

Mobile Phones

It is a specific offence to use a hand-held phone or similar device, when driving. Most offences will be dealt with by way of 3 penalty points and a £60 Fixed Penalty Notice but if the matter proceeds to a Court hearing, the fine can be as much as £1,000 or £2,500 if you were driving a bus, coach or any heavy goods vehicle.

In some circumstances, for example if use of a phone has caused or contributed to an accident, the Police may prosecute for driving without due care or dangerous driving in order to secure a more severe punishment.

What does the regulation say about hand-held phones?

The use of a hand-held phone or similar hand-held device while driving is prohibited. A hand-held device is something that "is or must be held at some point during the course of making or receiving a call or performing any other interactive communication function".

A device is "similar" to a mobile phone if it performs an interactive communication function by transmitting and receiving data. Examples of interactive communication functions are sending and receiving spoken or written messages, sending or receiving still or moving images and providing access to the internet.

2-way radios are treated differently. Please see below.

Is hands-free phone equipment allowed?

Yes, provided that it can be operated without holding it. Pushing buttons on a phone while it is in a cradle or on the steering wheel or handlebars of a motorbike for example is not prohibited by this offence, provided you do not hold the phone. But again, should an accident occur, you can still be subject to prosecution.

What about texting/internet access/video phones?

The use of a mobile phone or similar device for any of these activities while driving is prohibited if the phone (or other device) has to be held in order to operate it.

Are drivers still able to use navigation equipment, personal digital assistants (PDAs) or other computer equipment that sends or receives data (which includes GPS transmissions)?

Yes, providing that it is not a hand-held device. Use of devices other than mobile phones are only prohibited if the device performs an interactive communication function by sending and



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receiving data. If the device does not perform this type of function, you can use the device without breaching the regulations.

Can other people in the vehicle use a non–hand free device?

Yes, passengers may want to use them and drivers can use them when they are safely parked.

Can I use a hand–held mobile phone when stopped in a traffic jam?

Driving includes times when stopped at traffic lights or during other hold–ups that may occur during a typical journey when a vehicle can be expected to move off after a short while. In exceptional traffic jams, such as a lengthy stoppage on a motorway, it would be clear that someone wasn't driving if the engine was off.

Are there any exemptions?

Yes. There is an exemption for calls to 999 (or 112) in genuine emergencies where it is unsafe or impractical to stop. There is also an exemption for the use of 2–way radios.

Am I allowed to cradle a phone between my ear and shoulder?

No. The offence applies if a phone has to be "held" while making or receiving a call. Therefore you should not hold a phone between your ear and shoulder, or anywhere else, when driving.

Are employers guilty of an offence if their employees use a hand–held phone while driving?

The regulations apply to "anyone who causes or permits any other person" to use a hand–held mobile phone while driving.

Employers will not be liable just because they supplied a telephone or because they phoned an employee who was driving. However, employers would probably be liable if they required their employees to use a hand–held phone while driving and might also be liable if they failed to forbid employees to use such phones on company business.

Are 2–way radios included in the legislation?

The use of 2–way radio equipment when driving is not included in the legislation but remember there is still a risk of distraction and prosecution under other powers.



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Is the offence endorsable? What is the maximum penalty?

Yes. It is a standard 3 points whether you accept a Fixed Penalty or whether you are convicted of the offence at Court. The Fixed Penalty Notice will be issued if you are seen using the phone whilst driving regardless of whether your driving is affected.

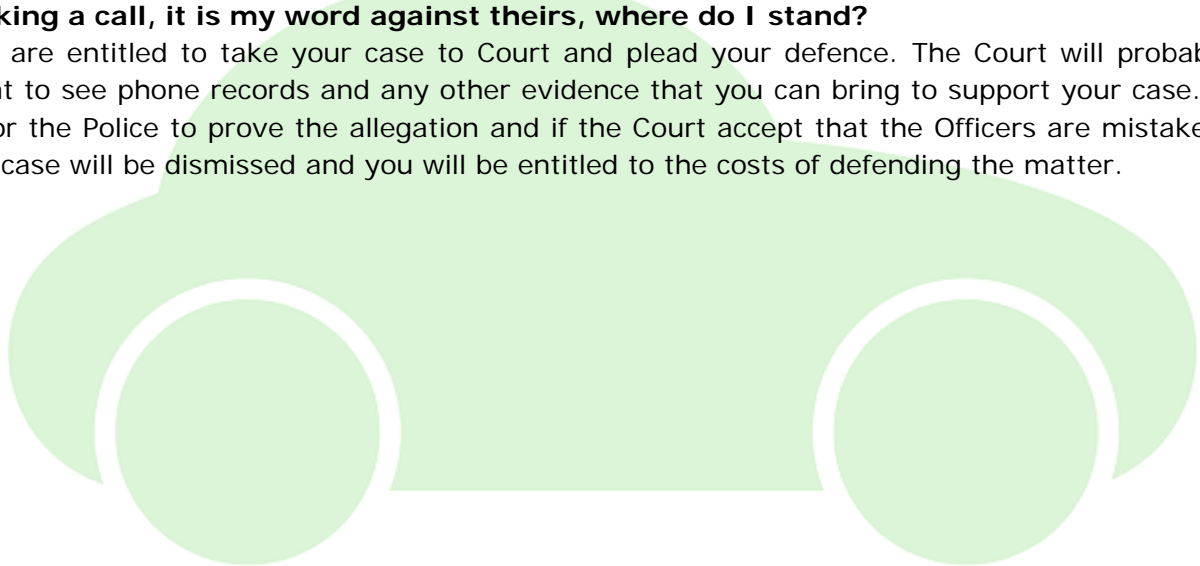
The range of fines is up to £1,000, unless you were driving a bus, coach or any heavy goods vehicle, in which case the maximum fine is £2,500.

I was checking the time on my phone or moving it, have I committed an offence?

In theory, yes. If the phone is being held whilst driving, or any buttons are pushed, it is being "used" regardless of whether a call is actually being made.

I was not touching the phone, holding or using the phone, but the Police insist I was making a call, it is my word against theirs, where do I stand?

You are entitled to take your case to Court and plead your defence. The Court will probably want to see phone records and any other evidence that you can bring to support your case. It is for the Police to prove the allegation and if the Court accept that the Officers are mistaken, the case will be dismissed and you will be entitled to the costs of defending the matter.



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