

A Principles

Disqualification is part of the sentence. Accordingly when setting the “discretionary” element of the disqualification (i.e. disregarding any period being spent in custody – see below) the court must have regard to the purposes of sentencing in section 57 of the Sentencing Code, which include: the punishment of offenders, the reduction of crime, the reform and rehabilitation of offenders and the protection of the public, when deciding the length of any disqualification.

In setting the length of any disqualification, sentencers should not disqualify for a period that is longer than necessary and should bear in mind the need for rehabilitation (for example, by considering the effects of disqualification on employment or employment prospects).

Sentencers should also be mindful of the risk of long disqualifications leading to further offences being committed, by reason of a temptation to drive unlawfully.

B Increased minimum for repeat offences

Minimum disqualification periods for first time offences where disqualification is obligatory are set out in individual guidelines.

The minimum disqualification period is automatically increased where there have been certain previous convictions and disqualifications.

An offender must be disqualified for at least **two years** if he or she has been disqualified two or more times for a period of at least 56 days in the three years preceding the commission of the offence. The following disqualifications are to be disregarded for the purposes of this provision:

- interim disqualification;
- disqualification where vehicle used for the purpose of crime;
- disqualification for stealing or taking a vehicle or going equipped to steal or take a vehicle.

An offender must be disqualified for at least **three years** if they are convicted of any of the following offences, having been convicted of any of them (or causing death by careless driving under the influence of drink or drugs) once or more in the 10 years preceding the commission of the current offence

- driving or attempting to drive while unfit;
- driving or attempting to drive with excess alcohol;
- driving or attempting to drive with concentration of specified controlled drug above specified limit;
- failing to provide a specimen (where that is an offence involving obligatory disqualification); or
- failing to allow a specimen to be subjected to laboratory test (where that is an offence involving obligatory disqualification).

C Special reasons

The period of disqualification may be reduced or avoided if there are special reasons. These must relate to the offence; circumstances peculiar to the offender **cannot** constitute special reasons. To constitute a special reason, a matter must:

- be a mitigating or extenuating circumstance;
- not amount in law to a defence to the charge;
- be directly connected with the commission of the offence;
- be one which the court ought properly to take into consideration when imposing sentence.

D Interaction with custodial period – same offence

Under section 35A of the Road Traffic Offenders Act 1988 (for Road Traffic Act 1988 offences) or section 166 of the Sentencing Code (all other offences), where a court imposes a disqualification in addition to a custodial sentence or a detention and training order, it must extend the disqualification period to take account of the custodial term imposed by:

- **one half** of the custodial term imposed for a standard determinate sentence (except where release is at the two thirds point – see below);
- **two thirds** of the custodial term for:
 - o an extended sentence (except for serious terrorism offences – see below);
 - o a sentence for offenders of particular concern; or
 - o a standard determinate sentence for certain serious violent or sexual offences listed in subsections 244ZA(4) or (5) of the Criminal Justice Act 2003.
- **the custodial element** of a serious terrorism sentence or extended sentence for a serious terrorism offence (i.e. one which carries a maximum of life imprisonment); or
- **the term specified** in the minimum term order of a life sentence.

This will avoid the disqualification expiring, or being significantly diminished, during the period the offender is in custody. The table at [section 166 of the Sentencing Code](#) provides further detail. (Note: this table applies to disqualification for non-Road Traffic Act 1988 offences but the principles apply to disqualifications imposed under that Act as well.)

Periods of time spent on remand or subject to an electronically monitored curfew are generally ignored. However, if the time spent on remand would lead to a disproportionate result in terms of the period of disqualification, then the court may consider setting the discretionary element (i.e. the period which would have been imposed but for the need to extend for time spent in custody) to take account of time spent on remand. This should not reduce the discretionary term below the statutory minimum period of disqualification.

E Interaction with custodial period – different offence

The Court may be imposing a custodial sentence on the offender for another offence, which is not the one for which they are being disqualified. In this instance, under either section 35B of the Road Traffic Offenders Act 1988 (for Road Traffic Act 1988 offences) or section 167 of the Sentencing Code (all other offences), it should have regard to "the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a custodial sentence".

Where the court is intending to impose a disqualification and considering a custodial sentence for that and/or another offence, the following checklist may be useful:

- Step 1 – does the court intend to impose a custodial term for the offence for which they are imposing a disqualification?

YES – the court must impose the appropriate extension period and consider step 2.

NO – go to step 3.

- Step 2 – does the court intend to impose a custodial term for another offence (which is longer or consecutive) or is the defendant already serving a custodial sentence?

YES – consider what uplift in the period of discretionary disqualification (i.e. the period which would have been imposed but for the need to extend for time spent in custody) is required, having regard to the diminished effect of disqualification as a distinct punishment. Ignore any custodial term imposed for the offence for which disqualification is being imposed. **Discretionary period + extension period + uplift = total period of disqualification**

NO – no further uplift required. **Discretionary period + extension period = total period of disqualification**

- Step 3 – does the court intend to impose a custodial term for another offence or is the defendant already serving a custodial sentence?

YES – then consider what uplift in the period of discretionary disqualification is required, having regard to the diminished effect of disqualification as a distinct punishment. **Discretionary period + uplift = total period of disqualification**

NO – no increase is needed to the discretionary period.

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Causing death by dangerous driving

Road Traffic Act 1988 (section 1)

Triable only on indictment

Maximum: life imprisonment

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

Obligatory disqualification: minimum 5 years with compulsory extended re-test

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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

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- Lesser 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 make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Starting point and category range

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

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

Factors increasing seriousness

Statutory aggravating factors:

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

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving 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
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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 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

Obligatory disqualification: minimum 5 years

(Minimum 6 years disqualification if the offender has been convicted of this same offence in the 10 years preceding commission of the present offence)

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

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. 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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

High	<ul style="list-style-type: none"> Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor
Medium	<ul style="list-style-type: none"> 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 vehicle which is unsafe or where driver's 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	<ul style="list-style-type: none"> 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 at step two.

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 make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Starting point and category range

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
36-50 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

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
- 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
- Alcohol or drugs consumed unwittingly
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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

Obligatory disqualification: minimum 1 year.

(Minimum 2 years disqualification if the offender has been disqualified two or more times for a period of at least 56 days in the three years preceding the commission of the offence)

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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

A - High culpability	<ul style="list-style-type: none"> • Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor
B - Medium culpability	<ul style="list-style-type: none"> • 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 driver's 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
C – Lesser culpability	<ul style="list-style-type: none"> • 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 make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step 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
- Vehicle poorly maintained
- 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
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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 serious injury by dangerous driving

Road Traffic Act 1988 (section 1A)

Triable either way

Maximum: 5 years' custody,

Offence range: 26 weeks – 5 years' custody

Obligatory disqualification: minimum 2 years with compulsory extended re-test

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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

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- Lesser 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 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
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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.

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Totality principle

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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

Obligatory disqualification: minimum 12 months

(Minimum 2 years disqualification if the offender has been disqualified two or more times for a period of at least 56 days in the three years preceding the commission of the offence)

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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

A – High culpability	<ul style="list-style-type: none"> Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor
B – Medium culpability	<ul style="list-style-type: none"> 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 driver's 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
C – Lesser culpability	<ul style="list-style-type: none"> Standard of driving was just over threshold for careless 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: 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
- Vehicle poorly maintained
- Offence committed on licence or while subject to court order(s)

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

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

Obligatory disqualification: minimum 1 year with compulsory extended re-test

(Minimum 2 years disqualification if the offender has been disqualified two or more times for a period of at least 56 days in the three years preceding the commission of the offence)

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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

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

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	<p>Starting Point: 1 year 6 months</p> <p>Category range: 1 – 2 years</p>	<p>Starting Point: 1 year</p> <p>Category range: 26 weeks – 1 year 6 months</p>	<p>Starting Point: 26 weeks</p> <p>Category range: High level community order – 1 year</p>
Harm 2	<p>Starting Point: 1 year</p> <p>Category range: 26 weeks – 1 year 6 months</p>	<p>Starting Point: 26 weeks</p> <p>Category range: High level community order – 1 year</p>	<p>Starting Point: High level community order</p> <p>Category range: Low level community order – 26 weeks</p>

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
- 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.

Obligatory disqualification: minimum 2 years with compulsory extended re-test

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 culpability	<ul style="list-style-type: none"> • Driving shortly after disqualification imposed • Vehicle obtained during disqualification period • Driving for commercial purposes Driving LGV, HGV, PSV • Significant distance driven
Medium culpability	<ul style="list-style-type: none"> • Cases falling between higher and lesser culpability because: <ul style="list-style-type: none"> ○ 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 culpability	<ul style="list-style-type: none"> • 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 • Driving whilst disqualified by pressure, coercion or intimidation (where not amounting to a defence)

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 make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Starting point and category range
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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
- 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
- The victim was a close friend or relative

- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent 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 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

Obligatory disqualification: minimum 12 months

(Minimum 2 years disqualification if the offender has been disqualified two or more times for a period of at least 56 days in the three years preceding the commission of the offence)

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 culpability	<ul style="list-style-type: none"> • Driving for commercial purposes Driving LGV, HGV, PSV • Significant distance driven
Medium culpability	<ul style="list-style-type: none"> • Cases falling between higher and lesser culpability because: <ul style="list-style-type: none"> ○ 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 culpability	<ul style="list-style-type: none"> • 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 • Driving whilst unlicensed or uninsured by pressure, coercion or intimidation (where not amounting to a defence)

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 make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step five of this guideline.

Starting point and category range
--

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
- 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
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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 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

**Obligatory disqualification: minimum 2 years with compulsory
extended re-test**

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.	
A - High culpability	<ul style="list-style-type: none"> • Driving shortly after disqualification imposed • Vehicle obtained during disqualification period • Driving for commercial purposes Driving LGV, HGV, PSV • Significant distance driven
B - Medium culpability	<ul style="list-style-type: none"> • Cases falling between higher and lesser culpability because: <ul style="list-style-type: none"> ○ 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
C - Lesser culpability	<ul style="list-style-type: none"> • 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 • Driving whilst disqualified by pressure, coercion or intimidation (where not amounting to a defence)

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: 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
- 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
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent 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 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. 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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

References to driving below include driving or riding any kind of vehicle or carriage, including bicycles.

A – High culpability	<ul style="list-style-type: none"> • 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 likely to cause a danger to others • Driving grossly impaired by consumption of alcohol or drugs • 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 • Extreme example of a medium culpability factor
B – Medium culpability	<ul style="list-style-type: none"> • Unsafe manoeuvre or positioning • Engaging in a brief but avoidable distraction • Inappropriate speed for the prevailing conditions • Driving impaired by consumption of alcohol or drugs • Visibility or controls obstructed • Driving impaired as a result of a known medical condition • Disregarding advice relating to the effects of medical condition or medication • Driving when deprived of adequate sleep or rest
C – Lower culpability	<ul style="list-style-type: none"> • 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
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	medical treatment <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

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 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
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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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Driving or Attempting to Drive with a specified drug above the specified limit

Road Traffic Act 1988, 5A

Triable only summarily

Maximum: Unlimited fine and/or 6 months' custody

Offence range: Band B fine – 26 weeks' custody

Obligatory disqualification: minimum 12 months

(Minimum 3 years disqualification if the offender has been convicted of any of:

- **causing death by careless driving when under the influence of drink or drugs;**
- **driving or attempting to drive while unfit**
- **driving or attempting to drive with excess alcohol,**
- **driving or attempting to drive with concentration of specified controlled drug above specified limit**
- **failing to provide a specimen) where that is an offence involving obligatory disqualification,**
- **failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification**

in the 10 years preceding commission of the current offence.

Otherwise minimum 2 years disqualification if the offender has been disqualified two or more times for a period of at least 56 days in the three years preceding the commission of the offence)

STEP ONE

Determining the offence category

The Court should determine the offence category using the table below.

Category 1	Higher culpability and greater harm
Category 2	Higher culpability and lesser harm or lower culpability and greater harm
Category 3	Lower culpability and lesser harm

The court should determine the offender's culpability and the harm caused with reference **only** to the factors below. 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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

Culpability demonstrated by one or more of the following

Factors indicating higher culpability

- Driving an LGV, HGV or PSV etc
- Driving for hire or reward
- Evidence of another specified drug or of alcohol in the body

- For these purposes where the following pairs of drugs appear together they shall be treated as one drug as they may appear in the body as a result of a single drug use: Cocaine and benzoylecgonine (BZE); 6-Monoacetyl-morphine and morphine; or Diazepam and Temazepam.
- This factor may apply whether or not the 'other' specified drug or alcohol is present at a level that could give rise to separate charges.
- Regard should be had to totality (see step 5) if sentencing for more than one offence.

Factors indicating lower culpability

- All other cases

Harm demonstrated by one or more of the following:

Note: It is not possible to draw a direct connection between the levels of a substance detected and the level of harm

The limits for illegal drugs are set in line with a zero tolerance approach but ruling out accidental exposure. The limits for drugs that may be medically prescribed are set in line with a road safety risk-based approach, at levels above the normal concentrations found with therapeutic use. This is different from the approach taken when setting the limit for alcohol, where the limit was set at a level where the effect of the alcohol would be expected to have impaired a person's driving ability.

The analysis of drugs in blood is more complex than that for alcohol and there is a larger margin of uncertainty in the measurements. Concentrations of specified substances in blood for the purposes of this offence are expressed in terms of 'not less than' which takes account of the margin of uncertainty for the particular substance.

Factors indicating greater harm

- Obvious signs of impairment
- Evidence of an unacceptable standard of driving

Factors indicating lesser harm

- All other cases

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the appropriate starting point to reach a sentence within the category range in the table below.

The starting point applies to all offenders irrespective of plea or previous convictions.

Level of seriousness	Starting point	Range	Disqualification	Disqual. 2nd offence in 10 years
Category 1	12 weeks' custody	High level community order – 26 weeks' custody	29 – 36 months (Extend if imposing immediate custody)	36 – 60 months (Extend if imposing immediate custody)
Category 2	Medium level community order	Low level community order – High level community order	17 – 28 months	36 – 52 months
Category 3	Band C fine	Band B fine – Low level community order	12 – 16 months	36 – 40 months

Note: when considering the guidance regarding the length of disqualification in the case of a second offence, the period to be imposed in any individual case will depend on an assessment of all the relevant circumstances, including the length of time since the earlier ban was imposed and the gravity of the current offence but disqualification must be for at least three 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 *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:

- High level of traffic or pedestrians in the vicinity
- Poor road or weather conditions
- Involved in accident (where not taken into account at step 1)
- Carrying passengers
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Very short distance driven
- Genuine emergency established
- Genuine misunderstanding about safe dosage of prescribed medication
- Remorse
- Good character and/or exemplary conduct
- 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

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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Being in charge of a motor vehicle with a specified drug above the specified limit

Road Traffic Act 1988, 5A

Triable only summarily

Maximum: Level 4 fine and/or 3 months

Offence range: Band B fine – 12 weeks' custody

STEP ONE

Determining the offence category

The Court should determine the offence category using the table below.

Category 1	Higher culpability and greater harm
Category 2	Higher culpability and lesser harm or lower culpability and greater harm
Category 3	Lower culpability and lesser harm

The court should determine the offender's culpability and the harm caused with reference **only** to the factors below. 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 upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

Culpability demonstrated by one or more of the following

Factors indicating higher culpability

- High likelihood of driving
- In charge of LGV, HGV or PSV etc.
- Offering to drive for hire or reward
- Evidence of another specified drug or of alcohol in the body

- For these purposes where the following pairs of drugs appear together they shall be treated as one drug as they may appear in the body as a result of a single drug use: Cocaine and benzoylecgonine (BZE); 6-Monoacetyl-morphine and morphine; or Diazepam and Temazepam.
- This factor may apply whether or not the 'other' specified drug or alcohol is present at a level that could give rise to separate charges.
- Regard should be had to totality (see step 5) if sentencing for more than one offence.

Factors indicating lower culpability

- All other cases

Harm demonstrated by one or more of the following

Factors indicating greater harm

- Obvious signs of impairment

Factors indicating lesser harm

- All other cases

STEP TWO

Starting point and category range

Having determined the category at step one, the court should use the appropriate starting point to reach a sentence within the category range in the table below.

The starting point applies to all offenders irrespective of plea or previous convictions.

Level of seriousness	Starting point	Range	Disqualification/ points
Category 1	High level community order	Medium level community order – 12 weeks' custody	Consider disqualification (extend if imposing immediate custody) OR 10 points
Category 2	Band C fine	Band B fine – Medium level community order	Consider disqualification OR 10 points
Category 3	Band B fine	Band B fine	10 points

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:

- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Genuine misunderstanding about safe dosage of prescribed medication
- Remorse
- Good character and/or exemplary conduct
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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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.

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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.

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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.

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Compensation and ancillary orders

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

Ancillary orders – Magistrates' Court

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

Terrorism road testing: guidance on law enforcement agent (LEA) involvement

Introduction

In June and July 2021, the Council agreed amendments, consulted on October 2021 to January 2022, to the [Preparation of terrorist acts](#) (Terrorism Act 2006, s.5) guideline to reflect Government changes introduced in the [Counter-Terrorism and Sentencing Act 2021](#):

- Adding ‘**Notes for culpability and harm**’ on how to approach cases where, due to the involvement of undercover LEAs, there is no/minimal likelihood of the terrorist act being committed, including whether to apply a downward adjustment on the basis of the harm intended and viability of the plan;
- Amending the sentence in C1 in the sentencing table to ensure the minimum term range does not go below 14 years; and,
- Adding ‘**Step 3 – Minimum Terms, Serious Terrorism Sentences and exceptional circumstances**’, where some sentences may need adjustment if the criteria for a ‘serious terrorism sentence’ are met, or if a life sentence of below 14 years is imposed in a ‘serious terrorism case’, as the act brought in new statutory minimum sentences, which increased previous minimum sentences to 14 years.

Methodology

This paper focuses on the scenario related specifically to the addition of the new guidance LEA involvement; the April Council paper covered the other aspects.

To examine how the proposed guidance is interpreted and impacts on sentencing practice, small-scale qualitative road testing took place September to October 2021, with 11 judges ticketed for terrorism offences, identified through the Research Pool and a sample of 2019 terrorism case transcripts. Two hypothetical scenarios were developed, each testing different elements of the draft amended guideline. One week prior to interview, participants were sent the existing and draft amended guidelines, with amendments clearly flagged on the draft amended one, and both scenarios, to allow judges time to consider them, due to the complexity of terrorism cases and the likelihood they would not have sentenced a terrorism case since the law changed on 29th June 2021.

Testing the new notes on culpability and harm – guidance on LEA involvement

The scenario designed to test the new guidance is below:

The 32-year-old male offender was convicted at trial of one count contrary to Preparation of Terrorist Acts, s.5(1) (a) of the Terrorism Act 2006. The offender was arrested walking along Victoria Street carrying a holdall bag containing (as he believed) a rucksack which had been fitted with a pressure cooker improvised explosive device, a jacket which had been modified as an explosive suicide vest, a pepper spray and a set of gloves. His plan had involved blowing up the security gates of the Houses of Parliament; killing or disabling police officers posted at the gates by explosion or knife wounds (or incapacitating them with pepper spray); and then entering Parliament and making a determined attack with a knife and explosives on those inside, with the ultimate target being the Prime Minister.

The offender had three contacts who claimed to be members of IS. He worked with them to plan the attack, gathering advice, assistance and equipment.

The offender provided a rucksack and a jacket to his IS contacts so that they could be fitted with explosive devices. The contacts had also provided him with detailed instructions on how to detonate the devices. The offender had also made a reconnaissance of the area surrounding parliament and discussed and refined his plan of attack with his contacts.

Unbeknown to the offender, the devices were inert and simply made to look real and his 3 contacts, that he believed to be members of IS, were law enforcement agents (“LEAs”) all working for the security services.

This was deemed an A1 case: starting point life imprisonment, minimum term 35 years, range 30-40 years. Key findings are summarised below, followed by the results table.

Key findings

- There was little difference between sentencing **culpability** across both guidelines.
- A mixed picture was found when sentencing **harm** using the existing guideline, while a more consistent approach was found when using the draft amended guideline.
- A range of **starting points** were elicited with both guidelines; comparing across the guidelines, five judges selected higher starting points using the draft amended guideline compared to the existing guideline, while six selected the same.
- Using the draft amended guideline, the majority of judges made a small **downward adjustment** on the basis of harm intended and viability of the plan due to LEA involvement.
- Six judges noted **aggravating factors** across both guidelines; five stated none applied.
- The majority of judges said there were no **mitigating factors** under either guideline.
- A range of **final sentences** were given: the majority were life sentences across both guidelines, with minimum terms from 12 years (one judge), through to 40 years (one judge) with the existing guideline, and 14 years (one judge) through to one judge stating a whole life term ‘*as the case is so exceptional*’, with the draft amended guideline.
- When using the existing guideline, judges generally felt that their final sentence was ‘*high but fair*’, while with the draft amended guideline, all judges felt their particular sentence was ‘*about right*’.
- The judges were generally positive about the **new notes on culpability and harm**, noting they were very ‘*helpful*’, and ‘*straightforward*’.
- **Possible clarifications** were also suggested, particularly around downward adjustment, such as: providing examples for different reductions; reference to the significance and timing of LEA involvement; and around viability of the plan, including wording being ‘*ambiguous*’. Other comments related to specific aspects of the wording, such as: ‘*what does ‘but for apprehension’ mean*’; a request for clearer examples under harm; and signposting the LEA involvement notes at step 2.

Table 1: Summary of results for scenario 1 – new notes on culpability and harm, including guidance on LEA involvement

	Guideline	Culp	Factors	Harm	Factors	Starting Point (SP)	Downward adjustment?	Aggravating factors	Mitigating factors	Final sentence
1	Existing	B	<ul style="list-style-type: none"> • Significant role • Preparations complete/close • Act likely to be carried out 	2	<ul style="list-style-type: none"> • Multiple deaths risked, not very likely 	Life, 15 years	N/A	• <i>Attack on police/parliament</i> ¹²	None	Life, 17 years
	Amended	B	As above	1	<ul style="list-style-type: none"> • Multiple deaths risked, very likely 	Life, 25 years	• Down to 20 years	As above	None	Life, 22 years
2	Existing	A	<ul style="list-style-type: none"> • Acting alone/leading role • Preparations complete/close • Act likely to be carried out 	2	<ul style="list-style-type: none"> • Multiple deaths risked, not very likely 	Life, 25 years	N/A	• <i>Attack on Government</i>	None	Life, 30 years
	Amended	A	As above	1	<ul style="list-style-type: none"> • Multiple deaths risked, very likely 	Life, 35 years	• Small reduction from SP	• <i>Attack on Government</i>	None	Life, 40 years
3	Existing	A	<ul style="list-style-type: none"> • Acting alone/leading role • <i>Substantial involvement</i> 	1	<ul style="list-style-type: none"> • Multiple deaths risked • <i>Harm intended</i> 	Life, 35 years	N/A	None	None	Life, 32 years
	Amended	A	<ul style="list-style-type: none"> • Leading role • Preparations complete/close 	1	<ul style="list-style-type: none"> • Multiple deaths risked, very likely 	Life, 35 years	• Small reduction from SP	None	None	Life, 33 years
4	Existing	A	<ul style="list-style-type: none"> • Acting alone • <i>Possessed all needed to carry out act and was going to do it</i> 	1	<ul style="list-style-type: none"> • Multiple deaths likely 	Life, 36 ³ years	N/A	<ul style="list-style-type: none"> • <i>Reconnaissance</i> • <i>Planning</i> • <i>Conspiracy</i> 	None	Life, 36 years
	Amended	A	Same as original guideline	1	Same as existing guideline	Life, 36 years	• No	As above	None	Life, 36 years

¹ Factors in italics are not listed in the guideline. Responses relating to the draft amended guideline are in grey for ease.

² Attack on police/parliament/Government is in line with 'Preparation was with a view to engage in combat with UK armed forces' from both the guidelines.

³ Starting point in both guidelines is 35, however the Judge stated they would start at 36 years.

	Guideline	Culp	Factors	Harm	Factors	Starting Point (SP)	Downward adjustment?	Aggravating factors	Mitigating factors	Final sentence
5	Existing	A	<ul style="list-style-type: none"> Acting alone/leading role 	1	<ul style="list-style-type: none"> Multiple deaths risked, very likely 	Life, 35 years	N/A	None	None	Life, 30 years
	Amended	A	As above	1	As above	Life, 35 years	<ul style="list-style-type: none"> Down to 33 years 	None	None	Life, 33 years
6	Existing	A	<ul style="list-style-type: none"> Preparations complete/close <i>Kitted out to commit attack</i> 	3	<ul style="list-style-type: none"> <i>Neutralised bar spray/knife so not 1</i> 	16-20 years	N/A	<ul style="list-style-type: none"> Indoctrinated Encrypted info 	<ul style="list-style-type: none"> No relevant convictions 	20 years + 10 year extension
	Amended	A	<ul style="list-style-type: none"> Preparations complete/close Act likely to be carried out 	1	<ul style="list-style-type: none"> Multiple deaths risked, very likely 	Life, 35 years	<ul style="list-style-type: none"> Down to 30 if not well connected 	None	As above	Life, 28/29 to 33/34 ⁴
7	Existing	B	<ul style="list-style-type: none"> Leading role Act likely to be carried out 	2	<ul style="list-style-type: none"> Multiple deaths risked, not very likely <i>Knife</i> 	Life, 15 years	N/A	None	<ul style="list-style-type: none"> LEA involvement 	Life, 12 years
	Amended	B	<ul style="list-style-type: none"> Leading role Preparations advanced Engaging with others 	2	<ul style="list-style-type: none"> Multiple deaths risked, not very likely 	Life, 15 years	<ul style="list-style-type: none"> Small reduction from SP 	None	None	Life, 14 years
8	Existing	A	<ul style="list-style-type: none"> Acting alone/leading role 	1	<ul style="list-style-type: none"> Multiple deaths 	Life, 35 years	N/A	<ul style="list-style-type: none"> Hostility Communication with extremists <i>High profile attack on Parliament</i> 	<ul style="list-style-type: none"> No previous convictions 	Life, 40 years
	Amended	A	As above	1	As above	Life, 35 years	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> Extremist material Communication with extremists 	None	Whole life term

⁴ Stated two ranges depending on how well connected the defendant was in their own right (i.e. aside from LEA involvement); it would be lower if not well connected.

	Guideline	Culp	Factors	Harm	Factors	Starting Point (SP)	Downward adjustment?	Aggravating factors	Mitigating factors	Final sentence
9	Existing	A	<ul style="list-style-type: none"> Acting alone 	2	<ul style="list-style-type: none"> Multiple deaths, not very likely 	Life, 25 years	N/A	None	None	Life, 25 years
	Amended	A	<ul style="list-style-type: none"> Acting alone 	1	<ul style="list-style-type: none"> Multiple deaths <i>Treat as a genuine device</i> <i>Blowing up parliament etc</i> 	Life, 35 years	<ul style="list-style-type: none"> 30-35 years 	None	None	Life, 30-35 years, 32/33
10	Existing	A	<ul style="list-style-type: none"> Acting alone/ leading role 	1	<ul style="list-style-type: none"> Multiple deaths risked <i>Knife</i> <i>Determined to act</i> 	Life, 35 years, increase to 36/37	N/A	None	None	Life, 32 years
	Amended	A	<ul style="list-style-type: none"> Acting alone/ leading role, Preparations complete/close 	1	<ul style="list-style-type: none"> <i>Explosives</i> <i>Knife</i> <i>Attack on police etc</i> 	Life, 35 years, increase to 36/37	<ul style="list-style-type: none"> Small reduction from SP 	None	None	Life, 32 years
11	Existing	B	<ul style="list-style-type: none"> Significant role Preparations complete/close Act likely to be carried out 	2	<ul style="list-style-type: none"> Multiple deaths risked, not very likely 	Life, 15 years	N/A	<ul style="list-style-type: none"> Communicating with terrorists 	None	Life, 15-20 years
	Amended	A	<ul style="list-style-type: none"> Acting alone/ leading role Preparations complete/close 	1	<ul style="list-style-type: none"> Multiple deaths risked <i>Knife</i> 	Life, 40 ⁵ years	<ul style="list-style-type: none"> Small reduction to 35 	<ul style="list-style-type: none"> Communicating with terrorists 	None	Life, 35 years

⁵ Starting point is 35, however the Judge stated they would start at 40 years as it was an exceptional case.

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Explosive substances (terrorism only)

Causing explosion likely to endanger life or property - Explosive Substances Act 1883 (section 2)

Attempt to cause explosion, or making or keeping explosive with intent to endanger life or property - Explosive Substances Act 1883 (section 3)

Triable only on indictment

Maximum: Life imprisonment

Offence range: 3 years' custody – Life Imprisonment (minimum term 40 years)

These are [Schedule 19](#) offences for the purposes of sections [274](#) and [285](#) (required life sentence for offence carrying life sentence) of the Sentencing Code.

For offences committed on or after 13 April 2015, these are offences listed in [Part 1 of Schedule 15](#) for the purposes of sections [273](#) and [283](#) (life sentence for second listed offence) of the Sentencing Code.

These are specified offences for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

For offences committed on or after 29 June 2021, this is a serious terrorism offence listed in [Part 2 of Schedule 17A](#) for the purposes of sections [268B](#) and [282B](#) (serious terrorism sentence), [section 323](#) (minimum term order: other life sentences), and section [268\(4\)\(b\)\(iii\)](#) and [281\(4\)\(b\)\(iii\)](#) (increase in extension period for serious terrorism offenders) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Applicability [drop down]

Step 1 – Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

Notes for culpability and harm

In some cases, Law Enforcement Authorities (LEA) may be involved, either posing as terrorists jointly involved in the preparations for terrorist activity, or in keeping the offender under surveillance. Their involvement is likely to ensure that the terrorist activity could never be successfully completed. Irrespective of this, the court should approach the assessment of the offender's culpability and harm as follows:

Culpability

Where an undercover LEA is involved in the preparations for the terrorist activity, the culpability of the offender is not affected by the LEA's involvement. Culpability is to be assessed as if the LEA was a genuine conspirator.

Where the LEA is surveilling the offender and prevents the offender from proceeding further, this should be treated as apprehension of the offender.

Harm

In any case that involves LEA, the court should identify the category of harm on the basis of the harm that the offender intended and the viability of the plan, and then apply a downward adjustment at step two.

The extent of this adjustment will be specific to the facts of the case. In cases where, but for the LEA involvement, the offender would have carried out the intended terrorist act, a small reduction within the category range will usually be appropriate.

Where, for instance, an offender voluntarily desisted at an early stage a larger reduction is likely to be appropriate, potentially going outside the category range.

In either instance, it may be that a more severe sentence is imposed where very serious terrorist activity was intended but did not take place than would be imposed where relatively less serious terrorist activity did take place.

Culpability demonstrated by one or more of the following:

A

- Offender caused an explosion or used, developed or was in possession of a viable explosive device
- **Acting alone**, or in a **leading** role, in terrorist activity involving explosives, where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out

B

- Offender took significant steps towards creating an explosion or developing or obtaining a viable explosive device
- **Acting alone**, or in a **leading** role, in terrorist activity involving explosives where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Significant** role in terrorist activity involving explosives where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out

C

- **Leading** role in terrorist activity involving explosives where preparations were not far advanced
- **Significant** role in terrorist activity involving explosives where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Lesser** role in terrorist activity involving explosives where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out
- Act(s) of significant assistance or encouragement of other(s) involved in causing, developing or possessing an explosive device (where not falling within A or B)

D

- Offender took very limited steps toward creating an explosion or developing or obtaining a viable explosive device
- Offender has engaged in very limited preparation of terrorist activity involving explosives
- Act(s) of lesser assistance or encouragement of other(s)
- Other cases not falling within A, B or C

Harm

Harm is assessed based on the type of harm risked and the likelihood of that harm being caused. When considering the likelihood of harm, the court should consider the viability of any plan.

See the notes for culpability and harm at the start of this section before proceeding

Category 1

- Multiple deaths risked and very likely to be caused

Category 2

- Multiple deaths risked but not very likely to be caused
- Any death risked and very likely to be caused

Category 3

- Any death risked but not very likely to be caused
- Risk of widespread or serious damage to property or economic interests
- Risk of a substantial impact upon civic infrastructure
- Any other cases

Step 2 - Starting point and category range

Having determined the category at step 1, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features.

Offenders committing the most serious offences are likely to be found dangerous and so the table below includes options for life sentences. However, the court should consider the dangerousness provisions in *all* cases, having regard to the criteria contained in [section 308 of the Sentencing Code](#) to make the appropriate determination. (See Step 6 below).

The court must also consider the provisions set out in [s323\(3\)](#) of the Sentencing Code (minimum term order for serious terrorism offenders). (See Step 3 below).

Where the dangerousness provisions are met but a life sentence is not justified, the court must consider whether the provisions for the imposition of a serious terrorism sentence have been met, having regard to the criteria contained in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code. If the criteria are met, a minimum custodial sentence of 14 years applies. (see Step 3 below).

Where the dangerousness provisions are not met the court must impose a sentence in accordance with the provisions set out in sections [265](#) and [278](#) of the Sentencing Code (required special sentence for certain offenders of particular concern). (See Step 7 below).

Harm	Culpability			
	A	B	C	D
1	Starting point Life imprisonment - minimum term 35 years' custody	Starting point Life imprisonment - minimum term 25 years' custody	Starting point Life imprisonment - minimum term 15 years' custody	Starting point 15 years' custody
	Category range Life imprisonment - minimum term 30 – 40 years' custody	Category range Life imprisonment - minimum term 20 – 30 years' custody	Category range Life imprisonment - minimum term 10 – 20 years' custody*	Category range 10 – 20 years' custody*
2	Starting point Life imprisonment - minimum term 25 years' custody	Starting point Life imprisonment - minimum term 15 years' custody	Starting point 15 years' custody	Starting point 8 years' custody
	Category range Life imprisonment - minimum term 20 – 30 years' custody	Category range Life imprisonment - minimum term 10 – 20 years' custody	Category range 10 – 20 years' custody	Category range 6 – 10 years' custody
3	Starting point 16 years' custody	Starting point 12 years' custody	Starting point 8 years' custody	Starting point 4 years' custody
	Category range 12 – 20 years' custody	Category range 8 – 16 years' custody	Category range 6 – 10 years' custody	Category range 3 – 6 years' custody

* Where a Serious Terrorism Sentence is imposed, the appropriate custodial term is a minimum of 14 years unless exceptional circumstances apply. See s282C of the Sentencing Code **See Step 3 below regarding minimum terms, serious terrorism sentences and exceptional circumstances.**

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting)

Other aggravating factors

- Recent and/or repeated possession or accessing of extremist material
- Communication with other extremists
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection
- Offender attempted to disguise their identity to prevent detection
- Indoctrinated or encouraged others
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offence committed ~~whilst~~ in prison

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

Step 3 – Minimum terms, serious terrorism sentences and exceptional circumstances

Life sentence minimum terms

For serious terrorism cases the life sentence minimum term must be **at least 14 years** ([section 323\(3\)](#) of the Sentencing Code) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify a lesser period.

A “serious terrorism case” is a case where, but for the fact that the court passes a life sentence, the court would be required by section [268B\(2\)](#) or [282B\(2\)](#) of the Sentencing Code to impose a serious terrorism sentence.

The minimum term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

Serious terrorism sentence - minimum custodial sentence

Where the criteria for a serious terrorism sentence are met, as set out in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code, then the court must impose the serious terrorism sentence unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify not doing so.

Where a serious terrorism sentence is imposed, the appropriate custodial term is a minimum of 14 years’ custody and an extension period to be served on licence of at least 7 and no more than 25 years. (Sections [268C](#) and [282C](#) of the Sentencing Code). Where a serious terrorism sentence is imposed, the custodial term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

Exceptional circumstances

In considering whether there are exceptional circumstances that would justify not imposing the minimum term (in the case of a life sentence), or not imposing the serious terrorism sentence where the other tests are met, the court must have regard to:

- the particular circumstances of the offence **and**
- the particular circumstances of the offender.

either of which may give rise to exceptional circumstances

Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.

Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

The circumstances must truly be exceptional. Circumstances are exceptional if the imposition of the minimum term (in the case of a life sentence), or imposing the serious terrorism sentence would result in an arbitrary and disproportionate sentence.

It is important that courts adhere to the statutory requirement and do not too readily accept exceptional circumstances.

The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.

The mere presence of one or more of the following should not *in itself* be regarded as exceptional:

- One or more lower culpability factors
- One or more mitigating factors
- A plea of guilty

Where exceptional circumstances are found

If there are exceptional circumstances that justify not imposing the minimum term (in the case of a life sentence) then the court **must impose a shorter minimum**.

If there are exceptional circumstances that justify not imposing a serious terrorism sentence, then the court must impose an alternative sentence.

Note: a guilty plea reduction applies in the normal way if a serious terrorism sentence is not imposed (see step 5 – Reduction for guilty pleas).

Step 4 – Consider any factors which indicate a reduction, such as 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 5 – Reduction for guilty plea

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.

Where a **serious terrorism sentence** has been imposed, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than 80 per cent of the statutory minimum.

Step 6 – Dangerousness

The court should consider:

- 1) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#))
- 2) whether having regard to sections [273](#) and [283](#) of the Sentencing Code it would be appropriate to impose a life sentence.
- 3) 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 7 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 8 – 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 9 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Crown Court Compendium](#)

Step 10 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 11 – 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](#).

Preparation of terrorist acts

Terrorism Act 2006, s.5

Triable only on indictment

Maximum: Life imprisonment

Offence range: 3 years' custody – Life Imprisonment (minimum term 40 years)

This is a [Schedule 19](#) offence for the purposes of sections [274](#) and [285](#) (required life sentence for offence carrying life sentence) of the Sentencing Code.

For offences committed on or after 3 December 2012, this is an offence listed in [Part 1 of Schedule 15](#) for the purposes of sections [273](#) and [283](#) (life sentence for second listed offence) of the Sentencing Code.

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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

For offences committed on or after 29 June 2021, this is a serious terrorism offence listed in [Part 2 of Schedule 17A](#) for the purposes of sections [268B](#) and [282B](#) (serious terrorism sentence), [section 323](#) (minimum term order: other life sentences), and section [268\(4\)\(b\)\(iii\)](#) and [281\(4\)\(b\)\(iii\)](#) (increase in extension period for serious terrorism offenders) of the Sentencing Code.

~~This guideline applies only to offenders aged 18 and older~~

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Applicability [drop down]

Step 1 – Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

Notes for culpability and harm

In some cases, Law Enforcement Authorities (LEA) may be involved, either posing as terrorists jointly involved in the preparations for terrorist activity, or in keeping the offender under surveillance. Their involvement is likely to ensure that the terrorist activity could never be successfully completed. Irrespective of this, the court should approach the assessment of the offender's culpability and harm as follows:

Culpability

Where an undercover LEA is involved in the preparations for the terrorist activity, the culpability of the offender is not affected by the LEA's involvement. Culpability is to be assessed as if the LEA was a genuine conspirator.

Where the LEA is surveilling the offender and prevents the offender from proceeding further, this should be treated as apprehension of the offender.

Harm

In any case that involves LEA, the court should identify the category of harm on the basis of the harm that the offender intended and the viability of the plan, and then apply a downward adjustment at step two.

The extent of this adjustment will be specific to the facts of the case. In cases where, but for the LEA involvement, the offender would have carried out the intended terrorist act, a small reduction within the category range will usually be appropriate.

Where, for instance, an offender voluntarily desisted at an early stage a larger reduction is likely to be appropriate, potentially going outside the category range.

In either instance, it may be that a more severe sentence is imposed where very serious terrorist activity was intended but did not take place than would be imposed where relatively less serious terrorist activity did take place.

Culpability demonstrated by one or more of the following:

A

- **Acting alone**, or in a **leading** role, in terrorist activity where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out

B

- **Acting alone**, or in a **leading** role, in terrorist activity where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Significant** role in terrorist activity where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out
- Offender has coordinated others to take part in terrorist activity, whether in the UK or abroad (where not falling within A)

C

- **Leading** role in terrorist activity where preparations were not far advanced
- **Significant** role in terrorist activity where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Lesser** role in terrorist activity where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out
- Offender acquires training or skills for purpose of terrorist activity (where not falling within A or B)
- Acts of significant assistance or encouragement of other(s) (where not falling within A or B)

D

- Offender has engaged in very limited preparation for terrorist activity
- Act(s) of lesser assistance or encouragement of other(s)
- Other cases not falling within A, B or C

Harm

Harm is assessed based on the type of harm risked and the likelihood of that harm being caused. When considering the likelihood of harm, the court should consider the viability of any plan.

See the notes for culpability and harm at the start of this section before proceeding

Category 1

- Multiple deaths risked and very likely to be caused

Category 2

- Multiple deaths risked but not very likely to be caused
- Any death risked and very likely to be caused

Category 3

- Any death risked but not very likely to be caused
- Risk of widespread or serious damage to property or economic interests
- Risk of a substantial impact upon civic infrastructure
- Any other cases

Step 2 - Starting point and category range

Having determined the category at step 1, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features.

Offenders committing the most serious offences are likely to be found dangerous and so the table below includes options for life sentences. However, the court should consider the dangerousness provisions in **all** cases, having regard to the criteria contained in [section 308 of the Sentencing Code](#) to make the appropriate determination. (See Step 6 below).

The court must also consider the provisions set out in [s323\(3\) of the Sentencing Code](#) (minimum term order for serious terrorism offenders). (See Step 3 below).

Where the dangerousness provisions are met but a life sentence is not justified, the court must consider whether the provisions for the imposition of a serious terrorism sentence have been met, having regard to the criteria contained in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code. If the criteria are met, a minimum custodial sentence of 14 years applies. (see Step 3 below).

Where the dangerousness provisions are not met the court must **impose a sentence in accordance with** the provisions set out in sections [265](#) and [278](#) of the Sentencing Code (required special sentence for certain offenders of particular concern). (See Step 7 below).

Harm	Culpability			
	A	B	C	D
1	Starting point Life imprisonment - minimum term 35 years' custody	Starting point Life imprisonment - minimum term 25 years' custody	Starting point Life imprisonment - minimum term 15 years' custody	Starting point 15 years' custody
	Category range Life imprisonment - minimum term 30 – 40 years' custody	Category range Life imprisonment - minimum term 20 - 30 years' custody	Category range Life imprisonment - minimum term 10 – 20 years' custody*	Category range 10-20 years' custody*
2	Starting point Life imprisonment - minimum term 25 years' custody	Starting point Life imprisonment - minimum term 15 years' custody	Starting point 15 years' custody	Starting point 8 years' custody
	Category range Life imprisonment - minimum term 20 - 30 years' custody	Category range Life imprisonment - minimum term 10- 20 years' custody	Category range 10- 20 years' custody	Category range 6-10 years' custody
3	Starting point 16 years' custody	Starting point 12 years' custody	Starting point 8 years' custody	Starting point 4 years' custody
	Category range 12 – 20 years' custody	Category range 8- 16 years' custody	Category range 6 - 10 years' custody	Category range 3– 6 years' custody

* Where a Serious Terrorism Sentence is imposed, the appropriate custodial term is a minimum of 14 years unless exceptional circumstances apply. See s282C of the Sentencing Code See Step 3 below regarding minimum terms, serious terrorism sentences and exceptional circumstances.

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors

- Recent and/or repeated possession or accessing of extremist material
- Communication with other extremists
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection
- Offender attempted to disguise their identity to prevent detection
- Indoctrinated or encouraged others
- Preparation was with a view to engage in combat with UK armed forces
- Conduct in preparation includes the actual or planned commission of other offences, where not taken into account in step one
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed ~~while~~ in prison

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

Step 3 – Minimum terms, serious terrorism sentences and exceptional circumstances

Life sentence minimum terms

For serious terrorism cases the life sentence minimum term must be **at least 14 years** ([section 323\(3\)](#) of the Sentencing Code) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify a lesser period.

A “serious terrorism case” is a case where, but for the fact that the court passes a life sentence, the court would be required by section [268B\(2\)](#) or [282B\(2\)](#) of the Sentencing Code to impose a serious terrorism sentence.

The minimum term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

Serious terrorism sentence - minimum custodial sentence

Where the criteria for a serious terrorism sentence are met, as set out in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code, then the court must impose the serious terrorism sentence unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify not doing so.

Where a serious terrorism sentence is imposed, the appropriate custodial term is a minimum of 14 years' custody and an extension period to be served on licence of at least 7 and no more than 25 years. (Sections [268C](#) and [282C](#) of the Sentencing Code). Where a serious terrorism sentence is imposed, the custodial term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

Exceptional circumstances

In considering whether there are exceptional circumstances that would justify not imposing the minimum term (in the case of a life sentence), or not imposing the serious terrorism sentence where the other tests are met, the court must have regard to:

- the particular circumstances of the offence **and**
- the particular circumstances of the offender.

either of which may give rise to exceptional circumstances

Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.

Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

The circumstances must truly be exceptional. Circumstances are exceptional if the imposition of the minimum term (in the case of a life sentence), or imposing the serious terrorism sentence would result in an arbitrary and disproportionate sentence.

It is important that courts adhere to the statutory requirement and do not too readily accept exceptional circumstances.

The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.

The mere presence of one or more of the following should not *in itself* be regarded as exceptional:

- One or more lower culpability factors
- One or more mitigating factors
- A plea of guilty

Where exceptional circumstances are found

If there are exceptional circumstances that justify not imposing the minimum term (in the case of a life sentence) then the court **must impose a shorter minimum**.

If there are exceptional circumstances that justify not imposing a serious terrorism sentence, then the court must impose an alternative sentence.

Note: a guilty plea reduction applies in the normal way if a serious terrorism sentence is not imposed (see step 5 – Reduction for guilty pleas).

Step 4 – Consider any factors which indicate a reduction, such as 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 5 – Reduction for guilty plea

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.

Where a **serious terrorism sentence** has been imposed, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than 80 per cent of the statutory minimum.

Step 6 – Dangerousness

The court should consider:

- 1) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#))
- 2) whether having regard to sections [273](#) and [283](#) of the Sentencing Code it would be appropriate to impose a life sentence.
- 3) 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 7 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 8 – 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 9 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Crown Court Compendium](#)

Step 10 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 11 – 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](#).

Proscribed Organisations- Membership

Terrorism Act 2000 (section 11)

Triable either way

Maximum: 10 years' custody

Offence range: High level community order – 9 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

~~This guideline applies only to offenders aged 18 and older~~

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Applicability [drop down]

STEP ONE Determining the offence category	
<p>The court should determine the offence category with reference only to the factors listed in the tables below. In order to determine the category, the court should assess culpability and harm.</p> <p>The court should weigh all the factors set out below in determining the offender's culpability.</p> <p>Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.</p>	
Culpability demonstrated by one or more of the following:	
A	<ul style="list-style-type: none"> Prominent member of organisation
B	<ul style="list-style-type: none"> Active (but not prominent) member of organisation
C	<ul style="list-style-type: none"> All other cases

Harm
<p>There is no variation in the level of harm caused. Membership of any organisation which is concerned in terrorism either through the commission, participation, preparation, promotion or encouragement of terrorism is inherently harmful.</p>

STEP TWO Starting point and category range
<p>Having determined the category at step 1, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.</p>

Culpability	A	B	C
	<p>Starting point 10 years' custody</p>	<p>Starting point 7 years' custody</p>	<p>Starting point 3 years' custody</p>
	<p>Category range 8 - 13 years' custody</p>	<p>Category range 5-9 years' custody</p>	<p>Category range High level community order - 4 years' custody</p>

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some

cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors:

- Length of time over which offending was committed
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed whilst in prison

Factors reducing seriousness or reflecting personal mitigation

- Unaware that organisation was proscribed
- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/ or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

Step 3 – 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 4 – 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 5 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 6 – 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 7 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – 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](#).

Proscribed organisations - support

Terrorism Act 2000 (section 12)

Triable either way
Maximum: 10 years' custody

Offence range: High level community order – 9 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

~~This guideline applies only to offenders aged 18 and older~~

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Applicability [drop down]

Step 1 – Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category, the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

Culpability demonstrated by one or more of the following:

A

- Intentional offence - Offender in position of trust, authority or influence and abuses their position
- Persistent efforts to gain widespread or significant support for organisation
- Encourages activities intended to cause endangerment to life

B

- Reckless offence - Offender in position of trust, authority or influence and abuses their position
- Arranged or played a significant part in the arrangement of a meeting/event aimed at gaining significant support for organisation
- Intended to gain widespread or significant support for organisation
- Encourages activities intended to cause widespread or serious damage to property, or economic interests or substantial impact upon civic infrastructure

C

- Lesser cases where characteristics for categories A or B are not present
- Other reckless offences

Harm

The court should consider the factors set out below to determine the level of harm.

Category 1

- Evidence that others have acted on or been assisted by the encouragement to carry out activities endangering life
- Significant support for the organisation gained or likely to be gained

Category 2

- Evidence that others have acted on or been assisted by the encouragement to carry out activities not endangering life

Category 3

- All other cases

Step 2 - Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

	A	B	C
1	Starting point 10 years' custody Category range 8-13 years' custody	Starting point 7 years' custody Category range 5-9 years' custody	Starting point 3 years' custody Category range 2- 45 years' custody
2	Starting point 8 years' custody Category range 6-9 years' custody	Starting point 4 years' custody Category range 3 - 67 years' custody	Starting point 2 years' custody Category range 1-3 years' custody
3	Starting point 6 years' custody Category range 4-7 years' custody	Starting point 3 years' custody Category range 2-4 years' custody	Starting point 1 years' custody Category range High level community order – 2 years' custody

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors:

- Used multiple social media platforms to reach a wider audience (where not taken into account at Step 1)
- Offender has terrorist connections and/ or motivations
- Vulnerable/impressionable audience
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offence committed ~~while~~ in prison

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions ~~or~~ no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender has no terrorist connections and/ or motivations
- Unaware that organisation was proscribed
- Clear evidence of a change of mind set prior to arrest
- Offender involved through coercion, intimidation or exploitation
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

Step 3 – Consider any factors which indicate a reduction, such as 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 4 – Reduction for guilty plea

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 5 – 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 6 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 7 – 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 8 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 9 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 10 – 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](#).

Collection of Terrorist Information

Terrorism Act 2000 (section 58)

Triable either way
Maximum: 15 years' custody

Offence range: High level community order - 14 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

This guideline applies only to offenders aged 18 and older
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STEP ONE Determining the offence category	
<p>The court should determine the offence category with reference only to the factors listed in the tables below. In order to determine the category, the court should assess culpability and harm.</p> <p>The court should weigh all the factors set out below in determining the offender's culpability.</p> <p>Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.</p>	
Culpability demonstrated by one or more of the following:	
A	<ul style="list-style-type: none"> Offender collected, made a record of, was in possession of, or viewed or otherwise accessed over the internet, information for use in a specific terrorist act
B	<ul style="list-style-type: none"> Offender collected, made a record of, was in possession of, or viewed or otherwise accessed over the internet, information likely to be useful to a person committing or preparing an act of terrorism and the offender had terrorist connections or motivations
C	<ul style="list-style-type: none"> Offender collected, made a record of, was in possession of, or viewed or otherwise accessed over the internet, information likely to be useful to a person committing or preparing an act of terrorism but had no terrorist connections or motivations

Harm	
Category 1	<ul style="list-style-type: none"> Material provides instruction for specific terrorist activity endangering life and harm is very likely to be caused
Category 2	<ul style="list-style-type: none"> Material provides instruction for specific terrorist activity endangering life but harm is not very likely to be caused Material provides instruction for specific terrorist activity intended to cause widespread or serious damage to property, or economic interest or substantial impact upon civic infrastructure
Category 3	<ul style="list-style-type: none"> All other cases

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

Harm	Culpability		
	A	B	C
Category 1	Starting point 10 years' custody	Starting point 7 years' custody	Starting point 3 years' custody
	Category range 8-14 years' custody	Category range 5-9 years' custody	Category range 1-5 years' custody
Category 2	Starting point 7 years' custody	Starting point 4 years' custody	Starting point 1 year 6 months' custody
	Category range 5-9 years' custody	Category range 3 – 5 years' custody	Category range 6 months – 3 years' custody
Category 3	Starting point 5 years' custody	Starting point 3 years' custody	Starting point 1 year's custody
	Category range 3 – 6 years' custody	Category range 2 – 5 years' custody	Category range High level community order – 2 years' custody

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors:

- Significant volume of terrorist publications
- Length of time over which offending was committed
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/ or avoid or impede detection
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed whilst in prison

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/ or lack of maturity where it affects the responsibility of the offender
- Sole or primary carer for dependent relatives

Step 3 – Consider any factors which indicate a reduction, such as 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 4 – Reduction for guilty plea

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 5 – 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 6 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 7 – 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 8 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Crown Court Compendium](#)

Step 9 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 10 – 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](#).

Funding Terrorism

Fundraising

Terrorism Act 2000 (section 15)

Use and Possession

Terrorism Act 2000 (section 16)

Funding Arrangements

Terrorism Act 2000 (section 17)

Money Laundering

Terrorism Act 2000 (section 18)

Triable either way

Maximum: 14 years' custody

Offence range: High level community order - 13 years' custody

These are offences listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

This guideline applies only to offenders aged 18 and older

STEP ONE Determining the offence category	
<p>The court should determine the offence category with reference only to the factors listed in the tables below. In order to determine the category, the court should assess culpability and harm.</p> <p>The court should weigh all the factors set out below in determining the offender's culpability.</p> <p>Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.</p>	
Culpability demonstrated by one or more of the following:	
A	<ul style="list-style-type: none"> • A significant role where offending is part of a group activity • Involvement of others through pressure or influence • Abuse of position of power, trust or responsibility • Sophisticated nature of offence/significant planning • Activities took place over a sustained period of time
B	<ul style="list-style-type: none"> • Other cases that fall between categories A or C because: <ul style="list-style-type: none"> - Factors are present in A and C which balance each other out and/ or - The offender's culpability falls between the factors as described in A and C
C	<ul style="list-style-type: none"> • Performed limited function under direction • Very little or no planning

Harm	
The court should consider the factors set out below to determine the level of harm.	
Category 1	<ul style="list-style-type: none"> • Money or property made, or was likely to make, a significant contribution to furthering terrorism • Use or provision of money or property to fund or assist activities endangering life
Category 2	<ul style="list-style-type: none"> • Use or provision of money or property to fund or assist activities which involve a risk of widespread or serious damage to property, or economic interests or substantial impact upon civic infrastructure • All other cases whose characteristics fall between 1 and 3
Category 3	<ul style="list-style-type: none"> • Money or property made, or was likely to make, a minor contribution to furthering terrorism

STEP TWO			
Starting point and category range			
Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.			
Harm	Culpability		
	A	B	C
Category 1	Starting point 12 years' custody Category range 10 - 13 years' custody	Starting point 9 years' custody Category range 8 – 10 years' custody	Starting point 7 years' custody Category range 6 – 8 years' custody
Category 2	Starting point 9 years' custody Category range 8 – 10 years' custody	Starting point 7 years' custody Category range 6 – 8 years' custody	Starting point 4 years' custody Category range 2 – 5 years' custody
Category 3	Starting point 7 years' custody Category range 6 – 8 years' custody	Starting point 4 years' custody Category range 2 – 5 years' custody	Starting point 2 years' custody Category range High level community order – 3 years' custody

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors:

- Knowledge that the money or property will or may be used for the purposes of terrorism

- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/ or avoid or impede detection
- Indoctrinated or encouraged others
- Use or provision of false or fraudulent identification
- Misrepresenting nature of organisation
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision

Factors reducing seriousness or reflecting personal mitigation

- Offender did not know or reasonably suspect that the money or property will or may be used for the purposes of terrorism
- No previous convictions **or** no relevant/recent convictions
- Good character and/ or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/ or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

Step 3 – 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 4 – 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 5 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for

which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 6 – 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 7 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Magistrates’ Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – 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](#).

Failure to Disclose Information about Acts of Terrorism

Terrorism Act 2000 (section 38B)

Triable either way

Maximum: 10 years' custody

Offence range: High level community order – 9 years' custody

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

This guideline applies only to offenders aged 18 and older

STEP ONE**Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category, the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

Culpability demonstrated by one or more of the following:

A	<ul style="list-style-type: none"> Information was very significant (including, but not limited to, information which could have prevented an act of terrorism)
B	<ul style="list-style-type: none"> Cases whose characteristics fall between A and C
C	<ul style="list-style-type: none"> Information was of low significance

Harm

The court should consider the factors set out below to determine the level of harm that has been **caused or was intended** to be caused.

Category 1	<ul style="list-style-type: none"> Information related to terrorist activity endangering life Information related to terrorist activity intended to cause widespread or serious damage to property, or economic interest or substantial impact upon civic infrastructure
Category 2	<ul style="list-style-type: none"> All other cases

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

Harm	Culpability		
	A	B	C
Category 1	Starting point 7 years' custody Category range 6-9 years' custody	Starting point 5 years' custody Category range 4-6 years' custody	Starting point 2 years' custody Category range 6 months - 3 years' custody

Category 2	Starting point 4 years' custody Category range 3-5 years' custody	Starting point 2 years' custody Category range 6 months – 3 years' custody	Starting point 1 year 6 months' custody Category range High level community order – 2 years' custody
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The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors:

- Many lives endangered
- Lengthy of time over which offending was committed
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed whilst in prison

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Good character and/ or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Offender discloses information but not as soon as was reasonably practicable
- Offender's responsibility substantially reduced by mental disorder or learning disability

- Age and/ or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

Step 3 – 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 4 – 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 5 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 6 – 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 7 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – 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](#).

Collection of Terrorist Information

Terrorism Act 2000 (section 58)

Triable either way
Maximum: 15 years' custody

Offence range: High level community order - 14 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

This guideline applies only to offenders aged 18 and older
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STEP ONE	
Determining the offence category	
<p>The court should determine the offence category with reference only to the factors listed in the tables below. In order to determine the category, the court should assess culpability and harm.</p> <p>The court should weigh all the factors set out below in determining the offender's culpability.</p> <p>Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.</p>	
Culpability demonstrated by one or more of the following:	
A	<ul style="list-style-type: none"> Offender collected, made a record of, was in possession of, or viewed or otherwise accessed over the internet, information for use in a specific terrorist act
B	<ul style="list-style-type: none"> Offender collected, made a record of, was in possession of, or viewed or otherwise accessed over the internet, information likely to be useful to a person committing or preparing an act of terrorism and the offender had terrorist connections or motivations
C	<ul style="list-style-type: none"> Offender collected, made a record of, was in possession of, or viewed or otherwise accessed over the internet, information likely to be useful to a person committing or preparing an act of terrorism but had no terrorist connections or motivations

Harm	
Category 1	<ul style="list-style-type: none"> Material provides instruction for specific terrorist activity endangering life and harm is very likely to be caused
Category 2	<ul style="list-style-type: none"> Material provides instruction for specific terrorist activity endangering life but harm is not very likely to be caused Material provides instruction for specific terrorist activity intended to cause widespread or serious damage to property, or economic interest or substantial impact upon civic infrastructure
Category 3	<ul style="list-style-type: none"> All other cases

STEP TWO**Starting point and category range**

Having determined the category at step 1, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

Harm	Culpability		
	A	B	C
Category 1	Starting point 10 years' custody	Starting point 7 years' custody	Starting point 3 years' custody
	Category range 8-14 years' custody	Category range 5-9 years' custody	Category range 1-5 years' custody
Category 2	Starting point 7 years' custody	Starting point 4 years' custody	Starting point 1 year 6 months' custody
	Category range 5-9 years' custody	Category range 3 – 5 years' custody	Category range 6 months – 3 years' custody
Category 3	Starting point 5 years' custody	Starting point 3 years' custody	Starting point 1 year's custody
	Category range 3 – 6 years' custody	Category range 2 – 5 years' custody	Category range High level community order – 2 years' custody

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

Other aggravating factors:

- Significant volume of terrorist publications
- Length of time over which offending was committed
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/ or avoid or impede detection
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed whilst in prison

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/ or lack of maturity where it affects the responsibility of the offender
- Sole or primary carer for dependent relatives

Step 3 – 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 4 – 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 5 – 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 6 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 7 – 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 8 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

- [Ancillary orders – Magistrates’ Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 9 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 10 – 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](#).

Annex A – Causing injury by wanton or furious driving

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: Band B 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 likely to cause a danger to others
- Driving grossly impaired by consumption of alcohol or drugs
- 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
- 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 impaired by consumption of alcohol or drugs
- Visibility or controls obstructed
- Driving impaired as a result of a known medical condition
- Disregarding advice relating to the effects of medical condition or medication
- Driving 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

Annex B – Causing death by dangerous driving

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: x – xx 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.	
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

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

Annex C – dangerous driving

Dangerous driving

Road Traffic Act 1988 (section 2)

Triable either way

Maximum: 2 years' custody

Offence range: x – xx 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.	
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

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