

## 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