

Careless driving (drive without due care and attention)

Triable only summarily:
Maximum: Level 5 fine

Must endorse and may disqualify. If no disqualification, impose 3 – 9 points

Offence seriousness (culpability and harm) A. Identify the appropriate starting point Starting points based on first time offender pleading not guilty		
Examples of nature of activity	Starting point	Range
Momentary lapse of concentration or misjudgement at low speed	Band A fine	Band A fine 3 – 4 points
Loss of control due to speed, mishandling or insufficient attention to road conditions, or carelessly turning right across on-coming traffic	Band B fine	Band B fine 5 – 6 points
Overtaking manoeuvre at speed resulting in collision of vehicles, or driving bordering on the dangerous	Band C fine	Band C fine Consider disqualification OR 7 – 9 points

Offence seriousness (culpability and harm) B. Consider the effect of aggravating and mitigating factors (other than those within examples above) Common aggravating and mitigating factors are identified in the pullout card – the following may be particularly relevant but these lists are not exhaustive	
Factors indicating higher culpability 1. Excessive speed 2. Carrying out other tasks while driving 3. Carrying passengers or heavy load 4. Tiredness Factors indicating greater degree of harm 1. Injury to others 2. Damage to other vehicles or property 3. High level of traffic or pedestrians in vicinity 4. Location e.g. near school when children are likely to be present	Factors indicating lower culpability 1. Minor risk 2. Inexperience of driver 3. Sudden change in road or weather conditions

Form a preliminary view of the appropriate sentence, then consider offender mitigation
Common factors are identified in the pullout card

Consider a reduction for guilty plea

Consider ordering disqualification until appropriate driving test passed
Consider ancillary orders, including compensation
Refer to pages 168-174 for guidance on available ancillary orders

Decide sentence
Give reasons

Causing death by careless or inconsiderate driving – factors to take into consideration

This guideline and accompanying notes are taken from the Sentencing Guidelines Council's definitive guideline *Causing Death by Driving*, published 15 July 2008

Key factors

- (a) It is unavoidable that some cases will be on the borderline between *dangerous* and *careless* driving, or may involve a number of factors that significantly increase the seriousness of an offence. As a result, the guideline for this offence identifies three levels of seriousness, the range for the highest of which overlaps with ranges for the lower levels of seriousness for *causing death by dangerous driving*.
- (b) The three levels of seriousness are defined by the degree of carelessness involved in the standard of driving:
- the most serious level for this offence is where the offender's driving fell *not that far short of dangerous*;
 - the least serious group of offences relates to those cases where the level of culpability is low – for example in a case involving an offender who misjudges the speed of another vehicle, or turns without seeing an oncoming vehicle because of restricted visibility;
 - other cases will fall into the intermediate level.
- (c) Where the level of carelessness is low and there are no aggravating factors, even the fact that death was caused is not sufficient to justify a prison sentence.
- (d) A fine is unlikely to be an appropriate sentence for this offence; where a non-custodial sentence is considered appropriate, this should be a community order. The nature of the requirements will be determined by the purpose¹ identified by the court as of primary importance. Requirements most likely to be relevant include unpaid work requirement, activity requirement, programme requirement and curfew requirement.
- (e) Offender mitigation particularly relevant to this offence includes conduct after the offence such as where the offender gave direct, positive, assistance at the scene of a collision to victim(s). It may also include remorse – whilst it can be expected that anyone who has caused a death by driving would be remorseful, this cannot undermine its importance for sentencing purposes. It is for the court to determine whether an expression of remorse is genuine.
- (f) Where an offender has a good driving record, this is not a factor that automatically should be treated as mitigation, especially now that the presence of previous convictions is a statutory aggravating factor. However, any evidence to show that an offender has previously been an exemplary driver, for example having driven an ambulance, police vehicle, bus, taxi or similar vehicle conscientiously and without incident for many years, is a fact that the courts may well wish to take into account by way of offender mitigation. This is likely to have even greater effect where the driver is driving on public duty (for example, on ambulance, fire services or police duties) and was responding to an emergency.
- (g) Disqualification of the offender from driving and endorsement of the offender's driving licence are mandatory, and the offence carries between 3 and 11 penalty points when the court finds special reasons for not imposing disqualification. There is a discretionary power² to order an extended driving test/re-test where a person is convicted of this offence.

¹ Criminal Justice Act 2003, s.142(1)

² Road Traffic Offenders Act 1988, s.36(4)

Causing death by careless or inconsiderate driving

Triable either way:

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 5 years

Offence seriousness (culpability and harm)		
A. Identify the appropriate starting point		
Starting points based on first time offender pleading not guilty		
Examples of nature of activity	Starting point	Range
Careless or inconsiderate driving arising from momentary inattention with no aggravating factors	Medium level community order	Low level community order to high level community order
Other cases of careless or inconsiderate driving	Crown Court	High level community order to Crown Court
Careless or inconsiderate driving falling not far short of dangerous driving	Crown Court	Crown Court

Offence seriousness (culpability and harm)	
B. Consider the effect of aggravating and mitigating factors (other than those within examples above)	
Common aggravating and mitigating factors are identified in the pullout card – the following may be particularly relevant but these lists are not exhaustive	
<p>Factors indicating higher culpability</p> <ol style="list-style-type: none"> 1. Other offences committed at the same time, such as driving other than in accordance with the terms of a valid licence; driving while disqualified; driving without insurance; taking a vehicle without consent; driving a stolen vehicle 2. Previous convictions for motoring offences, particularly offences that involve bad driving 3. Irresponsible behaviour, such as failing to stop or falsely claiming that one of the victims was responsible for the collision <p>Factors indicating greater degree of harm</p> <ol style="list-style-type: none"> 1. More than one person was killed as a result of the offence 2. Serious injury to one or more persons in addition to the death(s) 	<p>Factors indicating lower culpability</p> <ol style="list-style-type: none"> 1. Offender seriously injured in the collision 2. The victim was a close friend or relative 3. The actions of the victim or a third party contributed to the commission of the offence 4. The offender's lack of driving experience contributed significantly to the likelihood of a collision occurring and/or death resulting 5. The driving was in response to a proven and genuine emergency falling short of a defence

Form a preliminary view of the appropriate sentence, then consider offender mitigation
Common factors are identified in the pullout card

Consider a reduction for a guilty plea

Consider ancillary orders, including disqualification and deprivation of property
Refer to pages 168-174 for guidance on available ancillary orders

Decide sentence
Give reasons

Causing death by driving: unlicensed, disqualified or uninsured drivers – factors to take into consideration

This guideline and accompanying notes are taken from the Sentencing Guidelines Council's definitive guideline *Causing Death by Driving*, published 15 July 2008

Key factors

- (a) Culpability arises from the offender driving a vehicle on a road or other public place when, by law, not allowed to do so; the offence does not involve any fault in the standard of driving.
- (b) Since driving whilst disqualified is more culpable than driving whilst unlicensed or uninsured, a higher starting point is proposed when the offender was disqualified from driving at the time of the offence.
- (c) Being uninsured, unlicensed or disqualified are the only determinants of seriousness for this offence, as there are no factors relating to the standard of driving. The list of aggravating factors identified is slightly different as the emphasis is on the decision to drive by an offender who is not permitted by law to do so.
- (d) A fine is unlikely to be an appropriate sentence for this offence; where a non-custodial sentence is considered appropriate, this should be a community order.
- (e) Where the *decision to drive was brought about by a genuine and proven emergency*, that may mitigate offence seriousness and so it is included as an additional mitigating factor.
- (f) An additional mitigating factor covers those situations where an offender genuinely believed that there was valid insurance or a valid licence.
- (g) Offender mitigation particularly relevant to this offence includes conduct after the offence such as where the offender gave direct, positive, assistance at the scene of a collision to victim(s). It may also include remorse – whilst it can be expected that anyone who has caused a death by driving would be remorseful, this cannot undermine its importance for sentencing purposes. It is for the court to determine whether an expression of remorse is genuine.
- (h) Where an offender has a good driving record, this is not a factor that automatically should be treated as mitigation, especially now that the presence of previous convictions is a statutory aggravating factor. However, any evidence to show that an offender has previously been an exemplary driver, for example having driven an ambulance, police vehicle, bus, taxi or similar vehicle conscientiously and without incident for many years, is a fact that the courts may well wish to take into account by way of offender mitigation. This is likely to have even greater effect where the driver is driving on public duty (for example, on ambulance, fire services or police duties) and was responding to an emergency.
- (i) Disqualification of the offender from driving and endorsement of the offender's driving licence are mandatory, and the offence carries between 3 and 11 penalty points when the court finds special reasons for not imposing disqualification. There is a discretionary power¹ to order an extended driving test/re-test where a person is convicted of this offence.

¹ Road Traffic Offenders Act 1988, s.36(4)