

## Being in charge of a vehicle with excess alcohol or while unfit through drink or drugs

	With Excess Alcohol	While Unfit (drink/drugs)
<b>Drink Drive Offence:</b>	It is an offence for a person to be in charge of a motor vehicle on a road or other public place with excess alcohol in his breath or in blood or urine as evidenced by a certificate of analysis or statement.	It is an offence for a person to be in charge of a mechanically propelled vehicle on a road or other public place while unfit through drink or drugs.
<b>Also Known As:</b>	Drunk in charge, being in charge of a vehicle whilst under the influence of alcohol, in charge of a motor vehicle with excess alcohol.	In charge while unfit, in charge whilst under the influence of drink or drugs, In charge of a mechanically propelled vehicle while unfit through drink or drugs.
<b>Drink Driving Law:</b>	Road Traffic Act 1988 s.4(2)	Road Traffic Act 1998 s.5(1)(6)
<b>Maximum Penalty:</b>	3 months prison sentence.	
<b>Maximum Fine:</b>	£2,500	£5,000
<b>Minimum Penalty:</b>	10 Penalty Points.	10 Penalty Points.
<b>Punishment Guidelines:</b>	Discretionary driving ban of between 12-36 months, subject to possible 25% reduction for attending drink driving rehabilitation course.	
<b>Endorsement Code:</b>	DR40	DR50 (Drink) DR90 (Drugs)

### What is the legal definition of being in charge?

There is legal definition for the term "in charge" so each case will depend on its exact circumstances and facts. Generally, a Defendant is "in charge" if he was the owner/in possession of the vehicle or had recently driven it. He is not in charge if it is being driven by another person or is "a great distance" from the vehicle.

Matters are more complicated where a person is sitting in the vehicle or "otherwise involved with it". In charge can include attempting to gain entry to the vehicle and failing, having keys to the vehicle, having intention to take control of the vehicle or even "being near the vehicle".



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**What if I was in my car on my driveway having a cigarette trying to keep warm and I had no intention of driving?**

There is no need for the prosecution to prove that a person was likely to drive whilst unfit or over the limit. It is for the Defendant to prove that there is no prospect of using the vehicle.

**What if I fell asleep in the car or I was sitting in the back?**

It depends on the circumstances leading up to it. If somebody else had driven the vehicle, and has merely got out and left you in it, and you were not aware of this, you are not in charge. If, however, you had, by your own means got into the car you would have been in charge and remain in charge.

**Can I be prosecuted if I am sitting in the passenger seat?**

Yes. If the Police believe that you were driving at some point, but when they stopped the vehicle, you were no longer driving, it is still possible to prosecute or if the Police are able to show that there was a likelihood of you driving the vehicle. You do not have to be sitting in the driver's seat to be "in charge".

**I had too much to drink so I asked someone else to drive me home. They only have a provisional licence can I be prosecuted?**

Yes. You are deemed to be in charge if you are supervising another driver so if you are above the limit you can be prosecuted.

