

Annex A: Draft aggravated vehicle taking guidelines (as of September 2022)

Vehicle/property damage

(Including harm factors and sentencing table as taken to Council for agreement in the September meeting)

Harm	Factors
Category 1	<ul style="list-style-type: none"> High value damage
Category 2	<ul style="list-style-type: none"> Value of damage falls between categories 1 and 3
Category 3	<ul style="list-style-type: none"> Total damage caused no more than £5,000

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

Rubric: Where the total damage caused is valued at no more than £5,000, this will be a summary-only offence with a statutory maximum penalty of six months' custody. This is reflected in the starting points and ranges for category 3 harm in the sentencing table below.

Harm/culpability	High culpability A	Medium culpability B	Lower culpability C
Harm category 1	Starting point: 1 year's custody Category range: 18 weeks' custody – 2 years' custody	Starting point: 18 weeks' custody Category range: High level community order – 1 year's custody	Starting point: High level community order Category range: Medium level community order – 12 weeks' custody

Harm category 2	Starting point: 12 weeks' custody Category range: High level community order – 1 year's custody	Starting point: High level community order Category range: Medium level community order – 12 weeks' custody	Starting point: Medium level community order Category range: Low level community order – High level community order
Harm category 3	Starting point: High level community order Category range: Medium level community order – 18 weeks' custody	Starting point: Medium level community order Category range: Low level community order – High level community order	Starting point: Low level community order Category range: Band B fine – Medium level community order

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

Injury

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

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

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

	Category range: High level community order – 1 year’s custody	Category range: Medium level community order – 26 weeks’ custody	Category range: Low level community order – High level community order
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Statutory aggravating factors
<ul style="list-style-type: none"> • Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction • Offence committed on bail
Other aggravating factors
<ul style="list-style-type: none"> • Vehicle taken as part of burglary • Taken vehicle was an emergency vehicle • Taken vehicle belongs to a vulnerable person • Disregarding warnings of others • Multiple victims involved (see step 6 on totality when sentencing more than one offence) • Victim was providing a public service or performing a public duty at the time of the offence, or was an emergency worker • Victim was a vulnerable road user, including pedestrians, cyclists and horse riders • Taken vehicle is an LGV, HGV or PSV etc • Other driving offences committed at the same time (see step 6 on totality) • Blame wrongly placed on others • Failed to stop and/or assist, or seek assistance at the scene • Passengers, including children • Offence committed on licence or while subject to court order(s)
Mitigating factors
<ul style="list-style-type: none"> • Actions of the victim or a third party contributed significantly to collision or injury • Efforts made to assist or seek assistance for victim(s) • No previous convictions or no relevant/recent convictions • Remorse • Victim was a close friend or relative • Serious medical condition requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives

Death

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

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

Rubric: Where a case does not fall squarely within a category, adjustment from the starting point may be required before adjustment for aggravating or mitigating features.

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

Statutory aggravating factors
<ul style="list-style-type: none"> • Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction • Offence committed on bail
Other aggravating factors
<ul style="list-style-type: none"> • Vehicle taken as part of burglary • Taken vehicle was an emergency vehicle • Taken vehicle belongs to a vulnerable person • Disregarding warnings of others • Victim was providing a public service or performing a public duty at the time of the offence, or was an emergency worker • Victim was a vulnerable road user, including pedestrians, cyclists and horse riders • Taken vehicle is an LGV, HGV or PSV etc

- Other driving offences committed at the same time (see step 6 on totality)
- Blame wrongly placed on others
- Failed to stop and/or assist, or seek assistance at the scene
- Passengers, including children
- Offence committed on licence or while subject to court order(s)

Mitigating factors

- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)
- No previous convictions or no relevant/recent convictions
- Remorse
- Victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

Dangerous driving

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

CULPABILITY	
High	<ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Prolonged, persistent and deliberate course of dangerous driving • Consumption of substantial amounts of alcohol or drugs leading to gross impairment • Offence committed in course of police pursuit • Racing or competitive driving against another vehicle • Disregarding warnings of others • Lack of attention to driving for a substantial period of time • Speed greatly in excess of speed limit • Leading role in group offending
Medium	<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
Lower	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration • Minor role in group offending

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

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