

THE AMICUS LAW GUIDE TO

# MOTORING OFFENCES & CRIMINAL LAW

From Road Accidents to  
Serious Crimes

Amicus Law

SOLICITORS

[AmicusLaw.co.uk](http://AmicusLaw.co.uk)

## FRIENDLY YET TENACIOUS; WE ARE ON YOUR SIDE. PROTECTING YOU AND YOUR INTERESTS.

### Speeding, Driving without Due Care and Attention, Using a Mobile Phone while Driving – these are all offences that could affect any driver.

Amicus Law Solicitors understand that a Speeding Offence may be the first time you have come into contact with the Court System, how easy it is to lose concentration and be sued for Careless Driving or have to answer that urgent call on your Mobile Phone whilst driving.

You may also have a need for a Drink Drive Solicitor, if you have been caught driving Under the Influence of Alcohol or even Drugs.

AmicusLaw are there to help and advise you on all aspects

of motoring law, speed camera offences, driving without due care and attention, totting up or drink driving.

AmicusLaw cover all speeding offences in the Somerset area – so when a Notice of Intended Prosecution drops through your door, or the flashing blue light stops you – you can count on our specialist speed solicitors to help you out.

As specialist Motoring Lawyers we are able to offer fixed price advice with friendly and understanding lawyers. Give one of our friendly team a call on **01823 462500**.

## TOTTING UP

Totting up is the accumulation of 12 or more driving penalty points (usually speeding points) over a period of 3 years. A driver reaching 12 points in a 3 year period will face an automatic driving ban of 6 months. Fixed Penalty Notices are effective for 3 years each.

While the automatic disqualification from driving is six months, the Magistrates Court can consider a number of mitigating circumstances. The most common of these is exceptional hardship which covers such matters as needing a vehicle to get to work or other persons relying on you.

However, the exceptional hardship argument is complicated to run and expert advice should be taken in all circumstances.

## FREQUENTLY ASKED QUESTIONS (FAQS):

### How long do penalty points stay on my driving licence?

Points are valid for 3 years from the date of conviction but cannot be removed from your licence until the 4th anniversary.

### Can I take a Fixed Penalty Notice if I already have 9 points?

No, you can only accept a conditional offer of a Fixed Penalty Notice if you have 8 penalty points or less. This is the case even if you are offered a Fixed Penalty notice (the Process Section will not know how many points you have on issue).

### I am a new driver. What rules apply to new drivers?

Drivers who have passed their test less than 2 years previously will have their licence revoked and have to take their test again.

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### What offences will give me Penalty Points?

Speeding: 3-6, Failure to give information as to identity of driver etc: 6, Motor racing on the highway: 3-11, Failing to comply with traffic light signals: 3,

Driving without due care and attention: 3-9, Failing to stop after an accident and failing to report an accident: 5-10, Driving without insurance: 6-8, Driving without a licence: 3-6.

### Can I avoid losing my licence if I get 12 points?

Yes. If you build up 12 or more penalty points on your licence within a three year period you could be disqualified. If you do face disqualification under this rule you may be able to retain your licence if the Court finds that the loss of your licence would cause you an exceptional hardship. This is a difficult process to undergo as to give yourself the best chance of being successful you need to be fully prepared. You should also be aware that there is case law which suggests that the hardship suffered by others should be taken into consideration by the Court. You should not think therefore that just because you do not have a strong argument with your own circumstances that you have no case to put before the Court.

All of these procedures may seem daunting to you which is why we are here to help.

## SPEEDING

If you have been caught spying by a speed camera or perhaps caught by the police for speeding then you may need help from Somerset speeding specialists Amicus Law.

Speeding fines are annoying, but whether you have been offered a fixed penalty or a fine for speeding your best bet is to take some professional advice from a speeding expert.

If you are stopped by police for speeding, you may be given a fixed penalty speeding ticket. However, in cases where you were travelling well above the speed limit, you will have to attend a Magistrates' Court hearing - a daunting experience for anyone.

If you are caught speeding by a speed camera you will not be stopped and notified. Instead, the registered keeper of the car will be sent a notice of intended prosecution form within 14 days. The form will specify what date, time and location the car was caught speeding.

You will be required to confirm who the driver was at that time.

Amicus Law will be able to advise you on:

- Whether to attend a speed awareness course
- UK speed limits
- Speed cameras
- Time limits for prosecuting
- Fixed penalties
- Contesting speeding tickets
- Road traffic offences
- Avoiding speeding fines
- Notice of Intended Prosecution

Cases involving speeding will usually result in three to six penalty points and a speeding fine of up to £2,500.

If you have been convicted of driving well over the speed limit, it is possible for you to be disqualified from driving.

Your first point of call is Amicus Law.

[AmicusLaw.co.uk](https://www.amicuslaw.co.uk)

## DRIVING WITHOUT DUE CARE AND ATTENTION

Driving Without Due Care and Attention known also as Careless Driving means that your driving fell below the standard expected of a competent driver or that you did not show reasonable consideration for other pedestrians and vehicles on the road.

The offence of driving without due care covers a number of actions from coming out of a side junction, to using a mobile phone while driving or eating or drinking behind the wheel.

The penalty for careless driving ranges from 3 to 9 points and even relatively minor actions like a rear end shunt may constitute driving without due care and attention. In addition a fine of up to £5,000 can be imposed by the Court.

You may think that you are a careful and competent driver but driving too close to the vehicle in front, overtaking on the inside or reading a map and you may end up in the Magistrates' Court

You can plead that you were not driving at the time (if this is the case), that the offence did not occur or that your standard of driving did not fall below the standard of a careful and competent driver.

If you have a good defence then we will put forward the strongest possible

case, help to find witnesses and obtain the services of an expert. If you are found innocent we will seek to recover your costs. Even if you did have a lapse of concentration, then there may be the opportunity to attend a Driver Improvement Course. We can also advise on this procedure too.

There will be occasions when the offence was caused by a mechanical defect. In these circumstances we will take you through the procedure of proving that you were not driving without due care and attention.

The Police now have the power to hand out on the spot fines for certain careless driving offences including:

- Tailgating (driving too close to the car in front)
- Hogging the middle lane of motorways
- Pushing in at roundabouts and queues of traffic

These offences will carry a £100 on the spot fines and 3 penalty points.

## DANGEROUS DRIVING

Dangerous driving is a serious motoring offence and includes driving aggressively, racing, overtaking dangerously or undertaking, and driving an unsafe vehicle. If you are stopped by the Police in any of these circumstances Amicus Law should be the first call you make.

## USE OF A MOBILE PHONE

Using a hand held mobile phone or other communication device whilst driving is an offence. This will include texting while driving or accessing the internet. These rules apply to motorcyclists as well.

If you are caught, then the fixed penalty is currently a fine of up to £1,000 and 3 penalty points. If you choose to reject the fixed penalty, then the fine may be higher, although the penalty points for using a mobile will remain the same. You may also have to pay Court costs. Just having a mobile phone in your hand is not an offence in itself. You have to be using the phone whilst driving and should you be seen holding the phone, then you would have to prove that no calls or texts were being made or received at the time. However, the police officer may ask to look at your phone when you are stopped.

However, the Police may then state that you are not in proper control of a vehicle as you

had a phone in your hand. Again, you may be offered a fixed penalty for this motoring offence.

If you are convicted of the offence, these points will count towards those you may already have on your licence. If you reach 12 points on the licence then this would result in a mandatory driving disqualification.

These types of driving offence require a robust but tactful approach and every attempt will be made to have the case dropped before any trial takes place.

The only time you are permitted to use a mobile phone when driving is to call 999 in an emergency and it is unsafe to stop.

You can use hands-free phones, sat navs and 2-way radios when you're driving or riding. But if the police think you're distracted and not in control of your vehicle you could still get stopped and penalised.

## JUMPING A RED LIGHT

Jumping a red light is an offence usually leading to a Fixed Penalty Notice. Most offences are caught on camera and therefore based on photographic evidence.

The obligation on the motorist is to stop, unless the light is green, in which case you may proceed only if it is clear and safe to do so. If the amber light is illuminated, a vehicle must stop, unless it has already passed the white stop line or the vehicle is so close to the stop line, that coming to a halt might cause an accident. If the red light is showing, then you must stop behind the stop line in all circumstances.

What is the penalty for failing to comply with a red traffic signal?  
Regardless of whether the matter is dealt with by Fixed Penalty or at Court, the punishment is 3 penalty points and a fine. Currently, the fine on a Fixed Penalty is £100, at Court it means tested but limited to £1,000.

However, there are defences available and we can give you the right advice. If we feel that you have reasonable prospects of success, we can arrange representation. Let us help.

## DRIVING UNDER THE INFLUENCE OF ALCOHOL

Drink driving or Driving Under the Influence of Alcohol is the offence of driving with excess alcohol in your bloodstream.

After a long day what better to help you relax than a refreshing pint or well deserved glass of wine? However, it doesn't take much to take you over the limit and if you then drive you may well be over the legal drink drive limit. Often, a drink driver will never have been involved with the police and the drunk driving procedure will be alien to them. Whether you think you are over the limit when you are stopped for drink driving, you need to take specialist advice from a drink drive solicitor.

There are Defences to being in charge of a vehicle under the influence of alcohol and our specialist drink driving solicitors will be able to guide you through what these defences are. The definition of being over the limit is to 'drive or attempt to drive a motor vehicle on a road or other public place after consuming so much alcohol that the proportion of it in a person's breath exceeds the prescribed limit'.

The Police or Prosecution then have to prove that you had excess alcohol in a sample of breath, urine or blood.

You can be stopped by the Police if you are suspected of driving with excess alcohol in your blood and required to take a roadside breath test. If this proves positive you will be arrested and taken to a police station for a further evidential test. The Police have to follow a set of strict rules and these differ depending on how much alcohol is found in the breath. These specific rules may enable you to avoid losing your licence if performed incorrectly or you are not informed of your rights.

Where you are borderline over the drink drive limit you should be offered a blood or urine sample test. You will have to wait for this

result and it pays to contact a specialist at this stage. If you have been taken to hospital the procedure is even more complicated and the Police often make fatal errors.

The penalties for drink driving can be very serious the level of alcohol in the breath, blood or urine and such things as previous convictions. The minimum penalty is a 12 month driving ban, but may also affect your job, insurance premiums, travelling abroad and the fact that you will have a criminal record.

It is also an offence to drive whilst unfit under the influence of drugs (so called drug driving). Drugs may be legal or illegal, although most convictions are for illegal drug use. The penalties are similar to those for drink driving.

Given the very serious consequences of being caught drink driving, speak to one of our specialist lawyers immediately on **01278 664060**.

## FAILURE TO PRODUCE A SPECIMEN

Failure to produce a specimen\* is an offence with a penalty of at least 12 months driving ban.

Unless you can show that you had good reason – a reasonable excuse - for not giving a specimen of breath, blood or urine.

The penalty for failing to produce a specimen may be increased if you are clearly drunk but may be reduced if you have good mitigation – for example have a fear of needles or physically unable to produce a sample. Even if you are tee total or were obviously sober, you could be convicted for failure to provide a sample of breath, blood or urine.

If you are unable to provide a roadside breath sample then you will be taken to the police station and required to provide a further breath, blood or urine sample. This is known as the 'evidential' sample and is the one used in any court hearing. You will still be able to drive if

you defend a failure to provide offence.

Whether you wish to plead guilty of not guilty to a failure to provide a specimen offence, taking expert advice from us at an early stage will give you the best chance of keeping your licence.

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## CRIMINAL LAW

**If you or your family are contacted, or questioned by the police, or other prosecution authorities it is important that you are represented at this early stage. We are happy to attend the police station with you at any hour and this service is generally free of charge.**

We advise on the full range of offences from road traffic to homicide and other serious crimes. As well as fighting to protect your rights, we will manage the necessary procedures and make sure we explain what is happening, and why, at each step of the way.

If you have a court appearance we are sensitive to the concern and intimidation that this may bring, and provide assistance for you before and during the court proceedings. We have access to a range of experienced Barristers and experts to assist our clients where necessary.

As specialist private lawyers we have the expertise and experience to manage your affairs more efficiently and smoothly, and the personal touch to deliver the service in way that suits you best.

For expert support as soon as you need it, speak to one of our criminal lawyers immediately on **01278 664060**.



# Amicus Law

S O L I C I T O R S

We believe accessibility is very important, which is why we have invested in a network of local offices, to make it easier and more convenient for our clients, rather than one big regional office. We are available to see you and discuss your requirements at any of the following locations

## Taunton

Rumwell Hall, Rumwell  
Taunton, Somerset  
TA4 1EL

01823 462 525

## Bridgwater

Regional Rural Business Centre  
Market Way, North Petherton  
TA6 6DF

01278 664060

## Minehead

9 Parkhouse Road  
Minehead  
TA24 8AB

01643 701888

## Yeovil

Magnolia House,  
54-58 Princes Street,  
Yeovil BA20 1EQ

01935 426047

## Martock

31 North Street  
Martock, Somerset  
TA12 6DH

01935 822572

## Exeter

Office Number 314, The Senate  
Southernhay Gardens  
Exeter EX1 1UG

01392 267267

Visit [amicuslaw.co.uk](http://amicuslaw.co.uk) or email us at [info@amicuslaw.co.uk](mailto:info@amicuslaw.co.uk)