



Shakespeare Business Centre
245a Coldharbour Lane
London SW9 8RR

info@roadpeace.org
www.roadpeace.org
Tel: 020 7733 1603

Causing serious injury by careless driving

Current situation

1. **MoJ proposal.** In December 2016, the MoJ consulted on driving offences and penalties relating to causing death or serious injury. This included introducing a Causing serious injury by careless driving offence, with a maximum custodial sentence of two-three years.
2. **Careless driving.** Careless driving that results in serious injuries is currently prosecuted as careless driving¹. This is a summary offence that in England and Wales (2015) was prosecuted 17,585 times at the Magistrates Court. Out of court sanctions included another 24,160 who attended a Driver Offender Retraining Scheme (NDORS). NDORS are not supposed to be offered to drivers suspected of causing a serious injury crash.
3. **Serious injury definition.** This is defined as grievous bodily harm (GBH), requiring three days hospitalisation. This is much tougher than serious injury as defined by DfT.

Expected prosecutions

4. **Expected usage.** The MoJ has estimated Causing serious injury by careless driving would be prosecuted between 290 and 1020 times a year, with a central estimate of 655 prosecutions each year.
5. **Conviction rate.** The MoJ has also estimated a 98% conviction rate with this charge. This suggests it would only be used in cases of almost complete certainty of conviction.
6. **Mode of trial.** The MoJ has not specified this but it is expected to be an either –way offence and thus prosecuted at the Magistrates Court or Crown Court, with the Magistrates and accused having the right to request a trial by jury.

Sentencing assumptions

7. **Prison**
 - a. **Maximum custodial sentences.** The MoJ proposed a maximum custodial sentence of two to three years but its impact analysis included a maximum custodial sentence of four years.
 - b. **Imprisonment.** The MoJ expects 40% of those convicted will get a custodial sentence.
 - c. **Average custodial sentence length (ACSL).** The MoJ estimates an ACSL of 10.1 months, with half served in custody and the second half on license.²

¹ If intent can be proven, then it can be prosecuted as an assault but this is believed to very rarely happen.

² The Justice Minister has expressed the desire to move away from custodial sentences under one year, as short sentences have not proven to be effective.



8. Alternative/Other sentences

- a. **Suspended sentence.** Over a third of those convicted (37%-38%) will get a suspended sentence.
- b. **Community sentence.** Of those convicted, 20% are expected to get a community sentence.
- c. **Driving disqualification.** The MoJ's proposal did not mention any minimum driving disqualification.

RoadPeace position

This offence is long overdue. Our first campaign was for death and serious injury to be recognised in driving offences, including with careless driving. We feel that the suffering of the victim should be represented in the charge.

But RoadPeace has called for a maximum custodial sentence of six months, in order to avoid downgrading of causing serious injury by dangerous driving. RoadPeace has also called for a review of the definitions and charging standards of careless and dangerous driving to be undertaken before this offence is introduced.

Note. It has been over 10 years since the offence of Causing death by careless driving was introduced. Intended to fill a gap between Causing death by dangerous driving with its 14 year maximum custodial sentence and the summary offence of careless driving, Causing death by careless driving has become the most common used causing death by driving charge used in Britain.

References

MoJ (2016), Driving offences and penalties relating to causing death or serious injury,

https://consult.justice.gov.uk/digital-communications/driving-offences-causing-death-or-serious-injury/supporting_documents/drivingoffencesconsultationdocument.pdf

MoJ (2016), Driving offences and penalties relating to causing death or serious injury Impact assessment

https://consult.justice.gov.uk/digital-communications/driving-offences-causing-death-or-serious-injury/supporting_documents/drivingoffencesconsultationimpactassessment.pdf

MoJ (2017), Response to the consultation on driving offences and penalties relating to causing death or serious injury,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651879/consultation-response-on-driving-offences.pdf

RoadPeace (2017), Our Lawless Roads; road policing, casualties and driving offences since 2010, England and Wales, <https://roadpeacejusticewatch.files.wordpress.com/2017/11/roadpeace-lawless-roads.pdf>

RoadPeace (2017), Driving offences and penalties relating to causing death or serious injury consultation:

RoadPeace response, <https://roadpeacejusticewatch.files.wordpress.com/2017/02/roadpeace-moj-driving-offences-consultation-response.pdf>

RoadPeace (2018), Causing death by careless driving 10 years on,

<https://roadpeacejusticewatch.files.wordpress.com/2018/08/roadpeace-causing-death-by-careless-driving-10-years-on1.pdf>