

**ANTHONY JONES**  
**INSURANCE BROKERS**

# RESILIENCE

**Strengthen | Support | Protect**

THE ROAD TO A SAFER FLEET  
AND HEALTHIER BOTTOM LINE  
DRIVING LEGISLATION

Driving Legislation & Penalties  
Road Safety Facts & Tips

**dac**  
DAC BEACHCROFT







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# INTRODUCTION

Anthony Jones Insurance Brokers are delighted to support the focus on effective Health and Safety management in conjunction with our chosen legal partner DAC Beachcroft. This easy to understand handout will explain all the basics you need to know about driving legislation and penalties as a driver and employer, along with some helpful facts and tips.

The Health and Safety of your employees should be an integral part of your strategy and decision making. It's important to recognise that managing drivers and a fleet of vehicles is an extremely complex task. It is definitely not a one-person job. Driving for work is widely accepted, and has been proven to be, one of the most dangerous tasks any employer can ask an employee to do.

A significant feature of the work Anthony Jones and DAC Beachcroft have in place is a Motor Prosecutions 24 Hour Response provision. With the increasing focus on legislation and prosecutions following serious or fatal road traffic collisions, there has been a significant increase in the number of drivers being interviewed under caution and therefore requiring immediate assistance. This is a stressful time for drivers, who more than likely will have had no previous involvement with the police at such a level. By offering driver representation, you are acting with your drivers' best interests in mind.

DAC Beachcroft's national, dedicated Motor Prosecutions team operate a 24 hour service that ensures drivers receive early advice from a specialist lawyer, as well as police station representation throughout England, Wales, and Scotland. Representation with specialist lawyers from the moment of the police attending the scene, through to all stages of the police investigation, and criminal proceedings/inquest proceedings, will ensure an efficient and seamless service.

**'RESILIENCE'** is DAC Beachcroft's driver and fleet safety solution and will help shift time and resources away from reactively managing collisions and incidents, to implementing pro-active measures to improve collision prevention and improve driver and fleet safety. This does not have to be an ordeal and **'RESILIENCE'** will make it as easy as 1 - 2 - 3.

- 1. STRENGTHEN** policies, processes and procedures to enable you to protect your drivers and operate a safer fleet.
- 2. SUPPORT** to analyse and identify areas of vulnerability and implement changes to reduce your exposure to risk.
- 3. PROTECT** you if the worst happens, safe in the knowledge that you have done as much as possible to mitigate your risk.

*The team at Anthony Jones would like to thank DAC Beachcroft for allowing us to share their insight and expertise with our customers.*

*Your choice of insurance broker is an important one. The value of what you've bought goes beyond cover and the premium you pay. It's only when you make a claim or need to access specialist support and advice that you can really appreciate what you have in place.*



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## *The most serious offences*

# CAUSING DEATH BY DANGEROUS DRIVING

A person is to be regarded as driving dangerously if:

- the way he or she drives falls far below what would be expected of a competent and careful driver, and
- it would be obvious to a competent and careful driver that driving in that way would be dangerous.
- The driving was a cause of the death (note it only need be a minimal cause and not the sole or main cause)





A person is also to be regarded as driving dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

Above, "dangerous" refers to danger either:

- of injury to any person, or
- of serious damage to property.

When considering what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be given not only to the circumstances which he or she could be expected to be aware of, but also to any circumstances shown to have been within the knowledge of the accused.

When determining whether or not driving the vehicle in its current state would be dangerous, regard may be given to anything attached to or carried on or in it, and to the manner in which it was attached or carried.

## Penalties

- A maximum of life imprisonment.
- Minimum disqualification of 5 years.
- An extended re-test is compulsory.

You won't automatically get your licence back if you're a high risk offender.

The disqualification is extended to cover any time spent in prison.

*See Corporate Manslaughter and Gross Negligence Manslaughter sections.*

# DANGEROUS DRIVING

## Penalties

The maximum penalties for dangerous driving are:

- **Dangerous driving:** 2 years' imprisonment.
- **Disqualification:** Must endorse and disqualify for at least 12 months. Must order extended re-test OR disqualify for at least 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years.

Factors indicating higher culpability;

- Disregarding warnings of others.
- Evidence of alcohol or drugs.
- Carrying out other tasks while driving.
- Carrying passengers or heavy load.
- Tiredness.
- Aggressive driving, such as driving much too close to vehicle in front, racing, inappropriate attempts to overtake, or cutting in after overtaking.
- Driving when knowingly suffering from a medical condition which significantly impairs the offender's driving skills.
- Driving a poorly maintained or dangerously loaded vehicle, especially where motivated by commercial concerns.

Factors indicating greater degree of harm;

- Injury to others.
- Damage to other vehicles or property

## Tips

Have a separate 'Driving Training Policy';

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

Use independent experts and products such as '**RESILIENCE**' by DAC Beachcroft.

## Facts

Most common causes of dangerous driving involve: speeding, mobile phone use, alcohol, drugs and fatigue.

**2000** serious/fatal collisions a year involve a commercial vehicle.

**579** 'causing death or serious injury by dangerous driving' offences in 2019.

In 2022, **214** people were killed in crashes involving Light Goods Vehicles (LGVs). LGVs were involved in 2,835 fatal or serious collisions. Heavy Goods Vehicles (HGVs) were involved in 1,063 fatal or serious collisions.





# CAUSING SERIOUS INJURY BY CARELESS DRIVING

## A significant development in road traffic law

Prior to the introduction of this offence in June 2022, a driver who drove carelessly and caused serious injury to another could have expected to be prosecuted for an offence of careless driving. In terms of sentencing, while the Magistrates would have been entitled to treat any injuries caused as an aggravating feature, if they concluded that serious injury had been caused but the driver's culpability was relatively low then the driver could expect to receive 5-6 points on their licence and a fine.

Following the introduction of this offence, the consequences of a driver's actions will determine their sentence to a far greater extent than their culpability. In cases where a driver may be guilty of nothing more than a brief lapse in concentration they will be at risk of a custodial sentence if that lapse has led to serious injury being caused.

It is to be noted that "serious injury" means "really serious bodily harm" and this includes a wide range of injuries, from life changing injuries to broken bones where a full recovery can be expected.

## Penalties

- Punishable by a maximum of 2 years' imprisonment in the Crown Court.
- Mandatory disqualification from driving.
- Discretionary extended retest.

### Facts

Careless driving is driving that **falls below the standard of driving expected of a competent and careful driver**.

A driver's momentary intention, lapse in concentration or error in judgment can amount to careless driving.

It is an **objective assessment** and a driver's age, inexperience or any disability is irrelevant when assessing the standard of their driving

# CORPORATE MANSLAUGHTER

## Legislation

An organisation to which this section applies is guilty of an offence if the way in which its activities are managed or organised -

- (a) causes a person's death, and
- (b) amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased.

The organisations to which this section applies are -

- (a) a corporation;
- (b) a department or other body;
- (c) a police force;
- (d) a partnership, or a trade union or employers' association, that is an employer.

## FACTORS FOR JURY

This section applies where -

- (a) it is established that an organisation owed a relevant duty of care to a person, and
- (b) it falls to the jury to decide whether there was a gross breach of that duty.

The jury must consider whether the evidence shows that the organisation failed to comply with any health and safety legislation that relates to the alleged breach, and if so -

- (a) how serious that failure was;
- (b) how much of a risk of death it posed.

The jury may also -

- (a) consider the extent to which the evidence shows that there were attitudes, policies, systems or accepted practices within the organisation that were likely to have encouraged any such failure, or to have produced tolerance of it;
- (b) have regard to any health and safety guidance that relates to the alleged breach.





# Penalties

Penalties will include:

## VERY LARGE ORGANISATION

Where an offending organisation's turnover or equivalent very greatly exceeds the threshold for large organisations, it may be necessary to move outside the suggested range to achieve a proportionate sentence.

## LARGE ORGANISATION

Turnover more than £50 million

Offence category	Starting point	Category range
<b>A</b>	£7,500,000	£4,800,000 – £20,000,000
<b>B</b>	£5,000,000	£3,000,000 – £12,500,000

## MEDIUM ORGANISATION

Turnover £10 million to £50 million

Offence category	Starting point	Category range
<b>A</b>	£3,000,000	£1,800,000 – £7,500,000
<b>B</b>	£2,000,000	£1,200,000 – £5,000,000

## SMALL ORGANISATION

Turnover £2 million to £10 million

Offence category	Starting point	Category range
<b>A</b>	£800,000	£540,000 – £2,800,000
<b>B</b>	£540,000	£350,000 – £2,000,000

## MICRO ORGANISATION

Turnover up to £2 million

Offence category	Starting point	Category range
<b>A</b>	£450,000	£270,000 – £800,000
<b>B</b>	£300,000	£180,000 – £540,000

A remedial order will require a company or organisation to take steps to remedy any management failure that led to a death. The court can also impose an order requiring the company or organisation to publicise that it has been convicted of the offence, giving the details, the amounts of any fine imposed and the terms of any remedial order made.

The court may now make ancillary publicity orders against companies or organisations convicted of corporate manslaughter.

# GROSS NEGLIGENCE MANSLAUGHTER

## Legislation

This is an involved topic and the below simply outlines the main principles and sentencing.

The offence of gross negligence manslaughter (GNM) is committed where the death is a result of a grossly negligent (though otherwise lawful) act or omission on the part of the defendant – the main case where the principles are set out being *R v Adomako* [1994] UKHL 6.

In order to prove the offence, the prosecution must therefore establish the following elements:

- a) The defendant owed a duty of care to the deceased;
- b) By a negligent act or omission the defendant was in breach of the duty which he owed to the deceased;
- c) The negligent act or omission was a cause of the death; and
- d) The negligence, which was a cause of the death, amounts to gross negligence and is therefore a crime.

## Penalties

Culpability			
A	B	C	D
<b>Starting point</b> 12 years' custody	<b>Starting point</b> 8 years' custody	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 2 years' custody
<b>Starting point</b> 10 – 18 years' custody	<b>Starting point</b> 6 – 12 years' custody	<b>Starting point</b> 3 – 7 years' custody	<b>Starting point</b> 1 – 4 years' custody

# CRIMINAL MOTOR DEFENCE

## 24 HOUR RESPONSE

With the increasing focus on legislation and prosecutions following serious or fatal road traffic collisions, there has been a significant increase in the number of drivers being interviewed under caution and therefore requiring immediate assistance. We understand that this is a stressful time for your driver, who has often had no previous involvement with the police.

By offering driver representation, not only are you acting in the driver's best interests, but also ensuring that you are keeping a firm grip on the criminal proceedings thereby protecting your interests in any civil claim which may follow.

### WE CAN HELP YOU AND YOUR DRIVERS

Our national, dedicated Criminal Motor Defence team operates a 24 hour service that ensures your drivers receive early advice from a specialist lawyer as well as police station representation throughout England, Wales, and Scotland. Our expertise in this area means we have established contacts within the investigating authorities.

### OUR INITIAL RESPONSE INCLUDES:

Immediate contact with the investigating police officer to obtain details regarding the collision circumstances, physical evidence at the scene, early indicators from police collision investigators in relation to the mechanics of the collision, accounts of any witnesses, details of injured parties/deceased and dependants, vehicle defect issues. Details from the police at the scene enable us to quickly consider the risk of any potential conflict before making contact with your driver. In the event of a potential conflict, the matter is referred to our Health and Safety team who will protect your organisation's interests.

Where there is no conflict:

- Advise your driver at the scene in relation to providing the police with an initial account at the scene.

- Attendance at police station interviews and regular dialogue with the police as the investigation continues.
- Pragmatic advice as to the charges faced, ramifications of those charges, and advice in the event of being charged.

### WE MAKE THINGS BETTER

- Reassurance – our early involvement will not only provide reassurance for your driver but will give you peace of mind over any potential conflict which may arise between your organisation's interests and that of your driver.
- Protection – immediate advice to your driver protecting their interests as well as any liability considerations in the event of a civil claim.
- Reserving – our expert and timely advice will allow you to set an early and meaningful reserve.
- Representation – our ability, across England, Wales, and Scotland, to represent your drivers with specialist lawyers from the moment of the police attending the scene, through to all stages of the police investigation, and criminal proceedings/inquest proceedings, will ensure an efficient and seamless service.
- Reputation – representation of your driver, and early management of any PR issues following a collision can reduce the reputational impact on your organisation and get you on the front foot.

Should you be interested in further information about this product please contact:



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# OPERATOR LICENCING AND THE TRAFFIC COMMISSIONER

You will usually need a goods vehicle operator's licence if you use a goods vehicle of over 3.5 tonnes gross plated weight or (where there is no plated weight) an unladen weight of more than 1,525kg, to transport goods for hire or reward or in connection with a trade or business. You will also need a licence if you carry goods for hire or reward on international journeys when using a vehicle (or a vehicle combination) with a maximum laden weight of more than 2.5 tonnes.

For a vehicle and trailer combination, you will usually need a goods vehicle operator's licence if the **maximum laden weight or unladen weight** of the vehicle and trailer combined exceed 3.5 tonnes (or 2.5 tonnes if carrying goods for hire or reward in Europe).

Following the approval of a licence, the licence itself is subject to a number of ongoing mandatory conditions. One of the most important are 'good repute' or 'fitness'. Under the Goods Vehicle (Licencing of Operators) Act 1995, a traffic commissioner **MUST REVOKE** a standard operator's licence if he or she determines the holder of the licence is no longer of good repute.

Operator's have an ongoing duty to inform the Office of the Traffic Commissioner within 28 days of any events or matters affecting good repute or fitness, such as:-  
Relevant convictions of the company, its officers, servants or agents or:-  
Any information as to previous conduct of the company's officers, servants or agents, or its directors, in whatever capacity, if that conduct appears to relate to the company's fitness to hold a licence.

## What are relevant convictions?

It is very widely drafted and not limited to convictions sustained solely by the company that holds the licence but extends to convictions of any company director, employee or agent, any company linked with its directors and any parent company.

The Goods Vehicle (Licencing of Operators) Act 1995 sets out classes of offences which **MUST ALWAYS** be notified, for example:-

- Offences relating to the plating certificates and goods vehicle test certificates
- Offences relating to maintenance, overloading and the licencing of drivers
- Road transport offences relating to drivers hours, the weights or dimensions of commercial vehicles, road or vehicle safety, the protection of the environment and any other offence concerning professional liability
- Operator licencing offences

The traffic commissioner must also be notified of any conviction of a person for a serious offence. The definition of a serious offence includes any offence which resulted in:-

- A sentence of imprisonment for a term exceeding three months
- A fine above a certain amount
- A community order involving more than 60 hours





## What else could affect good repute or fitness?

Contained within the Traffic Commission's Statutory Directions, it is clear that traffic commissioners when considering any application, may at their discretion take into account certain offences that come to their attention which arise from other regulatory jurisdictions, for example:-

- Offences by employees who hold vocational licences. Including offences for drink/drug driving, dangerous driving, death by dangerous driving and mobile phone offences.
- Convictions under the Health and Safety at Work Act 1974 resulting from an incident at a work site.
- Any convictions for environmental offences.

## Notification

Operators will be in breach of the conditions of their licence if they fail to notify the traffic commissioner within 28 days of matters which affect their good repute fitness and therefore will be at risk of regulatory action.

Operators must have robust policies and procedures in place to govern notification to the traffic commissioner and particular care should be taken over how the notification is made, especially if the conduct matter does not result in convictions or even a criminal investigation.

When notification is made to the traffic commissioner, the company places itself and its policies and procedures under the spotlight of him or her. However, failure to notify also exposes the operator to the risk of regulatory action.

# AUTHORITY TO DRIVE

## Legislation

An employer needs to provide authorisation to employees before they are allowed to drive for work purposes, regardless of the type of vehicles being driven.

Employers have a legal responsibility to ensure all employees authorised to drive for work meet the minimum criteria as follows and that they:

- have a valid and current driving licence;
- are insured to drive and have the correct insurance cover;
- have a roadworthy vehicle that is safe and properly maintained, as per the manufacturer's recommendations;
- have a valid MOT where required;
- have the correct licence for the vehicle to be driven;
- have the correct qualifications for the vehicle to be driven.

## VALIDITY OF LORRY, MINIBUS AND BUS LICENCES

- A licence to drive lorries, minibuses or buses is usually valid until aged 45. After 45, the driver must renew their licence every 5 years until they're 65.
- After 65, the driver must renew their licence every year.
- All licences issued after 19 January 2013 are valid for 5 years, up to age 65.

## QUALIFICATIONS FOR LORRY, BUS AND COACH DRIVERS

Professional lorry, bus and coach drivers also need to hold a Driver Certificate of Professional Competence (CPC) as well as a valid licence.

Drivers must do 35 hours of periodic training every 5 years to keep their Driver CPC. You need to ensure you know how many hours of training a driver has done in the last 5 years.

## TACHOGRAPHS

Some drivers may need to record their journeys on tachographs to make sure they are following the rules on drivers' hours. It is an offence to cause or permit someone to drive on the road without a valid driving licence and/or motor insurance.



# Penalties

If you do not have a valid driving licence, you can be fined up to £1,000 and your licence will be endorsed with between 3-6 penalty points.

If you are caught driving a vehicle you're not insured to drive, the police will hand out a minimum:

- fixed penalty fine of £300;
- 6 penalty points.

The police will decide whether or not more serious cases should be prosecuted at the Magistrates' Court. These may include cases where a driver has never passed a driving test, has given false details or was driving a higher risk vehicle, like a HGV.

A court can issue:

- an unlimited fine;
- disqualification from driving.

The police also have the power to:

- seize the vehicle – even if it doesn't belong to you;
- destroy the vehicle.

Other costs you may be liable for include:

- a higher car insurance premium in the future;
- costs associated with a collision.

See *Dangerous Driving, Corporate Manslaughter and Gross Negligence Manslaughter* sections.

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary; Use independent experts and products such as '**RESILIENCE**' by DAC Beachcroft.

## Facts

Grey fleet drivers represent the most unregulated driving in the UK.

**300,000** uninsured vehicles on UK roads every day.

**3.6m** driving licence photo-cards are out of date according to DVLA.

**2.6m** drivers have points on their licence in 2019.

**15.73%** of drivers have points of their licence.

**30 – 39 year-olds** are most likely to have points on their licence.

# Tips

Have a separate 'Authority to Drive Policy';

Check licences at least once a year;

Take a risk based approach to determine whether checks should be done more regularly;

Make the policy easy to understand, clear and unambiguous and clearly define areas of responsibility;





# NEW DRIVERS

## Facts

300 collisions occur each year during a driving test.

1 in 5 new drivers have a collision in the first 12 months of driving.

33 new drivers (aged 17 to 24) a day had their licences revoked in 2018.

13,000< new drivers have their licence revoked each year.

85% of all serious injury collisions involve a driver under the age of 25.

25% of insurance policies for new drivers are fronted.

1500 collisions took place involving learner drivers taking a test in the period 2020 to 2023.

37% of new drivers have a crash by the age of 23.

Male drivers under 25 are **four times** more likely to be involved in a car accident than drivers aged 25 or over.

## Legislation

A new driver is classed as someone who has passed their driving test within the last two years.

If a new driver has been banned from driving within the first two years of passing their driving test (see penalties section below), they will have to obtain a full driving licence again.

In order to do this, they will need to:

- Buy a new provisional licence;
- Only drive when supervised;
- Put 'L' plates on their car;
- Pass both theory and practical parts of the driving or riding test again to get a full licence.

Passing the test again does not remove the penalty points which remain on their new licence until their three-year period expires.

## Tips

Have a separate 'New Drivers Policy';

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Provide additional driver training before they are allowed to drive for work purposes;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

Use independent experts and products such as '**RESILIENCE**' by DAC Beachcroft.



# SPEEDING & DRIVING

## Legislation

Do not think you will only be charged with speeding if you are travelling in excess of the specified speed limit for the road you are travelling on.

A driver can be charged with a speeding offence as follows: The basic speed law theory states that you can be charged with speeding by violating the “basic” speed law, even if you were driving below the posted speed limit.

A police officer must simply decide that you were going faster than you should have been, considering the driving conditions at the time.

If you are stopped by the police for an alleged speeding offence, they can either:

- send you the details of the penalty.
- send the case straight to court.

If you were not stopped by the police for the alleged speeding offence (eg it was caught by speed camera), the registered keeper of the vehicle must be sent a notice of intended prosecution within 14 days.

You may have to go to court if you ignore the notice.





# Penalties

The minimum penalty for speeding are:

- a £100 fine; and
- 3 penalty points added to your licence.
- if you build up 12 or more penalty points within a period of 3 years, you could be disqualified from driving.

## DETERMINING THE OFFENCE SERIOUSNESS

The starting point applies to all offenders irrespective of plea or previous convictions.

Speed limit (mph)	Recorded speed (mph)		
20	21-30	31-40	41 and above
30	31-40	41-50	51 and above
40	41-55	56-65	66 and above
50	51-65	66-75	76 and above
60	61-80	81-90	91 and above
70	71-90	91-100	101 and above
<b>Sentencing range</b>	Band A	Band B	Band C
<b>Fine (gross weekly wage)</b>	50%	100%	150%
<b>Points/ disqualification</b>	3 points	Disqualify 7-28 days or 4-6 points	Disqualify 7-56 days or 6 points

Must endorse and may disqualify. If no disqualification 3 – 6 points imposed.

Where an offender is driving grossly in excess of the speed limit the court should consider a disqualification in excess of 56 days.



## BAND RANGES

The court should consider further adjustment for any aggravating or mitigating factors.

The following is a non-exhaustive list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far.

## FACTORS INCREASING SERIOUSNESS

### Statutory aggravating factors

Previous convictions, having regard to the:

- nature of the offence to which the conviction relates and its relevance to the current offence; and
- time that has elapsed since the conviction.
- Offence committed whilst on bail.

### Other aggravating factors

- Offence committed on licence or post sentence supervision.
- Poor road or weather conditions.
- Driving LGV, HGV, PSV etc.
- Towing caravan/trailer.
- Carrying passengers or heavy load.
- Driving for hire or reward.
- Evidence of unacceptable standard of driving over and above speed.
- Location e.g. near school.
- High level of traffic.
- Pedestrians in the vicinity.

See *Dangerous Driving*, *Corporate Manslaughter* and *Gross Negligence Manslaughter* sections.

## Tips

Have a separate 'Speeding Policy';

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

Use independent experts and products such as '**RESILIENCE**' by DAC Beachcroft.

## Facts

1% increase in speed equals 4% increase in chance of a fatality.

Speeding offences accounted for **85%** of all motoring offences committed in 2018.

**43%** of drivers are unable to identify the National Speed Limit sign.

**76%** of drivers admit to driving more than 35mph in a 30mph zone.

**10 million** drivers have attended a 'Speed Awareness Course' since it started in 2006.

**1.4 million** drivers attended 'Speed Awareness Course' in 2018, an increase of 170% on 2017.

In 2022, **303** people were killed in collisions involving someone exceeding the speed limit, with a further 2,180 people seriously injured and 5,645 slightly injured.

Excess speed is a contributory factor in **1 in 3** fatal road crashes

An average speed reduction of 1mph reduces crash frequency by **5%**.

In 2023, **44%** of car drivers exceeded the speed limit on 30mph roads and 45% on motorways.

If you are hit by a car at 40mph you are **90%** likely to die, at 30mph this reduces to 50%, at 20mph this reduces to 10%.

In 2022, **1.64m** drivers took a speed awareness course – this is 113% higher since 2011.

# MOBILE PHONE USE & DRIVING

## Legislation

It is illegal to hold a mobile phone while driving or riding a motorcycle. You must have hands-free access, such as:

- a Bluetooth headset;
- voice command;
- a dashboard holder or mat;
- a windscreen mount.

The device must not block your view of the road and traffic ahead. You must stay in full control of your vehicle at all times. The police can stop you if they think you're not in control because you're distracted and you can be prosecuted.

The law still applies to you if you are:

- stopped at traffic lights;
- queuing in traffic;
- supervising a learner driver.

### When you can use a hand-held phone

You can use a hand-held phone if either of these apply:

- you are safely parked;
- you need to call 999 or 112 in an emergency and it's unsafe or impractical to stop.

## Penalties

You can get 6 penalty points and a £200 fine if you use a hand-held phone when driving. You'll also lose your licence if you passed your driving test in the last 2 years. You can get 3 penalty points if you don't have a full view of the road and traffic ahead or proper control of the vehicle.

You can also be taken to court where you can:

- be banned from driving or riding;
- get a maximum fine of £1,000 (£2,500 if you're driving a lorry or bus).

See *Dangerous Driving*, *Corporate Manslaughter* and *Gross Negligence Manslaughter* sections.

## Facts

It is **4 times** more difficult to drive while using a mobile phone (even when on hands free/Bluetooth) than driving twice the legal drink drive limit.

Drivers using a mobile phone become fixated on the road ahead and fail to see what is going on around them.

**31%** of drivers admit to texting while driving.

**83%** of drivers admit to using a mobile phone while their vehicle is stationary with the engine running, which is illegal.

**91%** of drivers do not actually understand or misinterpret the legislation.

**565** fatal/serious collisions in 2018 due to mobile phone use.

**22** people were killed and **674** injured in RTAs where a driver was using a mobile phone, and this was a contributory factor.

## Tips

Have a separate 'Mobile Phone Policy';

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

Use independent experts and products such as **'RESILIENCE'** by DAC Beachcroft.

# DRIVING WHILE DISTRACTED

## Legislation

There are general laws that require drivers to be attentive and not engage in distracting activities.

The following (in addition to mobile phones covered in previous section) are examples of things that can cause distractions while driving:

- Eating and drinking;
- Smoking;
- Using a Sat Nav or infotainment system;
- Restricted vision;
- Shaving;
- Putting on make up;
- Putting clothes on/off;
- Cooking;
- Watching TV;
- Unrestrained pets/animals;
- Using any type of computer device;
- Typing;
- Reading;
- Arguing with a passenger;
- Having the music on too loud;
- Singing;
- 'Rubbernecking';
- Being distracted by things outside the car, such as people, objects or noises.

*NB: The above list is not exhaustive.*

## Penalties

The most common penalties for driving while distracted are:

- You will get 3 penalty points on your licence;
- A fine If the case goes to court, you could even be subject to a maximum fine of £1,000;
- as well as potentially losing your licence altogether.

Distracted drivers could be charged with a range of offences depending on how badly the distraction affected their driving, including:

- Dangerous Driving;
- Careless and Inconsiderate Driving;
- Failure to Be in Proper Control of the Vehicle;
- or Driving without Due Care and Attention.

*See Dangerous Driving, Corporate Manslaughter and Gross Negligence Manslaughter sections.*





# Tips

Have a separate 'Driving while Distracted Policy';

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

Use independent experts and products such as '**RESILIENCE**' by DAC Beachcroft.

## Facts

**3 types** of distraction: Visual - eyes off the road; Cognitive - mind off driving; Manual - hands off the wheel.

**17%** of drivers admit to driving while engaged in a physical distraction ie: eating, drinking, smoking, using in-vehicle technology.

Up to **30%** of all road traffic collisions involve driver distraction.

**87%** of drivers use the 'touch screen' infotainment system while driving.

**12 to 16 seconds**, the amount of time a driver takes their eye off the road while using the 'touch screen' infotainment system.

**608** fatal/serious collisions in 2018 due to 'infotainment' use.

In 2022 there were **2,616** RTAs where distraction inside a vehicle was cited as a contributory factor - 76 of these were fatal



# IN-VEHICLE TECHNOLOGY & DATA MANAGEMENT

## Legislation

Under s.2 of the Health and Safety at Work Act 1974, employers have a duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees. An employer also has a duty under s.3 of the Act to conduct its undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in its employment who may be affected thereby are not thereby exposed to risks to their health or safety. If a company does not assess the data it obtains from vehicle technology, and it can be shown that assessment of any data gathered from in vehicle technology would have highlighted an issue, then the company may be at risk of failing to have complied with its duties under the Act.

## THREE KEY PILLARS OF H&S – POLICIES, TRAINING & SUPERVISION

Implications of failing to review data:

- Reduce prospects of successful defence;
- Higher fines;
- Aggravating factor in sentencing guideline – previous warning;
- Reputational damage;
- Impact on those involved;
- Business impact.

The key message is that in vehicle technology such as;

- Engine control units (ECUs);
- Sat navs;
- Mobile phones;
- Infotainment systems;
- Forward facing cameras;
- In-cab cameras;
- 360 degree camera systems;
- Telematics;

(and many more) can tell you (and the police) a great deal about the way that a vehicle is being driven. However, it is important that any data recorded is reviewed and any issues identified are acted upon.

## Penalties

Any organisation convicted of a health and safety offence will be fined in accordance with the Sentencing Council's definitive guideline for sentencing in health and safety cases.

A court has to assess the seriousness of the offence according to several sentencing factors. These include an assessment of culpability, for example failing to make appropriate changes following prior incidents and allowing breaches to subsist over a long period of time are factors which may support high culpability.

A court also has to decide on a 'harm category' which is based on an assessment of the seriousness of the harm risked and the likelihood of that harm arising.

According to the assessments of culpability and the harm category, the sentencing guidelines then propose a starting point and a range for a fine which is linked to the turnover of an organisation. This means that organisations with a turnover of £50m or more will have a higher starting point than organisations with a lower turnover such as organisations with a turnover between £2m and £10m (categorised as a 'small organisation').

A court then has to adjust the fine to take into account any aggravating and mitigating factors. For example, cost-cutting at the expense of safety is regarded as an aggravating factor which may result in an upward adjustment of the fine. A good health and safety record would be regarded as a mitigating factor.

A court also has to consider other factors such as the real economic impact on the organisation and wider impact for example on employees.

*See Dangerous Driving, Corporate Manslaughter and Gross Negligence Manslaughter sections.*

## Facts

The in-vehicle technology fitted to the majority of modern vehicles (all vehicle types), records everything about the way the vehicle is driven.

DVSA and insurance companies retrospectively use data from in-vehicle technology.

**85%** of fleet operators do not get the full benefits from their in-vehicle technology.

Vehicle data can leave you open to prosecution as well as defend you.

In-vehicle technology is used more to discipline drivers than improve driver/fleet safety.

In-vehicle technology can identify driver health issues such as: fatigue, sleep issues, drugs and alcohol use.

## Tips

Have a separate 'In-vehicle technology and Data Management Policy';

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

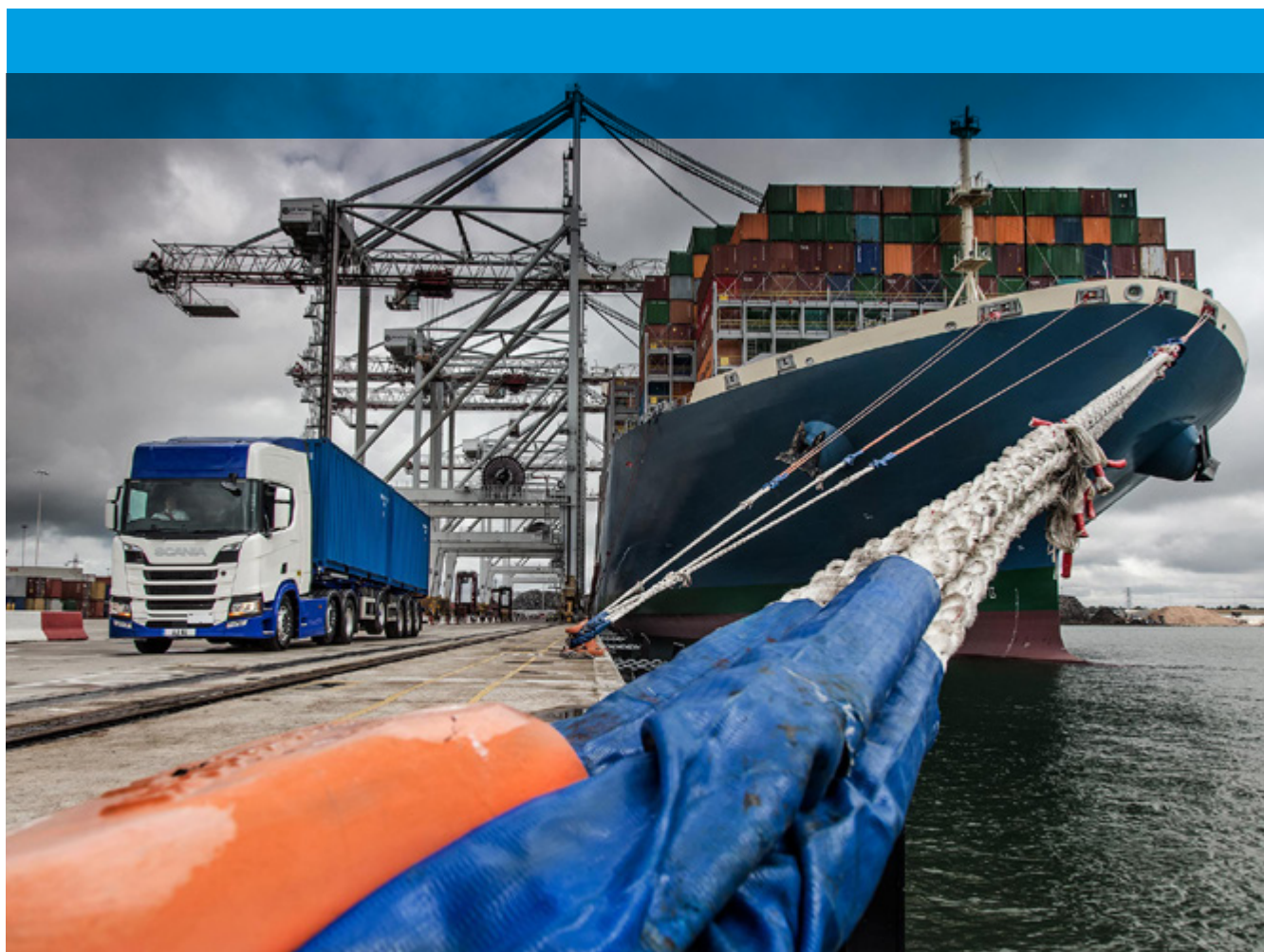
Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

Use independent experts and products such as **'RESILIENCE'** by DAC Beachcroft.





# ALCOHOL & DRIVING

## Legislation

There are strict alcohol limits for drivers, but it's impossible to say exactly how many drinks this equals - it's different for each person. The limits in Scotland are different to the rest of the UK.

Level of alcohol	England, Wales & Northern Ireland	Scotland
Micrograms per 100 millilitres of breath	35	22
Milligrammes per 100 millilitres of blood	80	50
Milligrammes per 100 millilitres of urine	107	67

You cannot drive anywhere in the UK if you've been banned by any UK court because of drink driving.

The way alcohol affects you depends on:

- your weight, age, sex and metabolism (the rate your body uses energy);
- the type and amount of alcohol you're drinking;
- what you've eaten recently;
- your stress levels at the time.

# Penalties

There are strict drink driving penalties if you are caught over the limit.

You could be imprisoned, banned from driving and face a fine if you are found guilty of drink-driving.

The actual penalty you get is up to the magistrates who hear your case, and depends on your offence.

You may be able to reduce your ban by taking a drinkdrive rehabilitation scheme (DDRS) course if you're banned from driving for 12 months or more. It's up to the court to offer this.

## Being in charge of a vehicle while above the legal limit or unfit through drink

You may get:

- 3 months' imprisonment;
- up to £2,500 fine;
- a possible driving ban.

## Driving or attempting to drive while above the legal limit or unfit through drink

You may get:

- 6 months' imprisonment;
- an unlimited fine;
- will get a driving ban for at least 1 year (3 years if convicted twice in 10 years).

## Refusing to provide a specimen of breath, blood or urine for analysis

You may get:

- 6 months' imprisonment;
- an unlimited fine;
- will get a driving ban for at least 1 year.

## Other problems you could face

A conviction for drink-driving also means:

- your car insurance costs will increase significantly;
- if you drive for work, your employer will see your conviction on your licence;
- you may have trouble travelling to countries like the USA.

See *Dangerous Driving*, *Corporate Manslaughter* and *Gross Negligence Manslaughter* sections

## Facts

The drink drive limit has been the same since **1967**.

You can be over the limit but not impaired and under the limit but impaired. Both illegal.

**8,600** collisions involving drink driving in 2017.

**85,000** < drink driving convictions in 2018: of which **85%** are male.

**61%** of employers do not test employees who drive for work.

**28%** of drink driving arrests in 2018 were the 'morning after'.

The **majority** of drivers have no idea what the current limits are.

Drink driving represents **17%** of all deaths on the roads.

Between **290 to 320** people are killed annually in collisions where a driver is over the limit.

**6800** people were killed or injured where at least one driver was over the limit in 2022.

Of collisions involving a driver over the limit **70%** are male and **30%** female.

**64%** of drivers over the limit involved in a collision were aged 25-59, **24%** 16 to 24 and **8%** over 60.

**55%** of employers do not test employees who drive for work.

## Tips

Have a separate 'Alcohol and Driving Policy';

Undertake pre-employment and random alcohol testing;

Promote self-reporting by employees and provide support services if necessary;

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually, update when necessary and reinforce twice a year;

Use independent experts and products such as **'RESILIENCE'** by DAC Beachcroft.

# DRUGS & DRIVING

The law takes:

- a zero tolerance approach to 8 drugs most associated with illegal use, with limits set at a level where any claims of accidental exposure can be ruled out;
- a road safety risk based approach to 8 drugs most associated with medical uses;
- a separate approach to amphetamine that balances its legitimate use for medical purposes against its abuse.

It's illegal to drive if either:

- you are unfit to do so because you're on legal or illegal drugs;
- you have certain levels of illegal drugs in your blood (even if they have not affected your driving).

Legal drugs are prescription or over-the-counter medicines.

If you are taking them and not sure if you should drive, do not drive until you have spoken to your doctor, a pharmacist or a healthcare professional.

The police can stop you and make you do a 'field impairment assessment' if they think you are on drugs.

This is a series of tests, eg asking you to walk in a straight line. They can also use a roadside drug kit to screen for cannabis and cocaine.

If they think you are unfit to drive because of taking drugs, you will be arrested and will have to take a blood or urine test at a police station.

You could be charged with a crime if the test shows you have taken drugs.





## PRESCRIPTION MEDICINES

You should continue taking medicine(s) as advised by your doctor or healthcare professional, or according to the patient information leaflet that comes with the medicine.

The new law gives the police powers to test and arrest drivers suspected of driving after taking certain controlled drugs in excess of specified levels. It also provides a medical defence if you're taking medicine in accordance with instructions from a healthcare professional or an accompanying leaflet, provided you're not impaired.

If you drive and take prescription medicine, it would be helpful to keep evidence of this by having a copy of your prescription with you, in case you are stopped by the police.

However, it is illegal in England and Wales to drive with legal drugs in your body if it impairs your driving. It is an offence to drive if you have over the specified limits of certain drugs in your blood and you have not been prescribed them.

### Drugs and their limits

Talk to your doctor about whether you should drive if you have been prescribed any of the following drugs:

- amphetamine, eg dexamphetamine or selegiline;
- clonazepam;
- diazepam;
- flunitrazepam;
- lorazepam;
- methadone;
- morphine or opiate and opioid-based drugs, eg codeine, tramadol or fentanyl;
- oxazepam;
- temazepam.

You can drive after taking these drugs if:

- you have been prescribed them and followed advice on how to take them by a healthcare professional.
- they are not causing you to be unfit to drive even if you're above the specified limits.

**You could be prosecuted if you drive with certain levels of these drugs in your body and you have not been prescribed them.**

The law does not cover Northern Ireland and Scotland but you could still be arrested if you are unfit to drive.

'Medical' drugs (risk based approach)	Threshold limits microgrammes per litre of blood (µg/L)
Clonazepam	50µg/L
Diazepam	550µg/L
Flunitrazepam	300µg/L
Lorazepam	100µg/L
Methadone	500µg/L
Morphine	80µg/L
Oxazepam	300µg/L
Temazepam	1,000µg/L

'Illegal' drugs (‘accidental exposure’ zero tolerance approach)	Threshold limits microgrammes per litre of blood (µg/L)
Benzoyllecgonine	50µg/L
Cocaine	10µg/L
Delta-9-tetrahydrocannabinol (cannabis)	2µg/L
Ketamine	20µg/L
Lysergic acid diethylamide	1µg/L
Methylamphetamine	10µg/L
Methylenedioxymethamphetamine (MDMA)	10µg/L
6-monoacetylmorphine (heroin)	5µg/L

Separate approach (to balance its risk)	Threshold limits microgrammes per litre of blood (µg/L)
Amphetamine	250µg/L

## Penalties

If you are convicted of drug driving, you will get:

- a minimum 1 year driving ban;
- an unlimited fine;
- up to 6 months in prison;
- a criminal record.

Your driving licence will also show you have been convicted for drug driving. This will last for 11 years.

## OTHER PROBLEMS YOU COULD FACE

A conviction for drug driving also means:

- your car insurance costs will increase significantly;
- if you drive for work, your employer will see your conviction on your licence;
- you may have trouble travelling to countries like the USA.

See *Dangerous Driving*, *Corporate Manslaughter* and *Gross Negligence Manslaughter* sections.

## Tips

Have a separate 'Drugs and Driving Policy';

Undertake pre-employment and random drug testing;

Promote self-reporting by employees and provide support services if necessary;

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually, update when necessary and reinforce twice a year;

Use independent experts and products such as '**RESILIENCE**' by DAC Beachcroft.

## Facts

**18%** of drug test failures involve drivers taking 'legal' prescribed drugs.

**30%** of police road side drug tests result in a failure.

**95%** of drivers/employers do not know you should carry a copy of your prescription if taking prescribed drugs.

Only **32%** of employers undertake pre-employment testing.

**65%** of employers never reinforce their Drugs and Driving Policy after an induction.

**57%** of employers do not test employees for drugs at work

# MEDICAL CONDITIONS & DRIVING

## Legislation

You must give up your licence if either:

- your doctor tells you to stop driving for 3 months or more;
- you do not meet the required standards for driving because of your medical condition.

In addition, you need to tell the DVLA about any medical condition that affects your ability to drive.

There are numerous medical conditions that you need to report mandatory to the DVLA, even if they do not affect your ability to drive.

A list of all medical conditions that are reportable to the DVLA and their associated restrictions can be found at the following link: <https://www.gov.uk/health-conditions-and-driving>.

You can report a medical condition to the DVLA at the following link: <https://www.gov.uk/health-conditions-and-driving>.

HGV, bus and coach drivers need to undertake a D4 Medical once they are 45 years old. This has to be taken every 5 years until the age of 65 when they are renewed annually without an upper age limit.

D4 Medical may have to be renewed at specified intervals, other than those stated above, when deemed necessary by certain medical conditions, as advised by the DVLA.

## Penalties

You can be fined up to £1,000 if you do not tell the DVLA about a medical condition that affects your driving. You may be prosecuted if you are involved in a collision and a medical condition was the cause of the collision.

You must tell your insurer if you have a reportable medical condition, as failing to do so may result in any motor insurance policy (private or business) being invalid.

See *Dangerous Driving*, *Corporate Manslaughter* and *Gross Negligence Manslaughter* sections.





## Facts

Over **175** medical conditions are reportable to the DVLA.

Over **116** medical conditions are mandatory reportable to the DVLA even if they do not affect driving ability.

**25%** of drivers have a medical condition.

**10%** of drivers have a reportable medical condition.

**4,534** drivers had their licence revoked in 2019 following a collision as their eyesight did not meet the minimum legal standard.

**83%** of drivers admit to driving while feeling fatigued.

**£55m** is the annual cost to the logistics industry due to sleep dis-ordered breathing conditions.

**68,000** drivers had licences revoked on medical grounds. Most were on the grounds of alcohol dependency, epilepsy and dementia.

**7,000** licences were revoked because of poor eyesight.

## Tips

Have a separate 'Fitness to Drive Policy';

Promote self-reporting by employees and provide support services if necessary;

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

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# LOAD SECURITY & DANGEROUS VEHICLES

## Legislation

A person is to be regarded as driving dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

Therefore, a person is guilty of an offence if they use, cause or permit another person to use a motor vehicle or trailer on a road when:

- the motor vehicle or trailer or accessories or equipment, are in a dangerous condition, or
- the purpose for which it is used, or the number of passengers carried by it, or the manner in which they are carried, or the weight, position or distribution of its load, or the manner in which it is secured, is such that the use of the motor vehicle or trailer involves a danger of injury to any person.

A 'person' can be defined as follows:

- The driver is not always solely liable for the load they are carrying or the safety of the vehicle.
- The loader \* will be liable for the load on the vehicle when on the road.
- The maintenance engineer \* will be liable for the roadworthiness of the vehicle when on the road.
- The company owner \* will be liable for a non-limited company.
- The Company Secretary \* will be liable for a limited company.

\* see penalties section regarding goods vehicle.

## USE

There is no statutory definition for 'use' however, the question that needs to be answered is: Who is getting some use out of the motor vehicle?

- The driver always uses the vehicle.
- The company (limited company or business owner) will use when in or on the vehicle. In this instance the issue of the driver at the time is irrelevant.

If the offence is committed when a company vehicle is used in private use the owner is not liable.

If the offence is committed when a company vehicle is used in a joint enterprise, the owner is liable.

## JOINT ENTERPRISE

Where the owner lends the vehicle to another person to do something for the owner's benefit. A charge of permitting may also apply.

## CAUSE

A person in charge or position of authority over someone else and orders that person to use the vehicle is liable. This is an offence usually committed by supervisors and managers.

To prove the offence, it is necessary to show the person knew the vehicle was being used on a road or they knew or should have been aware of any defect.

## PERMIT

Permission to use a vehicle may be given in writing or verbally and will include where permission may be inferred.

# Penalties

The Vehicle Defect Rectification Scheme (VDRS), is used to deal with relatively minor defects and covers a wide range of vehicles including motor vehicles or trailers and caravans being towed. A VDRS is a voluntary act by the officer who stopped you. If this is the case, get the defects fixed straight away to avoid prosecution.

If a VDRS is issued, you will be given 14 days to rectify the defects and provide evidence you have done so (typically from an MOT centre). Failure to do this will result in prosecution; a fine and points on your licence.

The maximum penalty for loading and dangerous vehicle offences if committed in respect of a goods vehicle are:

- an unlimited fine;
- plus 3 penalty points; \*
- and possible disqualification. \*

\* Applies to anyone who has a driving licence even if not driving the vehicle.

## Facts

33% of vehicles failed the new MOT test in 2018.

85% of VDRS road check failures could be avoided with proper first use checks.

95% of loads found to be unsafe, unsecured or not secured at all by HSE in 2017.

4,000 successful prosecutions each year for unsafe loads.

Activities in/on or around a vehicle become the centre for a collision investigation than the function of driving.

100% increase in bridge strikes in the first week when the hour goes back in October.

In 2023, 43.6m vehicle MOT tests were carried out in Great Britain of which 9.8m (22.6%) failed.

## Tips

Have a separate 'Load Security Policy and 'Vehicle Safety and Maintenance Policy';

Provide and use the correct equipment at all times;

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

Review annually and update when necessary;

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# ENVIRONMENTAL OFFENCES

## Legislation

If a load or part of a load (containing material which is defined as a pollutant for the purposes of the regulations) falls into water and there is no permit in place authorising discharge of the load in this way, this amounts to an offence under the Environmental Permitting (England and Wales) Regulations 2016/1154.

Please note that under the regulations the directors of the company may also be liable of having committed an offence if the act was committed either with their consent or contrivance or as a result of their negligence.

## Penalties

If there is a successful prosecution, the offence attracts the following:

- a maximum penalty of 5 years' imprisonment, or unlimited fine, together
- with the cost of cleaning up the affected water/area;
- Publicity order.

## Facts

Milk is a highly polluting substance.

Only **30%** of companies have adequate spill control and prevention measures in place.

**3 in 5** fleet operators do not have spill kits fitted to their vehicles.

**£500K** average cost for a 4-hour delay following diesel spill.

**£16m** in fines, health and safety charges, and environmental costs as a result of a petrol spill for UK supermarket in 2017.

## Tips

Have a separate 'Environmental Incident Policy';  
Have spill kits in commercial vehicles;

Make it easy to understand, clear and unambiguous and clearly define areas of responsibility;

Train all drivers and managers to ensure they know and understand the policy, the legislation and penalties;

Train managers to ensure they are competent to undertake their duties;

Keep records to show how you implement and manage it;

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