



**Criminal Law Solicitors' Association**

**Cambridge House**

**Cambridge Grove**

**Hove, BN3 3ED**

**Email: [admin@clsa.co.uk](mailto:admin@clsa.co.uk)**

**CLSA response to:  
Miscellaneous Amendments Consultation**

The Criminal Law Solicitors' Association is the only national association entirely committed to professionals working in the field of criminal law. The CLSA represents criminal practitioners throughout England and Wales and membership of the Association is open to any solicitor - prosecution or defence - and to legal advisers, qualified or trainee - involved with, or interested in, the practice of criminal law. The CLSA is responding to the consultation on behalf of its members.

Question 1: What is your name? **CLSA**

Question 2: What is your email address? **admin@clsa.co.uk**

Question 3: ~~Are you answering as an individual? If so, are you happy for your name to be included in the consultation response document?~~

Question 4: If you are answering on behalf of an organisation, group or bench, please provide the name of the organisation, group or bench. **CLSA**

Question 5: Do you have any comments on the proposed changes to the Fraud guideline (including from the perspective of equality and diversity)?

**The CLSA cannot see what this wording aims to achieve. It could complicate fraud sentencing exercises where there is disparity between alleged loss, and alleged resulting gain. Even where there is no clear victim, the courts can still apply the guidelines. The financial loss remains the same, irrespective of whether there is a clear victim.**

Question 6: Do you have any comments on the proposed changes to the Reduction in sentence for a guilty plea guideline (including from the perspective of equality and diversity)?

**The rewording seems sensible.**

Question 7: Do you have any comments on the proposed change to the Strangulation or suffocation guideline (including from the perspective of equality and diversity)?

**No, we agree that replacing the word with 'harm' best reflects an alternative to physical 'injury'.**

Question 8: Do you have any comments on the proposed change to the presentation of the "Motoring offences appropriate for imposition of fine or discharge"?

**This is welcomed by the CLSA.**

Question 9: Do you have any comments on the changes to the format or content of the No excise licence guideline?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 10: Do you have any comments on the format or content of the proposed new Using an untaxed vehicle with a SORN on a public road guideline

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 11: Do you have any comments on the format or content of the proposed new Failed payments of vehicle excise duty guideline?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 12: Do you have any comments on the format or content of the proposed new Keeping a vehicle which does not meet insurance requirements guideline?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 13: Do you have any comments on the format or content of the proposed Use of mobile telephone while driving guidelines?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 14: Do you have any comments on the format or content of the proposed revised Fail to comply with traffic sign guidelines?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 15: Do you have any comments on the content or format of the proposed Drive a vehicle when the registration mark fails to conform with regulations guideline?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 16: Do you have any comments on the content or format of the proposed Drive a vehicle other than on the carriageway of a motorway guideline?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 17: Do you have any comments on the content or format of the changes to the Fail to give information of driver's identity as required guideline?

**It is a welcomed change, making it easier for the Magistrates to reflect on culpability when deciding the level of fine.**

Question 18: Do you have any comments on the content or format of the changes to the Weight, position or distribution of load or manner in which load secured involving danger of injury guidelines?

**The CLSA agrees that it should be formatted in a way that is easy to understand, follow and apply. This is particularly important for non-imprisonable offences where defendants are not entitled to the duty solicitor at court and therefore more likely to self-represent.**

Question 19: Do you have any comments on the proposed new Driving when licence revoked guideline and the impact it may have on sentence levels (including from the perspective of equality and diversity)?

- **We agree with the culpability and harm factors.**
- **We do not agree with the sentencing table and put our proposals below:**

LEVEL OF SERIOUSNESS	STARTING POINT	RANGE	POINTS/DISQUALIFICATION
CATEGORY 1	MEDIUM LEVEL COMMUNITY ORDER	LOW LEVEL COMMUNITY ORDER – 12 WEEKS CUSTODY	IMPOSE 3-6 POINTS  OR  DISQUALIFY 3 – 12 MONTHS
CATEGORY 2	BAND C FINE	BAND B FINE – LOW LEVEL COMMUNITY ORDER	IMPOSE 3-6 POINTS  OR  DISQUALIFY 3-6 MONTHS
CATEGORY 3	BAND B FINE	BAND A FINE – BAND C FINE	IMPOSE 3-6 POINTS

**The guideline proposed by the Sentencing Council is likely to result in higher imposition of community-based penalties. The basic provision detailed at page 35 leaves scope for mitigation and common sense as to whether or not a fine is an appropriate means of punishment. The new suggested guideline would leave any defendant who meets one of the criteria in higher culpability or greater harm with a starting point of a community order. Although we understand the point made that ‘driving when a licence has been revoked could be regarded as more serious from the point of view of safety’, there are other more appropriate offences (careless/dangerous driving) which could be charged if the standard of driving as a result of such medical condition was such that it gives rise to a separate offence.**

**We also feel that discretionary disqualification should be left clearly available to the Magistrates irrespective of the category and reflect this in our proposed table.**

**Under mitigating factors, we would suggest that the following is added:**

- **Very short distance driven**

Question 20: Are there any other comments you wish to make about this consultation? **NA**