

What does the sentence mean?

If the offender is sent to prison, for most offenders the law states that they will serve half their sentence in prison and half on licence in the community. Some serious and dangerous offenders may serve at least two-thirds of their sentence in prison, and dangerous offenders will serve an extended licence period. During the licence period they are subject to recall to prison if they commit any further offences or breach any conditions that may be set. If the offender is sentenced to a community sentence the exact details of the order will vary from case to case but it is likely to include supervision and unpaid work.

The sentencing guidelines for causing death by driving were published in July 2008 and are in the process of being updated.

This leaflet is one of a series developed by the Office of the Sentencing Council in partnership with the Metropolitan Police Family Liaison and Disaster Management Team. The leaflets are intended to be used by Family Liaison Officers to help explain to families of victims how certain serious offences are sentenced. There are also leaflets covering sentencing for:

- Murder
- Manslaughter

To print or download copies of these leaflets, visit: www.sentencingcouncil.org.uk/research-and-resources/information-for-victims-families/

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Useful sources of information

www.gov.uk

The Code of Practice for Victims of Crime provides information for victims of crime and bereaved close relatives of a victim who has died as a result of a crime.

www.sentencingcouncil.org.uk

Find out about sentencing guidelines and how they help judges decide on sentences. Judges must follow guidelines unless there are very good reasons – in the interest of justice – not to. In such a case, the judge has to give his or her reasons.

The guidelines for sentencing offences of causing death by driving are available at www.sentencingcouncil.org.uk/crown-court

www.gov.uk/government/organisations/parole-board

Find out more about how the Parole Board works to protect the public by risk assessing prisoners to decide whether they can be safely released into the community.

Sentencing for causing death by driving

The offences

Causing death by driving is divided into five offences:

- causing death by dangerous driving;
- causing death by careless driving when under the influence of drink or drugs;
- causing death by careless or inconsiderate driving;
- causing death by driving whilst disqualified; and
- causing death by driving whilst unlicensed or uninsured.

The main factor that varies between these offences is how much the offender is to blame. For **dangerous driving** the standard of the offender's driving will have been so bad as to have created an obvious risk of danger. In cases of **careless driving** the level of blame can vary enormously from being on the borderline of dangerous driving to as little as misjudging the speed of another vehicle or momentary inattention while tuning a car radio.

Where the driver is under the influence of drink or drugs this further increases the level of blame. In cases of driving whilst disqualified, unlicensed or uninsured the blame arises from driving when not being allowed to do so.

The sentence

An offender is sentenced either after pleading guilty to the offence or being found guilty following a trial. The judge or magistrates may sentence immediately or may adjourn the case to obtain reports on the offender. The harm caused by any offence that results in a person's death is immeasurable. The sentence can never be a measure of the value put on the life of the victim.

In sentencing cases of causing death by driving, the court has to take account of the enormous harm of a loss of life in the context of the act or omission of the offender who caused it.

How are sentences decided?

The judge or magistrates will decide the appropriate sentence by taking into account the facts of the case and applying the relevant sentencing guidelines. The judge or magistrates will consider, for example:

- **how responsible the offender was** for what happened
- **other offences committed at the same time** such as driving a stolen vehicle or failing to stop
- the **serious harm caused by the offence**, including whether more than one person was killed or injured
- any **efforts made to assist the victim**
- the extent to which the bad driving was brought about by a **genuine emergency**, and
- the **circumstances and history of the offender**, such as previous convictions or previous good character, giving assistance at the scene and remorse

In any case resulting in a person's death the **impact of the offence** will, of course, be assessed as very serious. If the victim's family has chosen to make a Victim Personal Statement the court will use the information it contains when assessing the impact of the crime. If no Victim Personal Statement is made the court will assess the impact of the crime from the evidence.

The **maximum sentence** the court can impose for causing death by dangerous driving or careless driving under the influence of drink or drugs is life imprisonment; for causing death by careless or inconsiderate driving it is five years' imprisonment; for causing death by driving whilst disqualified it is 10 years and for causing death by driving whilst unlicensed or uninsured it is two years. Maximum sentences are reserved for rare cases where blame is exceptionally high.

For some offences of causing death by careless or inconsiderate driving or causing death by driving whilst disqualified, unlicensed or uninsured, where the offender is not considered to pose a danger of re-offending and the level of fault is low, a community sentence may be deemed a more effective form of punishment and rehabilitation than imprisonment.

If the **offender pleads guilty** the sentence will be reduced by up to one third depending on how early the plea was made.

All sentences will include a minimum **period of disqualification from driving** followed by a **compulsory extended re-test** for causing death by dangerous driving or careless driving whilst under the influence of drink or drugs; or a **discretionary re-test** for causing death by careless driving or whilst disqualified, unlicensed or uninsured. Some offenders convicted of drink-drive offences will be able to drive again only if they can prove they are medically fit. The disqualification period runs from the date of sentencing or enforcement, if earlier. The period of disqualification must be extended by at least half the prison term imposed to ensure that the driving ban does not expire while the offender is in prison.