

## Firearm, carrying in a public place

Firearms Act 1968, s.19

Effective from: 04 August 2008

Triable either way (but triable only summarily if the firearm is an air weapon)

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 7 years (12 months for imitation firearms)

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Carrying an unloaded air weapon	Low level community order	Band B fine to medium level community order
Carrying loaded air weapon/imitation firearm/unloaded shot gun without ammunition	High level community order	Medium level community order to 26 weeks custody (air weapon) Medium level community order to Crown Court (imitation firearm, unloaded shot gun)
<i>Carrying loaded shotgun/carrying shot gun or any other firearm together with ammunition for it</i>	<i>Crown Court</i>	<i>Crown Court</i>

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

##### Factors indicating higher culpability

1. Brandishing the firearm
2. Carrying firearm in a busy place
3. Planned illegal use

##### Factors indicating greater degree of harm

1. Person or people put in fear
2. Offender participating in violent incident

##### Factors indicating lower culpability

1. Firearm not in sight
2. No intention to use firearm
3. Firearm to be used for lawful purpose (not amounting to a defence)

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders**, including compensation, forfeiture or suspension of personal liquor licence and football banning order (where appropriate)

**Decide sentence**

**Give reasons**

## Vehicle licence/registration fraud

Vehicle Excise and Registration Act 1994, s.44

**Effective from:** 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine

Maximum when tried on indictment: 2 years

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Use of unaltered licence from another vehicle	Band B fine	Band B fine
Forged licence bought for own use, or forged/ altered for own use	Band C fine	Band C fine
Use of number plates from another vehicle; or Licence/number plates forged or altered for sale to another	High level community order (in Crown Court)	Medium level community order to Crown Court  <b>Note:</b> community order and custody available only in Crown Court

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

##### Factors indicating higher culpability

1. LGV, PSV, taxi etc.
2. Long-term fraudulent use

##### Factors indicating greater degree of harm

1. High financial gain
2. Innocent victim deceived
3. Legitimate owner inconvenienced

##### Factors indicating lower culpability

1. Licence/registration mark from another vehicle owned by defendant
2. Short-term use

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders, including compensation**

**Consider disqualification from driving and deprivation of property (including vehicle)**

**Decide sentence**

**Give reasons**

## Vehicle taking (aggravated). Damage caused to property other than the vehicle in accident or damage caused to vehicle

Theft Act 1968, ss.12A(2)(c) and (d)

**Effective from:** 04 August 2008

Triable either way (triable only summarily if damage under £5,000)

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years

- Must endorse and disqualify for **at least** 12 months
- Must disqualify for **at least** 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – see explanatory material on [obligatory disqualification](#) and consult your legal adviser for further guidance

If there is a delay in sentencing after conviction, consider interim disqualification

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Exceeding authorised use of e.g. employer's or relative's vehicle; retention of hire car beyond return date; minor damage to taken vehicle	Medium level community order	Low level community order to high level community order
Greater damage to taken vehicle and/or moderate damage to another vehicle and/or property	High level community order	Medium level community order to 12 weeks custody
Vehicle taken as part of burglary or from private premises; severe damage	18 weeks custody	12 to 26 weeks custody (Crown Court if damage over £5,000)

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

##### Factors indicating higher culpability

1. Vehicle deliberately damaged/destroyed
2. Offender under influence of alcohol/drugs

##### Factors indicating greater degree of harm

1. Passenger(s) carried
2. Vehicle belonging to elderly or disabled person
3. Emergency services vehicle
4. Medium to large goods vehicle
5. Damage caused in moving traffic accident

**Factors indicating lower culpability**

1. Misunderstanding with owner
2. Damage resulting from actions of another (where this does not provide a defence)

**Common aggravating and mitigating factors**

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders, including compensation**

**Decide sentence**

**Give reasons**

## Vehicle taking (aggravated). Dangerous driving or accident causing injury

Theft Act 1968, ss.12A(2)(a) and (b)

**Effective from:** 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years; 14 years if accident caused death

- Must endorse and disqualify for **at least** 12 months
- Must disqualify for **at least** 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – refer to explanatory material on [obligatory disqualification](#) and consult your legal adviser for further guidance

If there is a delay in sentencing after conviction, consider interim disqualification

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Taken vehicle involved in single incident of bad driving where little or no damage or risk of personal injury	High level community order	Medium level community order to 12 weeks custody
Taken vehicle involved in incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area	18 weeks custody	12 to 26 weeks custody
Taken vehicle involved in prolonged bad driving involving deliberate disregard for safety of others	<i>Crown Court</i>	<i>Crown Court</i>

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant **but these lists are not exhaustive**

##### Factors indicating higher culpability

1. Disregarding warnings of others
2. Evidence of alcohol or drugs
3. Carrying out other tasks while driving
4. Carrying passengers or heavy load
5. Tiredness
6. Trying to avoid arrest

7. Aggressive driving, such as driving much too close to vehicle in front, inappropriate attempts to overtake, or cutting in after overtaking

**Factors indicating greater degree of harm**

1. Injury to others
2. Damage to other vehicles or property

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders, including compensation**

**Decide sentence**

**Give reasons**



## Dangerous driving

Road Traffic Act 1988, s.2

**Effective from:** 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years

- Must endorse and disqualify for at least 12 months. Must order extended re-test
- Must disqualify for at least 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – refer to [disqualification guidance](#) and consult your legal adviser for further guidance

If there is a delay in sentencing after conviction, consider interim disqualification

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Single incident where little or no damage or risk of personal injury	Medium level community order	Low level community order to high level community order Disqualify 12 – 15 months
Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area;		
OR	12 weeks custody	High level community order to 26 weeks custody Disqualify 15 – 24 months
Single incident where little or no damage or risk of personal injury but offender was disqualified driver		
<i>Prolonged bad driving involving deliberate disregard for safety of others;</i>		
OR		
<i>Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area, by disqualified driver;</i>	Crown Court	Crown Court
OR		
<i>Driving as described in box above while being pursued by police</i>		

**B. Consider the effect of aggravating and mitigating factors (other than those within examples above)**

The following may be particularly relevant but **these lists are not exhaustive**

**Factors indicating higher culpability**

1. Disregarding warnings of others
2. Evidence of alcohol or drugs
3. Carrying out other tasks while driving
4. Carrying passengers or heavy load
5. Tiredness
6. Aggressive driving, such as driving much too close to vehicle in front, racing, inappropriate attempts to overtake, or cutting in after overtaking
7. Driving when knowingly suffering from a medical condition which significantly impairs the offender's driving skills
8. Driving a poorly maintained or dangerously loaded vehicle, especially where motivated by commercial concerns

**Factors indicating greater degree of harm**

1. Injury to others
2. Damage to other vehicles or property

**Factors indicating lower culpability**

1. Genuine emergency
2. Speed not excessive
3. Offence due to inexperience rather than irresponsibility of driver

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders, including compensation and deprivation of property**

**Decide sentence**

**Give reasons**

## Identity documents – possess false/ another’s/ improperly obtained

Identity Cards Act 2006, s.25(5) (possession of a false identity document (as defined in s.26 - includes a passport))

**Effective from:** 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years (s.25(5))

Note: possession of a false identity document with the intention of using it is an indictable-only offence (Identity Cards Act 2006, s.25(1)). The maximum penalty is 10 years imprisonment.

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Single document possessed	Medium level community order	Band C fine to high level community order
Small number of documents, no evidence of dealing	12 weeks custody	6 weeks custody to Crown Court
Considerable number of documents possessed, evidence of involvement in larger operation	Crown Court	Crown Court

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

##### Factors indicating higher culpability

1. Clear knowledge that documents false
2. Number of documents possessed (where not in offence descriptions above)

##### Factors indicating greater degree of harm

1. Group activity
2. Potential impact of use (where not in offence descriptions above)

##### Factor indicating lower culpability

1. Genuine mistake or ignorance

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Decide sentence**

**Give reasons**

## Trade mark, unauthorised use of etc.

Trade Marks Act 1994, s.92

**Effective from:** 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 10 years

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Small number of counterfeit items	Band C fine	Band B fine to low level community order
Larger number of counterfeit items but no involvement in wider operation	Medium level community order, plus fine*	Low level community order to 12 weeks custody, plus fine*
High number of counterfeit items or involvement in wider operation e.g. manufacture or distribution	12 weeks custody	6 weeks custody to Crown Court
Central role in large-scale operation	<i>Crown Court</i>	<i>Crown Court</i>

**\*This may be an offence for which it is appropriate to combine a fine with a community order. Consult your legal adviser for further guidance.**

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

##### Factors indicating higher culpability

1. High degree of professionalism
2. High level of profit

##### Factor indicating greater degree of harm

1. Purchasers at risk of harm e.g. from counterfeit drugs

##### Factor indicating lower culpability

1. Mistake or ignorance about provenance of goods

##### Common aggravating and mitigating factors

**Form a preliminary view of the appropriate sentence, then consider offender mitigation**

**Offender mitigation**

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders, including compensation**

**Decide sentence**

**Give reasons**

## Witness intimidation

Criminal Justice and Public Order Act 1994, s.51

**Effective from:** 04 August 2008

Triable either way

Maximum when tried summarily: 6 months or level 5 fine

Maximum when tried on indictment: 5 years

**Where offence committed in domestic context, [refer to guidance](#)**

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### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Sudden outburst in chance encounter	6 weeks custody	Medium level community order to 18 weeks custody
Conduct amounting to a threat; staring at, approaching or following witnesses; talking about the case; trying to alter or stop evidence	18 weeks custody	12 weeks custody to Crown Court
Threats of violence to witnesses and/or their families; deliberately seeking out witnesses	<i>Crown Court</i>	<i>Crown Court</i>

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

##### Factors indicating higher culpability

1. Breach of bail conditions
2. Offender involves others

##### Factors indicating greater degree of harm

1. Detrimental impact on administration of justice
2. Contact made at or in vicinity of victim's home

#### Form a preliminary view of the appropriate sentence, then consider offender mitigation

##### Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

**Consider a reduction for a guilty plea**

**Consider ancillary orders, including compensation**

**Decide sentence**

**Give reasons**