

## Hill Lee

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**From:** Kennedy-Todd Silka  
**Sent:** 03 March 2017 15:38  
**To:** [REDACTED]  
**Cc:** [REDACTED] Neil Billany; LCDC; TPH Senior Relationship Manager (SRM)  
**Subject:** RE: Mobile Phones and Credit Cards

[REDACTED]

We were provided with the following information by the MPS earlier this week, which you're welcome to use in your notice.

Regards  
Silka

There is evidence that a cradle-mounted mobile phone may still be a distraction. If that is witnessed to be the case then an officer may deal with the driver for driving without due care (s3 Road Traffic Act 1988) or for being not in proper control (reg 104, Construction & Use Regulations, 1986).

The Construction & Use Regulations 1986, as amended in 2003 state:

104. No person shall drive or cause or permit any other person to drive, a motor vehicle on a road if he is in such a position that he cannot have proper control of the vehicle or have a full view of the road and traffic ahead.

110.—(1) No person shall drive a motor vehicle on a road if he is using— (a)a hand-held mobile telephone; or (b)a hand-held device of a kind specified in paragraph (4).

(2) No person shall cause or permit any other person to drive a motor vehicle on a road while that other person is using— (a)a hand-held mobile telephone; or (b)a hand-held device of a kind specified in paragraph (4).

(3) No person shall supervise a holder of a provisional licence if the person supervising is using— (a)a hand-held mobile telephone; or (b)a hand-held device of a kind specified in paragraph (4), at a time when the provisional licence holder is driving a motor vehicle on a road.

(4) A device referred to in paragraphs (1)(b), (2)(b) and (3)(b) is a device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data.

(5) [Exemptions for emergency use]

(6) For the purposes of this regulation— (a)a mobile telephone or other device is to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function; (b)a person supervises the holder of a provisional licence if he does so pursuant to a condition imposed on that licence holder prescribed under section 97(3)(a) of the Road Traffic Act 1988 (grant of provisional licence);

(c)"interactive communication function" includes the following:

(i)sending or receiving oral or written messages; (ii)sending or receiving facsimile documents; (iii)sending or receiving still or moving images; and (iv)providing access to the internet.

In summary, the use of apps on a cradle-mounted phone is lawful under reg 110 but may, if done without common sense and good judgement, constitute an offence under reg 104 or s3 Road Traffic Act.

**From:** [REDACTED]

**Sent:** 03 March 2017 14:48

**To:** [REDACTED]

**Cc:** [REDACTED]; Neil Billany; Caroline Pidgeon; John McDonnell; Kennedy-Todd Silka; LCDC

**Subject:** Re: Mobile Phones and Credit Cards

Thanks for the prompt reply, [REDACTED]

We'll still need [REDACTED] to confirm. I'm not holding my breath....

At the Heathrow Credit Card meeting, held just before the Mandate was originally due to come in, [REDACTED] clashed with the opinion of his own colleagues regarding 'approved' Devices and the ability of Compliance to enforce the regulations.

During the Road Safety meeting, the Head of TfL's Road Safety, Simon Bradbury, told Trade Reps we could use mobile phones in a cradle but the Police Officer, Simon Castle, would not confirm exactly how. It was pointed out to Mr Bradbury that doing what he said we could do, would see us prosecuted by Sgt Castle and be fined and given penalty points.

As you may've seen on Twitter, @TfLTPH advise: "The use of apps on a cradle-mounted phone is lawful if done with common sense and good judgement: [legislation.gov.uk/ukxi/2003/2695...](http://legislation.gov.uk/ukxi/2003/2695...)"

Common sense and good judgement?

How ironic is that?

Regards,

[REDACTED]

[REDACTED]

On 3 Mar 2017, at 14:29, [REDACTED] <[REDACTED]> wrote:

[REDACTED]

Thank you for copying me in to the email.

I asked a senior police officer Wednesday night (at a charity event) about this and in 'his' interpretation of the law, he did not believe that using a pdq payment device (whilst stationary) was an issue, as his interpretation of 'device' was something similar to a phone i.e. a tablet or pda. This appears a common sense assessment, as the law is designed around mobile phone usage.

I believe that holding our front payment terminal, whilst parked, would not be an issue for our customers but I do not have that confidence with the phone or tablet solutions of others, especially those that provide gps maps as well. Further, having the front terminal connected to the taxi fare-meter takes away 80% of driver interaction, as the relay completes the majority of the work, driver only handles the card with magnetic swipe transactions and providing customer receipts.

Finally, if our customers still believe there is a risk of a fine and/or penalty points, please be advised that our payment terminal will still receive power for 5 mins, even with keys out, allowing for the driver to process the payment without any risk of 'interpretation'.

Regards,



On 3 March 2017 at 14:05, [REDACTED] wrote:



Can you please confirm the wording on this notice, that Airport Reps are about to post at Heathrow, is correct?

My understanding is that Drivers may need to remove the key from the ignition to stay within the law when taking a credit card as even the Verifone, Cabvision and CMT machines are all considered electronic devices: this may impact on some of the 'approved' systems. Can you reply as soon as possible so that Drivers can be made aware?



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