

9 January 2008

Dear

Causing Death by Driving – Consultation Guideline

I enclose the Council's consultation guideline on the four offences of causing death by driving. As you will see from the Foreword, this is based on advice from the Sentencing Advisory Panel which followed extensive consultation and independent research involving a representative sample of the public and in-depth interviews with the relatives of those who had lost their lives as a result of an offence of this type. Both the advice and the research report are being published alongside this consultation guideline.

The first two offences have been in force for many years and have been the subject of guideline judgments from the Court of Appeal. The other two offences have recently been enacted and are expected to come into force around the same time as the publication of definitive guidelines.

The Council has almost entirely adopted the advice of the Panel. The most significant difference from that advice and from current Court of Appeal guidelines is in relation to sentencing for causing death by dangerous driving. For that offence, both the advice and the current guidelines provide for 4 levels of seriousness. The least serious level is for offences where the culpability is relatively low, often where the driving resulted in a brief but obvious danger (see page 42 of the Panel's advice for a fuller description).

When the new offence of causing death by careless driving is brought into force, driving that fits this description is most likely to result in conviction for the new offence rather than for causing death by dangerous driving. Accordingly, as the range of bad driving likely to result in conviction for causing death by dangerous driving will be narrower than at present, the Council concluded that this 4th level should not be included in the consultation guideline.

The guidelines for all four offences identify as an aggravating factor the offender's "irresponsible behaviour, such as failing to stop or falsely claiming that someone else was responsible for the collision". While this conduct will have occurred after the offence was committed, it is closely connected in both time and circumstances with the offending. The Council has included this, therefore, as an aggravating factor consistent both with existing Court of Appeal authorities and with the findings from the research commissioned by the Panel. **However, there is an argument that conduct after an offence should not affect the seriousness of the offence itself and the Council would welcome consultees' views regarding the proposed approach.**

Your response (to the above address) is requested by **Monday 10th March 2008**. The names of those who respond will be listed in a summary of responses. Whilst full responses are not routinely published, on request the Council may be required to release copies in accordance with the Freedom of Information Act 2000. **If anonymity is required, please make that clear in your response.**

Yours sincerely,

Lord Phillips,
Chairman