

Aggravated vehicle taking - vehicle/property damage

Theft Act 1968, ss.12A(2)(c) and (d)

Triable either way (triable only summarily if damage under £5,000)

Maximum when tried summarily: 6 months' custody

Maximum when tried on indictment: 2 years' custody

Obligatory disqualification: 12 months

| 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 of under £5,000 |

| Culpability | Factors |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| High | <ul style="list-style-type: none"> Vehicle or property deliberately destroyed Intention to cause serious damage Driving impaired by consumption of alcohol and/or drugs Significant planning Offence committed in course of evading police 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 under £5,000, this will be a summary-only offence with a statutory maximum penalty of six months' custody. This is reflected in the starting points and ranges for category 3 harm in the sentencing table below.

| Harm/culpability | High culpability A | Medium culpability B | Lower culpability C |
|------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Harm category 1 | <p>Starting point: 1 year's custody</p> <p>Category range: 18 weeks' custody – 2 years' custody</p> | <p>Starting point: 18 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:</p> |

Annex B

| | | | |
|-----------------|--------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| | | | 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 |

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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 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, horse riders and motorcyclists • 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 obstructed or hindered attempts to assist at the scene • Passengers in the offender's vehicle, 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 |

Disqualification guidance

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).

B Minimum disqualification period

The minimum disqualification period for this offence is **12 months**.

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 (s.26 of the Road Traffic Offenders Act 1988 (RTOA));
- disqualification where vehicle used for the purpose of crime (s.164 of the Sentencing Code);
- disqualification for stealing or taking a vehicle or going equipped to steal or take a vehicle (ss. 12, 25 or 178 RTOA) or an attempt to commit such an offence).

For this offence, the court has discretion to disqualify until an extended driving test is passed. The discretion to order an extended re-test is likely to be exercised where there is evidence of inexperience, incompetence or infirmity, or the disqualification period is lengthy (that is, the offender is going to be 'off the road' for a considerable time). **Where an offender has an extended driving test that is still outstanding, the court cannot order another extended re-test.**

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.

The fact that the offender did not drive the vehicle in question at any particular time, or at all, must not be regarded as a special reason

D Interaction with custodial period – same offence

Under section 35A of the Road Traffic Offenders Act 1988. where a court imposes a disqualification in addition to a custodial sentence or a detention and training order for this offence, it must extend the disqualification period to take account of the custodial

term imposed by **one half** of the custodial term imposed; no extension period should be imposed where a sentence is suspended.

This will avoid the disqualification expiring, or being significantly diminished, during the period the offender is in custody.

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 **or the offender may already be serving a custodial sentence for another offence. In either of these circumstances,** under section 35B of the Road Traffic Offenders Act 1988 the Court 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.

Aggravated vehicle taking – injury caused

Theft Act 1968, s.12A(2)(b)

Triable either way

Maximum: 2 years' custody

Obligatory disqualification: 12 months

| Harm | Factors |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cat 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 |
| Cat 2 | <ul style="list-style-type: none"> Other cases of serious harm |
| Cat 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 Driving impaired by consumption of alcohol and/or drugs Significant planning Offence committed in course of evading police 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>Starting Point: 26 weeks' custody</p> | <p>Starting Point:</p> |

Annex B

| | | | |
|-----------------|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| | Category range: 26 weeks' – 1 year 6 months' custody | Category range: High level community order – 1 year's custody | High level community order Category range: Medium level community order – 26 weeks' custody |
| Harm category 3 | Starting Point: 26 weeks' custody Category range: High level community order – 1 year's custody | Starting Point: High level community order Category range: Medium level community order – 26 weeks' custody | Starting Point: Medium level community order Category range: Low level community order – High level community order |

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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, horse riders, motorcyclists etc • 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 obstructed or hindered attempts to assist at the scene • Passengers in the offender's vehicle, 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 | |

Disqualification guidance

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).

B Minimum disqualification period

The minimum disqualification period for this offence is **12 months**.

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 (s.26 of the Road Traffic Offenders Act 1988 (RTOA));
- disqualification where vehicle used for the purpose of crime (s.164 of the Sentencing Code);
- disqualification for stealing or taking a vehicle or going equipped to steal or take a vehicle (ss. 12, 25 or 178 RTOA) or an attempt to commit such an offence).

For aggravated vehicle taking offences, the court has discretion to disqualify until an extended driving test is passed. The discretion to order an extended re-test is likely to be exercised where there is evidence of inexperience, incompetence or infirmity, or the disqualification period is lengthy (that is, the offender is going to be ‘off the road’ for a considerable time). **Where an offender has an extended driving test that is still outstanding, the court cannot order another extended re-test.**

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.

The fact that the offender did not drive the vehicle in question at any particular time, or at all, must not be regarded as a special reason

D Interaction with custodial period – same offence

Under section 35A of the Road Traffic Offenders Act 1988. where a court imposes a disqualification in addition to a custodial sentence or a detention and training order for this offence, it must extend the disqualification period to take account of the custodial

term imposed by **one half** of the custodial term imposed; no extension period should be imposed where a sentence is suspended.

This will avoid the disqualification expiring, or being significantly diminished, during the period the offender is in custody.

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 **or the offender may already be serving a custodial sentence for another offence. In either of these circumstances,** under section 35B of the Road Traffic Offenders Act 1988 the Court 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.

Aggravated vehicle taking – death caused

Theft Act 1968, s.12A(2)(b)

Triable either way

Maximum: 14 years' custody

Obligatory disqualification: 12 months

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| 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 • Driving impaired by consumption of alcohol and/or drugs • Significant planning • Offence committed in course of evading police • 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 |

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

Note: The table is for a single offence of aggravated vehicle taking causing death, resulting in a single fatality. 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 six of this guideline.

Below is a non-exhaustive list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far. Care should be taken to avoid double counting factors already taken into account in assessing culpability.

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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, horse riders, motorcyclists etc • 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 obstructed or hindered attempts to assist at the scene • Passengers in the offender's vehicle, including children • Offence committed on licence or while subject to court order(s) |
| Mitigating factors |
| <ul style="list-style-type: none"> • Actions of the victim or a third party contributed significantly to collision or death • Efforts made to assist or seek assistance for victim(s) • No previous convictions or no relevant/recent convictions • Remorse • Victim was a close friend or relative • Serious medical condition requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives |

Disqualification guidance

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).

B Minimum disqualification period

The minimum disqualification period for this offence is **12 months**.

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 (s.26 of the Road Traffic Offenders Act 1988 (RTOA));
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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;
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The fact that the offender did not drive the vehicle in question at any particular time, or at all, must not be regarded as a special reason

D Interaction with custodial period – same offence

Under section 35A of the Road Traffic Offenders Act 1988. where a court imposes a disqualification in addition to a custodial sentence or a detention and training order for this offence, it must extend the disqualification period to take account of the custodial term imposed by:

- **one half** of the custodial term imposed for an immediate standard determinate sentence; no extension period should be imposed where a sentence is suspended.
- **two thirds** of the custodial term for an extended 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.

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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:

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 - 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.

Aggravated vehicle taking - dangerous driving

Theft Act 1968, s.12A(2)(a)

Triable either way

Maximum: 2 years' custody

Obligatory disqualification: 12 months

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

| CULPABILITY | |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A- High Culpability | <ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Prolonged, persistent and deliberate course of dangerous driving • Obviously highly dangerous manoeuvre • Prolonged use of mobile phone or other electronic device • Driving highly impaired by consumption of alcohol and/or drugs • Offence committed in course of evading police • Racing or competitive driving against another vehicle • Persistent disregard of warnings of others • Lack of attention to driving for a substantial period of time • Speed significantly in excess of speed limit or highly inappropriate for the prevailing road or weather conditions • Leading role in group offending |
| B- Medium culpability | <ul style="list-style-type: none"> • Brief but obviously highly dangerous manoeuvre • Engaging in a brief but avoidable distraction • Use of mobile phone or other electronic device (where not culpability A) • 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 (where not culpability A) • Driving impaired by consumption of alcohol and/or drugs |

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| | <p>(where not culpability A)</p> <ul style="list-style-type: none"> Driving significantly impaired as a result of a known medical condition, and/or disregarding advice relating to the effect of a medical condition or medication Driving when deprived of adequate sleep or rest The offender's culpability falls between the factors as described in high and lower culpability |
| C- Lower culpability | <ul style="list-style-type: none"> Standard of driving was just over threshold for dangerous driving — Momentary lapse of concentration Minor role in group offending |

| 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: Low level community order – 26 weeks' custody</p> |

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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 Victim was a vulnerable road user, including pedestrians, cyclists, horse riders motorcyclists etc 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 obstructed or hindered attempts to assist at the scene Passengers in the offender's vehicle, including children Offence committed on licence or while subject to court order(s) |

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| Mitigating factors |
| <ul style="list-style-type: none"> • No previous convictions or no relevant/recent convictions • The victim was a close friend or relative • Actions of the victim or a third party contributed significantly to collision or injury • 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 |

Disqualification guidance

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).

B Minimum disqualification period

The minimum disqualification period for this offence is **12 months**.

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 (s.26 of the Road Traffic Offenders Act 1988 (RTOA));
- disqualification where vehicle used for the purpose of crime (s.164 of the Sentencing Code);
- disqualification for stealing or taking a vehicle or going equipped to steal or take a vehicle (ss. 12, 25 or 178 RTOA) or an attempt to commit such an offence).

For aggravated vehicle taking offences, the court has discretion to disqualify until an extended driving test is passed. The discretion to order an extended re-test is likely to be exercised where there is evidence of inexperience, incompetence or infirmity, or the disqualification period is lengthy (that is, the offender is going to be ‘off the road’ for a considerable time). **Where an offender has an extended driving test that is still outstanding, the court cannot order another extended re-test.**

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.

The fact that the offender did not drive the vehicle in question at any particular time, or at all, must not be regarded as a special reason

D Interaction with custodial period – same offence

Under section 35A of the Road Traffic Offenders Act 1988. where a court imposes a disqualification in addition to a custodial sentence or a detention and training order for this offence, it must extend the disqualification period to take account of the custodial term imposed by **one half** of the custodial term imposed; no extension period should be imposed where a sentence is suspended.

This will avoid the disqualification expiring, or being significantly diminished, during the period the offender is in custody.

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 **or the offender may already be serving a custodial sentence for another offence. In either of these circumstances,** under section 35B of the Road Traffic Offenders Act 1988 the Court 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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