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| Response to | New cycling offences: causing death or serious injury when cycling |
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Causing death or serious injury when cycling

The MA is a national charity accountable to its members with a mission to provide a voice for magistrates, support its members in administering the law and educate people on the role of the magistracy in England and Wales. The MA promotes magistrates' work, the interests of justice and the sound administration of the law.

Question 1: Our consultation proposes that there should be an offence of causing death by dangerous cycling. Do you agree with this proposal?

The MA does not generally comment on whether new offences should be brought in. However, we are aware of concerns raised by different groups that current legislation is not sufficient, which might indicate a lack of public confidence. We would support sentencers having greater discretion in terms of responding to specific cases, which could be enabled through new offences covering causing death or injury by careless or dangerous cycling.

Question 2: Do you think that there should be an offence of causing death by careless or inconsiderate cycling?

The MA does not generally comment on whether new offences should be brought in. However, we are aware of concerns raised by different groups that current legislation is not sufficient, which might indicate a lack of public confidence. We would support sentencers having greater discretion in terms of responding to specific cases, which could be enabled through new offences covering causing death or injury by careless or dangerous cycling.

Question 3: The consultation also proposes that there should be an offence of causing serious injury by careless cycling. Do you agree with this proposal?

The MA does not generally comment on whether new offences should be brought in. However, we are aware of concerns raised by different groups that current legislation is not sufficient, which might indicate a lack of public confidence. We would support sentencers having greater discretion in terms

of responding to specific cases, which could be enabled through new offences covering causing death or injury by careless or dangerous cycling.

Question 4 The Ministry of Justice consulted on bringing forward a new offence of causing serious injury by careless driving. This consultation proposes that there should be an offence of causing serious injury by careless or inconsiderate cycling. Do you agree with this proposal?

The MA does not generally comment on whether new offences should be brought in. However, we are aware of concerns raised by different groups that current legislation is not sufficient, which might indicate a lack of public confidence. We would support sentencers having greater discretion in terms of responding to specific cases, which could be enabled through new offences covering causing death or injury by careless or dangerous cycling.

Question 5: If there were a new offence of dangerous or careless cycling, do you think the sentences should match the sentences for dangerous or careless driving (current driving sentences shown in brackets):

a. causing death by dangerous cycling (currently 14 years for driving) b. causing death by careless cycling (5 years for driving) c. causing serious injury by dangerous cycling (5 years for driving)

Although there is likely to be parity between some cases involving careless or dangerous driving and careless or dangerous cycling, the MA does not believe that the maximum sentence for causing death or injury by careless or dangerous cycling should be the same as the maximum sentence for causing death or injury by careless or dangerous driving. Looking at the most serious cases involving dangerous driving, at maximum culpability, where the driver would have been aware of the risk of harm, we cannot see how there would be a situation where culpability of a cyclist would ever be comparable as the maximum risk of harm caused by a car is greater than that of a bicycle.

Question 9: This consultation proposes that new offences should apply to public places as well as roads. Do you agree with this proposal?

Yes. This is because the greatest risk to pedestrians is not always going to be cyclists on the road, but cyclists who are riding in public places, such as parks.

Question 10: The current offences of dangerous or careless cycling apply to a road. This consultation proposes that it should also extend to a public place. Do you agree with this proposal?

Yes. This is because the greatest risk to pedestrians is not always going to be cyclists on the road, but cyclists who are riding in public places, such as parks.

Question 11: Are there any other comments that you wish to make about where the laws should apply?

No

Question 12: Drivers may be banned from driving for committing a current cycling offence. Minimum driving disqualification periods currently apply under the Road Traffic Offenders Act 1988. For drivers this is currently 2 years for causing death or serious injury, 1 year for causing death by careless driving. Do you think this should also apply to any of the new offences proposed in this consultation?

The MA does not believe there should be mandatory, minimum disqualification periods for any new offences, but do support sentencers having the discretion to add points to an offenders driving license or disqualifying drivers in the most serious cases. Discretion should be with the sentencing bench to respond appropriately, as careless or dangerous cycling will not always automatically mean an individual will drive in a careless or dangerous manner.

Question 13: If not, could you please explain why? If so, do you have any views on how long the minimum disqualification period should be?

The MA tentatively supports judicial discretion of being able to disqualify drivers in some cases. This should be used as a protective measure, namely to prevent individuals displaying the same dangerous behaviours in a car, rather than a punitive measure, as not all cyclists will hold a driving licence. However, the MA acknowledges the difficulty in stipulating what evidence magistrates would need to show to demonstrate that an individual is likely to display similarly dangerous behaviour in a car.

Question 14: There is currently an offence of dangerous cycling (with a fine of up to £2,500) and for careless cycling (with a fine up to £1,000). This consultation proposes that the penalties for these offences should remain unchanged. Do you agree with the proposal?

Question 15: If not, could you please explain why? Are there any other comments you wish to make on the level of penalty?

The MA believes it is important that sentencers have options beyond giving a fine for certain offences involving careless or dangerous cycling. It is important, not just to ensure any punishment is appropriate to the harm caused but also to allow sentencers to order rehabilitative measures. It would be useful, for example, for there to be a programme around raising awareness about the risks posed by careless or dangerous cycling.

Question 16: This consultation proposes that there should not be a new offence of causing death by careless cycling when under the influence of drink or drugs. Do you agree with the proposal?

Committing an offence while under the influence of drink or drugs would be treated as an aggravating factor, so these cases could be dealt with appropriately within existing structures.

Question 18: Do you think we should consider making it an offence to attempt to cycle (as well as actually cycling) when unfit to do through drink or drugs?

MA members noted that they haven't commonly seen the charge of riding a cycle when unfit to ride through drink or drugs in magistrates' court, and so they are not aware of any difficulties relating to this offence. Although magistrates recognise the risks which are likely to result from riding when unfit through drink or drugs, such as slower reactions and causing distraction to other drivers, it is not clear that a new offence is required to deal with situations where someone is attempting to cycle.

Additional Points

The MA adds that if any new legislation is introduced to create new offences or more punitive sentences, it should be accompanied by a wider public education campaign to raise awareness of the dangers and consequences of cycling dangerously. It is important to consider prevention as well as new offences to punish behaviour.