



Statutory offences of causing death by driving

Draft sentencing guideline

Effective from [date]

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Applicability

This guideline applies to all offenders who are sentenced on or after [date], and who have been convicted of one of the following offences under the Road Traffic Act 1988:

Section of the Act	Offence	Pages
1	Causing death by dangerous driving	4-7
3A	Causing death by careless driving when under influence of drink or drugs	8-12
2B	Causing death by careless, or inconsiderate, driving	13-16
3ZB and 3ZC	Causing death by driving: unlicensed, uninsured, or disqualified drivers	17-20

How to use this guideline

1. This guideline should be read alongside the Council's guidelines '[Principles and purposes of sentencing](#)' and '[The sentencing process](#)'. It should be used to arrive at the headline sentence for the offence under consideration.
2. It should also be read along with any other guidelines which apply to the case, or to the offender. This may result in the selected sentence falling outwith the sentencing range originally identified.

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Road Traffic Act 1998 section 1

Causing death by dangerous driving

Step 1: Assess the seriousness of the offence

3. The seriousness of an offence is determined by two things: the culpability of the offender and the harm caused, or which might have been caused, by the offence. As either or both culpability and harm increase, so may the seriousness of the offence. For this offence the level of harm, which is that death has been caused, has been fixed by statute. The seriousness of the offence is, therefore, largely determined by the level of culpability of the offender.
4. In determining seriousness the court should consider the table on the next page, which lists a number of features which might be present in offences of causing death by dangerous driving. This is not an exhaustive list.
5. The court should determine which level of seriousness – A, B, or C – the case before it falls into, having regard to these features, or to any other features which the court considers relevant to its assessment of seriousness.
6. In every case the court should arrive at a fair assessment of the level of seriousness, considering all of the circumstances of the offence. Where features are present from more than one level, the court should balance the relative significance of these features in arriving at a decision as to which level of seriousness the case falls into. Where multiple features from level B or C are present, that may indicate that the case should be assessed as having a higher level of seriousness.

	LEVEL A	LEVEL B	LEVEL C
NATURE OR MANNER OF DRIVING	Prolonged and deliberate course of bad driving, with a disregard for the danger being caused to others	Driving that created a substantial risk of danger to others	Single dangerous manoeuvre, or other driving which created a significant risk of danger to others
	Racing	Aggressive driving	
		Grossly excessive speed for the road, and/or prevailing conditions, and/or the particular vehicle being driven	Excessive speed for the road, and/or prevailing conditions, and/or the particular vehicle being driven
		Disregarding road signals (for example, traffic lights)	Disregarding road signs (for example, a 'Give Way' sign)
CAPACITY OF DRIVER	Gross impairment through the voluntary consumption of alcohol or illegal drugs, or through the consumption of legal drugs or medication where the offender knew, or should have known, about the likelihood of impairment, or through other causes	Impairment through the voluntary consumption of alcohol or illegal drugs, or through the consumption of legal drugs or medication where the offender knew, or should have known, about the likelihood of impairment, or through other causes	Driving while knowingly deprived of rest
		Driving while avoidably distracted for a prolonged period, for example through use of a mobile phone or similar device	Driving while avoidably but momentarily distracted, for example through use of a mobile phone or similar device
OTHER		Ignoring warnings from others, for example passengers	
	Knowingly driving a dangerous vehicle		Knowingly driving a defective vehicle

Step 2: Select the sentencing range

7. The court should then use the table below to select the appropriate sentencing range. This is the range of sentences within which the appropriate headline sentence for the offence appears to fall, having regard to the assessment of seriousness at step 1.

	LEVEL	RANGE
SERIOUSNESS	A	7-12 years' custody
	B	4-7 years' custody
	C	2-5 years' custody

8. The maximum sentence provided by law for this offence is imprisonment for life.
9. The offender must be disqualified from driving for a minimum period of five years, and until the extended driving test is passed. When a sentence of imprisonment or detention is imposed, the period of disqualification which the court would otherwise have imposed must be extended by a period equal to half the sentence of imprisonment or detention¹.

Step 3: Identify aggravating and mitigating factors

10. The table below contains a **non-exhaustive** list of additional factual elements which may apply to the offence and the offender. The court should consider which of these factors apply, together with any other factors which, in the view of the court, aggravate or mitigate the offence

¹ [Road Traffic Offenders Act 1998 section 35C](#)

or sentence. In some cases this may move the headline sentence outside the range selected at step 2.

	AGGRAVATING	MITIGATING
CONSEQUENCES	More than one person killed	
	Serious injury caused to another person or persons (excluding the driver)	Driver sustained serious injury
RECORD AND CIRCUMSTANCES OF DRIVER	Relevant previous convictions (not necessarily limited to convictions for road traffic offences)	Previous good driving record
		Deceased was family member or close friend of driver
		Remorse
		Driving while inexperienced
CONCURRENT OFFENCES AND ACTIONS AT THE SCENE	Other offences committed at the same time (such as driving while disqualified or without insurance, or leaving the scene of the offence with a view to evading detection)	Providing assistance at the scene
REASON FOR DRIVING		Driving in an emergency, whether in a designated emergency vehicle or otherwise

11. At the end of this process, the court will have determined the headline sentence.

Road Traffic Act 1998 section 3A

Causing death by careless driving when under influence of drink or drugs

Step 1: Assess the seriousness of the offence

12. The seriousness of an offence is determined by two things: the culpability of the offender and the harm caused, or which might have been caused, by the offence. As either or both culpability and harm increase, so may the seriousness of the offence. For this offence the level of harm, which is that death has been caused, has been fixed by statute. The seriousness of the offence is, therefore, largely determined by the level of culpability of the offender.
13. Culpability for this offence is generally determined by two features: the standard of driving, and the level of intoxication of the driver.
14. The standard of driving should be identified using the table below:

LEVEL A	LEVEL B	LEVEL C
Careless or inconsiderate driving which falls not far short of dangerous driving	Cases of careless or inconsiderate driving which do not fall into level A or C	Careless or inconsiderate driving arising from momentary inattention

15. The level of intoxication should be identified using the table below. Where the driver is intoxicated as a result of a combination either of alcohol and drugs, or of more than one type of drug, this may indicate that a higher level of intoxication than that originally identified should be selected for the purpose of assessing culpability.

LEVEL 1	LEVEL 2	LEVEL 3
71 µg or above alcohol in breath, high quantity of drugs, or deliberate non-provision of specimen where evidence of serious impairment	45 – 70 µg alcohol in breath, moderate quantity of drugs, or deliberate non-provision of specimen	22 - 44 µg alcohol in breath, low quantity of drugs, or test refused because of unreasonable belief

Step 2: Select the sentencing range

16. The court should then use the table below to select the appropriate sentencing range. This is the range of sentences within which the appropriate headline sentence for the offence appears to fall, having regard to the assessment of seriousness at step 1.

		STANDARD OF DRIVING		
		LEVEL A	LEVEL B	LEVEL C
LEVEL OF INTOXICATION	LEVEL 1	7 – 12 years' custody	4 – 7 years' custody	2 – 5 years' custody
	LEVEL 2	4 – 7 years' custody	2 – 5 years' custody	1 – 3 years' custody
	LEVEL 3	2 – 5 years' custody	1 – 3 years' custody	Level 2 community payback order – 18 months' imprisonment

17. The maximum sentence provided by law for this offence is imprisonment for life.

18. The offender must be disqualified from driving for a minimum period of five years, and until the extended driving test is passed. When a sentence of imprisonment or detention is imposed, the period of disqualification which the court would otherwise have imposed must be extended by a period equal to half the sentence of imprisonment or detention².

² [Road Traffic Offenders Act 1998 section 35C](#)

Step 3: Identify aggravating and mitigating factors

19. The table on the next page contains a **non-exhaustive** list of additional factual elements which may apply to the offence and the offender. The court should consider which of these factors apply, together with any other factors which, in the view of the court, aggravate or mitigate the offence or sentence. In some cases this may move the headline sentence outside the range selected at step 2.

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	AGGRAVATING	MITIGATING
CONSEQUENCES	More than one person killed	
	Serious injury caused to another person or persons (excluding the driver)	Driver sustained serious injury
RECORD AND CIRCUMSTANCES OF DRIVER	Relevant previous convictions (not necessarily limited to convictions for road traffic offences)	Deceased was family member or close friend of driver
		Remorse
		Previous good driving record
		Driving while inexperienced
CIRCUMSTANCES OF OFFENCE AND ACTIONS AT THE SCENE	Other offences committed at the same time (such as driving while disqualified or without insurance, or leaving the scene of the offence with a view to evading detection)	Providing assistance at the scene
		Driving in an emergency, whether in a designated emergency vehicle or otherwise
		Involuntary intoxication due to alcohol or drugs
		The actions of the victim or a third party contributed significantly to the likelihood of a collision occurring and/or death resulting

20. At the end of this process, the court will have determined the headline sentence.

Road Traffic Act 1998 section 2B

Causing death by careless, or inconsiderate, driving

Step 1: Assess the seriousness of the offence

21. The seriousness of an offence is determined by two things: the culpability of the offender and the harm caused, or which might have been caused, by the offence. As either or both culpability and harm increase, so may the seriousness of the offence. For this offence the level of harm, which is that death has been caused, has been fixed by statute. The seriousness of the offence is, therefore, largely determined by the level of culpability of the offender.
22. In determining seriousness the court should consider the table below. The court should determine which level of seriousness – A, B, or C – the case before it falls into, having regard to these features, or to any other features which the court considers relevant to its assessment of seriousness.

LEVEL A	LEVEL B	LEVEL C
Careless or inconsiderate driving which falls not far short of dangerous driving	Cases of careless or inconsiderate driving which do not fall into level A or C	Careless or inconsiderate driving arising from momentary inattention

Step 2: Select the sentencing range

23. The court should then use the table below to select the appropriate sentencing range. This is the range of sentences within which the appropriate headline sentence for the offence appears to fall, having regard to the assessment of seriousness at step 1.

	LEVEL	RANGE
SERIOUSNESS	A	Level 2 community payback order – 18 months' imprisonment
	B	Level 2 community payback order
	C	Fine of up to £2500 – level 1 community payback order

24. The maximum sentence provided by law for this offence is 5 years' imprisonment or detention.
25. The offender must be disqualified from driving for a minimum period of twelve months. When a sentence of imprisonment or detention is imposed, the period of disqualification which the court would otherwise have imposed must be extended by a period equal to half the sentence of imprisonment or detention³.

³ [Road Traffic Offenders Act 1998 section 35C](#)

Step 3: Identify aggravating and mitigating factors

26. The table on the next page contains a **non-exhaustive** list of additional factual elements which may apply to the offence and the offender. The court should consider which of these factors apply, together with any other factors which, in the view of the court, aggravate or mitigate the offence or sentence. In some cases this may move the headline sentence outside the range selected at step 2.

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	AGGRAVATING	MITIGATING
CONSEQUENCES	More than one person killed	
	Serious injury caused to another person or persons (excluding the driver)	Driver sustained serious injury
RECORD AND CIRCUMSTANCES OF DRIVER	Relevant previous convictions (not necessarily limited to convictions for road traffic offences)	Deceased was family member or close friend of driver
		Remorse
		Previous good driving record
		Driving while inexperienced
CIRCUMSTANCES OF OFFENCE AND ACTIONS AT THE SCENE	Other offences committed at the same time (such as driving while disqualified or without insurance, or leaving the scene of the offence with a view to evading detection)	Providing assistance at the scene
		Driving in an emergency, whether in a designated emergency vehicle or otherwise
		Involuntary intoxication due to alcohol or drugs
		The actions of the victim or a third party contributed significantly to the likelihood of a collision occurring and/or death resulting

27. At the end of this process, the court will have determined the headline sentence.

Road Traffic Act 1998 sections 3ZB and 3ZC

Causing death by driving: unlicensed, uninsured, or disqualified drivers

Step 1: Assess the seriousness of the offence

28. The seriousness of an offence is determined by two things: the culpability of the offender and the harm caused, or which might have been caused, by the offence. As either or both culpability and harm increase, so may the seriousness of the offence. For this offence the level of harm, which is that death has been caused, has been fixed by statute. The seriousness of the offence is, therefore, largely determined by the level of culpability of the offender, which is determined by the nature of the offence.

29. In determining seriousness the court should consider the table below. The court should determine which level of seriousness – A or B – the case before it falls into, having regard to these features, or to any other features which the court considers relevant to its assessment of seriousness.

LEVEL A	LEVEL B
Driving while disqualified	Driving <i>only</i> while uninsured and/or unlicensed

Step 2: Select the sentencing range

30. The court should then use the table on the next page to select the appropriate sentencing range. This is the range of sentences within which the appropriate headline sentence for the offence appears to fall, having regard to the assessment of seriousness at step 1.

	LEVEL	RANGE
SERIOUSNESS	A	Level 2 community payback order – 18 months' imprisonment
	B	Level 1 – level 2 community payback order

31. For offences under section 3ZB (unlicensed or uninsured drivers) the maximum sentence provided by law is 2 years' imprisonment, and the offender must be disqualified from driving for a minimum period of twelve months.
32. For offences under section 3ZC (disqualified drivers), the maximum sentence provided by law is 10 years' imprisonment, and the offender must be disqualified from driving for a minimum period of two years, and until the extended driving test is passed.
33. When a sentence of imprisonment or detention is imposed, the period of disqualification which the court would otherwise have imposed must be extended by a period equal to half the sentence of imprisonment or detention⁴.

⁴ [Road Traffic Offenders Act 1998 section 35C](#)

Step 3: Identify aggravating and mitigating factors

34. The table on the next page contains a **non-exhaustive** list of additional factual elements which may apply to the offence and the offender. The court should consider which of these factors apply, together with any other factors which, in the view of the court, aggravate or mitigate the offence or sentence. In some cases this may move the headline sentence outside the range selected at step 2.

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	AGGRAVATING	MITIGATING
CONSEQUENCES	More than one person killed	
	Serious injury caused to another person or persons (excluding the driver)	Driver sustained serious injury
RECORD AND CIRCUMSTANCES OF DRIVER	Relevant previous convictions (not necessarily limited to convictions for road traffic offences)	Deceased was family member or close friend of driver
		Remorse
		Previous good driving record
		Driving while inexperienced
CIRCUMSTANCES OF OFFENCE AND ACTIONS AT THE SCENE	Other offences committed at the same time (such as driving while disqualified or without insurance, or leaving the scene of the offence with a view to evading detection)	Providing assistance at the scene
		Driving in an emergency, whether in a designated emergency vehicle or otherwise
		Genuine belief on the part of the driver that they were not, as the case may be, uninsured/unlicensed/disqualified from driving

35. At the end of this process, the court will have determined the headline sentence.

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