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Position statement **Driving bans and exceptional hardship**

Under current law, anyone who accrues 12 or more points on their driving licence in England or Wales will automatically face a driving ban. In certain circumstances, a case for exceptional hardship may be made, which may result in a reduction of the length of the disqualification or no ban being issued. Exceptional hardship is when a driving ban would cause suffering beyond what is considered reasonable, taking into account the impact on innocent parties such as family, the livelihood of any employees (for example if the defendant was a business owner required to drive) or members of the community.

Magistrates treat each individual case on its merits and according to the law laid down by Parliament and the sentencing guidelines. The process for establishing exceptional hardship is robust and each case is subjected to careful scrutiny. The hardship must be considered exceptional – it is understood that any disqualification will be a hardship. The court must usually be provided with evidence that exceptional hardship cannot be avoided by the use of alternative options, for example if the use of alternative modes of transport is not viable in the specific circumstances. Therefore an individual would only avoid a driving ban if the magistrates hearing the case are confident that exceptional hardship would genuinely be caused either to the individual or to others.

As volunteer members of the community, magistrates are well placed to assess the impact on all involved and to determine whether disqualification is appropriate in each instance.

It should be noted that the same argument for exceptional argument cannot be relied upon within a three year period, although exceptional hardship under a different argument may be put forward.

It should also be noted that in some cases a driver may have over 12 points on their licence. Points can stay on a licence for four years but it is only when 12 points are received within a three year period that the automatic ban will be applied.

Even where exceptional hardship has not been proved, there may be other reasons why the data show a small proportion of people with more than 12 points on their licence:

- a) An offender has committed multiple offences all earning points that come to court at one time, meaning they have immediately gone to more than 12 points in one go
- b) The offender has served bans or the points have expired but they have not been cleared off the driver's record. This could be, at least in part, because points stay on people's records for four years but are only 'valid' (ie affect bans) for three years.
- c) Where an automatic ban is imposed, a licence may show more than 12 points