

Response ID ANON-CDS6-FZAA-J

Submitted to **Driving offences and penalties relating to causing death or serious injury**
Submitted on **2017-01-31 16:47:41**

About you

A What is your name?

Name:
Alex Hewson

B What is your email address?

Email:
alex.hewson@prisonreformtrust.org.uk

C What is your organisation?

Organisation:
Prison Reform Trust

Questions

1 Should there be a new offence of causing serious injury by careless driving?

No

Please type your response in the text box:

We believe that existing legislation is currently sufficient. As the consultation acknowledges, there have already been a range of measures introduced, including recent amendments to legislation and sentencing; improvements to prosecution investigations; and a rise in the number of convictions for road traffic incidents.

It is right that the framework for deciding what amounts to careless or dangerous driving is determined not by considering the driver's state of mind or intentions, but by examining the nature of their driving. Existing legislation under Section 3ZA of the Road Traffic Act 1988, defines what constitutes careless driving, and this definition extends to fatal and non-fatal incidents.

Excessive speeding or evidence of alcohol or drugs are already taken into account during charging decisions, and considered as aggravating factors in sentencing decisions; additional penalties are already available for people using a mobile phone whilst driving.

As the consultation acknowledges, it is already possible for a charge of GBH to be given for a driving offence if there is clear evidence of intent to cause harm, with a maximum penalty of five years imprisonment.

Rather than seeking to add to the growing list of criminal offences, an emphasis on ensuring appropriate charging decisions, and that courts follow sentencing guidelines would be more successful in ensuring that people guilty of road traffic incidents receive sentences commensurate with the level of harm caused. Greater use could be made by the courts of longer driving bans, which would still curtail liberty and prevent future harm for people convicted of these offences. These could be supplemented with additional targeted community based interventions where appropriate, this could include supervision requirements, the attendance of anger management, drug or alcohol support.

2 If yes, having regard to the maximum penalties for the existing offences of causing serious injury and assault, would either 2 or 3 years be an appropriate and proportionate maximum penalty for the new offence?

Not Answered

Please type your response in the text box:

3 Do you think that the maximum penalty for causing death by dangerous driving adequately reflects the culpability of the offending behaviour or should it be increased from 14 years' imprisonment to life?

Please type your response in the text box:

We do not agree that the current maximum sentence should be increased to life imprisonment.

As the government acknowledges in its Impact Assessment, the current maximum sentence of 14 years imprisonment for death by dangerous driving is rarely, if ever used. Between 2005–2015, at most 2% of people sentenced to custody for death by dangerous driving received a custodial sentence of more than 10 years. In 2015 no one was given the maximum sentence. Whilst average sentence lengths have been increasing over the period, in 2015 the average for death by dangerous driving was just over five years. There is clearly plenty of scope within the existing legislative framework for courts to impose longer custodial sentences if they believe the particular facts of the case merit this. Furthermore the assessment assumes a continuation of this behaviour and that a new maximum sentence of life imprisonment will not be used. Therefore, it is hard to see on what evidence grounds the government is seeking to introduce the proposed change, unless as a tokenistic political gesture. This risks creating unrealistic public expectations of sentencing which will not be fulfilled in practice.

We do not consider it a fair or proportionate measure to extend the indeterminate life sentence reserved for the most serious of offences—murder—to also cover death by dangerous driving. While a discretionary life sentence can be imposed for offences other than murder, it is only used in the most exceptional circumstances and for particularly heinous crimes. We are concerned about any move by the government to extend the use of indeterminate sentences, particularly given the pernicious legacy of the IPP sentence which the previous coalition government abolished. Indeterminate sentences account for 15% of the sentenced prison population, nearly 12,000 people, up from 9% in 1993. England and Wales have more than twice as many people serving indeterminate sentences than France, Germany and Italy combined—the highest in Europe by a significant margin.

We are supportive of the government's position against the imposition of maximum penalties automatically. Parliament establishes the legislative framework for sentencing by setting a maximum sentence for people found guilty of committing the most serious offences. It is clear that the automatic imposition of the maximum sentence in every case is not what Parliament intends, and we are concerned that such a move within driving offences could set a very dangerous precedent.

As the consultation rightly states, the maximum penalties determined by Parliament are set in relation to other offences of similar seriousness to ensure consistency within the law. We are concerned that an increase in the maximum penalty for death by dangerous driving would continue the trend, seen over the last twenty years, of rising sentence lengths across offence categories. There is a real risk that by extending the maximum penalty, all sentence lengths are drawn upward, even for those convicted of less serious offending, as sentences are brought in line to ensure consistency.

It is concerning that the Impact Assessment fails to acknowledge this phenomenon, despite widespread evidence to the contrary. The analysis assumes that there will be no change in sentence distribution, and that changes in sentencing will only be seen near the very top—those sentenced to 9.3 years or more.

As the consultation acknowledges, the proportion of people being sent to custody for driving offences is rising, as is the length of their custodial sentences, mirroring the situation across the system as a whole.

Between 1993 and 2015 the prison population in England and Wales has nearly doubled—with an extra 41,000 people behind bars. The average prison sentence is now over four months longer than 10 years ago at 16.4 months. For more serious, indictable offences, the average is now 57.1 months—20 months longer than 10 years ago. The use of very long determinate sentences has increased dramatically over the last 10 years, with more than three times as many people sentenced to 10 years or more in the 12 months to June 2016 than at the same time in 2006.

4 Do you think that the maximum penalty for causing death by careless driving under the influence of drink or drugs should reflect the same culpability (and therefore the same maximum penalty) as causing death by dangerous driving?

No

Please type your response in the text box:

As we have outlined in our response to question 3, we do not agree that the maximum penalty should be raised in either case.

5 Should consideration be given to a longer minimum period of disqualification for offenders convicted of any causing death by driving offence?

No

Please type your response in the text box:

As we outlined in our response to question 1, we believe that use of driving bans are an effective disposal in achieving the aims of curtailing liberty and preventing future harm for people convicted of dangerous driving offences.

We believe that there is greater scope for courts to use driving bans as a means of achieving punishment and rehabilitation, when used in conjunction with other community based interventions, rather than seeking to use custody as a solution to these problems. This could include supervision requirements, the attendance of anger management courses, driver safety initiatives, or drug and alcohol support.

In the majority of cases disqualifications must be imposed unless the court considers there are special reasons why they shouldn't be, and last for a minimum of 12 months. However, mandatory minimums fetter judicial independence, and we would prefer that disqualification periods are based on the individual facts of the case.

6 Are there any other driving offences relating to causing death or serious injury that you think should be changed?

No

Please type your response in the text box:

7 Does the equalities statement correctly identify the extent of the impacts of the proposed options for reform set out in this consultation paper?

Yes

Please type your response in the text box:

Please only upload standard file formats, such as Word or Excel. Files should be no larger than 5mb.:

No file was uploaded