

Mobile Telephones

Introduction

The use of mobile phones at work offers a convenient and efficient means of communication.

In some circumstances they can also have safety benefits in terms of security and use in emergencies.

However, concern has been growing with regard to their potential effects on health and to the dangers associated with their use while driving.

As an employer, Shropshire Council has statutory duties to assess potential risks to the health and safety of employees and others, arising from work activities, and to take steps to eliminate or minimise any significant risks.

This arrangement assesses potential health and safety risks from the use of mobile phones at work. It also sets out clear guidance to employees on the actions, which they should take to help eliminate or minimise such risks.

Please also see Legislation on Mobile Phones and Driving Questions and Answers.

Potential health risks

Mobile phones emit low levels of microwave radiation during use and operate within international guidelines.

The balance of evidence suggests exposure below guidelines does not cause adverse health effects.

However, there is evidence to suggest there may be biological effects at exposures below guidelines.

Therefore, it is not possible to say that exposure is totally without potential health effects.

A precautionary approach is therefore recommended and department managers, as responsible employers, need to ensure that employees using mobile phones take sensible steps to minimise their exposure to microwave radiation. These steps are set out in the Health and Safety Precautions section of this arrangement.

Risks associated with the use of mobile phones in vehicles

Concentration and Distraction

Using a hand-held phone while driving severely limits the driver's ability to physically control the vehicle in a safe manner.

The law requires drivers to have proper control of their vehicles at all times. Consequently, the use of hand-held phones whilst driving is a criminal offence.

It is also known that the distracting effect of conversation, even on a "hands-free" phone causes accidents.

The council therefore **prohibits** the use of both hands-free and hand-held phones by any driver on council duty, whilst driving a vehicle.

Health and safety precautions

The following rules must be followed when using mobile phones for Shropshire Council business. Reference should also be made to any specific manufacturers' safety information supplied with the phone.

Shropshire Council expects that all employees will exercise a degree of common sense when using mobile phones.

Minimising Health Risks

1. Only use a mobile phone when necessary, wherever possible limit use to short duration calls only.
2. The phone should not be pressed tight against the ear. Leave a slight gap between the phone and ear to reduce the concentration of absorbed energy.
3. When making/taking an unavoidably lengthy call change the phone periodically from ear to ear in order to minimise localised concentration of absorbed energy.
4. Do not use mobile phones when walking down a corridor or around an office environment, going up or down stairways, crossing roads, operating equipment or carrying out tasks, which require concentration.

Minimising Driving Risks

5. Managers may not require staff to use phones whilst they are driving.
6. Do not use a hand-held or hands-free phone while driving. When driving switch off the phone or use a message service or allow a passenger to answer or make the call.
7. On a long journey take regular breaks to check for messages and to make any necessary calls. Park in a suitable safe location, with the hand brake engaged and the engine switched off.
8. You may only use a phone whilst driving if you need to summon the emergency services and are unable to stop safely.

Minimising effects on Other Equipment

9. Do not use your mobile phone while refuelling at a filling station.
10. Turn off and do not attempt to use your mobile phone where there is a potentially flammable or explosive atmosphere, e.g. paint spraying or bottled gas storage. Please note: A mobile phone will continue to transmit responses if left on stand-by.
11. If you are visiting a hospital ward only use your mobile phone in public and communal areas. Switch your phone off in restricted areas.
12. Switch the phone to aircraft mode when inside an aircraft.

Legislation on Mobile Phones and Driving

Questions and Answers

Regulations came into force on 1 December 2003, **using a hand-held mobile phone, or similar device, when driving is illegal.**

From 1 March 2017 the fixed penalty for using a hand-held mobile phone whilst driving increased to £200 and six penalty points added to the drivers' licence. Furthermore, the case could also go to court and the driver could be disqualified from driving or riding and get a maximum fine of £1,000. Drivers of buses or goods vehicles could get a maximum fine of £2,500. New drivers will lose their licenses if they get 6 or more penalty points within 2 years of passing their test. Drivers still risk prosecution (for failure to have proper control) if they use hands-free phones when driving.

Shropshire Council has banned the use of both hand-held and hands-free phones whilst driving at work.

Q1. What does the regulation say about hand-held phones?

- The use of a hand-held phone or similar hand-held device while driving will be prohibited. A 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 and providing access to the internet.
- 2-way radios are subject to special treatment under the regulations. See **Q12** below regarding 2-way radios for further information.

Q2. Is hands-free phone equipment allowed?

- The law permits it, but Shropshire Council has prohibited it whilst staff are driving on council business because it is known to be dangerous.
- You should note that hands-free phones are 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 even if you are driving in your own time. If there is an incident, the use of any phone or similar device might justify charges of careless or dangerous driving.

Q3. How do you define driving?

- You are driving if you are in the driving seat of the vehicle and the engine is running – whether or not the vehicle is stationary.

Q4. What about texting/internet access/filming or viewing video images or video calls?

- The use of a mobile phone or similar device for any of these activities while driving is also prohibited.

Q5. Will drivers still be able to use navigation equipment or personal digital assistants (PDAs) or other computer equipment that sends or receives data (which would include GPS transmissions)?

- Yes - providing that it is not a hand-held device. Use of devices other than mobile phones are only prohibited if the device performs an interactive communication function by sending and receiving data. If the device does not perform this type of function, you can use the device without breaching the regulations.
- But remember the warning in the Highway Code (Rule 149) that using in-vehicle systems can be distracting. You must exercise proper control of your vehicle at all times.

Q6. Will mobile phones have to be switched off in vehicles?

- No. Passengers may want to use them, and drivers can use them when they are safely parked, hand brake applied and with the engine switched off.

Q7. What if the phone rings when I'm driving?

- Let it ring and return the call when safely parked. Better to switch to voicemail before starting.

Q8. Who do the regulations apply to?

- The regulations apply to the drivers of all motor vehicles on the road, including cars, motorcycles, goods vehicles, buses, coaches and taxis.
- They also apply to anyone supervising a learner driver, while the learner driver is driving. Anyone supervising a learner driver needs to be concentrating on what the driver is doing and should not be using a mobile phone.

Q9. Can I use a hand-held or hands-free mobile phone when stopped in a traffic jam?

- No, the prohibition applies when driving. Driving includes times 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. This also includes if your car has automatic stop-start and the engine's cut out briefly.
- In exceptional traffic jams, such as a lengthy stoppage on a motorway, it would be clear that someone wasn't driving if the engine was off.

Q10. Are there any exemptions?

- Yes. There is an exemption for calls to 999 (or 112) in genuine emergencies where it is unsafe or impractical to stop. There is also an exemption for the use of 2-way radios (see **Q12** below).

Q11. Are employers guilty of an offence if their employees use a hand-held phone while driving?

- The regulations apply to "anyone who causes or permits any other person" to use a hand-held mobile phone while driving.
- Shropshire Council will not require any staff to use a phone whilst driving on Council business.

The policy therefore is to set phones to voicemail before you travel. The phone can ring but must not be answered unless the vehicle is stationary, with the engine switched off (technically you are driving if the engine is running).

Q12. Will 2-way radios be included in the new offence?

- 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.
- If a device is a dual or multi-purpose device that can be used both as a mobile phone and a 2-way radio, the use of the device while driving or supervising a provisional licence holder is prohibited. Use is prohibited whether the device is being used as a 2-way radio or as a mobile phone.

Q13. If using mobile phones is prohibited, then what about people talking or tuning the radio? What powers do the police have?

- There are many potential distractions while driving and it remains the driver's responsibility to drive safely at all times. Research shows that it is more distracting to talk on a mobile phone than to have a conversation with a passenger who can see what is happening. This is why Shropshire Council is going beyond the legal requirement and prohibiting hands-free use as well as hand-held.

Q14. Is the offence endorsable?

- **Yes.** If you're caught using a handheld phone while driving, you will get 6 penalty points on your licence and a fine of £200. Points on your licence will result in higher insurance costs.
- New drivers will lose their licence if they get 6 or more penalty points within 2 years of passing their driving test.
- Remember, in some circumstances, for example if there has been a serious accident, prosecution for careless or dangerous driving may be justified if a phone was in use at the time of the crash. The penalties on conviction for such offences include heavy fines, endorsement, disqualification and, in serious cases, imprisonment.

Q15. Where can I go for more information?

<https://www.gov.uk/using-mobile-phones-when-driving-the-law>

- The legislation is available at:
<http://www.legislation.gov.uk/ukxi/2003/2695/introduction/made>
Look for Statutory Instrument No 2695 - The Road Vehicles (Construction and Use) (Amendment) (No 4) Regulations 2003.

If you would like any further advice, please contact your manager in the first instance or The Occupational Health and Safety Team on (01743) 252819.