



Ministry
of Justice

Driving offences and penalties relating to causing death or serious injury

December 2016



Driving offences and penalties relating to causing death or serious injury

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

December 2016



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About this consultation

- To:** This consultation is aimed at all with an interest in road traffic legislation relating to offences of causing death or serious injury.
- This includes victims of road traffic incidents; non-government organisations with an interest in road safety and supporting victims of road traffic incidents; the police; the judiciary and academics.
- Duration:** From 5 December 2016 to 1 February 2017
- Enquiries (including requests for the paper in an alternative format) to:** Driving Consultation
Post Point 4.12
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 07580701239
Email: drivingconsultation@justice.gsi.gov.uk
- How to respond:** Please reply by 1 February 2017 to
Driving Consultation
Post Point 4.12
Ministry of Justice
102 Petty France
London SW1H 9AJ
Email: drivingconsultation@justice.gsi.gov.uk
- Response paper:** A response to this consultation exercise is due to be published by May 2017 at: <https://consult.justice.gov.uk/>

Contents

Foreword	3
Introduction	4
Careless and dangerous driving	6
Perceived gap in the law	9
Maximum penalties	10
Disqualifications	14
Other issues	15
Impact Assessment and Equalities Statement	16
Questionnaire	17
About you	18
Contact details/How to respond	19
Consultation principles	21
Annex A – Table of road traffic offences and penalties	22

Foreword

While the UK has one of the best road safety records in the world, deaths or serious injuries on the roads cause devastation to victims and their families, for whom the sentence of the court can never adequately reflect the loss of a loved one. The Government is committed to ensuring that deaths or serious injuries continue to fall, and that where they are the result of criminal behaviour, the right tools are available to deliver justice.

In addition to a number of road and car safety measures, the Government has taken significant steps to improve the capacity of the criminal law to deal appropriately with driving that can be considered criminal. In 2015, it increased the maximum penalty for causing death whilst driving when disqualified from 2 years' to 10 years' imprisonment and created a new offence of causing serious injury when driving whilst disqualified, with a maximum penalty of 4 years' imprisonment. It also brought into force the statutory requirement to extend a driving ban to take account of any time spent in custody.

In addition, following recommendations made in a joint thematic inspection by Her Majesty's Crown Prosecution Service Inspectorate with Her Majesty's Inspectorate of Constabulary of the investigation and prosecution of offences arising from fatal road traffic incidents in February 2015, the police are improving how they investigate serious driving offences and how those cases are prosecuted through the courts. Also the Crown Prosecution Service has developed bespoke fatal road traffic incident training for specialist prosecutors and senior legal managers and a protocol on fatal road traffic collision investigations and prosecutions. These will ensure that it has specially trained prosecutors and a consistent approach to the prosecution of fatal road traffic incidents, that places bereaved families at the forefront of consideration throughout the entirety of an investigation and any ensuing court process.

The Government recognises however that there is still public concern about the way that the law deals with offenders who kill or seriously injure others on the road. It has therefore conducted a review of driving offences, concentrating on the serious offences that can result in death or serious injury. We would like to thank the road safety and criminal justice organisations and in particular, the families of victims of road traffic offences who shared their personal experiences, expertise and concerns about the current law which informed the review and proposals made in this consultation.

Most of the time, the vast majority of drivers drive well. However, sometimes even an error of judgment or loss of attention can have devastating consequences. As a general principle, the criminal law needs to take into account not only the harm caused, but also the level of blame of the offender, and sentences must be a matter for the judge to determine in individual cases, based on the full facts of the case and of the offender before them. The Government is however committed to ensuring the legislative framework that the courts operate within reflects the seriousness of offending and the culpability of the offender. The proposals in this consultation are intended to offer a proportionate response to these crimes.



Sam Gyimah MP
Parliamentary Under Secretary of State for Justice

Introduction

Background

1. Despite the rapid increase in the number of motor vehicles, the number of reported deaths on the roads has been declining since the mid 1960s. The long-term trend in reducing road deaths is due to a number of factors including better roads, safer cars and improved medical care. The criminal law also has an important role to play in ensuring those drivers who put other road users and themselves at serious risk of harm are punished appropriately.
2. A review of driving offences and penalties was announced in May 2014 by the Secretary of State for Justice. As part of that internal review the Ministry of Justice considered a range of concerns relating to driving offences and penalties which have been raised over recent years by campaigners, victims of these crimes, members of the public and Parliamentarians.
3. Sentencing for serious road traffic offences presents particular challenges and is sometimes perceived to be too lenient. It is not always the worst transgression by a driver that has the most serious consequences. Sometimes the consequences may be entirely disproportionate to the culpability of the offender. A relatively minor mistake may have very tragic consequences whereas thoroughly reckless behaviour on the road may fortuitously result in little, if any, harm.
4. The law therefore seeks to punish those who cause death or injury on the road in a way that is appropriate to the degree of blameworthiness on the part of the driver. Offences and penalties need to be proportionate to the gravity and culpability of the underlying behaviour. For most serious criminal offences it is necessary to prove criminal intent on the part of the defendant. Specific road traffic offences do not contain this burden of proof. Instead, it is the standard of driving that is culpable. Though often thought of as a separate body of law, road traffic legislation is part of the criminal law and the severity of penalties available must not only take account of the relative seriousness of the range of traffic offences but must also be consistent with the penalties available in other areas of criminal law.

Scope of this consultation

5. This consultation seeks views on whether the current maximum penalties available to the courts for the existing offences of causing death by dangerous driving and causing death by careless driving under the influence of drink or drugs should be increased from 14 years' imprisonment to life. It also asks for views on whether there is a gap in the law relating to careless driving that results in serious injury.
6. In addition to seeking views on the offences and penalties for driving that results in death or serious injury, this paper also discusses the distinction between careless and dangerous driving and the level and imposition of maximum penalties.

7. It **does not** cover other driving or regulatory offences such as speeding, the setting of drink drive limits, the basic offences of careless or dangerous driving and driving whilst using a mobile phone. Some of these behaviours, such as the use of a hand held device whilst driving, are however relevant to this consultation where they are a factor in the driving that led to a death or serious injury.
8. The Government is introducing legislation increasing the penalties for using a hand held mobile phone while driving from 3 to 6 penalty points and from £100 to £200 when a driver is issued with a fixed penalty notice. We will also be running a THINK! campaign when these higher penalties are introduced to alert drivers to the changes and raise awareness. Drivers need to understand that it is unacceptable to put lives in danger.
9. Additionally this paper **does not** cover charging decisions, which are a matter for the Crown Prosecution Service, or the support provided to victims. In November 2015 the Government amended the Victims' Code to broaden the definition of a 'victim' so that victims of any criminal offence, including driving offences, are entitled to receive services in line with the Code. This entitlement also applies to close relatives bereaved by a criminal offence. Nevertheless we know there is more to do to increase further the rights of victims. The Government will announce its plans in due course.
10. For reasons of consistency of treatment and approach between the road networks in different parts of the UK, matters relating to road traffic offences and penalties are generally reserved i.e. laws about road traffic offences in England, Wales and Scotland are made by Parliament. Any changes to road traffic offences and penalties resulting from this consultation would also be applied in Scotland.
11. An Impact Assessment and Equalities Statement have been published alongside this document. Comments on the accompanying Impact Assessment and on the Equalities Statement are very welcome. We have asked a question on equalities at the end of this paper.

Careless and dangerous driving

The distinction between careless and dangerous driving

12. The Government acknowledges that the distinction between careless and dangerous driving as set out in law, is the subject of extensive scrutiny and debate, but remains convinced that it is correct.
13. Under existing law, what amounts to careless or dangerous driving is determined not by considering the driver's state of mind or intentions, which in the context of driving is often difficult to ascertain, but by examining the nature of their driving. The law sets out an objective test designed to compare the driving of the defendant in the specific circumstances of the case against what would be expected of a notional careful and competent driver.
14. The difference between careless and dangerous driving is essentially a question of degree compared to that of the careful and competent driver. If the driving falls *below* that standard it is likely to be careless driving and if the driving falls *far below* that standard it is likely to be considered as dangerous. If the driving does not fall below the standard of the competent and careful driver then these offences will not have been committed.
15. The nature of this objective test can make it difficult for victims and the public to understand how the police and prosecutors decide that the driving in a particular case should be prosecuted and if so, whether it amounts to careless or dangerous driving; or to understand the decisions about whether or not an offence was committed and how the sentence is determined.
16. What amounts to **careless driving** is set out in Section 3ZA of the Road Traffic Act 1988 and provides that a person is to be regarded as driving without due care and attention, if the manner of their driving falls below what would be expected of a competent and careful driver.
17. What amounts to **dangerous driving** is set out in Section 2A(1) of the Road Traffic Act 1988 and provides that a person is driving dangerously if the way they drive falls far below what would be expected of a competent and careful driver, and it would be obvious to a competent and careful driver that driving in that way would be dangerous.
18. These definitions apply not only to the offences subject to this consultation but also to the offences of careless or dangerous driving which do not result in death. It is not possible to set out what might amount to dangerous or careless driving in every case but decided cases of **dangerous driving** highlight behaviours commonly seen such as: street racing; excessive speed and driving aggressively for sustained periods; ignoring road signs or warnings from passengers; overtaking dangerously; driving under the influence of drink or drugs and driving knowing that the vehicle has a dangerous fault or an unsafe load.
19. For illustrative purposes, decided **careless driving** cases highlight behaviours such as: overtaking on the inside; driving too close to another vehicle; turning into the path of another vehicle and the driver being avoidably distracted by operating music controls, lighting a cigarette etc.

20. The Government has considered the suggestion that creating one 'bad driving' offence which abolished the distinction between careless and dangerous driving yet retained the objective test, could increase the number of convictions and result in longer sentences especially for those who would have been convicted of careless driving bordering on dangerous driving.
21. The single standard of driving approach raises difficulties, in particular in relation to the offences causing serious injury or death. The maximum penalty for the offence would have to cover the most serious behaviour imaginable under the offence resulting in a high maximum penalty. There is a risk that juries may be less willing to convict a driver for an offence which falls within the less serious range of driving (what is currently careless driving) if they considered the maximum penalty that could be imposed disproportionate.
22. Further, this approach would not necessarily result in different sentencing behaviour. In sentencing, a judge must consider the seriousness of the offending taking account of the culpability of the offender and the harm caused in order to impose the penalty appropriate for the offence, and this would remain the case if a new 'bad driving' offence was created. The lack of distinction between the offences would not alter the way in which a decision about the appropriate sentence is made. The Government is therefore not persuaded of the case for change.

Legislating to deem some behaviours as dangerous or careless driving

23. Some concerns have also arisen where a driver may not meet the test of driving carelessly or dangerously but has been shown to be driving above the drink drive limit or exceeding the speed limit. It has been suggested that in such cases the driver should be deemed to be driving either carelessly or dangerously. An example of this would be where a driver hits and kills a person and although there is no evidence that their driving was anything other than careful, the driver is subsequently found to be driving over the drink driving limit.
24. There are however drawbacks of deeming certain behaviours to automatically amount to careless or dangerous driving. This approach would mean removing the objective nature of the careless/dangerous test. A driver could be committing an offence of careless or dangerous driving in these circumstances **regardless** of how carefully and competently he or she was in fact driving. And yet that driver's standard of driving could be far above the standard displayed by another driver, who does not meet the test for careless or dangerous driving. In this way the approach could lead to a reduction in transparency and unintended outcomes. It would be particularly problematic in cases of death for example, if the manner of the defendant's driving, although deemed careless or dangerous, in fact was in no way a cause of the death.
25. It would be very difficult to define what behaviours should be deemed to amount to careless and dangerous driving and in what circumstances.
26. The Government is of the view that the existing offence of causing death by careless driving under the influence of drugs or alcohol and the requirement under the relevant sentencing guidelines to take, for example, excessive speeding or evidence of alcohol or drugs into account as aggravating factors when determining the seriousness of an offence of causing death or serious injury, and so the appropriate sentence, provide sufficient flexibility for prosecutors and courts. The Government is therefore not persuaded of the case for change.

The use of the term “careless” in relation to driving offences

27. It has also been suggested that the use of the word “careless” in relation to driving offences trivialises the nature of the offence and, especially in relation to offences that result in death, it is insulting to bereaved families. A number of victims and families of victims have raised this concern although they recognise that careless driving is an established term within the relevant legislation.

28. Whilst recognising this concern, we do not think that a change in the actual wording in the legislation would be helpful, and it could cause confusion about the objective test. However, we do think that it is essential that all involved in the criminal justice system – the police, prosecutors and the courts, are better at explaining their decision making and stress the impact that ‘bad driving’, of whatever type, has on victims and their families.

Perceived gap in the law

A new offence of causing serious injury by careless driving

29. Serious injury is defined as meaning, in England and Wales, physical injury which amounts to grievous bodily harm (GBH) for the purposes of the Offences Against the Person Act 1861 and, in Scotland, as severe physical injury. The maximum penalty for an assault (GBH) under section 20 of the Offences Against the Person Act 1861 or an assault occasioning actual bodily harm (ABH) under section 47 of the Act is 5 years' imprisonment.
30. There are two driving offences of causing serious injury. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 created the offence of causing serious injury by dangerous driving which has a maximum penalty of 5 years' imprisonment (section 1A Road Traffic Act 1988) and the Criminal Justice and Courts Act 2015 created the offence of causing serious injury when driving disqualified with a maximum penalty of 4 years' imprisonment (section 3ZD Road Traffic Act 1988).
31. It has been suggested that the creation of these new offences for dangerous and disqualified driving leaves a perceived gap in the law relating to careless driving that results in serious injury. It is possible that such cases result in an assault charge, such as GBH, but this generally requires proving some degree of intent to cause harm. It is more likely therefore that careless driving will be charged in these cases.
32. The current maximum penalty for careless driving is an unlimited fine but in some cases the harm caused by the driving can result in very serious and also permanent injury. These injuries can have a devastating impact on the lives of victims and their families. The harm caused in these cases is therefore high but the culpability of the driver low. If a new offence was to be created, the maximum penalty for this offence would therefore have to balance these factors and take account of existing maxima for other related offences.

Q1. *Should there be a new offence of causing serious injury by careless driving?*

Q2. *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?*

Maximum penalties

33. There are a range of offences and penalties relating to driving, which have been altered and added to over recent years. The maximum penalty for a criminal offence created in statute is set by Parliament and is designed to take account of the most serious behaviours imaginable under that offence. Maximum penalties must also be set in relation to other offences of similar seriousness to ensure a consistency of approach.
34. Annex A sets out the current range of the more serious driving offences and the maximum penalty for each offence.

Imposition of the maximum penalty

35. In relation to driving offences the imposition of the maximum penalty has been raised by some as a specific concern. It has been suggested that where an offender has been convicted of causing death by dangerous driving the maximum penalty of 14 years' imprisonment should always be imposed. Further, it has been suggested that where an offender has caused more than one death as a result of their dangerous driving the maximum penalty should be imposed for each death and the sentences served consecutively (i.e. one after the other) rather than concurrently (i.e. at the same time).
36. As a maximum penalty is set to cover the most serious behaviours under the offence, it will already include the possibility of multiple victims. It is also important to note that, in the case of a fatal road traffic incident, the number of victims may, unfortunately, be a matter of chance. It could be a result of how many people are in a vehicle around a blind corner when a dangerous driver collides with it.
37. In cases where the court is sentencing for more than one offence, the long standing principle is that the total sentence imposed must reflect all of the offending behaviour and be just and proportionate within the maximum penalty for the offence. This is the case whether the sentences for the offences are structured as consecutive or concurrent.
38. How sentences are structured is a matter for the court. The courts have consistently stated that consecutive sentences should not normally be imposed for offences arising out of the same incident.
39. When deciding what sentence to impose the courts are required to take account of all the circumstances of the offence(s) and offender and any mitigating and aggravating factors, for example excessive speeding, use of a hand held mobile device, proximity to vulnerable road users. Where there is more than one victim this will be taken into account and will aggravate the seriousness of the offence meriting a longer sentence. Furthermore, the sentencing guidelines for causing death by driving, which the courts are under a statutory duty to follow (unless it would be contrary to the interests of justice to do so), specifically mention that the courts should take account of the higher harm caused by the offence where there is more than one victim.
40. Imposing the statutory maximum penalty in all cases would represent a fundamental change to the criminal law and would conflict with the position in relation to other offences resulting in death, such as manslaughter. Given that the approach to sentencing outlined above applies across all criminal offences it is difficult to justify a different approach for a

specific offence or group of offences. Imposing a series of long consecutive sentences in every case irrespective of the culpability of the offender would also constitute an unjustified departure from the current position and lead to a severe restriction in the ability of judges to exercise their discretion to impose a just and proportionate sentence in individual cases.

41. Therefore the Government does not propose to change the law to require the imposition of a maximum penalty.

The maximum penalties for offences causing death by careless or dangerous driving

42. Since 2011, a greater proportion of drivers who have caused fatalities through careless or dangerous driving were sentenced to custody, increasing from 50% (191 of 382 offenders sentenced) in 2011 to 57% (180 of 316 offenders sentenced) in 2015. The average custodial sentence for causing death by careless or dangerous driving has gone up from 41.3 months in 2011 to 45.8 months in 2015 – an increase of 4.5 months.¹

43. The three offences of causing death by careless or dangerous driving are:

- (i) causing death by careless driving;
- (ii) causing death by dangerous driving; and
- (iii) causing death by careless driving under the influence of drink or drugs.

44. As outlined above the maximum penalty for an offence is set to take account of the most serious behaviour imaginable under that offence and 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.

45. Various suggestions have been made in regard to maximum penalties for these offences.

Causing death by careless driving

46. The maximum penalty for causing death by careless driving is 5 years' imprisonment. 173 people were sentenced in 2015 with 46 given an immediate custodial sentence. The number of offenders sentenced for this offence has fallen by 25% since 2011 (232 offenders), but the number of offenders that received an immediate custodial sentence remained fairly stable over the same time period. The average custodial sentence length fell between 2011 (15.3 months) to 2014 (10.4 months), but increased again in 2015 (14.4 months).

47. As discussed above, it has been suggested that the distinction between careless and dangerous driving should be abolished and replaced with a single dangerous driving test encompassing the full range of driving currently considered dangerous or careless. That would mean that the causing death offences, by dangerous driving, by careless driving under the influence of drink or drugs and by careless driving would become one "bad driving" offence. The Government has considered this suggestion but is not persuaded of the case for change.

¹ It is important to note all offences for which data are given in this consultation are low volume offences which means that they are susceptible to fluctuations driven by small numbers of cases.

48. It has also been argued that under the current sentencing framework the difference between the maximum penalty of 14 years for causing death by dangerous driving and causing death by careless driving under the influence of drink or drugs and the 5 year maximum for causing death by careless driving is too wide. The difference in the penalties means that the decision to charge or convict for one offence rather than the other can be significant in terms of the sentence imposed.
49. As already noted, the maximum penalty must reflect the seriousness of that offence taking account of both the potential for harm caused and the likely culpability of the offender. In cases involving causing death by careless driving the harm caused is always very high, since a person has died, but the culpability of the offender is relatively low since the death may have occurred as a result of a momentary lapse of attention. Any decision to increase the maximum penalty must therefore take account of those considerations and the Government is not convinced of the case for increasing the maximum penalty for causing death by careless driving.

The maximum penalty for causing death by dangerous driving

50. The maximum penalty for causing death by dangerous driving is 14 years' imprisonment. 122 people were sentenced in 2015 with 114 given an immediate custodial sentence. The proportion sentenced to custody has changed very little between 2011 and 2015, ranging from 96% to 93%. Of those who did not receive an immediate custodial sentence, the majority received a suspended sentence, with only a handful receiving a community sentence, fine or absolute discharge over the last 5 years. The average custodial sentence length increased steadily between 2011 and 2014 from 48.7 months to 61.5 months, but fell slightly in 2015 to 57.1 months.
51. It has been suggested that the maximum penalty for causing death by dangerous driving should be increased from 14 years' imprisonment to life imprisonment. This would mean the offence had the same maximum penalty as manslaughter.
52. Increasing the maximum penalty to life imprisonment would enable the courts to impose a life sentence or any length of determinate sentence. If the court imposed a life sentence the offender would serve a minimum period of custody (or tariff) before being considered for release by the Parole Board. If released the offender would be subject to a life licence. An offender receiving a determinate sentence would be released at the half way point in their sentence and subject to licence supervision in the community for the remainder of their sentence.
53. It should be noted that increasing a maximum penalty does not guarantee increased sentence lengths as decisions on the appropriateness of a sentence remain with the independent judge and will be made on a case by case basis in light of the circumstances of the individual case.
54. The Government is seeking views on whether the existing maximum penalty for causing death by dangerous driving provides the court with sufficient powers to reflect the seriousness of the offending.

Q3. 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?

The maximum penalty for causing death by careless driving under the influence of drink or drugs

55. The maximum penalty for causing death by careless driving under the influence of drink or drugs is 14 years' imprisonment. 21 people were sentenced in 2015 with 20 given an immediate custodial sentence. The number of offenders sentenced to custody for this offence fell by 43% from 2011 (35 offenders). In each year between 2011 and 2015, a maximum of two offenders received a sentence other than an immediate custodial sentence – these offenders received either a suspended sentence, community sentence or a fine. With the exception of an increase in average custodial sentence length in 2013, where it was 61.3 months, the average custodial sentence length has remained fairly constant between 2011 and 2015, ranging between 52.1 and 54.3 months. The average custodial sentence length was 53.5 months in 2015.
56. Increasing the maximum penalty to life imprisonment for causing death by dangerous driving would mean that offence carrying a higher maximum penalty than the offence of causing death by careless driving under the influence of drink or drugs. This raises the question of whether the maximum penalty for the causing death by careless driving under the influence offence should also be increased or whether that distinction is justified because it reflects a difference in the level of culpability of the driver.
57. The Government is seeking views on whether these two offences should have the same level of seriousness and if so, whether any changes to the maximum penalty for one offence should be reflected in changes to the maximum penalty for the other.
58. It should again be noted that increasing a maximum penalty does not guarantee increased sentence lengths as decisions on the appropriateness of a sentence remain with the independent judge and will be made on a case by case basis in light of the circumstances of the individual case.
- Q4. 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?**

Disqualifications

A minimum disqualification period where death occurs

59. When an offender is convicted of an offence he or she may be subject to an obligatory disqualification unless the court considers there are special reasons such that the offender should be disqualified for a shorter period, or not at all. There are a range of driving offences that require an obligatory disqualification. Obligatory disqualifications should be for no less than 12 months.
60. For some offenders with a bad driving record and for some more serious offences, including causing death by dangerous driving, causing death by careless driving under the influence of drink or drugs, or causing serious injury by dangerous driving, the obligatory disqualification should be for no less than 2 years (section 34(4) of the Road Traffic Offenders Act 1988). Where the offender is a repeat offender with a second or further conviction for certain offences within a 10 year period, the disqualification should be no less than 3 years (section 34(3) of the Road Traffic Offenders Act 1988).
61. It has been suggested that there should be a longer minimum period of disqualification for those offenders convicted of any of the causing death by driving offences.
62. The law sets out a minimum period of disqualification and it is open to the courts to impose longer periods, including life bans. Since April 2015 courts are also obliged by statute, when imposing a custodial term, to extend the driving disqualification to take account of the period spent in custody. Prior to this they did so in accordance with the sentencing guidelines. This change is designed to ensure a driving ban does not end or the length diminished significantly whilst the offender is in custody.
63. The Government is seeking views on whether there should be, for those convicted of causing death offences, a longer minimum period of driving disqualification. This longer minimum period would take specific account of the particular harm caused by these offences.
- Q5. Should consideration be given to a longer minimum period of disqualification for offenders convicted of any causing death by driving offence and if so what do you think the minimum period should be?***

Other issues

64. The consultation sets out the consideration given by the Government to a number of areas of the law relating to causing death or serious injury. The Government has concluded that some changes to the law were not necessary or practical but have issued the consultation to seek views on the offences dealing with, or relating to, causing death or serious injury. If you do not agree with any of our findings please explain why and explain what additional or alternative provision you think should be made.

Q6. *Are there any other driving offences relating to causing death or serious injury that you think should be changed. If so, what changes should be made and why?*

Impact Assessment and Equalities Statement

To inform responses to this consultation document we have published separate analyses of potential impacts.

- Impact Assessment: can be found at <https://consult.justice.gov.uk/digital-communications/driving-offences-causing-death-or-serious-injury>
- Equalities Statement: in light of our obligations under the public sector equality duty in section 149 of the Equality Act 2010 this considers the potential effects of our proposals according to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The equality statement can be found at <https://consult.justice.gov.uk/digital-communications/driving-offences-causing-death-or-serious-injury>

We welcome comments about the accuracy and extent of the effects identified. We particularly welcome responses from those who identify themselves as sharing a protected characteristic or from interest groups representing those with protected characteristics. The responses received will be taken into account as the Government decides the best way forward following the end of the consultation period.

Questionnaire

This consultation paper seeks views on key issues regarding the penalties available to the courts for the most serious driving offences. If you do not agree with any of our findings please explain why and explain what additional or alternative provision you think should be made.

- Q1. Should there be a new offence of causing serious injury by careless driving?***
- Q2. 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?***
- Q3. 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?***
- Q4. 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?***
- Q5. Should consideration be given to a longer minimum period of disqualification for offenders convicted of any causing death by driving offence and if so what do you think the minimum period should be?***
- Q6. Are there any other driving offences relating to causing death or serious injury that you think should be changed. If so, what changes should be made and why?***
- Q7. Does the equalities statement correctly identify the extent of the impacts of the proposed options for reform set out in this consultation paper? Please give reasons and supply evidence as appropriate.***

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please respond online at: <https://consult.justice.gov.uk> by 11.59pm on Wednesday 1 February 2017, or send your response (also to arrive by Wednesday 1 February 2017) to:

Driving Consultation
Post Point 4.12
Ministry of Justice
102 Petty France
London SW1H 9AJ

Email: drivingconsultation@justice.gsi.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/>.

Alternative format versions of this publication can be requested from this address.

Publication of response

A paper summarising the responses to this consultation will be published by May 2017. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

Annex A – Table of road traffic offences and penalties

This table lists the current serious driving offences and the maximum penalty for each offence. It is provided as background information to inform consultation responses, where relevant.

Provision	Offence	Mode of trial	Max. Penalty
Road Traffic Act 1988 (RTA) section 1	Causing death by dangerous driving	On indictment.	14 years' imprisonment.
RTA section 3A	Causing death by careless driving when under influence of drink or drugs	On indictment.	14 years' imprisonment or a fine or both.
RTA section 3ZC	Causing death by driving: disqualified drivers	On indictment.	10 years' imprisonment or a fine or both
RTA section 2B	Causing death by careless (inconsiderate) driving	(a) Summarily. (b) On indictment.	(a) 12 months' imprisonment* (in England and Wales) or 6 months (in Scotland) or the statutory maximum fine or both. (b) 5 years' imprisonment or a fine or both.
RTA section 1A	Causing serious injury by dangerous driving	(a) Summarily. (b) On indictment.	(a) 12 months' imprisonment* or the statutory maximum fine or both. (b) 5 years' imprisonment or a fine or both.
RTA section 3ZD	Causing serious injury by driving: disqualified drivers	(a) Summarily. (b) On indictment.	(a) On conviction in England and Wales: 12 months' imprisonment* or a fine or both. On conviction in Scotland: 12 months or the statutory maximum fine or both. (b) 4 years' imprisonment or a fine or both.
RTA section 3ZB	Causing death by driving: unlicensed or uninsured drivers	(a) Summarily. (b) On indictment.	(a) 12 months' imprisonment* (in England and Wales) or 6 months (in Scotland) or the statutory maximum fine or both. (b) 2 years' imprisonment or a fine or both.

Provision	Offence	Mode of trial	Max. Penalty
RTA section 2	Dangerous Driving	(a) Summarily. (b) On indictment.	(a) 6 months' imprisonment or the statutory maximum fine or both. (b) 2 years' imprisonment or a fine or both.
RTA section 4(1)	Driving or attempting to drive when unfit to drive through drink or drugs.	Summarily.	6 months' imprisonment or level 5 fine on the standard scale or both.
RTA section 103(1)(b)	Driving while disqualified	(a) Summarily, in England and Wales. (b) Summarily, in Scotland. (c) On indictment, in Scotland.	(a) 6 months' imprisonment or level 5 fine on the standard scale or both. (b) 6 months' imprisonment or the statutory maximum fine or both. (c) 12 months' imprisonment or a fine or both.
RTA section 3	Careless, and inconsiderate, driving	Summarily.	Level 5 fine on the standard scale

* In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference to 12 months is to be read as a reference to 6 months.

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