

Sentencing Council meeting:
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SC(22)MAY07 – Aggravated vehicle taking
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1 ISSUE

1.1 The Council is invited to consider the scope of revised guidelines for aggravated vehicle taking offences, alongside updated culpability and harm factors. Further discussions are scheduled for upcoming meetings, with the intention to prepare for sign-off for consultation, alongside a resource assessment, in the autumn.

2 RECOMMENDATIONS

2.1 That the Council:

- agrees to split aggravated vehicle taking offences into four separate guidelines (covering vehicle/property damage, injury, death, and dangerous driving respectively);
- approves provisional culpability and harm factors for each of the four guidelines.

3 CONSIDERATION

Aggravated vehicle taking

3.1 In November 2021, the Council agreed to split off aggravated vehicle taking from wider work to revise and update motoring offences in line with changes coming out of the Police, Crime, Sentencing and Courts Bill. The Council also agreed to revise guidelines for aggravated vehicle taking as soon as possible.

3.2 As agreed by the Council in June, the scope of this work will cover:

- Aggravated vehicle taking without consent – death caused
- Aggravated vehicle taking without consent – injury caused
- Aggravated vehicle taking without consent – dangerous driving
- Aggravated vehicle taking without consent – vehicle/property damage

3.3 Section 12A of the Theft Act sets out four different variations of the aggravated vehicle taking offence – causing injury (including death), involving dangerous driving, causing property damage, or causing damage to the taken vehicle. The legislation also sets out that causing death has a higher maximum penalty of 14 years. As outlined in the Magistrates' Courts Act 1980, property/vehicle damage of a lower value (in effect, anything under £5,000) will be triable only summarily and therefore subject to a maximum penalty of

six months' custody. Otherwise, the maximum penalty for aggravated vehicle taking is two years' custody.

3.4 Aggravated vehicle taking combines elements of both motoring and theft offences, and so there are a wide number of comparator guidelines to consider in any work to revise and update guidelines for these offences. With the exception of aggravated vehicle taking causing death, the offences are covered by two existing magistrates' guidelines, with one [covering injury and dangerous driving](#), and the other covering [vehicle/property damage](#). These guidelines were last revised in 2008 and so are out of date and do not follow the detailed structure of more recent guidelines.

3.5 There is currently no existing guideline for aggravated vehicle taking causing death. Volumes for this are very low (usually in the single figures annually) however. CPS charging guidance explains that, where there is evidence of the defendant driving dangerously, prosecutors should charge the alternative offence of causing death by dangerous driving. There is also the basic offence of [vehicle taking without consent](#), triable only summarily, for which the guideline was last updated in 2017 as part of the wider MCSG updates. This is not within scope of work to revise motoring guidelines as it follows the structure of more recent guidelines and already provides detailed guidance on step 1 and step 2 factors.

3.6 The volumes for aggravated vehicle taking vary widely between specific offences. Cases resulting in vehicle/property damage or involving dangerous driving are high in volume, while those resulting in death are markedly lower in volume.

Number of adult offenders sentenced for aggravated vehicle taking:¹

	2018	2019	2020
Aggravated vehicle taking – death caused	0	2	1
Aggravated vehicle taking – injury caused	53	55	34
Aggravated vehicle taking – dangerous driving	242	258	206
Aggravated vehicle taking – vehicle/property damage of £5,000 or over	227	228	165
Aggravated vehicle taking – vehicle/property damage of less than £5,000 (summary only)	651	566	395

Scope of revised guidelines

3.7 Aggravated vehicle taking is a broad category and covers a range of cases, from those involving property damage or dangerous driving, through to death. As they share the same basic offence of vehicle taking without consent, there is some overlap between these different types of aggravated vehicle taking, though they are usually easily differentiated

¹ In 2018, one offender was sentenced for an aggravated vehicle taking offence where it is unclear whether this was dangerous driving, causing injury or damage of £5,000 or over. This has not been included in the figures above.

from one another by the type of harm caused. A case of aggravated vehicle taking which results in a crash that causes serious injury to another driver, for example, will differ to a case involving dangerous driving, where the harm is limited to the risk posed through excessive speeding on a busy road or similar.

3.8 In approaching this work, we have considered whether different types of aggravated vehicle taking might be grouped together, in order to simplify and streamline guidelines, taking a cue from existing aggravated vehicle taking guidelines, where dangerous driving is paired with injury. We have considered whether it would be feasible to combine these offences into a single, broad guideline, with the different types of aggravated vehicle taking representing varying levels of harm. However, after discussion, including input from operational and policy colleagues in the CPS, and consideration of how different types of harm and culpability might be represented in such a guideline, we do not feel it is possible to do this without losing nuance. This approach also risks confusing matters by combining culpability factors that are going to be markedly different for different types of aggravated vehicle taking, such as dangerous driving in comparison to vehicle or property damage.

3.9 While a grouped approach was feasible when the guidance provided to sentencers was more minimal, the more detailed approach taken in recent guidelines makes this trickier. Even in the current combined guideline for dangerous driving and injury, the culpability and harm involved differs greatly between the two offences, and this is evident in examples of greater harm, which do not mention dangerous driving at all, while the higher culpability factors largely seem relevant only to dangerous driving. While, on the surface, there is some overlap between the different types of aggravated vehicle taking, as they stem from the same basic offence, there are also many culpability and harm factors that will be specific to a particular aggravated vehicle taking offence and not others.

3.10 Given the differing maximum penalties, harm and culpability factors involved, and differing volumes, we believe the most sensible approach would be to separate out the different types of aggravated vehicle taking into their own guidelines as follows:

- Aggravated vehicle taking – death caused
- Aggravated vehicle taking – injury caused
- Aggravated vehicle taking – dangerous driving
- Aggravated vehicle taking – vehicle/property damage

3.11 This approach differs from existing guidelines only in that it pulls dangerous driving out into its own guideline (given that harm and culpability factors, such as tiredness or aggressive driving, are likely to differ greatly for this in comparison to the other forms of aggravated vehicle taking). It also provides a standalone guideline for causing death (as harm factors are likely to differ from cases where injury is caused, particularly if there are

multiple deaths, and due to the markedly higher maximum penalty). As with the existing guideline, property damage and damage to the taken vehicle are combined, as these are likely to share the same step one factors and carry the same maximum penalties.

Culpability and harm factors

3.12 Provided that the Council is content to proceed with four separate guidelines, we have begun to draft step one factors for the different variations of aggravated vehicle taking. In doing so, we have considered comparator guidelines, including those for [general theft](#) and the basic offence of [vehicle taking without consent](#). For the purposes of drafting step one factors, our starting point has been to look at the harm likely to occur for specific offences, as this is the primary difference between the varying kinds of aggravated vehicle taking. At this stage, we are asking the Council to indicate if it is content, in principle, with these factors; we will look again at these in the round when we draft step two factors, particularly aggravating and mitigating factors.

Vehicle/property damage

3.13 Vehicle and property damage is the most common form of aggravated vehicle taking, and the majority of cases are of lower value (under £5,000, and therefore triable only summarily) at 395 cases in 2020, versus 165 cases of higher value damage. Community sentences are the most common outcome (in 2020, 56 per cent of adult offenders received community orders for lower value damage, and 42 per cent for higher value damage), followed by immediate custody (in 2020, 16 per cent of adult offenders were sentenced to immediate custody for lower value damage, and 27 per cent for higher value damage). This trend is also evident in previous years.

3.14 Our analysis of 24 transcripts from the Crown Court suggests that these cases are often opportunistic rather than planned. Other common factors include drivers being under the influence of alcohol and/or drugs and attempting to evade the police. There is also overlap with dangerous driving, including speeding:

Examples of cases from Crown Court transcripts
<ul style="list-style-type: none">• Stole car from father while disqualified from driving. Crashed into church lychgate and gravestones• Stole two motorcycles, one after the other; crashed and abandoned the first, then rode second in highly dangerous police chase• Stole partner's car after drinking and crashed it, writing it off• Stole car from victim with vulnerable children and drove dangerously while attempting to evade arrest• After drinking at a party, stole another party goer's car keys and smashed car into telephone pole, damaging fences and walls• Stole car keys from victim's jacket pocket and was in a collision, hitting a bus stop and writing the car off

- While under influence of cocaine and cannabis, stole girlfriend's car and attempted to evade police, crashing into lamp post and post-box, writing the car off
- Took a friend's car without permission and went to collect someone else; lost control of car due to rain and crashed through a fence, hitting and damaging several other vehicles
- Took partner's car and became engaged in police chase, speeding in residential areas and on busy roads. Lost control and crashed into railings
- Engaged in police chase, speeding on busy roads; damaged police vehicle

3.15 In drafting harm and culpability factors for vehicle/property damage, we have considered the existing guideline, as well as the [current guideline for criminal damage](#) (which has a significantly higher maximum penalty of ten years where the damage is valued over £5,000) and the guideline for the basic offence of vehicle taking without consent.

3.16 For the harm table, we have retained many of the high harm factors in the existing guideline, such as where damage occurs to an emergency services vehicle. The existing factor of the vehicle belonging to an elderly or disabled person has been widened to cover vulnerable victims more generally. Other factors have also been adapted or expanded, to cover off the types of damage most likely in these cases: damage to the taken vehicle is split off from damage to other property, with these reflected in all three categories of harm. Under the existing guideline, this is represented more inconsistently, with only the medium harm category mentioning damage to another vehicle or property. The lower harm category specifically refers to damage of under £5,000, to make clear where the dividing line would be, in terms of harm, between summary only and either way cases. We have not included explicit consideration of the distress caused within the harm table, in contrast to the criminal damage guidelines, as this may risk overcomplicating the harm table and, arguably, may not be as relevant for this offence.

3.17 The vehicle taking aspect of this offence is reflected in the culpability table, where we have carried over the lower culpability factors of exceeding authorised use and retaining a hire car beyond the return date from the existing guideline, and in the existing higher culpability factor of the vehicle being taken as part of a burglary or from private premises. These may also cover damage that occurs to the taken vehicle itself. The higher culpability category also includes consideration of where the vehicle/property was deliberately destroyed, or the intention was to do so, dropping down to recklessness as to whether very serious damage was caused in medium culpability. This combines factors from both the existing guideline and the criminal damage guidelines.

3.18 While provision in section 12(1) of the Theft Act allows for passengers to be charged with all aggravated vehicle taking offences, where they know the vehicle has been taken without consent, we have also suggested a new factor in lower culpability, of knowingly

allowing oneself to be carried in vehicle but playing a minor role in the offending, to cover instances where passengers are present in the car but are not actively encouraging the driver to damage the vehicle or other property. In the unlikely event that a driver has been observing the rules of the road and has simply been unlucky in having a collision or causing damage, we have added a lower culpability factor to cover where the vehicle was not driven in a reckless or unsafe manner. We have also suggested including coercion/exploitation and mental disorders/learning disabilities as standard factors in culpability across all the revised guidelines.

Harm	Factors
Category 1	<ul style="list-style-type: none"> • Taken or damaged vehicle belonging to vulnerable person (where not category 3) • Emergency services vehicle (where not category 3) • Damage caused in moving traffic accident • Severe damage to taken vehicle • High value of damage to another vehicle and/or property
Category 2	<ul style="list-style-type: none"> • Greater damage to taken vehicle • Moderate value damage to another vehicle and/or property
Category 3	<ul style="list-style-type: none"> • Minor damage to taken vehicle of under £5,000 • Low value damage to another vehicle and/or property of under £5,000

Culpability	Factors
High	<ul style="list-style-type: none"> • Vehicle or property deliberately destroyed (or intention to cause very serious damage to property) • Under influence of alcohol/drugs • Vehicle taken as part of burglary or from private premises • Sophisticated nature of offence/significant planning • Trying to avoid arrest • Involvement of others through coercion, intimidation or exploitation
Medium	<ul style="list-style-type: none"> • Recklessness as to whether very serious damage caused to vehicle or property • Other cases that fall between categories A and C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out and/or ○ The offender's culpability falls between the factors described in A and C
Lower	<ul style="list-style-type: none"> • Vehicle not driven in a reckless or unsafe manner • Knowingly allowing oneself to be carried in taken vehicle but playing a minor role in the offending • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to commission of offence • Exceeding authorised use of e.g. employer's or relative's vehicle • Retention of hire car for short period beyond return date

Injury

3.19 In comparison to aggravated vehicle taking causing vehicle/property damage or involving dangerous driving, causing injury is less common. In 2020, only 34 adult offenders were sentenced for this offence, with the most common outcome being immediate custody (35 per cent), followed closely by community sentences and suspended sentence (both at 32 per cent). The average custodial sentence length (mean) for this offence in 2020 was estimated to be 14 months pre-guilty plea (and 9.8 months post-guilty plea), suggesting that cases receiving immediate custody are often of medium severity.

3.20 Of the ten transcripts of Crown Court cases analysed, the majority fall within low to medium severity. Common themes involve the offender attempting to evade police, police officers themselves sustaining injuries, and the presence of passengers:

Examples of cases from Crown Court transcripts
<ul style="list-style-type: none"> • Took vehicle while working on it for the owner; vehicle clipped kerb and was in head-on collision, injuring two occupants in the other car. One was left with broken vertebrae and required a back brace for a period of time, while other occupant required a cast for their injured hand • Following family dispute, intentionally rammed father's taxi which was carrying two passengers, leaving them with anxiety about being out in public • While driving vehicle without licence, hit motorcyclist and left him with serious injuries requiring hospitalisation for two days. Offender fled scene afterwards • While under the influence of alcohol, offender was driving a car he knew to be stolen and was carrying passengers. When stopped by police, offender attempted to drive off, dragging two police officers by a few feet, and leaving them with cuts and bruises • Opportunistically took vehicle from a front drive and was later seen by police stealing fuel. Drove into police officer in attempt to evade arrest, causing minor injuries that led to him being off work for some time

3.21 In drafting the harm and culpability factors, we have considered the current guidelines for [actual](#) and [grievous bodily harm](#), as well as looking across at the step one factors being proposed for other aggravated vehicle taking offences to ensure consistency. The existing guideline for this offence also covers dangerous driving so much of the guidance it provides on harm and culpability is more focused on dangerous driving, rather than on causing injury. We propose broadly mirroring the draft three-category harm table and associated factors for furious or wanton driving causing injury that the Council has provisionally agreed (annex A). This three-category approach allows for more gradation when considering the impact of any injuries caused and sets the threshold for serious injuries at category 2 as a minimum.

3.22 In the culpability table, we have mirrored the proposed wording for vehicle/property damage, with some adapting as necessary, as many of those factors will be relevant to this offence. In high culpability, a factor has been added to reflect instances where there is a recklessness as to whether serious injury is caused, adapted from the criminal damage

guidelines. To ensure gradation, we have also included a medium culpability equivalent, of recklessness as to whether minor injury is caused.

Harm	Factors
Category 1	<ul style="list-style-type: none"> • Grave and/or life-threatening injury caused • Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment • Offence results in a permanent, irreversible injury or condition
Category 2	<ul style="list-style-type: none"> • Other cases of serious harm
Category 3	<ul style="list-style-type: none"> • All other cases

Culpability	Factors
High	<ul style="list-style-type: none"> • Recklessness as to whether serious injury caused to persons • Under influence of alcohol or drugs • Vehicle taken as part of burglary or from private premises • Sophisticated nature of offence/significant planning • Trying to avoid arrest • Involvement of others through coercion, intimidation or exploitation
Medium	<ul style="list-style-type: none"> • Recklessness as to whether some injury caused to persons • Other cases that fall between categories A and C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out and/or ○ The offender's culpability falls between the factors described in A and C
Lower	<ul style="list-style-type: none"> • Vehicle not driven in a reckless or unsafe manner • Knowingly allowing oneself to be carried in taken vehicle but playing a minor role in the offending • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to commission of offence • Exceeding authorised use of e.g. employer's or relative's vehicle • Retention of hire car for short period beyond return date

Death

3.23 This is a very low volume offence, with fewer than five adult offenders sentenced for this as their principal offence, per year, between 2010-2020. As such, there are very few transcripts available; of the two transcripts analysed, both focused on the same case, involving multiple offenders. In this instance, both offenders were passengers in the taken vehicle, while the driver of the vehicle was charged with the offence of dangerous driving causing death. The incident involved a police chase, with the car colliding with another vehicle carrying a family. Four people died as a result, while three others were left with serious and/or life-changing injuries. This approach is in line with CPS charging guidance, which recommends that prosecutors charge drivers with dangerous driving causing death where relevant, due to the higher maximum penalty for that offence. In effect, this will often mean that it will be passengers in the taken vehicle who will be charged with aggravated vehicle taking causing death.

3.24 As there is currently no existing guideline for this offence, we have looked at the comparator [guideline of unlawful act manslaughter](#) in drafting step one factors, as well as the draft factors for dangerous driving causing death that the Council provisionally agreed in autumn 2021 (annex B). A similar approach to harm is recommended here, where rather than have a two or three-category harm table to cover one or more deaths, an explanation is instead provided setting out that harm will always be of the utmost seriousness in these cases and that this is taken into account in the sentencing table.

3.25 For the culpability table, we have proposed mirroring the three-category approach, and the associated factors, proposed for aggravated vehicle taking causing injury due to the likely overlap between cases involving injury and death.

Harm
For all cases of aggravated vehicle taking causing death, the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

Culpability	Factors
High	<ul style="list-style-type: none"> • Recklessness as to whether serious injury caused to persons • Under influence of alcohol or drugs • Vehicle taken as part of burglary or from private premises • Sophisticated nature of offence/significant planning • Trying to avoid arrest • Involvement of others through coercion, intimidation or exploitation
Medium	<ul style="list-style-type: none"> • Recklessness as to whether minor injury caused to persons • Other cases that fall between categories A and C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out and/or ○ The offender's culpability falls between the factors described in A and C
Lower	<ul style="list-style-type: none"> • Vehicle not driven in a reckless or unsafe manner • Knowingly allowing oneself to be carried in taken vehicle but playing a minor role in the offending • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to commission of offence • Exceeding authorised use of e.g. employer's or relative's vehicle • Retention of hire car for short period beyond return date

3.26 An alternative to a standalone guideline for causing death would be to combine this and injury into one guideline, with death sitting in its own category at the very top of the harm table. However, this approach might make it more difficult to take account of cases where there are multiple deaths. It would also create a significant gap between bands in the sentencing table, with the top of the range for injury going to two years at most, and death potentially being significantly higher than this.

Dangerous driving

3.27 Aggravated vehicle taking involving dangerous driving is a high-volume offence and immediate custody is by far the most common outcome, with 61 per cent of offenders receiving this in 2020. Estimated pre-guilty plea average (mean) custodial sentence lengths (ACSL) for previous years suggest that cases involving immediate custody are usually of medium severity. In 2020, the estimated pre-guilty plea ACSL (mean) was 14 months (compared to 10 months post-guilty plea).

3.28 From the 13 Crown Court transcripts analysed, speeding and driving on the wrong side of the road, particularly in residential areas, are common themes, as is attempting to evade arrest. In some of these cases, minor collisions were involved, either with other vehicles on the road or with police cars.

3.29 In drafting step one factors for this offence, we have considered the draft factors for the offence of dangerous driving (annex C) that the Council has provisionally agreed. We have also taken into account the guideline for [arson/criminal damage – reckless as to whether life endangered](#), last revised in 2019, looking at how it staggers varying levels of risk across the three harm categories; this guideline was also considered in drafting the factors for the dangerous driving guideline.

3.30 We have proposed three categories of harm to separate out cases of particularly egregious driving (which either posed a risk of very serious harm or did in fact involve damage to other vehicles/property or injury to others) from cases where there was a low or moderate risk of harm to others. This would provide more guidance to sentencers, allowing for more nuanced consideration of cases falling between high and low harm, while also ensuring consistency of approach with the other aggravated vehicle taking offences (with the exception of death). This does, however, diverge from what has been provisionally agreed for dangerous driving, which uses two categories of harm, and raises a broader question of whether we align harm in aggravated vehicle taking - dangerous driving with the other aggravated vehicle taking offences, or with the offence of dangerous driving.

3.31 For culpability, we have proposed largely mirroring the draft factors for the offence of dangerous driving, as these provide detailed guidance which will also be relevant here and will provide parity as both offences share a two-year maximum penalty. The only departures from the dangerous driving guideline have been to adapt some of the culpability factors to make them broad enough to include passengers who are actively encouraging dangerous and risky driving, and to include consideration of the vehicle taking aspect of this offence in line with what is being proposed for other aggravated vehicle taking offences. We have also included culpability factors to reflect coercion or exploitation, or mental disorders/learning

disabilities, in line with step one factors proposed for other aggravated vehicle taking offences.

Harm	Factors
Category 1	<ul style="list-style-type: none"> • Prolonged bad driving • Offence results in injury to others • Circumstances of offence created a high risk of very serious harm to others • Damage caused to vehicles or property
Category 2	<ul style="list-style-type: none"> • Excessive speeding, particularly on busy roads or in built up areas • Circumstances of offence created a moderate risk of harm to others
Category 3	<ul style="list-style-type: none"> • Circumstances of offence created a low risk of harm to others • All other cases

Culpability	Factors
High	<ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Vehicle driven in prolonged, persistent and deliberate course of dangerous driving • Consumption of substantial amounts of alcohol or drugs leading to gross impairment • Offence committed in course of police pursuit • Racing or competitive driving against another vehicle • Disregarding warnings of others • Lack of attention to driving for a substantial period of time • Speed greatly in excess of speed limit • Vehicle taken as part of burglary or from private premises • Involvement of others through coercion, intimidation or exploitation
Medium	<ul style="list-style-type: none"> • Brief but obviously highly dangerous manoeuvre • Engaging in a brief but avoidable distraction • Vehicle driven knowing that it has a dangerous defect or is dangerously loaded • Vehicle driven at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive • Vehicle driven whilst ability to drive is impaired as a result of consumption of alcohol or drugs • Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the driver's ability • Vehicle driven when driver knowingly deprived of adequate sleep or rest • The offender's culpability falls between the factors as described in high and lesser culpability
Lower	<ul style="list-style-type: none"> • Vehicle driven in manner just over threshold for dangerous driving • Momentary lapse of concentration • Knowingly allowing oneself to be carried in taken vehicle but playing a minor role in the offending • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to commission of offence • Exceeding authorised use of e.g. employer's or relative's vehicle

	<ul style="list-style-type: none">• Retention of hire car for short period beyond return date
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Question 1: Are you content to proceed with four separate guidelines to cover the different types of aggravated vehicle taking (vehicle/property damage, injury, death and dangerous driving)?

Question 2: Are you content in principle with the culpability and harm factors as drafted for the different aggravated vehicle taking guidelines?

4 IMPACT AND RISKS

4.1 Revisions to the guidelines for aggravated vehicle taking offences must balance a number of different aspects of these offences, including the circumstances under which the vehicle was taken without consent, the offender's driving or behaviour, and the potential risks they posed and/or the actual harm they caused to others.

4.2 If the offences are split off into four separate guidelines, consideration will need to be given as to how parity is ensured, where relevant, across the different guidelines. We will also need to consider any read across to the other motoring guidelines that are currently being revised and any overlaps, such as with dangerous driving offences.

4.3 The impact of changes to the guidelines is likely to be limited, particularly as maximum penalties for these offences are not changing. Revisions to guidelines are intended to provide more detailed guidance to support sentencers, particularly in light of magistrates' increased sentencing powers for either way offences.

4.4 Subject to the Council's decisions on proposals outlined in this paper, we will look to provide more detailed information on impacts and risks as we progress work on the guidelines for aggravated motoring offences.

Annex A – Causing injury by wanton or furious driving

Causing injury by wanton or furious driving

Offences Against the Person Act 1861 (section 35)

Triable only on indictment

Maximum: 2 years' custody

Offence range: Band B fine – 2 years' custody

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.

High

- Deliberate decision to ignore the rules of the road and/or disregard for the risk of danger to others.
- Prolonged, persistent and deliberate course of driving likely to cause a danger to others
- Driving grossly impaired by consumption of alcohol or drugs
- Offence committed in course of police pursuit
- Racing or competitive driving against another vehicle
- Disregarding warnings of others
- Lack of attention to driving for a substantial period of time
- Speed greatly in excess of speed limit
- Extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Inappropriate speed for the prevailing conditions
- Driving impaired by consumption of alcohol or drugs
- Visibility or controls obstructed
- Driving impaired as a result of a known medical condition
- Disregarding advice relating to the effects of medical condition or medication
- Driving when deprived of adequate sleep or rest

Lesser

- All other cases

HARM	
Category 1	<ul style="list-style-type: none">• Death• Grave and/or life-threatening injury caused• Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment• Offence results in a permanent, irreversible injury or condition
Category 2	<ul style="list-style-type: none">• Other cases of serious harm
Category 3	<ul style="list-style-type: none">• All other cases

Annex B – Causing death by dangerous driving

Causing death by dangerous driving

Road Traffic Act 1988 (section 1)

Triable only on indictment

Maximum: life imprisonment, minimum disqualification of 2 years with compulsory extended re-test

Offence range: x – xx years' custody

This is a specified offence for the purposes of sections 266 and 279 (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

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.	
A- High Culpability	<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• Consumption of substantial amounts of alcohol or drugs leading to gross impairment• Offence committed in course of police pursuit• Racing or competitive driving against another vehicle• Disregarding warnings of others• Lack of attention to driving for a substantial period of time• Speed greatly in excess of speed limit
B- Medium culpability	<ul style="list-style-type: none">• Brief but obviously highly dangerous manoeuvre• Engaging in a brief but avoidable distraction• 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, although not greatly excessive• Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs

	<ul style="list-style-type: none"> • 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 • Driving when knowingly deprived of adequate sleep or rest • The offender's culpability falls between the factors as described in high and lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

HARM

For all cases the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

Annex C – dangerous driving

Dangerous driving

Road Traffic Act 1988 (section 2)

Triable either way

Maximum: 2 years' custody

Offence range: x – xx years' custody

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.	
A- High Culpability	<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• Consumption of substantial amounts of alcohol or drugs leading to gross impairment• Offence committed in course of police pursuit• Racing or competitive driving against another vehicle• Disregarding warnings of others• Lack of attention to driving for a substantial period of time• Speed greatly in excess of speed limit
B- Medium culpability	<ul style="list-style-type: none">• Brief but obviously highly dangerous manoeuvre• Engaging in a brief but avoidable distraction• 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, although not greatly excessive• Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs• 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• Driving when knowingly deprived of adequate sleep or rest

	<ul style="list-style-type: none"> • The offender's culpability falls between the factors as described in high and lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

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