

Mobile phone enforcement and use in Police vehicles

Table of Contents

Table of Contents	2
Policy statement and principles	3
What	3
Why	3
How	3
Introduction	4
Road safety research	4
What is a mobile phone?	4
Exclusions	5
Guidelines for enforcement	5
Precedent code	5
Mobile phone use in Police vehicles	6
Police exemption	6
Hands-free kits in Police vehicles	6

Policy statement and principles

What

Mobile phone use while driving is a recognised cause of distraction to drivers and is prohibited under section [7.3A](#) of the [Land Transport \(Road User\) Rule 2004](#).

Why

A mobile phone is a source of distraction for drivers. Distraction arises not only from the physical manipulation of the phone, but also from the mental effort and divided attention associated with using the phone. While Police needs the public's help to keep the roads safe, we have a responsibility to protect our communities from risky driving behaviour, including distracted driving.

How

- Police will take appropriate and proportionate enforcement action against drivers seen using a mobile phone.
- Police should only use a mobile phone while driving if operationally critical.

Introduction

This chapter covers enforcement of the use of a mobile phone while driving, and provides advice to Police employees about mobile phone use while driving.

Road safety research

Research shows drivers using mobile phones are up to four times more likely to be involved in a crash, depending on their experience and how they are interacting with the device. This contributes to drivers:

- being less aware of what is happening around them;
- failing to see road signs;
- failing to maintain proper lane position and steady speed;
- tailgating vehicles in front of them;
- reacting more slowly, taking longer to brake and braking more severely; and
- attempting to enter unsafe gaps in traffic.

The research is very clear that the use of mobile phones while driving poses a heightened level of distraction and road safety risk. The use of smartphones also increases the potential for distraction over that of traditional mobile phones. This includes performing the same tasks that can be performed on a mobile phone (e.g. texting) and the additional functionality associated with internet capability (e.g. uploading content to social media). The lack of a tactile response from the touchscreen requires the user to devote an increased level of attention to the task, with longer and more frequent glances at the device compared to the physical buttons on a traditional mobile phone keypad.

What is a mobile phone?

A mobile phone, as defined by the Rule, is a portable electronic device which has the capability to function as a telephone. It does not include a CB or any other type of two-way radio; nor does it include an earpiece or mouthpiece that is connected physically or otherwise to a mobile phone, to allow a driver to use the mobile phone without holding or manipulating it. Section [7.3A](#) of the rule permits the use of mobile phone with a hands-free kit such as via a Bluetooth connection to an in-car system or headset. It is important to note that using a hands-free kit or a vehicle's Bluetooth device still carries safety risks.

Devices such as MP3 players, tablet computers, etc. are not mobile phones and, unless they are able to function as a mobile phone independent of any other device, are not subject to enforcement of this rule (see '[Exclusions](#)' below).

Section [7.3A](#) of the Land Transport (Road User) Rule 2004 (rule) places restrictions on the use of mobile phones while driving.

As a general rule:

- Mobile phones are devices used to make, or receive calls or messages. Messages include, texts, emails, sound and/or video sent or received by the device.

- Functions outside of those described above are currently not included in statutory definitions of what is a mobile phone. Police interpret this to mean that other uses are not excluded in devices with functions that include being a telephone. Driver distraction resulting from these additional uses can be included in the mobile phone use while driving offence.

Exclusions

There are a number of exclusions that apply, including if the mobile phone is not required to be held or manipulated during the call (e.g. a mobile phone on automatic answer, hands-free kit that answers the mobile phone with a button on the headset or cord).

- Mobile phones secured in a mounting fixed to the vehicle, can be used for a wider range of functions, so long as if the driver looks at or manipulates the phone, they do so infrequently and briefly.
- Drivers can use a mobile phone to make a call to 111 or *555 while driving only if it is an emergency situation and unsafe or impracticable to stop the vehicle to make the call.

If driver distraction is caused by a device that is not considered a mobile phone, officers are advised to focus on the adverse driving, not the use of the device that is causing the distraction. A driver distracted by the use of an MP3 player, who tailgates the vehicle in front of them, could have enforcement action taken against them under clause [5.9](#) of the Road User Rule (Stopping and following distances) or they could be charged with careless driving. In this example, it is the tailgating, rather than the use of the device, which officers should address.

Guidelines for enforcement

You are encouraged to use your professional judgement and discretion when deciding whether to take enforcement action. In determining the appropriate enforcement response, you should consider the increased road safety risk that distracted drivers put themselves and other road users at, when deciding what action to take. This is to ensure each situation is considered on its merits and any enforcement action is appropriate and proportionate.

Though not an exhaustive list, the following should be considered prior to any enforcement action:

- Observed behaviour (similar to the use of restraint enforcement), which may include adverse driving or vehicle handling behaviour;
- Driving behaviour, which could include witness observations, including complaints received by the Emergency Communication Centres;
- Unless exceptional circumstances apply (e.g. serious crash investigations) you should not seek telephone records from communication providers; and
- Vehicles stationary at traffic lights, stop signs or similar are considered to be normal starting and stopping in the flow of traffic, and mobile phones should not be used at this time.

Precedent code

The precedent code for 'Driver used a mobile phone while driving' is [N411](#).

Mobile phone use in Police vehicles

This section applies to all Police employees driving Police vehicles. It should be read in conjunction with the '[Acceptable access and use of technology, equipment and information](#)' part of the '[Information and knowledge management](#)' chapter.

Police exemption

Constables should **not** use a mobile phone whilst driving, unless it is operationally critical. Section [7.3A\(2\)](#) allows an enforcement officer to use a mobile phone, only if it is being used in the execution of their duty.

Constables must be aware of the potential for Police's reputation to be damaged by the public witnessing officers using mobile phones while driving. Police must be seen to role model best practice. Unnecessary use of mobile phones while driving undermines this and officers may be required to justify their actions.

Hands-free kits in Police vehicles

Whilst section [7.3A](#) permits the use of mobile phone with a hands-free kit, it is important to note that using a hands-free kit or a vehicle's Bluetooth device still carries safety risks.

Where available, using Police issued mobile phones linked to Police vehicles by an in car Bluetooth hands free connection is approved by ICT. Hands-free kits other than factory fitted in car Bluetooth kits are not supported by ICT and must not be used in Police vehicles.

Personal hands-free kits must **not** be installed in Police vehicles.

Personal mobile phones should **not** be used with Bluetooth connections installed in Police vehicles.
