

Driving or attempting to drive with excess alcohol or while unfit through drink or drugs

| | With Excess Alcohol | While Unfit (drink/drugs) |
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| Drink Drive Offence: | It is an offence for a person to drive or attempt to drive a motor vehicle on a road or other public place with excess alcohol in his breath, blood or urine as evidenced by a certificate of analysis or printout. | It is an offence for a person to drive or attempt to drive a mechanically propelled vehicle on a road or other public place while unfit to drive through drink or drugs. |
| Also Known As: | Drink driving, driving under the influence of alcohol, drunk driving, driving or attempting to drive a motor vehicle with excess alcohol, driving with excess alcohol. | Drink driving, drug driving, drunk driving, driving under the influence of drink or drugs, driving or attempting to drive a mechanically propelled vehicle while unfit through drink or drugs. |
| Drink Driving Law: | Road Traffic Act 1988 s.5(1)(b) | Road Traffic Act 1998 s.4(1) |
| Maximum Penalty: | 6 months prison sentence. | 6 months prison sentence. |
| Maximum Fine: | £5,000 | £5,000 |
| Minimum Penalty: | 3-11 penalty points if obligatory disqualification is avoided in exceptional circumstances. | |
| Punishment Guidelines: | Obligatory driving ban of between 12-36 months, subject to possible 25% reduction for attending drink driving rehabilitation course. | |
| Endorsement Code: | DR10 | DR20 (drink) DR80 (drugs) |

Can the Police carry out random breath tests?

The Police only have to show that they reasonably suspect a moving traffic offence or the consumption of alcohol or drugs. Consequently, if there is anything that the Police do not like about the manner in which a vehicle is being driven (ie too fast, too slow, erratically etc) this gives the Police grounds to stop the driver and carry out a breath test. The important issue is the Officer does not have to prove or even "believe" that an offence has occurred, merely that he "suspects" an offence.



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What is attempting to drive?

Attempting to drive can include any effort to use a vehicle regardless of whether it is successful. It is established law that when a drunk person attempted to start a car, but failed, his intention was to drive and he was therefore convicted, regardless of the fact that he could not actually get the car to move. Even if the vehicle is incapable of working, the person can still be found guilty of the offence.

What if I fell asleep in the driver's seat?

If the engine was running (even if it was only to keep warm via the heater) that is attempting to drive. If the engine is not running and the keys are not in the ignition, you will probably be found guilty of being "in charge". There is no statutory definition of being "in charge", it is a matter of circumstances and interpretation, depending on exactly what occurred at the time of the alleged offence.

What if the Police do not question me or do not stop me until sometime after the journey when I am no longer in the car or driving it?

Section 6 of the Road Traffic Act 1988 allows a Police officer to require a breath test regardless of whether you are driving or "have been driving" or "have been in charge" of a motor vehicle.

Can you be charged for riding a cycle or horse whilst under the influence?

Yes, but as neither is a mechanically propelled vehicle, they do not fall within this part of the Road Traffic Act. It is an offence under Section 30(1) to ride a bicycle, tricycle or cycle having 4 or more wheels whilst under the influence of drink. Pursuant to Section 12 of the Licensing Act 1872, it is also an offence to be riding a cycle or to be in charge of any carriage, horse or cattle when drunk. Note, that it needs to be established that the Defendant is "drunk" not merely effected by alcohol.

What is the difference between driving with excess alcohol and driving while unfit?

Although the offences are extremely similar, the most crucial difference is that in order to convict for "excess alcohol" a specimen in excess of the legal limit must have been obtained. If this is not available, for whatever reason, the Police can still prosecute for driving "while unfit" and indeed, it is not uncommon for both charges to be brought.



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