

Guide to motoring offences

At Mander Hadley, our experienced road traffic team understand that even the safest and most conscientious motorists can find themselves in the wrong place at the wrong time – which can all too often lead to an accident involving a police investigation and prosecution.

Furthermore, with speed cameras expanding their reach and motoring convictions forever on the rise, sound advice on road traffic matters is crucial in order to know where you stand should you fall foul of the law.

Fortunately, Mander Hadley have put together a guide to some of the most common road traffic offences – which hopefully will answer some of your questions if ever you find yourself facing prosecution.

Penalty Points

For most road traffic offences penalty points must be endorsed on your licence. In some very restricted circumstances you may be able to persuade a court not to add points. You would have to show that there were 'special reasons' justifying this. This must relate to the circumstances of the driving, e.g. an emergency or some form of duress or perhaps the shortness of distance driven or, in excess alcohol or drug cases, that your drink or food was 'laced'.

However, if the points are to be added to your licence, you face disqualification for at least six months if the total reaches 12 points within a three year period measured from offence date to offence date. This is known as a 'points' or 'totting' disqualification.

Disqualification from driving

For most people, a disqualification from driving can have a devastating impact on both your life and your finances.

In totting cases, it is possible to avoid disqualification. However, in such instances you will have to prove that a ban would cause 'exceptional hardship' in your day-to-day life or preferably someone else's as well.

The idea is that punishment by disqualification is meant to involve some level of hardship. Sometimes, the risk of losing your employment or livelihood as a result of losing your licence may amount to 'exceptional hardship'. But more often than not, a clear and forceful argument, backed up by significant evidence, will need to be presented as part of your case.

In discretionary disqualification cases, it is worth noting that having a clean licence will not of itself be enough to avoid a ban if guidelines suggest you should be disqualified for the offence.

However, the court can use its discretion to decide on whether or not to disqualify, or the length of the disqualification, based on the circumstances of each case – which is precisely where specialist representation can help.

There are some offences where the Court must disqualify, usually for a minimum period of 12 months, unless 'special reasons' are found – see above.

“Need a listening ear?”



If you are caught driving while disqualified – or allowing a disqualified driver to do so in your vehicle – you could face six penalty points, a fine and a custodial sentence of up to six months. You may also receive a further driving disqualification.

If you cause death whilst driving when disqualified the maximum sentence is 10 years imprisonment.

Furthermore, attempting to obtain a new licence whilst disqualified can result in a fine of up to £1,000.

However, if you have been disqualified from driving for two years or more, you are entitled to apply for your licence to be restored. This will, in effect, revoke the outstanding disqualification period.

For disqualifications of between two and four years, you can apply after two years, while applications relating to disqualifications of four to 10 years can be made once half the sentence has been served. For disqualifications in excess of 10 years, you can apply after five years.

New driver offences and revocation of licence

New drivers need to be aware that they are liable to have their licence revoked if they accumulate six or more penalty points within two years of initially passing their test. This will include points carried over from provisional licences.

However, having six or more points on your provisional licence will not mean losing your licence immediately after passing your test; but incurring any further points after you pass will result in your licence being revoked.

If your licence is revoked, you will then have no choice but to reapply for your provisional licence, and retake both your theory and practical tests.

If you drive unaccompanied on a provisional licence, you will be prosecuted for driving otherwise than in accordance with your licence, which would result in three to six penalty points and a fine.

This would also void any insurance – which means that you are likely to receive an additional charge of driving uninsured. This will typically carry a fine, and six to eight penalty points or a disqualification.

Careless Driving and the more serious offence of Dangerous Driving

Driving is considered to be 'careless' when the standard of driving falls below what would be expected of a competent and careful driver.

This may also include driving without reasonable consideration for other road users.

Driving is considered 'dangerous' when the standard is far below what would be expected of a competent and careful driver – so much so that the driver themselves should reasonably recognise this.

The punishment for careless driving is a fine, and three to nine penalty points or a disqualification depending on the seriousness of the offence. The penalty points might themselves give rise to a disqualification under the 'totting' procedure – see page one. The case can only be heard in the Magistrates Court.

The maximum punishment for dangerous driving is two years' imprisonment if the case is dealt with at the Crown Court. There is a mandatory minimum disqualification of at least 12 months and an extended retest requirement.

There are separate offences of causing death by dangerous, careless, unlicensed, disqualified or uninsured driving, drink or drug driving, or failing to provide specimens. There are also new offences of causing serious injury by dangerous or disqualified driving. All of these are punishable by imprisonment and disqualification.

In the most serious case, i.e. for causing death by dangerous driving, there is a maximum custodial sentence of 14 years – and a minimum of at least a two year driving ban.

It is still possible to be convicted of "vehicular manslaughter" which carries discretionary life imprisonment.

If you are unfortunate enough to receive a mandatory ban and a requirement to pass an extended retest, you will need to apply for a provisional licence when the ban expires and pass the test in order to have your full licence restored. To drive before passing the test in contravention of the provisional licence requirements (unsupervised, etc.) is disqualified driving and therefore an imprisonable offence.

Drink driving

It is common knowledge that driving, attempted driving or being in charge of a vehicle under the influence of alcohol is against the law – yet the current alcohol limits in the UK are perhaps much lower than many people realise.

These are:

- 35 microgrammes of alcohol in 100 millilitres of breath.
- 80 milligrammes of alcohol in 100 millilitres of blood.
- 107 milligrammes of alcohol in 100 millilitres of urine.

In most cases, drivers suspected to be under the influence will be asked to undergo a roadside breath test. If the reading is above the limit but below 40 microgrammes, you will be released with a warning.

It is worth noting that the classic roadside breath test is only **an indicator** of whether you are over the limit. Actual evidence that can be used in court will need to be gathered on breath testing machines at the police station – and any blood tests will need to be carried out by a police surgeon. In restricted circumstances there may be an alternative urine test.

The maximum punishment for drink driving is an unlimited fine or six months imprisonment, and a mandatory disqualification of at least 12 months – unless, in very limited circumstances, special reasons are found – see page one. The mandatory disqualification is three years if convicted twice in 10 years.

If you fail to co-operate with the procedures you may commit the offence of failing or refusing to supply specimens for analysis for which there is a mandatory disqualification of at least 12 months and a recommendation for a longer period.

Driving under the influence of drugs

There are corresponding offences relating to driving, attempted driving, or being in charge of a motor vehicle whilst over the prescribed limit for certain drugs (as evidenced by a blood or urine test taken at the police station). There are equally corresponding punishments and disqualifications for these offences.

The regulations specify 17 controlled drugs and their corresponding specified limits, each of which is expressed in microgrammes per litre of blood. For example, the limits for amphetamine, cocaine, diazepam, methadone, morphine and temazepam are 250, 10, 550, 500, 80 and 1,000 respectively. No limits have yet been set in relation to urine.

Speeding

The punishment for speeding is a fine, and three to six penalty points or a disqualification depending on the seriousness of the offence.

If you are caught driving slightly over the speed limit, this will usually result in three penalty points and a

£100 fine. High speeds (usually at least 40 per cent over the given limit) will often accrue six penalty points, or even a discretionary disqualification of anywhere between seven to 120 days (and potentially longer).

The maximum punishment for speeding on the motorway is £2,500 and six penalty points or disqualification.

If the number of points applied will raise your total in three years to 12 or more, then the Court must disqualify for a minimum of six months unless you are likely to be caused exceptional hardship – see page one.

On some roads, there will be instances when the speed limit is not clearly signposted, but motorists are expected to know that a 'restricted road' (one where there is a system of street lights, with the lights not more than 200 yards apart) has a speed limit of 30mph, unless otherwise stated.

When such street lighting is not in place, there are strict regulations that local authorities must display signs. If the proper road signs have not been displayed, this may be enough to form the basis of a defence.

Speed cameras

If you are flashed by a speed camera, the penalty rules are very much the same with regards to how far over the given speed limit your vehicle was travelling.

However, in this instance, you (or rather the registered keeper of the vehicle) will receive a Notice of Intended Prosecution within 14 days. The owner will then have 28 days to provide the identity of the driver involved.

Speed Awareness Course

In some cases, you may be offered the option to go on a Speed Awareness Course as opposed to incurring penalty points. If you attend the course you will not need to pay the fine, but will probably pay a very similar price in course fees.

Notice of Intended Prosecution

If either yourself or another person using your vehicle has been suspected of committing a road traffic offence but has not been approached directly by a police officer (usually by a safety camera), a Notice of Intended Prosecution will be issued to the registered keeper of the vehicle.

A Notice of Intended Prosecution is sent within 14 days of an offence being committed. Provided this deadline is met, the owner has 28 days to provide the name and address of the person who was driving the vehicle at the time of the incident. If you need more time, you will need to explain this to the police along with the reasons why.

If you do not know who was driving, you will be expected to take steps to identify them. If you have made enquiries, but have not been able to reach a conclusion, you could still be prosecuted. If you ignore the notice and do nothing, you may be convicted of the offence of failing to comply even if you can prove at Court that you had not committed the actual alleged traffic offence.

However, if the court accepts you have tried to identify the driver, this may be a satisfactory defence. Either way, expert representation is crucial.

If you fail to identify the driver within 28 days, this will usually result in six penalty points and a fine of up to £1,000.

How can Mander Hadley help?

In circumstances where you are to be interviewed following arrest or voluntary attendance at a police station, we can attend and advise **free of charge** under the Legal Aid police stations scheme in Coventry and Warwickshire (and perhaps further afield). The Police can access our emergency contact details 24/7.

If you are required to attend Court please contact us immediately as we will be able in most cases to obtain in advance details of the Prosecution case and advise you properly on the evidence and your options. The Court will not allow adjournments to facilitate this.

Although helpful, the brief information included in this document is intended as a guide only and does not constitute legal advice. For more detailed information regarding any of the matters raised in this guide, tailored to suit your specific circumstances, please contact a member of Mander Hadley's road traffic team.