



THE MAGISTRATE'S COURT

SENTENCING GUIDELINES

PART 1A

CARELESS/DANGEROUS DRIVING OFFENCES

Page	Guideline No	Offence	Article
3	1	Careless driving	Art 25
5	2	Careless driving causing serious injury	Art 26A
7	3	Careless driving causing death	Art 25A
9	4	Careless driving causing serious injury (+ Drink or Drugs)	Art 26B
9	5	Careless driving causing death (+ Drink or Drugs)	Art 26
10	6	Dangerous driving	Art 22
12	7	Dangerous driving causing serious injury	Art 23A
14	8	Dangerous driving causing death	Art 23

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
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">1. Excessive speed2. Carrying out other tasks while driving3. Carrying passengers or heavy load4. Tiredness5. Adverse weather6. Poor road conditions7. Defective vehicle	<ol style="list-style-type: none">1. Minor risk2. Sudden change in road or weather conditions

<p>8. LGV/HGV/PSV</p> <p>Factor indicating greater degree of harm</p> <ol style="list-style-type: none"> 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 	<p>Factor indicating lesser degree of harm</p> <ol style="list-style-type: none"> 1. Gave assistance to injured person
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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	Factor indicating lower culpability
<ol style="list-style-type: none">1. Excessive speed2. Carrying out other tasks while driving3. Carrying passengers or heavy load4. Tiredness5. Adverse weather6. Poor road conditions	<ol style="list-style-type: none">1. Minor risk2. Sudden change in road or weather conditions

<p>7. Defective vehicle</p> <p>8. LGV/HGV/PSV</p> <p>Factor indicating greater degree of harm</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>Factor indicating lesser degree of harm</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

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">1. Excessive speed2. Carrying out other tasks while driving3. Carrying passengers or heavy load4. Tiredness5. Adverse weather	<ol style="list-style-type: none">1. Minor risk2. Sudden change in road or weather conditions

<p>6. Poor road conditions</p> <p>7. Defective vehicle</p> <p>8. LGV/HGV/PSV</p> <p>Factors indicating greater degree of harm</p> <p>1. Injury to persons other than the deceased</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>Factor indicating lesser degree of harm</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 an aggravating factor.

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

<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>Factor indicating greater degree of harm</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>Factor indicating lesser degree of harm</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

Dangerous driving causing serious injury

Road Traffic (Jersey) Law 1956, Art 23A

Maximum: 5 years and a fine
 Must disqualify minimum 2 years. No power to order a retest.

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	9 months	6 – 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		
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

<ol style="list-style-type: none"> 2. Evidence of alcohol or drugs 3. Carrying out other tasks while driving 4. Carrying passengers or heavy load 5. Tiredness 6. Aggressive driving, such as driving much too close to vehicle in front, racing, inappropriate attempts to overtake, or cutting in after overtaking 7. Driving when knowingly suffering from a medical condition which significantly impairs the offender's driving skills 8. Driving a poorly maintained or dangerously loaded vehicle, especially where motivated by commercial concerns 9. Lengthy episode 10. Disqualified driver 11. Avoiding arrest 	<ol style="list-style-type: none"> 2. Speed not excessive
<p>Factor indicating greater degree of harm</p> <ol style="list-style-type: none"> 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 	<p>Factor indicating lesser degree of harm</p> <ol style="list-style-type: none"> 1. Gave assistance to injured person

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Must disqualify

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

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.