



APPG Cycling and Walking Justice inquiry: Gaps in laws

May 2023

Key points

- Two key gaps in our motoring offence legislation include the
 - lack of a summary offence for unsafe (but unimpaired) driving that carries a mandatory disqualification.
 - lack of charges that reflect the criminality involved in failing to remain at the scene of a fatal or serious injury collision.
- Police should be able to issue roadside suspensions to drivers, inc. for speeding.
- The comprehensive review needed to update our traffic offences and make them more consistent will take years to complete.
- More and longer bans could be given - as could more vehicle impoundments - without the need for parliamentary approval.

Lack of summary offence with mandatory ban for unsafe but sober driving

Drink and drug driving are summary offences which are heard in the Magistrates Court and carry a mandatory disqualification. It is rare for an exemption to be given, but disqualification lengths can be reduced if the offender takes a rehabilitation course. Whilst these offences carry a maximum six-month custodial sentence, prison is very rare.

There is no equivalent for unsafe driving where the driver is unimpaired by drink/drugs. Speeding and Careless Driving are mostly dealt with out of court. Even when they do reach court, they very rarely result in a driving ban. In 2022, less than 2% of those convicted for speeding were banned.

It takes a charge of Dangerous Driving before a driving ban is mandatory. But Dangerous Driving is a serious offence, with a two year maximum custodial sentence. And almost half of those convicted of Dangerous Driving are sent to prison (45%). Driving bans can be very long, with 45% of dangerous drivers being banned for life (this is a new development).

Dangerous Driving is an either-way offence with the defendant able to request trial by jury at the Crown Court. This severely limits the number of dangerous drivers which can be prosecuted. Current court backlogs limit this further. In 2022, there were 5,349 convictions for Dangerous Driving, compared to over 12 times as many for drink/drug driving (58, 117) in England and Wales. There were also 20,634 Careless Driving convictions.

Action Vision Zero (AVZ) has highlighted the lack of driving bans with Careless Driving and speeding. These are key offences for people walking and cycling and should lead to more disqualifications.

Fail to remain at the scene of fatal/serious injury collision

There is a fundamental difference between abandoning someone seriously, if not fatally, injured, and leaving a damage-only crash for example, where the bumper of a car has been hit. Yet, our traffic offences do not reflect this. There is only a summary offence of Fail to Stop which applies to all crash severities, this must be laid within six months and has a maximum custodial sentence of six months.

This is a key issue for walkers and cyclists as they are the most likely to be killed or seriously injured in a crash where the driver absconds.

Our [Remain and Report](#) campaign aims to hold drivers to account for failing to remain at the scene of a fatal or serious injury collision. This campaign is led by Amy Aeron-Thomas from AVZ and Lucy Harrison, the RoadPeace West Midlands Local Group Coordinator, whose brother was killed in a hit-and-run. Many of the members in Lucy's local group have been bereaved by hit-and-run, and are also involved. This campaign is volunteer-led and has four key calls for legislative change.

1. **New charges.** Two new offences - Failing to Remain at the scene of a fatal collision and Failing to Remain at the scene of a serious injury collision. We suggest a consultation use sanctions similar to that of Causing Death/Serious Injury by Disqualified Driving (maximum 10 years and 4 years custodial sentence respectively).
2. **Reduced reporting time.** The current reporting time limit of 24 hours was set in 1988. This allows impaired drivers to sober up and concoct a cover story. Much has changed with mobile phone technology in the last 35 years and the maximum reporting time should be reduced – we suggest to two hours.
3. **Licence suspension.** Driving licences should be issued on the condition that they are suspended upon arrest of a serious road traffic offence. This is not punishing someone before they are found guilty but removing a privilege that is already dependent upon eyesight and physical health.
4. **Collision not accident.** There is nothing accidental about a driver making a conscious choice to leave someone injured, if not dying, by the roadside. Any new charges should refer to collision, not accident. Ideally, this wording would apply to all motoring offence legislation.

Roadside suspensions and impoundments

At present, most disqualifications are given for offences where they are mandatory (e.g. drink/drug driving) but require a court hearing. Given the backlog in our court system, a quicker way needs to be found. This should also improve deterrence with the sanction closer associated to the offending.

In [Canada](#), police have the power to impose immediate licence suspensions and vehicle impoundments to law-breaking drivers. This includes first time drink drivers (excluding cases involving a casualty collision or child passenger). [New Zealand](#) has also adopted this approach.

Comprehensive review

A comprehensive review was promised by the Justice Minister in 2014. Seven years on, it has yet to be funded. Even if it was announced tomorrow, it would take months, if not years to start, as well as years to complete with further years consulting on the recommendations and getting approval in parliament before further consultation on sentencing guidelines. It is important to identify potential for change in the short-medium term.

CPS charging standards and Magistrates Sentencing guidelines could be updated in the short term. This could help protect walkers and cyclists, including with more bans given for careless driving, speeding and using a mobile phone.

Action Vision Zero calls

1. **Unsafe sober driving.** More bans and longer ones are needed for careless and speeding drivers. Vehicle impoundments are also needed for more than just with uninsured vehicles. See our briefings on bans, deterrence and roadside suspensions for more information.
2. **Fail to remain at the scene of a fatal/serious injury collision.** New criminal offences should be introduced to close the loopholes that currently exist and benefit impaired drivers. Until then, the CPS should prosecute for manslaughter in fatal crashes and attempting to pervert the course of justice in serious injury crashes.
3. **Additional powers.** Police should be able to issue licence suspensions and impound vehicles.
4. **Magistrates sentencing guidelines and CPS charging Standards.** These should be updated to better reflect and sanction the harm posed to people walking and cycling, as should any comprehensive review.

Note: This briefing was written by Amy Aeron-Thomas, AVZ Traffic Justice Coordinator, it highlights the concerns and calls in our Roads Policing Campaign aimed at reducing road danger.