



Justice Committee

The Rt Hon Lord Justice William Davis

Chairman, Sentencing Council

By email only

30 November 2022

Dear William,

Thank you for giving the Justice Committee the opportunity to respond to the Sentencing Council's consultation on motoring offences. We are grateful to the Council for sharing the other responses to the consultation with us in advance of our submission.

We support the Council's decision to update the guidelines, particularly to reflect the increased statutory maximum penalty for the offences of (i) causing death by dangerous driving and (ii) causing death by careless driving when under the influence of drink or drugs, from 14 years to life imprisonment. However, we note that the increase in the maximum penalties for these two offences appears to have had an inflationary effect on the starting points and category ranges beyond the most serious cases and have had an effect on sentencing levels for other motoring offences. It was Parliament's intention to increase the penalties for the most serious cases by raising the maximum, but it is not necessarily the case that this should increase the penalties for cases that fall into the medium and lesser categories. We note that the Council took a different approach to revising the Child Cruelty Guidelines in creating a new very high culpability category to give effect to the revised maximum penalties enacted by Parliament. We would be interested to understand why the Council decided against that approach for these guidelines. We note with interest the responses to the consultation which propose the introduction of a very high culpability category for the



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offence of causing death by dangerous driving and believes the suggestion merits further consideration by the Council.

The resources assessment produced by the Council suggests a greater impact on prison resources than the impact assessment for the Police, Crime, Sentencing and Courts Bill had originally outlined. For example, regarding the increase in the maximum penalty for the offence of causing death by dangerous driving to life imprisonment, the impact assessment suggests that in a high scenario it is anticipated that a steady state will be reached in 2031/32 with an additional 30 prison places required. However the resource assessment anticipates for this offence that a further 260 prison places per year will be required as a result of the guideline being updated. It would be useful to know if the Council could explain why Government's impact assessment and the Council's resource assessment have arrived at different views on the number of prison places required.

We are concerned that the increase in the maximum will lead to more short-term prison sentences for the medium and lesser culpability categories. We were also interested by several respondents' suggestion of there being a greater focus on the use of disqualification periods as opposed to short custodial sentences in appropriate cases and also the suggestions for there to be further guidance provided regarding recommended lengths of disqualification periods. We believe that both of these matters require further consideration by the Council, and we look forward to reading the Council's response on these points.

We note that it is not clear from the face of the guidelines how the possibility of a life sentence for the offences of causing death by dangerous driving and causing death by careless driving under the influence has been incorporated into the relevant guidelines. We note that step 5 of the draft guideline asks the court to consider



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whether it would be appropriate to impose an extended sentence. The Police, Crime, Sentencing and Courts Act 2022 did not add the offences of causing death by dangerous driving and causing death by careless driving under the influence to Schedule 19 of the Sentencing Code, which lists the offences where a life sentence must be imposed if it meets the conditions included in section 285, including that “the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences”. We are concerned that this lack of a trigger could result in some difficulties for sentencers. We understand that the court retains the residual discretion to impose a discretionary life sentence, but we would welcome any clarification the Council could provide on this point.

Yours sincerely,

Sir Robert Neill MP
Chair
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