

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

A	<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
B	<ul style="list-style-type: none"> • 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 (where not culpability A) • 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
C	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving

HARM	
Category 1	<ul style="list-style-type: none"> • Offence results in injury to others • Damage caused to vehicles or property • Circumstances of offence created a high risk of serious harm to others
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 year – 2 years</p>	<p>Starting Point: 1-year 36 weeks</p> <p>Category range: 26-weeks High level community order – 1 year 6 months</p>	<p>Starting Point: 26-weeks High level community order</p> <p>Category range: High Medium level community order – 4-year 36 weeks</p>
Harm 2	<p>Starting Point: 1-year 36 weeks</p> <p>Category range: 26-weeks High level community order – 1 year 6 months</p>	<p>Starting Point: 26-weeks High level community order</p> <p>Category range: High Medium level community order – 4-year 36 weeks</p>	<p>Starting Point: High Medium level community order</p> <p>Category range: Low level community order – 26-weeks high level community order</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, motorcyclists etc
- Driving for commercial purposes
- Driving a LGV, HGV or PSV
- Other driving offences committed at the same time as the dangerous driving
- 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
- 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
- Good 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.

Disqualification guidance

1 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).

2 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;
- 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.

3 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.

4 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 an immediate custodial sentence or a detention and training order for this offence, it must extend the disqualification period by **one half** of the custodial term imposed.

This will avoid the disqualification expiring, or being significantly diminished, during the period the offender is in custody. No extension period should be imposed where a sentence is suspended.

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.

5 Interaction with custodial period – different offence

The Court may be imposing an immediate 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

Annex A

effect of disqualification as a distinct punishment. **Discretionary period + uplift = total period of disqualification**
NO – no increase is needed to the discretionary period.