

Sentencing Council meeting:
Paper number:
Lead Council member:
Lead official:

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SC(22)JUL06 – Aggravated vehicle taking
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1 ISSUE

1.1 The Council is invited to consider how work to revise guidelines for aggravated vehicle taking can be sequenced alongside the public consultation on motoring offences. The Council is also invited to approve revisions to the sentencing tables, and to aggravating and mitigating factors for these guidelines.

2 RECOMMENDATIONS

2.1 That the Council:

- Notes our intention to delay consulting on proposals to revise the guidelines for aggravated vehicle taking while we await the findings of the ongoing consultation on motoring offences;
- Approves the proposed sentencing tables and aggravating and mitigating factors for the aggravated vehicle taking guidelines.

3 CONSIDERATION

Timing

3.1 Existing sentencing guidelines for aggravated vehicle taking have been in place since 2008. As such, they are now out of date and offer minimal guidance to sentencers. While the statutory maximum penalties for aggravated vehicle taking offences are not changing, the Council has agreed to revise these guidelines alongside wider work on motoring offences.

3.2 In May, the Council agreed to proceed with four revised guidelines for aggravated vehicle taking, covering the following:

- Causing vehicle or property damage
- Causing injury
- Causing death
- Involving dangerous driving

3.3 The Council provisionally agreed culpability and harm factors for each of these guidelines (attached at Annex A). The Council also provided a steer that these guidelines should draw heavily from what has been agreed for motoring offences, particularly in terms

of step one factors for dangerous driving and elements of the guidelines for injury by wanton/furious driving and death by dangerous driving.

3.4 The public consultation on motoring offences runs until late September 2022. Given the overlap between some of the motoring guidelines being consulted on and the proposals for aggravated vehicle taking, we believe it is most sensible to await the outcome of this consultation, potentially including the Council's formal response, before publishing the proposals for aggravated vehicle taking. This will allow us to consider the responses to the motoring consultation and to incorporate any further changes the Council sees fit to make to the motoring guidelines.

3.5 This approach will, however, slow progress on revising the aggravated vehicle taking guidelines. Publication of the consultation will be pushed back to 2023, with resulting delay to the launch of the revised guidelines. Any delay is likely to be extended as it will be challenging to consult on the revised aggravated vehicle taking guidelines before the Council has published its response to the motoring consultation. There is otherwise a risk that we would be committing the Council to a particular approach while the motoring guidelines are still being finalised before publication, or of giving a preview of elements of the motoring guidelines before they are formally published.

3.6 If we do not await the outcome of the consultation on the motoring guidelines, we will likely be launching the aggravated vehicle taking consultation soon after the motoring consultation has closed. As such, there is a risk of reputational damage if the Council is perceived as not having listened to feedback on motoring, and we may receive the same responses again, at least in part, rather than having respondents engage with the detail of our proposals.

3.7 On balance, we believe the best approach is to delay the consultation on aggravated vehicle taking until we can take stock of the findings from the motoring consultation. At this later stage, we can consider how best to sequence the aggravated vehicle taking consultation around publication of the motoring guidelines. In the meantime, we will continue to prepare the draft guidelines and consultation paper as far as possible, so that these can be published as soon as any changes resulting from the motoring consultation are made.

Sentencing tables

3.8 Under the existing guidelines for aggravated vehicle taking, the sentencing tables offer minimal guidance to sentencers by providing examples of different types of offence severity, along with a starting point and category range for each. In revising the tables, we have followed the now standard approach of using culpability and harm levels to offer starting points and category ranges for varying levels of offence severity, and have looked at

comparator guidelines to ensure alignment. Data on cases from 2020 (at Annex B) has also been considered, to try to ensure that the revised tables will not inadvertently make sentencing more or less severe.

3.9 When considered as a whole, the proposed sentencing tables treat death as the most serious of the four aggravated vehicle taking offences. Injury and dangerous driving sit beneath this and are roughly on par with one another, as in the [existing guideline](#) (where these offences are combined). Vehicle/property damage sits at the bottom, with lower starting points and category ranges, in line with how the [existing guideline](#) compares to the other offences.

Vehicle/property damage

3.10 The proposed sentencing table for vehicle/property damage covers both the summary only variation (damage of under £5,000) and the either way variation (damage of £5,000 and over). In May, the Council agreed that lower value damage variation should be limited to harm category 3. To reflect this, a rubric has been included at the top of the sentencing table which sets out that cases falling under harm category 3 are limited to a maximum sentence of six months' custody. Category ranges and starting points in the bottom row of the table have been pitched to allow magistrates to award community orders across all cases of lower value damage where appropriate (as, in 2020, 60 per cent of damage under £5,000 offences received a community order).

3.11 The proposed table covers an offence range of low level community order to 1 year 6 months' custody. The bottom of the range is broadly in line with the existing guideline and the top of the range is capped for proportionality with the injury guideline.

3.12 In effect, boxes 1A to 2C in the proposed table will cover higher value damage (which has a statutory maximum of two years), with the range starting at a medium level community order. While community orders sit within the category ranges for three of these six boxes (1C, 2B and 2C), only one box has this as a starting point (2C). In 2020, 42 per cent of offenders sentenced for higher value damage received a community order, and so there may be a risk that this approach results in an increase in custodial sentences if sentencers are guided by starting points rather than the scope afforded by the category ranges. This can be explored further in road testing exercises at the consultation stage.

3.13 We have taken the general starting points and category ranges from the existing guideline and modified these for the bottom row of the table, staggering starting points and category ranges for medium and high harm upwards to allow for a gradual step up to the top of the range. There is intentional overlap between category ranges across boxes to allow sentencers sufficient scope to account for any relevant aggravating and mitigating factors.

3.14 The proposed sentencing table is more lenient than what is included in the general dangerous driving guideline (at Annex C), which also contains a high harm factor of ‘damage caused to vehicles or property’. This could, arguably, be justified by the increased risk involved in dangerous driving, in contrast with vehicle/property damage. We are limited in our ability to move sentences for vehicle/property damage upwards if we want to retain a distinction between this offence and causing injury, where the latter is treated as the more serious of the two offences. A narrow scope for movement is also imposed by the statutory maximum of two years’ custody across these offences.

<i>Rubric: Where the total damage caused is valued under £5,000, this will be a summary-only offence with a statutory maximum penalty of six months’ custody. This is reflected in the starting points and ranges for category 3 harm in the sentencing table below.</i>			
Harm/culpability	High culpability A	Medium culpability B	Lower culpability C
Harm category 1	Starting point: 1 year’s custody Category range: 26 weeks’ custody – 1 year 6 months’ custody	Starting point: 26 weeks’ custody Category range: 18 weeks’ custody – 1 year’s custody	Starting point: 12 weeks’ custody Category range: High level community order – 26 weeks’ custody
Harm category 2	Starting point: 26 weeks’ custody Category range: 18 weeks’ custody – 1 year’s custody	Starting point: 12 weeks’ custody Category range: High level community order – 26 weeks’ custody	Starting point: High level community order Category range: Medium level community order – 12 weeks’ custody
Harm category 3	Starting point: 12 weeks’ custody Category range: High level community order – 26 weeks’ custody	Starting point: High level community order Category range: Medium level community order – 12 weeks’ custody	Starting point: Medium level community order Category range: Low level community order – High level community order

Question 1a: Are you content to approve the sentencing table for vehicle/property damage as proposed?

Injury

3.15 The proposed sentencing table for aggravated vehicle taking causing injury largely mirrors what was agreed by the Council for the comparator guideline of causing injury by wanton or furious driving (at Annex D). However, the bottom of the offence range here has been revised upwards slightly, to a low level community order rather than a fine. This reflects

that very few fines are handed out for this offence in practice (usually less than five per cent in recent years), with low volumes for this offence overall, and aligns with what is being proposed for vehicle/property damage. The bottom of the category ranges for 3B and 2C have also been revised upwards slightly as a result, to a medium level community order. The starting points and category ranges in the proposed table are otherwise generally higher than what is being proposed for vehicle/property damage, which seems right given that physical and/or psychological harm is involved here.

Harm/culpability	High culpability A	Medium culpability B	Lower culpability C
Harm category 1	Starting Point: 1 year 6 months' custody Category range: 1 - 2 years' custody	Starting Point: 1 year's custody Category range: 26 weeks' – 1 year 6 months' custody	Starting Point: 26 weeks' custody Category range: High level community order – 1 year's custody
Harm category 2	Starting Point: 1 year's custody Category range: 26 weeks' – 1 year 6 months' custody	Starting Point: 26 weeks' custody Category range: High level community order – 1 year's custody	Starting Point: High level community order Category range: Medium level community order – 26 weeks' custody
Harm category 3	Starting Point: 26 weeks' custody Category range: High level community order – 1 year's custody	Starting Point: High level community order Category range: Medium level community order – 26 weeks' custody	Starting Point: Medium level community order Category range: Low level community order – High level community order

Question 1b: Are you content to approve the sentencing table for causing injury as proposed?

Death

3.16 The Council previously agreed to a separate guideline for aggravated vehicle taking causing death, given the markedly different statutory maximum of 14 years' custody. The sentencing table proposed below borrows heavily from what has been agreed for causing death by dangerous driving (at Annex E), and the rubric is lifted unchanged. The starting points and category ranges, however, are tailored to sit within the statutory maximum for this offence, with overlapping category ranges to allow for significant increase or reduction if aggravating or mitigating factors apply.

3.17 The bottom of the offence range here starts at two years' custody, which is the top of the offence range for aggravated vehicle taking causing injury, recognising that this is a more serious offence. The top of the offence range has been capped at 12 years' custody, to allow sentencers some leeway to further increase sentences in exceptional cases (such as where multiple deaths have been caused and where a number of aggravating factors apply).

Starting points and category ranges

Rubric: Where more than one death is caused, it will be appropriate to make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Culpability	Starting point	Range
High	10 years	7 – 12 years
Medium	5 years	3 – 8 years
Lower	3 years	2 – 4 years

Question 1c: Are you content to approve the sentencing table for causing death as proposed?

Dangerous driving

3.18 The Council previously provided a steer that the harm table for aggravated vehicle taking involving dangerous driving should mirror what was approved for the general dangerous driving offence. As a result, the sentencing table proposed here is taken unchanged from the general dangerous driving guideline. While consideration was given to increasing some of the category ranges and starting points to reflect the additional vehicle taking aspect of this offence, the statutory maximum penalty of two years' custody across the two offences limits our ability to do this. Arguably, there is also already some consideration of this aspect of the offence in the culpability and aggravating factors being proposed for the guideline.

Harm/culpability	High culpability A	Medium culpability B	Lower culpability C
Harm category 1	Starting point: 1 year 6 months' custody Category range: 1 – 2 years' custody	Starting point: 1 year's custody Category range: 26 weeks' – 1 year 6 months' custody	Starting point: 26 weeks' custody Category range: High level community order – 1 year's custody
Harm category 2	Starting point: 1 year's custody	Starting point: 26 weeks' custody	Starting point: High level community order

	Category range: 26 weeks' – 1 year 6 months' custody	Category range: High level community order – 1 year's custody	Category range: Low level community order – 26 weeks' custody
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Question 1d: Are you content to approve the sentencing table for dangerous driving as proposed?

Aggravating and mitigating factors

3.19 In drafting aggravating and mitigating factors, our general approach has been to draw together a core list from what the Council has agreed for the motoring guidelines (namely, the general dangerous driving guideline) and, in a more limited way, from existing guidelines for aggravated vehicle taking. These factors have been tailored to each variation of aggravated vehicle taking as necessary, with reference to Crown Court transcripts (at Annex F) to ensure common factors are represented.

3.20 The core list also includes four factors that the Council suggested moving out of culpability and harm for aggravated vehicle taking in the May meeting. These are 'vehicle taken as part of burglary', 'taken vehicle was an emergency vehicle', 'taken vehicle belongs to a vulnerable person' and 'disregarding warnings of others'.

3.21 For the draft guidelines covering vehicle/property damage, injury and death, consideration was given to recognising the standard of the offender's driving. In particular, we explored including an additional aggravating factor of 'bad driving' (such as speeding or driving in the wrong direction, particularly in residential areas). However, on balance, bad driving occurs so frequently as to almost be a prerequisite for aggravated vehicle taking, and it is treated as such in the provisional step one factors through the inclusion of a lower culpability factor of 'vehicle not driven in an unsafe manner' (which is included for all offences aside from aggravated vehicle taking involving dangerous driving). An alternative approach would be to include a mitigating factor of 'impeccable driving record', in line with the general motoring guidelines and the mitigating factors being proposed for dangerous driving. However, this may risk inadvertently 'double counting' the issue when considered alongside the provisional lower culpability factor.

Vehicle/property damage

3.22 The list of non-statutory aggravating factors for vehicle/property damage has been expanded to reflect the aspect of this offence of causing damage, either to the taken vehicle, another vehicle, or other property, such as in the additional factor of 'damage caused in moving traffic accident'.

Statutory aggravating factors
<ul style="list-style-type: none"> • Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction • Offence committed on bail
Other aggravating factors
<ul style="list-style-type: none"> • Vehicle taken as part of burglary • Taken and/or damaged vehicle was an emergency vehicle • Taken and/or damaged vehicle belongs to a vulnerable person • Disregarding warnings of others • Damage caused in moving traffic accident • Victim was a vulnerable road user, including cyclists and horse riders • Taken vehicle is an LGV, HGV or PSV etc • Other driving offences committed at the same time • Blame wrongly placed on others • Failed to stop and/or assist, or seek assistance at the scene • Passengers, including children • Offence committed on licence or while subject to court order(s)
Mitigating factors
<ul style="list-style-type: none"> • Actions of the victim or a third party contributed significantly to collision or damage • Efforts made to assist or seek assistance for victim(s) • No previous convictions or no relevant/recent convictions • Remorse • Serious medical condition requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives

Question 2a: Are you content to approve the aggravating and mitigating factors for vehicle/property damage as proposed?

Injury

3.23 The aggravating and mitigating factors for causing injury largely mirror what is proposed for vehicle/property damage. Two additional aggravating factors have been added to account for instances where there may be multiple victims, or where the victim is a worker providing a public service or an emergency worker, and to increase offence severity as a result. This is intended to reflect the fact that police officers are likely to be the injured victims in these cases, and borrows from the approach taken in the [assault guidelines](#). While this is not currently included as an aggravating factor in the general motoring guidelines, there may be a case for its addition at the post-consultation stage, for purposes of parity across the guidelines.

Statutory aggravating factors
<ul style="list-style-type: none"> • Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction • Offence committed on bail
Other aggravating factors
<ul style="list-style-type: none"> • Vehicle taken as part of burglary • Taken vehicle was an emergency vehicle • Taken vehicle belongs to a vulnerable person • Disregarding warnings of others • Multiple victims involved (see step 6 on totality when sentencing more than one offence) • Victim was providing a public service or performing a public duty at the time of the offence, or was an emergency worker • Victim was a vulnerable road user, including pedestrians, cyclists and horse riders • Taken vehicle is an LGV, HGV or PSV etc • Other driving offences committed at the same time • Blame wrongly placed on others • Failed to stop and/or assist, or seek assistance at the scene • Passengers, including children • Offence committed on licence or while subject to court order(s)
Mitigating factors
<ul style="list-style-type: none"> • Actions of the victim or a third party contributed significantly to collision or injury • Efforts made to assist or seek assistance for victim(s) • No previous convictions or no relevant/recent convictions • Remorse • Victim was a close friend or relative • Serious medical condition requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives

Question 2b: Are you content to approve the aggravating and mitigating factors for causing injury as proposed?

Death

3.24 In line with the agreed approach to culpability, the list of aggravating and mitigating factors for causing death mirrors what is being proposed for causing injury. The only change has been to remove the aggravating factor for multiple victims, as this is already explicitly considered within the sentencing table and accompanying rubric for causing death.

Statutory aggravating factors
<ul style="list-style-type: none"> • Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction

<ul style="list-style-type: none"> • Offence committed on bail
Other aggravating factors
<ul style="list-style-type: none"> • Vehicle taken as part of burglary • Taken vehicle was an emergency vehicle • Taken vehicle belongs to a vulnerable person • Disregarding warnings of others • Victim was providing a public service or performing a public duty at the time of the offence, or was an emergency worker • Victim was a vulnerable road user, including pedestrians, cyclists and horse riders • Taken vehicle is an LGV, HGV or PSV etc • Other driving offences committed at the same time • Blame wrongly placed on others • Failed to stop and/or assist, or seek assistance at the scene • Passengers, including children • Offence committed on licence or while subject to court order(s)
Mitigating factors
<ul style="list-style-type: none"> • Actions of the victim or a third party contributed significantly to collision or death • Efforts made to assist or seek assistance for victim(s) • No previous convictions or no relevant/recent convictions • Remorse • Victim was a close friend or relative • Serious medical condition requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives

Question 2c: Are you content to approve the aggravating and mitigating factors for causing death as proposed?

Dangerous driving

3.25 The aggravating and mitigating factors proposed for dangerous driving most closely mirror what the Council has agreed for the general dangerous driving offence. We have retained the lower culpability factor of 'impeccable driving record', but other factors that are not likely to be relevant to this specific offence have been removed, such as the vehicle being poorly maintained or the offending arising out of a genuine emergency.

3.26 In May, the Council agreed that step 1 factors for the aggravated vehicle taking - dangerous driving offence should mirror those proposed for the general dangerous driving offence. This approach means that consideration of whether the offender had a leading or minor role in group offending, which is placed at step 1 for the other aggravated vehicle taking guidelines, is not included in culpability for dangerous driving. These factors are intended to capture passengers who may have been highly culpable but who did not drive the vehicle themselves. While we could include these elements in aggravating and mitigating

factors for this guideline as an alternative, there is a risk of inconsistency with sentencing of the other aggravated vehicle taking offences. As such, we recommend departing from the general dangerous driving guideline in this single respect, adding leading/minor role in group offending to the culpability factors as with the other aggravated vehicle taking guidelines.

Statutory aggravating factors
<ul style="list-style-type: none"> • Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction • Offence committed on bail
Other aggravating factors
<ul style="list-style-type: none"> • Vehicle taken as part of burglary • Taken vehicle was an emergency vehicle • Taken vehicle belongs to a vulnerable person • Victim was a vulnerable road user, including pedestrians, cyclists and horse riders • Taken vehicle is an LGV, HGV or PSV etc • Other driving offences committed at the same time • Blame wrongly placed on others • Failed to stop and/or assist, or seek assistance at the scene • Passengers, including children • Offence committed on licence or while subject to court order(s)
Mitigating factors
<ul style="list-style-type: none"> • Actions of the victim or a third party contributed significantly to collision or injury • Efforts made to assist or seek assistance for victim(s) • Impeccable driving record • No previous convictions or no relevant/recent convictions • Remorse • Victim was a close friend or relative • Serious medical condition requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives

Question 2d: Are you content to approve the aggravating and mitigating factors for dangerous driving as proposed?

Question 2e: Do you agree to include factors covering leading/minor roles in group offending within culpability for this offence?

4 IMPACT AND RISKS

4.1 As discussed earlier in this paper, the sequencing of the public consultation on the revised aggravated vehicle taking guidelines will need to be considered alongside timings for the work on general motoring offences, particularly given the overlap between the two pieces of work. We will need to balance the requirement for revised guidelines with full

consideration of feedback on the proposed changes, to ensure that we minimise the risk of reputational damage to the Council.

4.2 The impact of the proposed changes to the sentencing tables and aggravating/mitigating factors is anticipated to be limited as the statutory maximum penalties for these offences are not changing and as the sentencing levels proposed are intended to reflect current sentencing practice. This is also the case for higher volume variations of aggravated vehicle taking, such as causing vehicle/property damage of under £5,000 and involving dangerous driving. Once draft guidelines for aggravated vehicle taking have been finalised, a resource assessment will be drafted and circulated to the Council for sign off.

Aggravated vehicle taking – step 1 factors (provisionally agreed by Council in the May meeting)

Vehicle/property damage

HARM	
Category 1	<ul style="list-style-type: none"> • High value damage
Category 2	<ul style="list-style-type: none"> • Cases that fall between categories A or C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out, and/or, ○ The offender's culpability falls between the factors as described in A and C
Category 3	<ul style="list-style-type: none"> • Total damage caused of under £5,000

CULPABILITY	
A - High	<ul style="list-style-type: none"> • Vehicle or property deliberately destroyed • Intention to cause serious damage • Under influence of alcohol/drugs • Significant planning • Police pursuit • Leading role in group offending
B - Medium	<ul style="list-style-type: none"> • Cases that fall between categories A or C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out, and/or, ○ The offender's culpability falls between the factors as described in A and C
C - Lower	<ul style="list-style-type: none"> • Vehicle not driven in unsafe manner • Minor role in group offending • Exceeding authorised use of e.g. employer's or relative's vehicle • Retention of hire car for short period beyond return date

Injury

HARM	
Category 1	<ul style="list-style-type: none"> • Grave and/or life-threatening injury caused • Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment • Offence results in a permanent, irreversible injury or condition
Category 2	<ul style="list-style-type: none"> • Other cases of serious harm
Category 3	<ul style="list-style-type: none"> • All other cases

CULPABILITY	
A - High	<ul style="list-style-type: none"> • Risk of serious injury caused to persons • Under influence of alcohol/drugs • Significant planning • Police pursuit • Leading role in group offending
B - Medium	<ul style="list-style-type: none"> • Other cases that fall between categories A or C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out, and/or, ○ The offender's culpability falls between the factors as described in A and C
C - Lower	<ul style="list-style-type: none"> • Vehicle not driven in unsafe manner • Minor role in group offending • Exceeding authorised use of e.g. employer's or relative's vehicle • Retention of hire car for short period beyond return date

Death

HARM
For all cases of aggravated vehicle taking causing death, the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

CULPABILITY	
A - High	<ul style="list-style-type: none"> • Risk of serious injury caused to persons • Under influence of alcohol/drugs • Significant planning • Police pursuit • Leading role in group offending
B - Medium	<ul style="list-style-type: none"> • Other cases that fall between categories A or C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out, and/or, ○ The offender's culpability falls between the factors as described in A and C
C - Lower	<ul style="list-style-type: none"> • Vehicle not driven in unsafe manner • Minor role in group offending • Exceeding authorised use of e.g. employer's or relative's vehicle • Retention of hire car for short period beyond return date

Dangerous driving

HARM	
Category 1	<ul style="list-style-type: none"> • Offence results in injury to others • Circumstances of offence created a high risk of serious harm to others • Damage caused to vehicles or property
Category 2	<ul style="list-style-type: none"> • All other cases

CULPABILITY	
A- High Culpability	<ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Prolonged, persistent and deliberate course of dangerous driving • Consumption of substantial amounts of alcohol or drugs leading to gross impairment • Offence committed in course of police pursuit • Racing or competitive driving against another vehicle • Disregarding warnings of others • Lack of attention to driving for a substantial period of time • Speed greatly in excess of speed limit • Leading role in group offending
B- Medium culpability	<ul style="list-style-type: none"> • Brief but obviously highly dangerous manoeuvre • Engaging in a brief but avoidable distraction • Driving knowing that the vehicle has a dangerous defect or is dangerously loaded • Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive • Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs • Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the offender's driving skills • Driving when knowingly deprived of adequate sleep or rest • The offender's culpability falls between the factors as described in high and lower culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration • Minor role in group offending

Aggravated vehicle taking data – 2020¹

Sentencing outcomes

Offence	Outcome	Volume	Proportion
Damage under £5,000	Absolute and conditional discharge	9	3%
	Fine	25	7%
	Community sentence	212	60%
	Suspended sentence	46	13%
	Immediate custody	57	16%
	Otherwise dealt with ²	7	2%
Damage over £5,000	Absolute and conditional discharge	1	1%
	Fine	5	3%
	Community sentence	69	42%
	Suspended sentence	40	24%
	Immediate custody	45	27%
	Otherwise dealt with ²	5	3%
Injury	Absolute and conditional discharge	0	0%
	Fine	0	0%
	Community sentence	11	32%
	Suspended sentence	11	32%
	Immediate custody	12	35%
	Otherwise dealt with ²	0	0%
Death	Absolute and conditional discharge	0	0%
	Fine	0	0%
	Community sentence	0	0%
	Suspended sentence	1	100%
	Immediate custody	0	0%
	Otherwise dealt with ²	0	0%
Dangerous driving	Absolute and conditional discharge	1	<0.5%
	Fine	1	<0.5%
	Community sentence	30	15%
	Suspended sentence	42	20%
	Immediate custody	126	61%
	Otherwise dealt with ²	6	3%

Source: Court Proceedings Database, Ministry of Justice

¹ Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

² The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Immediate custody sentence distribution

Offence	Sentence band³	Estimated pre-guilty plea proportion	Post-guilty plea proportion
Damage under £5,000	0-1 month	4%	4%
	1-2 months	11%	28%
	2-3 months	21%	25%
	3-4 months	11%	32%
	4-5 months	26%	7%
	5-6 months	19%	5%
	Greater than 6 months ⁴	9%	-
Damage over £5,000	0-6 months	13%	29%
	6-12 months	31%	53%
	12-18 months	44%	18%
	18-24 months	7%	0%
	Greater than 2 years ⁴	4%	-
Injury	0-6 months	17%	25%
	6-12 months	17%	58%
	12-18 months	50%	17%
	18-24 months	17%	0%
Death ⁵	-	-	-
Dangerous driving	0-6 months	10%	23%
	6-12 months	33%	52%
	12-18 months	37%	25%
	18-24 months	18%	1%
	Greater than 2 years ⁴	2%	-

Source: Court Proceedings Database, Ministry of Justice, adjusted using data from the Crown Court Sentencing Survey (CCSS) to provide estimates of the pre-guilty plea sentence length

³ Sentence length intervals do not include the lower bound but do include the upper bound sentence length. For example, the category '0-6 months' includes sentence lengths less than or equal to 6 months, and '6 to 12 months' includes sentence lengths over 6 months, and up to and including 12 months.

⁴ While these sentences appear to exceed the statutory maximum, they are estimates only; there are no post guilty plea sentence lengths exceeding the statutory maximum.

⁵ No offenders were sentenced to immediate custody for *aggravated vehicle taking causing death* in 2020. In 2019, two offenders received custodial sentences between 6 to 8 years for this offence.

Average custodial sentence length (ACSL)

Offence		Pre-guilty plea estimated ACSL (months)	Post-guilty plea ACSL (months)
Damage under £5,000	Mean	4.0	3.0
	Median	4.1	2.8
Damage over £5,000	Mean	13.1	9.5
	Median	13.3	10.0
Injury	Mean	14.4	9.8
	Median	15.0	10.0
Death ⁵	Mean	-	-
	Median	-	-
Dangerous driving	Mean	14.0	10.0
	Median	13.5	10.0

Source: Court Proceedings Database, Ministry of Justice, adjusted using data from the Crown Court Sentencing Survey (CCSS) to provide estimates of the pre-guilty plea sentence length

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Dangerous driving – step 2 factors

Starting point and category range

	Culpability		
	A	B	C
Harm 1	Starting Point: 1 year 6 months Category range: 1 – 2 years	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year
Harm 2	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year	Starting Point: High level community order Category range: Low level community order – 26 weeks

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving an LGV, HGV or PSV etc
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

Causing injury by wanton or furious driving – step 2 factors

Starting point and category range

	Culpability		
	A	B	C
Harm 1	Starting Point: 1 year 6 months Category range: 1 - 2 years	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year
Harm 2	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year	Starting Point: High level community order Category range: Low level community order – 26 weeks
Harm 3	Starting Point: 26 weeks Category range: High level community order – 1 year	Starting Point: High level community order Category range: Low level community order – 26 weeks	Starting Point: Low level community order Category range: Band B fine – High level community order

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving an LGV, HGV or PSV etc
- Other driving offences committed at or about the same time

- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

Causing death by dangerous driving – step 2 factors

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.

Where more than one death is caused, it will be appropriate to make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Starting point and category range

Culpability	Starting point	Range
High	12 years	8 – 18 years
Medium	6 years	4 – 9 years
Lesser	3 years	2 – 5 years

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving an LGV, HGV or PSV etc
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained
- Serious injury to one or more victims, in addition to the death(s) (see step 6 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

Aggravated vehicle taking – Crown court transcript summaries

Vehicle/property damage

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
Took partner's car and became engaged in police chase, speeding in residential areas and on busy roads. Lost control and crashed into railings	<p>Aggravating factors: Intoxicated (cannabis), no licence, uninsured</p> <p>Mitigating factors: Caring responsibilities for partner and child; mental health issues; lack of maturity; no previous relevant convictions</p>	12 months' suspended sentence
While significantly intoxicated, opportunistically took vehicle and drove above speed limit, on wrong side of road and in wrong direction around a roundabout. Refused to stop for police cars and almost hit a pedestrian. Collided with signpost, writing vehicle off	<p>Aggravating factors: Previous relevant convictions, intoxicated, no licence, uninsured</p> <p>Mitigating factors: N/A</p>	18 months' custody
Two offenders stole high-powered vehicle, speeding and involved in police pursuit. Collided with two cars and continued to drive wrong way around a roundabout and on wrong side of road. Only stopped once police rammed car. Driver was encouraged by passenger to offend	<p>Aggravating factors: Ignored warnings, no licence, uninsured, driver on an order at time of incident, passenger had previous relevant convictions</p> <p>Mitigating factors: Driver aged 18 at time of incident</p>	16 months' custody for driver; 8 months' custody for passenger
Took girlfriend's hire car and was in a crash. No evidence of intoxication; no police pursuit involved	<p>Aggravating factors: Uninsured, no licence</p> <p>Mitigating factors: N/A</p>	Community order of 180 hours unpaid work
Took grandmother's car and used it to help his friend run a 'drugs line operation' for one hour, selling cannabis. During this time, was in an accident with another car, causing substantial damage to the other vehicle	<p>Aggravating factors: N/A</p> <p>Mitigating factors: Good character, remorse</p>	16 weeks' suspended sentence
Drove car without owner's consent, hitting and damaging four other vehicles in the process, including a car with a young child inside,	<p>Aggravating factors: N/A</p> <p>Mitigating factors: N/A</p>	1 year's custody

and a mobility vehicle. Attempted to evade police but was eventually arrested		
Stole car from father while disqualified from driving. Crashed into church lychgate and gravestones	Aggravating factors: On licence; previous relevant convictions, driving while disqualified Mitigating factors: N/A	14 months' custody
Stole two motorcycles with another offender; crashed and abandoned the first motorcycle, then rode second in highly dangerous police chase	Aggravating factors: N/A Mitigating factors: N/A	21 months' suspended sentence
After drinking at a party, stole another party goer's car keys and smashed car into telephone pole, damaging fences and walls	Aggravating factors: Fled the scene Mitigating factors: No previous convictions	6 months' suspended sentence
Stole car keys from victim's jacket pocket and was in a collision, hitting a bus stop and writing the car off	Aggravating factors: Uninsured, failed to stop and to report incident, committed offence while on bail Mitigating factors: Suffered bereavement days before, difficult childhood	1 year's custody
While under influence of cocaine and cannabis, stole girlfriend's car and attempted to evade police, crashing into lamp post and post-box, writing the car off. Fled scene and later claimed he was just a passenger in the car	Aggravating factors: Intoxicated, previous relevant convictions, police pursuit, under suspended sentence order at time, driving while disqualified Mitigating factors: Addressing addiction since incident occurred	12 months' custody
Took a friend's car without permission and went to collect someone else; lost control of car due to rain and crashed through a fence, hitting and damaging several other vehicles	Aggravating factors: Previous relevant conviction, uninsured Mitigating factors: Pre-sentence report	6 months' suspended sentence

Injury

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
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<p>Took vehicle while working on it for the owner; vehicle clipped kerb and was in head-on collision, injuring two occupants in the other car. One was left with broken vertebrae and required a back brace for a period of time, while other occupant required a cast for their injured hand</p>	<p>Aggravating factors: Previous relevant convictions</p> <p>Mitigating factors: N/A</p>	<p>2 years' custody</p>
<p>While under the influence of alcohol, offender was driving a car he knew to be stolen and was carrying passengers. When stopped by police, offender attempted to drive off, dragging two police officers by a few feet, and leaving them with cuts and bruises</p>	<p>Aggravating factors: Intoxication, disregarding warnings, police injured</p> <p>Mitigating factors: Caring responsibilities (pregnant partner, daughter and offender's mother)</p>	<p>12 months' custody</p>
<p>Opportunistically took vehicle from a front drive and was later seen by police stealing fuel. Drove into police officer in attempt to evade arrest, causing minor injuries that led to him being off work for some time</p>	<p>Aggravating factors: Police officer injured</p> <p>Mitigating factors: Lack of maturity and mental health issues</p>	<p>12 months' custody</p>

Death

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
<p>Involved multiple offenders. Both offenders charged with aggravated TWOC causing death were passengers in the taken vehicle, while the driver of the vehicle was charged with the offence of dangerous driving causing death. The incident involved a police chase, with the car colliding with another vehicle carrying a family. Four people died as a result, while three others were left with serious and/or life-changing injuries.</p>	<p>Aggravating factors: stolen car was disguised, dangerous/wet driving conditions, police taunted on social media beforehand, relevant previous convictions</p> <p>Mitigating factors: N/A</p>	<p>10 years' custody</p>

Dangerous driving

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
<p>Offender was staying at house of the victim and took her car and drove off. Car crashed and was written off. Refused to provide specimen for analysis when arrested</p>	<p>Aggravating factors: Previous relevant convictions</p> <p>Mitigating factors: N/A</p>	<p>18 months' custody</p>

Driving stolen car without licence and ended up in police pursuit, speeding in residential areas. Car collided with a taxi, injuring driver and passenger	<p>Aggravating factors: No licence, previous relevant convictions, police pursuit</p> <p>Mitigating factors: Pre-sentence report and letter from partner</p>	20 months' custody
Took 15-tonne road sweeper while intoxicated and drove through city centre, hitting multiple parked cars. Collided with a car with an elderly passenger at traffic lights	<p>Aggravating factors: Intoxicated, previous relevant convictions</p> <p>Mitigating factors: Taking steps to address addiction and seeking support</p>	18 months' suspended sentence
Drove dangerously over 18 miles with police in pursuit and a scared passenger in the car, speeding, going through red lights and driving on wrong side of the road. Crashed into roundabout and traffic lights, injuring passenger	<p>Aggravating factors: Police pursuit, ignored passenger asking him to stop, passenger injured, previous relevant convictions</p> <p>Mitigating factors: Mental health issues</p>	21 months' custody
Took car after victim had left car/house keys in vehicle. After stealing property from the house, drove off at speed, with police in pursuit	<p>Aggravating factors: Police pursuit</p> <p>Mitigating factors: N/A</p>	12 months' custody
Took employer's Range Rover and drove for a short period at excessive speeds on motorway. Involved in police pursuit. No immediate danger was posed, however	<p>Aggravating factors: Police pursuit</p> <p>Mitigating factors: N/A</p>	9 months' custody
Took car that had been left with keys in ignition. Drove off and began to speed in residential areas with police in pursuit. Offender only had provisional licence	<p>Aggravating factors: Police pursuit</p> <p>Mitigating factors: Young age (18 at time of incident), personal circumstances (family tragedy)</p>	16 weeks' custody
Drove powerful vehicle dangerously, and involved in police pursuit. Was speeding on residential roads, driving on paths and on the wrong side of a dual carriageway. Stopped after collision with police car	<p>Aggravating factors: Previous relevant convictions, police pursuit, significant risk posed</p> <p>Mitigating factors: N/A</p>	2 years' custody