

Driving offences and penalties relating to causing death or serious injury*

Questions

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

Yes No Not sure

Please give reasons:

No response

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?

2 years 3 years Not sure

Please give your reasons.

No response

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

No response

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?

Yes

The maximum penalty for causing death by careless driving under the influence of drink or drugs should definitely reflect the same culpability and maximum penalty as causing death by dangerous driving. This maximum should be increased from 14 years' imprisonment to

* <https://consult.justice.gov.uk/digital-communications/driving-offences-causing-death-or-serious-injury/>

life, which would far better reflect the huge impact that such a fatality has on the family, friends and colleagues of the victim.

There are four issues here: the maximum sentence, its use as a deterrence, its role in consoling victims' families, and the extent of its actual application in practice.

Maximum sentence length and equivalence with death by dangerous driving:

The fact that driving after drinking seriously impairs driving ability is both well-known and extremely well evidenced. Even those driving legally within the current drink driving limit in England and Wales of 80mg alcohol pre 100ml blood are 13 times more likely to cause a fatal incident than those who have not drunk any alcohol.¹ Clearly those drinking above this limit only increase the risk of causing fatalities on the road.

Someone driving while intoxicated is undeniably putting themselves and others in danger; indeed 60% of those killed by drunk drivers are people other than the driver, such as passengers, other road users, or pedestrians. To describe drink driving as careless is a gross understatement; drink driving is dangerous driving and the potential maximum sentence for this offence should reflect that, and include the possibility of life imprisonment.

Sentence length as a deterrence

There is research focusing specifically on drink driving which found that 'increasing marginal punishments and sanctions monotonically along BAC distribution would more effectively deter the drunk drivers most likely to be involved in fatal crashes.'² This suggests that a greater maximum sentence length – if used and well publicised – would act as a deterrent for high risk offenders.

It is also known that increasing the certainty of punishment is effective as a deterrence. This clearly brings in issues outside the remit of this consultation, but is an important point to remember. Sentences must be visibly enforced and supported by public information campaigns.

The role of sentence length in consoling victims' families

It is currently a source of great anger and frustration for many families who lose someone to a drunken driver that the current limit of 14 years is so rarely used. Such families all too often see the perpetrator leave prison after remarkably short periods of time, something which makes their difficult situation worse.

There is an inherent sense of injustice in seeing someone who kills while drunk driving serve a prison sentence of only four years or less, whereas someone who is convicted of involuntary manslaughter could well be sentenced to considerably more. Increasing the maximum sentence could help to change this, although the sentence would have to be applied in practice.

The actual application of sentence length in practice

Between 2005 and 2015, Department of Justice figures show that 453 people were convicted and sentenced for causing death by careless driving under the influence of drink or drugs. Of these:

- One person was sentenced to less than six months in prison
- 15 were sentenced to between six months and one year in prison
- 267 (59%) were sentenced to between one year and four years in prison
- 33% were sentenced to more than four years in prison

The figures do not indicate in any more detail the length of sentences given to those receiving sentences of more than four years, but it seems likely that few receive sentences which reach towards the 14-year maximum.

This suggests that in addition to increasing the maximum sentence available, there will be a need to ensure that the increased sentence is actually used. Without this additional change the theoretical increase in the maximum sentence would have little impact.

(See document attached for references)

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

Not sure

If so what do you think the minimum period should be?

Please type your response in the text box:

This response applies only to those convicted of drunk driving. There are two points to be made here. Firstly, it has been found that increasing the punishment for driving over the legal limit by immediately revoking a person's licence upon failing a breath test is an effective method of reducing crashes, and that this is more effective than punishments that are determined by judicial review.³ This is an approach which should be considered when looking at the topic of disqualifications.

Secondly, while disqualification is an important part of any sentence handed out for causing death while driving, it is not just the length of the disqualification which should be considered here.

Alcohol interlocks have been found to reduce the number of fatal drunk driving incidents, with one study finding mandatory interlock in America were associated with a 7% decrease in crashes.⁴ The use of this technology would complement mandatory disqualification, and could be applied once the perpetrator has passed their extended driving test to ensure that they do not reoffend.

The trials and subsequent expansion of alcohol sobriety locks in the UK provides a precedent of sorts for this approach.

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

Yes No Not sure

If so, what changes should be made and why?

Please type your response in the text box

No response

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 No Not sure

Please give reasons and supply evidence as appropriate.

Please type your response in the text box

No response

ENDS

¹ Burton, R., Henn, C., Lavoie, D., O'connor, R., Perkins, C., Sweeney, K., ... Sheron, N. (2016). A rapid evidence review of the effectiveness and cost-effectiveness of alcohol control policies: an English perspective. *The Lancet*, 6736(16), 1–23. [http://doi.org/10.1016/S0140-6736\(16\)32420-5](http://doi.org/10.1016/S0140-6736(16)32420-5)

² Hansen, Benjamin. 2015. "Punishment and Deterrence: Evidence from Drunk Driving." *American Economic Review*, 105(4): 1581–1617.

³ Burton, R., Henn, C., Lavoie, D., O'connor, R., Perkins, C., Sweeney, K., ... Sheron, N. (2016). A rapid evidence review of the effectiveness and cost-effectiveness of alcohol control policies: an English perspective. *The Lancet*, 6736(16), 1–23. [http://doi.org/10.1016/S0140-6736\(16\)32420-5](http://doi.org/10.1016/S0140-6736(16)32420-5)

⁴ McGinty, E. E., Tung, G., Shulman-Laniel, J., Hardy, R., Rutkow, L., Frattaroli, S., & Vernick, J. S. (2016). Ignition Interlock Laws: Effects on Fatal Motor Vehicle Crashes, 1982–2013. *American Journal of Preventive Medicine*, 1–7. <http://doi.org/10.1016/j.amepre.2016.10.043>