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CLSA response to:

Aggravated vehicle taking consultation- response 22 May 2024

Question 5: do you agree with the proposed guideline for aggravated vehicle taking – dangerous driving offences? If not, please tell us why.

For culpability C we would consider including: the manner of dangerous driving was a momentary lapse in judgement, not a sustained manner of driving.

Question 6: do you agree with the proposed guideline for aggravated vehicle taking – damage caused offences? If not, please tell us why.

For culpability A, we would remove ‘driving impaired by consumption of alcohol and/or drugs’ because this may result in ‘double charging’ a defendant for one incident. If the defendant is found to be driving with excess alcohol / drugs, they will be liable to be charged under another offence.

For culpability B, we would include: reckless as to whether vehicle or property is destroyed.

In relation to harm, it should be specified what ‘high value’ of damage is.

In relation to the aggravating features, it is unclear what ‘damage caused in moving traffic accident’ means.

Question 7: do you agree with the proposed guideline for aggravated vehicle taking – injury caused offences? If not, please tell us why.

Culpability A states ‘risk of serious injury’ – but this is a guideline for specifically causing injury and therefore there must be a risk of injury if injury has taken place. We would suggest this is removed and that levels of injury are dealt with in harm alone.

For culpability A, we would remove ‘driving impaired by consumption of alcohol and/or drugs’ because this may result in ‘double charging’ a defendant for one incident. If the defendant is found to be driving with excess alcohol / drugs, they will be liable to be charged under another offence.

Question 8: do you agree with the proposed guideline for aggravated vehicle taking – death caused offences? If not, please tell us why.

Culpability A states ‘risk of serious injury’ – but this is a guideline for causing death and therefore one would question what circumstances would take this outside of culpability A? We therefore propose that this is removed.

For culpability A, we would remove ‘driving impaired by consumption of alcohol and/or drugs’ because this may result in ‘double charging’ a defendant for one incident. If the defendant is found to be driving with excess alcohol / drugs, they will be liable to be charged under another offence.

Question 9: are there any overarching comments you would like to make on the package of proposed aggravated vehicle taking guidelines?

As a rule we consider that longer sentences should be reduced as a better way to deal with the prison crisis. A sentence of 6 years rather than 8 years, for example, will have just as much of a deterrent and punitive impact and yet would, if widely adopted, reduce the prison population. As such, we consider the sentences at the top end as too high.

Question 10: do you agree with the proposed culpability factors for vehicle registration fraud? If not, please tell us why.

Yes

Question 11: do you agree with the proposed harm factors for vehicle registration fraud? If not, please tell us why.

Category 1 – it is unclear what ‘Serious impact on criminal investigation means’. However, it might be sensible to include ‘Fraudulent activity used to circumvent other criminal proceedings’.

Question 12: do you agree with the proposed sentence levels for vehicle registration fraud? If not, please tell us why.

We find the 6 month starting point too high for this offence. The starting point for B1 is a fine, and this jumps to A1 as 6 months. Our view is that the starting point for A1 should be a high level community order with a range of a low level community order to 6 months custody.

Question 13: do you agree with the proposed aggravating and mitigating factors for vehicle registration fraud? If not, please tell us why.

Yes

Question 14: do you have any other comments on the proposed guideline on vehicle registration fraud?

As a rule we consider that longer sentences should be reduced as a better way to deal with the prison crisis.

Question 15: do you agree with the section of the guideline regarding the availability of disqualification? If not, please tell us why.

Whilst we understand the broader power in imposing disqualification, we think that discretionary disqualification should only be used in the most serious of those types of cases, and that it should be a ‘last resort’ as opposed to an ‘easy punishment’.

Question 16: do you agree with the section of the guideline relating to determining the length of a disqualification? If not, please tell us why.

Yes.

Question 17: do you agree with the section of the guideline relating to exceptions? If not, please tell us why.

In principle we agree. But our view is that there is room for reform to allow for exceptional hardship arguments to be made in the most exceptional of cases for defendants facing a disqualification not as a result of the totting up provisions.

Question 18: do you agree with this section of the guideline? If not, please tell us why.

We would like to see a similar 'rehabilitation course' offering a reduced disqualification and rehabilitation to drivers facing a disqualification for driving whilst under the influence of drugs, as well as driving whilst under the influence of alcohol.

Question 19: do you have any further comments on the proposed overarching guideline on driver disqualification?

No

Question 20: do you agree that the higher culpability factor should simply relate to personal injury that the offender knew or suspected to have been caused? If not, please tell us why.

This is still ambiguous. 'Suspected' is an unusual choice of word. Perhaps it would be more sensible to cover this by way of: Offender knew that personal injury caused OR a reasonable and competent driver would have had caused to believe that personal injury had been caused.

Question 21: do you agree that the factors "honestly held belief but unreasonable excuse" and "genuine attempt to comply" should be added to the low culpability category in the guideline for Failure to provide a specimen (drive/attempt to drive)? If not, please tell us why.

Yes. Also include 'medical reason falling short of a reasonable excuse'.

Question 22: do you agree with the adjustment to the sentence levels for Excess alcohol (in charge) to bring them into line for the equivalent drug and unfit offences? If not, please tell us why.

No. As a rule we consider that longer sentences should be reduced as a better way to deal with the prison crisis. We would therefore suggest that the drug and unfit offences are 'bought down' as opposed to 'lifting up' these guidelines.

Question 23: do you agree with the reversal of the speed columns in the Speeding sentence table? If not, please tell us why.

Yes this seems sensible.

Question 24: do you agree that the starting point fine for mobile phone use while driving should be increased from Band A to Band B? If not, please tell us why.

Yes

Question 25: are there any aspects of the draft guidelines, revisions and amendments that you feel may cause or increase disparity in sentencing?

No

Question 26: are there any existing disparities in sentencing of the offences covered in this consultation that you are aware of, which the draft guidelines, revisions and amendments could and should address?

No

Question 27: are there any other matters relating to equality and diversity that you consider we ought to be aware of and/or that we could and should address in the proposed guidelines, revisions and amendments?

No