

Road traffic offences

There is a vast spectrum of driving offences, relating to use of a motor vehicle, keeping of a motor vehicle, document and driving offences. This is a selection of just a few of them:

Alcohol Related Offences

There are various offences relating to alcohol and the motorist. The following are the main offences.

Driving with Excess Alcohol

It is an offence for a person to drive or attempt to drive a motor vehicle on a road or other public place with excess alcohol in his breath, blood or urine. The prescribed legal limits are:

- 35 micrograms of alcohol in 100 millilitres of breath
- 80 milligrams of alcohol in 100 millilitres of blood
- 107 milligrams of alcohol in 100 millilitres of urine

There is specific procedure that the police follow when conducting the road side and police station drink drive procedure. Failure by the police to follow this procedure could lead to a case being dismissed. Our solicitors will be able to advise you as to whether the police have properly carried out the drink drive procedure.

For a first time offence a person will be disqualified from driving for a minimum of 12 months unless there are special reasons that can be argued not to disqualify. Special reasons are very limited and you will need legal advice as to whether your circumstances are such that they can be advanced on your behalf at court. If a person has a previous conviction for a drink drive offence in the previous 10 years then the minimum disqualification period will be 3 years.

The court will, in addition to disqualification, impose penalties which include a fine, Community Order or even custody depending on the level of alcohol.

Being In Charge with Excess Alcohol

It is an offence for a person to be in charge of a motor vehicle on a road or other public place with excess alcohol in his breath, blood or urine.

The prosecution do not need to prove that the accused would have driven, simply that he was 'in control' of the vehicle. Being 'in control' is not legally defined; it is a question of fact. It is a defence if the accused can establish that there was no likelihood of his driving whilst he had excess alcohol in his body.



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If convicted the court may disqualify a person from driving or impose 10 penalty points. The court will also impose penalties which include a fine, Community Order or even custody if the circumstances are so serious.

Driving whilst Unfit through Drink or Drugs

It is offence to drive or attempt to drive a mechanically propelled vehicle on a road or other public place while unfit through drink or drugs.

A person is 'unfit' to drive if his ability to drive properly is impaired. The test for impairment is the inability to drive properly.

Drink relates to alcoholic drink. Drugs is not limited to illegal drugs, it included medication (something given to cure, alleviate or assist an ailing body). A drug can be something which when consumed affects the body and so includes 'glue sniffing'.

This offence is not limited to motor vehicles, it relates to any vehicle with some form of engine which includes a motor assisted pedal cycle.

If convicted the court must disqualify a person for a minimum of 12 months, unless there are special reasons that can be argued. This minimum increases to 2 years if the person has had 2 or more disqualifications for periods of 56 days or more in the previous 3 years or at least 3 years if there has been a drink drive conviction in the previous 10 years.

In addition to disqualification, the court will impose penalties which include a fine, Community Order or even custody if there is evidence of a high level of impairment and there are aggravating factors.

Being in Charge whilst Unfit through Drink or Drugs

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Drink relates to alcoholic drink. Drugs are not limited to illegal drugs, it includes medication (something given to cure, alleviate or assist an ailing body). A drug can be something which when consumed affects the body and so includes 'glue sniffing'.

This offence is not limited to motor vehicles, it relates to any vehicle with some form of engine which includes a motor assisted pedal cycle.

The prosecution do not need to prove that the accused would have driven, simply that he was 'in control' of the vehicle. Being 'in control' is not legally defined; it is a question of fact in each case. It is a defence if the accused can establish that there was no likelihood of his driving whilst he was unfit or had excess alcohol in his body.

If convicted the court may disqualify a person from driving or impose 10 penalty points. The court will also impose penalties which include a fine, Community Order or even custody if the circumstances are so serious.

Failing to Provide a Specimen for Analysis

It is an offence for a person who has been required to provide a specimen for analysis to fail do so, without a reasonable excuse.

It is a question of fact as to whether there a reasonable excuse not to provide the specimen for analysis, however, it requires that the person is physically or mentally unable to provide it or the provision of the specimen would entail a substantial risk to health. The prosecution do not need to prove that he was in charge or had driven of a motor vehicle just that there was reasonable suspicion that an offence had been committed. If you have been charged with offence then our solicitors will be able to advise you as to whether you have reasonable excuse to advance.

The penalties for this offence will depend on whether it is alleged that the accused was driving or in charge.

If the accused is alleged to have been driving then the court must disqualify for a minimum of 12 months, although the guideline is for 24 months, unless there are special reasons to advance. This minimum increases to 2 years if the

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person has had 2 or more disqualifications for periods of 56 days or more in the previous 3 years or at least 3 years if there has been a drink drive conviction in the previous 10 years.

If the accused is alleged to be in charge then a court may disqualify for any period or impose 10 penalty points.

In addition to disqualification and/or endorsement the court will also impose penalties which include a fine, Community Order or even custody if the circumstances are so serious.

Causing Death by Dangerous Driving

A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place is guilty of an offence.

The prosecution must prove that the accused caused the death by driving dangerously. Driving is dangerous if the standard is such that it falls far below what would be expected of a competent and careful driver and it would be obvious to a competent and careful driver that driving in that way would be dangerous.

This is a very serious offence and one that can only be heard in the Crown Court. The maximum penalty is 14 years with

a mandatory minimum disqualification period of 2 years and a compulsory re-test. Should you be charged with an offence of causing death by dangerous driving you should obtain legal advice.

Causing Death by Careless or Inconsiderate Driving

It is an offence that being the driver of a mechanically propelled motor vehicle on a road or other public place caused the death of another person by driving that vehicle without due care and attention or without reasonable consideration for other persons using the road or place.

A person is regarded as driving without due care and attention if, and only if, the way they drive falls below what would be expected of a competent and careful driver. In deciding what would be expected of a competent and careful driver, regard shall be had not only to the circumstances of which he could have been expected to be aware but also to any circumstances shown to have been within his knowledge.

A person is regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

The maximum penalty for this offence is 5 years imprisonment, a minimum disqualification period of 12 months and

a discretionary re-test. The likely penalty will depend on the circumstances of the case. This is a serious offence and should you be charged with it you should obtain legal advice.

Dangerous Driving

It is an offence to drive a mechanically propelled vehicle dangerously on a road or other public place.

Driving is dangerous if the standard is such that it falls far below what would be expected of a competent and careful driver and it would be obvious to a competent and careful driver that driving in that way would be dangerous.

This is a serious offence and one which can be heard either in the Crown Court or the magistrates' court. The maximum penalty is 2 years in the Crown Court and 6 months in the magistrates' court. The likely penalty will depend on the circumstances of the case. The court must disqualify for a minimum of 12 months and they must order that he pass an extended driving test. This minimum will be extended to a 2 years if the accused has had 2 or more disqualifications for periods of 56 days or more in the preceding 3 years. Should you be charged with an offence of dangerous driving you should obtain legal advice.



Careless Driving

It is an offence to drive a mechanically propelled vehicle on a road or other public place without due care and attention or without reasonable consideration for other persons using the road or place.

A person is regarded as driving without due care and attention if, and only if, the way they drive falls below what would be expected of a competent and careful driver. In deciding what would be expected of a competent and careful driver, regard shall be had not only to the circumstances of which he could have been expected to be aware but also to any circumstances shown to have been within his knowledge.

A person is regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

If convicted of this offence the court may disqualify the driver for any period and can order a re-test or impose 3 to 9 penalty points. The court will also impose a fine.

Driving without Insurance

It is an offence to use a motor vehicle on a road or other public place when there is not in force a policy of insurance or security against third party risks.

If the prosecution prove that the accused had used a motor vehicle on a road or other public place then it is for the accused to establish that he was insured. An insurance certificate is the main item of proof and until it has been delivered to the insured he is held not to be insured.

Certain defences can apply to employed drivers.

If convicted of this offence the court may disqualify the driver for any period and order a re-test or impose 6 to 8 penalty points. The court will also impose a fine.

Driving otherwise than in accordance with a Licence

It is an offence to drive on a road a motor vehicle otherwise than in accordance with a licence to drive a vehicle of that class.

You must have a valid licence in order to drive a motor vehicle on a public road. If you hold a provisional licence then you must comply with the conditions of that licence namely displaying Learner plates and be supervised by a qualified driver.

If convicted of the offence the court may disqualify a driver for any period or impose 3 to 6 penalty points, unless

special reasons exist, except where the driving was in accordance with any licence that could have been granted to him. The court will also impose a fine.

Failing to Stop/ Report following an Accident

It is an offence that as a driver of a mechanically propelled vehicle, owing to the presence of which on a road or other public place an accident occurred whereby injury was caused to another person or damage caused to another vehicle or to roadside property or injury to an animal failed to stop and/or upon reasonable enquiry to give his name and address, the name and address of the owner of the vehicle and the number of the vehicle failed to do so.

When an accident occurs there is an obligation on the driver to stop at the scene of the accident. If he does not do so as soon as he safely and conveniently can then he commits an offence of failing to stop after an accident. Once stopped at the scene he must then give his name and address, the name and address of the owner of the vehicle and the identification marks of the vehicle to any person who has reasonable grounds to request those details. Unless he has given those details, he must report the accident at a police station or to a police constable as soon as reasonably



practicable and in any event within 24 hours of the accident, otherwise he commits an offence of failing to report an accident.

If convicted of the offence the court may disqualify a driver for any period and order a re-test or impose 5 to 10 penalty points. In addition the court will impose penalties which include a fine, Community Order or even custody of up to 6 months if the circumstances are so serious.

Speeding

Most offences of speeding are dealt with by way of a fixed penalty and 3 points on your licence. However, if the alleged offence of speeding is not accepted, the speed was well over the limit or the driver already has 9 points on his licence then the matter will be dealt with by the courts.

There are various requirements that have to be satisfied before a successful prosecution can be brought in relation to a speeding matter, from the correct signage being used, correct lighting, to service of notification of intention to prosecute. One of our experienced motor offence lawyers will be able to advise you if there is a defence to a speeding allegation.

If convicted of an offence of speeding the court may disqualify a driver for any period and /or require a re-test or impose 3 to 6 penalty points, unless special reasons exist not to disqualify. If the court is considering disqualification then the driver will be notified in order that representations can be made. Our experienced road traffic solicitors will be able to assist you with this. The court will also impose a fine.

For further advice on any of these offences or any motoring offence please contact us.