

The potential deterrent value of a Register of Disqualified Drivers

A report for the Road Safety Authority of Ireland

The Road Safety Authority of Ireland (RSA) is considering publishing the names of individuals convicted of road traffic offences in court and disqualified from driving. The objectives of the public disclosure strategy would be to deter future violations among both those disqualified and the wider driving population and to reduce the substantial number of disqualified drivers who continue to drive during their period of disqualification. If implemented, the RSA would join the Revenue Commissioners, Food Safety Authority of Ireland, the Office of the Director for Corporate Enforcement and other Irish agencies who use public disclosure strategies.

As part of a review of the potential value of publishing the names of disqualified drivers, the RSA have commissioned this report. The report presents a synthesis of the theory and evidence on public disclosure strategies and, based on this synthesis, considers the potential deterrent value of a register of disqualified drivers.

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The opinions expressed in this report are those of the authors and do not necessarily reflect the position of the RSA.

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Glossary of terms

Register of Disqualified Drivers: The term 'Register of Disqualified Drivers' (or 'the Register') is used to describe the published list of disqualified drivers being proposed by the Road Safety Authority.

Public disclosure strategy: Public disclosure strategies involve publicly identifying offenders (e.g. through print, broadcast and/or on-line media etc.).

Name and shame strategies: Name and shame strategies are a specific form of public disclosure strategy where the objective is to deter offending or recidivism through either humiliation in the face of the public (social control) or by inward facing emotions such as shame and guilt (self-regulation).

Name without shame strategies: Name without shame strategies are public disclosure strategies where the objectives are to a) physically prevent offending (incapacitation) and/or b) allow the public to take steps to prevent victimisation (public interest) and/or c) add to the practical/legal consequences of offending (formal deterrence). Under such conditions the central objective is not to shame (though shame may be elicited as a bi-product of the strategy).

Specific and general deterrence: Specific deterrence refers to efforts to reduce the probability of reoffending/recidivism among drivers already convicted of road traffic offences. General deterrence involves efforts to prevent road traffic offending in the general population.

Formal sanctions: Formal sanctions are legal consequences of offending and, in the case of road traffic legislation, include penalty points, monetary fines and driver disqualification.

Informal sanctions: Informal sanctions are non-legal consequences of offending (e.g. being alienated from the community; feeling humiliated or ashamed having been disqualified for dangerous driving).

Executive Summary

Introduction

The best international evidence would suggest that traditional legal sanctions for driving offences, including court-mandated fines and disqualification, can reduce road traffic offending. Yet it is also clear that such sanctions can only go so far and that complementary innovative solutions are required to further enhance road safety.

Against this backdrop, road safety agencies have sought to complement existing legal sanctions with sanctions that target social and/or psychological fulcra of behaviour change. One such initiative, currently under consideration by the Road Safety Authority of Ireland (RSA), involves publicly naming drivers disqualified in court for road traffic offences including driving while intoxicated, driving without insurance and dangerous driving. Commonly referred to as 'public disclosures' (Pawson, 2001), such strategies assume that notifying the public as to the identities of offenders can reduce offending, and this occurs because they:

- Increase the perceived severity of the legal sanction and thus enhance the formal deterrent value of the sanction (the *formal deterrent* argument)
- Empower the public to take steps to reduce the probability of being victimised (i.e. the *public interest* argument) by avoiding offenders
- Empower the public to take steps to prevent offending (i.e. the *incapacitation* argument) by, for example, reporting offenders in breach of court orders or allowing employers to identify employees who are 'professional drivers' and have been recently disqualified
- Deter offenders and the general population from offending due to the experience, or anticipated experience, of being humiliated in their communities (i.e. the *social control* argument)
- Deter offenders and the general population from offending due to the experience, or anticipation of the experience, of negative moral emotions such as shame and guilt (i.e. the *self-regulation* argument).

There are numerous examples of public disclosure initiatives, both at home and abroad. In Ireland, for example, the Revenue Commissioners publish a quarterly *Register of Tax Defaulters*, the Food Safety Authority of Ireland (FSAI) discloses enforcement notices, and the Office of the Director of Corporate Enforcement (ODCE) lists directors of companies who are subject to a restriction or disqualification ruling.

The value of public disclosures has been debated in the literature in terms of legality, morality and effectiveness (e.g. Book, 1999). At best, there has been conditional support for such initiatives, particularly in the area of regulatory compliance (e.g. tax, corporate regulation and food safety regulation) (Casagrande, Cagno, Pandimiglio, & Spallone, 2015; Coricelli, Rusconi, & Villeval, 2014). At worst, some experts have warned, they are an affront to dignity, an invasion of privacy, are ultimately degrading and can have unknown and uncontrollable consequences for those identified and their families (e.g. Nussbaum, 2004).

The report

Against this backdrop, the RSA has sought this synthesis of the best evidence available that can inform the proposed public disclosure of disqualified drivers, henceforth referred to as the *Register of Disqualified Drivers* (or *the Register*). The

central question addressed by the report is: ‘Is the Register likely to have a road safety value in reducing recidivism and offending in the general driver population?’ As such the report is primarily concerned with the issue of effectiveness. The report considers theory and evidence on the value of public disclosure strategies. It also reviews existing disclosure strategies and considers their relevance to the Register being proposed.

The proposed Register of Disqualified Drivers

The RSA is, at the time of writing, still in the process of considering the form and content of the Register. It is likely that all those receiving a consequential or ancillary court-mandated disqualification will be placed on the register for the period of the disqualification. Consequential disqualifications are the direct result of a road traffic violation including driving while intoxicated, refusal to provide a specimen, dangerous driving etc. Ancillary disqualification occurs in addition to other penalties imposed by the court. For example, the Court may impose disqualification on an individual convicted of a crime and where a vehicle was used in the commissioning of that crime. It is not envisaged that those disqualified on medical grounds (specific disqualification orders) or due to the accumulation of penalty points (penalty points disqualification) will be placed on the Register.

It is intended that the Register will reduce repeat offending by disqualified drivers (‘specific deterrence’) and road traffic offences by drivers in general (‘general deterrence’).

Theory and Evidence

The six key theoretical arguments that are typically made in favour of public disclosure strategies are set out in Table E1, below.

The formal deterrence argument

Formal deterrence argument proposes that being publicly identified as an offender increases the perceived severity of an offence, and in doing so should motivate offenders to avoid offending (specific deterrence) and would-be offenders from offending in the first place (general deterrence) (Lapham & Todd, 2012). For example, where drivers perceive public disclosures as having an impact on both mobility and work opportunities, this adds to the formal deterrent value of the sanction.

Studies on formal deterrence in both preventing offending in general, and in reducing road traffic offences in particular, have reported inconsistent findings. Some of the evidence points to a positive effect, some a negative effect and others still, no effect (Freeman, Armstrong, Truelove, & Szogi, 2015). It is precisely due to these inconsistent findings that criminal justice systems have sought alternative sanctions that can augment traditional deterrence.

There is no evidence specific to driver disqualification that suggests that being publicly identified as a disqualified driver will add to the perceived severity of the consequences of the offence and thus add to the formal deterrent value of disqualification.

The incapacitation argument

Incapacitation theory suggests that criminal justice strategies that reduce the opportunities for offenders to commit offences should lead to an overall reduction in

both recidivism and first-time offending (Stahlkopf, Males, & Macallair, 2008). Public disclosures are widely used in the area of sexual offending, for example. Syntheses of the empirical research have concluded that the evidence does not support the assertion that community notifications of sexual offenders reliably reduces recidivism however, leading some authors to conclude that even extensive notification procedures fail to deter sex-offender recidivism (Zevitz, 2006) and that the high costs of maintaining notification systems is potentially unjustifiable (Zgoba, Witt, Dalessandro, & Veysey, 2008).

The incapacitation argument in relation to the Register of Disqualified Drivers has been made in the Irish media in recent times. The argument here is that a substantial proportion of disqualified drivers continue to drive during the disqualification period. This is evidenced in the enforcement data, with disqualified drivers accruing penalty points or further disqualification orders during the period of their disqualification (RSA, 2017). Public disclosures, it is argued, would at least enable employers of professional drivers (e.g. transport and haulage companies) to identify employees who receive disqualification orders and do not report the disqualification to the employer. Theoretically it might also arise that a disqualified driver would be prevented from, or encouraged to avoid, driving while disqualified by family members or members of the community.

The former assumes that employers would routinely access the Register and match identities with those in their employment. The latter assumes that members of the community would intervene to prevent a disqualified driver from driving a vehicle. Neither assertion has been tested in the literature on offending of any form. Both should be subject to primary research.

Table E1: At a glance - 6 arguments put forward to support public disclosure strategies and other forms of informal sanctions

Argument	Assertion
Formal deterrence	Publicly identifying disqualified drivers is a legal sanction that is severe and unavoidable and should thus deter road traffic offending.
Incapacitation	Publicly identifying disqualified drivers empowers the community (including employers) to prevent them driving while disqualified.
Public interest	Publicly identifying disqualified drivers empowers the community to avoid disqualified drivers and thus reduce their risk of collision, injury or death on the roads.
Social control	Publicly identifying disqualified drivers exposes them to criticism and shaming by the community, and which should motivate them to avoid offending again in the future.
Self-regulation	Publicly identifying disqualified drivers exposes them to self-criticism leading to emotions such as shame, guilt and humiliation, and which should motivate them to avoid offending again in the future.

General Deterrence	Drivers in general should be motivated to avoid engaging in road traffic offending as they anticipate that public naming will lead to shaming and negative moral emotions.
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Public Interest

Agencies such as the ODCE and the FSAI publish lists of individuals and companies that are in breach of their standards and regulations. In both cases, the primary justification for the public disclosure is that it is in the public interest to do so.

Informing members of the public of the identities of individuals/companies who have been found to be insufficiently competent to direct a company (in the case of the ODCE), or who have failed to meet minimum food safety standards (in the case of the FSAI) allows the public to make informed decisions as to with whom they do business and where they can safely source food. Similarly, the primary justification for community notifications of sex offenders is that it is in the public interest to do so, empowering the community to put potential victims beyond the reach of offenders.

However, the public interest argument is less relevant in the context of the Register of Disqualified Drivers. It is unclear what situations would arise where knowing the identity of a disqualified driver would enable a member of the community to avoid that person on the road, for example. Hypothetical situations could be contrived, but these have not formed part of the justification for the Register to date.

Informal sanctions – social control

While public disclosure strategies may have a formal deterrent value, more typically they are viewed as a form of informal sanction that alters behaviour through social shaming (i.e. social shaming as a form of social control).

Reintegrative Shaming Theory (RST) proposes that shaming can be effective in reducing recidivism where the shamed individual experiences forgiveness and is provided with opportunities for rehabilitation and reintegration (Braithwaite, 1989). However, where shaming is disintegrative due to an absence of a reintegrative or rehabilitative process, it is inherently stigmatising and may ultimately lead to increased risk of reoffending (Becker, 1973). There is empirical evidence to support RST, including evidence that derives from reintegrative shaming experiments (e.g. Benson, Alarid, Burton, & Cullen, 2011; Coricelli et al., 2014; Hamai & Ellis, 2006; Kao, Fu-Yuan Huang, & Wang, 2009; Kuo, Longmire, & Cuvelier, 2010; Bradley Ray, Cindy Brooks Dollar, & Kelly M. Thames, 2011), including the Juvenile Diversion Programme administered by An Garda Síochána (O'Dwyer & Sarma, 2003).

However, it is very difficult to justify public disclosure campaigns using the social control argument. There is no reintegrative component to public listings of disqualified drivers and technically these approaches are disintegrative in nature, unlikely to work and potentially increasing the risk of recidivism.

Self-regulation

Theoretically the experience of shame or guilt may encourage an individual to self-regulate his/her own behavior to avoid these negative affective states in the future. Psychology would caution against the use of such emotions to regulate behavior and reduce recidivism risk for road traffic offending. The evidence would suggest that the emotion of shame can lead to both psychological distress (Gilbert, Pehl, & Allan, 1994) and an increased risk of recidivism (Hosser, Windzio, & Greve, 2007). This

arises, it is argued, because shame involves the belief that 'I am bad', a global interpretation of the self that cannot be easily addressed. Consequently, the individual can internalise the belief with chronic effects for self-esteem and wellbeing and potentially exacerbating pre-existing conditions including anxiety, depression or alcohol dependence. The individual may also externalise the belief leading to anger, aggression and recidivism. In either case, shame is a maladaptive emotion.

While the evidence for a second emotion, guilt, has been linked to reduced risk of recidivism, the actual emotion elicited in disclosure strategies will be largely determined by emotion-proneness in the individual and is beyond the control of the agency disseminating the information.

General deterrence

It is unclear to what extent a Register of Disqualified Drivers would deter road traffic offending in the general driver population. While there is a considerable body of evidence that suggests that fear of shame and guilt is linked to lower levels of offending or intention to commit offences, none of these studies have examined public disclosure campaigns. Rather, they treat anticipated shame as trait-like proneness, and correlate the level of anticipated shame with an intention/inclination to commit an offence or actual offending later (e.g. Svensson, Weerman, Pauwels, Bruinsma, & Bernasco, 2013). The findings from this body of evidence, therefore, are not particularly useful (valid) when considering the potential value of the proposed register.

The general deterrent effect of public disclosures has been explored in the areas of sexual offending and regulatory compliance. Community notification of sexual offenders does not appear to reliably reduce rates of sexual offending (Vásquez, Maddan, & Walker, 2007). However, they do appear to have a deterrent effect on financial and food safety compliance implications (e.g. van Erp, 2007). Again, the regulatory compliance evidence is of limited relevance to the proposed register. The deterrent effects of these strategies are believed to be due to a fear of loss of revenues that would result from reputational damage if publicly named as non-compliant (e.g. Devos & Zackrisson, 2015; Lenter, Slemrod, & Shackelford, 2003). While a disqualified driver may experience a loss of income if disqualified (e.g. in the case of a professional driver), this arises due to the disqualification itself, rather than the public disclosure. It is also relevant to note that the decision-making processes behind regulatory offences tend to involve deliberate and rational choices – choices that can be influenced by increasing the severity of the consequences of offending. There is more heterogeneity in the aetiology of road traffic offending and while some offences may be planned and clearly deliberate, in some cases the offence arises from split-second poor-judgement. The latter may be less easily impacted by increasing the severity of offences.

Implications for the RSA

The RSA is faced with a significant challenge in building a strong justification for public disclosures in relation to disqualified drivers. The narratives used to justify these strategies tend to focus on a 'naming *without* shaming' or a 'naming *with* shaming' narrative (van Erp, 2011). The difficulty for the RSA is that the evidence available does not support either narrative with regards to a Register of Disqualified Drivers.

Simply naming disqualified drivers (naming *without* shaming) is unlikely to reduce recidivism, because it is not demonstrated in the evidence that this deters recidivism through increasing the severity of punishment, incapacitating offenders or enabling the community to protect itself.¹ The naming without shaming justification, then, is not easily applied to the Register (though it is easily applied in the area of regulatory non-compliance).

The argument put forward by proponents of social control approaches, argue that where formal deterrents do not impact on behaviour, then informal shaming approaches may work – the naming *with* shaming narrative. However, social control and shaming is unlikely to reduce recidivism among disqualified drivers, in part because there are no reintegrative or rehabilitative aspects to the approach. The register would be considered an example of a disintegrative strategy and social control experts would adopt the position that it may increase the risk of recidivism.

Recommendations

The best evidence available does not support the assertion that a register of disqualified drivers will have a positive impact on road traffic offending. Moreover, there is good reason to be concerned about the potential for the Register to have unintended negative impacts. The broader literature from criminology advises against any form of public disclosure that simply names offenders, without offering any reintegrative or rehabilitative follow-up intervention. This strategy is particularly problematic where naming offenders does not offer a clear way to prevent them from offending (i.e. incapacitation) or allow the public to take steps to avoid encountering disqualified drivers on the road (i.e. public interest). There is also the potential for public disclosures to lead to increased psychological distress amongst those named, including those with pre-existing mental health difficulties (e.g. depression or anxiety) or who are undergoing treatment for such difficulties (e.g. in the case of alcohol dependence).

Given the lack of supporting evidence, and these potential negative consequences of public disclosure strategies, the evidence does not support the introduction of a publicly-available Register of Disqualified Drivers at this time. The RSA should consider the value of postponing the introduction of the Register until primary research with drivers and disqualified drivers can be undertaken and the potential adverse consequences can (if present) be better understood and mitigated against.

¹ One specific argument put forward to support the incapacitation argument is that disclosures would enable employers of professional drivers to identify employees who received a disqualification order and did not report this to the employer. This assumes that employers would routinely access the Register and match identities with those in their employment. It is possible that the same outcome could be more efficiently achieved through a restricted disclosure shared between the RSA, insurance companies and employers of professional drivers and where the latter is required to cross-reference the driver license numbers from a disqualification list with those of their employees, and do so a set, and regular, intervals.

Table E2: Summary of the evidence relevant to the six arguments for public disclosure campaigns

Argument	Assertion	What the evidence suggests
Formal deterrence	Publicly identifying disqualified drivers is a legal sanction that is severe and unavoidable and should thus deter road traffic offending.	It is unclear to what extent recidivism would be decreased by public notifications of disqualified drivers.
Incapacitation	Publicly identifying disqualified drivers empowers the community to prevent them driving while disqualified.	No obvious comprehensive suite of actions that would incapacitate a disqualified driver has been articulated to date.
Public interest	Publicly identifying disqualified drivers empowers the community to avoid disqualified drivers and thus reduce their risk of collision, injury or death on the roads.	Evidence from public notification of sexual offenders' identities does not support this assertion. It is unclear how exactly public could avoid disqualified drivers.
Social Control	Publicly identifying disqualified drivers exposes them to criticism and shaming by the community, which should motivate them to avoid offending again in the future.	Evidence provides conditional support for shaming where there is a formal reintegrative or rehabilitative process. The proposed Register would be considered to be disintegrative in nature however, and may increase recidivism risk.
Self-regulation	Publicly identifying disqualified drivers exposes them self-criticism leading to emotions such as shame, guilt and humiliation, and which should motivate them to avoid offending again in the future.	The RSA cannot control what emotion will be elicited in disqualified drivers listed on the Register. This will be largely determined by the emotion proneness of the driver. If shame is elicited, then this may lead to increased recidivism risk.
General Deterrence argument	Drivers in general should be motivated to avoid engaging in road traffic offending as they anticipate that public naming will lead to shaming and negative moral emotions.	Evidence on anticipated emotion suggests that it can motivate the general population to be law abiding, though the evidence base relating to public disclosures is limited. For sexual offending, there is no evidence that rates of sexual offending are positively impacted by community notifications. For regulatory compliance, the evidence is positive (though this evidence base lacks validity with regards to the proposed register).

Section 1: Introduction

1.0 Background and Context

Accidents, injuries and fatalities that occur through road traffic collisions (RTCs) are considered preventable events that arise due to the complex interaction of vehicle, environment and human factors (Bonilla-Escobar & Gutiérrez, 2014). They are preventable to the extent that most RTCs involve decision making errors and failure on the part of a driver to adjust his/her driving behaviour to suit the prevailing conditions (vehicle and environment). This may arise due to so-called killer behaviours that include excessive speed, driving when intoxicated or fatigued, and reckless driving (Luk et al., 2017; McNally & Bradley, 2014; Otero & Rau, 2017; Viallon & Laumon, 2013). Efforts to reduce such behaviours have the potential to significantly decrease the incidence and lethality of RTCs.

To this end, the Road Safety Authority of Ireland (RSA) is exploring a range of potential initiatives to improve road safety in the Republic of Ireland (henceforth, Ireland). One such initiative is publicising a list of disqualified drivers on what is referred to here as the *Register of Disqualified Drivers*. At the time of writing of this report, the RSA is in consultation with the Department of Transport, the Data Protection Commissioners and others in order to explore the feasibility and legality of the Register.

The practice of publicly naming individuals and/or companies in breach of regulations is not novel and is commonly referred to as ‘public disclosure’ strategies (Pawson, 2001). The Revenue Commissioners, for example, publish a quarterly *List of Tax Defaulters* and both the Food Safety Authority of Ireland (FSAI) and the Health Information and Quality Authority (HIQA) can also name services that fail to meet specified levels of service quality. Similarly, the Office of the Director of Corporate Enforcement (ODCE) identifies restricted and disqualified company directors.

International opinion on public disclosures is divided. Some argue that public disclosures are both effective and efficient, and potentially valuable as an alternative to, or in addition to, traditional court sanctions (e.g. Book, 1999). However, there is a growing voice internationally that urges caution, suggesting that public disclosures are an affront to dignity, an invasion of privacy, are ultimately degrading and can have unknown and uncontrollable consequences for those identified and their families (e.g. Nussbaum, 2004).

Against this backdrop, the RSA have sought this synthesis of the best evidence available that can inform the proposed public disclosure of disqualified drivers. The central question addressed by the report is: ‘Is the Register likely to have road safety value in reducing recidivism and offending in the general driver population?’ As such the report is primarily concerned with the issue of effectiveness.

The report brings together three key sources of information on informal sanctions and public disclosures:

- 1) Theories on deterrence of recidivism and offending in the general population,
- 2) Evidence on the effectiveness of formal and informal sanctions and,
- 3) Accounts of existing public disclosure initiatives.

Before examining the theory and evidence in the area, this first section of the report discusses some core concepts relevant to the area of public disclosures, and

provides an overview of the proposed Register of Disqualified Drivers in terms of the types of disqualification that could lead to being publicly named and the different types of offending it could deter.

1.1 Some core concepts

Formal vs. informal sanction

The report distinguishes between formal and informal sanctions. Formal sanctions are the direct legal consequences of being convicted of an offence. In the context of public disclosure strategies, where such strategies are mandated in law, then they are part of a formal legal sanction and may be viewed as such by the offender. In the case of road traffic offending, for example, drivers may be motivated to adhere to road traffic laws because they fear being disqualified, receiving a monetary fine and being placed on a register, and which are collectively viewed by the driver as the legal consequence of being disqualified. To the extent that being placed on the Register is viewed as a legal consequence, it is a **formal sanction** (for more on formal legal sanctions, see Baron, 2013).

However, where the driver views the threat of being placed on the register as having social (“the community will reject and shame me”) and/or psychological (“I will feel guilt or shame”) consequences it is also an **informal sanction** (Clinard & Meier, 2007).

Specific vs. general deterrence

The report also distinguishes between specific and general deterrence. Public disclosure strategies can seek to motivate existing offenders to avoid reoffending and in such circumstances, are referred to as a form of **specific deterrence**. Here the offender experiences the negative consequences of being publicly identified and makes the conscious decision that he/she does not wish to re-experience these consequences again. Specific deterrence is based on actual experience of offenders (Davey & Freeman, 2011).

Public disclosure strategies may also motivate the general population to avoid offending. This arises because the public, or the general driving population in the case of the Register of Disqualified Drivers, anticipates that being publicly identified would lead to a range of negative legal, social and personal consequences. Here the public disclosure may lead to **general deterrence**.

1.2 Offences that may lead to public disclosure

There are multiple routes to disqualification in this jurisdiction (see Table 1). The RSA is considering using the register for those who receive a *Consequential Disqualification*: that is, drivers who have been convicted of road traffic offences in court leading to disqualification. This may arise from convictions for careless driving, dangerous driving, driving without insurance, driving a defective vehicle, driving without reasonable consideration, driving while unfit, drink-driving, drunk in charge of a vehicle and refusal to provide a breath specimen.

Disqualification can apply on first conviction (e.g. dangerous driving) or subsequent convictions (e.g. second and subsequent convictions for driving without insurance or driving a defective vehicle). Disqualified drivers are required to surrender their driving licences to the National Driving Licencing Service (NDLS), who retain the licence until the period of disqualification has passed.

Those receiving an Ancillary Disqualification (e.g. where a vehicle was used in the commissioning of a crime) will also be placed on the Register. However, the RSA is not proposing including those who have been disqualified solely due to the accrual of penalty points (i.e. Penalty Points Disqualification) or those who are medically unfit to drive (i.e. Special Disqualification Orders) at this time (see Table 1).

Table 1: Types of disqualification in Ireland (based on legal definitions).

Consequential
Where a person is convicted of a specified offence (e.g. driving under the influence of intoxicating liquor or drug), the court makes a consequential disqualification order declaring that driver to be disqualified from holding a driving licence.
Ancillary
Where a person is convicted of an offence in relation to a mechanically propelled vehicle or the driving of any such vehicle or of a crime or offence in the commission of which a mechanically propelled vehicle was used, the court may, without prejudice to the infliction of any other punishment authorised by law, make an ancillary disqualification order declaring the person convicted to be disqualified from holding a driving licence.
Special
Where an officer of An Garda Síochána has reasonable grounds for believing that a person who is the holder of a driving licence is by reason of disease, physical or mental disability is unfit to drive a vehicle (or is otherwise ‘incompetent to drive), such officer may apply to a Justice of the District Court having jurisdiction in the place in which such person ordinarily resides for an order under this subsection. If the Justice is satisfied that such person is by reason of disease, physical or mental disability unfit to drive (or otherwise incompetent to drive), he/she may make the appropriate order declaring such person to be disqualified for holding a driving licence until he/she produces to the appropriate licensing authority a certificate of fitness or certificate of competency.
Penalty Points
When penalty points are endorsed on a person and, in consequence, the total number of penalty points standing so endorsed equals or exceeds 12, the person stands disqualified for a period of 6 months beginning on the appropriate date for holding a licence.

1.3 Preventing both repeat offending and first-time offending

The Register of Disqualified Drivers would target two key groups of drivers.

Disqualified Drivers (specific deterrence)

Disqualified drivers will be placed on the register for the period of their disqualification. A core objective of the register will be to deter these individuals from engaging in road traffic violations in the future (i.e. specific deterrence, targeting recidivism). The five key arguments that can be made in favour of publicly naming offenders to reduce recidivism risk are summarised in Table 2, below, and are considered in detail in Section 2 of this report (i.e. traditional deterrence, incapacitation, public interest, social control/public shaming, self-regulation through moral emotions).

Table 2: Arguments made in support of public disclosure strategies

Recidivism Risk	
Argument	Assertion
Traditional deterrence	Publicly identifying disqualified drivers is a legal sanction that is severe and unavoidable and should thus deter road traffic offending.
Incapacitation	Publicly identifying disqualified drivers empowers the community to prevent them driving while disqualified.
Public interest	Publicly identifying disqualified drivers empowers the community to avoid disqualified drivers and thus reduce their risk of collision, injury or death on the roads.
Social Control/ Public shaming	Publicly identifying disqualified drivers exposes them to criticism and shaming by the community, and which should motivate them to avoid offending again in the future.
Self-Regulation/ Moral emotion	Publicly identifying disqualified drivers exposes them to self-criticism leading to emotions such as shame, guilt and humiliation, and which should motivate them to avoid offending again in the future.
General Deterrence	
Argument	Assertion
General Deterrence argument	Drivers in general should be motivated to avoid engaging in road traffic offending as they anticipate that public naming will have serious consequences, potentially including shaming and negative moral emotions.

Other Drivers (general deterrence)

Other drivers who have not been disqualified may be motivated to adhere to road traffic laws due to fear of being placed on the Register and the effect this may have on their lives (the general deterrence argument; Bushway & Reuter, 2011). As with disqualified drivers, they may be motivated to avoid experiences of shame and embarrassment, and to avoid the financial loss associated with being 'off the road'. In contrast to the disqualified driver, where the deterrent effect is based on actual experience, for these drivers the deterrent effect is based on anticipated experience (anticipated regret, anticipated shame etc.).

1.4 Approach to the report

This report considers each of the key arguments that have been made in support of public disclosure strategies. This is done by reviewing the theory and evidence relating to each argument (Section 2 of this report). The report also examines a number of public disclosure strategies that have been used at home and abroad, and considers the relevance and implications of these strategies for the Register of Disqualified Drivers (Section 3 of the report).

Section 2: Theory and research relevant to public disclosures

2.0 Introduction

In this section of the report we consider each of the key arguments traditionally made in support of public disclosure strategies. This is done with reference to theory and evidence from criminal justice studies and the social sciences.

2.1 Recidivism - The formal deterrence argument

Theory

The traditional deterrence argument suggests that publicly identifying disqualified drivers is a legal sanction that is severe and unavoidable and should thus deter road traffic offending.

Formal sanctions tend to be informed by Deterrence Theory (Lapham & Todd, 2012). Deterrence Theory proposes that would-be offenders consider the risks associated with a range of actions before deciding how to act. More specifically, the individual considers a) the severity of the sanction if detected (severity of punishment) b) the speed with which punishment is delivered (speed or celerity of punishment) and c) the certainty that punishment would result from the offence if detected (certainty of punishment) (Paternoster, 1987). Those designing risk-mitigation or offender-prevention programmes that harness deterrence theory attempt to create a system within which illegal behaviours are met with sanctions that are swift, severe and certain, thus deterring offending behaviour.

Evidence

The evidence on formal sanctioning to prevent recidivism is mixed however. In their systematic review of the literature on recidivism, Freeman and colleagues note that there are two bodies of evidence available, one supporting the assertion that fast, severe and certain punishments deter future offending, and the other suggesting that formal sanctions have no impact or may actually increase offending (Freeman et al., 2015).

Looking specifically at the road safety literature, some of the evidence would suggest that formal sanctions can reduce recidivism in the area of speeding (e.g. penalty points; De Paola, Scoppa, & Falcone, 2010), driving without a licence (Voas, Tippetts, & Lange, 1997) and drink driving (Homel, 1988). However, there are contradictory findings, with some evidence suggesting that these effects may be insignificant (Piquero & Paternoster, 1998) and a number of studies suggest that reoffending rates can actually increase as the severity of the punishment for road traffic violations increase (e.g. Lenton, Fetherston, & Cercarelli, 2010). It is because of this lack of consistent findings that criminal justice systems have sought alternative forms of informal sanction (discussed later in Sections 2.4 and 2.5) to augment formal deterrence strategies.

Conclusion

The assertion that publicly identifying disqualified drivers will add to the severity of the legal consequences of road traffic offending and thus deter road traffic offending has not been specifically evaluated in the literature. Primary research is needed that specifically probes the formal deterrent value of public disclosure strategies in reducing repeat offending.

2.2 Recidivism – The incapacitation argument

Theory

Incapacitation theory suggests that criminal justice strategies that physically reduce the opportunities for offenders to engage in recidivistic offending will lead to a reduction in offending (Stahlkopf et al., 2008). The incapacitation argument in relation to the Register of Disqualified Drivers has been made in the Irish media in recent times. The argument here is that a substantial proportion of disqualified drivers continue to drive during the disqualification period, as evidenced by their accruing penalty points or further disqualification orders. Public disclosures, it is argued, would at least enable employers of professional drivers (e.g. transport and haulage companies) to identify employees who have received a disqualification order and did not report this to their employers. Theoretically, it might also arise that a disqualified driver would be prevented or discouraged from driving while disqualified by family members or members of the community.

Evidence

There is an almost complete absence of valid evidence to inform the assertion that the Register would prevent disqualified drivers from driving. The best literature base on incapacitation within the public disclosure literature pertains to sexual offending, where some jurisdictions have legislated for 'community notification' of convicted sexual offenders. Theoretically, this should enhance surveillance of high-risk individuals.

Syntheses of the empirical research have concluded that the evidence does not support the assertion that community notifications of sexual offenders reliably reduce recidivism however. This has led some authors to conclude that even extensive notification procedures fail to deter sex-offender recidivism (Zevitz, 2006) and that the high costs of maintaining notification systems is potentially unjustifiable (Zgoba, Witt, Dalessandro & Veysey, 2009).

Conclusion

As noted earlier, one of the arguments put forward for the Register is that it would enable employers of professional drivers to identify those disqualified. There is no literature that has considered this potential benefit of public disclosure or indeed if some alternative approach to disclosure (e.g. direct disclosure to employers of professional drivers) might achieve the same, or better, outcomes. Nor is there any specific evidence that a family member or member of the community would intervene to prevent a disqualified driver from driving.

2.3 Recidivism - The Public Interest argument

The public interest argument proposes that informing the public as to the identities of offenders allows them to take steps to avoid being placed at risk by their future actions. As discussed in detail in Section 3, a number of public disclosure strategies in Ireland are justified primarily as being in the public interest, and including those used by the Revenue Commissioners and the Food Safety Authority of Ireland (FSAI). The public interest argument has also been used to justify community notification of the identities and location of sexual offenders, though the evidence would not support the effectiveness of public disclosures in this context in reducing recidivism rates.

The public interest argument is less relevant in the context of the Register of Disqualified Drivers. It is unclear what situations would arise where knowing the identity of a disqualified driver would enable a member of the community to avoid that person on the road, for example. Hypothetical situations could be contrived, but these have not formed part of the justification for the Register to date. As such, we would argue that the public interest argument is not valid in the context of a register of disqualified drivers.

2.4 Social control and public shaming (reducing recidivism)

Most frequently, arguments in support of public disclosure strategies view this approach as an informal sanction that works through social control (public shaming) and self-regulation (moral emotions) (e.g. Hosser et al., 2007; Kim & Gerber, 2012). The deterrent effect arises where the disqualified driver experiences shame, embarrassment and humiliation at being publicly listed as a disqualified driver (the moral emotion argument) or feels pressurised, scrutinised, criticised and shamed by his/her community (the public shaming argument). Theoretically, disqualified drivers who experience such negative social and psychological consequences of being disqualified should be motivated to self-regulate and avoid engaging in road traffic offending in the future (Grasmick, Bursik, & Arneklev, 1993).

Theory

Within criminology, Braithwaite's theory on Reintegrative Shaming has formed the backdrop to many so-called public shaming sanctions. Shaming, for Braithwaite, refers to 'all social means of expressing disapproval with the intention of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming' (Braithwaite, 1989, p. 100). He argues that where individuals feel scorned, criticised and abandoned by significant others in their community, they can be motivated by this experience to avoid future offending. This arises from the need of an individual to feel connected with, and accepted by, family, friends and the broader community.

However, according to Reintegrative Shaming Theory this will only arise where the shaming is followed by a formal process of forgiveness and reintegration into the community ('reintegrative shaming', Murphy & Harris, 2007; Ray, Dollar & Thames, 2011). Where this does not arise, the offender experiences the stigma of shame and abandonment, whilst also feeling labelled by his/her actions ('disintegrative shaming', Robbers, 2009). This label, in turn, can be incorporated into the individual's personal identity and lead to further offending (Becker, 1973). As such, reintegrative shaming can reduce recidivism, while disintegrative shaming can increase recidivism.

A large and diverse range of offender programmes have drawn on RST (e.g. Benson et al., 2011; Coricelli et al., 2014; Hamai & Ellis, 2006; Kao et al., 2009; Kuo et al., 2010; Bradley Ray et al., 2011). Typically, such projects involve extensive reintegrative processes that include, for instance, the offender meeting with victims and their families to better understand the impact of his/her offences, gestures of restitution (small gifts for example) and the signing of a contract where the offender undertakes to abide by the law (O'Dwyer & Sarma, 2003).

Evidence

Some studies suggest that public shaming initiatives can lead to a reduction in violence, property offending and shoplifting, for example (Lawrence, Strang, & Woods, 2000). In a review of 36 studies that compared restorative justice

programmes (informed by RST) with traditional sanctions, Sherman and Strang (2007) concluded that the reintegrative approaches were more effective in reducing recidivism than conventional approaches for violent crimes and property crimes (see also, Bonta, Jesserman, Ruge, & Cormier, 2006; Latimer, Dowden, & Muise, 2005).

However, other studies have reported that shaming approaches that do not successfully integrate rehabilitative processes are counter-productive and may actually increase offending (Murphy & Harris, 2007). As noted earlier, such shaming is believed to be stigmatising and can lead to projected offending, where the individual views himself/herself in a way that is concordant with the label and acts accordingly (Coricelli et al., 2014). For example, the failure of community notifications to reduce recidivism risk has been explained as a consequence of the additional public scrutiny that arises from public naming of offenders, and which hampers their ability to reintegrate into the community (Zgoba et al., 2008). It has also been proposed that fear of being named and shamed may deter sexual offenders from seeking treatment and ultimately increase recidivism risk (Presser & Gunnison, 1999).

There have been a number of attempts to use Reintegrative Shaming to reduce drink driving recidivism. The quality of the evaluations of these initiatives is mixed, however, as are the findings. In one of the more authoritative evaluations, Tyler and colleagues explored the impact of reintegrative shaming on recidivism for drink driving in Caberra, Australia (Tyler, Sherman, Strang, Barnes, & Woods, 2007). Nine-hundred cases of drinking and driving were randomly allocated to either the traditional court-processing system or a restorative justice initiative where charges against the driver were dropped if they attended a conference with five supporters (family members, friends and/or members of the community) 'who would shame the act of drinking and driving while supporting the offender' (p.5). In some cases the conferences led to an agreement with the driver that he/she would make reparative gestures such as donating money to charity or working with community organisations. Long-term effects were measured through both self-report and police records and suggested that the reintegrative shaming approach did not lead to lower levels of recidivism than the traditional approach.

Conclusion

While the evidence base on reintegrative shaming may appear relevant to public disclosure strategies, we would caution against over-reliance on this evidence. On one level, the process of reintegration synonymous with these initiatives is not a feature of the *Register of Disqualified Drivers* being proposed by the RSA. That is, there is no formal process of forgiveness or reintegration that follows the public disclosure – proponents of reintegrative shaming would consider public disclosures of this nature to be disintegrative and judge them to be unlikely to reduce recidivism rates (e.g. for the impact of disintegrative shaming on tax evasion recidivism for example, see; Coricelli et al., 2014; Murphy & Harris, 2007). Second, while some of the findings from the evaluations of reintegrative shaming strategies are positive, others report no effects, or negative effects, when compared to traditional sentencing (Strang & Sherman, 2006; Tyler et al., 2007). Third, in traditional reintegrative shaming experiments, the shaming is put in place *instead* of the formal sanction, whereas in many public disclosure campaigns, including the proposed Register, it is *in addition* to that sanction.

As such, we would recommend that the public shaming argument not be used to support the introduction of a Register of Disqualified Drivers. The best evidence would suggest that public shaming that does not include a reintegrative component may exacerbate recidivism risk and thus may ultimately be counter-productive.

2.5 Recidivism - Moral emotions argument

Theory

One of the reasons that disintegrative shaming is believed to be ineffectual is that the shame emotion is linked to a host of negative outcomes. In explaining how this may arise, it is necessary to differentiate between two core emotions that are associated with moral decision-making (i.e. moral emotions).

Shame is an emotional response resulting from a negative evaluation of the self ('I am bad'). An important aspect of this negative self-evaluation is that it is non-discriminatory, and applied to the whole self. Because it is so all-encompassing, there is often no clear avenue for an individual to overcome shame and it can be internalised (e.g. depression) or externalised (e.g. anger). This is particularly the case where there is no rehabilitative community process that allows the individual to rebuild the assault on his/her self-esteem caused by the shame experience (Hosser et al., 2007). For this reason, shame is often considered to be a maladaptive emotion.

Guilt, conversely, is an emotional response resulting from a negative evaluation of one's behaviour. Whereas shame involves the judgement that 'I am bad', guilt involves a judgment that 'what I did was bad', and the focus here is on a specific behaviour (Svensson et al., 2013).

Theoretically, shame and guilt act differentially on reoffending risk. Because there are no clear strategies for dealing with shame, the offender can either internalise the experience resulting in psychological distress (e.g. depression), or externalise the experience by experiencing anger towards and blaming others, including victims (Tangney, Wagner, Fletcher, & Gramzow, 1992). The latter may arise as the individual seeks to restore his/her rank in society or to bypass the experience of shame (Wright, Gudjonsson, & Young, 2008), and it is through these mechanisms that shame is linked to increased risk of recidivism (Bumby, Marshall, & Langton, 1999). For this reason, psychological science cautions against the use of shame in offender rehabilitation initiatives.

Evidence

This caution is supported by the empirical evidence. Research from clinical psychology has demonstrated that shame experiences are associated with a wide range of psychopathologies, including depression, alcohol dependency and personality disorders (Gilbert et al., 1994) and in some studies the magnitude of this association has been medium-to-large (e.g. for depression, Gilbert, 2000). It has also been proposed that shame experiences can make pre-existing psychological difficulties worse (e.g. social anxiety) and, in some clinical populations, can increase the risk of suicide (Arditte, Morabito, Shaw, & Timpano, 2016).

We also know that an individual's response to shame-based approaches is largely determined by the individual's emotion proneness - some individuals are more prone to shame than others. This has been demonstrated in multiple studies where levels of shame proneness and guilt proneness vary across individuals. In these studies shame proneness is consistently associated with anger arousal, resentment,

suspiciousness, irritability, externalizing blame, malevolent intentions and displaced aggression (Tangney et al., 1992; Tangney, Wagner, Hill-Barlow, Marschall, & Gramzow, 1996). Other research has linked shame-proneness to anger that is directed inwards at the self (Lutwak, Panish, Ferrari, & Razzino, 2001).

Guilt-proneness, on the other hand, leads to adaptive coping mechanisms where the offender considers ways of avoiding those actions in the future (building self-efficacy). Guilt-proneness leads to a psychological openness to considering the impact of offending on victims, as well as ways of repairing any harm caused. In many of the aforementioned studies, guilt-proneness and offence-related guilt has been associated with lower levels of anger, aggression and hostility, empathy towards victims and lower reoffending risk (e.g. Hosser et al., 2007).

The difficulty, however, is that the actual emotion elicited in response to public disclosures is largely determined by the disqualified driver's proneness to different emotions – and is beyond the control of the agency releasing the names of disqualified drivers.

Where shame is elicited, then the evidence is similar to that reported for disintegrative shaming approaches reported earlier. This research has been synthesised elsewhere (Tangney, Stuewig, & Hafez, 2011) and in general would support the assertion that shame can motivate individuals to adopt a defensive position in relation to the offence, by seeking ways of avoiding responsibility for those actions. For example, in one study of 1243 incarcerated young offenders (aged 14-24) who completed a battery of psychological questionnaires within 4 weeks of incarceration, shame ratings predicted higher levels of recidivism, even having controlled for a range of other possible explanatory variables (e.g. age, substance abuse etc.) (Hosser et al., 2007). Similarly, Wright and colleagues examined offence-related shame in a sample of 60 men detained in forensic psychiatric units and found that offence-related shame was associated with higher levels of anger (Wright et al., 2008). These findings are in-line with laboratory based shame-induction studies, which have reported a correlation between shame, anger and aggression (e.g. Thomaes, Bushman, Stegge, & Olthof, 2008).

Conclusion

The moral emotion argument cannot be used to support the assertion that public disclosures will reduce recidivism risk in the absence of primary research. Disqualified drivers' emotional responses to being publicly identified may be primarily determined by their proneness to shame and/or guilt and therefore outside the control of the RSA. While those prone to guilt may be motivated to adjust their driving style in future, those prone to shame may react defensively to being named, potentially leading to increased risk of recidivism. In general there is a lack of evidence as to what moral emotions are targeted and elicited in public disclosure campaigns and primary research is required in order to better understand the positive or negative consequences of disclosure.

2.6 General deterrence

Theory

Theoretically, drivers in the general population, who have not been disqualified, may be deterred from engaging in road traffic violations because they anticipate that being placed on the register would have a negative practical impact on their lives (e.g. loss of mobility) or lead to the negative affective states of shame, guilt,

embarrassment and/or humiliation. Concerns in relation to the negative consequences of shame are less relevant in this context, as that emotion is not actually experienced and rather it is the anticipation of a negative emotion that motivates the individual.

Research

The literature on anticipated emotions in the criminal offending literature is sparse, and that which has been published has adopted a broad conceptualisation of shame that has not always differentiated between shame and guilt. In one of the few empirical studies in the area, Svensson and colleagues examined anticipated shame and guilt and offending behavior among more than 800 children in second-level education (aged c.12-16) in The Netherlands (Svensson et al., 2013). They reported that lower levels of self-reported anticipated shame and guilt due to offending were associated with higher levels of actual offending ($r > .5$ for both associations). This echoed earlier research with 14-year old children in Sweden which also reported that lower levels of anticipated shame were associated with higher levels of delinquency, and with the effect holding for both boys and girls (Svensson, 2004).

Rebellion and colleagues (2010) also examined anticipated shaming and offending. In their study, they asked undergraduate students (typically aged 19) about anticipated feelings of shame or embarrassment in a hypothetical scenario where the research participants stole money from an employers' cash-register. They found a negative relationship between anticipated shame and intention to steal, though the context of the research was family and friends' knowledge of the hypothetical event and thus could relate to the emotion of humiliation rather than shame.

A number of studies explored the link between anticipated shame and driving offences. Grasmick and Bursik (1990) surveyed 360 people in an urban area of the USA, who completed a questionnaire battery including measures of anticipated shame, and certainty of apprehension if they were to engage in drink-driving. They found that higher levels of anticipation of shame was strongly associated with a disinclination to engage in drink-driving ($r = .54$, i.e. a large effect). A few years later they surveyed drivers in Oklahoma City on their fear of shame-based sanctions and formal legal sanctions for drink-driving, and reported that fear of shame was a primary motivation that led to a reduction in drink-driving between 1982 and 1990 (Grasmick et al., 1993). Neither study, however, examined public disclosure strategies, and the second study (Grasmick et al, 1993) involved fear of shame that emerged due to shame-based road safety adverts.

Public disclosures in the area of regulatory compliance have been evaluated and a number of syntheses of this evidence have been published. In relation to identifying individuals and companies guilty of tax non-compliance, for example, public disclosure appears to have a deterrent value and this is particularly pronounced for corporations where there is concern for brand image and reputation (social control) – that is, they are a form of 'reputational sanction' that can have severe financial implications (van Erp, 2007). The effect for individuals is less consistent, potentially because shaming can have negative unintended consequences (e.g. Devos & Zackrisson, 2015; Lenter et al., 2003).

The evidence on the general deterrent value of public disclosures for sexual offending has reported very mixed findings. Vasquez and colleagues for example reviewed sexual violence rates pre-to-post the enactment of public registration

initiatives in 10 US states, and reported that one experienced an increase in sexual violence, three experienced declines and 6 others experienced no significant changes in offending rates (Vásquez et al., 2007).

Conclusion

It is unclear to what extent a Register of Disqualified Drivers would deter road traffic offending in the general driver population. While there is a considerable body of evidence that suggests that fear of shame and guilt is linked to lower levels of offending or intention to commit offences, none of these studies have examined public disclosure campaigns. Rather, they treat anticipated shame as trait-like proneness, and correlate the level of shame with either intention/inclination to commit an offence or actual offending later. The studies did not examine shame as a response to being publicly linked to an offence.

Public disclosures do not appear to reduce rates of sexual offending, for example, but do have a deterrent effect on financial and food safety compliance. However, the regulatory compliance evidence is of limited relevance here. The deterrent effects of these strategies are believed to be due to fear of loss of revenue that would result from reputational damage if publicly named as non-compliant. While a disqualified driver may experience a loss of income if disqualified (e.g. in the case of a professional driver), this arises due to the disqualification itself, rather than the public disclosure. It is also relevant to note that the decision-making processes behind regulatory offences tend to involve deliberate and rational choices – choices that can be influenced by increasing the severity of the consequences of offending. Road traffic offences that are based on split-second poor-judgement may be less easily impacted by changing the severity of offences.

Taking into consideration the lack of studies on public disclosures in the road safety area, it is hard to predict to what extent, if any, the proposed register would lead to a reduction in road traffic offences in the general driver population.

Section 3: Examples of public disclosures

3.0 Introduction

While there are a wide range of public disclosures used in deterring offending, these tend to address six main forms of offending – financial crime; corporate regulation; breach of health and safety regulations; identification of ‘wanted’ individuals; notifications of sexual offenders; and driving-related offending. Examples of each are illustrated below and their relevance to the proposed Register of Disqualified Drivers is considered.

In compiling these case studies, interviews were conducted with staff from the Irish Revenue Commissioners, the Food Safety Authority of Ireland and the Office of the Director of Corporate Enforcement.

3.1 Examples of public disclosure strategies

3.1.1 Financial crime and The List of Tax Defaulters, Ireland

Offences targeted
Failure to make a return, failure to remit tax, failure to maintain books and records, or delivery of an incorrect return, misuse of marked mineral oil, oil laundering, excise offences; licencing offences and Vehicle Registration Tax offences.
Nature of the offences
Non-compliance is often the result of a rational choice where an individual or company view the risks associated with non-compliance to be outweighed by the gains. Offences in this context are deliberate and premeditated. Moreover, individuals and companies have an opportunity to make voluntary disclosures of non-compliance prior to being subject to an audit, thus avoiding being placed on the list.
Disclosure provided for in legislation?
Yes, Section 1086 of the Taxes Consolidation Act 1997 and Finance Act 2016
Description
The list is published in 2 parts. Part 1 identifies persons in whose case the Court has determined a penalty relating to a settlement, or has imposed a fine, imprisonment or other penalty in respect of a tax or duty offence. Part 2 contains cases where ‘extensive voluntary disclosure options are not availed of and the default arises as a result of careless or deliberate behaviour’. ² For the period between April 1 st and June 27 th 2017, for example, the list includes 259 cases, with total fines and penalties (excluding the tax itself) exceeding €1.3 million. Seven individuals were listed for under-declaration or non-declaration of tax, 143 were listed for failure to make lodge a tax return, remit tax, maintain books and records, or delivery of an incorrect return. Almost 60 (n=58) were listed for misuse of marked mineral oil, three for oil laundering, and 45 for excise, licencing and VRT offences (e.g. smuggling of tobacco or alcohol, failure to hold a liquor

² <http://www.revenue.ie/en/corporate/press-office/press-releases/2017/pr-270617-defaulters.aspx>

licence, possession of an unregistered vehicle etc.). The list is published as excel, .csv and .pdf files.

The list contains the name and address of the individual or company listed, the occupation/nature of business, fine amount, sentenced imposed and number of charges. For those listed for under-declaration or non-declaration of tax a field 'additional particulars' is included which details the offence involved (e.g. 'Under-declaration of Income Tax in the amount of €145,230').

New legislation introduced in the Finance Act 2016 obliges Revenue to identify settlements where the person has failed to pay within the relevant period.

Theoretical argument

The core arguments put forward in support of the list are that a) the Agency is statutorily required to disclose the identities of tax defaulters, b) the strategy may have a specific (recidivism) and general (those who are currently compliant) deterrent effect as being listed is viewed as having reputational consequences and c) listing can incapacitate offenders to the extent that citizens can potentially use the list to make informed decisions in relation to with whom they do business.

Information released by the Revenue Commissioners to coincide with the quarterly listing is factual and delivered without emotional/judgemental language.

Evidence base

There is extensive research on the various strategies that have been employed to encourage tax compliance (Casagrande et al., 2015; Coricelli et al., 2014). The most controversial debate has centred on the value of public disclosure of tax information (Kornhauser, 2005). A number of syntheses of this evidence have been published. Key conclusions reached in these syntheses are that a) there is evidence that public disclosure of the identifies of defaulters has a deterrent value, b) in addition to deterrent value, public disclosures encourage good governance (due to fear of disclosure) and stable financial markets (public interest), c) the deterrent value is pronounced for corporations where there is particular concern for brand image and reputation, d) the effect for individuals is less consistent and shaming can have negative unintended consequences, e) the deterrent effects are less pronounced in cultures where tax evasion is viewed as morally legitimate (or at least not immoral), and thus where fear of backlash from customers is of less concern (e.g. Devos & Zackrisson, 2015; Lenter et al., 2003).

Evaluation of efficacy

There has been no formal evaluation of the specific or general deterrent effect of the List of Tax Defaulters. However, the Revenue Commissioners report that they deal with a significant number of robust challenges to public disclosure, which would suggest that defaulters perceive the severity of the consequences of public disclosure to be high. These challenges are mounted by individuals, companies and their representatives.

Relevance to RSA Register

The relevance of public disclosures by the Revenue Commissioners to the register is limited by the following:

1. While tax evasion can arise due to careless behaviour and failing to make a voluntary disclosure in advance of a Revenue Audit, the decision to evade

tax is typically a conscious one that is deliberate and premeditated. Such offences involve controlled cognitive processing. Road traffic offending that involve behaviours that are habitual and/or impulsive may be less malleable to increasing the severity of sanctions, because there is less opportunity to consider the implications of the offence.

2. It is plausible to argue that identifying tax defaulters can incapacitate offenders and otherwise be in the public interest (e.g. by drawing attention to those who have been listed for fuel laundering or breaches of licencing laws etc.). The same arguments are less plausible with regards to the proposed *Register of Disqualified Drivers*, as discussed in Section 2 of this report.

Other

The Revenue Commissioners draw attention to the importance of having clarity in relation to who will be named (type of offence), what information will be disclosed, how it will be released (medium/media) and the type of message that supports the release. They also draw attention to their experience of dealing with robust challenges to being listed.

3.1.2 Corporate crime - Office of the Director of Corporate Enforcement (ODCE)

Offences targeted

Breaches of the Companies Acts and European Community regulations including furnishing false and misleading invoices, producing false audit reports, acting as a Statutory Auditor when not approved to so act, failure to hold an AGM etc.

Nature of the offences

Corporate offences are often deliberate, and the process leading to the offence being committed can be protracted, leaving the individual(s) with time to consider the costs and benefits of committing an offence. There is often ample opportunity for responsible individuals (e.g. directors and secretaries) to consider the severity of the consequences of the sanctions imposed for non-compliance with the relevant legislation. In some cases, however, actions are due to a lack of knowledge of compliance regulations, and failure to retain professional services to support compliance - many companies established in this jurisdiction are based on the work of one, or a small number of, employees configured as a company (e.g. electricians etc.).

Disclosure provided for in legislation?

Yes. Companies Act 1963 and 1990

Description

The ODCE is tasked with promoting and enforcing compliance with the Companies Acts, by improving public understanding of company laws and regulations and identifying and bringing to account those who disregard the law. Penalties for non-compliance can take the form of incarceration and financial penalties and/or incapacitating sanctions - disqualification, automatic disqualification, restriction, and company strike-off. Disqualification and restriction can be at the order of the

Court, or through an undertaking by the offender (Disqualification Undertaking or Restriction Undertaking).

The ODCE reports court-rulings on its website:

A) Individual reports for each court case typically include the name and address(es) of the defendant(s), the alleged offences and outcome;

B) Details of sample illustrative cases are often described in detail in the agency's Annual Report and;

C) Restriction Declarations or Undertakings are listed in the Annual Report for that year (Company numbers, Company Name, Director Name and Date of Restriction/Disqualification).

108 Restrictions and 12 Disqualifications were listed for 2016.

Theoretical argument

The theoretical argument for public disclosures of corporate non-compliance is the same as that for the List of Tax Defaulters. Namely:

- 1) They warn members of the public as to the identities of unreliable companies (public interest argument);
- 2) Encourage transparency and accountability in both compliance and governance (public interest argument);
- 3) Deter recidivism and others from becoming non-compliant (formal deterrence argument) (van Erp, 2011).

The ODCE recognises that there can be a shame component to being disqualified or restricted, but public shaming or moral self-regulation are viewed as being secondary considerations when releasing information.

Evidence base

The evidence on public disclosures and tax compliance is relevant here (see above). In addition, there have been a number of studies on corporate compliance that have reported that both informal and formal deterrence strategies can have value, particularly where there is low moral inhibition to being non-compliant (Paternoster & Simpson, 1996). As a rational choice, even those with low moral inhibition will see the disclosure as being a deterrent given the reputational, and potential financial, implications of public disclosure. Others have argued in case study research that financial penalties are often insufficient on their own to improve compliance, potentially because many companies do not see these penalties as particularly severe (van Erp, 2011). Rather, it has been argued, these companies view public disclosure as a 'reputational sanction' that can have severe financial implications (van Erp, 2007).

Evaluation of efficacy

None

Relevance to RSA Register

The relevance of public disclosures by the ODCE to the register is limited by the following:

1. Reputational damage is likely to be a real concern for corporations and directors, and will form part of their consideration of the necessity to be

compliant with regulations. However, the concern here is more to do with loss of market share rather than feeling ashamed or shamed by the community. It is difficult to make a similar argument in the context of a *Register of Disqualified Drivers*.

2. Regulatory non-compliance occurs over time. Offences such as falsifying Audit Reports take time – during which the decisions made by Directors and others may be influenced by the suite of sanctions in place for that offence if detected.

3.1.3 Health and safety – Disclosures by the Food Safety Authority of Ireland (FSAI)

Offences targeted
Breaches of food safety and hygiene legislation, covering a range of areas across the food chain.
Nature of the offences
While there may be variation in practices across inspecting ('authorised') officers, typically businesses are given an opportunity to take steps to avoid being subject to an order. This would suggest that they have time to consider the importance of compliance with standards and regulations. Increasing the severity of the sanction for non-compliance with a public disclosure facet should motivate businesses to consider the risks associated with non-compliance.
Disclosure provided for in legislation?
Yes, EC (Official Control of Foodstuffs) Regulations (S.I. No. 117 of 2010), FSAI Act 1998.
Description
<p>Three types of orders are made publicly available by the FSAI through the Agency's website. Closure Orders (ordering the closure of all or part of the food premises, or all or some of the activities) are listed with information provided for each closure order under 10 fields. These include the date the order was served and lifted, issuing agency, the legislation under which the closure order is made, the name of the individual served with the closure order, the premise name and address, county, business category and business type. Ninety-four Closure Orders were issued in 2016.</p> <p>Prohibition Orders are also listed, providing information on orders that led to the prohibition of the sale of a product and due to concerns about the handling, disposal, manufacturing, storage and/or distribution for sale of that product. The list reports the same information as Closure Orders, with an additional field reporting the products that have been withdrawn under orders by the issuing agency. Nine prohibition orders were issued in 2016.</p> <p>Finally, Improvement Orders are issued where an authorised officer forms an opinion that the handling, preparation etc. of the food or the condition of a premises is such that it does, or may in the future, pose a risk to public health. Three improvement orders were made in 2016.</p> <p>Orders are covered in the local and national media.</p>

<p>Theoretical argument</p>
<p>Food safety is a public health issue and public disclosures are disseminated with the primary goal of notifying the public of premises and products that have been subjected to sanction by the FSAI (public interest argument). They also seek to prevent individuals and business that have breached regulations from distributing or retailing where there is a threat to public safety (incapacitation argument). The primary deterrent effect arises due to the severity of the consequences of being subject to an order, which can lead to the complete closure of the business. While closure may be short-term, the long-term consequences that result from reputational damage can be very severe.</p> <p>The FSAI do not refer to social control or shame-based arguments when discussing their disclosures and, like the Revenue Commissioners, the information that the agency disseminates relating to the disclosures is factual/objective and delivered without emotional or judgemental language.</p> <p>In the future the FSAI intends to begin releasing the authorised officer’s report that led to the Order, and which will provide more information on the specific reasons for the orders.</p>
<p>Evidence base</p>
<p>Almost all jurisdictions in Europe, as well as Canada, Australia the US and elsewhere, publicly disclose information relating to food safety inspections. The theoretical deterrent-based arguments for these inspections has been clearly articulated, with reference to the severity of the legal and financial sanctions involved, and with particular reference to the impact of reputational damage on market share in a competitive environment (e.g Bavorová & Hirschauer, 2012). This is supported in a range of empirical investigations, primarily from the US, that have reported increases in compliance with hygiene standards following the implementation of mandatory disclosures (Spear, 2006) and a decrease in hospitalisations from food-related illness (Jin & Leslie, 2003). A synthesis of the literature base has concluded that public disclosures are very effective in improving food safety standards (e.g. Weil, Fung, Graham, & Fagotto, 2006).</p>
<p>Evaluation of efficacy</p>
<p>The FSAI has not completed a formal evaluation of the deterrent effect of the Orders on recidivism or general deterrence.</p>
<p>Relevance to RSA Register</p>
<p>The relevance of public disclosures by the FSAI to the disclosure strategy being considered by the RSA is limited by the following:</p> <p>Some road traffic violations are less planned and involved faster decision making than violating food safety standards. Authorised officers typically issue warnings before an order is issued, and thus there is more time to consider the risks associated with public disclosure.</p> <p>The FSAI’s argument that public disclosures empower citizens to avoid consuming foods produced or served by those listed is supported by evidence. Furthermore, the argument that disclosures are likely to be effective as being publicly listed, and the reputational damage that ensues, can have profound consequences for businesses, is also evidenced in the international literature.</p>

Other
The FSAI stress that cultural acceptance of the value of the standards being enforced is central to compliance with regulations. Without this acceptance neither businesses nor customers will react in the planned way and the deterrent effect will be eroded. At times the FSAI have produced awareness-raising material to explain and justify standards and have published this information in multiple languages.

3.1.4 Serious offending - PSNI Operation Relentless and bench warrants

Offences targeted
Failure to appear in Court
Nature of the offences
The offence is failure to appear in Court, though those identified tend to be facing charges for serious offences including blackmail, threats to kill, violence and serious road traffic offences.
Disclosure provided for in legislation?
No specific legislation for public disclosures.
Description
The PSNI began a public disclosure strategy in early 2017 where those who fail to appear in court to answer charges are publicly identified. In the public notification, which is disseminated via social media, the name, address, charges faced and a picture of the individual are included. Members of the public are asked not to post a public reply on the social media site, but rather to contact the police directly via phone or private Facebook message.
Theoretical argument
<p>The theoretical justification for Operation Relentless appears to be that it:</p> <ul style="list-style-type: none"> A) Empowers the public to incapacitate the offender by playing a role in his/her detention by the police, while also restricting the ability of the offender to commit offences in the community (incapacitation). B) Empowers the public to avoid serious offenders if they choose to do so (public interest). <p>There is no publicly available information that would suggest that the purpose of the disclosure is to shame the individual, but rather this form of public notification of 'wanted' individuals is done to facilitate the apprehension those on so-called 'bench warrants'.</p>
Evidence base
There is no empirical evidence on the value of public disclosures in this area, though it is clear that members of the community have been instrumental in the apprehension of offenders subject to public disclosure, including in the areas of counter-terrorism.
Evaluation of efficacy

None
Relevance to RSA Register
The relevance of this campaign for the proposed Disqualified Driver Register is limited by the fact that these strategies are focused more on apprehension and incapacitation of offenders than deterrence, social control or shame.

3.1.5 Sexual offenders - Community notifications in the US

Offences targeted
Sexual offending. Community notification of sexual offenders. Note that registration (e.g. the Sex Offenders Register in Ireland) is not a public disclosure strategy as information is not released to the community but rather shared between responsible agencies of the State.
Nature of the offences
Offences can be opportunistic or planned and premeditated
Disclosure provided for in legislation?
Yes
Description
Community notification in the US commenced in 1997 following enactment of Megan's Law (Federal) and subsequent State legislation. The legislation mandates public disclosure of information on convicted sexual offenders to the public, typically via social media sites, and with information further disseminated by the mainstream media. In some states all offenders are identified, in others only those posing the highest risk are subject to notification. While the specific information disseminated varies across states, typically a photograph of the offender, name, address, date of incarceration, and offence(s) is included.
Theoretical argument
Community notification of the identity of sexual offenders is typically justified as being in the <i>public interest</i> . Theoretically it enables the community to take steps to avoid being victimised. Megan's Law emerged following the murder and sexual assault of seven-year-old Megan Kanka, by an offender with previous convictions. It had been argued that community notifications would have enabled her parents to take steps to prevent the offence. It has also been argued that community notification deters would-be offenders as they fear being subject to a public disclosure.
Evidence base
As noted in Section 2 of this report, the best evidence has failed to demonstrate that community notification incapacitates offenders or deters first-time offending – few studies have reported significant changes in sexual violence levels when comparing rates prior to and after the implementation of notification strategies (for an exception see; Duwe & Donnay, 2008), many have reported no effects (e.g. Zevitz, 2006), and some have reported increases (Lobanov-Rostovsky, 2012).
Evaluation of efficacy

As noted earlier, evaluations of the efficacy of individual notification strategies, and effectiveness of the approach in general, would tend to suggest that they have no consistent effect on either recidivism or first time offending.

Relevance to RSA Register

Community notifications are relevant to the extent that public disclosure may increase the perceived severity of offending and thus pose a formal deterrence to recidivism and first-time offending. However, the relevance of this type of disclosure is limited by the nature of the offences involved. Moreover, the justification for this strategy, even if there was evidence that the approach did deter offending, is based almost solely on public interest/protection.

3.1.6 DUI Plates in the US

Offences targeted

Drink Driving (driving under the influence of alcohol (DUI)).

Nature of the offences

Deliberate, with varying degrees of planning.

Disclosure provided for in legislation?

Yes.

Description

A number of states in the US have introduced special registration plates for those convicted of drunk driving (or 'driving under the influence' [DUI]). In some states these are brightly coloured, while in others the offence is indicated within the lettering and numbering of the plate. In Minnesota, for example, the original registration plate is impounded and the driver convicted of certain DUI incidents must obtain a special registration plate (called 'whisky plates'). Where the vehicle is owned by a family member, or other person, the owner may be required to display the special plate also (for a summary of the provisions, state-by-state, see NCSL [2016]).

Theoretical argument

The strategy is based on the assumption that fear of the shame of having such a plate on a vehicle would have a deterrent effect, but also that it would allow the community to be sensitised to these drivers and potentially intervene to prevent their drink-driving.

Evidence base and Evaluation

Just one study has explored the impact of the DUI plates. Porter (2013) examined the impact of the strategy on drink-driving and alcohol-related traffic safety in Ohio. Two sets of eighty-eight counties outside of Ohio were matched to the same number of counties within the state, and arrest data per 10,000 residents was obtained. Arrest rates increased in the two non-Ohio samples across the implementation period, but decreased in the Ohio counties. However, in subsequent analyses, results suggested that the sanction was only effective to a point and that at higher levels of shame, the sanction 'may actually worsen a

country's drunk-driving issue' (p. 883), a finding that the author discusses with reference to Labelling Theory and Reintegrative Shaming Theory.

Relevance to RSA Register

DUI plates do not 'name' offenders, but rather make them more visible to the public.

Implications:

Porter's study raises concerns that there is a curvilinear relationships between shame sanctions and risk reduction, where risk of offending can increase at higher levels of perceived severity of the consequences of offending.

3.2 Conclusion

Two main forms of strategies emerge in this review. First, there are strategies that can be justified because they are in the public interest, incapacitate offenders and offer a formal deterrence to would be-offenders. These strategies have been labelled 'name *without* shame' strategies because whilst agencies acknowledge that shame may arise as a result of offenders being publicly named, this is not the primary intention of the disclosures (van Erp, 2011). Examples considered in this report include the disclosures made by the Food Safety Authority of Ireland (FSAI), the Irish Revenue Commissioners and Office for the Director of Corporate Enforcement (ODCE). Research would suggest that disclosures in these areas can result in reputational damage to business and the financial implication of this damage adds to the formal deterrence value of legal sanctions. Behaviour change does not arise due to shame, however, but rather due to fear of financial loss.

A second form of disclosure attempts to use social control and self-regulation to prevent recidivism and first-time offending. These 'name *and* shame' campaigns tend to be justified on the basis that traditional sanctions do not work optimally and that only societal pressure and self-regulation will bring about a reduction in offending. The evidence base for the shame-based strategy in reducing drink driving rates was mixed, with the author cautioning that there is a risk that such a strategy could lead to an increase in crime rates.

Section 4: Conclusions and recommendations

4.0 A note on the limitations of the evidence available

Before setting out our conclusions and recommendations, it is important to acknowledge the following limitations of the evidence available:

1. The studies examined were typically of poor quality, with methodological and conceptual limitations, and which ultimately undermine our confidence in the **reliability** of the findings reported.
2. Most of the studies, and case studies, identified have explored the impact of offending on financial and regulatory crimes, or sexual offending. No study explicitly evaluated the efficacy of public disclosures in reducing recidivism or road traffic offending in the general driver population. It is never clear to what extent findings from studies exploring one form of crime can be generalised to another. The concern here is the **validity** of the evidence available.

In addition, the report has not dealt with the practical administrative challenges that are associated with public disclosure strategies, and including issues around data quality, the potential for incorrect identification of drivers, the processing of appeals and challenges, and the overall resourcing of the initiative.

Our conclusions and recommendations should be viewed in the context of these limitations.

4.1 Would a Register of Disqualified Drivers deter offending?

Likely impact on recidivism risk

The Register of Disqualified Drivers is unlikely to reduce recidivism risk. This conclusion is based on the following synthesis of the evidence.

1. Public disclosure strategies do not appear to increase the perceived severity of repeat offending, and have had variable impacts on recidivism rates across a range of forms of offending, with studies reporting increases in recidivism risk, decreases in recidivism risk or no significant effects.³ The RSA cannot conclude that publicly naming disqualified drivers would reduce recidivism risk and **the formal deterrence argument cannot be used to support the proposed register.**
2. The evidence does not support the suggestion that community notifications of disqualified drivers would either physically prevent them from driving while disqualified (the incapacitation argument) or enable members of the community to avoid them (the public interest argument). ***It is unlikely that public disclosures would either prevent recidivism or enable citizens to protect themselves against the risk posed by disqualified drivers who continue to drive while disqualified.***
3. The social control argument cannot be used to support the proposed register. Theoretically, public disclosure strategies that incorporate a reintegrative shaming component may reduce recidivism risk. However, the Register of Disqualified Drivers would not have such a component and would thus be

³ Note that the literature on public disclosures and reputational damage as a motivation for corporate and health and safety compliance does not deal with recidivism risk, but rather general deterrence.

disintegrative in nature. ***Disintegrative shaming is associated with increased recidivism risk.***

4. Finally, and in terms of encouraging self-regulation, the RSA will have little control over the emotions experienced by disqualified drivers named in public disclosures. Rather the emotional consequence will be determined primarily by the shame and guilt-proneness of the driver. ***Where shame is elicited, this is linked to increased recidivism risk and a host of other negative unintended consequences.***

Likely impact on the general driving population

It is unclear to what extent a Register of Disqualified Drivers would deter road traffic offending in the general driver population. While there is a considerable body of evidence that suggests that fear of shame and guilt is linked to lower levels of offending or intention to commit offences, none of these studies have examined public disclosure campaigns. Rather, they treat anticipated shame as trait-like proneness, and correlate the level of anticipated shame with either intention/inclination to commit an offence or actual offending later. The findings from this body of evidence, therefore, are not particularly useful (valid) when considering the potential value of a public register.

The general deterrent effect of public disclosures has been explored in the areas of sexual offending and regulatory compliance. Community notification of sexual offenders does not appear to reduce rates of sexual offending. However, they do appear to have a deterrent effect on financial and food safety compliance. Again, the regulatory compliance evidence is of limited relevance to the proposed register. The deterrent effect of these strategies is believed to be due to fear of loss of revenues that would result from reputational damage if publicly named as non-compliant. While a disqualified driver may experience a loss of income if disqualified (e.g. in the case of a professional driver), this arises due to the disqualification itself, rather than the public disclosure. It is also relevant to note that the decision-making processes behind regulatory offences tend to involve deliberate and rational choices – choices that can be influenced by increasing the severity of the consequences of offending. It may be that road traffic offences based on split-second poor-judgement may be less easily impacted by changing the severity of offences.

Taking into consideration the lack of studies on public disclosures in the road safety area, **it is hard to predict to what extent, if any, the proposed register would lead to a reduction in road traffic offending in the general driver population.**

4.2 Implications for the RSA

The RSA is faced with a significant challenge in building a strong justification for public disclosures. The narratives used to justify these strategies tend to focus on a 'naming *without* shaming' narrative or a 'naming *with* shaming'. The difficulty for the RSA is that **the evidence available does not support either narrative with regards to a Register of Disqualified Drivers.**

Simply naming disqualified drivers (naming *without* shaming) is unlikely to reduce recidivism, because it is not demonstrated in the evidence that this actually deters recidivism through increasing the severity of punishment, incapacitating offenders or

enabling the community to protect itself.⁴ The naming without shaming justification, then, is not easily applied to the register (though it is more easily applied in the area of regulatory non-compliance).

The argument put forward by proponents of social control approaches is that informal shaming approaches may work under conditions where formal sanctioning is not optimally effective - the naming *with* shaming narrative. However, social control and shaming is unlikely to reduce recidivism among disqualified drivers, in part because there are no reintegrative or rehabilitative aspects to the approach. The Register would be considered an example of a disintegrative strategy and social control experts would adopt the position that it could increase recidivism risk.

4.3 Recommendations

The best evidence available does not support the assertion that a register of disqualified drivers will have a positive impact on road traffic offending. Moreover, there is good reason to be concerned about the potential for the register to have unintended negative impacts. The broader literature from criminology strongly advises against any form of public disclosure that simply names offenders, without offering any reintegrative or rehabilitative follow-up intervention. This strategy is particularly problematic where naming offenders does not offer a clear way to prevent them from offending (i.e. incapacitation) or allow the public to take steps to avoid encountering disqualified drivers on the road (i.e. public interest). There is also the potential for public disclosures to lead to increased psychological distress amongst those named, including those with pre-existing mental health difficulties (e.g. depression or anxiety) or who are undergoing treatment for such difficulties (e.g. in the case of alcohol dependence).

Given the lack of supporting evidence, and these potential negative consequences of public disclosure strategies, the evidence does not support the introduction of a publicly-available Register of Disqualified Drivers. The RSA should consider the value of postponing the introduction of the register until primary research with drivers and disqualified drivers can be undertaken and the potential adverse consequences can (if present) be better understood and mitigated against.

⁴ One specific argument put forward to support the incapacitation argument is that disclosures would enable employers of professional drivers (e.g. transport and haulage companies) to identify employees who received a disqualification order and did not report this to the employer. This assumes that employers would routinely access the Register and match identities with those in their employment. It is possible that the same outcome could be more efficiently achieved through a restricted disclosure shared between the RSA, insurance companies and employers of professional drivers and where the latter is required to cross-reference the driver license numbers from a disqualification list with those of their employees, and do so a set, and regular, intervals.

Table 3: Summary of the evidence relevant to the five arguments for public disclosure campaigns

Argument	Assertion	What the evidence suggests
Formal deterrence	Publicly identifying disqualified drivers is a legal sanction that is severe and unavoidable and should thus deter road traffic offending.	It is unclear to what extent recidivism would be decreased by public notifications of disqualified drivers.
Incapacitation	Publicly identifying disqualified drivers empowers the community to prevent them driving while disqualified.	No obvious comprehensive suite of actions that would incapacitate a disqualified driver has been articulated to date.
Public interest	Publicly identifying disqualified drivers empowers the community to avoid disqualified drivers and thus reduce their risk of collision, injury or death on the roads.	Evidence from public notification of sexual offenders' identities does not support this assertion. Unclear how exactly public could avoid disqualified drivers.
Social Control	Publicly identifying disqualified drivers exposes them to criticism and shaming by the community, which should motivate them to avoid offending again in the future.	Evidence provides conditional support for shaming where there is a formal reintegrative or rehabilitative processes – which are not processes associated with public disclosure strategies. The proposed register would be considered to be disintegrative in nature and may increase recidivism risk.
Self-regulation	Publicly identifying disqualified drivers exposes them to self-criticism leading to emotions such as shame, guilt and humiliation, and which should motivate them to avoid offending again in the future.	The RSA cannot control what emotion will be elicited in disqualified drivers listed on the register. This will be largely determined by the emotion proneness of the driver. If shame elicited, then this may lead to increased recidivism risk.
General Deterrence argument	Drivers in general should be motivated to avoid engaging in road traffic offending as they anticipate that public naming will lead to shaming and negative moral emotions.	Evidence on anticipated emotion suggests that it can motivate the general population to be law abiding, though the evidence base relating to public disclosures is limited. For sexual offending, there is no evidence that rates of sexual offending are positively impacted by community notifications. For regulatory compliance, the evidence is positive (though this evidence base lacks

		validity with regards to the proposed register).
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