**PACTS Response: Changes to the Magistrates’ Court Sentencing Guidelines and associated explanatory materials.**

**Consultation Response**

*Question 1: What is your name?*

Evan Webster

*Question 2: What is your email address?*

Evan.webster@pacts.org.uk

*Question 3: What is your organisation?*

The Parliamentary Advisory Council for Transport Safety (PACTS).

PACTS is a registered charity. Its charitable objective is “To protect human life through the promotion of transport safety for the public benefit”. Its aim is to advise and inform members of the House of Commons and of the House of Lords on air, rail and road safety issues. It brings together safety professionals and legislators to identify research-based solutions to transport safety problems having regard to cost, effectiveness, achievability and acceptability.

*Question 4-8*

NA

*Question 9: Do you agree with the proposed changes to the guidance on totting up disqualifications and exceptional hardship in the explanatory materials? If not, please provide any alternative suggestions.*

PACTS broadly agrees with the proposed changes to the guidance on totting up disqualifications and exceptional hardship. However, we suggest additional guidance stating that courts should consider:

* the risk and potential hardship inflicted on the general public when drivers with more than 12 points are not disqualified;
* the risk of the granting of exceptional hardship claims undermining the deterrence effect of the penalty point system;
* the fact that drivers with 12 points will have continued to drive dangerously after receiving points for previous offences despite knowing the potential impact on their lives of reaching 12 points.

In 2019, 1,784 people died in collisions on British roads, there were a further 25,511 serious injuries. Many of these casualties resulted from dangerous or careless driving for which some penalty was or might have been imposed. These deaths, injuries and other consequences represent an immense amount of hardship for collision victims, their families and those who depend on them. There is clear international evidence that drivers who have penalty points on their licence are more likely to be involved in collisions and that they pose a greater risk to the general public than other drivers.[[1]](#footnote-2) The higher level of risk that drivers with penalty points pose is also recognised by UK insurers. [[2]](#footnote-3) Insurance claim statistics show that drivers with more penalty points have more incidents and are more likely to make a claim.[[3]](#footnote-4) The danger that drivers with 12 or more penalty points pose and the hardship they may inflict on others should be taken into account by courts when considering claims of exceptional hardship.

Furthermore, the success of the penalty points system is dependent on the threat of disqualification. When properly implemented, the threat of suspension significantly reduces the number of collisions and road deaths.[[4]](#footnote-5) The deterrent effect provided by penalty points is particularly strong for drivers who have accumulated points and are at greater risk of disqualification.[[5]](#footnote-6) The courts must consider the possibility that granting of exceptional hardship claims will fundamentally undermine the deterrent effect provided by the penalty points system.

There are currently over 10,000 drivers who have more than 12 points on their licence and are not disqualified, many of whom claimed exceptional hardship to avoid disqualification. Drivers with more than 12 points on their licence are likely to pose a significantly greater risk to themselves and the general public than other drivers. Driving is not a right; it is a privilege granted by licence. In PACTS’ view, these dangerous drivers have no right to continue to drive, should only be allowed to do so in highly exceptional circumstances. They have consistently driven without regard to the law and the safety of others. The overwhelming majority of drivers (93%) have no points on their licence.[[6]](#footnote-7) A driver is extremely unlikely to be disqualified for one incident. Knowing the harms that loss of licence would have on their life, a driver who faces a totting up disqualification has continued to drive dangerously. This should be taken into account when considering claims of exceptional hardship.

*Question 10-11*

NA

1. SWOV. (2012). *Fact Sheet: Demerit points systems*. SWOV;
ETSC. (2008). *Combatting Speed through Penalty Point Systems*. ETSC;
Walter, S., Studdert, D. (2015). Relationship between penalties for road traffic infringements and crash risk in Queensland, Australia: a case-crossover study, International Journal of Epidemiology, 44(5), 1722–1730;
 Chen, W., Cooper, P., and Pinili, M. (1995). ‘Driver accident risk in relation to the penalty point system in British Columbia’. *Journal of Safety Research,* 26(1), 9-18;
Ahmed, M., Sahnoon, I., Al-Badi, Y., and Al-Harthi, H. (2016). ‘The Relationship Between Traffic Rule Violations and Accident Involvement Records of Drivers’. *Proceedings of the AHFE 2016 International Conference on Human Factors in Transportation*, 745-755;
Wang, C., Liu, L., Xu, C., and Lv, W. (2019). ‘Predicting Future Driving Risk of Crash-Involved Drivers Based on a Systematic Machine Learning Framework’. *International Journal of Environmental Research and Public Health*, 16(334) [↑](#footnote-ref-2)
2. Association of British Insurers (2019). *Do penalty points affect my car insurance*? ABI;
AVIVA (2019). *How penalty points affect insurance*. AVIVA. [↑](#footnote-ref-3)
3. Association of British Insurers (2019). *Do penalty points affect my car insurance*? ABI. [↑](#footnote-ref-4)
4. Avineri, E., and Goodwin, P. (Eds) (2009). *Individual Behaviour Change: Evidence in transport and public health*. UWE Centre for Transport & Society, DfT.
Lee, J., Park, B., and Lee, C. (2018). Deterrent effects of demerit points and license sanctions on drivers’ traffic law violations using a proportional hazard model.’ *Accident Analysis & Prevention,* 113, 279-286. [↑](#footnote-ref-5)
5. Corbett, C., Delmonte, E., Quimby, A. and Grayson, G. (2008). ‘The deterrent effect of penalty points on speeding drivers.’ *Proceedings of the Behavioural Research in Road Safety, Eighteenth Seminar*.;
Sagberg, F., and Ingebrigtsen, R. (2018). ‘Effects of a penalty point system on traffic violations.’ *Accident Analysis & Prevention*, 110, 71-77. [↑](#footnote-ref-6)
6. Department for Transport. (2019). *GB Driving Licence Data*. DfT. [↑](#footnote-ref-7)