

**Causing death by careless driving when under the influence of drink or drugs or having failed either to provide a specimen for analysis or to permit analysis of a blood sample Road Traffic Act 1988 (section 3A)**

<b>STEP ONE – DETERMINING THE OFFENCE CATEGORY</b>			
There are two aspects to assessing culpability for this offence.			
1) The court should first determine the standard of driving with reference to the factors below, which comprise the principal factual elements of the offence. The circumstances and context of the offence will also be important to assessing the level of culpability.			
<b>High</b>			
<ul style="list-style-type: none"> <li>Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor</li> </ul>			
<b>Medium</b>			
<ul style="list-style-type: none"> <li>Unsafe manoeuvre or positioning</li> <li>Engaging in a brief but avoidable distraction</li> <li>Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive</li> <li>Driving vehicle which is unsafe or where drivers visibility or controls are obstructed</li> <li>Driving in disregard of advice relating to the effects of medical condition or medication (where the medication does not form a basis of the offence)</li> <li>Driving whilst ability to drive impaired as a result of a known medical condition</li> <li>Driving when deprived of adequate sleep or rest</li> <li>The offender's culpability falls between the factors as described in high and lesser culpability</li> </ul>			
<b>Lesser</b>			
<ul style="list-style-type: none"> <li>Standard of driving was just over threshold for careless driving</li> <li>Momentary lapse of concentration</li> </ul>			
2) Factors relevant to the presence of alcohol or drugs or a failure to provide a sample for analysis should then be considered to identify the appropriate offence category and starting point of sentence in accordance with the table below			
<b>The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)</b>	Careless driving - High culpability	Careless driving - Medium culpability	Careless driving - Lesser culpability
H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol	Starting point: xx  Sentencing range: xx	Starting point: xx  Sentencing range: xx	Starting point: X  Sentencing range: xx
51- 70 µg of alcohol OR	Starting point:	Starting point:	Starting point:

All other cases of refusing to provide specimen OR Any quantity of a single drug detected	xx Sentencing range: xx	xx Sentencing range: xx	xx Sentencing range: xx
35-50 µg of alcohol	Starting point: xx  Sentencing range: xx	Starting point: xx  Sentencing range: xx	Starting point: xx  Sentencing range: xx