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**Crown Prosecution Service Policy on Bad Driving**

**Andrew Swan, Solicitor in the Regulatory & Motoring Defence Unit at leading North East law firm, Ward Hadaway, considers the new Crown Prosecution Service policy on Bad Driving.**

In December 2007, the Crown Prosecution Service published new guidance on bad driving. Whilst there is no statutory definition, the guidance states there are a number of general offences concerning the way a vehicle is driven, which will amount to bad driving. These include, dangerous driving, careless or inconsiderate driving (which may also have caused death), wanton and furious driving, aggravated vehicle taking.

One of the key changes is the way in which Prosecutors will deal with motorists in England and Wales caught driving whilst using a handheld mobile phone. The Director of Public Prosecutions, Sir Kenneth McDonald QC, said "The revised Policy also responds to public concern about the dangers of driving whilst using a mobile telephone and this means that a charge of dangerous driving will now be the starting point for this offence, where there is clear evidence that danger has been caused by its use."

The new guidance follows concerns by the Crown Prosecution Service that too many drivers simply choose to flout the ban on using a handheld mobile phone whilst driving.

The penalties for using a mobile phone whilst driving have increased since the ban was first introduced on 1 December 2003. The original penalty was either a £30 fixed penalty or up to £1,000 upon conviction in Court (£2,500 for drivers of goods vehicles, buses or coaches). However, the penalties were simply not working, so were increased on 27 February 2007 to 3 points endorsed on the driving licence and a minimum fine of £60.

Under the new Crown Prosecution Service Guidance, Prosecutors may press charges of dangerous driving if the use of the mobile phone has caused bad driving, which falls short of what is safe. Dangerous driving carries a maximum sentence of 2 years imprisonment and a disqualification from driving for a minimum period of 12 months. Causing death by dangerous driving carries a maximum prison sentence of 14 years.

The message therefore is stark. Drivers caught using their handheld mobile phones face tougher prosecutions and penalties than ever before.

So are hands-free kits the answer?

Well they are certainly a step in the right direction. However, drivers must still be aware of the distraction of talking on the telephone whilst driving. A recent study published by the Transport Research Laboratory shows that a driver on the phone is more distracted than one who has drunk as much as the legal alcohol limit. They calculated the risk of crashing is four times higher where a driver is using his phone. The driver is also at risk of prosecution for failing to have proper control of a vehicle, dangerous or careless driving.

**By Andrew Swan, Solicitor in the Regulatory & Motoring Defence Unit at leading North East law firm Ward Hadaway.**

*This briefing is for general guidance only. It represents our understanding of English law and practice as at March 2008, but is not intended to be a comprehensive statement of the law. Readers are advised to seek specific guidance from Ward Hadaway.*