



**PRESS RELEASE**

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## **Drivers with 12 or more points on their licences**

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There has been continuing media interest in why drivers with twelve or more points on their licences have not been disqualified under the "totting" provisions. There are currently approximately 10,000 drivers in this position and magistrates have been accused of undue leniency in accepting arguments that a disqualification would cause exceptional hardship, and exercising their power not to disqualify. The Magistrates' Association has been concerned that this figure was not being viewed in the context of the total number of drivers who come before the courts for a totting disqualification to be considered, and therefore made a Freedom of Information request for further data. This showed that over the last two years an average of 29,300 drivers per year have been disqualified for totting. As points remain live for a three year period, the total of 10,000 drivers who have twelve or more points, but have not been disqualified, have accumulated over a three-year period, giving an annual average of 3,333. Therefore we can estimate that each year 32,633 drivers reach 12 or more points and 3,333 are not disqualified, a rate of 10.2%

Two national newspapers recently obtained data from the DVLA and made their own calculations, comparing a figure of those currently disqualified of 13,449 with 10,000 not disqualified but unfortunately failing to take into account that points remain on a licence for three years, while most totting disqualifications are for six months, and thereby coming up with a gross miscalculation of 40%. Correcting their calculation for these errors produces a figure of 11%, similar to the MA estimate.

There is however a further aspect; the DVLA are unable to say how many of the 10,000 drivers have not been disqualified as a result of a successful "exceptional hardship" argument, because their records currently have no marker for that. When this matter arose last autumn, investigation showed that some at least of these drivers had benefitted from poor communications between the HMCTS, some fixed penalty offices and the DVLA, resulting in failure to properly record points on the DVLA's driver records. As many drivers mislay or fail to produce the paper part of their driving licence in court, courts very often have to access these driver records, and if the information is inaccurate it may be that the driver escapes being dealt with as a 'totter'. The Magistrates' Association was naturally concerned about the situation and wrote to the responsible minister, who asked the various bodies to work to improve their communications. We are aware that in response they have been reviewing procedures, communications are improving and the DVLA have been referring apparent anomalies back to the HMCTS to be considered. The DVLA are also working on adapting their computer systems to record when drivers have benefitted from an 'exceptional hardship' decision.

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As drivers cannot use the same exceptional hardship argument more than once in three years, and most will put forward all the arguments they can muster when they first appear, it seems likely that most if not all of those recorded with a very high number of points have failed to be disqualified as a consequence of some breakdown of communication in the system. This is far from satisfactory but, as indicated, steps are now being taken to rectify matters. There is no indication that magistrates are being unduly lenient when considering exceptional hardship arguments.

Note

Drivers who collect 12 or more points on their licence within three years will be told to attend court because they are liable to be disqualified for a minimum period of six months. They may possibly escape this if they can convince the court that disqualification would cause exceptional hardship, either to themselves or other people. All disqualification is liable to cause some inconvenience, so the hardship has to be exceptional if it is to influence the court. Courts are liable to take more account of hardship to other people, because they are suffering through the fault of someone else. For example if someone has a very small business, employing just a few people, and is the only person who can go out and get sales, his employees may lose their jobs if he cannot drive. The court might consider that to be exceptional hardship, but would look at what other alternatives might be available before deciding, can he take taxis or can someone else drive him around, for example. This has been described as a loophole, but it is a specific provision in the law that magistrates must consider if it is raised by the driver.

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For further information contact Ann Flintham, Communications Director 020 7387 6099/07812 038889 (not between 2-9 September)

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