



Drug and drink driving

Georgia Wardle of Knights Solicitors warns of devastating consequences should temptation arise.

Most people know it's illegal to drive under the influence of alcohol or drugs. But fewer people fully understand the devastating consequences it can have, not just on your life, but on others' lives too. A single poor decision can change everything in an instant.

It is estimated that in 2022 there were 6,800 people killed or injured in drink or drug driving incidents. Of this figure, 63.8% of incidents involved drivers aged 25 to 59 year old. This is the highest level recorded since 2009, and worrying trends suggest the numbers could rise further.

Drink driving: more than just alcohol!

It is important to understand the reasons why driving under the influence of alcohol is illegal. Alcohol (even in very small amounts) affects the body's central nervous system, which controls motor functions and the processing of information. Your brain-to-body communication and reaction times are slowed down significantly when alcohol has entered your body. If you are driving a vehicle and a car brakes in front of you quickly, or if you were to be driving down a country road and a deer jumps across in front of you, your reaction time to

slamming your brakes on would be slower and therefore the likelihood of a crash is increased. Studies show that even at the legal limit (being 0.08% Blood Alcohol Concentration, or BAC) a driver's reaction time can be 30% slower than a person who has consumed no alcohol. A split-second delay is all that it can take for a fatal crash to occur in which your life and/or somebody else's life could be altered forever. This is the reason why drink driving is a criminal offence and why the BAC limit is likely to be reduced further.

The law on drug and drink driving: what you need to know

The Road Traffic Act 1988 sets out the legal limits for alcohol concentration in the body. The maximum legal limit is 80mg of alcohol per 100ml of blood. The Transport Act 1981 introduced the legal limit for evidential breath testing which stands at a maximum concentration of 35mg of alcohol per 100ml of breath. The Road Traffic Act 1988 provides that the legal limit for alcohol in your urine is 107mg per 100ml of urine. Driving above the legal limit is a criminal offence and if caught you will be prosecuted for this. If your driving does not

seem impaired but you are over the legal limit, you are still breaking the law. It is also important to note that even being in charge of a vehicle with the potential intent to drive the vehicle is also a criminal offence.

Scotland has much stricter limits. The legal limit for blood alcohol concentration in Scotland is 50mg per 100ml with the breath alcohol concentration limit at 22mg per 100ml of breath and the urine alcohol concentration limit at 67mg per 100ml of urine.

At present the position in Wales and in Northern Ireland is the same as for England.

The law also provides for the fact that everybody has different tolerances to alcohol and so you may be under the legal limit; however, if you have consumed alcohol and are assessed to be unfit to drive then you are also guilty of breaking the law under Section 4 of the Road Traffic Act 1988.

If you are under suspicion for driving under the influence of alcohol and are asked to provide a blood or urine or breath sample then it is in your best interests to do so unless a reasonable excuse can be given as to why you refuse this. If no reasonable excuse can be given then it is considered an offence of refusing any requested sample

and this carries the same penalties as being over the limit. I will explore this in more detail below.

Refusing to give a breath, blood, or urine sample: what happens next?

The police have the power to request a breath or urine or blood sample if they suspect you have been driving under the influence of alcohol. Some people may refuse to comply in an attempt to avoid a positive test result, but does refusing a test protect you from prosecution?

The answer is probably “no”. Refusing without a reasonable excuse to provide a breath or urine or blood sample when lawfully requested is a criminal offence, and the consequences are often the same as if you had tested over the legal limit. This applies whether you’re at the roadside, at the police station or in hospital.

However, the law does allow for reasonable excuses in certain situations. If a valid reason is given, the burden of proof then falls on the prosecution (CPS) to show that the excuse is false. The defendant is not required to prove that their excuse is true, although supporting evidence, such as medical reports or a doctor’s letter, would strengthen their case.

In the High Court case of *R (Cuns) v Hammersmith Magistrates’ Court* [2016], the court held that a genuine fear of needles (needle phobia) could amount to a reasonable excuse for refusing a blood test. Importantly, this does not excuse a refusal to provide breath or urine samples, only blood, where fear of needles (with proven needle phobia) is directly relevant.

Medication and motor skills: a grey area?

Driving under the influence of alcohol or illegal drugs is widely understood to be a criminal offence. However, driving while under the influence of prescription medication is a lesser-known, but equally important issue, and one that sits in a legal grey area for many people.

Some medications carry clear warnings not to drive or operate machinery while taking them. But in cases where this is not explicitly stated, drivers must exercise caution. Every medication comes with a patient information leaflet, which outlines the possible side effects, risks, and whether it may affect your ability to drive. It’s your responsibility to read this information and follow the instructions carefully.

If you are taking prescribed medication as directed and it does not impair your ability to drive safely, you are not breaking the law.

However, if the medication does impair your driving – even slightly – you can still be charged under Section 4 of the Road Traffic Act 1988 for being “unfit to drive through drugs”, even if the drug is legally prescribed.

Additionally, under Section 5A of the same Act, there are specific limits for certain controlled drugs (including some prescription medications like diazepam, methadone and morphine). If the concentration of these drugs in your system exceeds the legal threshold, you can be prosecuted in the same way as someone over the alcohol limit, regardless of whether the drug was prescribed to you or not.

If you’re ever unsure whether it’s safe or legal to drive while taking a particular medication, the best course of action is to seek advice from your GP or from a pharmacist.

Penalties and consequences: worth the risk?

Now that we’ve clarified the law surrounding drink driving and the refusal to provide a sample, it’s equally important to understand the serious consequences these offences can carry. A split-second decision or slight misjudgement can result in life-changing legal, financial, and personal repercussions, for both yourself and others. If you are found guilty of driving under the influence of alcohol or drugs, you could face:

- A mandatory driving ban (minimum 12 months for a first offence);
- Revocation of your driving licence;
- Revocation of your firearms certificate and your shotgun certificate;
- An unlimited fine;

- Up to six months’ imprisonment; and
- A criminal record, which may stay with you for several or many years.

The exact penalty will depend on several factors, including:

- How far over the legal alcohol or drug limit you were;
- Whether your driving was impaired and/or whether you caused an accident;
- If anyone was injured or killed; and
- Whether you refused to provide a sample when lawfully required to do so.

Beyond the immediate legal penalties, there are long-term consequences that can continue to affect your life:

- Difficulty securing employment, particularly in roles involving driving or security. This will certainly impact on work as a gamekeeper: almost all gamekeepers need driving licences and they need to be able to use shotguns and rifles.
- Significantly increased car insurance premiums. Gamekeepers are not highly paid and so this is a real issue.
- Possible travel restrictions, especially to countries like the United States or Australia.
- Damage to your personal and professional reputation and to your personal relationships. Gamekeepers often get a house with their job and losing the job will often mean losing your home and possibly your relationship as well. ●

NGO FREE LEGAL HELPLINE

Georgia Wardle is a Level 7 Solicitor Apprentice at Knights Solicitors. She enjoys working on Firearms Act Appeals amongst many other areas and has worked at the firm for three years. Knights Solicitors is a specialist litigation practice well known for representing clients with animal and countryside interests on a national level. Knights Solicitors provides a helpline service for NGO Members which Georgia helps to operate.

NGO members in need of emergency legal advice relating to gamekeeping and fieldsports can call the helplines below. Up to 30 minutes telephone advice is available free of charge as a benefit of your NGO membership.

For those in the South: Matthew Knight, Richard Atkins, Evie Green, or Georgia Wardle at Knights Solicitors (Tunbridge Wells), 01892 537311.
www.knights-solicitors.co.uk

For those in the South West: Katrina Byrne, KB Legal (Exeter), 01392 927705.

For those in the North, Scotland and Wales:
Michael Kenyon, Solicitor (Macclesfield), 01625 422275 or 07798 636460. ●

