



Use of Hand-Held Devices in Vehicles on University Business Policy

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POLICY

1. Introduction

The University of Wolverhampton has duties under the Health and Safety at Work Act 1974 to ensure the health, safety and welfare of its employees, and make similar provision for non-employees including students and visitors who may be affected by the University's activities.

These duties include work-related driving activities and are in addition to the duties that the University has as an employer. Drivers of University vehicles and drivers of their own cars being used for University business have, as employees; to always comply with the requirements of the Road Safety Act 2006 and the Road Vehicles (Construction and use) Regulations 1986 (as amended).

2. Purpose

In 2003, a new regulation made under the Road Vehicles (Construction and Use) Regulations made it a specific offence to use a hand-held phone, or similar device, when driving. This regulation was further amended in March 2022 to include the use of Sat Nav's, tablets or any handheld device that can send or receive data.

From 1 March 2017, the penalties for drivers caught using a handheld mobile device while driving are £200 and 6 penalty points. New drivers are particularly impacted because if they get just 6 points in the first two years after passing their test, they will lose their licence.

More experienced drivers could go to court if they offend more than once, potentially facing fines of up to £1000 and a minimum 6 month driving ban. If convicted, driving licences will show the offence for four years and this would have to be declared to insurers. These penalties are consistent with existing Regulation 104 offences where 'driving a motor vehicle without having proper control'.

It should be noted that drivers still risk prosecution (for failure to have proper control) if they use hands-free phones while driving.

Cause or Permit – A number of driving offences in the Road Vehicles (Construction and Use) Regulations 1986 make it an offence to "cause or permit" an offence to take place. Regulation 104 makes it an offence for a person to drive a motor vehicle if he/she cannot have proper control of the vehicle. Anyone "causing or permitting" a driver not to have proper control, such as an employer requiring an employee to drive a vehicle which they cannot properly control, is also liable for prosecution.

The Regulation on mobile phones adopts the same wording as Regulation 104 to include liability for causing or permitting someone to use a hand-held mobile phone or similar device while driving. The Department of Transport states that this will make it clear to employers, for example, that they cannot expect their employees to use a hand-held phone while driving. Employers will not be liable solely because they have supplied a telephone or because they have phoned an employee who is driving at the time. However, employers will be liable if they require their employees to use a hand-held mobile phone and thus commit an offence. The Department of Transport also state in Guidance that employers may be liable if they fail to forbid the use of such phones on company business.

3. Scope

This policy applies to all university staff who drive university owned or leased vehicles or who drive their own vehicles for university business purposes.

4. Definitions

Definition of Hand-Held Phone or Similar Device – A hand-held phone or similar 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, providing access to the Internet, and teams calls/meetings.

It should be noted that the definition of “held” includes cradling a phone between head and shoulder.

Definition of Hands-Free Phone or Similar Device – The Department of Transport does not define a hands-free device, as there are numerous types of hands-free phones and devices to convert hand-held phones to provide some level of hands-free use, these range from plug-in devices with their own speaker to systems that are permanently wired into the vehicle. The offence therefore prohibits a type of activity rather than the use of a specific type of device. Provided that a phone can be operated without holding it, then such hands-free equipment is not prohibited by the Regulations. 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 Regulation, provided the phone is not held.

Exemptions - There is an exemption for calls to 999 or 112 in genuine emergencies where it is unsafe or impracticable to stop. The use of 2-way radio equipment (unless the device can also be used as a phone) when driving is not included in the new offence but remember there is still a risk of distraction and prosecution under other powers.

5. Policy

Drivers of University owned, or hired, vehicles must not, except in the case of an emergency to call 999 or 112, where it is unsafe or impracticable to stop, use a hand-held mobile phone or similar device whilst driving.

Drivers using their own vehicles on university business must not use hand-held phones when driving, as the University requires you to comply with all relevant laws and University Policies whilst at work, failure to do so could also result in disciplinary action.

Staff in Faculties and Directorates must not call a member of staff’s mobile telephone number if they know them to be driving at the time and to not have a hands-free facility fitted to the vehicle that they are driving. If such a call from a university source was answered and an incident occurred during that call the University may be placed in an invidious position as regards liability under the offence of “causing or permitting” a driver to use a hand-held mobile phone whilst driving.

In situations where Faculties or Directorates may have a requirement to communicate, on a fairly regular basis, with members of staff whilst they are driving, the Budget Holder should consider providing a suitable hands-free vehicle installation for this purpose. However, contact with members of staff whilst driving, even where a hands-free device is known to be fitted should be kept to a minimum as hands-free phones are also distracting and there remains the risk of 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 accident, the use of any phone or similar device might justify charges of careless or dangerous driving. It can be illegal to use a hands-free phone while driving. Depending on the individual circumstances, drivers could be charged with 'failing to have proper control of the vehicle'. In more serious cases, the use of any type of mobile phone could result in prosecution for careless or dangerous driving.

Drivers of vehicles who use a mobile phone for University purposes, and where there is not a hands-free facility fitted to the vehicle, should not answer calls whilst driving, but should let the phone ring and return the call when safely parked. Alternatively, the phone should be switched to voicemail before starting the journey. You must not, except in the case of a genuine emergency call 999 or 112, stop on the hard shoulder of a motorway to answer/make a mobile phone call.

In order to comply with the law, you must not use a hand-held mobile phone when stopped in a traffic jam.

'Driving' includes time 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 cases of exceptional traffic jams, such as lengthy stoppage on a motorway, it would be clear that someone was not driving if the engine was switched off.

Full compliance with this policy will mean full support from the University of Wolverhampton. However, failure to comply in full or part and any subsequent fixed penalty or license endorsement will result in an individual being responsible for the full consequences and implications of their actions.

6. Roles and responsibilities

As part of recruitment, training, and staff appraisal, it is important to ensure that drivers and line managers are reminded about the following:

- The dangers of using a hand-held or hands-free mobile phone while driving.
- The organisation's policy on mobile phone use.
- The need to go to voicemail, or switch the phone off while driving, and to stop in a safe place to check messages or allow a passenger to use the phone.
- That good communication can easily be maintained without using a phone while driving.
- The importance of line managers not expecting staff to make or receive calls when driving.
- The legal, financial and bad PR consequences that could result from using a mobile phone while driving.
- The University will co-operate fully with police enquiries resulting from a crash and will supply to the police all relevant information on the employee to whom the vehicle is allocated or if someone else was driving at the time, their details.

Senior Managers must lead by example, both in the way that they drive themselves and by not tolerating poor driving practice among colleagues. They must never take or receive a call on a mobile phone when driving.

Line Managers must ensure the following:

- They lead by personal example.
- They do not expect staff to answer calls when they are driving.
- Staff understand their responsibilities not to use a hand-held device while driving.
- Staff switch their phones to voicemail, or switch them off, while driving, or ask a passenger to use the phone.
- Staff plan journeys to include rest stops which also provide opportunities to check messages and return calls.
- Work practices do not pressurise staff to use a mobile phone while driving.
- Compliance with the mobile phone policy is included in team meetings and staff appraisals and periodic checks are conducted to ensure that the policy is being followed.
- They follow University accident investigation procedures to help learn lessons which could help improve our future road safety performance.
- They challenge unsafe attitudes and behaviour, encourage staff to drive safely, and lead by personal example by never themselves using a mobile phone while driving.

Staff who drive for work must:

- Never use a hand-held device while driving.
- Plan journeys so they include rest stops when messages can be checked, and calls returned.
- Ensure their phone is switched off and can take messages while they are driving or allow a passenger to use the phone.
- Co-operate with accident report and investigation procedures.

7. Exceptions

There are no exceptions to this policy.

Failure to comply with this policy may be referred to the relevant line manager as a disciplinary offence.

8. Amendments

The University may change this Policy at any time, and where appropriate. Where a policy is not due for review, but is found to require updating, it will remain published, unless the reasons for review render it obsolete.

9. Information and Resources

For further information on driving at work please see the Driving at Work Policy.

10. Contact

For general queries, please contact the University Health and Safety Department.

Email: HSDEmails@wlv.ac.uk

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