

THE TIMES

Law

Challenging ‘soft’ sentences for drivers who kill

A review may give those who determine sentences a more realistic view about the public’s perception of sentencing

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22 Jan 2015 00:01:04

The attorney-general, Jeremy Wright, QC, is reviewing the procedure for challenging “soft” sentences, including widening the scope of what offences fall within the scheme, as The Times reported (January 3 2015).

At present it is only possible for the law officers to challenge the leniency of the most serious cases. The process is simple: within 28 days of the sentencing hearing, a request must be made to the attorney-general. Only one person need make a complaint and that person need not have any connection to the case. The attorney-general then has 28 days to decide whether to refer the case to the Court of Appeal.

There has been a steady increase in complaints regarding “soft” sentences. An overhaul of the current system might result in an increase in the types of offences subject to challenge (possibly including matters dealt with in the magistrates’ court). It would not necessarily follow however that the attorney-general would refer more cases to the Court of Appeal for review, as he has already stated the scheme is for “exceptional cases”.

In England and Wales in 2012, courts prosecuted 643 people for causing death by driving, 447 of which resulted in a conviction; 23 per cent received custodial sentences, and only four of these people received a prison sentence above three years (source: MoJ 2014).

The Sentencing Council guidelines issues courts with definitive guidance on sentencing. The maximum penalty for causing death by careless or inconsiderate driving is five years’ custody. Where a death has resulted from careless or inconsiderate driving that is borderline dangerous driving, the guidelines say that the starting point for sentencing should be 15 months in custody, but that the range of sentence could be between 36 weeks and three years’ imprisonment.

Given an offender may only serve half of any term of imprisonment in custody before release into the community, it is unlikely that the families and friends of the victims will ever feel that the court’s sentence reflects their loss, especially when only a community sentence is imposed.