

THINKING OF TAKING PENALTY POINTS FOR SOMEONE ELSE? THINK AGAIN!



There has been a great deal of recent publicity surrounding the Chris Huhne speeding case, where the former energy secretary is accused of persuading his ex-wife Vicky Pryce to take points, that should have been placed on his driving licence, in order to avoid a ban. Both of them have been charged with perverting the course of justice and are now due to appear before Southwark Crown Court on the 2nd March 2012. If found guilty there is a very real chance of prison.

Such matters are not limited to the home of MPs. Many of us have received, at some time or other, a request in the post asking for us to disclose who was driving a vehicle which has been caught speeding on camera.

In a survey last summer two thirds of motorists said that they would be willing to take on penalty points for a friend to ensure that person was not disqualified from driving. Yet, where the police suspect that this has taken place the accused may be pursued for perverting the course of justice and if found guilty a prison sentence is often likely.

Why do people lie about who was speeding?

Research suggests around 300,000 drivers have accepted points on their licence when a friend was caught speeding. The reasons why, despite the high risks, so many people choose to go down this route are mixed. Firstly, it appears that some people are simply oblivious to the consequences. A prime example of this was illustrated in an article in the Daily Mail last year where Sarah Williams, a successful business woman running her own marketing business, persuaded her elderly mother to agree to take penalty points for her after being caught on camera. They were both charged with perverting the course of justice. Sarah Williams said at the time she originally made the request of her mother, *'to be honest I did not think it was a big deal....'* She clearly had no idea they could be looking at a prison sentence. Secondly, people are often so desperate not to be disqualified because of their own circumstances that they are prepared to lie. Sarah Williams already had nine penalty points on her licence and if she had accepted the speeding matter herself would probably have received at least a six month ban. She knew however that as a single

mother, running a business and living *'in the sticks'*, she would be lost without her licence. Thirdly, people think that they will not get caught. However speed cameras are always improving in relation to the images that they take. Sarah Williams was shown a photograph taken by the speed camera at the police station. She said *'the picture was so good that I could have framed it and put it on my mantelpiece'*.

The importance of contacting a solicitor

So what should you do if you receive a notice through your door asking you to identify the driver in relation to a speeding matter? In this situation it is often advisable to seek advice from a specialist road traffic solicitor. At Motoring Law Defence we advise many clients faced with this type of allegation as it can often be a confusing process.

By law you must name the person who was driving at the time of the alleged speeding offence on the received form and return the form fully completed within the required time period, this normally being 28 days. Not to return the form fully completed within this time period is an offence, which in itself, carries six penalty points and a discretion to disqualify. If you cannot complete the form because you simply can't remember, or do not know, who was driving at that time then normally we would request photographic evidence on your behalf from the police in relation to that particular camera. If the photographs are not clear enough for identification purposes then you may have a defence in relation to not completing the form naming the driver if the magistrates can be persuaded that you could not, with reasonable diligence, have ascertained who the driver was.

Even if you name yourself as the driver there may be a defence to the matter of speeding if the speed measuring device can be proved to be faulty or incorrectly used by the police. If you acknowledge that you were speeding there may be a defence if you are the registered keeper of the vehicle, you were not stopped at the time of the alleged speeding, and no notice of the possibility of prosecution was sent to you within 14 days of the offence.

If you find yourself in a position where you do not have a defence for the speeding allegation and you end up receiving penalty points, which in turn pushes your total points up to 12 or more we may still be able to save your licence. Normally, in such circumstances at least a six month ban would be imposed. However, we may be able to argue exceptional hardship on behalf of yourself and others. If we succeeded in relation to such an argument then the magistrates would normally not disqualify you. Typical arguments that are used to try and persuade the magistrates that exceptional hardship exists could be for example that if you were disqualified you would lose your job, or it would be difficult to visit vulnerable relatives, or there could be problems taking children to their destination.

At Motoring Law Defence we know how important your licence is to you. So please do not hesitate to contact Philip Hatvany road traffic solicitor for free initial advice on 01225 442925 or via email at advice@motoringlawdefence.com



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