



Plea of Mitigation

ARAG

Where an offender pleads guilty to a speeding offence, they may wish to submit to the court a plea of mitigation asking the court to make a reduction to the number of points and/or fine they impose. The plea of mitigation will often be made by a letter (of mitigation) to the court. This prevents the need for a court hearing.

A plea of mitigation should only be made where there are genuine mitigating factors.

This document contains general guidance on what should be considered when making a plea of mitigation. We strongly encourage you to call the helpline to discuss your individual circumstances.

What Are Mitigating Factors?

The following are standardly accepted as a mitigating factors.

1. Credit For An Early Guilty Plea

The law says that when deciding the level of punishment for an offender, if they have pleaded guilty the Court must take this into account and give credit for it when deciding the sentence.

The earlier in the proceedings a guilty plea is made the greater the credit and reduction in sentence, up to a maximum of one third. Therefore if a guilty plea is entered once the speeding notice is received, maximum credit should be given.

2. Previous Good Character & Driving History

Where an offender has a clean driving licence, or has not had points on their licence for several years, this should be made known to the court by the offender in their letter of mitigation. In addition, the number of years the licence has been held will also be useful for the court to know.

The length of the licence held will be beneficial to the court. This will allow them to see that during the offender's driving history, motoring offences are not a frequent occurrence. The offender must be practical about whether their driving history is beneficial to a plea of mitigation. Stating to the court that their licence is now clean after points for speeding expired six months ago is unlikely to convince the court that the current offence is out of character.

3. Mitigation Relating To The Offence

When sentencing an offender, the court must consider whether there are any circumstances relating to the offence that means the offence is viewed more seriously in the eyes of the law (these are known as aggravating factors). These circumstances include such things as:

- **Poor road or weather conditions.**
- **There was evidence of an unacceptable standard of driving in addition to driving over the speed limit.**
- **The location of the offence caused additional risk for**

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example, driving at speed near a school.

- **There was a high level of traffic or pedestrians in the vicinity.**

If none of the above 'negative' factors apply, it may be useful for the court to know this. The purpose of stating the driving conditions is to try and avoid negative, aggravating factors however care should be taken when exercising this.

The above list is not exhaustive. BEWARE that correctly stating your mitigation to the court is a complex matter. Advice should be sought from the helpline before you write a letter of mitigation dealing with the circumstances of the offence.

4. Personal Mitigating Circumstances

Personal mitigating circumstances concern how the penalty will affect the offender.

A common example of personal mitigation relates to the impact of points on the ability of the offender to continue working in a job that requires them to drive. It may be that the offender drives for a living and their employer's insurance will not insure anyone with six or more points on their licence.

'Totting Up Disqualifications'

If an offender has points on their licence and the current offence is likely to lead to twelve or more points on their licence within a three year period they will face disqualification due to a process known as 'totting up'.

If an offender is likely to face a 'totting up disqualification' a letter of mitigation is not appropriate. The offender must attend court and would be best advised to seek representation to stand a chance of successfully pleading exceptional hardship and avoiding a period of disqualification.

The 'Plea Of Mitigation Speeding Summons' Letter

The 'Plea Of Mitigation Speeding Summons' letter available through the Document Centre will not be suitable for use by all. Strongly consider whether any of the above mitigating factors genuinely apply before sending a letter of mitigation.

Read and reread your letter before submitting to the court. Consider how it will be read by the court. Stating to the court that you frequently use the road where the offence took place may lead the court to question how you were not familiar with the speed limit if this was the case. Alternatively, informing the court that you had a lot on your mind at the time and was not concentrating will be likely to worry the court that you were driving without necessary care and not cause them to offer leniency in their sentence.

If you have any questions relating to a plea of mitigation, please call the helpline before completing and sending a letter of mitigation to the court.