

David Barton

motorists' lawyer



Dashcam - the new must have accessory?

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Dramatic footage of high-speed crashes and near-misses which circulated the world in minutes, via YouTube and other social media sites in 2013, have highlighted the rise in the use of private dashboard cameras. But are they legal in the UK?

According to motoring law solicitor David Barton, the answer is a resounding “yes”.

Barton, who practises in Kent and has created a reputation for assisting drivers to avoid long-term penalties, says his research has revealed that by 2020 there could be more than a million vehicles fitted with dashcams in the UK. And that could be a conservative estimate.

He says: “The road is now a constant source of challenge for drivers of cars, taxis, vans, lorries and motorcyclists and cyclists. These cameras are so small they can be fitted to cycle helmets. You can now buy a high-quality and discreet camera for less than £200 that will provide you with a constant recording whenever your car is in use. I suspect they will soon be as commonplace as satnavs – and how long will it be before motor manufacturers fit them as standard?”

Barton believes one of the reasons behind increased interest in dashcams in the UK could be the emergency of so-called “crash for cash” crime. He explains: “This has undoubtedly become a nasty and all-too-prevalent crime, where the fraudster deliberately causes a crash and claims personal injury compensation for himself and others.

“The most common method is to brake very suddenly in front of another vehicle, causing it to crash into the rear. The vehicle behind is a soft touch for the blame, and heavy commercial vehicles can’t easily stop, making them particularly vulnerable to this set up. With no witnesses to help, the fraudsters have been able to bring substantial numbers of claims worth millions that have led directly to increased premiums for all road users.”

So will a “spy in the cab” dashcam help fight the rise of the “cash for crash” criminals? Barton believes they will play a vital part in the legal process within a short time.

“The insurance industry has sought to challenge such fraud, but it isn’t easy. In-car cameras are a huge help and some insurers now offer discounts when they are used,” he says.

But it’s not just the victims of staged crashes who could benefit from an in-car witness in the shape of a dashcam. Barton suggests they could be used to challenge a wide variety of prosecutions.

He said: “Last year alone saw the introduction of a whole raft of new powers enabling the police to issue fixed penalty notices for offences that traditionally had always been dealt with in court. Such notices can be given if the police consider someone has driven carelessly, tailgated, or stayed unnecessarily in the middle lane. If the driver is on his own, he has little chance of disputing what two police officers might say – however strongly he might disagree.

“Motorcyclists are frequently criticised for a variety of things, from wheelie-pulling to undertaking and riding too fast for conditions, and it can sometimes be difficult to deal with this in court.”

So what do these cameras do? They record on a continuous loop the driver’s, or rider’s, view of the road and can show speed, location and driving or riding style.

“They can be the missing witness helping deal with trivial car park knocks to serious incidents. So many road traffic prosecutions in the courts turn on events that happened in seconds, which witnesses have to recall accurately. Most witnesses do their honest best to do so, but it can be a challenge to try and

unravel an event many months later in a courtroom where everyone has to use their imagination because they weren't there," says Barton.

So convinced is he that dashcams are here to stay that he has drawn up a Q&A brief for drivers. Top two questions are: "Is a car camera legal in the UK?" and "Is the footage admissible in evidence in court?" Here are his answers:

Is a car camera legal in the UK? The answer is a clear "yes". There are no laws which prevent the car camera from being used correctly in the UK. Some ask if it's like using CCTV at home, and while there are some similarities, there are major differences. Most people who choose to install CCTV at home do so primarily to deter would-be intruders from trespassing on to, or breaking into their homes. This is completely legitimate.

You cannot stop your neighbour from installing a CCTV system, or from operating any kind of video recording device, such as a camcorder. It becomes an issue only if the device is used to intrude on privacy, where the subject has a reasonable expectation they would be safe from surveillance. That will be very difficult indeed to suggest on a public road. If the recording shows how someone has driven, there is a public interest in that being shown in a court.

Evidence captured by police on such devices has been used for years.

The only thing to be aware of is that you must not block your view of the road, or allow yourself to be able to see the screen of the camera as you are driving. You need to be in proper control of the vehicle at all times and, as with mobile phones, they must not be permitted to become a distraction. Some cameras come with a built-in screen, which ought to be folded away and out of view, either directly or by reflection.

Most operate by switching on with the ignition, so the answer is to forget about them, until something happens and you want to retrieve the recording.

Is the footage admissible in evidence in court? Privacy and data protection laws are straightforward to deal with, although taxi drivers will need to be very careful about using cameras that record sound. Passengers will be entitled to expect that they are somewhere they can reasonably expect to be private and free from unauthorised surveillance. Recording both them and their conversations in secret would be an issue. Taxis usually display notices to cover this aspect of the law.

Other than that, the recording of sound is not a problem and can be a valuable addition to the recording of an incident. It might also record what someone said afterwards, which is often the subject of dispute in court. The Data Protection Act 1988 applies to businesses and organisations and is unlikely to be an issue when a device in a private vehicle has made a recording.

POSSIBLE FACT BOX on where to buy and how much they cost, how widespread they are, perhaps with a link to the YouTube videos. For instance, Halfords have cameras for sale from £69.99, but you can buy one for as cheap as £25.99 if you check out online sites.

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