

Woodfines' 16th Transport Conference 2021

Keeping the Show on the Road!

The Butterfly Effect

Jane Anderson

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Change in the Law

- Government are strengthening existing laws making it illegal to use a hand-held mobile phone while driving under virtually any circumstance
- This follows public consultation which found that 81% of people supported such a move
- Highway code will change making it clear that hand-held phone use at traffic lights or in traffic jams is illegal



The Background

- [Sentencing Guidelines](#)
- Offences for using a mobile phone will incur 6 penalty points on your licence and a Band A fine which has a starting point of 50% of relevant weekly income with a range of 25% - 75% of weekly income
- This increased after the law change in 2017 where the points received increased from 3 to 6 penalty points



The Loophole

Director Of Public Prosecutions v Barreto [2019] EWHC 2044 (Admin)

“interactive communication function”, includes the following:

- sending or receiving oral or written messages;
- sending or receiving facsimile documents;
- sending or receiving still or moving images; and
- providing access to the internet...”



Step 2 – Starting point and category range

Having determined the category at step one, the court should use the appropriate starting point to reach a sentence within the category range in the table below. The starting point applies to all offenders irrespective of plea or previous convictions.

Level of seriousness	Starting Point	Range	Disqualification/points
Category 1	Band C fine	Band C fine	Consider disqualification OR 7 – 9 points
Category 2	Band B fine	Band B fine	5 – 6 points
Category 3	Band A fine	Band A fine	3 – 4 points

- Must endorse and may disqualify. If no disqualification impose 3 – 9 points

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Single incident where little or no damage or risk of personal injury	Medium level community order	Low level community order to high level community order Disqualify 12 – 15 months
Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area; OR Single incident where little or no damage or risk of personal injury but offender was disqualified driver	12 weeks custody	High level community order to 26 weeks custody Disqualify 15 – 24 months
<i>Prolonged bad driving involving deliberate disregard for safety of others;</i> OR <i>Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area, by disqualified driver;</i> OR <i>Driving as described in box above while being pursued by police</i>	Crown Court	Crown Court

The New Law

- Police will soon be able to more easily prosecute drivers using a hand-held mobile phone at the wheel after the government strengthens existing laws to further improve road safety
- It is already illegal to text or make a phone call (other than in an emergency) using a hand-held device while driving. Next year, laws will go further to ban drivers from using their phones to take photos or videos, scroll through playlists or play games



Impact on the Operator

- Goods Vehicles (Licensing of Operators) Act 1995
- s22 Conditions as to matters required to be notified to a traffic commissioner.
- 22(2) On issuing a standard licence, a traffic commissioner shall attach to it the following
- conditions, namely—
- a condition requiring the licence-holder to inform a traffic commissioner of any event which could affect the fulfilment by the licence-holder of any of the requirements of 13A(2) and to do so within **28 days of the event**



Top tips...

- Update Driver Handbook to reflect the new law
- Tool box talk
- Review and Update systems
- Inform Transport Team



