



# Palmerslaw

## Guide to road traffic offences

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**While the ubiquitous speed camera has caused a significant increase in the number of motorists receiving endorsements on their driving licences, even the safest and most conscientious motorist can happen to find themselves in the wrong place at the wrong time.**

As a result, they can become involved in an accident, not necessarily of their own making, followed by a police investigation and prosecution.

Consequently, we have produced this guide to the most common road traffic offences, which aims to answer all the questions you will have if, unfortunately, you find yourself in such circumstances.

## **Dangerous driving**

Driving is considered dangerous when the standard is far below what would be expected of a competent and careful driver, and that it would be obvious to such a driver how dangerous it was.

The maximum punishment for dangerous driving is two years' imprisonment. For causing death by dangerous driving, this increases to a maximum custodial sentence of 14 years and a minimum two year driving ban.

If you are banned for dangerous driving, you will need to apply for a provisional licence and pass an extended driving test to have your full licence restored.

# Driving disqualification

Being off the road can have devastating consequences on both your life and your finances. While it is possible to avoid disqualification, you would need to prove that a ban would cause you exceptional hardship.

Losing your employment or livelihood as a result of losing your licence may amount to exceptional hardship, although this is far from guaranteed. To succeed, a clear and forceful argument, backed up by evidence, will need to be presented to the court.

Although the court will consider your previous record, a clean licence will not be enough to avoid a ban if guidelines suggest you should be disqualified for the offence. However, the court can use its discretion to decide on the length of the disqualification, based on the circumstances of each case, and this is where specialist representation can make a real difference.

Driving while disqualified or allowing a disqualified driver to do so are both offences. A conviction can result in a custodial sentence of up to six months, as well as six penalty points and a fine of up to £5,000. You may also receive a further driving disqualification.

If you have been disqualified from driving for over two years, you can apply for your licence to be restored, revoking the outstanding disqualification period. For disqualifications of between two and four years, you can apply after two years, while applications relating to disqualifications of four to ten years can be made once half the sentence has been served.

For disqualifications in excess of ten years, you can apply after five years.

Attempting to obtain a new licence whilst disqualified can result in a £1,000 fine. As the licence is invalid, you may also be charged with driving without a licence, which carries a penalty of three to six points and a maximum fine of £1,000.

# Drink driving or driving with excess alcohol

The current limits for drinking and driving are:

- 35 microgrammes of alcohol in 100 millilitres of breath
- 80 milligrammes of alcohol in 100 millilitres of blood
- 107 milligrammes of alcohol in 100 millilitres of urine

If the police have reasonable cause to believe you have been driving above the permitted limit, you will be given a roadside breath test.

If the reading is 39 microgrammes or below, you will be released with a warning.

The roadside test is just an indicator of whether you are over the limit. Actual evidence that can be used in court will need to be gathered on the machines at the police station.

## Driving licence offences

While you do not have to carry your licence on you, the police can request to see it at any time. If you do not have it on you, you will need to show it at a police station within seven days.

If you drive unaccompanied on a provisional licence, you will be prosecuted for driving otherwise in accordance with your licence, which would result in three to six penalty points and a fine. This would void any insurance, so you are likely to also be charged with driving uninsured, which carries six to eight points and a fine.



## Failing to identify the driver

A Notice of Intended Prosecution should be sent to the registered owner within 14 days of an offence being committed. Provided this deadline is met, the owner has 28 days to provide the name and address of the driver. If you need more time, explain this to the police with the reasons why.

If you don't know who was driving, you need to take steps to identify them. If you have made enquiries, but have not been able to reach a conclusion, you may well be prosecuted. However, if the court accepts you have tried to identify the driver, this may be a satisfactory defence.

If you fail to identify the driver within 28 days, this can result in six penalty points and a fine of up to £1,000.

## Mobile phone related offences

You can be prosecuted for moving, holding or switching on a mobile phone, even if you can prove you didn't make a call or send a text.

If your employer requires you to use a hand-held phone while driving or if they permit you to use such devices, they can be prosecuted. However, they would not be considered liable just for supplying the phone or calling while you were driving. Furthermore, if you use a hands-free mobile, and the police feel you were driving in a poor or careless manner, you can be prosecuted for not being in proper control of the vehicle – which carries three penalty points and a fine.

If you are in an accident, mobile phone records can be used to prove you were not paying full attention, resulting in a larger sentence and even possible imprisonment.

## Offences by new drivers and revocation of licence

New drivers will have their licence revoked if they accumulate six or more penalty points within two years of passing their test, including points carried over from their provisional licence.

However, having six or more points on your provisional licence does not mean losing your licence immediately after passing your test; incurring any further points will result in your licence being revoked. If your licence is revoked, you will need to reapply for your provisional licence, and then retake your theory and practical tests.

## Parking tickets

If a ticket was issued by a council parking attendant as you returned to your car and drove off, you are not liable if the ticket was not handed to you or attached to the car.

However, tickets issued by a police officer or traffic warden can be sent to you and still be valid.



## Seat belt offences

This usually results in a fixed penalty fine of £60, which can increase to a maximum of £500 if the case goes to court or for repeat offenders.

## Speeding offences

After you have been flashed by a speed camera, a Notice of Intended Prosecution should be sent to the registered owner within 14 days. Provided this deadline is met, the owner has 28 days to provide the identity of the driver.

The regulations are the same for temporary and permanent speed limits. If you were driving just over the speed limit, this will often result in three penalty points and a fine, although a speed awareness course may be offered as an alternative to penalty points. If you attend the course you will not need to pay the fine, but will pay a similar price in course fees.

Higher speeds, usually at least 40 percent over the limit, frequently attract a disqualification of from seven to 120 days. Alternatively six penalty points can be awarded, which can lead to disqualification as a result of totting up more than 12 points. The maximum punishment for speeding on the motorway is £2,500 and six penalty points or disqualification.

However, there will be instances when the speed limit is not clearly signposted. A restricted road is one where there is a system of street lights, with the lights not more than 200 yards apart. Unless signposted otherwise, the speed limit is assumed to be 30 mph.

When such a system of street lighting is not in place, there are strict regulations regarding the signs that must be displayed. Often, local authorities fail to display the proper road signs, which may be enough to constitute a case.

## Traffic light offences

The maximum penalty for going through a red light is three penalty points and a fine, which is £60 for a fixed penalty and up to £1,000 in court.

Even if stopping at a red light would have resulted in the driver behind hitting you, this counts as an offence, as you must stop at a red light, regardless of the circumstances.

If you speed through a red light, you will most likely receive a fixed penalty for going through a red light only. Even if you are prosecuted for both, as they are simultaneous events, you will only receive one set of penalty points.

## Vehicle defects

For minor defects, such as faulty lights, you are likely to be offered the chance to correct the defect and then have the car inspected at an approved garage to prove the fault has been fixed.

If, however, the vehicle is in a dangerous condition, you face a fine of up to £2,500 (greater if you drive a large goods or passenger vehicle), three penalty points and possible disqualification. Committing this offence twice within three years will result in an automatic disqualification of at least six months.

Driving without a valid MOT can void any insurance and leaves you liable to be fined for MOT non-compliance. You can drive the vehicle to a pre-arranged test or to a garage for any repairs that are required for the vehicle to pass its MOT.

## How can Palmers Law help?

The Road Traffic Department at Palmers Law can provide specialist advice and representation, with the aim of defending and preserving an individual's licence, wherever possible.

Therefore, for more detailed guidance, tailored to your individual circumstances, please contact us.



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