

## Failing to allow specimen of blood to be subjected to a laboratory test

<b>Drink Drive Offence:</b>	It is an offence for a person who has been required to give his permission for a specimen of blood taken from him to be subjected to a laboratory test to fail, without reasonable excuse, to give that permission.	
<b>Also Known As:</b>	Without reasonable excuse, failing to allow a specimen of blood to be subjected to a laboratory test. Refusing to allow a sample to be analysed.	
<b>Drink Driving Law:</b>	Road Traffic Act 1988 – Section 7(a)	
<b>Maximum Penalty:</b>	<b>Driving</b> 6 months prison sentence.	<b>Not Driving</b> 3 months prison sentence.
<b>Maximum Fine:</b>	£5,000	£2,500
<b>Minimum Penalty:</b>	3-11 Penalty Points (in exceptional circumstances).	10 penalty points.
<b>Punishment Guidelines:</b>	Obligatory driving ban of between 12 and 36 months.*	Discretionary driving ban of between 12 and 36 months.*

*\* Subject to 25% reduction for attending drink driving rehabilitation course.*

### **What if I am not physically capable of giving permission? Have I committed an offence?**

If it is apparent to the Police Officer that you are not able to supply permission for reasons that are not intentional, ie because you have been involved in an accident, the officer may request authority from a Police medical practitioner or any other registered medical practitioner but not the practitioner who is responsible for your clinical care. The officer must then advise you that a sample has been taken and seek formal permission to analyse the sample when you are able to co-operate.

### **What if I have a reasonable excuse for refusing permission?**

The offence is committed only if you "fail or refuse to allow permission without reasonable excuse". Whether your refusal is reasonable is for the Court to determine based on the facts and evidence given.

### **What if without my knowledge or authority a medical practitioner refuses believing that is in my interests?**

The medical practitioner would have to justify the decision but based on the facts and evidence, if it is apparent that you had no way of influencing that decision, you have a potential defence.



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