Penalty Points and Disqualification: Feared or Ignored?

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The penalty points system in GB

- Purposes of points /disqualification: to deter and/or punish.

- Introduced in 1972. Between 3-11 for a single offence;

- 12+ in 3 year period = eligibility for a disqualification order.

- Points and disqualification usually come with a financial penalty, and disqualification may require taking a driving test.

- Those disqualified this way colloquially referred to as 'totters'.

- 421,000 court endorsements issued in E+W in 2011: 86,500 disqualifications; 24% were totting disqualifications.
Plan of Paper

- To what extent are penalty points and disqualification feared - in sense of securing greater compliance, and to what extent are they ignored?
  - Drivers' responses to receipt of penalty points.
  - Drivers' responses to their eligibility for disqualification.
  - Drivers' responses to disqualification.
  - Conclusions and suggestions for helping achieve greater compliance.
Who has points?

- Roughly 1 in 6–7 have some live points (Admiral Insurance, 2009; Direct Line, 2010).

- Seemingly, professional occupational groups are at greater risk of attracting points.

- Seemingly, some types and colour of vehicle are at greater risk of attracting points.
Drivers’ responses to receipt of penalty points (1)

- Two part TRL/Brunel study:
  - 1st stage: Broughton (2008) analysed two large databases.
  - Those with at least one recent speeding conviction modified their behaviour as disqualification risk increased.
  - Only 0.3% of those with one an initial speed conviction got 3+ more in the next 3 years.
  - Likelihood of reconviction slowed as drivers approached 9 points.
Drivers’ Responses to penalty points: Key findings from the DVLA data analyses

Proportion of drivers reconvicted within the following year, by number of convictions in previous 2 years (Broughton, 2008).
Drivers’ responses to receipt of penalty points (3)

- **2nd stage**: Corbett et al (2008) did postal survey of drivers with various penalty point patterns.

- 2/3 reportedly deterred by risk of detection, collision + likely penalty; a 'hard core' (7%) were undeterred: mostly male, 35-65 yrs, 15k+ m.p.a.

- 'Fear' of points shown by: purchase of radar/GPS device, slowing before camera. And 8% ‘would get someone else to take the points’.

- So ‘fear’ shown by greater compliance + other avoidance actions.

Drivers’ responses to ‘totting’ disqualification eligibility: pleading ‘exceptional hardship’

- Eligibility applies through S.35 Road Traffic Offenders Act 1988.
- Where eligible, must attend court, opportunity to show cause.
- Magistrates’ Association (2010) estimate, following an FOIA request, that 10.2% of eligibles ‘kept their licence, many pleading ‘exceptional hardship’.
- Corbett et al (2008) unexpectedly found considerable % with 12+ live points and no previous disqualification. These had more positive road safety attitudes, more likely to report speed reduction.
- Can the threat be more effective deterrent than disqualification for some?
Drivers' responses to ‘totting’ disqualification eligibility: failure to attend court for sentencing (1)

- Another category eligible for, but who evade, disqualification (if convicted) are **those failing to engage with some/all of the prosecution process.** (Could these be additional to the 10.2%?)

- Problem became pronounced in early millennium.

- In London (at least), many more bench warrants for arrest > 'eligibles' kept a low profile > many unexecuted warrants > block adjournments in court > case withdrawals > **justice not done.**
Drivers’ responses to ‘totting’ disqualification eligibility: failure to attend court for sentencing (2)

- London solution was the 'London Traffic Prosecution Scheme' for all minor traffic cases:
  - Centralisation and streamlining of all processes;
  - More court space allocated;
  - Gateway Court system introduced;
  - Use of civilians employed by MPS to prosecute uncontested cases.
  - Partnership working between MPS, CPS and HMCTS (+TfL, LCJP).
  - Increasing use of provisions under S.11(4) Magistrates’ Courts Act to ‘sentence/disqualify in absence’.

Recent guidance by Justices’ Clerks Society and Magistrates’ Association recommends widespread adoption of ‘sentencing in absence’ for minor uncontested traffic cases, where bench is satisfied to proceed.
Drivers’ responses to ‘totting’ disqualification eligibility: failure to attend court for sentencing (3)


- Figures from the MPS Disqualified Driver Database showed 28% totters were disqualified in absence (DIA) between 2007-2010.

- = 3,300 who probably would have otherwise evaded sanction and ‘got away with it’.


- However, more justice done and seen to be done, and numbers of warrants issued and unexecuted have shrunk.
Drivers' responses to disqualification: fearful or not bothered about breaches? (1)

- Position uncertain because of limited research. Yet Knox et al (2003) showed **42% breach rate in UK** among their convenience sample.

- In 2011, 12,900 fresh convictions for DWD, and 86,500 fresh disqualifications awarded >> 1 in 6/7 + more undetected.

- **International support finding high breach rate**, e.g. DeYoung et al (1997); Lenton et al (2009); Chang et al (2010).

- **International support for higher collision risk among disqualified drivers** (e.g. DeYoung & Gebers, (2004); Siskind, (1996), DeYoung et al (1997).
Drivers’ responses to disqualification: fearful or not bothered about breaches? (2)

- Not only a higher collision risk among disqualified drivers, but also strong correlation between disqualified driving and mainstream offending (Rose, 2000: 45; Knox et al, 2003: 74).

- Sensible that enforcement exploits this link, e.g. via the MPS Top 20 of prolific disqualified and mainstream offenders.

- DWD not on the OBJ list.

- Some do not reapply for licence at the end of a ban (Pearce et al, 2002). Why not? Research recommended to find out.
Conclusions: are points and disqualification feared or ignored?

- 'Yes' and 'no' to both.

- Seems that most drivers are fearful of points and a ban and modify their behaviour as risk of disqualification approaches, or plead 'exceptional hardship' to avoid.

Once disqualified, a proportion may remain deterred from DWD by risk of consequences. (Risk of breach may depend on type of offence.)

- Yet for 'some', eligibility for totting disqualification and actual disqualification are ignored.

- They may still be fearful but sometimes find alternative, fraudulent means to subvert justice.
Suggestions to aid compliance re points and disqualification

- Wider applicability of remedial, post-court retraining programmes to prevent disqualification and, where awarded, to facilitate reduced length bans;

- Agree with the S.F. aim: to improve poor driving skills before and after disqualification for more drivers.

- Beuret & Chorlton (2010) found support to make such retraining available to all risky driving offenders with inappropriate attitudes;

- Include dangerous drivers (with non-custodial sentences) and totters with evidence of recent poor driving, including those pleading 'EH'?
Suggestions to aid compliance re penalty points and disqualification (2)

- **Work towards lowering insurance premiums**: continue efforts (i) to prevent insurance scams by crime gangs and others + (ii) to reduce legal costs for litigants; (iii) for more ‘carrots’.

- **More ‘sentencing / disqualifying in absence’** to encourage compliance with prosecution process.

- **More deterrence measures to prevent DWD**: need to change perceptions about detection risk:
  - Change status of DWD to ‘either-way’ + put on OBJ list;
  - Remove opportunities for fraud by tightening up licensing system;
  - Consider reversing policy of ‘wiping all points’ after totting disqualification.

**Strategic Framework** has good aspirations re points and disqualification measures, but faster progress needed.