

Plea of Mitigation

There is a distinct difference between pleading "not guilty" and putting forward a **plea of mitigation**. If you genuinely dispute that you have committed the offence, then it is absolutely right that you should be entitled to dispute the matter by pleading not guilty.

However, if you accept that you have committed an offence, but seek to have your personal circumstances considered by the Court prior to punishment, you will be given the opportunity to enter a plea of mitigation. It is important to understand that a plea of mitigation is not and cannot become a defence. A common error is for the Defendant to put forward so many excuses and explanations that their mitigation plea is rejected by the Court because it amounts in fact to a "not guilty" plea.

A good plea in mitigation will undoubtedly result in reduced punishment with both a lesser fine and a lower number of penalty points. In some circumstances, it can be the difference between losing and retaining your licence.

Can I raise mitigation if I have received a Fixed Penalty Notice?

No. The Fixed Penalty Notice scheme causes confusion for many clients who wish to accept the Fixed Penalty Notice but plead mitigation at the same time. The scheme does not really allow that option. A Fixed Penalty Notice is actually a "conditional offer" from the prosecution. For all intents and purposes, the Defendant is being given a "take it or leave it" option.

In the majority of cases the proposal is 3 penalty points and £60 fine. There is no flexibility on this and thus a plea of mitigation is not relevant. You either take the proposal or if you wish to argue about the level of fine/penalty points, you reject the offer and demand your day in Court which will result in a Summons being issued. The attraction of the scheme from the prosecution's point of view, it involves the least amount of effort and expense on their part and in exchange for that, the Defendant is offered the minimum number of penalty points and a "nominal" fine. The latter also avoids means testing.

What if I think that 3 points and £60 fine fixed penalty is too harsh a punishment for the offence committed?

If you feel that the proposal is too severe, then you can ask for a Court hearing but do not expect a great deal of sympathy from the Court, which has the option to increase the fine and penalty points, if it feels that your arguments have no merit. The fact is, if the offence has been committed, 3 points and a fine of £60 is probably the best deal that you are going to get. To take the matter further can often result in higher punishment and substantially more expense, particularly if the Court imposes its right to means test you before deciding on a fine. For all intents and purposes, the 3 points and £60 fine has already taken into account the strongest possible mitigation you could put forward. Whilst we appreciate that nobody likes



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penalty points or fines, the best advice we can give is don't throw good money after bad and don't dispute cases on a point of principle.

How do I plead mitigation if I have received a Summons?

For the majority of Court proceedings, a plea of mitigation is dealt with by letter and indeed more often than not, the Court prefers this method because it drastically reduces the amount of judicial time spent on a case. However, given that this is your one and only opportunity to state your case, it is essential that your letter covers all the crucial points without becoming long winded or irrelevant.

Motor Lawyers will prepare a personalised letter of mitigation for you via our **Letter of Mitigation Service**. Our fee is £99 + VAT but this is normally saved several times over with the resulting reduced penalty. We do not use standard letters. We will write a personalised and unique letter of mitigation on your behalf only after we have discussed the case with you fully and obtained all relevant information to support your plea.

Why can't I simply fill in the form that was sent with the Summons? What purpose does a letter serve?

A letter of mitigation, particularly if it is prepared for you, will be more relevant and powerful. Many Defendants genuinely have no idea what issues to raise by mitigation and often prepare documents that the Court feels are not pertinent to either the offence, or the implications. A mitigation statement that is either too long or too short will not present your case in the best light so it makes sense to have it professionally prepared.

How do I know my letter will be read?

The Court Clerk is obliged to advise the Magistrates of the contents of any mitigation and will read same in open Court when your case is dealt with in your absence.

Would I not be better off turning up personally rather sending a letter? If I don't attend, will that not be offensive to the Court?

The Courts run to an extremely tight schedule. They would not offer the option to plead guilty by post if they did not want it to be used, especially in less serious cases where the Court does not feel the need to see the Defendant personally. In the vast majority of cases the most efficient use of a Court's time is to deal with cases by a written plea and no discourtesy will be inferred, particularly if it is clear that some effort has gone into preparing the written submission.

Is it always best to plead mitigation by letter?

If you have the option, then this is normally the best way to resolve the case but in some situations a personal attendance will be required. For more serious offences, or where the



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Court is considering disqualification, the Defendant will have to attend in person as a letter will not be accepted.

How will I know if I have to attend Court in person?

It is always best to seek advice. On many occasions the paperwork from the Court is in standard format, which can result in an offer to plead guilty by letter, despite the fact that the offence will require a personal attendance. If you seek advice from **Motor Lawyers** when you receive the Summons we will be able to clarify what options are available and the best tactics to use.

In particularly serious cases, or where "totting up" is relevant, the Court will insist the Defendant attends in person, normally because there is a real risk of disqualification. If the Court has demanded your attendance then there is even more reason to ensure that the best possible mitigation plea is presented.

The Court have demanded I attend in Person because disqualification is being considered, am I really likely to persuade them not to ban me?

Yes. The decision is not made until the Court has heard your mitigation and the purpose of your attendance is to allow you to put forward that mitigation. A properly prepared and presented plea in mitigation can result in a ban being avoided.

Do I have to have legal representation if I attend Court in person?

No. You are perfectly entitled to represent yourself, although you will need to have a detailed plea of mitigation prepared and some knowledge of the legal process and how to present your case. **Motor Lawyers** can prepare a detailed advice and script in order for you to present your case personally via our unique **Court Hearing – Self Representation Service**.

I face a totting up ban can I raise a plea in mitigation by post?

No. Whenever disqualification is considered the Court will expect to see you in person. Further, in order to avoid a totting up ban, your mitigation must include an "exceptional hardship" submission. If you need assistance in this regard, please use our **Court Hearing Services**.

What are the benefits of having the Barrister present my plea?

If you are not comfortable representing yourself at Court then it is best left to the professionals. There is little doubt that regardless of how well prepared you are, you are unlikely to match the skills and knowledge of a professional advocate who specialises in motoring offences. Although this is a more expensive option, if you do not have the time, or the confidence to present your case we recommend our **Court Hearing – Barrister Representation** option. This service is especially relevant if there are particular technical or legal issues to be raised at Court.

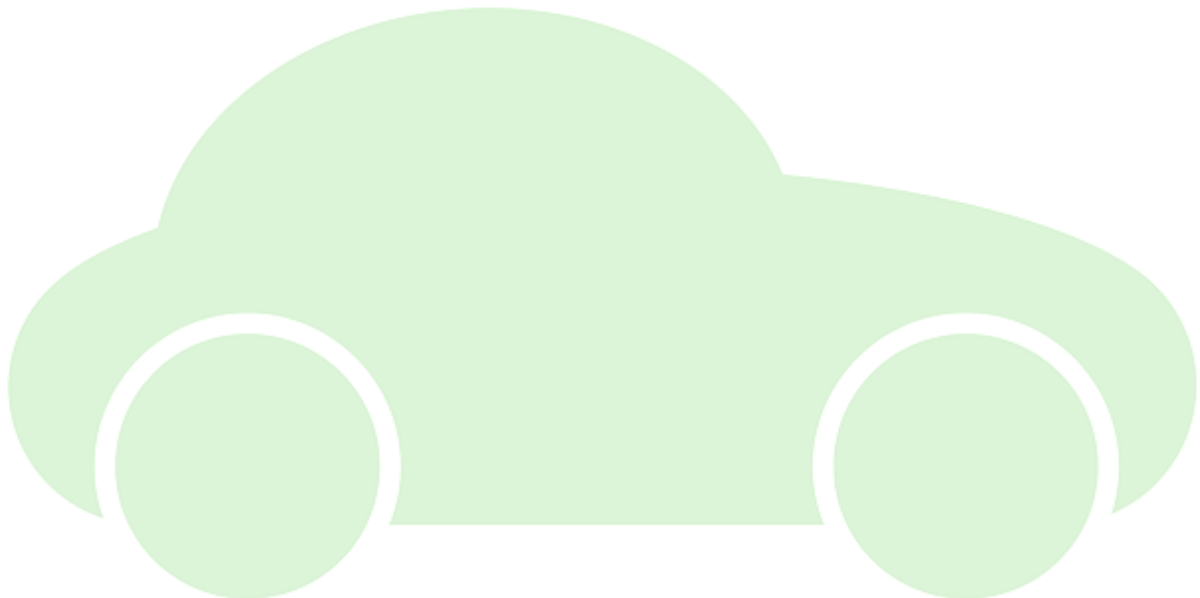


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What services do Motor Lawyers offer for personal court appearances?

In such circumstances, **Motor Lawyers** recommend you utilise our **Court Hearing Services**. If you wish to represent yourself, we will discuss all relevant points with you to include not only the points you should raise, but the manner in which you should present them and give you detailed advice as to how to represent yourself at Court. Alternatively, if you prefer, we will obtain and instruct a specialist motor defence Counsel to represent you at the hearing, the only additional expense will be the Barrister's fee, which we will negotiate on your behalf and agree with you in advance. In our experience, clients who have utilised this service have retained their licences when disqualification seemed inevitable. When disqualification cannot be avoided, the period of suspension is more often than not substantially reduced.



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