

Driving Ban

Although most offences are punishable with penalty points and a fine, some offences carry **discretionary or mandatory driving ban**. As a general rule, the Courts will punish high excess speeding offences with an instant driving ban and any driver reaching 12 penalty points within 3 years would face a 6 month disqualification under the "totting up" procedure. Other offences, such as drink driving, dangerous driving etc also carry mandatory disqualification periods. Detailed below are the most common questions. If you face a potential disqualification, you should seek detailed advice as soon as possible as steps taken prior to the hearing can often pay dividends when pleading to retain your licence. For more detailed advice, contact us direct.

Can a driving ban be avoided?

Yes. Although for some offences a ban is recommended, and is also "mandatory" under the "totting up" procedure, there are specific circumstances in which it can be avoided. We can assist you fully in this regard and whilst we cannot guarantee a ban will be avoided, our record of success is exemplary. It should of course be appreciated that the more serious the offence, the more likely the Court will follow the guidelines.

A disqualification would have a severe effect on me. What do I need to show to escape a driving ban?

It is a common misconception that if a Defendant merely shows that a ban would be a particularly harsh punishment, the Court will be lenient. In reality, the Court is obliged to disqualify unless there are "exceptional" reasons for not doing so. Severe inconvenience is not an exceptional reason and we strongly recommend that anybody facing disqualification seeks expert legal advice. In our experience Defendants who attempt to raise mitigation, without fully understanding the technical requirements, end up with a more severe penalty. If you want to convince the Court not to suspend your licence, you will have to meet certain legal criteria. The Court will expect you to understand the legal technicalities fully and have your arguments correctly prepared. The Court will not be sympathetic if your mitigation does not actually qualify as "exceptional" in the first place. Liaise with **Motor Lawyers** for proper advice as soon as possible.

Can I avoid a ban if I need my licence for my job?

The Court will consider each person's specific circumstances and decide the punishment applicable on the merits unique to that case. However, simply requiring a licence to carry on working is not, on its own, going to be sufficient to convince the Court that you should not be disqualified. Although the Court will take into account the effects of a ban on employment, your mitigation should not rely upon this alone. Before instructing **Motor Lawyers**, many Defendants had not appreciated other issues that were not only just as relevant but combined



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have resulted in the retention of their licence. **Motor Lawyers** will investigate all issues thoroughly on your behalf so that the strongest possible mitigation is put to the Court.

I have a clean driving licence, will this be taken into account?

Although the Court will consider your previous record, if the Court guidelines are that you should be banned for the offence, then you will need a stronger case than simply arguing that as it is your first offence, you should not be disqualified.

Can I pay a higher fine/get more points to avoid a driving ban?

The Court will take into account your personal circumstances when considering punishment. If the Court concludes that a severe fine is appropriate punishment, then it can exercise its discretion regarding points/disqualification but the ability alone to pay a higher fine will not be sufficient to retain your licence without any other reasons.

Do I need to instruct a Barrister if I face disqualification?

The choice depends upon whether you are confident presenting your case to the Court. Under our Court Hearing Services, we will be able to prepare all appropriate arguments for you. There is no reason why you should not defend yourself, and indeed this can often result in a sympathetic hearing. However, if you do not feel comfortable addressing the Court, or there are particular technical arguments to be raised, you are probably best off having an expert Barrister represent you. **Motor Lawyers** will discuss the merits of each option with you and help you decide on the most suitable course of action.

I accept that I am likely to be banned for the offence, is there any way the length of the driving ban can be reduced?

Yes. The Court does have discretion and whilst it will base its decision on the guidelines issued to it, each particular case is considered on its merits and with the appropriate representation, it is quite feasible that the Court will impose a ban that is less than the recommended period.

What is the difference between a "totting up" and a discretionary driving ban?

Totting up is only imposed when a driver has amassed 12 penalty points through a series of offences, albeit that those offences must occur within a 3 year period. The mandatory guideline is that under the "totting up" procedure, a 6 month driving ban should be imposed but when the licence is returned, the slate is wiped clean and the points removed. When a disqualification is imposed for a specific offence, the period of a ban will depend on the nature of the offence itself (albeit that the driver's past record/mitigation will be taken into account) and the licence can be returned at the end of the disqualification period with any previous penalty points still valid. Alternatively, if the offence is particularly severe, the Court can ban a driver and order that an extended test must be taken before a new licence is issued.



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Can I avoid a "totting up" driving ban?

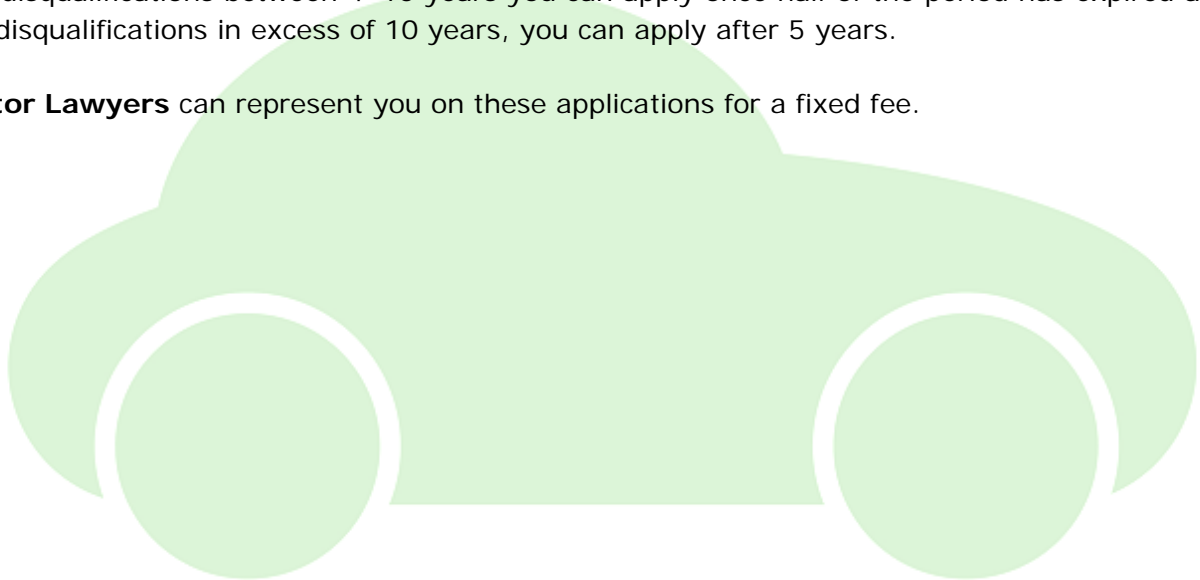
Yes. When considering a "totting up" disqualification, the Court has to take into account all mitigation presented and in certain circumstances, can allow a driver to keep their licence notwithstanding the fact that there may be more than 12 penalty points thereon. In order to retain your licence at 12 or more points, you will need to show "exceptional hardship". For more information, please refer to our related Fact Sheets: **Totting Up** and **Exceptional Hardship**.

Do I have to serve the full disqualification or can I get my licence back early?

For short disqualifications, there are no opportunities for an early removal but if you have been banned for between 2 and 4 years, you can apply for your licence to be returned after 2 years.

For disqualifications between 4–10 years you can apply once half of the period has expired and for disqualifications in excess of 10 years, you can apply after 5 years.

Motor Lawyers can represent you on these applications for a fixed fee.



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