

Equality Statement

Policy Summary

The consultation on driving offences and penalties relating to causing death and serious injury seeks views on the current maximum penalties available to the courts for the existing offences of causing death by dangerous driving and causing death by careless driving when under the influence of drink or drugs. It also asks if there is a gap in the law relating to careless driving that results in serious injury and if the minimum period of disqualification for driving offences that result in death should be increased.

The objective of the consultation is to make sure that the options available to the courts to punish drivers who cause death or serious injury on the roads are proportionate and reflect the seriousness of the offences committed, and provide surviving victims and their families with a greater understanding and a sense that justice has been done.

To note, the proposals outlined in the consultation apply to Great Britain but this Equality Statement focuses on the effects for England and Wales. We will consider further the likely impacts these proposals will have in Scotland in parallel with the consultation.

We will update our equality considerations once we have received responses from the consultation exercise.

Equality Duties

Section 149 of the Equality Act 2010 places a duty on Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
- Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

Paying 'due regard' needs to be proportionately considered against the nine "protected characteristics" under the Equality Act 2010 – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity. This Equality Statement considers the potential effects of our proposals according to the protected characteristics for which we have data: race, sex and age.

Equality Considerations

Direct discrimination

The driving offences discussed in the consultation paper apply to all members of the public who contravene road traffic legislation relating to these offences. There is therefore no direct discrimination within the meaning of the Equality Act as the law applies equally to all offenders charged and convicted of these offences. We do not consider that this results in people being treated less favourably because of protected characteristics.

Indirect discrimination

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 the level of blame of the offender. Sentencing is a matter for the courts 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 that the legislative framework within which the courts operate reflects the seriousness of offending and the culpability of the offender. The aim behind these proposals is to ensure that the options available to the courts to punish drivers who cause death or serious injury on the roads are proportionate and reflect the seriousness of the offences committed.

Our initial assessment is that the proposals consulted on are not indirectly discriminatory within the meaning of the Equality Act as we believe they do not put people with protected characteristics at a particular disadvantage when compared to others who do not share those characteristics.

We recognise that groups with certain protected characteristics are over-represented amongst offenders who receive an immediate custodial sentence when compared to the general population for the offences of causing death by dangerous driving and causing death by careless driving when under the influence of drink or drugs and amongst offenders who may be convicted and sentenced for the new offence causing serious injury by careless driving – see Annex A.

However, as is the case more generally across England and Wales, there is over-representation of certain people in the criminal justice system with protected characteristics¹. Further, it is important to highlight that the offences causing death by dangerous driving and causing death by careless driving when under the influence of drink or drugs are low volume offences, which means that the protected characteristics breakdowns given in Annex A are susceptible to fluctuations driven by small number of cases.

We do not consider that this would amount to indirect discrimination, since we consider that these proposals are a proportionate means of achieving the legitimate aim set out above.

Advancing equality of opportunity

We have had regard to this aspect of the equality duty but do not consider any changes to road traffic legislation would impact on the advancement of equality of opportunity.

Discrimination arising from disability and duty to make reasonable adjustments

In so far as this policy extends to disabled drivers, we believe that the policy is proportionate, having regard to its aim. It would not be reasonable to make an adjustment for disabled drivers so that they are out of scope of the proposals, but it remains important to make reasonable adjustments for disabled drivers to ensure appropriate support is given.

We do not consider that any adjustments are required for disabled people over and above the ones already in place in courts and prisons.

¹ Race and the criminal justice system (2014): www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2014
Women and the criminal justice system (2015): www.gov.uk/government/statistics/women-and-the-criminal-justice-system-statistics-2015

Fostering good relations

We do not consider that there is any significant impact on the achievement of this objective.

Evidence

Please see Annex A below for a summary of the current equalities data for relevant driving offences and for the general population.

Annex A

Representation of protected characteristics for England and Wales

Set out below is a summary of the current equalities data in England and Wales for the various necessary offences and for the general population. To note, all data is for the population aged 10+, as the age of criminal responsibility in England and Wales is 10 years old.

To assess differences in representation, compare Figure 1 to Figures 2-5².

Figure 1: Demographics of general population³

General Population		
Gender	Male	49.1%
	Female	50.9%
Total volume		51,000,000
Age	<18	10.2%
	18-20	4.2%
	>20	85.7%
Total volume		51,000,000
Ethnicity	White	87.0%
	Black	3.0%
	Asian	6.0%
	Mixed	2.0%
	Chinese or other	2.0%
Total volume		49,000,000⁴

² Percentages may not sum to 100% in Figures 1-5 because of rounding.

³ Data on gender and age from ONS data, mid-2015; [Population Estimates for UK, England and Wales, Scotland and Northern Ireland: mid-2015](#). Data on ethnicity is from 2011 ONS data; [www.gov.uk/government/uploads/system/uploads/attachment_data/file/479990/infographic.pdf](#) and [www.nomisweb.co.uk/census/2011/dc2101ew](#)

⁴ Total volumes in Figure 1 are the totals volumes for those declared, rounded to the nearest million.

Figure 2⁵: Demographics of offenders sentenced to **immediate custody**⁶ for the offence causing death by dangerous driving, 2015

Causing death by dangerous driving: immediate custody		
Gender	Male	94.7%
	Female	5.3%
Age	<18	1.8%
	18-20	8.8%
	>20	89.5%
Ethnicity	White	60.5%
	Black	4.4%
	Asian	14.0%
	Mixed	2.6%
	Chinese or other	1.8%
	Not stated	16.7%
Total volume of offenders		114

Figure 3: Demographics of offenders sentenced to **immediate custody**⁷ for the offence causing death by careless driving when under the influence of drink or drugs, 2015

Causing death by careless driving when under the influence of drink or drugs: immediate custody		
Gender	Male	85.0%
	Female	15.0%
Age	<18	0.0%
	18-20	10.0%
	>20	90.0%
Ethnicity	White	55.0%
	Black	15.0%
	Asian	10.0%
	Mixed	5.0%
	Chinese or other	0.0%
	Not stated	15.0%
Total volume of offenders		20

⁵ Data for Figures 2-Figures 5 are from a further breakdown of Criminal Justice Statistics, Ministry of Justice (MoJ), 2015.

⁶ Only data for those sentenced to custody has been included here, as the policy change is modelled to affect this subset of offenders.

⁷ Only data for those sentenced to custody has been included here, as the policy change is modelled to affect only this subset of offenders.

Figure 4: Demographics for offenders **sentenced**⁸ for the offence careless driving, 2015

Careless driving - without due care and attention or reasonable consideration for other road users: sentenced		
Gender	Male	95.7%
	Female	4.2%
Age	<18	0.1%
	18-20	10.6%
	>20	89.3%
Ethnicity	White	12.3%
	Black	0.0%
	Asian	0.2%
	Mixed	0.0%
	Chinese or other	0.0%
	Not stated	87.5%
Total volume of offenders		881,241

Figure 5: Demographics for offenders **sentenced**⁹ for the offence causing serious injury by dangerous driving, 2015

Causing serious injury by dangerous driving: sentenced		
Gender	Male	93.7%
	Female	6.3%
Age	<18	0.4%
	18-20	12.2%
	>20	87.4%
Ethnicity	White	72.6%
	Black	3.7%
	Asian	6.7%
	Mixed	0.6%
	Chinese or other	1.1%
	Not stated	15.4%
Total volume of offenders		540

⁸ We assume that the offenders proceeded against for the new offence of causing serious injury by careless driving would come from the pool of offenders currently sentenced for the offence careless driving or causing serious injury by dangerous driving. The policy change is modelled to affect only this cohort of offenders.

⁹ We assume that the offenders proceeded against the new offence of causing serious injury by careless driving would come from the pool of offenders currently sentenced for the offence careless driving or causing serious injury by dangerous driving. The policy change is modelled to affect only this cohort of offenders.

To note: The equalities impact of increasing the minimum period of disqualification for driving offences that result in death has not been considered in Annex A. This measure has not been modelled due to uncertainties over volumes of potential future offences. We will however seek to gather evidence on this and the corresponding equalities impact during the consultation period.