

# 'EXCEPTIONAL' HARDSHIP?

Case studies illustrating why the law on 'exceptional hardship' pleas needs to change to stop drivers avoiding automatic bans for unexceptional reasons



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Front cover image: Cycling UK

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## Introduction

Cycling UK believes that, when people harm or put others at risk whilst driving, the protection of the public should be the court's priority, not protecting someone's licence to drive.

But, time and time again, offenders facing an automatic ban after a string of infringements are allowed back on the roads because magistrates have accepted their pleas of 'exceptional hardship'. Some of these drivers go on to kill.

Cycling UK, and our partners British Cycling, Living Streets, the Road Danger Reduction Forum and RoadPeace, want this loophole closed.

## About this case study report

This collection of case studies supplements Cycling UK's *Five Flaws: Failing Laws*<sup>1</sup> report (June 2021), which explains why we are calling for road traffic law to change in five ways. Closing the 'exceptional hardship' loophole is one of the five.

Here, we summarise several cases that typify the kind of 'exceptional hardship' claims that all too often succeed with the courts.

In our view, there is virtually nothing 'exceptional' about any of them. The repercussions of being unable to drive for six months would have been no worse for these drivers than they would be for millions of people who use cars or vans every day.

All our case studies are based on online media stories, and it was no challenge whatsoever for us to gather an ample selection. This illustrates not only how routine – how unexceptional, indeed – these pleas are, but how routinely courts accept them.

In *Five Flaws: Failing Laws*, we explain how we think legislation could change to tackle this but, as it still helps to bear in mind what the law and sentencing guidelines currently say about 'exceptional hardship', we have summarised this in the text box on page 4.

The sentencing guidelines were revised for the better in 2020, but we have come across cases postdating the changes, implying that some magistrates are still unclear about what ought and what ought not to make it past the 'exceptional' threshold.

To show how inconsistent the application is, we have also listed a few examples of failed pleas. These, we feel, are largely indistinguishable from the successes.

### Notes:

So that the summaries below are as easy to read as possible, we have decided against repeatedly interrupting the text with the terms 'as reported in the press' or 'according to xxx' or 'reportedly'. Please take this as read.

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<sup>1</sup> [cyclinguk.org/sites/default/files/document/2021/06/2106\\_cyclinguk\\_five-flaws-failing-laws\\_final\\_1.pdf](https://cyclinguk.org/sites/default/files/document/2021/06/2106_cyclinguk_five-flaws-failing-laws_final_1.pdf)

We have checked each report to the best of our ability, and summarise the contents here in good faith, but please do not hesitate to get in touch with us if you have any queries about our understanding. Our contact details are on the inside and back covers.

## What do the law and sentencing guidelines currently say about 'exceptional hardship'?

- [The Road traffic Offenders Act 1988, s35](#) says that courts should take no account of 'hardship, other than exceptional hardship' when deciding whether to disqualify a driver.

- [The Sentencing Council for England and Wales guidelines](#) for magistrates say:

"Almost every disqualification entails hardship for the person disqualified and their immediate family. This is part of the deterrent objective of the provisions combined with the preventative effect of the order not to drive."

"Courts should be cautious before accepting assertions of exceptional hardship without evidence that alternatives (including alternative means of transport) for avoiding exceptional hardship are not viable".

"Loss of employment will be an inevitable consequence of a driving ban for many people. Evidence that loss of employment would follow from disqualification is not in itself sufficient to demonstrate exceptional hardship".



"The current loophole of exceptional hardship shows us that driving is seen as a right, not a privilege.

"There doesn't appear to be any clarity or review of the circumstances that might qualify as exceptional.

"We should be prioritising public safety over the right to drive, and yet drivers who disregard the law are allowed to continue driving, and there are cases where because this has been allowed, they have gone on to kill.

"The loophole needs to be closed by updating legislation so that only in cases where hardship is truly exceptional are drivers allowed to continue driving."

**Victoria Lebrec, Head of Policy, Campaigns and Communications, RoadPeace**

## The case studies

Each of the following three drivers ended up in prison for serious motoring offences, two of them for killing people.

They all have one thing in common: in the past, magistrates had accepted that a 'totting up' ban would cause them 'exceptional hardship':

### Christopher Gard

Thirty-year-old Christopher Gard's licence was stacked with penalty points for using a mobile phone at the wheel by the time he pleaded with Aldershot magistrates in June 2015 not to take his licence away.

The occasion not only marked his tally of 12 points, but also his eighth conviction for the offence. The chances of being caught for driving while texting or chatting on a mobile are arguably not as high as they ought to be, so this is astounding.

Gard had twice avoided a conviction and points by attending a driver awareness course.

#### Offender's 'exceptional hardship' plea (June 2015)

Gard, a self-employed plasterer and former cage fighter, said that, if disqualified:

- he would lose his living
- his young son and the boy's mother, his former partner, would suffer financially.

The magistrates allowed Gard to keep his licence. He promised to lock his phone in the boot while driving thereafter.

#### Subsequently ...

Just over six weeks later, Gard was texting at the wheel again, this time about a dog walk. With his young son in the passenger seat of his transit van, he ploughed into the back of cyclist Lee Martin on the A31 near Bentley, Hampshire.

Lee, 48, a father of two, was thrown onto the front windscreen and killed.

Police calculated that Gard had nine seconds of clear road in which to see Lee, who was riding with a group of cyclists wearing hi-vis. A witness, following behind, had seen the group clearly, and pulled out to overtake them.

Gard tried to cover up his texts by deleting them.

In September 2016, Gard was jailed for nine years at Winchester Crown Court for causing death by dangerous driving, and banned from driving for 14-and-a-half years. An appeal to have his sentence cut was dismissed in January 2017.

#### Media reports

[Daily Mail](#), 9/9/2016; [BBC News](#), 17/1/2017. See also [Cycling UK](#), 15/11/2016

## Kurt Sammon

In 2004, Sammon mowed down a 13-year-old at 43 mph, failed to stop and dumped his car two miles away. He'd been drinking methadone. His victim, Michael Weaver, died from serious injuries including a severed spinal cord. He'd been picking up a pizza.

The Sun reports that Sammon was "... initially charged with the more serious charge of causing Michael's death by dangerous driving but [...] is thought to have served just three months after admitting lesser offences of failing to stop and report an accident, and having no insurance or MOT."

In 2016 and 2018, Sammon's mobile phone offences earned him enough points for a totting up ban.

### Offender's 'exceptional hardship' plea (October 2018)

Magistrates let him keep his licence, agreeing that not being able to drive would affect:

- his job
- caring responsibilities to his mother.

### Subsequently ...

In January 2019, Sammon was fielding a call on his handsfree mobile when he jumped a red light in his transit van and hit 30-year-old motorcyclist Louis McGovern, who was moving into the junction.

No evidence of Sammon braking emerged.

The victim's partner, Lauren James, who'd gone out looking because he was late home from work, came across the aftermath of the collision on the A555 Manchester Airport Relief Road. She was with Louis, who'd been trapped under Sammon's van, when he died the next day.

Sammon was convicted of death by dangerous driving, jailed for seven years and banned for 13.5 years.

Sentencing him, the Judge said:

"I do not accept that you stopped every time you received a WhatsApp message. I am satisfied you were using this phone unlawfully by holding it in your hand.

"You were grossly distracted at the time. You have an appalling driving record."

### Media reports

[The Sun](#) 2/6/2021 (updated 3/6/2021); [Manchester Evening News](#), 1/6/2021

## Kurtis Dean Britland

In spring 2018, Kurtis Dean Britland, 26, added six new points to his licence for failing to supply the identity of the driver alleged to have committed an offence. With eleven points already (six for doing the same thing and five for speeding), he faced a totting up ban.

### Offender's 'exceptional hardship' plea (February 2018)

Britland satisfied the court that:

- his mobility scooter business would fold because he needed to drive his van to ferry scooters about, and carry out trials and repairs
- he could not afford a driver and, on top of that, needed to repay a hefty loan from his parents.

### Subsequently ...

On 13 September 2018, Derbyshire Roads Policing Unit [tweeted](#) that Britland was a “prime example” of the “System falling down”, and that he should be in prison.

The offender, they said, had been banned for drug driving, then provided another positive drug sample while awaiting a court appearance. They'd just caught him driving whilst disqualified again.

Later that same September, Britland drove at his girlfriend following an argument, wedging her between two vehicles. Cannabis was also found on him, and he spat in an officer's face.

The system finally granted the Policing Unit's wish early in 2019 when Britland was jailed for 15 months and disqualified for 82 weeks for: dangerous driving, common assault, driving while disqualified, while uninsured and possession of cannabis.

### Media reports

[Derbyshire Times](#), 4/3/2018; [The World News](#), 13/9/2018; [Derbyshire Telegraph](#), 3/2/2019.

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The following alphabetically ordered mix of unknowns, celebrities, professionals and others working in various fields all managed to tot up enough points for an automatic ban. Nevertheless, they each swerved them by convincing magistrates that losing their licence would cause ‘exceptional hardship’.

But how much of the hardship catalogued below is genuinely ‘exceptional’? Isn’t much of it circumventable, commonplace inconvenience, no worse than most people would experience if they couldn’t drive for a while?

## Wahid Bik

41-year-old Wahid Bik’s totting up tipping point came when he failed to provide the identity of a driver alleged to be guilty of a motoring offence.

Like many drivers in his situation, he turned to an exceptional hardship plea and, also like many drivers in his situation, he homed in on the impact a driving ban would have on his family and finances.

### Offender’s ‘exceptional hardship’ plea (April 2021)

April 2021 saw him claiming:

- he couldn’t get to work, which would cause his non-driving wife and children financial hardship
- he couldn’t support his elderly parents and children, who rely on him to transport them around

Worcester magistrates conceded.

### Media report

[Worcester News](#), 22/4/2021

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## Duncan Bould

With points already on his licence for using a mobile phone at the wheel, and another batch for speeding twice in a 30 mph zone and driving at 55 mph along a 40 mph limit road, Duncan Bould, 59, had amassed enough points for an automatic ban.

### Offender’s ‘exceptional hardship’ plea (February 2018)

In court, Bould, a top criminal barrister and Crown Court judge, handed magistrates a written submission explaining that he needed to keep his licence because:

- his 13-year-old daughter suffered from a medical condition.

Asked whether he and his wife shared driving responsibility, he replied:

“We probably do, over the four years we probably have done. As you might imagine it's not as straightforward as that. It depends who is available and who is not. It can be difficult sometimes.”

Manchester magistrates agreed not to disqualify him, stressing that they did so solely in view of his daughter's potential hardship, rather than his employment. The chair also said: “It's disappointing to see a man of such standing in the legal community here before us today”.

The Daily Mirror headlined the story: “What a joke”: Anger as judge caught speeding with 12 points on his licence escapes driving ban’.

Later that year, the Judicial Conduct Investigations Office handed Bould ‘formal advice’ following a disciplinary hearing.

### **Media reports**

[Daily Mirror](#), 9/2/2018; [Daily Mail](#), 9/2/2018; [Daily Mail](#), 13/11/2018;

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## **Ian Brown**

Ian Brown, 53, appeared before magistrates in September 2016 with nine existing and three new points on his licence, all for speeding – the latest for driving at 37 mph in a 30 mph zone.

This wasn't the first time that speeding had landed Brown in court. In 2011, he'd been trailed by a police car on the M6 never dropping below 94 mph, and hitting 105 mph for a mile.

### **Offender's 'exceptional hardship' plea (2011)**

In 2011, Brown's lawyer, Nick Freeman (aka ‘Mr Loophole’), argued that a ban would cause his celebrity client – frontman for the Stone Roses – “insurmountable” problems.

- on the professional front, the singer needed to drive to remote and secret rehearsals for the sake of the band's comeback gigs
- on the domestic front, apart from supermarket runs for his ageing parents, Brown drove to London from Cheshire every Wednesday to collect his 11-year-old son from school and take him to dinner, and saw him most weekends – an “acrimonious” divorce had made Brown anxious about maintaining their relationship. (Incidentally, Brown's “domestic obligations” struck the journalist reporting for The Independent as “curiously saintly”).
- being in the public eye ruled out public transport.

The court agreed not to ban Brown, handing him six points instead. This, though, did not stop his speeding. In November 2011, he was disqualified for three months for ripping along at 93 mph in a 40 mph section on the M6.

In 2016, multi-millionaire Brown was back in court, once again pleading ‘exceptional hardship’ (his critical offence this time was driving at 37 mph in a 30 mph zone).

### **Offender’s ‘exceptional hardship’ plea (September 2016)**

The Manchester Evening News report of the proceeding reads much like déjà vu:

- errands for elderly parents
- remote rehearsals
- visiting his son in London.

There were, according to his lawyer, ‘innocent third parties’ to consider. Again, magistrates let him off an automatic ban.

### **Subsequently ...**

In Feb 2017, Brown was finally banned from driving for six months for repeat offending.

### **Media reports**

[The Independent](#), 25/10/2011; [The Sun](#), 25/11/2011; [Manchester Evening News](#), 18/9/2016; [Daily Mail](#), 15/01/2018.

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## **Georgia Elisabeth Carney**

“In all my magistrates career, this is a record for me, honestly”, chair of the bench in Manchester reportedly said of the 66 points clocked up by Georgia Elisabeth Carney.

On twenty occasions in two months, Carney had been caught driving at 70 mph, twice at 80 mph, along a 50 mph section of the M62. These multiple infringements, plus her existing six points, swept her way, way past the totting up threshold.

But, in this case, the magistrate’s astonishment did not stop them from accepting an offender’s ‘exceptional hardship’ plea.

### **Offender’s ‘exceptional hardship’ plea (March 2020)**

Carney maintained:

- she relied on her own transport to carry her beauty equipment to visit clients and put on courses at salons (couldn’t carry everything on public transport).
- her business fortunes impacted on her mother (a named guarantor on her rented flat and contact for her leased Audi).

### **Media report**

[Manchester Evening News](#), 13/3/2020

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## Steve Coogan

Sitting at the wheel of his Porsche one day in January 2019, Steve Coogan, 53, was clocked six miles over the speed limit in a 30 mph zone close to his mansion, East Sussex. The offence added three points to his existing nine, so a six-month ban automatically loomed.

A serial speeder, Coogan had been disqualified before: back in 2016, he'd zoomed along in his Mazda at almost double the speed limit in Brighton, resulting in a 28-day ban. And, by the time he appeared before magistrates in August 2019 facing his totting up disqualification, he'd attended a speed awareness course.

### Offender's 'exceptional hardship' plea (August 2019)

Coogan, a motoring enthusiast and owner of several elite cars, is also an actor. His 'exceptional hardship' plea played on the impact a driving ban would have on a BBC travelogue series featuring Alan Partridge, the fictional character for which Coogan is mostly famed. He told the court that:

- the yet to be filmed series would be cancelled because Partridge had, apparently, to drive round the country meeting people: "You couldn't put him on a train because that is not who he is. It's part of his character that he drives."
- it would be impossible to fake the driving scenes
- if the series were canned, fifteen to twenty professionals who'd been lined up would struggle to find alternative work.

Magistrates accepted that other people would suffer 'exceptional hardship', and reduced Coogan's ban from six to two months, so as not to interfere with filming. (A-ha!)

[The Guardian](#), 13/8/2019; [The Sun](#), 13/8/2019 [Radio Times](#), 14/8/2019 (et al)

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## Jessyleigh Gallagher

Young mother Jessyleigh Gallagher pushed her penalty points over the totting up brink when caught driving without insurance.

### Offender's 'exceptional hardship' plea (October 2020)

Gallagher's licence survived, nevertheless, thanks to successfully pleading with Basingstoke magistrates that its loss would mean exceptional hardship for:

- her newborn baby
- her mental health

### Media report

[Southern Daily Echo](#), 30/10/2020

## Samuel Heyes

Many drivers would understandably quake at the thought of travelling along the A14 when Samuel Heyes, 30, decided to rip along at 110 mph in his Audi A4.

Technically speaking, the legal system took a dim view too and issued him enough points (six) to propel him past the totting up ban threshold (he already had nine).

### Offender's 'exceptional hardship' plea (March 2021)

Originally, magistrates rejected his exceptional hardship plea, but he appealed at Ipswich Crown Court, saying:

- he runs a coffee cargo handling business, which involves driving workers between locations in a seven-seater van (a letter from his company's accountants confirmed the need for travel between dock and storage locations at short notice and during unsociable hours)
- although his second-in-command could also drive, he might reasonably decline the extra burden
- the company would be left immobile and facing possible liquidation (others would suffer as a result).

The appeal succeeded, but the court Recorder warned that the decision had been a "close run thing". The impact on innocent third parties had tipped the balance in the offender's favour by the "skin of his teeth".

### Media report

[Ipswich Star](#), 19/3/2021

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## Zsolt Hodi

When a police mobile camera recorded Zsolt Hodi exceeding a 30 mph limit by 6 mph in February 2018, he already had nine penalty points. This was the fourth time he'd been caught speeding in seven months, and magistrates disqualified him under the totting up system. Hodi, 49, however, appealed.

### Offender's 'exceptional hardship' plea (January 2019)

Nottingham Crown Court heard that Hodi's car was an essential because:

- he was a very busy man and pathologist, working both for the NHS and, privately, for a biotechnological company (a very competitive world)
- he was likely to lose his contract with the private company if he couldn't drive
- he needed to drive his children to after-school tennis and swimming lessons
- his wife worked part-time and couldn't do everything on her own
- he could not use public transport to get to where he needed at short notice
- he had no time to wait for taxis
- hiring a private driver would be too expensive as he'd need one from 6am to 9pm (according to the Metro, he earned around £8,500 a month).

The magistrates found ‘exceptional hardship’ on account of others, his important job and the likelihood he’d lose his private contract work. The judge, however, warned: “Don’t let this court or any court see you again. If we see you for a traffic offence, you will be catching the bus home.”

### Media report

[Metro](#), 5/1/2019

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## Mariama Jalo

Driving without insurance, Mariama Jalo, 30, scored herself enough points for an automatic ban.

### Offender’s ‘exceptional hardship’ plea (December 2020)

But Peterborough magistrates let her drive on because:

- she cares for three children, with a fourth on the way
- she cares for her own mother, who has health issues
- is clinically vulnerable to Covid-19, so couldn’t use public transport instead.

### Media report

[Peterborough Telegraph](#), 9/12/2020

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## Lebron Leuluai

In January 2018, Lebron Leuluai added three points to her licence for putting her foot down on her luxury Jaguar’s pedal in a 40 mph zone. She was clocked at 48 mph, committing an offence that brought her to the totting up crunch-point.

All Leuluai’s existing nine points were for speeding too.

### Offender’s ‘exceptional hardship’ plea (November 2018)

Weeping Leuluai, 41, trainee primary school teacher and wife of rugby star Kylie Leuluai, appeared in court, claiming that:

- her husband would have to take over the school run if she couldn’t drive, quitting his post as head of operations at rugby league outfit Warrington Wolves (he worked odd hours and it would complicate his job)
- her son, 12, had been awarded a football scholarship which meant attending matches across the country during the weekend
- if she lost her licence and her husband lost his job, it would affect them financially (they had no savings and would lose their £1,900-a-month rented house)
- they had no family in the UK, so would struggle to look after their children.

Letting her off a ban, the JP said: 'If you were to lose your license we recognise your husband wouldn't be able to take over as he could lose his job. / The vast majority of people who try to use exceptional hardship get their application rejected. / You have been lucky today, but we believe your children would suffer exceptional hardship if you lose your license today.'

[Daily Mail](#), 29/11/2018

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## Jonathan Mark Lobb

In September 2018, a police officer spotted Jonathan Mark Lobb speeding massively – 40 mph (yes, 40 mph) – over the speed limit on the A303, Somerset. Rocketing along at 110 mph, Lobb was riding his motorbike at the time.

With an existing six points for two previous speeding offences, his further endorsement to the tune of six brought him to the totting up ban level.

### Offender's 'exceptional hardship' plea (April 2019)

Appearing before Somerset Magistrates, Lobb, 54, pleaded with them not to take his licence away because:

- he ran a private care home in Newton Abbot for 30 elderly people and employed 32 members of staff
- his residents relied on him to take them to hospital appointments
- he needed to drive for his 100-mile commute to work
- driving between 50,000 and 60,000 miles a year, he spent a great deal of time in his car
- he shared the school run with his wife and it would be difficult for her to take their son to school every day when she was working.

The magistrates accepted the businessman's arguments in view of his care home role and the effect disqualification would have on family members.

### Media report

[SomersetLive](#), 16/4/2019

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## Shane Marsden

Found guilty of failing to identify the driver of his BMW which had been involved in an alleged incident, Shane Marsden added six points to the nine he already had for speeding (two counts) and mobile phone use at the wheel (one count). This comes to 15, three points over the totting up ban threshold.

## Offender's 'exceptional hardship' plea (September 2016)

Marsden, 28, told Stockport Magistrates Court that:

- he would lose his job as an audit manager with KPMG if unable to drive, thus putting his career in jeopardy (he had to drive to see clients all over the place in the same day)
- his boss had said "in no uncertain terms" that he couldn't do his job if banned
- he wouldn't be able to pay his bills and mortgage
- he'd used up his savings to support his family when the stock market crashed
- his family couldn't drive him because they had low paid jobs
- public transport was unpractical

In court, a representative of the Crown Prosecution Service pointed out that there was no written evidence backing up Marsden's claim that he would lose his job.

Accepting the plea, magistrates said: "You can never use this excuse again, you have to drive like a saint."

### Media reports

[Manchester Evening News](#), 19/9/2016

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## Alex McFarlane

Between June and August 2014, Alex McFarlane triggered safety cameras seven times. Not only that, but he failed to respond to every penalty notice sent by the police.

Reporting on McFarlane's offences as "Seven deadly sins", ITV News listed them as:

Royal Artillery Way, Southend – 109 mph and 82 mph in a 50 mph limit  
A127 at Rayleigh – 69 mph and 59 mph in a 50 mph zone  
A127 at Laindon – 55 mph in a 40 mph limit  
Marine Parade, Westcliff – 32 mph in a 20 mph limit  
A127 at Southend – went through a red light.

For this, he racked up a mammoth 42 points (six for each crime).

## Offender's 'exceptional hardship' plea (June 2015)

At Southend Magistrates Court, construction site manager McFarlane, 50, claimed that:

- if banned, he'd lose his job and home, and would be unable to pay off his debts
- since the incidents, he had been treated for a nervous breakdown which had led to a spending spree and heavy debts.

Magistrates accepted his plea.

### Media reports

[ITV News](#), 3/7/2015



## Katie Price

Former glamour model Katie Price's ('Jordan') history of crashes, drink-driving, mobile phone offences, failing to identify the driver, speeding and disqualifications (and driving whilst disqualified) is tangled and a challenge to unpick. Often written up sensationally by the national media, her myriad charges have even confused the courts. (The Sun, 10/10/2019).

The Daily Mail, however, has helpfully put together a [timeline](#) spanning October 2003 to March 2021, with sixteen entries.

For the purposes of this report, we are focussing on how a plea of 'exceptional hardship' convinced magistrates to slice six months from a two-year ban in 2019.

### Offender's 'exceptional hardship' plea (December 2019)

Appearing in Woolwich Crown Court, Katie Price claimed:

- she was so scared of kidnappers that she needed a car to flee her isolated home, just in case (she'd received threats)
- the bus stop outside her house was defunct
- a divorced mother of five, she had fifty-fifty responsibility for her children, and this meant sticking to a set schedule
- she needed her car in case she had to drive her son, who has disabilities, urgently to hospital; it was quicker than an ambulance because she lived in the middle of nowhere; her son couldn't cope with anyone else driving, a taxi or a bus; and she needed to collect medication from his GP and drive it to his school where he lives during the week
- she's bankrupt, so couldn't afford to hire a driver

Price also said: "Not being able to drive will affect my life massively. The nearest shop is a mile walk and I can't cycle because there's no pavements where I live."

Despite reducing the ban, the judge said: "Your driving record is appalling, you know that. / You have displayed a degree of arrogance, knowing the effect of disqualification if you accumulate points. / We have very little sympathy for you because of your driving record, but we do have sympathy for those who suffer the consequences of your reckless behaviour."

Since then, Price's driving record has grown even more appalling. In April 2021, the same week as she was due back on the roads, she was banned for another six months (for, it seems, a totting up offence for speeding).

Few people would withhold compassion from Katie Price over the needs of her son. However, given his situation, the risk she has taken with her licence again and again is very hard to understand. The driving privilege is clearly precious to her, yet not only has she jeopardised it, but also exhibited the sort of behaviour known to endanger others.

### Media reports

The Sun, [17/9/2019](#); [10/10/2019](#); [21&22/12/2019](#); [16/4/2021](#)

## Ala Uddin

With a series of offences worth 11 penalty points behind him, plus another string worth 18 added in January 2014, Ala Uddin had more than enough for an automatic ban.

### Offender's 'exceptional hardship' plea (January 2014)

Pleading with magistrates in West Wales, Uddin, 44, claimed that saying goodbye to his licence would also mean saying goodbye to:

- his job as a Domino's takeaway pizza delivery driver
- the home he provides for his wife and children

The plea won the magistrate round, and Uddin proceeded to drive legally with 29 points, over double the number that should have seen him banned by default.

### Subsequently ...

Having been stopped by police driving with a defective tyre and without insurance (also in January 2014), Uddin managed to add another six points to his licence = 35. He was finally banned for six months in March 2014.

Oddly, when his licence was taken away, Uddin was not left unemployed: Domino's moved him behind the counter instead.

### Media reports

[WalesOnline](#), 26/1/2014; [Daily Mail](#), 19/03/2014

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## One day, one court in Suffolk

In February 2020, the [East Anglian Daily Times](#) bunched together the cases of four totters, each of whom got away without a ban on the same day by successfully pleading 'exceptional hardship':

Raymond Coppin, a tiler of 70 (81 mph on the A12, plus other speeding offences), cited:

- loss of income; exceptional hardship for his wife

Helen Barber, 31 (54 mph on a 40 mph stretch of the A1214, fourth speeding ticket):

- effect on her son's ability to attend occupational therapy / hospital appointments

Grant McClusky, 35, court bailiff (35 mph in a 30 mph zone):

- impossible to use public transport to reach the jobs he had to do, or support his uncles in caring for his sick grandmother

Jack Loxley, security contract manager (81 mph on the A12):

- ban would 'cripple' his ability to travel to the country to work and run his pregnant partner to maternity appointments.

## Take your pick and spot the difference

As mentioned, we're always spoilt for choice whenever we Google for 'exceptional hardship' cases. Searches return such a wealth that it seems reasonable to assume that motoring offenders in general have a great deal of faith in them.

Indeed, we came across the [case of one defendant, Alan Trim](#), who was so taken aback when King's Lynn magistrates declined his plea that he drove home from the hearing regardless (only to be caught for driving without a licence and uninsured).

Yet it is often only the outcome that distinguishes a successful from a failed plea – and, it is important to note, pleas do fail. Courts are certainly not universally charmed by them.

The grounds, though, often seem curiously similar. Perhaps the difference lies in how thoroughly a defendant is grilled on their evidence or alternative transport options for them or their dependants, and how easy any given magistrate finds it to differentiate between genuinely 'exceptional hardship' and the kind of inconvenience that most drivers could typically expect if disqualified as a punishment for committing a series of offences.

The following cases are examples of failed attempts, but none of them would have looked especially odd in the successful section above.

### Keith Bates

Headteacher Keith Bates' licence was already endorsed with six points for speeding when he drove along using his mobile phone as a sat-nav. The further six points he earned for this led to a ban.

#### Offender's exceptional hardship plea (August 2019)

Bates, 48, appealed at Norwich Magistrates, making the following 'exceptional hardship' pleas:

- he ran the highly-rated Eaton Hall Specialist Academy, a "fair old task"
- losing his licence would impact on his wider work, e.g. attending meetings all over Norfolk to support children experiencing challenges in school placements
- his school caters for some of the "most challenging children in Norfolk"
- he could not rely on public transport or someone else to drive him to do his job

The headteacher admitted, however, that he would not lose his position if disqualified.

Magistrates dismissed his appeal.

#### Media report

[Eastern Daily Press](#), 12/9/2019 (updated 9/10/2019)

## Ellie Brown

Love Island star, model, 'influencer' and Instagrammer with a fashion brand Ellie Brown whisked along the M42 in June 2019 at 101 mph in her Mercedes-Benz.

### Offender's exceptional hardship plea (January 2021)

Pleading against her automatic ban, Brown, 22, told Coventry magistrates that:

- she would suffer loss of income
- she is self-employed, working through an agency, and arranges her own transport
- does lots of travelling to shoots all over UK
- her fashion brand's factory is in Leicester, and she has to carry a lot of stock to it.

The Bench Chair said: "Exceptional circumstances is a very high hurdle and I'm afraid in the circumstances we find it does not apply in your case."

[Metro](#), 25/1/2021

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## Thomas Neil Gittins

Caught on his mobile while driving along the A489 in March 2021, sheep farmer Gittins faced a ban. This, as he told Welshpool magistrates caused him 'utter fear'.

### Offender's exceptional hardship plea (May 2021)

Gittins, 51, said he needed to drive to:

- take his animals to the vets and market
- pick his children up at weekends

To this, the chair of the bench said: "We have heard you and we do not feel that there is exceptional hardship as you have friends and family around to help you".

[Powys County Times](#), 31/5/2021

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## Max Power

A string of speeding convictions translated into a ban for Max Power, 27, Sunderland footballer and skipper.

### Offender's exceptional hardship plea (October 2020)

Appealing, Power told the court:

- he would need to hire people to get him to training and fulfill 'round the clock' football and family commitments
- he enjoyed no support network
- his club would take a dim view if he couldn't get to the training ground, or to matches home or away
- he'd need two chauffeurs, costing £4,500 a month.

But Power confirmed under oath that he would not lose his contract and admitted his children's schools were only a mile away, that his wife didn't work and could drive, and he could cycle to training ground.

[Sunderland Echo](#), 1/10/2020

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## Conclusions

The first two batches of cases studies in this report illustrate how easy it is for offending drivers to escape automatic bans – their penalty for putting others at risk – by pleading ‘exceptional hardship’.

Sometimes the courts do query and dismiss such pleas: would the offender/others really lose their jobs? Would they really not be able to use public transport or, if wealthy, hire a driver? Would their business really liquidate? For innocent third parties and dependents, couldn't someone else take over the driving, or alternative arrangements be made?

But far too often, these pleas sail through.

For the families and friends of victims cyclist Lee Martin and motorcyclist Louis McGovern, the result was catastrophic, exceptionally hard.

We'll leave the penultimate words to the guidelines issued by [the Sentencing Council for England and Wales](#). To repeat:

“Almost every disqualification entails hardship for the person disqualified and their immediate family. This is part of the deterrent objective of the provisions combined with the preventative effect of the order not to drive.”

“Courts should be cautious before accepting assertions of exceptional hardship without evidence that alternatives (including alternative means of transport) for avoiding exceptional hardship are not viable”.

“Loss of employment will be an inevitable consequence of a driving ban for many people. Evidence that loss of employment would follow from disqualification is not in itself sufficient to demonstrate exceptional hardship”.

And the final words to these thoughts: if magistrates are still failing to apply these guidelines consistently or, in some instances, altogether, the law itself must surely change to make it crystal clear which circumstances are genuinely ‘exceptional’ and which are not.

**[The courts must prioritise protecting the public, not protecting someone's licence to drive.](#)**

For more detail on our recommendations for changes in the law, please see our report [Five Flaws: Failing Laws](#), (June 2021).

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