

A BAD CALL?

IT'S GOOD TO TALK ... BUT NOT WHILE YOU'RE DRIVING. WE ASKED **SHAUN BRENNAN AIIRSM** IF HANDS-FREE KITS REALLY ARE THE SAFEST WAY TO PREVENT ROAD TRAFFIC ACCIDENTS.

Picture this: as the phone rings, a driver grips the phone between her shoulder and chin as soon as the lights turn green – somehow managing to change gears, steer and check her mirror while continuing to talk – and sets off along the busy stretch of road. Hundreds of motorists experience the scenario every day. “I was involved in a road traffic accident a few years ago. A driver smashed into my vehicle from behind, and when I stopped and got out of the car, she was still talking on the phone,” explains Shaun Brennan AIIRSM. “I tapped on the window, but she refused to wind it down and continued chatting away. In the end she hung up and argued with me because I had interrupted her conversation! This experience infuriated me.”

Driving is the most dangerous work activity that most people do. Research indicates that about 20 people are killed and 250 are seriously injured every week in crashes involving someone who was driving, riding or otherwise using the road for work purposes.

One major risk is making or receiving calls on a mobile phone while driving. Although there's an abundance of hands-free kits and blue-tooth headsets on the market, it's still all too tempting to just pick up the phone and take the call while driving one-handed. Therefore, it is paramount that risks are carefully assessed and reasonably practicable measures are put in place by the employer to ensure those risks are managed.

MOBILE PHONES AND DRIVING DON'T MIX

Mobile phones obviously have many business benefits. They provide security and can be a great help in an emergency. But tests have shown a driver cannot help being distracted by a phone call or text message. If your employees are distracted, they will not register hazards or react quickly. While driving, employees will be breaking the law if they pick up or use any type of phone that is, or must be, held to operate it.

On 1 December 2003, a law came into force to prohibit drivers using a hand-held mobile phone, or similar device, while driving. It also made it an offence to “cause or permit” a driver to use a hand-held mobile



phone while driving. From 27 February 2007, original penalties for using a hand-held phone while driving increased from £30 to £60, with three penalty points added to the driver's license. If an offender goes to court, fines range from £1,000 to £2,500.

However, a driver may call 999 or 112 in response to a genuine emergency when it is unsafe or impractical to stop to make the call. Additionally, two-way radios are not covered by this offence, but other devices for sending or receiving data are included if they are held while driving (eg Personal Digital Assistants). "The best advice is to switch off before you drive off," says the Department for Transport.

DON'T BE DECEIVED

Surely a conversation on a hands-free phone is less distracting than using a hand-held one? Drivers who want to avoid picking up those three points for using a hand-held mobile phone while driving should not be deceived into thinking hands-free kits are safe to use at the wheel, says the Royal Society for the Prevention of Accidents (RoSPA). Advertisements by some firms have implied that, by switching to a hands-free device, drivers can get around the stiffer penalties for using a hand-held phone. But using a mobile phone – whether hand-held or hands-free – makes you four times more likely to crash, research has shown.

RoSPA recently carried out a study on mobile phone use while driving. It investigated the potential effect of mobile phone use and whether hands-free kits were indeed safer. The research found assumptions that hands-free kits are safe – especially with regard to probable accident likelihood – could not be supported. All vehicle transmission and phone types in all possible combinations evidenced significant fluctuation in driver performance in ways which strongly suggested increased accident likelihood, even when participants were specifically instructed to attend primarily to the task of driving.

Kevin Clinton, Head of Road Safety at RoSPA, says: "When motorists use any type of mobile phone, they become increasingly distracted by the telephone conversation and pay less and less attention to their driving. They tailgate, wander about on the road and vary their speed – all things that

make them more likely to crash." RoSPA welcomes the doubling of the fine to £60 for using a hand-held phone while driving. "But we are particularly pleased that offenders will now get three points on their licenses. That threat, which could eventually lead to them being banned, is likely to persuade more people to kick the habit of phoning when on the road," he adds.

Although no specific offence relating to hands-free phones exists, police can check telephone records in careless driving and dangerous driving cases and use them as evidence to show someone has been distracted. Using a mobile phone while driving is likely to be viewed as an 'aggravating circumstance' by the courts, which can lead to tougher sentencing. "It is wrong for anyone to suggest that using a hands-free phone while driving is safe," Kevin concludes.

CHOOSING EQUIPMENT

In the case of valid business reasons to require mobile phones, employers absolutely need to provide drivers with suitable equipment to minimise the previously mentioned risks.

Shaun Brennan, health and safety trainer at the National House-Building Council, asks: "Why is it that employers fit £9.99 kits that are absolutely useless for the employee? Kits range from blue-tooth headsets, where the driver still has to touch the phone, right through to a full blue-tooth headset, which you can actually manage from the steering wheel of the car. Why would an employer not want to fit the best kit to ensure safety of employees?"

But employers should still ensure they are not responsible if a member of their staff is convicted of driving while using a mobile phone, says law firm DWF. John Keeble, partner with DWF, warns that employers can be held liable if they require or allow their employees to use a mobile phone, particularly if they insist staff take business calls while driving without using a hands-free kit. "Employers should make sure in their policies that employees are under no obligation to make or receive calls while driving," he says. "At the very least, they should be using a correctly installed hands-free kit."

So, is it down to the employer to ensure

CAMPAIGN FOR SAFETY

The Government recently launched a new television advert to coincide with the increase in penalties for drivers caught using a hand-held mobile phone behind the wheel. The advert features a wife calling her husband on his mobile phone while he is driving. The footage becomes split-screen, showing both as they chat. The husband becomes visibly distracted until he is shown being flung forward in a crash, hitting the steering wheel with his head. It ends with the lines: "You don't have to be in a car to cause a crash. Think. The moment you know they're driving, kill the conversation".

Despite the campaigns, Shaun Brennan AIRSM doesn't think the Government is doing enough to combat the danger of mobile phones and driving. "We are all still witnessing drivers on mobile phones, even though the statistics are plain to see it's dangerous," he says. More than 500 drivers in Scotland were caught by police using hand-held mobile phones in the week following the introduction of tougher penalties. A senior police officer in Scotland was caught using a mobile phone while driving a week after the new law was introduced. Strathclyde Police Chief Superintendent Kenny Scott, 50, was stopped by officers from his own force as he drove on the M74, a police spokesman said. He was fined £60 and will have three points put on his license in line with the new legislation. "It is my view that the laws are not enough. They are not stopping irresponsible drivers – we need something tougher," adds Shaun.

employees don't use a mobile phone while driving? Shaun thinks it is. "It's ok to say to your employee – 'if you don't feel comfortable, don't answer', but what about sales reps? They spend most of their time driving on motorways and it is illegal to pull on to the hard shoulder."

IS IT PART OF YOUR POLICY?

RoSPA believes using any type of mobile phone while driving on business should be a disciplinary offence and urges employers to make this part of their health and safety policies. Guidance from the HSE clarifies that employers have a duty under health and safety law to manage the risks faced by their employees on the road – and one of the biggest risks they face is using mobile phones at the wheel.

"They say a car isn't dangerous, it is the person driving it, and never a truer word spoken," says Shaun. "A good driver with a phone pinned to his ear becomes the worst driver imaginable."