



## RISK MANAGEMENT GUIDE

### Use of Mobile Phones whilst driving

#### Introduction

This brief guide has been produced to assist small businesses who have duties under health and safety law to ensure drivers are not exposed and do not expose others to undue risk.

During recent years there has been a massive increase in the use of mobile phones including usage by car drivers.

The Government decided that a specific prohibition was necessary.

#### The Law

From 1st December 2003 (1st February 2004 in NI) it became illegal to use a hand-held mobile phone whilst driving, even when you're stopped at traffic lights or in a queue of traffic. It also makes it an offence to "cause or permit" a driver to use a hand-held mobile phone while driving, or to use a hand-held mobile phone while supervising a driver who only has a provisional licence.

A person is deemed to be driving if the vehicle is stationary but the engine is running. The offence will apply to all motor vehicles, including motorcycles but will not apply to pedal cycles.

If you are caught using a hand-held mobile when driving the penalty will be £60 and 3 penalty points. If the offender chooses to go to court they will face a maximum fine of £1,000 (£2,500 for drivers of goods vehicles or passenger carrying vehicles with 9 or more passenger seats).

You can also be prosecuted for using a hands-free mobile if you fail to have proper control of your vehicle.

Drive carelessly or dangerously when using any phone and the penalties can include disqualification, a large fine and up to two years imprisonment.

#### What is a hand-held mobile phone?

The regulation includes any device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data.

A mobile phone or other device is to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function, including:

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

## There are two exemptions:

- (1) 2-way "press to talk" radios – as used by taxi drivers and the emergency services
- (2) Using a hand-held phone in an emergency to call 999 or 112 if it would be unsafe for the driver to stop.

## Commercial Vehicles

If you operate commercial vehicles and use a CB Radio system it is important to keep conversations with drivers to a minimum. Lengthy discussions should only take place (at the drivers instigation) when they have parked their vehicle somewhere safe (not on the hard shoulder).

Guidelines for 2-way/CB radios should be included in your mobile phone policy.

## Hands-Free Equipment

Providing a phone can be operated without holding it, then hands-free equipment is not prohibited by the new regulation. Pushing buttons on a phone whilst it is in a cradle or on the steering wheel or handlebars of a motorbike is not covered by the new offence, provided you don't hold the phone.

However, hands-free phones are also distracting and you still risk prosecution for failing to have proper control of a vehicle under regulation 104 of the Road Vehicles (Construction and Use) Regulations 1986 if you use a hands-free phone when driving. If there is an incident, the use of any phone or similar device is likely to justify charges of careless or dangerous driving.

## Mobile Phone Policy

Mobile phones should never be used unless the vehicle is off the road, stationary or properly parked with the engine off.

Drivers must exercise proper control at all times.

The use of hands-free equipment is also likely to distract attention from the road. The evidence is overwhelming that driving speed drops and concentration reduces significantly when dealing with conversations when driving.

Talking to a passenger in the vehicle is also distracting. However, it's not as distracting as talking on a mobile phone.

Many drivers who suddenly face difficult driving conditions would stop a conversation with a passenger (he/she can appreciate what is happening) but a driver may continue talking on a mobile as the person on the end of the phone can't appreciate what is happening on the road.

Therefore, It is safer not to use any communication whilst driving.

A formal policy is appropriate for the use of mobile communications together with guidance advising drivers to find a safe place to stop and to avoid other causes of distraction such as:

## Other potential distractions

- Loud music masking other sounds
- Conversations (or arguments) with passengers or other road users
- Map reading whilst moving
- Inserting cassettes and CDs or tuning radios
- Operating route guidance, navigation or traffic congestion warning systems
- Using PDA's (Personal Digital Assistants) and other equipment that sends or receives data
- Lighting cigarettes, eating and drinking.

You should also explain to staff the benefits of not using a phone on the move. For example, it is far more professional to make calls from a vehicle when stationary. You will be less likely to be distracted, be more in control and be able to consult relevant paperwork.

## Further Information:

### RoSPA:

Website: [www.rospa.co.uk](http://www.rospa.co.uk)

Telephone: 0121 2482000

### Health & Safety Executive

Website: [www.hse.gov.uk](http://www.hse.gov.uk)

Telephone: 08701 545500

### BRAKE

Website: [www.brake.org.uk](http://www.brake.org.uk)

Telephone: 01484 559983

### Department of Transport

Website: [www.dft.gov.uk](http://www.dft.gov.uk)

## IMPORTANT

The information set out in this document constitutes a set of general guidelines and should not be construed or relied upon as specialist advice. Therefore **MORE THAN BUSINESS** accepts no responsibility towards any person relying upon these Risk Management Guidelines nor accepts any liability whatsoever for the accuracy of data supplied by another party or the consequences of reliance upon it.