

# **RAC Foundation response to Ministry of Justice Consultation on Driving offences and penalties relating to causing death or serious injury**

## **About the RAC Foundation**

The RAC Foundation is a transport policy and research organisation which explores the economic, mobility, safety and environmental issues relating to roads and their users. The Foundation publishes independent and authoritative research with which it promotes informed debate and advocates policy in the interest of the responsible motorist.

## **RAC Foundation response to consultation questions**

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

The RAC Foundation believes that there should be a new offence of causing serious injury by careless driving. This is for two reasons – first to create an offence provision that fills the gap in current law and second to provide scope for judges to impose appropriate sentences on careless driving cases relevant to the specific circumstances.

Careless driving as set out in Section 3ZA of the Road Traffic Act 1988 states 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. Creation of the new offence – with appropriate publicity – should help to impress upon drivers the potentially serious implications of even small lapses from careful driving, whilst providing the courts with flexibility on actual sentencing within a higher upper limit than currently available. Drivers are human beings and are regrettably liable to make relatively minor mistakes or errors of judgement, which can have devastating consequences for the seriously injured victims and their families.

### ***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?***

The RAC Foundation does not have the relevant experience or expertise to comment fully on the maximum penalty levels proposed. We would say, however, that with regard to other maximum penalties for causing serious injury and assault, 2 or 3 years looks to be the right order of magnitude maximum penalty for the new offence. Being a maximum penalty, a judge will have latitude, depending on case circumstances, to issue a much lower penalty – we are supportive of courts having this greater latitude. Sentencing guidelines should reflect the nature of the driving as well as the consequences, such that a custodial sentence is reserved for those whose driving is at the most severe end of careless and the injuries thus sustained have life-long consequences.

**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?**

Yes, to keep the maximum penalty in line with manslaughter penalties.

**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?**

Yes.

**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?**

The RAC Foundation cannot see an immediate and obvious need to introduce longer minimum periods of disqualification. It would be helpful to see the statistics for periods of disqualification to come to a more informed view.

**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?**

Research by Professor Richard Allsop for the RAC Foundation published in December 2015 found that around 25 lives could have been saved across Great Britain in 2015, if England and Wales had followed the example of Scotland and cut the drink-drive limit. He also estimated that a reduction from the current 80mg to 50mg of alcohol per 100ml of blood could also have prevented a further 95 people a year being seriously injured<sup>1</sup>. We would encourage the Government to reconsider whether the current BAC limit is set at an appropriate level given the significant evidence now available to support its reduction (Allsop, 2015).

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<sup>1</sup> Allsop, R. (2015) Saving Lives by Lowering the Legal Drink-Drive Limit. London: RAC Foundation and PACTS. Retrieved from [http://www.racfoundation.org/assets/rac\\_foundation/content/downloadables/saving\\_lives\\_by\\_lowering\\_legal\\_drink-drive\\_limit\\_Allsop\\_December\\_2015.pdf](http://www.racfoundation.org/assets/rac_foundation/content/downloadables/saving_lives_by_lowering_legal_drink-drive_limit_Allsop_December_2015.pdf)