

## **WEST LOTHIAN COUNCIL THE USE OF MOBILE PHONES WHILST DRIVING (INCLUDING OTHER VEHICLE COMMUNICATION DEVICES)**

### **Introduction**

Following an amendment to the Road Vehicles (Construction and Use) Regulations 1986 (revised 27 February 2007), from 1 December 2003 it will be a criminal offence for a driver to use, whilst driving, a hand-held mobile phone or similar device which performs an interactive communication function by transmitting and receiving data. These Regulations do not prohibit the use of hands-free mobile phones whilst driving. However, the council has established clear rules on the safe use of handsfree mobile phones as set out below. This has been done in recognition of the fact that using a hands-free mobile phone whilst driving can still impair the control of the vehicle, reduce awareness of what is happening on the road around the vehicle and may distract the driver

Under the Health and Safety at Work Act it is the council's duty to ensure the health, safety and welfare of its employees, so far as is reasonably practicable.

### **Definitions**

***Making or receiving a Call:*** sending or receiving oral or written messages; sending or receiving fax documents; sending or receiving still or moving images; providing access to the internet or any other use of a mobile phone.

***Hands-free:*** allows operation of the phone without holding it at any point.

***2-way radio:*** Is a device that cannot also be used as a phone. Dual or multi purpose 2-way radios that can be used as a phone are prohibited whilst driving, whether it is being used as a 2 -way radio or as a mobile phone.

### **HAND HELD MOBILE PHONES RULES**

1. No Council employee whilst driving during his/her working hours will make or receive calls using a hand-held mobile phone. This instruction applies to business or personal calls.
2. In the event that an employee contravenes this instruction, he/she may be subject to disciplinary procedures.
3. Before starting to drive mobile phones should be diverted to voicemail or message service where such facilities exist.
4. If you need to check messages and or return calls you must pull over and park safely to do so.
5. The law prohibits use of hand-held mobile phones whilst driving. This includes times where 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.
6. In the event that the police, following a breach of the legislation, charge an employee, these rules may be referred to as evidence that the Council had taken reasonable steps to prevent employees from breaking the law.

## **HANDS-FREE MOBILE PHONES RULES**

1. Wherever possible, pull over and park safely to answer a call.
2. Only make a call when you have pulled over and parked safely
3. Phones must be positioned in a holding device attached to the vehicle. This holding device should be conveniently positioned to enable the driver to maintain full control of his/her vehicle.
4. Keep conversations brief.
5. Never look up phone numbers or initiate calls whilst driving which includes at traffic lights and in traffic queues.
6. Do not take notes whilst driving.
7. Never stop on a motorway hardshoulder - it is illegal to do so unless you have broken down.

**Note: At all times the receiver of the call will be in control of the call which will allow instant termination of the call should it prove necessary for reasons of safety.**

## **EMERGENCY SITUATIONS**

It is possible that in certain extreme circumstances the use of a hand-held mobile phone may become unavoidable. These situations are calls to 999 (or 112) in genuine emergencies where it is unsafe or impractical to stop.

## **OTHER VEHICLE COMMUNICATION DEVICES (EG 2-WAY RADIOS, PAGERS, CAR CD/RADIO/CASSETTES ETC)**

1. These fall outwith the terms of the Regulations. However it should be pointed out that adjusting or changing of any of these devices could lead to careless or dangerous driving and therefore to an accident and possible fine and or prosecution. It is therefore the responsibility of the driver to be in control of their vehicle at all times.
2. When using a 2-way radio you should comply with the rules for "Hands-Free Mobile Phones" as set out above.

## **CALLERS**

1. When calling a mobile phone user always ask the receiver whether it is safe to speak.
2. The receiver of the call is always in control and has the right to terminate the call should it prove necessary for reasons of safety.

## **MOBILE PHONE USERS**

You must exercise proper control of your vehicle at all times Failure to do so may incur a fixed penalty, maximum fine and or penalty points if careless or dangerous driving can be proved.

Marion Johnstone  
Occupational Health and Safety Manager (Tel 01506 281418)