



**Westminster Hall debate on petitions relating to
ROAD TRAFFIC OFFENCES FOR FATAL COLLISIONS
Monday 15th November, 4.30pm**

Introduction

This debate has been called in response to two petitions, numbers [323923](#) and [575620](#), which have both attracted over 100,000 signatures. Both relate to the inadequate penalties for offences of ‘failing to stop or report’ a collision (i.e. ‘hit-and-run’ offences) in which a victim is left for dead. A third petition (number [590271](#)), raising similar issues, is still live and has attracted over 24,000 signatures.

However the title of the debate is not limited to ‘hit-and-run’ offences, but covers all fatal road traffic offences.

Our organisations have put forward [amendments](#) to the [Police, Crime, Sentencing & Courts Bill](#), which were [debated in the Lords](#) on Monday 8th November. These seek to address some of our many concerns about the framework of road traffic offences and penalties.

In addition to an amendment to strengthen the penalties for serious ‘hit-and-run’ offences, we have also put forward an amendment calling for a wider review of road traffic offences and penalties. The Government [promised such a review in 2014](#), but it has still not happened.

This briefing:

- Proposes a new offence of failure to stop and report collisions involving actual or potential serious or fatal injury; and
- Makes the case for a wider review of road traffic offences and penalties, to address the pitfalls of the Government’s more limited proposals.

Failure to stop and report collisions involving actual or potential serious or fatal injury

[Research](#) found that there were over 28,000 ‘hit-and-run’ collisions in 2017, a figure which had increased by 43% since 2013. The current maximum penalty for a ‘hit-and-run’ collision is 6 months prison. This may suffice where a driver leaves the scene having scratched someone’s parked car, but not when they have left someone for dead in the road. The petitions which have led to this debate reflect deep public concern over weak sentences in cases such as those of [Sean Morley](#), [Ben Regan](#), [Alfie O’Keefe Hedges](#), [Oscar Seaman](#), [Scott Walker](#), [Ryan Saltern](#), [Shakeel Sheikh](#), [Mathew Smyth](#) and Mathew’s close friend [Paul Wood](#) (who were both killed while riding their motorbikes, within 9 months of one another). Several of their lives might have been saved if the drivers had reported the collisions to the emergency services straight away, instead of leaving them to die – often to avoid detection for driving while drunk or on drugs, or while unlicensed, uninsured or banned.

A 6 month maximum sentence is wholly inadequate to reflect the gravity of this offence. Some of their families have spent years campaigning for justice. Our hearts go out to them and everyone who has suffered bereavement or serious injury in similar circumstances.

Our proposed amendment creates a new offence of failure to stop and report collisions where the driver or rider of a mechanically propelled vehicle knew that the collision had caused serious or fatal injury, or where he ought reasonably to have realised that it might have done so. It has a maximum sentence of 14 years custody.

It also creates a general duty for such drivers and riders to report collisions while at the collision scene (bearing in mind that mobile phones are now widely available - they were almost non-existent when the legislation was drafted). Alternatively, if they fail to do so for any reason, the driver or rider must subsequently report the collision (and, where applicable,

produce an insurance certificate) at a police station or to a constable, as soon as is reasonably practical and, in any case, within two hours of the collision. This time-limit has been shortened from 24 hours, to prevent drivers from delaying reporting, so as to avoid failing a drink or drugs test (as appears to have been the motive in the cases of [Connor Marsden](#), [Connor Emms](#), [Gary Smith](#) and [Gemma Clout](#), all of whom were convicted of ‘causing death’ and ‘failure to stop’ offences).

Our amendment also replaces the word ‘accident’ with ‘collision’. We would wish to replace the word ‘accident’ in road traffic law more generally, as it belittles the seriousness of endangering other people’s lives due to negligent actions that, in most cases, could and should have been avoided. However we recognise that consideration will need to be given to an appropriate way of making this change in other legal contexts, as part of the wider review of road traffic offences and penalties that we call for elsewhere in this briefing.

Nonetheless, the kinds of ‘accidents’ described in [subsection 170\(1\)](#) of the Road Traffic Act 1988 (which defines ‘hit-and-run’ incidents) can all rightly be described as ‘collisions’. Hence we propose making this amendment straight away.

We are aware of ministers’ concerns that the offence of ‘failure to stop and report’ should not be “a second opportunity to punish someone severely when [prosecutors] cannot prove that he or she is responsible for the death or injury”. However this amendment does not do that. It creates an entirely distinct offence of leaving the scene of a collision where the driver knew, or ought to have known, that the consequences had been, or could have been, serious or fatal. Leaving people for dead in the road is surely a serious offence in its own right, regardless of who or what had caused the collision in the first place.

Review of road traffic offences and penalties

As explained in our introduction, our organisations have for many years been calling for a wider review of road traffic offences and penalties. The Government [promised a “full review of all driving offences and penalties”](#) in 2014, and later added that this would be subject to [full public consultation](#). This has still not been done.

Instead, Part 5 of the Bill includes three proposed changes to the framework of road traffic offences and penalties, that were subject of a [much more limited consultation in 2017](#):

- 1) It increases the maximum sentence for ‘causing death by dangerous driving’, from 14 years to a life sentence;
- 2) Similarly, it increases the maximum sentence for ‘causing death by careless driving while under the influence of drink or drugs’, from 14 years to a life sentence (these two offences have traditionally been seen as equivalent);
- 3) It introduces a new offence of ‘causing serious injury by careless driving’, with a maximum sentence of 2 years.

Our organisations are cautiously supportive of the first of these proposals. However we fear that it will make little difference on its own – and that the other proposals could even prove counterproductive – unless other amendments are made too.

Our primary concern with the current legal framework – and hence our dissatisfaction with the proposals currently set out in Part 5 of the Bill – is not the inadequacy of sentencing in a few high-profile but extreme cases, where drivers cause death through exceptionally ‘dangerous’ driving, or where alcohol or drugs are involved. We are far more concerned about the large numbers of other fatal and serious injury cases that fail to attract headlines, where the legal system:

- Dismisses driving which has caused obviously foreseeable danger (including fatal and very serious injuries) as merely 'careless' driving – this is contrary to the original intention of the Road Traffic Act 1991;
- Is over-reliant on custodial sentencing, while making far too little use of driving bans;
- Routinely allows convicted drivers to avoid driving bans by pleading that this would cause 'exceptional hardship', in a way that contradicts the meaning of the word 'exceptional'.
- Seriously limits the maximum sentences for offences involving 'causing serious injury' – compared with those available for 'causing death' by equally bad driving – and fails to include any offence of causing serious injury (rather than death) by either 'careless' or 'dangerous' driving while under the influence of drink or drugs.
- Seriously limits the sentencing powers for opening vehicle doors in a way that causes death or serious injury.

The need to clarify the distinction between 'careless' and 'dangerous' driving, and to strengthen the use of driving bans (rather than being over-reliant on custodial sentences) are closely inter-related. Driving is the one day-to-day activity in which broadly law-abiding citizens can easily kill a fellow human through simple inattention. In many (though not all) such cases, those who drive 'dangerously' are not 'dangerous' people who need to be locked up in the interest of public protection; it is much more important to ban them from driving. Yet it seems likely that the legal system's over-reliance on prison sentences makes jurors understandably reluctant to convict for a 'dangerous' driving offence, for fear of imprisoning a fellow driver for an offence they could easily imagine committing themselves. Hence they may opt for 'careless' convictions instead, even when this is legally incorrect.

One [recent case](#) highlights the problems. 66 year old pedestrian Charles Roberts was crossing a 30mph road at Hyde Park Corner when a businessman from a foreign royal family crashed into him in his newly-imported high-performance car. Just before the crash, the driver had accelerated hard when the lights went green, reaching about 54mph in a few seconds. By the time he noticed Mr Roberts crossing the road in front of him, it was too late to brake. Yet last month, he was allowed to plead guilty to causing death by merely 'careless' driving and escape jail, receiving just an 8 month suspended sentence and a short driving ban.

The following cases exemplify the questionable outcomes which are all too common:

- [David McSkimming](#) admitted killing cyclist Anthony Satterthwaite by 'careless' driving in December 2018. McSkimming was driving at 59mph in a 40mph zone as he approached a bend, when he lost control of his car on a damp road and span into the cyclists' path. He received a 6 month suspended sentence and a 2-year driving ban, along with 250 hours of community service.
- Coach driver [Barry Northcott](#) killed cyclist Karla Roman in February 2017. He illegally pulled up beside her in the cyclists' box at a set of red traffic lights (he said he routinely did this "to avoid getting swarmed by cyclists"), then turned across her path without paying attention. He received a 15 month jail term and a 5 year driving ban.
- [Ayesha Penfold](#) killed 69 year old cyclist John Durey in a head-on collision while overtaking a car and a lorry. Durey would have been visible to her for at least 45 seconds beforehand, yet she failed to see him till it was too late to take avoiding action. The jury failed to agree on a 'dangerous' verdict, hence the court accepted her guilty plea for causing death by 'careless' driving. She received a 12-month community order and an 18 month driving ban.

This type of leniency causes huge additional distress to those who are already the victims of serious injury or bereavement – and can also have appalling consequences. In February 2017, driver [Abdul Sujac](#) caused serious injury to a pedestrian outside the Westfield Shopping Centre in East London, but received just 9 points on his licence after pleading guilty to 'careless' driving. Soon afterwards, he posted a WhatsApp video of himself back at

the wheel, bragging that “Nine points ain’t stopping me from driving”. Nine months later he was driving at 68mph on a 30mph street in south London, swerving in and out of traffic, when he hit and killed student Laura Ann Keyes, who was crossing the road. Police found videos on his phone in which he evidently revelled in driving dangerously and illegally, including one captioned “ABDUL ripping the road 146mph”. If he had been convicted and banned for ‘dangerous driving’ the first time, Miss Keyes would doubtless still be here today.

Cycling UK’s report ‘[Failure to see what is there to be seen](#)’ has highlighted the huge inconsistencies in the use of ‘careless’ and ‘dangerous’ prosecutions and convictions. Clearly, if prosecutors fear that it may be difficult to persuade a jury to convict for dangerous driving, they may well simply opt for a ‘careless’ prosecution instead, or accept a ‘plea bargain’ where the accused pleads guilty to a ‘careless’ charge in return for not facing a ‘dangerous’ prosecution. Yet such undercharging or downgrading often causes serious grief to families who have already suffered bereavement or life-changing injuries.

We have therefore proposed [amendments](#) to the Police & etc Bill which call for a wider review of road traffic offences and penalties to be completed within two years of the Bill’s enactment, and which would also:

- Clarify the distinction between ‘careless’ and ‘dangerous’ driving. We propose that driving should be ‘careless or inconsiderate’ if it involves a breach of the Highway Code that causes inconvenience, intimidation or danger to another road user. It should be ‘dangerous’ where such a breach would lead to a driver being failed automatically if they drove in that way during a driving test.
- Ensure that the maximum custodial sentences for ‘causing serious injury’ do not fall vastly behind those for ‘causing death’ by equally bad driving, while strengthening the role of driving bans for offenders whose driving has clearly caused ‘danger’ but who are not obviously ‘dangerous’ people who need to be imprisoned to ensure public protection.
- Strengthen the penalties for those who continue driving while banned.
- Align the offences and penalties for causing death and causing serious injury while under the influence of drink or drugs more closely with those for causing death and causing serious injury by driving while disqualified, along with a new offence for causing serious injury while under the influence, with a maximum sentence of 5 years.
- Increase the maximum sentence for opening the doors of vehicles in a manner that results in death or serious injury, to 2 years.

Our call for a wider review has been echoed in recent years:

- By the Commons Transport Committee, in the report of its 2015-16 [inquiry on Road Traffic Law Enforcement](#);
- By the All Party Parliamentary Group on Cycling and Walking (formerly the All Party Parliamentary Cycling Group), in the report of its 2017 [inquiry on Cycling and the Justice System](#); and
- In a [2018 parliamentary debate on Road Justice and the Legal Framework](#), which revealed a cross-party consensus on the need for wide-ranging reforms.

A number of other road safety organisations have voiced support for our call for a wider review of road traffic offences and penalties - see the introduction to Cycling UK’s report ‘[Five Flaws: Failing Laws](#)’.

Meanwhile we also call for immediate action on our amendments relating to dangerous ‘hit and run’ offences and the ‘exceptional hardship’ loophole. These amendments are legally self-contained – and politically, they are surely uncontroversial.

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