

# Guide to...

# ...Caught Speeding?

Criminal Department



**As you drive along Britain's roads, you would be forgiven for thinking that the age of Big Brother is upon us. Allow your speed to creep up and there is a good chance that a speed camera will be waiting to catch you in the act. Add to the speed cameras the mobile police patrol units and you may feel that they are out to get you.**

**Speed cameras are now a fact of life and will play a steadily greater role in the policing of our roads as time goes by. A safety measure or a trap to catch the already hard done by motorist - whether you support or loath the cameras, they are surely here to stay so what are the implications if you are unfortunate enough to be snapped by a speed camera or pulled over by a police officer with a radar gun?**

## **Think you've been caught by a camera?**

If you have triggered a camera, a notice of intended prosecution (NIP) will be sent to the registered keeper of the vehicle within 14 days.

## **Received a Notice of Intended Prosecution?**

You must complete and return the driver information form. Normally you will be offered a fixed penalty, which if you accept, will mean penalty points upon your licence and a fixed financial penalty. If you do not accept the fixed penalty your case will be referred to the Magistrates' Court. Remember, you are obliged to inform your car insurance company if penalty points are endorsed on your licence.

Generally, if you were driving significantly above the limit or your latest speeding offence will result in the imposition of penalty points that would take you up to or over a total of twelve penalty points, your case will be referred to the Magistrates' Court.

## **Going to Court**

### **Disqualification**

As a rule of thumb, the magistrates will not consider disqualification unless you are found to have been

driving at a speed more than thirty miles over the legal limit.

This is a very general rule and disqualification may still be considered at a lower speed if there are aggravating features such as poor weather conditions, travelling in a built up area - especially near a school or old people's home or if there are children in the car.

If the magistrates consider disqualification in your case, they will order you to attend court so that you can advance mitigation as to why you should not be disqualified from driving. At this stage, you should seriously consider seeking legal representation from an experienced solicitor, especially if your driving licence is important to you.

In deciding whether to disqualify you from driving, the speed at which you were travelling is not the only factor to be taken into consideration. The magistrates will take into consideration any aggravating features that may be present but will also take into account mitigating features such as a previously good driving record or expressions of remorse.

The magistrates will also take into account the extent to which you would be punished by a disqualification and may be reluctant to disqualify you if a disqualification would result in the loss of your job or in hardship to an elderly or disabled child or parent who depends upon your licence.

Often, the decision whether or not to disqualify you from driving is a finely balanced dilemma and the representations made to the court on your behalf can often be the deciding factor. You should not underestimate how difficult it can be to make effective representations on your own behalf, especially if you are nervous or unused to speaking in court. Even experienced advocates enlist the services of a solicitor when they find themselves facing disqualification.

The magistrates may not disqualify you **and** endorse penalty points upon your licence, but unless there are special reasons, they are obliged

# Guide to...

# ...Caught Speeding?

Criminal Department

to do one or the other.

## Penalty Points

The magistrates may decide to impose three to six penalty points rather than disqualify you from driving.

## Automatic ban for twelve or more penalty points

If your latest speeding offence will result in the imposition of penalty points that would take you up to or over a total of twelve penalty points, you will be ordered to attend court to face disqualification under the totting up procedure. Drivers ordered to attend court this way are called "Totters".

A totter must be disqualified for a minimum period of six months unless he/she can establish, to the satisfaction of the magistrates, that he/she would suffer exceptional hardship if he/she were disqualified from driving.

Exceptional hardship is most commonly based upon the potential loss of employment and the effect that would have upon a family but a whole range of circumstances, including the potential effect upon elderly relatives, disabled children or the totter's own health or mobility could be argued.

If you become a totter, you should seriously consider seeking professional legal advice, especially if your licence is important to you. To argue that you would suffer exceptional hardship, you will need to give evidence on oath and to face cross examination by an experienced Crown Prosecutor - this can be a difficult task if you are unused to giving evidence in court and we can help you prepare for this.

## Why use Hegarty LLP?

For over 35 years Hegarty LLP Solicitors has provided high quality legal services to a wide range of businesses and individual clients. Solicitors who work in our criminal defence team are among the best locally.\* They are experts in their field and pride themselves on providing a friendly, professional and efficient service which will provide you with peace of mind knowing that you have done everything in your power to defend your case.

If you need advice regarding a speeding offence, please do not hesitate to contact any of the following solicitors to arrange an appointment at either the Peterborough or Stamford office:

## Contacts

Sarah Acres - Associate Solicitor  
Direct dial: 01733 295630  
Email: sarah.acres@hegarty.co.uk

Julie Murtagh - Solicitor  
Direct dial: 01733 295675  
Email: julie.murtagh@hegarty.co.uk

Sara Young - Solicitor  
Direct dial: 01733 295628  
Email: sara.young@hegarty.co.uk

\* At the latest Peer Review the crime team at Hegarty LLP was awarded an Excellence (1) rating. This is the highest rating possible and was awarded to only 2% of firms' criminal departments, which means you can be sure you will have one of the best criminal defence teams in the country acting for you. The Peer Review is an independent body.

48 Broadway Peterborough PE1 1YW Tel: 01733 346333  
10 Ironmonger Street Stamford PE9 1PL Tel: 01780 752066  
you can also visit us online at: [www.hegarty.co.uk](http://www.hegarty.co.uk)

Hegarty LLP is authorised and regulated by the Solicitors Regulation Authority #440601

The contents of this guide are for information only. Whilst all reasonable care has been taken in preparing this document we cannot accept responsibility for any loss arising from your decision to act or failure to act based on the information within. You should never act on this factsheet alone and we recommend that you seek professional legal advice for help regarding your specific circumstances before taking any action. This material is copyright of Hegarty LLP.

Updated November 2011

Hegarty LLP Solicitors company number OC 316221. VAT registration # 330 2575 88



**Hegarty Solicitors**