

Totting up and how to avoid a driving ban

This is not a politically incorrect phrase about young men chatting up young ladies but is the phrase used to express the consequences of getting to 12 points on a driving licence.

Many motoring offences carry penalty points, for instance the offence of speeding carries between three and six penalty points. The higher the speed or more serious the offence the more points the court impose. Once you have acquired 12 points you face a compulsory minimum six month driving ban. Many people misunderstand the trigger point, it is at 12 points. For example if you have 9 points on your licence and then commit another speeding offence you are going to get a minimum of 3 points for the new offence. This means the police will not issue a fixed penalty notice but will summons you to court. When you attend court the court on a guilty plea will impose at least three points. You will have reached 12 points and the court will ban you for at least six months there and then. The ban will start immediately. This means if you drove to the court you can't drive back.

The magistrates do however have a small amount of discretion. They can either reduce the ban or not ban you if they feel there are sufficient mitigating circumstances to persuade them not to ban you. The point to note is the mitigating circumstances must relate to you not why you committed the offence. The normal reason most people want to avoid a ban is because of the effect a ban would have on them. A driving ban will normally involve some level of hardship on the person it is imposed on, however, the law decrees that hardship alone cannot amount to a reason to avoid a ban. In order to avoid a ban the hardship must be exceptional. This is what is commonly known as "exceptional hardship."

The most common ground for exceptional hardship is that the driver will lose his job, either because he can't get to work or because he has to have a licence to do his job. Whilst some courts will simply accept the loss of a job as exceptional hardship not all magistrates will. This is because a previous case in the High Court decided that the "mere" loss of a job does not necessarily amount to exceptional hardship. It is therefore important when going to court that all aspects of a ban are fully explored so as to ensure that it is proved that the loss of the licence will result in exceptional hardship.

Another method to avoid a six month ban as a totter is to try and persuade the court to disqualify you for a lesser period but for the offence itself, if you are banned for the offence you don't get penalty points. For example a motorist travelling at 105mph on the motorway will normally be banned from driving for between two and six weeks. Consequently if you have 9 points on your licence but losing your licence would cause hardship but not exceptional hardship you could try and persuade the court to ban you for two weeks for the offence and so avoid becoming a totter in the first place.

Clearly the courts have a great deal of experience in dealing with cases of this nature and whilst there is nothing to stop you representing yourself in court you must ask yourself this question: "How much do I value my licence?" You can normally put a price on it. Should losing your licence for six months mean losing your job and being unable to pay your mortgage then that is the cost. Should it simply be a case of catching the taxi to the train station and catching the train to get to work it might be £20 a day X 130 days = £2600 less the cost of fuel and wear and tear on your car. Either way it is a lot of money. At PCB we have a very experienced motoring team. Surprisingly Ludlow is "motorway" court for the M5 from junction 3 to junction 9 the M42 from junction 1 to junction 3 and all of the M50. Our partner Brendan Reedy is the partner in charge of this office and has built up a body of expertise in these matters. We operate a set fee structure for many cases starting at £350 plus VAT. The fact that we operate a fair pricing structure reflects our values as a firm. We are not here to exploit people in their hour of need but are here to provide an expert service at a reasonable cost. We want our clients to be happy with using us, to recommend us and to use our other services should the need arise.

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