

## Careless Driving Driving Without Due Care and Attention

Commonly referred to as **careless driving**, **driving without due care and attention** is legally defined as:

*"allowing your standard of driving to fall below that of a prudent motorist".*

This offence is often used as a "catch all" by the prosecution and carries 3-9 penalty points or a discretionary disqualification. Many clients are no longer supported by their insurance companies who often view the defence of such Summonses as throwing good money after bad, without even referring to the policyholder.

Our record of successful defences demonstrates that, if handled properly, an acquittal can be obtained. This is of particular importance if the offence arises from a road traffic accident. A conviction will make it much more difficult to succeed in a civil action for damages, whereas an acquittal will obviously put you in prime position.

We can advise for a fixed fee and if you wish to defend the matter, we can instruct a Barrister to represent you, again on a fixed fee basis. Whilst we do not recommend that cases are fought on the basis of principle, if we believe that we can save you a fine and penalty points, we will do so. If the case is successfully defended, we can often recover all or part of the fee and will always refund you accordingly.

We strongly recommend that you seek our professional advice if you have received a Summons pursuant to Section 3 of the Road Traffic Act. If your insurance company have declined to assist, there is even more reason to get an expert opinion. We may even be able to convince the insurers to fund the case for you.

### **What is the maximum penalty for careless driving?**

9 penalty points or an instant driving ban. If a ban is imposed, the Court will not endorse your licence with points. Additionally, conviction will lead to a means tested fine that is typically £200-£800 but subject to a theoretical maximum of £2,500. In extreme cases, community service/curfew orders can be imposed.

### **I am a new driver, are there any further issues that affect me?**

Yes. As your licence will be revoked if you reach 6 points for any offence committed within the first 2 years of holding a full licence, a conviction of careless driving could result in immediate revocation of your driving licence. This issue must be addressed, even if you plead guilty by letter, as 6 points would mean having to apply for a new provisional licence and passing both theory and practical tests again.



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### **What is a prudent motorist?**

There is no legal definition of a prudent motorist so this is for the Court to decide, taking into account the exact circumstances of the actual offence. As a general rule, if a driver accepts that he has done anything wrong, the Court can conclude that the standard of motoring fell below that of a prudent motorist. If an accident has occurred, the party responsible would often be convicted of driving without due care.

### **I was involved in an accident for which I accept I was partially to blame. Am I guilty of driving without due care and if so, how can I obtain the minimum punishment?**

If you concede that you are at least partially to blame for an incident, it follows that you will be convicted and in those circumstances the punishment will be reduced if you plead guilty at the first opportunity. A letter of mitigation will still allow you to explain why you deserve a punishment to the lower end of the scale so it is important that any letter produced to the Court deals with those issues clearly. If you need a letter prepared for you, please use our **Letter of Mitigation Service**.

### **I was involved in an accident but the other driver was just as much to blame as I was. Only I am being prosecuted. Why is that?**

It is at the discretion of the Police whether they bring charges against any individual. Having elected to summons you, they will be relying on the co-operation of the other driver to secure a conviction. For this reason, no action is taken against the other party, regardless of your views on liability.

### **Is there any way that I can avoid penalty points?**

Some Police forces will offer a "driver improvement scheme" instead of issuing a Summons. If you agree to sign up to the scheme and attend a seminar, no further action will be taken, which means you would not receive penalty points. The option to offer the scheme is at the discretion of the Police.

### **I have been summonsed for driving without due care, and I want to dispute the allegation. Can I represent myself at Court?**

Although there is no reason why you should not be able to represent yourself, it does make sense to seek guidance, and in the majority of cases, the cost of representation on the day is money well spent. Bear in mind that at the hearing, you will, in addition to putting forward your own version, you will have to cross-examine any prosecution witnesses, which may well include Police Officers. More often than not, this process is best left to the experts. Likewise, if you are acquitted you are entitled to recover your costs.



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