keeper within 14 days after the date of the alleged offence. However there is an exemption if the Police cannot reasonably obtain the keeper's details within that time, for example if the DVLA has no keeper details or they are incomplete. There is no deadline for the issuing of any subsequent Notices or S172 RTA 1988 requests to identify who was driving. The CTO sends all Notices by first class Royal Mail allowing 2 business days for delivery within the 14 day deadline. By law these Notices are considered served on the addressee. There is no requirement in law to use recorded delivery and it would be impractical for the CTO to do so due to the large number of Notices they issue. If you are the vehicle's registered keeper you should have the V5C registration document in your name. Company vehicles are normally registered to the business or a leasing company.

Q. I think there is a mistake on the Notice of Intended Prosecution is it invalid?

A. Errors in date, time, vehicle make, model or registration number, speed or time into red light and the spelling of names and addresses which are the result of clerical mistakes will not necessarily invalidate the Notice. Any errors should be brought to the attention of the CTO immediately.

Q. Will you cancel the Notice because...?

I did not know the road	I was distracted	I didn't see any workers at the road works
I did not see the signs	I was late	It was late at night/early in the morning
This is my first offence	The road was clear	The speed limit has recently changed
I did not see the camera	Other drivers were speeding	The car behind me forced me to
I don't think the speed limit is suitable for that road		I was just following the flow of traffic
My Satnav told me the speed limit was different/didn't warn me that the camera was there		

A. The CTO will not cancel a Notice for any of the above reasons.

Q. Can I see the camera's calibration certificate in relation to this alleged offence?

A. You can view camera calibration certificates on the CTO website at www.thinksaferroads.org.uk. You will need to contact the CTO to obtain the relevant camera serial number first.

Q. I can't remember who had the vehicle at the date and time stated on the NIP, what should I do?

A. It is the legal responsibility of the vehicle's keeper to identify who was driving the vehicle during the offence. You should ask everyone who had access to the vehicle if they were driving and also check diaries, mobile phone records, bank statements, etc. The CTO may have photographic evidence showing the driver. Contact them if this would be of assistance but note that they will only supply images if they could reasonably assist in identifying the driver and they may not prove the offence itself. If you still can't identify the driver complete the page 2 **Reply to Notice Form** by marking box 4 and send it along with a letter explaining what steps you have taken to try to work out who was driving, you should provide name and address details of those persons who could have been driving. The case will then be reviewed to determine if you should be charged with Failure to Supply Driver's Details.

Q. How must I to reply to the Notice?

A. The Notice includes a request made under Section 172 of The Road Traffic Act 1988 for the addressee to provide details of who was driving during the alleged offence. The addressee should complete the page 2 **Reply to Notice Form** and post it to: **CTO, PO Box 25, Droitwich WR9 8UF** within 28 days of the **Notice Issue Date**.

Q. The Notice is addressed to my company. Who needs to respond to it and how?

A. The Company Secretary, Director, a Partner, the Sole Trader or similarly authorised person must complete the page 2 **Reply to Notice Form** by marking box 2 and nominating who was in possession of the vehicle during the alleged offence. A direct reply from the driver asking to go to court, applying for the Fixed Penalty or to attend a workshop will not be accepted.

Q. I know who the driver was but they live abroad. What should I do?

A. Reply to the Notice providing the driver's details as well as corroboration that they were in the country at the time of the alleged offence and insured to drive the vehicle. The CTO will then continue their investigation with them.

Q. I don't believe that my vehicle was at the scene of the offence. What should I do?

A. Complete the **Reply to Notice Form** by marking box 3 and send it to the CTO with a letter explaining why you think your vehicle wasn't there. Include any evidence you have of its whereabouts as well as clear photographs of its front and rear. The CTO will then investigate the matter.

Q. What will happen if I ignore the Notice or reply but don't clearly identify one driver or don't sign it?

A. If no reply or an unsatisfactory response is received then the addressee of the Notice may be prosecuted for the offence of Failing to Supply Drivers Details. This is separate to the original traffic offence and carries a maximum penalty of a £1,000 fine and 6 penalty point endorsement or disqualification at the discretion of the courts.

Q. Can I send the CTO a letter stating mitigating circumstances to have the penalty reduced?

A. The CTO is a Police unit and is not legally able to consider mitigating circumstances. The Fixed Penalty £100 fine and 3 point driving licence endorsement is set down in law and cannot be changed. The thresholds at which the Fixed Penalty and workshop out of court settlements are offered are based on NPCC – the National Police Chief's Council (previously known as ACPO – the Association of Chief Police Officers) guidelines and cannot be deviated from. If you wish mitigation to be taken into account you must request a court hearing.

Q. Can I avoid replying to the Notice by claiming it breaches the Human Rights Act 1998?

A. Despite some reports in the press S172 RTA 1988 has not been found by the UK courts to breach the Human Rights Act 1998. Vehicle keepers/drivers are still therefore legally required to answer any request for driver's details made by the Police under that act and may face prosecution if they do not do so.

Q. I do not believe that I committed the alleged offence. What can I do?

A. The only way to contest the alleged offence is to request a court hearing. You would then be sent a Single Justice Procedure Notice in due course to enter your plea and state any mitigation or reasons for pleading not guilty.

If you plead or are found guilty the courts cannot sentence you to a workshop, only penalty points or disqualification and/or a fine. The amount of any fine and/or penalty points would be decided by the Magistrates and may be higher than the Fixed Penalty. A Victim Surcharge of 10% of the fine, with a minimum of £20 if the offence was before 8/4/16 or £30 if it was on or after that date, would also be incurred. If you plead guilty the prosecution would normally ask for £85 costs. If you pleaded not guilty but are found guilty at a trial the prosecution costs would likely increase and if they have had to instruct an expert witness to support their prosecution the costs could be substantial.

Q. Can I settle the alleged offence out of court?

A. If the offence can be settled out of court by accepting a Fixed Penalty or attending a workshop the Notice will include details of any requirements and instructions on how the driver can apply. If those options are not included in the Notice then they are not available in this case and will not be offered.

IMPORTANT: By applying for the Fixed Penalty or workshop you are confirming that you were the driver and accept liability for the offence. Once the workshop has been attended or the Fixed Penalty fine has been paid and your driving licence endorsed the CTO will consider the matter closed. There is no appeals process.

Q. I won't be able to pay the Fixed Penalty fine in one lump sum within 28 days. What can I do?

A. Contact the CTO as soon as possible before you apply for the Fixed Penalty. They may be able to suspend the Notice for a short period of time to enable you to arrange to pay the fine in full. It cannot be paid in instalments under any circumstances. If you are still unable to pay in full you will have to request a court hearing. If found guilty you would be able to arrange a payment plan with the court but could be liable for a higher fine and court costs.

Q. My driving licence is with the DVLA/has been lost or stolen/has just expired. What can I do?

A. Contact the CTO as soon as possible before applying for the Fixed Penalty. They may be able to suspend the Notice for a short period to enable you to obtain your licence/get a replacement. If you are still not able to obtain your licence in time you will have to request a court hearing. You should then explain in your reply to the Single Justice Procedure Notice that you would have applied for the Fixed Penalty but were unable to as your driving licence was not available.

Q. I have a driving licence that was not issued by the DVLA (DVANI, EU or other overseas issued licence). Can I still apply for the Fixed Penalty or the workshop?

A. As long as your driving licence was valid in the UK at the time of the alleged offence and is still valid you can apply for the Fixed Penalty or the workshop, if those have been offered in the Notice. Please note that if you have a DVLA issued licence as well as a non- DVLA issued licence you should submit your DVLA licence for the Fixed Penalty. If you are submitting a non-DVLA licence for the Fixed Penalty do not send the original licence, instead send a photocopy and fill in the additional information that is requested on the **Fixed Penalty Application Form**.