

Welcome to our Driving Law Service

What is Driving Law? It's the area of law that covers drivers and passengers of all vehicles and is there to safeguard all of us on our roads and in public places.

There has been an increase in penalties for driving offences and the courts are now imposing harsher sanctions, including jail sentences, for serious offences such as Drink Driving so it has never been more important to have effective representation at court.

Receiving a prosecution in the criminal courts can be a stressful time and we are here to help and support you through every stage - including police interviews and/or court appearances.

We offer a free 15 minute consultation over the phone to assess your situation and to give you an initial view on whether we can help you. So if you or any member of your family is facing prosecution - contact MTA Solicitors as we're here to help.

- [Driving without Insurance](#)
- [Speeding](#)
- [Drink Driving](#)
- [Careless Driving](#)
- [Dangerous Driving](#)
- [Failure to Produce](#)
- [Coroners Inquest](#)
- [Notice of Intended Prosecution \(NIP\)](#)
- [Points Accumulation](#)
- [Mobile Phone Offences](#)

[Testimonials](#)

[Glossary of Terms](#)

Driving without Insurance

The law states that a person must not use a motor vehicle on a road or other public place unless they have a valid insurance policy.

Many people get caught out with insurance offences because they think their fully comprehensive insurance policy covers them to drive a vehicle owned by another person with their permission. However, a lot of fully comprehensive insurance policies do not actually have this type of cover.

It is also an offence to allow a person to drive your vehicle if they do not have insurance covering them for your vehicle.

Social and Business Purposes

An insurance policy often refers to use for “social, domestic and pleasure purposes” and, for example, this won’t cover a businessman travelling to meet a client or for an employee using their own vehicle to make a delivery for the company.

Defences

There are very few defences for driving without insurance. The only real defence is to argue that either you were not driving or that you thought you were insured.

Special Reasons Arguments

If you were driving under the genuine misapprehension that you were insured at the time you may have a case of Special Reasons. If the court accepts your “special reasons” argument they have the discretion not to impose penalty points.

Punishment

6-8 Penalty Points, a Discretionary Disqualification and a fine up to £5000.

Speeding

Speeding fines and prosecutions in Britain have increased sevenfold and the number of speed cameras has rocketed, in 2006 there were 5,500 speed cameras on the road, not to mention the other types of devices used to target motorists such as the LTI 20:20 Laser Gun.

Every year a million more speeding tickets are issued than a decade ago - raising £100m a year in fines, and the growing speed camera network resulted in the number of drivers disqualified under the "totting up" procedure reaching 33,000 in 2003.

The successful prosecution of speeding offences is far from straight forward and our specialist road traffic solicitors are here to scrutinise the prosecution case and work out your chances of success and advise you on whether you should plead Guilty or Not Guilty.

The number of points you are facing

Magistrate's Court Sentencing Guidelines

Guideline Points	Legal Speed Limits	Excess Speed-MPH	FINE
3	20-30 mph 40-50 mph 60-70 mph	Up to 10 mph Up to 15 mph Up to 20 mph	Yes
4 or 5 OR Disqualification up to 42 days	20-30 mph 40-50 mph 60-70 mph	From 11-20 mph From 16-25 mph From 21-30 mph	Yes
6 OR Disqualification up to 56 days	20-30 mph 40-50 mph 60-70 mph	From 21-30 mph From 26-35 mph From 31-40 mph	Yes

Drink Driving

If you are facing a Drink Driving Ban the implications of this offence may be very serious as a ban may lead to the loss of your job, affect your personal relationships, the loss of your car plus a criminal record.

Our road traffic specialist will first check whether any of the defences apply to your case, check that the police have followed the correct procedures and if a guilty plea is the only option we will do everything we can to ensure you receive the most lenient sentence possible.

Possible “special reasons” why the court may not disqualify you:

Spiked or laced drinks

You will need to show that:

- The drink was “laced” or “spiked” i.e. alcohol added without your knowledge
- You didn’t know or suspect that the drink was “laced”
- If your drink had not been spiked/laced that you would have been below the limit. Medical evidence may be required to prove this point.

However, where blood-alcohol levels are high, the court may consider that you would have known or should have realised that you were not in a fit state to drive.

Drink Driving while under duress

If you are able to show that you were in genuine fear of suffering death or serious physical injury and only drove the vehicle in order to avoid the threat then this is a potential defence.

The court will look at whether there was good cause to fear death or serious injury and whether a sober person of reasonable control would have acted in the same way.

Medical Emergency

A sudden medical emergency could justify you having to drive so this is also a potential special reason.

Shortness of Distance Driven

The shortness of distance driven can also be considered as another special reason but only if the actual distance driven meant you would have been unlikely to have come into contact with other road users.

Technical Defences

If the police have made a procedural error this may raise enough doubt for the court to return a Not Guilty verdict.

For example if your Breath Test reading is between 40 and 50 you can choose to replace the breath specimen by supplying a blood or urine sample

If the officer has failed to inform you of the option to have a blood or urine test you will be acquitted.

Reasonable Excuse

If you have been charged with failing to provide a specimen you can only be convicted if you did not have a reasonable excuse for failing to do so.

Previous recorded reasonable excuses were:

In Harding [1970] a “reasonable excuse” was said to exist where the defendant lost confidence in the doctor’s ability after the doctor had made 3 unsuccessful attempts to take blood.

In DPP v Pearman [1992] the court held there was a “reasonable excuse” where the defendant was suffering from stress and was in a distraught state, sobbing continuously and becoming unable to breathe properly.

In cases like this supporting medical evidence has to be provided.

No Likelihood of Driving

Another defence is to prove that there was no likelihood of driving the vehicle while over the limit. For example arranging for someone else to drive or taking a room at a local hotel.

The key to putting forward a defence for drink driving is careful case preparation. We specialise in defending drink driving cases and our team will quickly identify the positive aspects and confidently defend your case.

Punishment

- A 12 month mandatory disqualification for the 1st offence or 3 years for 2nd offences within a 10 years period
- A fine of up to £5,000 and/or
- 6 months imprisonment/community service

The length of the disqualification will also be dependant on the amount of alcohol consumed.

The table below shows you the length of disqualification in comparison to the level of alcohol found in your sample:

Magistrates Court Sentencing Guidelines

Breath	Blood	Urine	Disqualification Not Less Than	Guideline
26-55	80-125	107-170	12 Months	Fine
56-70	126-160	171-214	16 Months	Fine
71-85	161-195	215-260	20 Months	Fine
86-100	196-229	261-308	24 Months	Community Penalty
101-115	230-264	309-354	28 Months	Community Penalty
116-130	265-300	355-400	32 Months	Prison
131+	301+	401+	36 Months	Prison

If your only option is to plead Guilty we will focus all our attention on mitigation (lessening the severity of the offence) and try to obtain the lowest sentence possible. We'll put forward a plea of mitigation setting out valid and convincing reasons as to why the court ought to view your case with some empathy, and take those reasons into account before sentencing you. We will also inform the court of all your personal circumstances to ensure the Magistrates fully understand what effect a disqualification would have on you.

We'll also obtain character references for you and submit these to the court, in advance of the hearing, laying the foundations for a positive result.

We will, of course, keep you informed of every hearing date and arrange the best representation for you. Through our experience we have carefully selected experts and barristers who have demonstrated they are the best in the field to defend such cases. As a result, our road traffic specialist team have achieved a high rate of success.

Careless Driving (Driving without Due Care)

Section 3 of the Road Traffic Act 1988 states:

“If a person drives 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, he is guilty of an offence”

The prosecution needs to prove that your driving fell below the standard expected of a competent and careful driver. The Highway Code is often used by the courts as a guide to what constitutes safe or careful driving.

Examples of Careless Driving are:

Acts of driving caused by more than momentary inattention and where the safety of road users is affected, such as:

- Driving too close to another vehicle
- Driving through a red light
- Emerging from a side road into the path of another vehicle
- Turning into a minor road and colliding with a pedestrian
- Conduct which clearly caused the driver not to be in the position to respond in the event of an emergency on the road i.e. tuning a car radio
- Reading a newspaper or map
- Lighting a cigarette
- Talking to and looking at a passenger which causes the driver more than momentary attention
- Flashing lights to force other drivers in front to give way
- Misuse of lanes to avoid queuing or to gain some other advantage over other drivers
- Unnecessary slow driving or braking without good cause

Our Road Traffic Specialist will first check whether any of the defences apply to your case, check that the police have followed the correct procedures and if a guilty plea is the only option we'll do everything we can to ensure you receive the most lenient sentence possible.

Possible defences include:

- Mechanical defects
- Reduced visibility
- Medical/Health defences
- Road and weather conditions
- The actions of the other party involved in the incident

Every case will depend on its own facts, a slight variation in the particular facts of the case e.g. visibility, amount of traffic or geography may make a difference to the outcome of the case.

We are specialists in defending cases of careless driving and our team will quickly identify the positive aspects of your case and present an effective defence.

Punishment

Cases involving Careless Driving can only be heard in the Magistrates Court before a Magistrate or 3 lay Magistrates.

It is punishable by:

- a fine of up to £2,500
- discretionary disqualification
- Licence endorsement is compulsory and it carries 3-9 points unless there are special reasons

If your only option is to plead Guilty we will focus all our attention on mitigation and endeavour to obtain the lowest sentence possible. We'll put forward a plea of mitigation setting out valid and convincing reasons as to why the court ought to view your case with some empathy, and take those reasons into account before sentencing you. We shall inform the court of all your personal circumstances to ensure the Magistrates fully understand what effect a disqualification would have on you.

We'll also obtain character references for you and submit these to the court, in advance of the hearing, laying the foundations for a positive result.

We will, of course, keep you informed of every hearing date and arrange the best representation for you. Through our experience we have carefully selected experts and barristers who have demonstrated they are the best in the field to defend such cases. As a result, our road traffic specialist team have achieved a high rate of success.

Dangerous Driving

The offence of Dangerous Driving is defined in Section 2 of the Road Traffic Act 1988 as “A person is to be regarded as driving dangerously if”:

- The way he drives falls far below that of a competent and careful driver
- It would be obvious to a competent and careful driver that driving in that way would be dangerous
- A person is to be regarded as driving dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous or if anything attached to or carried by/in it and the way in which it is attached or carried

The offence of dangerous driving poses two questions:

1. Did the driving fall “far” below a standard which should be expected of a competent and careful driver? The word “far” is important to note as the definition is to be one of the features which distinguishes this offence from that of Careless Driving
2. Would it be obvious to a competent and careful driver that driving in such a way would be dangerous?

Evidence of Dangerous Driving

- Racing or competitive driving
- Prolonged, persistent or deliberate bad driving
- Speed which is highly inappropriate for the current road or traffic conditions
- Aggressive or intimidating driving i.e. a sudden lane change, cutting into a line of vehicles or driving much too close to the vehicle in front - especially when the purpose is to cause the other vehicle to pull to one side to allow the aggressor to overtake
- Deliberately ignoring traffic lights and other road signs
- Failure to pay proper attention resulting in significantly more than a brief lapse in concentration
- Overtaking where the manoeuvre could be carried out safely
- Driving a vehicle with a load which presents a danger to other road users
- Fatigue

Punishment

If you are found Guilty of Dangerous Driving it is punishable with 2 years imprisonment or an unlimited fine - or both. Disqualification is unavoidable and there is a compulsory re-test with 3-11 points.

If dangerous driving causes a death then the punishment is 14 years imprisonment, Obligatory Disqualification or 2 years imprisonment and a compulsory re-test with 3 to 11 points.

Alternative Verdict

The charge of Dangerous Driving carries a custodial sentence unlike the charge of Careless Driving.

Under Section 24 of the Road Traffic Offenders Act 1988, the jury can be directed to consider whether the driving was careless rather than dangerous. If appropriate, we will make a submission to the court asking for this direction to be given to the jury and your barrister will cover this point with the jury in his closing speech.

We will leave no stone unturned in preparing your case. We know you are putting your future in our hands - a responsibility that we take seriously and if necessary we'll instruct our own Accident Reconstruction Experts and/or Medical Experts to help win your case.

We'll take you through all of the prosecution's evidence and advise you on the strengths and weaknesses of the Crown's case.

We'll ensure we only instruct a Barrister that has dealt with such cases for several years. In such cases, our emphasis is to have a team of solicitors and barristers to conduct your case and of course you are part of the team.

By working together we will obtain the best result for you.

Applying to drive again before the Disqualification Period ends

An application can be made to the court to remove the period of disqualification – this has to be made in court and not by writing.

- If disqualified for less than 4 years you must wait 2 years to make an application
- If disqualified for less than 10 years but over 4 you must wait until half of your ban has passed

Our specialist team has an extremely good record of successfully arguing why you should be allowed to drive again and careful case preparation and presentation is essential. We know what factors the court will and will not take into account and strongly recommend you obtain our expert advice and assistance.

Failure to Produce

It is an offence if you fail to produce the necessary documentation when requested by a Police Officer. Documents you will need to provide are valid Driving Licence, Insurance and MOT certificate.

You are allowed 7 days to produce the documents at a Police Station or if it's not reasonable to produce them before you may show them on the day that proceedings start.

Coroners Inquest

We understand you have been through a traumatic accident, a stressful Police Station interview and possibly a prosecution in the criminal courts and now you have to attend a Coroners Inquest where you will come face to face with the family of the deceased.

Our objective is to protect your interests. The police officers in charge of your case and the accident investigator will be present at the hearing. Anything you say at the Inquest can alter the prosecution charge against you, for example the charge can increase from Careless Driving to Death by Dangerous Driving or your evidence may provide the police with the information they need to charge you with an offence.

We will ensure only a limited amount of questions are put to you in the witness box as the Coroners Court is not a court of blame. The purpose of any Inquest is to find out the identity of the deceased and to determine the cause of any violent, sudden or mysterious death.

Often the deceased's family will want to apportion blame on you; however this is not a court of blame and your barrister or solicitor will object to such questions.

Notice of Intended Prosecution (NIP)

If there are to be any proceedings against you for a road traffic offence you should receive a Notice of Intended Prosecution (NIP) which is usually sent via the post. You may even have been notified of this by the Police Officer who stopped you.

The NIP must be sent out within 14 days of the offence and must be studied carefully to ensure all the information is correct as any errors could void the intended prosecution.

You must complete the NIP correctly, filling in all the necessary sections – we can help you with this to ensure the correct format and level of standard is achieved.

Points Accumulation

The UK's system of penalising motor vehicle drivers for traffic violations works by assigning points for each type of violation and revoking the driver's licence if a certain number of points are accrued.

The following table shows how accumulating points will impact on you:

POINTS ACCUMULATION & WHAT YOU MAY BE FACING	
0 Points	Keep the first penalty points off your driving licence and stay in that lucky group of people with a clean driving licence! This will keep your Insurance Premiums to a minimum
3 Points	If you have been driving for less than 2 years you are on the verge of being disqualified and having to re-do both parts of your Driving Test again
6 Points	You are one conviction away from losing your licence i.e. if you're convicted of Careless Driving or caught travelling at excessive speeds
9 Points	One more offence, such as travelling at a speed of 35mph in a 30mph zone and your driving licence is gone and you will be banned for 6 months.
12 Points	You are facing a 6 month driving ban unless you have strong mitigation or special reasons.

Mobile Phone Offences

The current law states the following are all Mobile Phone Offences:

- Using the hand-held phone/device while driving
- Causing or permitting another person to drive while using a hand-held phone
- Supervising a Provisional Licence holder when the supervisor is using the hand-held phone.

You are not breaking the law if you use a “hands free kit” as the Law states the 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.”*

It is illegal to:

- Use the phone by holding it in your hand when driving
- At any point during the course of receiving or making a call or sending a text etc. you hold the phone in your hand - even if for a moment
- Hold the phone to answer the incoming call even if immediately after holding the phone to answer it you put it down and use your hands-free kit.

It is NOT illegal to:

- Make or answer a call by pressing a button on an earpiece or the phone keypad if the phone is mounted on a dashboard holder - because the phone is not being held at any time even momentarily
- Use your phone to call the emergency services on 112 or 999 in response to a genuine emergency and it's dangerous or impractical to stop driving to make the call

Punishment

The penalty is a £2,500 fine, a Discretionary Disqualification and 3 points on your Licence.

It is essential the Court has evidence that the phone was being held by the driver.

Glossary of Terms

Alternative Verdict	A request made to the Court asking for the jury to be directed to a lesser offence i.e. Careless Driving rather than Dangerous Driving
Breath Test	A chemical test of a driver's breath to determine the amount of alcohol consumed
Careless Driving	The offence of driving below the standard required of a competent and careful driver i.e. reading a newspaper or map, lighting a cigarette
Coroners Inquest	Official investigation of violent, sudden, or suspicious deaths
Dangerous Driving	The offence of driving far below the standard of a competent and careful driver i.e. excessive speeding, ignoring traffic lights and other road signs
Disqualification Period	The period of time an offender is banned from driving a vehicle
Drink Driving	The offence of driving after knowingly consuming over the legal limit of alcohol
Failure to Produce	The offence of failing to produce the necessary documentation when requested by a Police Officer
Mitigation	The action of lessening in severity or intensity i.e. "due to the mitigating circumstances of the defendant's health the fine was reduced"
NIP	Abbreviation for Notice of Intended Prosecution which is documentation detailing the alleged offence and pending prosecution
Point System	A system of penalising drivers of motor vehicles for traffic violations by assigning points for each type of violation and revoking the driver's licence if a certain number of points are accrued
Special Reasons	"Special Reasons" are put forward to explain to the Court why the offence took place. They don't excuse the offender but may reduce the penalty associated with the offence