

Saunders Law

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Using a mobile phone when driving

This offence is typically committed by a person driving a motor vehicle whilst using a hand held mobile telephone. It can however apply to a person supervising a learner driver at the same time as using a mobile telephone, or by causing a driver to use a mobile phone.

For a prosecution to be successful it has to be shown that the mobile telephone in question was in use. This does not simply mean being used in the normal way to make a call. As technology improves, so does the risk of being prosecuted for

this offence. A person holding a phone and using it on speaker or texting a message would fall foul of this offence and with the advent of iphones and Blackberries the police and courts are increasingly pursuing motorist on such allegations as a matter of policy.

It is a defence to show that the call was made or received in urgent circumstances, and the need for it was so pressing that the driver could not stop. It may also be the case that the police have wrongly presumed that a driver was using their mobile, and in these cases a full legal defence may be vigorously pursued.

This offence incurs penalty points as a minimum, but of course, when so many offences these days do carry penalty points, with a minimum of three being imposed for each case, the points soon mount up. A motorist could be facing disqualification after only four such incidents, and with camera recorded offences it is all too possible to be accumulating points without knowing. Given that any endorsement of points remains operative for 3 years, it is all too easy to be facing a disqualification.

Should this problem arise, an argument as to exceptional hardship can be put to the court and should that find favour this could well mean that the motorist keeps their licence.

Our team of motoring lawyers are well versed in such matters and are regularly before courts all over the country successfully arguing these cases. So much can depend on an individual being able to continue driving, particularly if they need to drive for their living. Being disqualified even for a brief period can have a catastrophic effect on the motorist concerned and their family so this can no longer be considered a minor matter.