



Transport
for NSW

NSW Government Submission

NSW Sentencing Council

Consultation Paper – Repeat Traffic Offenders

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1. Introduction

1.1. *Background*

The Road Safety Plan 2021 (The Plan) was launched by the NSW Government in February 2018 included a commitment to work in collaboration with the Sentencing Council to review sentencing of high risk, repeat traffic offenders who may pose an ongoing risk to the community.

1.2. *Purpose of this submission*

This submission outlines the NSW Government's comment on key aspects of the NSW Sentencing Council's *Repeat Traffic Offenders Consultation Paper (December 2018)* (the Paper). The Paper forms part of a review by the Sentencing Council of the sentencing of repeat traffic offenders who may pose an ongoing risk to the community.

The NSW Government recognises the ambitious scope of the Terms of Reference for the review (Appendix A). The NSW Government also acknowledges that the Paper aims to gather further information about repeat offenders and the most effective ways to address recidivism, and does not seek comment on any specific proposals that offer potential solutions the problem.

Focussing on issues and interventions most directly relevant to offenders who repeatedly commit high risk offences, this submission provides:

- additional context for the review (Section 2)
- analysis of different types of repeat offenders (Section 3)
- current means of addressing recidivism in NSW (Section 4) and
- where available, a response to the question areas raised in the Consultation Paper (Section 5).

2. Context

2.1. *Trauma on NSW roads*

Provisional data¹ for 2018 shows that there were 354 fatalities on NSW roads, 35 fewer fatalities (nine per cent) than 2017 and the lowest total since 2015 (with 350 fatalities).

The estimated fatality rate for 2018 was 4.43 deaths per 100,000 population, down from 4.94 deaths for 2017.

2.2. *Behavioural factors in fatal and serious injury crashes*

The behavioural factors outlined in chapter one of the Paper are noted. Provisional data for 2018 is now available and are provided as an update below.

¹ Provisional data for 2018 is correct as at 1 January 2019 and is subject to change.

Provisional data for 2018 shows that excessive speed was a factor in 138 (39 per cent) fatalities, down from 167 (43 per cent) fatalities in 2017.

While the number of fatalities where fatigue was a factor decreased from 74 in 2017 to 68 in 2018, the overall percentage of fatalities where fatigue was a factor did not change, with 19 per cent in both 2017 and 2018.

Provisional data as at 1 January 2019² shows that the number of alcohol related fatalities for 2018 were similar to 2017 (56 vs. 55), however due to the reduction in overall road toll this represented a slightly higher proportion of 16 per cent in 2018 compared to 14 per cent in 2017.

2.3. Prevalence of repeat offenders in fatal crashes

In the five year period between 2013 and 2017, there were 1934 motor vehicle controllers involved in a fatal crash where the licence and offence history of the controller is available³. Of these controllers, 41 per cent (798) had no offences in the five years before the crash, 25 per cent (483) had one offence, 23 per cent (444) had multiple offences (but no high risk offences⁴) and 11 per cent (209) had multiple offences (including a high risk offence).

Motor vehicle controllers with one or more offences in the past five years are over represented in fatal crashes, while controllers with no offences are underrepresented.

Licence holders committing multiple offences (including a high risk offence) in a five year period account for only three per cent of licence holders, but accounted for 11 per cent of motor vehicle controllers involved in a fatal crash between 2013 and 2017.

Licence holders committing multiple offences (excluding high risk offences) in a five year period account for 21 per cent of licence holders, but accounted for 23 per cent of motor vehicle controllers involved in a fatal crash between 2013 and 2017.

2.4. Prevalence of repeat offenders in serious injury crashes

In the five year period between 2013 and 2017, there were 36,173 motor vehicle controllers involved in a serious injury crash where the licence and offence history of the controller is available⁵. Of these controllers, 35 per cent (12,761) had no offences in the five years before the crash, 23 per cent (8,202) had one offence, 30 per cent (10,920) had multiple offences but no high risk offences and 12 per cent (4,290) had multiple offences including a high risk offence.

Motor vehicle controllers with multiple offences in the past five years are over represented in serious injury crashes, while controllers with no offences are underrepresented.

Licence holders committing multiple offences (including a high risk offence) in a five year period account for only three per cent of licence holders, but accounted for 12 per cent of motor vehicle controllers involved in a serious injury crash between 2013 and 2017.

² Note that alcohol data is considered incomplete for 2018 due to the time taken to complete laboratory blood alcohol testing.

³ Does not include the 452 motor vehicle controllers involved in a fatal crash between 2013-2017 where either the controller had no offences recorded but were not licensed for full five years prior to the crash (166) or the licence number has not been recorded (286).

⁴ High risk offence includes offences for high range speeding (30km/h and above), mid and high range drink driving, drug driving, negligent driving, unlicensed driving, dangerous/reckless/menacing driving, burnout/street racing, driving occasioning death or injury,

⁵ Does not include the 8,427 motor vehicle controllers involved in a serious injury crash where either the controller had no offences recorded but were not licensed for full five years prior to the crash (3,597) or the licence number has not been recorded (4,830).

Licence holders committing multiple offences (excluding high risk offences) in a five year period account for 21 per cent of licence holders, but accounted for 30 per cent of motor vehicle controllers involved in a serious injury crash between 2013 and 2017.

2.5. The Road Safety Plan 2021

The Road Safety Plan 2021 sets out targeted and proven initiatives to be implemented over five years to help work towards the State Priority Target to reduce fatalities by at least 30 per cent on 2011 levels by 2021, and position NSW to work towards the Future Transport 2056 vision of zero trauma on the road network.

The Plan is based on the internationally recognised Safe System approach to improving road safety supported by evidence from across Australia and countries with the safest roads in the world.

The NSW Government is already delivering key initiatives from the Plan. To date, some of those delivered to help change driver behaviour and reduce offending include:

- the expansion of the Mandatory Alcohol Interlock Program (MAIP) to mid-range, first time offenders
- the introduction of vehicle sanctions for repeat alcohol offenders
- a notice based approach for lower range drink and drug driving offences
- the expansion of roadside drug testing to 200,000 tests per year by the end of 2020
- the inclusion of cocaine in roadside drug testing in NSW from 1 July 2018
- an increase to the penalty for illegal mobile phone use from four to five demerit points
- the introduction of legislation to permit camera detection of illegal mobile phone use.

3. Defining repeat offenders

At any given time, there are groups within the NSW driving population ranging from those with no traffic offences through to high risk repeat offenders. The aim of NSW road safety policies and programs is to prevent drivers from committing offences in the first place and, where they occur, to deter drivers from committing further offences.

The NSW Government is committed to ensuring that interventions to prevent re-offending are well targeted, evidence-based, proportionate and reflect community expectations about safe road use.

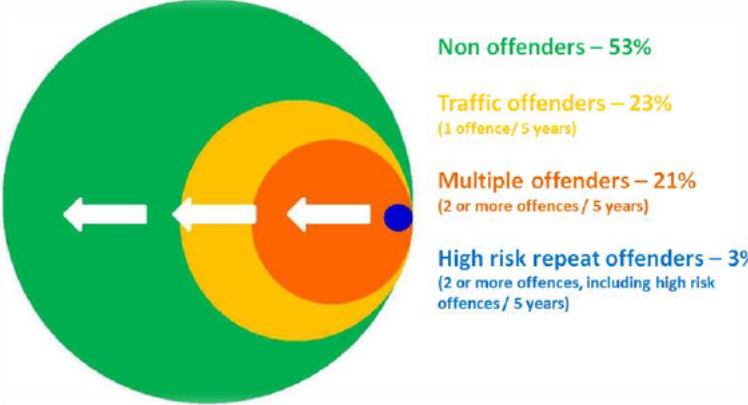
3.2. Identifying offenders who pose an ongoing risk to the community

High risk repeat offenders are a minority of drivers – around three per cent - who, despite deterrence and prevention campaigns that are effective for the general driving population, continue to exhibit behaviours with elevated risk: excessive speeding, mid and high level drink driving, drug driving, negligent driving, unlicensed driving, dangerous/reckless/menacing driving, ‘burn outs’/street racing and driving occasioning death or injury.

They can be distinguished from licence holders who commit multiple offences (but no high risk offences) – 21 per cent of licence holders. Importantly, around 56 per cent of NSW drivers are offence free over a five year period.

Figure 1 illustrates this diagrammatically; the objective is to move offenders from the smallest group to the largest and reduce the offender groups overall.

Figure 1: Types of traffic offenders – desired pathway



Crash risk analysis also shows that high risk repeat offenders are at a greater risk of crashing, endangering themselves and the community. As shown in Table 1, high risk repeat offenders (those with multiple offences including high risk), have a fatal crash risk 5.4 times that of those offence free licence holders, and a casualty crash risk 5.1 times⁶.

Table 1: Crash risk analysis by offender group

Licence holder category	Fatal crash risk relativity	Casualty crash risk relativity
Offence free	1.0	1.0
Once offence only	1.8	1.6
Multiple offences excluding high risk	2.7	2.5
Multiple offences including high risk	5.4	5.1

4. Addressing recidivism

Addressing recidivism of high-risk repeat offenders is complex. Even among the small group of high-risk repeat offenders there will be a wide range of behaviours and attitudes that impact whether they reoffend. To move these offenders along the desired pathway to non-offending, there are a range of behaviour change and/or sentencing options available for them.

⁶ Categories are based on 2007-2011 offence profile, and crash risk analysed using 2012-2014 window.

4.1. Behaviour change theory

In NSW, policies and programs aimed at improving road safety are underpinned by behaviour change theories to maximise road safety benefits. Deterrence Theory, for example, is based on the principle that motorists will avoid risky behaviours if they fear perceived consequences (e.g. being caught by police)⁷.

Deterrence Theory suggests that legal consequences are most effective when people perceive that:

- there is a high likelihood of detection, arrest, prosecution, conviction and punishment,
- the eventual penalty is certain and severe, and
- the penalty is administered swiftly.

Countermeasures based on Deterrence Theory have been successfully applied as part of the Safe System approach to road safety across a range of initiatives in NSW to improve road safety outcomes. The effectiveness of legal sanctions depends on the certainty, severity and swiftness of punishment. If people perceive it likely that they will be caught and receive harsh and swiftly delivered punishment, they will be less likely to offend⁸.

While deterrence, combined with public education, is broadly effective in changing the behaviour of the majority of drivers, some people are unreceptive to mainstream deterrence measures and continue to drive recklessly.

4.2. Research evidence

There are few vigorous studies into repeat offender interventions. The University of New South Wales Transport and Road Safety Research (TARS) conducted a literature review for Transport for NSW of non-alcohol related repeat offender literature and intervention programs. This found that interventions targeting behaviour *directly*, such as licence suspension, have been most successful, whereas those aimed at changing intentions by changing attitudes, norms or behavioural control have been less successful.

4.2.1. Sober Driver Program

The NSW Sober Driver Program is an educational and therapeutic program that is based on best practice adult learning principles and aims to change the attitudes and behaviours of repeat and high risk drink drive offenders. An evaluation of the program in 2006 found that the program is an effective intervention that complements other sanctions for drink drivers. Importantly, the evaluation found that while existing sanctions among drink drivers who were convicted of two or more offences within five years resulted in recidivism rates of 10 per cent, the program provided an additional effect and reduced recidivism rates to around five per cent. A follow-up evaluation in 2011 confirmed the program effect was sustained for years after participation with participants 44 per cent less likely to reoffend than the comparison group. Those who were deterred from re-offending in the period following the program remained deterred – the program did not simply delay their reoffending.

⁷ Davey, J. D. & Freeman, J. E. (2010). *Improving road safety through deterrence-based initiatives: a review of research*. Sultan Qaboos University Medical Journal

⁸ Moffatt S & Poynton S, 'The deterrent effect of higher fines on recidivism: driving offences' (2007) Crime and Justice Bulletin No 106, NSW Bureau of Crime Statistics and Research.

4.2.2. Fines and licence bans

A Victorian study on drink driving offenders suggests that licence bans have resulted in fewer crashes and offences. It also found the time between detection for drink-driving and a licence ban taking effect is associated with high rates of offending, highlighting the need for swift punishment⁹.

While licence bans may be effective, there is some evidence to suggest fines have limited impact on reoffending, and therefore increasing fines may not be an effective deterrent for repeat offenders¹⁰.

4.2.3. Intelligent speed adaptation

Intelligent speed adaptation (ISA) is a technology that provides the driver with accurate speed limit information as well as alerts when the limit is exceeded. There are three types of ISA – advisory, supportive and limiting. Advisory ISA warns the driver when they have exceeded the speed limit through alerts. Supportive ISA interacts with the vehicle to provide some degree of vehicle-initiated limiting of speed, but allows the driver to override the system. Limiting is the same as supportive but cannot be overridden by the driver.

A number of trials of ISA in passenger vehicles have found that the system effectively reduces speed, speed variability and speed violations¹¹. In 2009, the NSW ISA trial estimated that the use of an advisory ISA system could reduce serious casualty crashes by more than 19 per cent¹².

During 2010-2012, Victoria conducted a trial of advisory ISA to test and evaluate its effectiveness in reducing speeding among recidivist speeders¹¹. The trial found that advisory ISA was effective in reducing speeding behaviour in recidivist speeders. Compared to those who did not have ISA fitted, the mean speeds of those who did were significantly lower (-1.22km/h), they spent almost 40 per cent less time speeding and returned to the speed limit significantly faster (-4.61 seconds). The authors note that if implemented as part of an intervention for repeat speeders, the ISA should remain in the vehicle, as the research showed the device did not change driver behaviour after the ISA was removed. The Netherlands also conducted a trial of advisory and limiting ISA in recidivist speeders and found both to be effective in reducing mean speed¹¹.

ISA is available in the form of the Speed Advisor App in NSW for drivers to use voluntarily to manage their speed. If advisory ISA was to be implemented for repeat speeders a number of issues would require further consideration, including:

- there is no known commercial device currently available that could monitor and record the behaviour of the driver. The company that owned the device used in the NSW and Victorian trials no longer exists,
- the accuracy of speed limit maps would need to be improved,
- tamper resistant monitoring would be required,

⁹ The effect of sanctions on Victorian drink-drivers (2016) VicRoads

¹⁰ Moffatt, S. and Poynton, S. (2007) The deterrent effect of higher fines on recidivism: Driving offences. NSW Bureau of Crime Statistics and Research

¹¹ The effectiveness of an advisory Intelligent Speed Adaptation (ISA) system for Victorian repeat speeders. Stephan, K.L et al. Peer reviewed paper at the 2014 Australasian Road Safety Research, Policing and Education Conference, Melbourne.

¹² Road safety benefits of intelligent speed adaptation for Australia. Creef et al. (2011) <http://acrs.org.au/publications/conference-papers/database/>

- cost of the system – likely to be similar to an alcohol interlock.

4.2.4. Telematics trial

The NSW State Insurance Regulatory Authority (SIRA), in conjunction with the NSW Centre for Road Safety, is currently conducting a research trial to explore the potential for telematics to help improve the safety of young drivers. Vehicles have been installed with telematics devices that collect data around aspects of their driving behaviour such as speed, braking and acceleration. The aim of the trial is to see if telematics can positively affect the behaviour of young drivers in NSW.

4.3. Current approach in NSW

Road safety policies and programs aim to keep people from committing traffic offences (in the non-offender group), through deterrence, sanctions, education and prevention. However, when a driver is detected committing an offence or offences, a number of actions come into play depending on the seriousness of the offence in terms of potential risk to themselves and others.

The aim of sanctions and re-education is to prevent drivers from offending again and, ideally, to return them to the group of non-offenders where their road safety risk to the community is minimal. This is particularly important for multiple offenders who have the potential in some cases to become high risk repeat offenders or to revert (with specific deterrence, incentives, education) to traffic offenders or non-offenders (see pathway in Figure 1 on p5).

NSW, like other Australian jurisdictions, has had actions in place for some time to deal with repeat offenders. These include mainstream enforcement and deterrence programs as well as penalty regimes targeted at severe and repeated offending. While sanctions and re-education programs designed for multiple offenders are generally specifically designed for these cohorts, sometimes they include first time offenders because of the seriousness of the offence (e.g. the Mandatory Alcohol Interlock Program applies for first time mid and high range drink driving offenders).

Approaches which address more than one high risk behaviour involve general deterrence, education and punishment for drivers who commit a number of offences (including escalating penalties for the same offence committed several times in a defined period) and specific punishment for classes of serious offences. Approaches adopted in NSW include:

- *the Demerit Points Scheme* – ensuring drivers who repeatedly offend are forced to change their behaviour or lose their licence for a set time.
- *retesting of drivers following disqualification, suspension or cancellation* – ensuring drivers re-entering the system have an appropriate level of knowledge of the road rules and importance of safety.
- *excessive speed sanctions* – suspending drivers who commit speeding offences of over 30 km/h and over 45km/h for 3 and 6 months respectively.
- *Police roadside suspension* – provisions that allow for serious offenders to be removed from the road immediately.
- *Vehicle sanctions and imprisonment* – significant penalties for repeat and high risk offences including unauthorised driving, street racing and other ‘hoon’ offences, excessive speeding as well as drink and drug driving.

- *Sober Driver Program* – compulsory educational program for repeat and high-risk drink drivers proven to reduce recidivism rates
- *Mandatory Alcohol Interlock Program (MAIP)* – ensuring repeat and high-risk drink drivers separate drinking and driving
- *Traffic Offender Intervention Program (TOIP)* – a Local Court based education program targeting offenders who have pleaded guilty to, or been found guilty of, a traffic offence. It is not strictly a repeat offender program however it is designed to discourage offending by raising awareness and knowledge to effect change in attitude towards unsafe driving.
- *Increased Traffic Offender Penalties (ITOP)* – educational requirements for offenders who repeatedly exceed the demerit points limit for their licence.

5. Comment by Consultation Paper theme

The NSW Government response to each of the question areas included in the Paper is outlined below.

Limited comment is provided for several areas which warrant more detailed analysis, evaluation or program design that is beyond the scope and time available to provide input to the Sentencing Council.

It should be noted that any proposed policy changes related to the questions raised in the Paper would need to be reviewed and considered by the NSW Government.

5.1. *Identifying and dealing with repeat driving offenders*

As outlined in Sections 3 and 4 above, there are a variety of repeat offenders and a range of behaviour change and/or sentencing options available for this group. The NSW Government considers a need to more tightly focus on the small group high-risk repeat offenders that pose the greatest risk to the community. Offences considered to be most high-risk include excessive speeding, mid and high level drink driving, drug driving, negligent driving, unlicensed driving, dangerous/ reckless/ menacing driving, 'burn outs'/street racing and driving occasioning death or injury.

5.2. *Driving offences involving harm or a high risk of harm*

Penalties are used as a deterrent to bad behaviour, and the penalty levels are a signal to tell road users about dangerous behaviours. In setting penalty levels, both the crash risk and contribution of that behaviour to road trauma are considered.

The NSW Government conducts reviews of penalties periodically. In April 2018 a review of penalty options for speeding and mobile phone offences was completed by the NSW Centre for Road Safety. This resulted in the increase in demerit points applied to mobile phone offences.

Penalties are harsher for second and subsequent offences. The sentences given to repeat offenders are, within the penalty limits, at the magistrates' discretion.

In 2018 the NSW Government reformed the drink and drug driving penalty framework to increase deterrence of these behaviours and, in turn, reduce trauma on our roads.

As mentioned above, if drivers perceive it likely that they will be caught and receive harsh and swiftly delivered punishment, they are less likely to offend. The changes, based on research and evidence, include:

- a notice based approach for all lower range drink driving and drug presence first offenders, ensuring tough penalties, including licence suspension notices and fines, are consistently and swiftly applied (to begin 20 May 2019)
- extending mandatory alcohol interlocks to mid-range drink driving offenders (as of 3 December 2019)
- providing the option for vehicle sanctions at the roadside for high risk offenders (as of 3 December 2019)
- extending the availability and requirement to complete a proven impaired driving education course to more offenders (to begin development in mid-2019).

These reforms will be evaluated to monitor their impact on drink driving deterrence and offending.

5.3. Fines and penalty notices

Demerit points systems have been proven to reduce crashes. Evidence also shows that the closer a driver comes to losing their licence, the greater the impact on their behaviour. Drivers with a higher number of demerit points are less likely to reoffend¹³.

Double demerits are used in NSW during public holiday periods to encourage safe road behaviours during these busy travel periods. Crash data shows that double demerit periods have a significant effect on road user behaviour and achieve a 36 per cent reduction in fatalities¹⁴.

Fines also serve as a deterrent to unsafe behaviour. Coupled with effective enforcement, the threat of a higher penalty deters drivers from illegal and unsafe behaviour. However, as mentioned in section 4.3 there is some evidence to suggest fines have limited impact on reoffending, and as such increasing fines would not be an effective deterrent for repeat offenders¹⁵.

Nevertheless, people from a socially or economically disadvantaged background, particularly young people from a socially or economically disadvantaged background, who are subject to fines and/or penalty notices are unlikely to have the capacity to pay. Juvenile Justice works closely with Revenue NSW to assist these young people 'work off' their fines through the Work and Development Order scheme while they are in custody or under community supervision.

5.4. Suspension, disqualification and unauthorised driving

Reforms to driver licence disqualification, implemented by the NSW Government in 2017, aimed to expand roadside sanctions for repeat disqualified driving offenders while giving disqualified drivers an incentive to return to lawful driving. The reforms included:

- giving police greater roadside powers to impose vehicle sanctions, such as confiscating number plates and impounding vehicles, on recidivist or speeding unauthorised drivers;

¹³ Effects of a penalty point system on traffic violations - Sagberg, F. and Ingebrigtsen, R. (2018) Accident Analysis & Prevention

¹⁴ NSW Centre for Road Safety crash data. Double demerit periods vs. comparable non-double demerit periods

¹⁵ Moffatt, S. and Poynton, S. (2007) The deterrent effect of higher fines on recidivism: Driving offences. NSW Bureau of Crime Statistics and Research

- introducing a pathway to return disqualified drivers to lawful driving, by giving the Local Court power to lift disqualifications earlier if appropriate;
- introducing automatic and minimum disqualification periods for unauthorised driving offences; and
- revising maximum imprisonment terms for unauthorised driving offences to be fairer and more proportionate.

The reforms incentivise drivers to comply with laws while protecting community safety. To be eligible to have a disqualification period removed, disqualified drivers must still comply with their disqualification for two or four years (depending on their offence), and must not have been convicted of a serious driving offence including those causing death or grievous bodily harm by driving, police pursuits, hit and runs, predatory or menacing driving.

Lengthy disqualification periods that existed prior to the reforms provided little incentive for disqualified drivers to comply and return to lawful driving.

While the disqualification reforms have not been in place for long enough to conclude the effect on long term road trauma outcomes, early analysis was published by the Bureau of Crime Statistics and Research in August 2018¹⁶. This analysis found there is currently no evidence of a negative impact on road safety. Importantly, the analysis notes that a downward trend in crashes involving unauthorised drivers pre-dated the reform. This highlights that other factors such as enhanced safety infrastructure and effective enforcement may also have contributed to improved road safety outcomes.

As outlined in the Road Safety Plan 2021, the NSW Government remains committed to enhancing enforcement and delivering safer infrastructure, alongside ensuring appropriate penalties. The NSW Government continues to monitor the effect of the driver disqualification reforms on road safety outcomes in the longer term.

5.5. *Special penalties and interventions for driving offences*

A broad range of penalties and programs exist in NSW to address specific driving offences, as outlined in the Paper. The NSW Government is committed to providing a better understanding of their outcomes, and in turn increasing transparency of expenditure on programs. NSW is working towards a consistent approach to program evaluation with the aim of improving programs and providing more rigorous evidence of program outcomes.

Good practice principles adopted by the NSW Government state that evaluations should be built into program design, be methodologically vigorous, conducted with expertise and independence, be timely to support decision making and be transparent. Assessment of programs via program reviews, monitoring and research also play a key role in determining effectiveness of interventions.

The NSW Road Safety Plan 2021 commits to evaluating existing programs such as the motorcycle Graduated Licensing Scheme as well as education and communication campaigns. It also states that current initiatives will continue to be refined and optimised including Road Rules, regulations and safety legislation, as well as the enhanced Graduated Licensing Scheme for drivers and the Safer Drivers Course. The Road Safety Plan also commits to enhancing enforcement to shift unsafe behaviours.

¹⁶ Bureau of Crime Statistics and Research (2018) Early indicators of the impacts of the NSW Driver Licence Disqualification Reforms, Issue paper no.135

A process evaluation of the Mandatory Alcohol Interlock Program (MAIP) for repeat and high range offences has been completed and an outcomes evaluation is scheduled for completion in 2020/21. As noted in section 5.2, the recent drink drive reforms will also be evaluated to monitor their impact on drink driving deterrence and offending.

5.6. Communities requiring special attention

Some sectors of the community, particularly Aboriginal people, can find it difficult to obtain a licence, which can lead to unauthorised driving becoming more prevalent in those communities. Obstacles include limited access to cars and licensed drivers to supervise learners and difficulties in obtaining identity documents such as birth certificates. Young people and those living in remote communities can also be disadvantaged due to access to public transport.

In NSW, programs exist that are designed to aid disadvantaged groups in the community obtain, and keep, a licence. These include:

- Driver Licensing Access Program (DLAP)
- Safer Driver Course (SDC)
- SDC Disadvantage Learner Initiative.

DLAP

DLAP aims to provide support and resources that assist disadvantaged Aboriginal people and other disadvantaged communities to obtain, retain and regain their driver licence across all stages of the licensing pathway.

The range of driver licensing access services and support is varied depending on the needs of the individual and the stage they are at in the licensing system. For example, several Driving Change program sites were incorporated into DLAP when funding came to an end.

A recent study found that 984 people attended the Driving Change program, with the majority from the target age group 16 – 24 years. Clients who had supervised driving practice were 2.4 times more likely to attain a licence (95 per cent) and clients who received a high level of case management were 1.8 times more likely to progress to attain a licence than those who received low levels of case management (95 per cent). Community partnerships were key to implementation and the ‘success was attributed to local delivery, Aboriginal leadership, connections with community networks and community ownership of solutions’.¹⁷

SDC

The SDC program aims to address the higher crash rate for young provisional drivers in the first six months of driving solo.

The curriculum framework for the course was developed by a board of independent road safety experts and is based on best practice in young driver education and adolescent cognitive developmental principles which highlight the importance of extended supervised driving experience and low risk driving strategies for young learners.

It integrates with the learner period of the NSW Graduated Licensing Scheme (GLS) and enables learners to receive a discount of 20 hours from the current requirement of 120 hours of supervised driving when they successfully complete the course.

¹⁷ Cullen, P. et al. Communities driving change: evaluation of an Aboriginal driver licensing programme in Australia, *Health Promotion International*, Volume 33, Issue 6, 2018 pages 925-937.

SDC Disadvantage Learner Initiative

This initiative offers 1,000 free SDC places per year to assist young learner drivers from disadvantaged backgrounds and Aboriginal communities, with limited financial means, to access the course. It enables disadvantaged young learner drivers in NSW to benefit from the road safety outcomes provided by the course as well as help meet the supervised driving requirements of the GLS.

5.6.1. Impact of the disqualification reform package on vulnerable communities

At the time that the 2017 driver disqualification reform package was being developed, more than 14 per cent of those sentenced and almost a third of those imprisoned for unauthorised driving identifying as Aboriginal.

Unpublished BOCSAR data shows that the driver licence disqualification reforms have led to a 34 per cent reduction in the monthly number of Indigenous people in prison whose most serious offence was unauthorised driving. This equates to a drop from an average of 58 persons in custody for unauthorised driving in the pre-reform period reforms (January 2015 to October 2017) to an average of 39 post-reform (November 2017 to December 2018).

6. Appendix A

6.2. *Terms of Reference*

The Sentencing Council is to review the sentencing of recidivist traffic offenders who may pose an ongoing risk to the community and make recommendations for reform to promote road safety. In conducting the review, the Council should:

1. Provide sentencing statistics on such offenders and analyse them in terms of relevant offender characteristics;
2. Consider the principles the courts should apply when sentencing such offenders;
3. Have regard to the availability of, and relevant findings on, driver intervention programs and other initiatives in NSW and other comparable jurisdictions;
4. Consult with road safety and other experts, and consider international best practice, on how best to deter recidivist traffic offenders from reoffending and encourage safe driving practices; and
5. Have regard to any other matter the Council considers relevant.