

# **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, which comprise the principal factual elements of the offence. 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. A combination of factors in any category may justify upwards adjustment from the starting point before consideration of aggravating/mitigating factors.

<b>A-</b> High Culpability	<ul style="list-style-type: none"> <li>• Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others.</li> <li>• Prolonged, persistent and deliberate course of dangerous driving</li> <li>• Consumption of substantial amounts of alcohol or drugs leading to gross impairment</li> <li>• Offence committed in course of police pursuit</li> <li>• Racing or competitive driving against another vehicle</li> <li>• Disregarding warnings of others</li> <li>• Lack of attention to driving for a substantial period of time</li> <li>• Speed greatly in excess of speed limit</li> </ul>
<b>B-</b> Medium culpability	<ul style="list-style-type: none"> <li>• Brief but obviously highly dangerous manoeuvre</li> <li>• Engaging in a brief but avoidable distraction</li> <li>• Driving knowing that the vehicle has a dangerous defect or is dangerously loaded</li> <li>• Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive</li> <li>• Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs</li> <li>• Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the offender's driving skills</li> <li>• Driving when knowingly deprived of adequate sleep or rest</li> <li>• The offender's culpability falls between the factors as described in high and lower culpability</li> </ul>
<b>C-</b> Lower culpability	<ul style="list-style-type: none"> <li>• Standard of driving was just over threshold for dangerous driving</li> <li>• Momentary lapse of concentration</li> </ul>

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

**STEP TWO****Starting point and category range**

	<b>Culpability</b>		
	A	B	C
Harm 1	<p><b>Starting Point:</b> 1 year 6 months</p> <p><b>Category range:</b> 1 – 2 years</p>	<p><b>Starting Point:</b> 1 year</p> <p><b>Category range:</b> 26 weeks – 1 year 6 months</p>	<p><b>Starting Point:</b> 26 weeks</p> <p><b>Category range:</b> High level community order – 1 year</p>
Harm 2	<p><b>Starting Point:</b> 1 year</p> <p><b>Category range:</b> 26 weeks – 1 year 6 months</p>	<p><b>Starting Point:</b> 26 weeks</p> <p><b>Category range:</b> High level community order – 1 year</p>	<p><b>Starting Point:</b> High level community order</p> <p><b>Category range:</b> Low level community order – 26 weeks</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
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, 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
- Impeccable 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.

Blank page