



What to do if you receive a request to provide driver's details

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It may be an offence to fail to provide information as to the identity of a driver when you receive a written request to do so from (or on behalf of) the police. If convicted, you face a hefty fine and 6 penalty points.

How long do they have to make the request?

A request must normally be served within 14 days of the offence being committed. There is case law where because a postal strike delayed the mail and it was delivered after the 14-day period, the offence was not committed.

If you have any doubt as to whether the notice was served within the requisite time, please contact us for further advice. In some circumstances a valid request can be made after the 14-day period, so do not ignore a request simply because you believe it to be out of time – always seek legal advice.

How long do I have to reply?

From the date the notice is served you have 28 days to reply, or “as soon as practicably after the end of that period”.

Right against self-incrimination

A number of cases have dealt with this issue and, put simply, it doesn't matter, the requirement to identify the driver does not affect your human rights. The court has said “those who choose to keep and drive a car can be taken to have accepted certain responsibilities” and those include the obligation to provide information upon request as to the driver.

What if I really don't know who was driving?

If you genuinely do not know who was driving, you may have a defence to an allegation of failing to provide driver information.

The defence is that you “could not with reasonable diligence have ascertained who the driver of the vehicle was”. You need, therefore, to make all reasonable enquiries to find out who the driver was, and you will still need to reply to the request, providing what assistance you can. Again, it is best to seek early legal advice as a recent case involving the former politician Lord Howard, has opened up a number of interesting legal arguments.

I did not receive the request and now I have been summonsed, what do I do?

You may have a defence to the allegation. Please contact us for further advice.

What if I provide false information?

It can be tempting to name a spouse, or even someone abroad, in the hope of avoiding penalty points. To do so would amount to perverting the course of justice – which almost always results in a prison sentence. So, don't do it.

Companies

It is a defence to show that there was no record kept of the driver and that the failure to keep a record was reasonable. The notice can be served by sending it to a secretary or a clerk, at the registered or principal office. It may seem obvious, but a company cannot be given penalty points, so the penalty here would be a fine.

In certain circumstances proceedings can also be brought against company directors, so a company cannot be used as a shield against prosecution for this offence. If your company operates a company car pool it would be wise to ensure that you have robust procedures in place in order to track vehicle usage.



**If you have any questions,
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