



# **THE MAGISTRATE'S COURT**

## **SENTENCING GUIDELINES**

### **PART 1A**

#### **CARELESS/DANGEROUS DRIVING OFFENCES**

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Road Traffic (Jersey) Law 1956, Art 25

## Careless driving

Maximum: Level 3 fine (£10,000)

May endorse and may disqualify. Must order retest if disqualified (Art 35 of RTL)

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading guilty

Examples of nature of activity		Starting point	Range	Disqualify/Endorse
A	Momentary lapse of concentration or misjudgment at low speed	£1,000	£700 - £1,300	No
B	Loss of control due to speed, mishandling or insufficient attention to road conditions, or carelessly turning right across on-coming traffic	£1,600	£1,300 - £1,900	Consider /Yes
C	Overtaking manoeuvre at speed resulting in collision of vehicles, or driving bordering on the dangerous	£2,200	£1,900 - £2,500	1 – 6 months

### Offence seriousness (culpability and harm)

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but these lists are not exhaustive

Factor indicating higher culpability	Factor indicating lower culpability
<ol style="list-style-type: none"><li>1. Excessive speed</li><li>2. Carrying out other tasks while driving</li><li>3. Carrying passengers or heavy load</li><li>4. Tiredness</li><li>5. Adverse weather</li><li>6. Poor road conditions</li><li>7. Defective vehicle</li></ol>	<ol style="list-style-type: none"><li>1. Minor risk</li><li>2. Sudden change in road or weather conditions</li></ol>

<p>8. LGV/HGV/PSV</p> <p><b>Factor indicating greater degree of harm</b></p> <ol style="list-style-type: none"> <li>1. Injury to others</li> <li>2. Damage to other vehicles or property</li> <li>3. High level of traffic or pedestrians in vicinity</li> <li>4. Location, e.g. near school when children are likely to be present</li> </ol>	<p><b>Factor indicating lesser degree of harm</b></p> <ol style="list-style-type: none"> <li>1. Gave assistance to injured person</li> </ol>
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Form a preliminary view of the appropriate sentence,  
then consider offender mitigation

Consider endorsement or disqualification - must order retest if disqualified

#### **Note**

The question of the lack of experience of the driver may be raised. It will be necessary in each case to consider whether this is a mitigating or an aggravating factor.

Road Traffic (Jersey) Law 1956, Art 26A

## Careless driving causing serious injury

Maximum: 2 years and a fine

May endorse and may disqualify. Must order retest if disqualified (Art 35 RTL)

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading guilty

Examples of nature of activity		Starting point	Range	Disqualify /Endorse
A	Momentary lapse of concentration or misjudgment at low speed	£2,000	£1,000 - £3,000	1 - 6 months/Yes
B	Loss of control due to speed, mishandling or insufficient attention to road conditions, or carelessly turning right across on-coming traffic	3 months	2 – 4 months	6 - 12 months
C	Overtaking manoeuvre at speed resulting in collision of vehicles, or driving bordering on the dangerous	6 months	4 – 12 months	12 - 24 months

### Offence seriousness (culpability and harm)

#### B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but these lists are not exhaustive

##### Factor indicating higher culpability

1. Excessive speed
2. Carrying out other tasks while driving
3. Carrying passengers or heavy load
4. Tiredness
5. Adverse weather
6. Poor road conditions

##### Factor indicating lower culpability

1. Minor risk
2. Sudden change in road or weather conditions

7. Defective vehicle 8. LGV/HGV/PSV <b>Factor indicating greater degree of harm</b> 1. Injury to other persons 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	<b>Factor indicating lesser degree of harm</b> 1. Gave assistance to injured person
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Form a preliminary view of the appropriate sentence,  
then consider offender mitigation

Must disqualify

#### Note

1. See Article 26C for definition of serious injury.
2. There may be cases at the lower end of Band A where endorsement may be sufficient, rather than disqualification.
3. The question of the lack of experience of the driver may be raised. It will be necessary in each case to consider whether this is a mitigating or an aggravating factor.

Road Traffic (Jersey) Law 1956, Art 25A

## Careless driving causing death

Maximum: 5 years and a fine

Must disqualify for 12 months plus. Must order retest (Art 35 RTL).

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading guilty

Examples of nature of activity		Starting point	Range	Disqualify
A	Momentary lapse of concentration or misjudgment at low speed	£3,000	£2,000 - £4,000	12 months
B	Loss of control due to speed, mishandling or insufficient attention to road conditions, or carelessly turning right across on-coming traffic	6 Months	3 months - Commit	24 months
C	Overtaking manoeuvre at speed resulting in collision of vehicles, or driving bordering on the dangerous	Commit		

### Offence seriousness (culpability and harm)

#### B. Consider the effect of aggravating and mitigating factors

(other than those within examples above)

The following may be particularly relevant but these lists are not exhaustive

Factor indicating higher culpability	Factor indicating lower culpability
<ol style="list-style-type: none"><li>1. Excessive speed</li><li>2. Carrying out other tasks while driving</li><li>3. Carrying passengers or heavy load</li><li>4. Tiredness</li><li>5. Adverse weather</li></ol>	<ol style="list-style-type: none"><li>1. Minor risk</li><li>2. Sudden change in road or weather conditions</li></ol>

6. Poor road conditions 7. Defective vehicle 8. LGV/HGV/PSV <b>Factors indicating greater degree of harm</b> 1. Injury to persons other than the deceased 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	<b>Factor indicating lesser degree of harm</b> 1. Gave assistance to injured person
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Form a preliminary view of the appropriate sentence,  
then consider offender mitigation

Must disqualify and order retest

#### Note

The question of the lack of experience of the driver may be raised. It will be necessary in each case to consider whether this is a mitigating or an aggravating factor.



Road Traffic (Jersey) Law 1956, Art 26B

## Careless driving causing serious injury (+ Drink or Drugs)

Maximum: 4 years and a fine

Must disqualify for 2 years plus. 3 years for second/subsequent offence within 10 years.

Must order retest (Art 35 RTL).

See Article 26C for definition of serious injury.

This offence is generally too serious for the Magistrate's Court and should be committed.

Road Traffic (Jersey) Law 1956, Art 26

## Careless driving causing death (+ Drink or Drugs)

Maximum: 10 years and/or a fine

Must disqualify for 2 years plus. 3 years for second/subsequent offence within 10 years.

Must order retest (Art 35 RTL).

This offence is too serious for the Magistrate's Court and should be committed.

## Dangerous driving

Road Traffic (Jersey) Law 1956, Art 22

Maximum: 2 years and/or a fine

Must disqualify minimum 12 months. Must order retest (Art 35 of RTL).

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading guilty

Examples of nature of activity		Starting point	Range	Disqualify
A	Single incident where little or no damage or risk of personal injury or could be regarded as a serious example of careless driving	£2,200	£1,900 - £2,500	12 months
B	Incident(s) involving excessive speed, showing off or significant risk to others, especially on busy roads or in built-up area	4 months	2 – 6 Months	12 months – 2 years
C	Prolonged bad driving or involving deliberate disregard for safety of others	9 months	6 – 12 months	2 – 3 years

### Offence seriousness (culpability and harm)

#### B. Consider the effect of aggravating and mitigating factors

(other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factor indicating higher culpability	Factor indicating lower culpability
<ol style="list-style-type: none"> <li>1. Disregarding warnings of others</li> <li>2. Evidence of alcohol or drugs</li> <li>3. Carrying out other tasks while driving</li> <li>4. Carrying passengers or heavy load</li> </ol>	<ol style="list-style-type: none"> <li>1. Genuine emergency</li> <li>2. Speed not excessive</li> </ol>

<p>5. Tiredness</p> <p>6. Aggressive driving, such as driving much too close to vehicle in front, racing, inappropriate attempts to overtake, or cutting in after overtaking</p> <p>7. Driving when knowingly suffering from a medical condition which significantly impairs the offender's driving skills</p> <p>8. Driving a poorly maintained or dangerously loaded vehicle, especially where motivated by commercial concerns</p> <p>9. Lengthy episode</p> <p>10. Disqualified driver</p> <p>11. Avoiding arrest</p> <p>12. LGV/HGV/PSV</p> <p><b>Factor indicating greater degree of harm</b></p> <p>1. Injury to other persons</p> <p>2. Damage to other vehicles or property</p> <p>3. High level of traffic or pedestrians in vicinity</p> <p>4. Location, e.g. near school when children are likely to be present</p>	<p><b>Factor indicating lesser degree of harm</b></p> <p>1. Gave assistance to injured person</p>
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Form a preliminary view of the appropriate sentence,  
then consider offender mitigation

Must disqualify and order retest

#### Note

The question of the lack of experience of the driver may be raised. It will be necessary in each case to consider whether this is a mitigating or aggravating factor

**See Article 24 Provisions supplemental to Articles 22, 23 and 23A**

(1) For the purposes of Articles 22, 23 and 23A, a person is to be regarded as driving dangerously if and, subject to paragraph (3), only if –

(a) the way the person drives falls far below what would be expected of a competent and careful driver; and

(b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

(2) For the purposes of Article 22 in its application to a person riding an animal, paragraph (1) shall apply as if any reference to driving or to a driver were a reference to riding or to a rider.

(3) For the purposes of Articles 22, 23 and 23A, a person is also to be regarded as driving dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

(4) In paragraphs (1) and (3), “dangerous” refers to danger either of injury to any person or serious damage to property and, in determining for the purposes of those paragraphs what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had not only to the circumstances of which the driver could be expected to be aware but also any circumstance shown to have been within the knowledge of the accused.

(5) In determining the state of a vehicle for the purposes of paragraph (3), regard may be had to anything attached to it or carried on or in it and to the manner in which anything is attached or carried.

## Dangerous driving causing serious injury

Road Traffic (Jersey) Law 1956, Art 23A

Maximum: 5 years and a fine

Must disqualify minimum 2 years. Must order retest (Art 35 RTL).

### Offence seriousness (culpability and harm)

#### A. Identify the appropriate starting point

Starting points based on first time offender pleading guilty

Examples of nature of activity		Starting point	Range	Disqualify
A	Single incident where little or no damage or could be regarded as a serious example of careless driving	6 months	4 – 12 months	24 months
B	Incident(s) involving excessive speed, showing off or significant risk to others, especially on busy roads or in built-up area	Commit	9 months - Commit	24 months
C	Prolonged bad driving or involving deliberate disregard for safety of others	Commit		

### Offence seriousness (culpability and harm)

#### B. Consider the effect of aggravating and mitigating factors

(other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factor indicating higher culpability	Factor indicating lower culpability
1. Disregarding warnings of others	1. Genuine emergency



## **Dangerous driving causing death**

Road Traffic (Jersey) Law 1956, Art 23

Maximum: 10 years and/or a fine

Must disqualify minimum 12 months. Must order retest (Art 35 of RTL).

This offence is too serious for the Magistrate's Court and should be committed.