

Failing to provide a specimen for analysis (Blood, breath and urine)

Drink Drive Offence:	It is an offence for a person who has been required to provide specimens for analysis to fail without reasonable excuse to do so.	
Also Known As:	Failing to provide a specimen for analysis, Failing or refusing to supply an evidential specimen, Without reasonable excuse, failing to supply specimens of breath, blood or urine for analysis. Failing to provide breath test, failing to provide blood test, failing to provide urine test, refusing to supply specimen, failing to provide breath, blood or urine sample.	
Drink Driving Law:	Road Traffic Act 1988 s.7(6)	
Maximum Penalty:	Driving 6 months prison sentence.	Not Driving 3 months prison sentence.
Maximum Fine:	£5,000	£2,500
Minimum Penalty:	3-11 Penalty Points (in exceptional circumstances).	10 penalty points.
Punishment Guidelines:	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 is my legal obligation?

The Police can lawfully require a person to provide a specimen of blood, breath or urine "in the course of an investigation as to whether a person has committed the offences of being in charge/driving or attempting to drive whilst unfit, or driving/attempting to drive with excess alcohol.

Essentially, if the Police think that you have consumed alcohol, or are under the influence, they are entitled to obtain evidence. Given that the only way they can obtain that evidence is to take a breath, blood or urine sample, a refusal to provide such a specimen would clearly prevent them from proving their case, so that refusal is a further offence.

Do I have to be arrested for a drink driving offence before I am obliged to give a specimen?

No.



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What if I told the Police that I was not driving but they refused to believe me so I refused to give a specimen?

You can still be convicted. The Police have the right to request the specimen based on a suspicion of whether you were driving. It is not critical to the offence that their suspicion is correct. Your refusal to give a specimen on the basis that you do not believe the request is justified is an offence.

What if I am willing to provide a specimen, but fail to do so despite my best efforts?

Your obligation is to provide a specimen that can be used for analysis. If, for example, the specimen of urine supplied is so minute it cannot be analysed, the offence is committed, regardless of any intention on your part.

What if the breath measuring machine simply failed to register when I blew into it?

On the basis that the machine is shown to be working correctly and the correct process for using it was followed, you can be convicted. It is for the Defendant to show that any technical problem was not of his making.

When I was initially asked to give a breath test, I refused but having thought about it, I came to my senses, I was then willing to do so. The Police refused to take a subsequent breath test and I have been charged, what are my rights?

You can be charged and convicted even if you change your mind. The issues are the state of mind at the time of refusal. If it is clear that you were capable of making the decision but simply refused to co-operate, even if you then offer to provide a specimen a minute or so later, the offence can be established.

What if when asked to supply a specimen I do not refuse but simply do not respond?

You can be convicted. The Court will conclude that you should appreciate you will have to co-operate in order to provide a specimen and by doing nothing, you have not co-operated.

I was asked to give a blood sample but offered urine instead. I have been charged with refusing to supply a specimen. I did not refuse but the Police were not willing to take a urine specimen instead. What are my rights and have I committed an offence?

It is not for the accused to decide what type of specimen will be taken. In the normal course of events, a breath test would be required but if a blood sample is requested, and in the absence of any obvious medical reason for refusal, the Police do not need to make any enquiry, they can proceed on the basis that a specimen was refused and there is no obligation for them to accept an alternative method.



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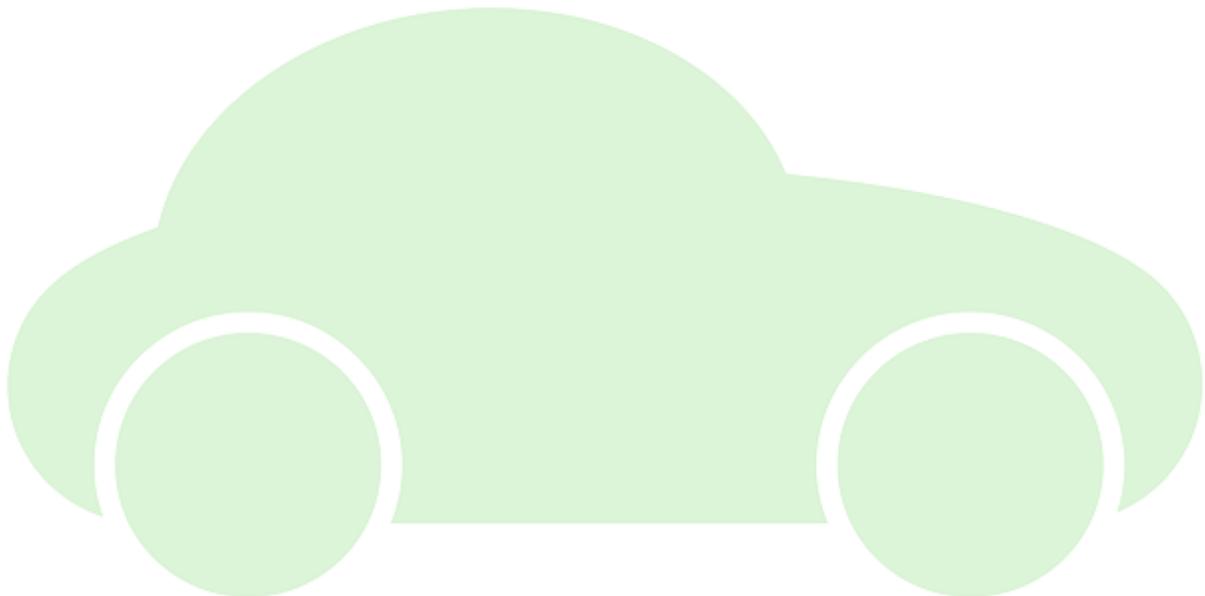
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I gave my first specimen of breath but the second test did not register. I did not refuse and was happy to co-operate, why I have been charged with failing to supply?

Your obligation is to provide 2 specimens of breath for analysis. If you could not do this, you are guilty of failing/refusing to supply unless there is reasonable excuse.

When I gave a breath test at the Police Station, it was below the limit so I refused to give a second breath test. Where do I stand?

In theory, the offence has been committed. However, there may be grounds for mitigation.



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