

## AVZ Blog: Justice system shake-up and motoring offences

8 Nov 2023

### Key points

- Last month, the government announced a "[fundamental shake-up of the justice system](#)", including the presumption against short prison sentences (less than 12 months), as well as doubling the use of GPS tags and a review of guilty plea discounts.
- Here Action Vision Zero reviews the impact of these changes on motoring offences as:
  - Over three-quarters of custodial sentences given for motoring offences are less than 12 months
  - A Road Safety Trust funded project is trialling the use of GPS tags on disqualified drivers
  - Early guilty pleas result in shorter custodial sentences, and this could be extended to disqualifications.
- The King's Speech (7<sup>th</sup> November 2023) has confirmed the government's intent to legislate against the use of short prison sentences (the other two measures above do not need legislation)
- Whilst AVZ welcomes the use of alternative sentences as well as GPS tags with disqualified drivers, we do not support increasing the discount for early guilty pleas.

### Background

In a [speech to parliament in October](#), the Lord Chancellor, Rt Hon Alex Chalk KC MP, set out a series of reforms proposed to keep the people of England and Wales safe. Here AVZ discuss three of the key reforms:

- Short prison sentences
- GPS tags
- Early guilty pleas.

### Short prison sentences

The Lord Chancellor announced that the government would legislate for a presumption against prison sentences of less than 12 months. These offenders would be punished in the community instead, facing such sanctions as removing graffiti.

The Ministry of Justice [press release](#) noted how, *despite overall reoffending rates falling by almost a quarter since 2010, the public are being failed by short prison sentences that result in some of the lowest risk offenders getting trapped in a revolving prison door.* Short-term sentences could have long-term and negative consequences with offenders losing their jobs, homes and family ties. This could increase their risk of reoffending.

The [Lord Chancellor](#) highlighted how:

- reoffending rates are higher for offenders in prison for under 12 months, and higher again for those in prison for under six months. While the overall reoffending rate is 25%, the rate for people who spend fewer than 12 months in prison is over 50%. This goes up to 58% for those who serve sentences of six months or less.
- This is also far higher than the 23% for a suspended sentence order with requirements, 38% without requirements, or 34% for those given a community order.

He clarified that it would still be possible for judges and magistrates to send offenders to prison for less than 12 months if deemed appropriate, i.e. serious repeat offences.

It should be noted that this was not the first time the government has proposed ending the use of short custodial sentences. This was a central feature of [the Smart Justice policy](#) previously promoted by then Justice Secretary David Gauke MP in 2019.

### ***Impact on motoring offences***

The vast majority of motoring offences do not result in prison so will not be affected by this change. Less than one percent of motoring offences receive a custodial sentence. Prison is not an option for a speeding, careless driving, or using a mobile phone whilst driving.

But for those few motoring offences that do carry a custodial sentence, the impact will be significant. As shown below, over three-quarters of custodial sentences given for motoring offences are under 12 months. This includes offences like drink/drug driving and fail to stop, which have a maximum custodial sentence of six months.

**Table 1: Custodial sentences for motoring offences, England and Wales (2022)**

	Total		Under 12 months Custodial sentence	
	Sentenced	Imprisoned	No.	%
Driving licence related offences (excluding fraud and forgery)	18,318	1,877	1,875	99%
Dangerous driving	4,171	1,679	931	55%
Driving a motor vehicle under the influence of drink or drugs	49,848	634	632	99%
Other offences related to drink- or drug-driving	10,353	343	343	100%
Causing serious injury by dangerous driving	394	247	16	6%
Theft of a motor vehicle (excl. aggravated vehicle taking) - triable either way	587	237	126	53%
Theft of a motor vehicle	1,359	217	211	97%
Causing injury or damage by aggravated vehicle taking	565	178	111	62%
Causing Death by Dangerous Driving	125	118	0	0%
Causing Death by careless or inconsiderate driving	143	34	18	53%
Failing to stop or provide information after accident	2,696	33	33	100%
Other offences sentenced at court	554,345	82	41	50%
<b>Total motoring offences sentenced at court</b>	<b>642,904</b>	<b>5,679</b>	<b>4,337</b>	<b>76%</b>

Source: [MoJ \(2023\)](#)

Driving licence related offences, dangerous driving and drink/drug driving related offences account for 80% of all the custodial sentences given for motoring offences, and all will be affected by this reform.

## GPS tags

The government wants to double the number of GPS tags available to the courts. This aims to help manage offenders in the community, including ensuring they are able to go to work but have their freedom curtailed. Curfews can last from 7am-7pm weekdays and up to 20 hours a day weekends.

### ***Impact on motoring offences***

The Road Safety Trust recently funded a pilot project on the use of electronic tags with [disqualified drivers in Lincolnshire](#). Disqualified drivers are often repeat offenders with criminal records for other offences. This reform holds potential for law breaking drivers, if the pilot proves effective.

## Early guilty pleas

At present, if offenders plead guilty quickly, they can have up to one-third off their sentence. This is in order to “*to save the courts time and spare victims the ordeal of giving evidence in court*”. The proposals include reviewing this scheme. Given the pressure on prisons, this review can be expected to focus on increasing the discount, rather than reducing it.

Most offenders plead guilty, including at [Crown Court](#). But the impact of early guilty pleas on sentencing is not always appreciated. Judges can be unfairly criticised for giving shorter sentences when it is the early guilty plea scheme which is reducing custodial lengths.

As with ending the use of short prison sentences, this is another idea previously considered—in 2010 under then Justice Secretary Ken Clarke. It was later dropped with the effectiveness of the proposal disputed by [Factcheck](#). This included pointing out that no other country had a discount of 50%.

See here for the [House of Commons research briefing](#) on sentence reductions for early guilty plea, published in November 2017. Since then, the Sentencing Council has evaluated the impact of the guilty plea discount scheme. In November 2020 [it published its findings](#) which concluded *Analysis of trend data suggests that the guideline did not have an impact on the proportion of defendants who pleaded guilty, which was as expected. The guideline also did not have an impact on the stage at which offenders pleaded guilty or on sentence lengths for adult offenders.*

Despite these findings, reviewing the guilty plea discount is being proposed again.

### ***Impact on motoring offences***

This affects custodial sentences. As noted previously, very few motoring convictions result in prison. But the early guilty plea scheme does affect the custodial sentences given for the most serious offences, especially those of Causing death by dangerous driving. At present, no consideration is given for where dashcam evidence or telematics shows culpability.

### ***What about disqualifications?***

Early guilty plea discounts do not apply to disqualification—at least not yet. The Sentencing Council guideline on guilty pleas says *The guideline applies only to the punitive elements of the sentence and has no impact on ancillary orders including orders of disqualification from driving.*

But this could change. Road danger reduction campaigners, including AVZ, want disqualifications to be treated as punishment by the justice system and used much more widely. If the new Sentencing Council guideline on disqualification (consultation expected next year) adopts a new approach towards disqualifications and recognises them as punitive, then disqualification durations may well have to be increased accordingly, especially considering they have not increased in years.

## AVZ conclusion

AVZ does not support any increase in the discount for early guilty pleas. AVZ does welcome the recognition that short prison sentences are not effective and that alternatives should be found.

This should also help raise the profile of road crime. For whilst motoring offences account for over half of all cases prosecuted at the Magistrates Court, because so few result in a prison sentence, it rarely receives attention from the criminal justice system.