

Archive: Careless Driving (drive without due care and attention) (Revised 2017)

Road Traffic Act 1988, s.3

Triable only summarily

Maximum: Unlimited fine

Offence range: Band A fine – Band C fine

User guide for this offence

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.

Step 1 – Determining the offence category

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

Offence category

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.

Culpability demonstrated by one or more of the following

Factors indicating higher culpability

- Excessive speed or aggressive driving
- Carrying out other tasks while driving
- Vehicle used for the carriage of heavy goods or for the carriage of passengers for reward

- Tiredness or driving whilst unwell
- Driving contrary to medical advice (including written advice from the drug manufacturer not to drive when taking any medicine)

Factors indicating lower culpability

- All other cases

Harm

Factors indicating greater harm

- Injury to others
- Damage to other vehicles or property
- High level of traffic or pedestrians in vicinity

Factors indicating lesser harm

- All other cases

Step 2 – 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	Band C fine	Band C fine	Consider disqualification OR 7 – 9 points
Category 2	Band B fine	Band B fine	5 – 6 points
Category 3	Band A fine	Band A fine	3 – 4 points

- **Must endorse and may disqualify. If no disqualification impose 3 – 9 points**

The court should then consider further adjustment for any aggravating or mitigating factors. The following is 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.

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
- Contravening a red signal at a level crossing

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Remorse
- Positive character and/or exemplary conduct (regardless of previous convictions)

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 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 – 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 6 – Compensation and ancillary orders

In all cases, the court should consider whether to make compensation and/or other ancillary orders, including disqualification from driving.

Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation (Sentencing Code, s.55).

- Ancillary orders – Magistrates' Court

Step 7 – Reasons

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

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