

Sentencing Council meeting:
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SC(22)MAR02 – Motoring offences
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1 ISSUE

1.1 Setting sentence levels for dangerous and careless driving offences; and drafting guidelines for causing death and serious injury whilst disqualified/unlicensed/uninsured, and causing injury by wanton or furious driving.

2 RECOMMENDATIONS

2.1 That Council agree the sentencing levels set out below, and the draft guidelines in the annexes, in particular that:

- sentencing levels for dangerous and careless offences be set by reference to the levels for unlawful act manslaughter and inflicting grievous bodily harm;
- sentencing levels for dangerous driving be increased to some degree to reflect the increased levels for causing death and serious injury by dangerous driving;
- there be two levels of harm for causing serious injury offences and simple dangerous driving (resulting in a six box sentencing grid), but three levels of harm for causing injury by wanton or furious driving (resulting in a nine box grid);
- culpability elements for disqualified/unlicensed/uninsured offences do not make any reference to the standard of driving, but harm and aggravating/mitigating factors be drawn from our proposed dangerous/careless guidelines;
- culpability and aggravating/mitigating factors for causing injury by wanton or furious driving be brought across from careless/dangerous guidelines, with wording adapted as necessary.

3 CONSIDERATION

Sentence levels for dangerous and careless offences

3.1 The Council has agreed the step one and two elements for:

- causing death by dangerous driving (**Annex A**);
- causing death by careless driving (**Annex B**);
- causing death by careless driving under the influence (**Annex C**),
- causing serious injury by dangerous driving (**Annex D**).
- causing serious injury by careless driving (**Annex E**); and
- dangerous driving (**Annex F**)

Annex K provides a side by side comparison of existing and proposed sentencing tables, where guidelines currently exist.

Death by dangerous driving

3.2 The maximum penalty for causing death by dangerous driving is increasing from 14 years to life imprisonment under the Police, Crime, Sentencing and Courts Bill. In 2020, of 153 offenders sentenced, 143 received immediate custody, nine received suspended sentences and one received a community order. The average (mean) custodial sentence (estimated pre-guilty plea) was 6.3 years. There is a fairly even spread of pre-guilty plea sentence levels: over half received up to 6 years, and 22 received between 10 and 14 years. The existing guideline for causing death by dangerous driving can be found [here](#),

3.3 Given the increase in maximum penalty, an obvious comparator is the sentencing table for unlawful act manslaughter:

Culpability			
A	B	C	D
Starting point: 18 years	Starting point: 12 years	Starting point: 6 years	Starting point: 2 years
Range: 11-24 years	Range: 8 -16 years	Range: 3-9 years	Range: 1-4 years

3.4 Bearing in mind that category A is reserved for extreme cases and cases with a combination of category B factors, I propose the following table for causing death by dangerous driving:

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

3.5 These levels indicate that the worst cases of manslaughter are worse than the worst cases of dangerous driving, where there is no intent to cause harm. At the other end, the least serious cases of manslaughter are less serious than the least serious cases of dangerous driving where, inherently, someone is in charge of a machine with the capacity to kill and should be driving it with due responsibility.

Death by careless driving

3.6 This offence has a maximum penalty of five years' custody. In 2020 31% of offenders received immediate custody, 39% received suspended sentences and 25% received a community order. The ACSL (estimated pre-guilty plea) was 16 months, and most immediate custodial sentences imposed (21 of 37) were between 6 and 12 months; a further 10 were between 1 and 2 years.

3.7 The existing guideline can be found [here](#), and the current draft of the revised guideline is at **Annex B**. There is no inherent need to increase levels for this offence. However, we will want to make sure they remain in step with levels for death by dangerous driving, and that there is sufficient space for the new offence of causing serious injury by careless driving. I therefore propose a modest uplift to the existing levels:

Culpability	Starting point	Range
High	2 years	1 year – 4 years
Medium	1 year	26 weeks – 3 years
Lesser	26 weeks	Medium level community order – 1 year

3.8 Arguably, a custodial starting point and a range allowing up to a year are too severe for a momentary lapse of attention. On the other hand, there needs to be some distinction drawn between cases of death and cases of serious injury. In practice this may result in many suspended sentences.

Causing death by careless driving under the influence of drink or drugs

3.9 This offence has a 14 year maximum, rising to life under the PCSC Bill. In 2020, 17 of 19 offenders received immediate custody for this offence, the other two receiving suspended sentences. The estimated pre guilty plea ACSL was six and a half years and

there was a fair spread of sentences: about half (eight) received between 2 and 6 years, and the rest between 6 and 14 years.

3.10 The current guideline is [here](#) and the current draft of the guideline is at **Annex C**. We may want to mirror to some extent whatever changes we make for causing death by dangerous driving. The element of intoxication makes a direct comparison with death by dangerous levels difficult, but the top box reflects high culpability in death by dangerous, the middle box, middle culpability, and bottom centre box low culpability. Applying that approach to my proposed new death by dangerous table results in the following:

The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)	High culpability	Medium culpability	Lesser culpability
71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol	Starting point: 12 years Sentencing range: 8 – 18 years	Starting point: 9 years Sentencing range: 6 - 12 years	Starting point: 6 years Sentencing range: 5 – 10 years
51- 70 µg of alcohol OR Any quantity of a single drug detected	Starting point: 9 years Sentencing range: 6 - 12 years	Starting point: 6 years Sentencing range: 4 – 9 years	Starting point: 4 years Sentencing range: 3 – 7 years
35-50 µg of alcohol	Starting point: 6 years Sentencing range: 4 – 9 years	Starting point: 3 years Sentencing range: 2 – 5 years	Starting point: 1 year 6 months Sentencing range: 26 weeks – 4 years

3.11 This means the lowest intoxication starting points are all three times the starting points for causing death by careless driving at all respective culpability levels. This reflects the current, very large discrepancy between cases of death by careless and death by careless under the influence. However, this table keeps the levels for the lesser culpability

column at the same level as the current guideline. It does mean that the lowest level of culpability and intoxication is lower than the highest level for causing death by careless driving. That could be justified as the standard of driving is different, but there is a judgement call about how much more serious the fact of intoxication should make the offending than for simple causing death by careless.

Question 1: are you content with the proposed sentencing levels for the causing death offences?

Question 2: are you content that the lower culpability levels for causing death by careless are lower than the highest level for causing death by careless, or would you like to reflect better both the increase in maximum penalty and the inherent seriousness of intoxication?

3.12 One criticism of the current 14 year maximum penalty ([including from at least one judge](#)) is how it constrains the sentence in cases of more than one death, given that case law and the current guideline dictate that sentences for different counts should normally be concurrent.¹ In drafts thus far more than one death has been treated as an aggravating factor. However, the working group considered that additional guidance before the harm table would help address the question head on:

“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 increase 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.”

Question 3: do you agree with the approach to multiple deaths?

Serious injury offences

3.13 The definition of “serious injury” for England and Wales in the Road Traffic Act 1988 is “physical harm which amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861”. I therefore propose using [the guideline for inflicting grievous bodily harm/ Unlawful wounding, section 20 of the 1861 Act](#) as a model for sentence levels. This has a five year maximum, as does causing serious injury by dangerous driving.

¹ See [R v Jaynesh Chudasama \[2018\] EWCA Crim 2867](#) for a recent example and summary of the case law

3.14 There is no current guideline for causing serious injury by dangerous driving. In 2020, two thirds (67%) of offenders received immediate custody, just over a quarter (26%) received a suspended sentence and 5% received a fine. The estimated pre-guilty plea ACSL was just under three years (35.5 months) and a fair spread of custodial sentence lengths right up to the maximum (most getting in the two to four year range, but very few below a year). The current draft of the new guideline is at **Annex D**.

3.15 We have discussed previously whether we should have a two or three harm scheme for the serious injury offences. Given the maximum penalties for the causing serious injury offences are relatively low (five years for dangerous, two years for careless) I believe there is a good case for a straightforward two harm model based on the section 20 high harm elements and sentencing levels. So the top harm level would encompass:

- Particularly 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 which has a substantial and long term effect on the victim’s ability to carry out their normal day to day activities or on their ability to work.

and the lower category would be “All other cases”. The sentence levels for causing serious injury by dangerous driving would be:

	Culpability		
	A	B	C
Harm 1	Starting Point: 4 years Category range: 3 – 5 years	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 year – 3 years
Harm 2	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 year – 3 years	Starting Point: 1 year Category range: 26 weeks – 2 years

That means that the higher culpability starting points and ranges are higher than those for the lower culpability levels for causing death by dangerous, but this can be justified on the grounds of differing levels of culpability and simply replicates the existing relationship between manslaughter and GBH.

3.16 The table for the new offence of causing serious injury by careless driving (see draft at **Annex E**) effectively needs to continue this table across through a gradation of culpability:

	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

Question 4: are you content with the proposed causing serious injury sentencing levels?

Dangerous driving

3.17 Dangerous driving has a two year maximum which is staying unchanged. In 2020 almost half of dangerous driving offenders received immediate custody (49%), a further third (32%) received suspended sentences and 15% received community orders. Of those that received immediate custody the estimated average pre-guilty plea sentence was 14.3 months. There was a fairly even spread above the six month point, with nearly four in ten offenders receiving between 12 and 18 months, pre-guilty plea.

3.18 The current magistrates court guideline can be found [here](#) and the current draft of the revised guideline is at **Annex F**. The existing table can provide a starting point, and there is no automatic reason to increase/adjust sentences. However, we are moving to a harm and culpability model, will want to be mindful of readacross to offences where death and injury are caused, and will want to provide sentence levels for the Crown Court.

3.19 I propose the following:

	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

3.20 Note that these levels are identical to those for causing serious injury by careless driving. This is not intentional, but may attract comment. In practice this is the result of the attempt to reflect six levels of culpability and harm within a relatively low maximum. In comparing the two offences one could argue that dangerous driving even without any injury carries higher culpability, but that is balanced by the harm actually caused by careless drivers.

3.21 The current magistrates' court dangerous driving guideline, like other magistrates' driving guidelines, sets lengths of disqualification (12 to 15 months for low level, 15 to 24 months for medium level). I do not recommend providing disqualification lengths for every possible category of offending across all the guidelines. Rather, I propose in general providing some high level information about minimum disqualification periods, including for repeat offending, and distilling some of the information contained in the [magistrates' explanatory materials on driving disqualifications](#). (Some of these minimum periods are changing under the Police, Crime, Sentencing and Courts Bill). By way of exception, as specific guidance is provided now on disqualification lengths for dangerous driving, we should retain these so as not to leave magistrates with less guidance than now).

3.22 I believe this information is most likely to be seen and read if placed just after the sentencing table, as a drop-down box alongside the usual drop down boxes for community orders and custodial sentences. Alternatively, it could form part of the standard step six or step seven on ancillary orders. However, given they are obligatory for most offences in scope it seems right for them to be considered at the point of determining the sentence at the main sentencing box.

3.23 If Council agrees, I will draft the content for a drop-down and demonstrate it at the planned sign-off meeting in May.

Question 5: are you content with the proposed sentencing levels for dangerous driving?

Question 6: do you agree in principle with the addition of information on disqualification after the sentencing table?

Further guidelines: disqualified/unlicensed/uninsured and wanton or furious driving

3.24 There is currently a Sentencing Guidelines Council guideline for [causing death by driving whilst disqualified, unlicensed or uninsured](#). However, as the online guideline notes, the maximum penalty for causing death by driving whilst disqualified was raised from 2 years' imprisonment to 10 years in 2015 (with death whilst unlicensed and uninsured remaining at 2 years). There is a [magistrates' court guideline for driving whilst disqualified](#)

(i.e. no death, maximum 6 months), revised in 2017 which we are not updating. There are no existing guidelines for causing serious injury by driving whilst disqualified (maximum penalty 4 years) or causing injury by wanton or furious driving (maximum penalty 2 years).

3.25 These are low volume offences, with only three sentences imposed for causing death by driving whilst disqualified in as many years (2018-20). The other offences are in single figures annually for 2018 to 2020, although there were 11 offenders sentenced in 2020 for causing injury by wanton or furious driving.

Whilst disqualified, unlicensed and uninsured offences – culpability

3.26 It is challenging to articulate different grades of culpability for these offences, and the standard of driving is irrelevant to this offending. The drafts at **Annexes G and H** for the disqualified offences present a high culpability marked by various elements which are considered aggravating in other motoring guidelines. Breaching a court order shortly after its imposition is commonly considered aggravating in breach guidelines and is in the driving whilst disqualified guideline. “Vehicle obtained during disqualification period” is also a culpability factor in that guideline and “Significant distance travelled” is a harm factor.

3.27 Low culpability is distinguished by “Decision to drive was brought about by a genuine and proven emergency”, “Forced to drive whilst disqualified by pressure, coercion or intimidation” and “The offender genuinely believed that he or she was not disqualified to drive” (which could occur if someone has been disqualified in absentia). The medium category represents everything in between (“*Cases falling between higher and lesser culpability because: Factors are present in higher and lesser culpability which balance each other out and/or; The offender’s culpability falls between the factors as described in higher and lesser culpability*”).

3.28 I suggest a similar approach for causing death by driving whilst unlicensed/uninsured (see **Annex I**), with some tweaks, given that driving shortly after disqualification or vehicle obtained during disqualification period are not relevant here.

Question 7: are you content with the culpability factors for the disqualified, unlicensed and uninsured offences?

Harm

3.29 Harm for the causing death offences is set at one level and I propose we include the explanatory text agreed for other offences where more than one death occurs. For causing serious injury by driving whilst disqualified, I propose following the same approach that we

have agreed for the other serious injury offences: a high category based on the highest level for GBH, and a lower category for all other cases.

Question 8: are you content with this approach to harm?

Sentencing levels for disqualified, unlicensed/uninsured offences

3.30 The hierarchy that Parliament has set places causing death by driving whilst disqualified as less serious than causing death by dangerous driving, but considerably more serious than causing death by careless driving. Similarly causing serious injury whilst disqualified is less serious than causing serious injury by dangerous driving, but more serious than causing serious injury by careless driving.

3.31 Being mindful that there may be little or no connection between the offender’s driving and the incident, the following proposal for causing death whilst disqualified takes its medium levels from the death by dangerous driving low levels:

Culpability	Starting point	Range
High	6 years	4 – 9 years
Medium	3 years	2 – 5 years
Lesser	18 months	High level community order to 2 years

The high levels are adjusted down from the death by dangerous medium levels, and the lesser levels are set in a fully suspendable range, given this would be for a genuine emergency, where the offender was coerced, or where they genuinely believed they were able lawfully to drive.

3.32 For causing serious injury whilst disqualified, I suggest for its highest culpability levels taking the medium culpability levels of causing serious injury by dangerous, for its medium culpability levels taking the lowest culpability levels of serious injury by dangerous, and for its lowest level broadly taking the medium culpability levels from serious injury by careless driving:

	Culpability		
	A	B	C
Harm 1	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 12 months – 3 years	Starting Point: 12 months Category range: High level community order – 2 years
Harm 2	Starting Point: 2 years Category range: 12 months – 3 years	Starting Point: 12 months Category range: High level community order – 2 years	Starting Point: 26 weeks Category range: Low level community order – 12 months

3.33 For causing death whilst unlicensed/uninsured, the current table is as follows:

Examples of nature of activity	Starting point	Range
The offender was disqualified from driving OR the offender was unlicensed or uninsured plus two or more aggravating factors	12 months' custody	36 weeks – 2 years' custody
The offender was unlicensed or uninsured plus at least one aggravating factor	26 weeks' custody	High level community order – 36 weeks' custody
The offender was unlicensed or uninsured – no aggravating factors	Medium level community order	Low level community order – high level community order

3.34 There is no particular need to amend the sentencing levels here. At the upper end we could increase levels in an attempt to reflect the markedly higher levels for death whilst disqualified. However, we might equally want to decrease levels at the lower end to distinguish a new category of lower culpability marked by driving whilst unknowingly unlicensed/uninsured, coerced or in an emergency. On balance, I propose leaving the sentencing levels alone for this offence.

Question 9: do you agree with the sentencing levels for the disqualified, unlicensed and uninsured offences?

Aggravating and mitigating factors

3.35 The proposed step two factors are similar to the ones we have already agreed across the other death and serious injury offences. We can include a note relating to previous convictions which currently appears in the driving whilst disqualified guideline:

“Note: An offender convicted of this offence will always have at least one relevant previous conviction for the offence that resulted in disqualification. The starting points and ranges take this into account; any other previous convictions should be considered in the usual way.”

3.36 One aggravating factor which I have modified from the breach guidelines is “History of disobedience of disqualification orders (where not already taken into account as a previous conviction)”.

3.37 “Actions of the victim or a third party contributed significantly to collision or death” could be included at step one as low culpability, but this could be present in a significant number of these cases and is totally unrelated to the question of whether someone should legally be on the road.

Question 10: do you agree with the aggravating and mitigating factors for the disqualified, unlicensed and uninsured offences?

Causing injury by wanton or furious driving²

3.38 This offence will be charged either where a motorised vehicle causes injury off-road or (as in at least [one well-publicised case](#)) where a cyclist causes injury in any setting. The phrase “wanton or furious” encompasses both dangerous and careless driving. The level of injury need not be the serious injury/GBH level required in other driving offences, although equally it is charged where a death has resulted.

3.39 The draft at **Annex J** adapts top culpability elements from top culpability for death/serious injury by dangerous driving, and medium culpability elements from medium culpability for death/serious injury by careless. The lowest category is all other cases. There are specific references to cycling as well as driving for the avoidance of doubt.

Question 11: are you content with the culpability elements for causing injury by wanton or furious driving?

3.40 For harm, whilst the simplest option would be to bring across our two-harm model from the other serious injury guidelines, we should be allowing for a broader range of injury/harm. The test in the statute is “any bodily harm to any person whatsoever”. Such a harm table could see high harm broadly equate to GBH, a middle category capturing other serious harm, and a low category to capture lesser harm:

HARM	
Category 1	<ul style="list-style-type: none">• Death• 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

² I propose to call this guideline “causing injury by wanton or furious driving”, although the 1861 Act only refers to “injuring persons by furious driving” in its section title; colloquially it is known as “wanton or furious” as described in the body of the section.

	<ul style="list-style-type: none"> • 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

Question 12: are you content with the harm elements for causing injury by wanton or furious driving?

3.41 For sentence levels, I propose that the top two harm levels be the same as for causing serious injury by careless driving: broadly speaking they equate to the harm covered by that and the two offences share a two year maximum penalty. Harm 3 levels simply follow diagonally:

	Culpability		
	A	B	C
Harm 1	Starting Point: 18 months Category range: 12 months - 2 years	Starting Point: 12 months Category range: 26 weeks – 18 months	Starting Point: 26 weeks Category range: High level community order – 12 months
Harm 2	Starting Point: 12 months Category range: 26 weeks – 18 months	Starting Point: 26 weeks Category range: High level community order – 12 months	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 – 12 months	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

Question 13: are you content with sentencing levels for causing injury by wanton or furious driving?

3.42 The aggravating and mitigating factors would be the standard ones we are proposing for other driving offences. I have adapted “other driving/cycling offences committed at the same time” to “Other driving offences committed at *or about* the same time” as it may be the case that the course of offending involved someone going on-road and off-road at different points.

Question 14: are you content with the aggravating and mitigating factors for causing injury by wanton or furious driving?

4 IMPACT AND RISKS

4.1 A consultation stage resource assessment is being prepared and will be presented to Council in May.

4.2 We may face criticism from both directions, that our proposed sentence levels are not high enough to reflect the harm caused by dangerous and careless driving, but also that in raising sentencing levels to reflect the new maximum penalties we are contributing to sentence inflation.

4.3 Many of these offences are complex in that harm and culpability can be distinctly out of proportion to each other. Some of the offences relate to the standard of driving, whilst others relate to whether someone should lawfully be on the road, regardless of how they drive. This complexity is compounded by a piecemeal approach to legislating in an emotive area which has resulted in very differing maximum penalties which our guidelines need to navigate. All of this will require careful explanation at consultation, including an upfront explanation of what is in our gift and what the parameters set by Parliament are.

Causing death by dangerous driving

Road Traffic Act 1988 (section 1)

Triable only on indictment

Maximum: life imprisonment, minimum disqualification of 2 years with compulsory extended re-test

Offence range: 2 – 18 years' custody

This is a specified offence for the purposes of sections 266 and 279 (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category. A combination of factors in any category may justify an increased starting point

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
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 lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

HARM

For all cases 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.

STEP TWO

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 increase 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 LGV, HGV, PSV
- 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
- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Dangerousness

The court should consider whether having regard to the criteria contained in Chapter 6 of Part 10 of the Sentencing Code it would be appropriate to impose an extended sentence (sections 266 and 279) When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

STEP SIX

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Crown Court Compendium

STEP EIGHT

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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Causing death by careless or inconsiderate driving

Road Traffic Act 1988 (section 2B)

Triable either way

Maximum: 5 years' custody

Offence range: Community order – 4 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Driving at a speed that is inappropriate for the prevailing road or weather conditions
- Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs
- Driving vehicle which is unsafe or where visibility or controls are obstructed
- Driving in disregard of advice relating to the effects of medical condition or medication
- Driving whilst ability to drive impaired as a result of a known medical condition
- Driving when deprived of adequate sleep or rest
- The offender's culpability falls between the factors as described in high and lesser culpability

Lesser

- Standard of driving was just over threshold for careless driving
- Momentary lapse of concentration

HARM

For all cases 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.

STEP TWO

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 increase 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 five of this guideline.

Starting point and category range

Culpability	Starting point	Range
High	2 years	1 – 4 years
Medium	1 year	26 weeks – 3 years
Lesser	26 weeks	Medium level community order – 1 year

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
- Disregarding warnings of others
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the careless driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Serious injury to one or more victims, in addition to the death(s) (see step 5 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
- Alcohol or drugs consumed unwittingly

- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

Causing death by careless driving whilst under the influence of drink or drugs

Causing death by careless driving when under the influence of drink or drugs or having failed either to provide a specimen for analysis or to permit analysis of a blood sample

Road Traffic Act 1988 (section 3A)

Triable on indictment only

Maximum: life imprisonment

Offence range: 26 weeks – 18 years' custody

This is a specified offence for the purposes of sections 266 and 279 (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

STEP ONE**Determining the offence category****HARM**

For all cases 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.

STEP ONE – DETERMINING THE OFFENCE CATEGORY

There are two aspects to assessing culpability for this offence.

1) The court should first determine the standard of driving with reference to the factors below, which comprise the principal factual elements of the offence.

High

- Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive
- Driving vehicle which is unsafe or where drivers visibility or controls are obstructed
- Driving in disregard of advice relating to the effects of medical condition or medication (where the medication does not form a basis of the offence)
- Driving whilst ability to drive impaired as a result of a known medical condition
- Driving when deprived of adequate sleep or rest
- The offender's culpability falls between the factors as described in high and lesser culpability

Lesser

- Standard of driving was just over threshold for careless driving
- Momentary lapse of concentration

2) Factors relevant to the presence of alcohol or drugs or a failure to provide a sample for analysis should then be considered to identify the appropriate offence category and starting point of sentence in accordance with the table below

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

<p>the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.</p> <p>Where more than one death is caused, it will be appropriate to increase 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</p>			
<p>The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)</p>	<p>Careless driving -High culpability</p>	<p>Careless driving -Medium culpability</p>	<p>Careless driving -Lesser culpability</p>
<p>H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol</p>	<p>Starting point: 12 years</p> <p>Sentencing range: 8 – 18 years</p>	<p>Starting point: 9 years</p> <p>Sentencing range: 6 – 12 years</p>	<p>Starting point: 6 years</p> <p>Sentencing range: 5 – 10 years</p>
<p>51- 70 µg of alcohol OR Any quantity of a single drug detected</p>	<p>Starting point: 9 years</p> <p>Sentencing range: 6 – 12 years</p>	<p>Starting point: 6 years</p> <p>Sentencing range: 4 – 9 years</p>	<p>Starting point: 4 years</p> <p>Sentencing range: 3 – 7 years</p>
<p>35-50 µg of alcohol</p>	<p>Starting point: 6 years</p> <p>Sentencing range: 4 – 9 years</p>	<p>Starting point: 3 years</p> <p>Sentencing range: 2 – 5 years</p>	<p>Starting point: 1 year 6 months</p> <p>Sentencing range: 26 weeks - 4 years</p>

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:

- 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
- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Disregarding warnings of others
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the careless driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- 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
- Alcohol or drugs consumed unwittingly
- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Dangerousness

The court should consider whether having regard to the criteria contained in Chapter 6 of Part 10 of the Sentencing Code it would be appropriate to impose an extended sentence (sections 266 and 279) When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

STEP SIX

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

Ancillary orders – Crown Court Compendium

STEP EIGHT

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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Causing serious injury by dangerous driving

Road Traffic Act 1988 (section 1A)

Triable either way

Maximum: 5 years' custody, [minimum disqualification of 2 years with compulsory extended re-test]

Offence range: 26 weeks – 5 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category. A combination of factors in any category may justify an increased starting point

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
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 lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

HARM	
Category 1	<ul style="list-style-type: none"> • Particularly 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 which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work
Category 2	<ul style="list-style-type: none"> • All other cases

STEP TWO**Starting point and category range**

	Culpability		
	A	B	C
Harm 1	Starting Point: 4 years Category range: 3 – 5 years	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 – 3 years
Harm 2	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 – 3 years	Starting Point: 1 year Category range: 26 weeks – 2 years

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 *Offences Taken into Consideration and Totality* guideline and step six 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:

- 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
- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- 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
- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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Causing serious injury by careless or inconsiderate driving

Road Traffic Act 1988 (section 2C)

Triable either way

Maximum: 2 years' custody

Offence range: Community order – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Driving at a speed that is inappropriate for the prevailing road or weather conditions
- Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs
- Driving vehicle which is unsafe or where visibility or controls are obstructed
- Driving in disregard of advice relating to the effects of medical condition or medication
- Driving whilst ability to drive impaired as a result of a known medical condition
- Driving when deprived of adequate sleep or rest
- The offender's culpability falls between the factors as described in high and lesser culpability

Lesser

- Standard of driving was just over threshold for careless driving
- Momentary lapse of concentration

HARM

Category 1

- Particularly 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 which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work

Category 2

- All other cases

STEP TWO

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 *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
- Disregarding warnings of others
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the careless driving
- 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
- Alcohol or drugs consumed unwittingly
- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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Dangerous driving

Road Traffic Act 1988 (section 2)

Triable either way

Maximum: 2 years' custody

Offence range: Community order – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category. A combination of factors in any category may justify an increased starting point

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
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 lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

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

STEP TWO**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 LGV, HGV, PSV
- 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
- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

Ancillary orders – Magistrates' Court

Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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Causing death by driving; disqualified drivers

Road Traffic Act 1988 (section 3ZC)

Triable only on indictment

Maximum: 10 years' custody

Offence range: Community order – 7 years' custody

This is a specified offence for the purposes of sections 266 and 279 (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Driving shortly after disqualification imposed
- Vehicle obtained during disqualification period
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Significant distance driven

Medium

- Cases falling between higher and lesser culpability because:
 - Factors are present in higher and lesser culpability which balance each other out and/or
 - The offender's culpability falls between the factors as described in higher and lesser culpability

Lesser

- The offender genuinely believed that he or she was not disqualified to drive
- Decision to drive was brought about by a genuine and proven emergency
- Forced to drive whilst disqualified by pressure, coercion or intimidation

HARM

For all cases 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.

STEP TWO

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 increase 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
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Culpability	Starting point	Range
High	5 years	4 – 7 years
Medium	3 years	2 – 5 years
Lesser	1 year 6 months	High level community order to 2 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
- **Note:** An offender convicted of this offence will always have at least one relevant previous conviction for the offence that resulted in disqualification. The starting points and ranges take this into account; any other previous convictions should be considered in the usual way.
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- History of disobedience to disqualification orders (where not already taken into account as a previous conviction)
- Disregarding warnings of others about driving whilst disqualified
- Blame wrongly placed on others
- False details given
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- 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) (not including the current order for disqualification)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)

- 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 relative(s)

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Dangerousness

The court should consider whether having regard to the criteria contained in Chapter 6 of Part 10 of the Sentencing Code it would be appropriate to impose an extended sentence (sections 266 and 279).

STEP SIX

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

Ancillary orders – Crown Court Compendium

STEP EIGHT

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

Causing serious injury by driving: disqualified drivers

Road Traffic Act 1988 (section 3ZD)

Triable either way

Maximum: 4 years' custody

Offence range: Community order – 4 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Driving shortly after disqualification imposed
- Vehicle obtained during disqualification period
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Significant distance driven

Medium

- Cases falling between higher and lesser culpability because:
 - Factors are present in higher and lesser culpability which balance each other out and/or
 - The offender's culpability falls between the factors as described in higher and lesser culpability

Lesser

- The offender genuinely believed that he or she was not disqualified to drive
- Decision to drive was brought about by a genuine and proven emergency
- Forced to drive whilst disqualified by pressure, coercion or intimidation

HARM

Category 1

- Particularly 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 which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work

Category 2

- All other cases

STEP TWO

Starting point and category range

	Culpability		
	A	B	C
Harm 1	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 – 3 years	Starting Point: 1 year Category range: High level community order – 2 years
Harm 2	Starting Point: 2 years Category range: 1 – 3 years	Starting Point: 1 year Category range: High level community order – 2 years	Starting Point: 26 weeks Category range: Low level community order – 1 year

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
- **Note:** An offender convicted of this offence will always have at least one relevant previous conviction for the offence that resulted in disqualification. The starting points and ranges take this into account; any other previous convictions should be considered in the usual way.
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- History of disobedience to disqualification orders (where not already taken into account as a previous conviction)
- Disregarding warnings of others about driving whilst disqualified
- Blame wrongly placed on others
- False details given
- 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) (not including the current order for disqualification)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)
- 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 relative(s)

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

Causing death by driving: unlicensed or uninsured drivers

Road Traffic Act 1988 (section 3ZB)

Triable either way

Maximum: 2 years' custody

Offence range: Community order – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Significant distance driven

Medium

- Cases falling between higher and lesser culpability because:
 - Factors are present in higher and lesser culpability which balance each other out and/or
 - The offender's culpability falls between the factors as described in higher and lesser culpability

Lesser

- The offender genuinely believed that he or she was insured or licensed to drive
- Decision to drive was brought about by a genuine and proven emergency
- Forced to drive unlicensed or uninsured by pressure, coercion or intimidation

HARM

For all cases 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.

STEP TWO

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 increase 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 five of this guideline.

Starting point and category range
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Culpability	Starting point	Range
High	1 year	36 weeks to 2 years
Medium	26 weeks	High level community order – 36 weeks
Lesser	Medium level community order	Low level community order – high level community order

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
- Disregarding warnings of others about driving whilst unlicensed or uninsured
- Blame wrongly placed on others
- False details given
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Serious injury to one or more victims, in addition to the death(s) (see step 5 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
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

Causing injury by wanton or furious driving

Offences Against the Person Act 1861 (section 35)

Triable only on indictment

Maximum: 2 years' custody

Offence range: Fine – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Deliberate decision to ignore the rules of the road and/or disregard for the risk of danger to others.
- Prolonged, persistent and deliberate course of driving or cycling likely to cause a danger to others
- Driving or cycling grossly impaired by consumption of alcohol or drugs
- Offence committed in course of police pursuit
- Racing or competitive driving or cycling against another vehicle or bicycle
- Disregarding warnings of others
- Lack of attention to driving or cycling for a substantial period of time
- Speed greatly in excess of speed limit
- Extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Inappropriate speed for the prevailing conditions
- Driving or cycling impaired by consumption of alcohol or drugs
- Visibility or controls obstructed
- Driving or cycling impaired as a result of a known medical condition
- Disregarding advice relating to the effects of medical condition or medication
- Driving or cycling when deprived of adequate sleep or rest

Lesser

- All other cases

HARM

Category 1	<ul style="list-style-type: none"> • Death • 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

STEP TWO

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 or cycling for commercial purposes
- Driving LGV, HGV, PSV
- 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
- Alcohol or drugs consumed unwittingly
- The victim was a close friend or relative
- 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
- 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

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

STEP SEVEN

Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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Comparison of sentencing tables

Annex K

Causing death by dangerous driving

Current:

Culpability	Starting point	Range
High	8 years	7 – 14 years
Medium	5 years	4 – 7 years
Lesser	3 years	2 – 5 years

Proposed:

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

Causing death by careless driving

Current:

Culpability	Starting point	Range
High	15 months	36 weeks – 3 years
Medium	36 weeks	High level community order – 2 years
Lesser	Medium level community order	Low level community order – high level community order

Proposed:

Culpability	Starting point	Range
High	2 years	12 months – 4 years
Medium	12 months	26 weeks – 3 years
Lesser	26 weeks	Medium level community order – 12 months

Causing death by careless driving under the influence

Current:

The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)	High culpability	Medium culpability	Lesser culpability
H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol	Starting point: 8 years Sentencing range: 7 - 14 years	Starting point: 7 years Sentencing range: 6 – 12 years	Starting point: 6 years Sentencing range: 5 – 10 years
51- 70 µg of alcohol OR Any quantity of a single drug detected	Starting point: 6 years Sentencing range: 5 – 9 years	Starting point: 5 years Sentencing range: 4 – 8 years	Starting point: 4 years Sentencing range: 3 – 7 years
35-50 µg of alcohol	Starting point: 4 years Sentencing range: 3 years – 6 years	Starting point: 3 years Sentencing range: 2 – 5 years	Starting point: 18 months Sentencing range: 26 weeks – 4 years

Proposed:

The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)	High culpability	Medium culpability	Lesser culpability
H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol	Starting point: 12 years Sentencing range: 8 – 18 years	Starting point: 9 years Sentencing range: 6 – 12 years	Starting point: 6 years Sentencing range: 5 – 10 years
51- 70 µg of alcohol OR Any quantity of a single drug detected	Starting point: 9 years Sentencing range: 6 – 12 years	Starting point: 6 years Sentencing range: 4 – 9 years	Starting point: 4 years Sentencing range: 3 – 7 years
35-50 µg of alcohol	Starting point: 6 years Sentencing range: 4 – 9 years	Starting point: 3 years Sentencing range: 2 – 5 years	Starting point: 18 months Sentencing range: 26 weeks - 4 years

Dangerous driving

Current:

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

Proposed:

	Culpability		
	A	B	C
Harm 1	<p>Starting Point: 18 months</p> <p>Category range: 12 months – 2 years</p>	<p>Starting Point: 12 months</p> <p>Category range: 6 – 18 months</p>	<p>Starting Point: 6 months</p> <p>Category range: High level community order – 12 months</p>
Harm 2	<p>Starting Point: 12 months</p> <p>Category range: 6 – 18 months</p>	<p>Starting Point: 6 months</p> <p>Category range: High level community order – 12 months custody</p>	<p>Starting Point: High level community order</p> <p>Category range: Low level community order – 6 months</p>

Causing death whilst disqualified

Current:

Examples of nature of activity	Starting point	Range
The offender was disqualified from driving [...]	12 months' custody	36 weeks – 2 years' custody

Causing death whilst unlicensed/uninsured

Current:

Examples of nature of activity	Starting point	Range
[...] the offender was unlicensed or uninsured plus two or more aggravating factors	12 months' custody	36 weeks – 2 years' custody
The offender was unlicensed or uninsured plus at least one aggravating factor	26 weeks' custody	High level community order – 36 weeks' custody
The offender was unlicensed or uninsured – no aggravating factors	Medium level community order	Low level community order – high level community order

Proposed:

Culpability	Starting point	Range
High	5 years	4 – 7 years
Medium	3 years	2 – 5 years
Lesser	18 months	High level Community Order to 2 years

Proposed:

Culpability	Starting point	Range
High	12 months	36 weeks to 2 years
Medium	26 weeks	High level community order – 36 weeks
Lesser	Medium level community order	Low level community order – high level community order