

Know your rights and your limits

Philip Hatvany, a specialist road traffic solicitor at Motoring Law Defence, answers a few commonly asked questions associated with drink driving offences.

Q. When can the police demand a breath test?

A. Any individual who is driving or attempting to drive, may be asked by the police to undertake a breath test to establish whether they are over the prescribed limit of alcohol. The UK limit is 35 micrograms of alcohol per 100 millilitres of breath or 80 milligrams of alcohol per 100 millilitres of blood. The request must be made by a police officer in uniform, and can only be made if one of the following situations occurs:

- 1) If the police officer reasonably suspects that the driver has committed, or is currently committing a road traffic offence.
- 2) If, having stopped the vehicle, the officer reasonably suspects that the person driving or attempting to drive has consumed alcohol
- 3) If the police officer reasonably believes that the person driving or attempting to drive a motor vehicle was involved in an accident.

Q. My breath test was positive. What happens now?

A. If the test is positive and you refuse or are unable to give a sample, you may be arrested and taken to the police station where you will usually be required to provide two samples of

your breath, which will then be analysed with police equipment. If when tested the samples are different, the lower reading will be the one that they rely upon. If this or both readings are over the limit then you will probably be charged with committing an offence. However, if the reading shows a figure of no more than 50 micrograms of alcohol per 100 millilitres of breath, you may insist on it being replaced by a blood test.

Q. What happens if I am charged with a drink driving related offence?

A. If you are charged with the offence, you will normally then be bailed to attend court on a specified date. You will be free to go and must attend court on the date and time given.

Q. Do I need a solicitor to represent me?

A. The decision is yours. You are entitled to ask for a solicitor of your choice at the police station when you are detained and before you make any formal statement. However, you would not be allowed to delay providing a sample of breath while waiting for the solicitor to arrive. If you choose not to see a solicitor at the police station and you are charged with a drink driving related offence, then it is in your best interests to find a solicitor to represent

you in court. This should be done as soon as possible after you are charged.

Q. What if I am convicted of drink driving?

A. If you are found guilty the Magistrates must disqualify you for at least one year unless there are special reasons. A special reason must be a reason that is directly connected with the circumstances in which the offence is committed. For example if your drinks were spiked with out your knowledge prior to you driving. ■



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For advice on any motoring law matter, please contact Philip Hatvany at Motoring Law Defence on 01225 442925.



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Caught drink driving?

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