

Motoring offences road testing report

Introduction

The Sentencing Council is developing guidelines for 12 motoring offences. The draft guidelines for these offences were consulted upon in Summer to Autumn 2022 and during this period the Council road tested a selection of the guidelines, to assess how they work in practice. The five offences for which guidelines were tested were selected based on the following criteria:

- the highest volume offences, because this is where the greatest impact of the new guideline is likely to be felt
- where there is least evidence available
- where there are specific issues to assess

The offences selected were:

- Causing death by dangerous driving, Road Traffic Act 1988 (section 1)
- Causing death by careless or inconsiderate driving, Road Traffic Act 1988 (section 2B)
- Causing serious injury by dangerous driving, Road Traffic Act 1988 (section 1A)
- Dangerous driving, Road Traffic Act 1988 (section 2)
- Driving or attempting to drive with a specified drug above the specified limit, Road Traffic Act 1988 (section 5A)

Current sentencing practice

Until now the sentencing support available for sentencing the motoring offences for which guidelines are being consulted upon has been mixed. Table 1 summarises whether or not guidelines or guidance currently exist for the five offences selected for road testing.

Table 1: Existing guidelines and guidance by date of issue for each motoring offence

| Offence | Existing guidelines or guidance |
|--|---|
| Causing death by dangerous driving, Road Traffic Act 1988 (section 1) | Sentencing Guideline Council (SGC) August 2008 |
| Causing death by careless or inconsiderate driving, Road Traffic Act 1988 (section 2B) | SGC August 2008 |
| Causing serious injury by dangerous driving, Road Traffic Act 1988 (section 1A) | None |
| Dangerous driving, Road Traffic Act 1988 (section 2) | Magistrates' Court Sentencing Guidelines (MCSG) May 2008 |
| Driving or attempting to drive with a specified drug above the specified limit, Road Traffic Act 1988 (section 5A) | Sentencing Council general guidance |

The evidence from the road-testing interviews will supplement information gathered from the consultation responses to understand how the guidelines are used in practice, determine whether the guideline supports consistency of sentencing and whether the sentences given are proportionate to the severity of the offence committed and in relation to other offences.

This paper summarises the evidence gathered during road testing.

Methodology

Small-scale qualitative road testing for each of the five selected offences took place via Microsoft Teams in August 2022 with a sample of sentencers from the Council's research pool. The sample was designed to ensure the recruitment of a balance of sentencers from magistrates' courts and the Crown Court.

For each offence it was important to understand not only how the draft guidelines are understood and applied, but also how sentencing may change compared to existing practice to inform the resource assessment. There was also specific interest in understanding how sentencers used the disqualification guidance where applicable¹ and whether the wording leading into the culpability factors could be improved.

Each interviewee sentenced two scenarios (see Annex) for one type of offence using existing practice and the draft guideline. The number of interviews undertaken for each offence and the types of sentencers with whom they were carried out are summarised in Table 2.

Table 2: Number of interviews by offence and court

| Offence | Number of interviews | |
|--|----------------------|--------------------|
| | Magistrates | Crown Court Judges |
| Causing death by dangerous driving, Road Traffic Act 1988 (section 1) | N/R ² | 7 |
| Causing death by careless or inconsiderate driving, Road Traffic Act 1988 (section 2B) | 5 | 5 |
| Causing serious injury by dangerous driving, Road Traffic Act 1988 (section 1A) | 5 | 5 |
| Dangerous driving, Road Traffic Act 1988 (section 2) | 5 | 5 |
| Driving or attempting to drive with a specified drug above the specified limit, Road Traffic Act 1988 (section 5A) | 7 | N/R |
| Total | 22 | 22 |

It is recognised that the number of interviews conducted for each offence by sentencer is slightly lower than would normally be expected for road testing. This reflects a decision to take an iterative approach to determining the number of interviews undertaken based on monitoring the level of variation in views of interviewees during fieldwork.³ It was concluded

¹ Disqualification guidance was not applicable for driving or attempting to drive with a specified drug above a specified limit.

² N/R - Not relevant, offence cannot be tried in this court

³ The responses to interviews were monitored to observe whether interviewees were consistently making the same points or whether there were diverse opinions. Where there is little diversity in views around a topic the saturation point for views is reached fairly quickly and conducting additional interviews is unlikely to produce much in the way of new evidence. However, if there is a high level of diversity in the initial responses conducting more interviews is recommended to ascertain the full range of views/responses and support meaningful analysis.

that the number of interviews specified above provided a full enough range of views on which to base meaningful analysis.

Key findings

Causing death by dangerous driving

- Judges generally found the revised guideline clear and easy to interpret
- Using the revised guideline, there was generally good consistency between judges for **culpability** categorisation
- Judges had no difficulty identifying the relevant **aggravating and mitigating factors** applicable to the scenarios using the revised guideline
- Some judges expressed concerns about the **aggravating factors** of driving for commercial purposes and to a lesser extent, driving an HGV. They queried why these should be viewed differently to a private motorist committing the same offence, or that they were relevant factors but not aggravating in the same way as, for example, a vehicle being poorly maintained
- All judges made an **upwards adjustment for multiple deaths** under scenario A, in line with the guideline
- With two exceptions, judges applied the one-third credit for an early **guilty plea** as anticipated
- Almost all the judges imposed higher **final sentences** using the revised guideline compared to the existing guideline. This was the case across both scenarios
- Across both scenarios **final sentences** had some variation, which was largely driven by the choice of culpability categorisation. Final sentences were broadly consistent and within range of the anticipated final sentences, with one exception for scenario A
- Judges held broadly positive views on the **final sentences** reached under the revised guideline. However, while several were “satisfied” with the final sentences, one felt they were too high. Some judges commented that death by dangerous driving cases were “extremely difficult” to judge and made identifying culpability challenging
- Five of the seven judges did not notice the change in the minimum term for **disqualification** in the revised guideline and because of this imposed incorrect disqualification sentences across both scenarios, which they corrected after reviewing the guidance during the interview
- Judges felt the **sentencing table** starting points and ranges were appropriate, although one commented that they felt very few cases would fall under lesser culpability

Causing death by careless or inconsiderate driving

- Sentencers generally found the revised guideline “helpful” and “very straightforward”
- Using the revised guideline, there was some variation in **culpability** categorisation across scenario A and B, reflecting the expectation that culpability could fall within either medium or lesser categories
- Judges and magistrates had no difficulty identifying the relevant **aggravating and mitigating factors** for scenario A and B using the revised guideline, but there was quite a lot of variation in phrasing for the impeccable driving record factor
- Sentencers referred to impeccable, ‘clean’ and ‘good’ licences or records interchangeably. Several sentencers asked what the difference between a clean driving record and an impeccable one was, with one judge saying that the guideline phrasing “confuses” rather than assists

- Some sentencers questioned the **aggravating factor** of driving for commercial purposes and why such drivers should be seen as having greater responsibility. Two queried the purpose of separating children out from other passengers
- **Final sentences** were higher across both scenarios for judges and magistrates using the revised guideline than for the existing guideline
- Judges and magistrates held mixed views on the **final sentences** reached under the revised guideline. Some found the sentences “uncomfortable” or “a bit on the harsher side”, others felt they were “fair” and “appropriate”.
- Most judges and magistrates did not refer to the **disqualification** guidance, with some citing familiarity with the guidance and others commenting that they had failed to notice it
- Mostly, judges and magistrates felt the **sentencing table** was “straightforward” and used “reasonable” ranges. One judge felt that having custodial starting points better reflected the loss of life, and several felt the higher table ranges reflected a move to more punitive sentences. One magistrate felt the table was asking them to “push boundaries” to avoid sending cases to Crown Court

Causing serious injury by dangerous driving

- As expected, there was some variation in the **culpability** categorisations (within B and C) selected by judges and magistrates in three of the four scenarios, while there was full agreement on the fourth
- For the two scenarios sentenced by the magistrates and scenario A sentenced by the judges, there was a good level of consistency in the **harm** categories selected. However, there was more variability in the harm categories selected by judges sentencing scenario B: three selected harm category 1 and two judges category 2, with debate centring on whether the injuries caused would have a lifelong impact.
- Some of the judges and magistrates expressed concerns about there only being two categories for harm, saying that there was “quite a leap” between the two categories and that category one is only for “the really dire situation”
- Neither judges nor magistrates experienced any difficulty identifying the relevant **aggravating and mitigating factors** for the scenarios, although a few made suggestions for minor wording changes to the factors
- The **final sentences** imposed by the judges were primarily driven by the culpability and harm categorisations. The final sentences imposed by magistrates for scenario B were fairly similar, however those imposed for scenario A were more varied, ranging between 18 weeks and 1 year. This variation could not be explained entirely by the categorisations selected or the aggravating and mitigating factors identified
- For scenario A, the judges imposed sentences that were similar to those that would have been handed down under existing practice. However, for scenario B, judges’ sentences were more varied. Only three of the five magistrates interviewed stated what their final sentences would be for the magistrates’ scenarios A and B under existing practice and these were quite different to the final sentences imposed using the draft guideline. On balance, the sentences were more severe under the draft guideline
- The majority of judges were content with the sentences imposed using the draft guideline. However, the majority of magistrates felt the sentences handed down under the draft guideline were too severe for the scenarios tested
- Most of the judges and magistrates imposed the minimum 2-year **disqualification period**. For judges there was no difference between the driving disqualification periods imposed under existing practice and the draft guideline. However, the

majority of driving disqualification periods imposed by magistrates increased when using the draft guideline

- Overall, the judges were content with the **sentencing table**, but the magistrates were less happy. In particular, some sentencers (judges and magistrates) thought community orders should be included at the lower end of the table
- None of the judges and only two of the magistrates looked at the **disqualification guidance** while sentencing the scenarios. For two judges and one magistrate this may have been because they were using printed draft guidelines, but some suggestions were made that signposting to the guidance could be improved
- Overall, the guideline was welcomed as an improvement on existing practice and sentencers found it clear and easy to interpret

Dangerous driving

- Most sentencers found the guideline “clear” and “familiar”
- Using the revised guideline, there was generally good consistency in **culpability and harm categorisation** for scenario B, but it was a more varied picture for both judges and magistrates for scenario A
- Judges and magistrates had no difficulty identifying relevant **aggravating and mitigating factors** across all scenarios using the revised guideline
- Some sentencers were concerned about several of the listed **aggravating factors**, questioning why the victim being a close friend or relative of the offender was relevant as mitigation and what a genuine emergency would constitute
- Judges and magistrates sentenced different scenarios. There was little difference in the **final sentences** imposed by judges using existing practice and the draft guideline across both of their scenarios. In contrast, the final sentences imposed by magistrates were higher using the revised guideline compared to the existing guideline across their scenarios
- Judges and magistrates held mixed views on the **final sentences** reached under the revised guideline. Several judges felt they were similar to what they imposed using the existing guideline or practice. There were both judges and magistrates who felt that the sentences under the revised guideline were “tougher”, “harsh” and “too high”
- Across all scenarios, none of the judges or magistrates had looked at the **disqualification** guidance when sentencing
- Judges’ and magistrates’ views on the **sentencing table** were varied. Magistrates generally felt it ensured consistency. Several judges commented on the maximum sentence of 2 years, with one suggesting it would be better if it was 5 years to allow for more “nuanced” sentences. Some sentencers felt that many cases would fall under high culpability due to cases often involving a deliberate decision to ignore the rules of the road

Driving or attempting to drive with a specified drug under a specified limit

- Overall, magistrates found the draft guideline clear and easy to interpret
- There was a degree of variation in the culpability categorisation of scenario A, but less so for scenario B. This occurred primarily from magistrates’ judgment of the applicability of the culpability factor, evidence of another specified drug or of alcohol in the body. Magistrates asked for clarification of the phrasing “evidence of” and questioned whether the drug need be identified as being over the specified limit. Due to the variation in the categorisation of culpability, final sentences for scenario A ranged more than was expected

- No further difficulties were outlined for **culpability**, however magistrates did note that they felt the factors for culpability and harm were quite restrictive. On **harm**, magistrates sought clarification on the factor obvious signs of impairment, specifically regarding who the impairment should be obvious to
- A large amount of variation occurred in the application of credit for the guilty plea for both scenarios but primarily scenario A. This was due partly to the community orders imposed. Some magistrates reduced the fine band, whereas some reduced the level of the community order or length of specific attachments e.g. unpaid work. Across the two scenarios, two magistrates reduced the period of disqualification, whilst others applied it to the main aspect of the sentence e.g. fine or community order
- **Aggravating and mitigating factors** were applied consistently for both scenarios. One magistrate applied a factor ('location') which did not appear in the draft guideline. A point of subjectivity was raised for the factor very short distance driven. Magistrates suggested a small number of additions
- Participants noted information on the minimum disqualification period and applied this correctly. There was slight variation between the disqualification periods imposed using the current guidance in comparison to the draft guideline as well as between final sentences
- On the whole, magistrates were happy with the proposed **sentencing table** and thought it reflected current practice. A small number of amendments were suggested

Annex: Scenarios

Causing death by dangerous driving

Scenario A

The offender, a 60-year-old man, was driving an HGV which was heavily loaded along the motorway. He was an experienced, professional driver with no previous convictions and a clean driving record.

He was driving at around 50 miles per hour, not unreasonable for the overall conditions, and had been travelling at a sensible distance behind the Peugeot 208 in front, driven by two of the victims (a married couple). However, the traffic in front began to slow and for some reason which was not established, though certainly not mobile phone use, the offender's attention was not on the road for an estimated 10 seconds.

This led to a collision with the Peugeot which killed the two victims as they were pushed into the van in front of them. Only at this point did the offender apply the brakes, but it also meant his HGV crashed past the Peugeot and also collided directly with the van in front. Its driver was treated at the scene but later died of his injuries in hospital.

The offender remained in the cab of his HGV at the scene, apparently unable to move and later in police interviews spoke of "being shell-shocked". At first, in interviews he said that the vehicles in front had braked too quickly, but in subsequent interviews and in a letter to you he has expressed heartfelt remorse. He entered a guilty plea at the earliest opportunity.

The victim impact statements of all victims' families speak of the heartbreak and loss, especially at not being able to say goodbye to their parents and grandparents. The offender himself has a weak heart and a bad back (though these did not contribute in any way to the incident, and he was considered fit to drive).

Scenario B

The offender, a 47-year-old male, was driving with his brother as a passenger in his Volvo along a single-lane A road. The speed limit was 60 miles an hour and the offender was driving within that limit. It was a sunny day and the traffic was relatively busy.

The offender was in traffic behind a slow-moving caravan. Three cars in front of him overtook, and after a short period of time the offender pulled out to overtake. But immediately coming towards him on the other carriageway was the victim, riding a motorcycle. The witness, driving behind the offender did see the motorcyclist beforehand, but the offender later said he did not see him at all. In line with this, he took no action to swerve out of his path – it was a head on collision. The motorcyclist was thrown onto the windscreen of the offender's car and onto the road.

The offender was in shock but called the emergency services to the scene. The victim, who had no known relatives, was dead on arrival at the local hospital. The offender gave a full and frank account to police, has expressed his profound regret at what happened, and admitted his guilt at the earliest opportunity.

The offender has a clean driving record and no previous convictions. There were no defects found to the vehicle, the offender's eyesight was found to be in good condition, and there was no suggestion that anything else had affected his line of sight. The prosecution therefore urges

that this demonstrated a serious lapse of concentration, particularly bearing in mind that others had seen the victim approaching.

Causing death by careless or inconsiderate driving

Scenario A

The offender was a 67-year-old woman who was driving home from volunteering at the local library. The victim was a 62-year-old man, with a wife and grown-up daughter who had just got married and was pregnant with his first grandchild.

The victim was cycling his usual one-mile journey home from work. As with the offender this was a familiar route; his bike was in good working order and he was described as an experienced cyclist. He wore a high visibility jacket.

The car in front of the offender overtook the victim on his bicycle without issue. However, when the offender began to overtake, for some reason the car veered suddenly to the left – an action that neither the offender nor witnesses could explain. This meant the front bumper collided with the rear wheel of the victim's bicycle causing it to buckle and him to be thrown into the air and over onto the road. The offender waited at the scene, badly shaken whilst a passer-by called an ambulance.

He was conscious and taken to the local hospital. X-rays revealed significant and concerning damage to his back, but whilst waiting for an operation the following day he developed asymptomatic deep vein thrombosis which caused a pulmonary embolism resulting in a heart attack. This resulted in his death before his family had time to be called.

The victim's wife of 35 years describes having lost "the love of her life, her soul-mate" and his daughter describes her immense sadness at how her daughter will never meet her grandad. The offender (who has no previous convictions and a clean driving record) did not plead guilty and did not express any profound remorse at the trial, although she understands how sad this is for the victim's family. It remains unclear precisely why she veered to the left: the prosecution urge that it was a lapse of concentration, exacerbated by a degree of tiredness at the end of a long day.

Scenario B

Offender is 48 and a family man with a clean licence and no criminal record. One day he was driving his Audi and trying to merge into a busy ring road. He was facing behind him to the right looking for a gap in the traffic and judging when it would be possible to pull out.

The offender did not look ahead of him and drove at a very low speed into an elderly pedestrian crossing to a traffic island with shopping bags (this was not a pedestrian crossing). She was pushed to the ground. The offender stayed at the scene and was described by witnesses as being shocked and upset and provided assistance to the victim until the ambulance came. The victim suffered a complex pelvic fracture; there was an accumulation of blood in the stomach, and her body reacted by multiple organ failure, which led to the loss of her life.

The loss of the victim has been described as an "utter tragedy" by her family. The offender has expressed sincere remorse and described the negative impact it has had on him and his family. He pleaded guilty at the earliest opportunity.

Causing serious injury by dangerous driving

Judges

Scenario A (judges)

The offender, a 33-year-old woman, was driving home from work as a nurse on roads with which she was familiar. There is no suggestion that she was tired or distracted. She found herself behind a slow-moving petrol tanker. She drove behind it, well below the 40 mph speed limit for 10 minutes and then pulled out in an attempt to overtake.

At that point however, there was a sweeping bend ahead and the road started going downhill. This meant that the tanker started moving faster than the offender had anticipated, and her Corsa was unable to accelerate quickly enough. The victim's car came from the opposite direction and there was a head on collision which resulted in the victim's car's engine being forced off its mountings and pushed inside the car's interior. The offender injured herself and in a state of shock stayed in her car, and a passing motorist stopped, provided immediate assistance to the victim and called an ambulance.

The victim, 23, a student studying to be a teacher, suffered two broken femurs, complex fractures of both feet, a fractured knee and a fractured elbow. These, together with other associated injuries, resulted in ten-hour surgery and three months in a full plaster cast. Throughout this time, the victim was at first confined to a bed for several weeks, then required a wheelchair and had to undergo physiotherapy.

In her victim personal statement, she wrote about the loss of dignity and embarrassment from having to be bathed over those months as well as the isolation she felt, and the feeling of being a burden on others. She could not finish the second year of her studies and is fearful she may not enjoy future sporting activities (skiing and rowing), and whether she will be able to (for example) kneel down to speak with small children in a classroom.

The offender has a clean criminal record and a clean driving record. She suffered a broken leg in the incident, which involved being in a cast and using crutches for two months. Although she did not seek to blame others, she contested that this was dangerous driving, did not express particular remorse, and was convicted after a trial. You have received several positive character references.

Scenario B (judges)

On a winter's evening, around 10:00pm, the offender, a 26 year old man, was driving along a country lane coming back from his job as a lifeguard. The victim, aged 78, was walking his dog along the road when the offender drove past him. The victim shouted at him that he had driven far too close and waved his arms at him whilst flashing his torch. The offender stopped about 30 feet down the road and reversed back towards the victim. He misjudged the distance – this was exacerbated by the lack of street lighting and his rear window being misted up. Although reversing at a relatively low speed, he struck the victim who fell into a ditch by the side of the road.

At first it was suggested that the offender had deliberately set out to hit the victim. However, the police accepted that he simply intended to come back to talk with the victim - whether to remonstrate or ask what the matter was can never be known, but the offender expressed remorse and regret for what he admitted was "a very silly piece of driving". He has a clean criminal and driving record.

The victim suffered fractures to the lower leg bones of his right leg. He spent about a week in hospital having these fixated using a metal pin. Whilst he has made a good physical recovery, he describes having been reluctant to go walking with his dog in that area as he had before. He found it hard to sleep and suffered from what he called anxiety attacks and flashbacks. The pin remains in his leg, and he finds it painful to stand for any lengthy period of time. He says it has affected his physical fitness and his ability to take part in social activities.

The offender has repeatedly expressed remorse for what happened and pleaded guilty at the earliest opportunity. He has no previous convictions and a clean driving record. He has caring responsibilities (not sole) for a young son and several supportive letters have been sent in, including from his employer, about what a good role model for young people and others he is in his job and sports volunteering work.

Magistrates

Scenario A (magistrates)

The offender, a 47 year old male, was driving with his brother as a passenger in his Volvo along a single-lane A road. The speed limit was 60 miles an hour and the offender was driving well within that limit. It was a sunny day and the traffic was relatively busy.

The offender was in traffic behind a slow moving caravan. Three cars in front of him overtook, then a motorcycle overtook both the offender and the caravan at speed which, the offender said, gave him a false sense of security that the road ahead was clear. The offender pulled out to overtake, but immediately coming towards him on the other carriageway was the victim, driving his car at the speed limit. The offender saw him too late and tried to swerve out of his path back into his lane. The other driver also tried to avoid a collision by swerving, narrowly missing the offender's car. He drove his car up into the verge and came to an abrupt halt.

The offender was in shock, but called the emergency services to the scene. The offender has a clean driving record and no previous convictions. He gave a full and frank account to police, has expressed his profound regret at what happened, and admitted his guilt at the earliest opportunity. There were no defects found to the vehicle, the offender's eyesight was found to be in good condition. His brother says that he was focussed fully on the road and had undertaken several similar "textbook" manoeuvres earlier in their journey.

The victim had a fracture to the sternum, four fractures to his toes, and a lot of bruising. Although he did not provide a victim impact statement, he is said to be recovering well and is undertaking physiotherapy.

Scenario B (magistrates)

The offender was a 52 year old woman who was driving home from work. The victim was cycling his usual one mile journey home from work. As with the offender this was a familiar route; his bike was in good working order and he was described as an experienced cyclist. He wore a high visibility jacket.

The car in front of the offender overtook the victim on his bicycle without issue. However, at the point when the offender began to overtake, her phone began to ring: she glanced down and reached across to the passenger seat to turn it off, meaning she momentarily steered her car to the left. This meant she overtook very close to the cyclist and cut him up. He had to steer onto the bank and fell off his bicycle. This was estimated to take place over no more than three seconds. The offender stopped and got out to check on the cyclist; she applied basic first aid to a cut, and immediately called an ambulance

The victim had four fractures to his toes, a chipped tooth and a lot of bruising. He is said to be recovering well and undertaking physiotherapy.

The offender (who has no previous convictions and a clean driving record) is very sorry about what happened and pleaded guilty at the earliest opportunity. She is the primary carer for two teenagers.

Dangerous driving

Judges

Scenario A (judges)

The offender, a 32-year-old male, had had an argument with his partner and was driving too fast at around 9pm when he was pulled over by police. He stopped but was uncooperative and would not wind down his window or talk with the officer. They called for support.

The offender reversed his car which smashed into the parked police car, narrowly missing one of the officers, and then drove off. Avoiding the other officer in the road and another car in front of him, the offender mounted the pavement and drove over a short garden fence, knocking over some wheelie bins. He then returned to the road and drove off at some speed – the police officers estimated it was at least 50 mph in a 30-mph zone.

The Police attempted to follow but lost the offender after the next street. It is not known how long he fled, or at what speed. His car was found one mile away.

The offender pleaded guilty at the earliest opportunity. He has some previous (non-driving related) convictions, all older than three years ago, but received a caution for a criminal damage matter last year. He has a partner, and two young children who depend financially on his work as a crane driver.

Scenario B (judges)

The offender was caught on CCTV on his 350cc motorbike riding around a housing estate (with a helmet), performing dangerous turns and a succession of wheelies. It was the middle of a sunny Saturday afternoon and there were various pedestrians, including children, walking around the estate, as well as other motorcyclists. He had fake numberplates on the bike. Witnesses suggest that the offender was tacitly encouraging other motorcyclists to copy his manoeuvres. In all, the footage suggests he was driving in this manner for 20 – 25 minutes.

The offender is 28, and has previous convictions, dating back seven years for dangerous driving and driving with excess alcohol. He was disqualified at that point and needed to take an extended retest, which he has not done, and is therefore also driving without a licence for the purposes of the present offence. Nonetheless the motorbike was purchased at some point the past year.

The offender pleaded guilty at the earliest opportunity. He has a supportive partner who has written a letter highlighting his new job and saying he is determined to turn his life around.

Magistrates

Scenario A (magistrates)

The defendant, a 20-year-old male, was driving along a dual carriageway at 11:30pm when he pulled up behind the scene of a very recent head-on collision. The police had closed that lane whilst they and the ambulance dealt with the serious injuries which had occurred involving three people.

The offender had just secured a job as a security guard and was desperate to get to his shift on time: reversing and making a circuitous trip would have made him more than 30 minutes late. He slowly crossed the central reservation and made his way for 100 yards driving the wrong way along the other carriageway before re-joining the correct carriageway, after the crash site. As one would expect for this time of night, it was clear there were no vehicles coming in the opposite direction.

The police witnessed this and noted his numberplate, tracking him down the following day. He admitted what he had done, accepted that the driving was dangerous and explained that he could not afford to lose his job. He pleaded guilty at the earliest opportunity and has said he is very sorry for 'doing such a stupid thing'. He has no previous convictions and a clean driving record (he has only been driving for a year). His employers have provided a glowing reference.

Scenario B (magistrates)

The offender is a 49-year-old male who was driving his mini on the M5. Dashcam footage was handed to the police by another motorist who was driving along the same stretch of road, in response to a road safety campaign.

The footage shows the offender overtaking the other motorist in the fast lane and then veering abruptly into the middle lane. One minute later, the offender repeats the manoeuvre overtaking the same car again which causes the filming motorist to veer slightly into the other lane to avoid him. The offender then drives off. The motorway at this point is not busy.

The offender said that he had been provoked by the other driver after he had made rude hand gestures to him and beeped his horn repeatedly: he claimed that in fact the other driver had earlier cut him up in a far worse manner, although there is no evidence of this.

The offender has no previous convictions and a clean driving licence. He is on medication for a weak heart and the Defence point out that he was suffering personal difficulties at the time of the incident as his father had recently passed away. He pleaded guilty at the earliest opportunity, but it is clear he still feels hard done by.

Driving or attempting to drive with a specified drug above the specified limit

Scenario A

The offender is 38. He was riding his motorcycle along a main road on the half mile journey between his work and home at rush hour. He was driving behind a trailer when he attempted to overtake. A car emerged from a junction and knocked him off his bike causing him serious injuries. The car drove off and has never been traced.

When the police arrived the offender admitted he had had a drink earlier in the day and smoked a small bit of weed. He did not test over the limit for alcohol at the roadside but positive for drugs. At the police station a drugs test revealed he had 114 microgrammes of Benzoyllecgonine (a cocaine derivative) in his bloodstream. This appears to have been the result of drug taking three days previously. The specified limit is 50 microgrammes. He was not over the limit for the cannabis he admitted taking.

The offender was convicted of driving with excess alcohol in 2010 and of possession of a class A drug in 2016. The defence point out that he has suffered a great deal from his injuries (a broken back and pelvis). He has lost his job as a warehouse operative and been unemployed since the incident. He pleaded guilty at the earliest opportunity and has said he did not think the cocaine would still be in his system after three days.

Scenario B

The police stopped the offender (aged 53) as he drove his car along the front of a busy seaside town. The offender admitted it was not his car and that he was unlicensed. A roadside drugs test was conducted which was positive. At the police station, a blood test found a reading of 650 microgrammes of Benzoyllecgonine (a cocaine derivative). The prosecution reminds you that the specified limit is 50 microgrammes.

The driver has previous convictions for failing to provide a specimen for analysis (2008), driving with excess alcohol (2013) and driving with a specified drug over the specified limit (2017). He was disqualified on each occasion.

The defence point out there was no evidence of substandard driving, and that the offender now rarely drives following his last disqualification in 2017, ordinarily using a push bike. He admits fully that getting in the car on this occasion was a silly mistake. He is currently homeless and staying where he can with friends. He was trying to drive his friend's car (with permission) across town on this occasion where he had secured casual labouring work. He pleaded guilty at the earliest opportunity.

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