

Excess alcohol (in charge)

Road Traffic Act 1988, s.5(1)(b)

Triable only summarily:

Maximum: Level 4 fine and/or 3 months

Must endorse and may disqualify. If no disqualification, impose 10 points

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Level of alcohol			Starting point	Range
Breath (mg)	Blood (ml)	Urine (ml)		
36 – 59	81 – 137	108 – 183	Band B fine	Band B fine 10 points
60 – 89	138 – 206	184 – 274	Band B fine	Band B fine 10 points OR consider disqualification
90 – 119	207 – 275	275 – 366	Band C fine	Band C fine to medium level community order Consider disqualification up to 6 months OR 10 points
120 – 150 and above	276 – 345 and above	367 – 459 and above	Medium level community order	Low level community order to 6 weeks custody Disqualify 6-12 months

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. LGV, HGV, PSV etc.
2. Ability to drive seriously impaired
3. High likelihood of driving
4. Driving for hire or reward

Factor indicating lower culpability

1. Low likelihood of driving

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 ancillary orders, including forfeiture or suspension of personal liquor licence

Refer to pages 168-174 for guidance on available ancillary orders

Decide sentence Give reasons