

With the rise of electric vehicles and expanding charging networks, many drivers find themselves in a new legal grey area: is being plugged into a charger in a public car park considered "driving" or "being on the road" for the purpose of offences under the Road Traffic Act? This question matters when it comes to alleged drug-driving, particularly involving THC limits, roadside testing procedures, and the statutory medical defences available.

Understanding the Legal Context: Public Place & Road Traffic Act

First, it's important to define the exact offences at play. The primary law here is the Road Traffic Act 1988, which sets out driving-related criminal offences. Section 5 often applies to drug-driving, making it an offence to drive or be in charge of a vehicle in a public place while unfit due to drugs or with specified controlled drug levels above legal limits.



For the purposes of this law:

- **"Being in charge"** means having the ability and intention to drive.
- **"Public place"** includes roads, car parks open to the public (such as those run by shopping centres or council-owned), lay-bys, and certain other areas accessible to the public.

This means a public car park counts as a "public place" under the Act. Being in charge of a vehicle while charging in such a car park can trigger legal issues under the Act, depending on whether this constitutes "being in charge."

Scenario: Keys in Pocket at a Public Charger

Consider a driver who has plugged their EV into a charger at a council-run public car park. Their keys remain in their pocket, and the vehicle is stationary, engine off but still connected. If the police attend and conduct a roadside swab test, does this count as "being in charge" while over the legal THC blood limit?

Years of case law show that *engine off* or *vehicle stationary* doesn't automatically rule out the risk of prosecution. Presence of keys and the location of the vehicle are critical.

"Keys and Location" Are Crucial Factors

Simply having the keys on your person in a public car park, where the car could be driven away, typically means you're "in charge." EV Powered and similar industry experts stress that location and control elements matter more than vehicle movement.

THC Blood Limit vs Actual Impairment

The UK has set a specific blood concentration limit for THC – 2 micrograms per litre – as the threshold for presumed intoxication under the Road Traffic Act. However, unlike alcohol, THC presence does not automatically equal impairment.

It's extremely important to appreciate that:

- **THC stays in the blood longer than it impairs driving ability.** This means drivers can test positive without being impaired.
- Medical experts, such as those consulted by NHS England, emphasise that "threshold limits" are a legal line, not a clinical measure of impairment.

Statutory Medical Defence and Burden of Evidence

Section 5A of the Road Traffic Act provides a statutory medical defence if the driver took the drug as prescribed or medically recommended and was not impaired. The General Medical Council (GMC) guidance for prescribers of controlled substances, including cannabinoids, is relevant here.

However, the burden is on the defendant to prove the medical defence applies. Importantly, the court will consider evidence such as:

- Valid prescriptions or clinical assessments
- Whether the drug was taken according to medical advice
- Demonstrable lack of impairment, possibly informed by clinical expert testimony

Being plugged into a charger during these events may extend the "legal risk window," as the driver remains "in charge" during the entire downtime.

Police Procedures: Roadside Swab Test vs Station Blood Test

Police officers conducting drug-driving [sleeping in car drug driving](#) enforcement may perform two main types of testing:

1. **Roadside Swab Test:** A quick oral fluid test administered at the scene to detect recent drug use.
2. **Police Station Blood Test:** A more definitive test usually required for THC and other controlled substances to determine concentration and confirm offence.

The roadside swab test is indicative but not conclusive. If it comes back positive, the driver will likely be taken to the police station for a blood test.

From a legal perspective, a roadside swab positive while plugged in at a public charger can trigger arrest, as the vehicle is in a public place and the person is in charge. Subsequent blood tests will then be decisive for proceedings.

EV Charging Downtime as a Legal Risk Window

Many drivers assume "engine switched off means no offence." This myth can be dangerous. The downtime spent charging the vehicle in a public car park while the keys remain on the person is a prime risk period.

Think of it like this:

Scenario Legal Considerations Driver at public charger, keys in pocket, engine off Likely "in charge" in a public place; roadside swab and blood tests applicable Driver walks away, keys left inside vehicle, vehicle locked May not be "in charge" if no intention/control; context matters Driver unplugging and immediately intending to drive Clear "in charge"; offence easier to prove if over THC limit

Staying at the charger with keys, especially without medical defence or reassurance of impairment, leaves drivers exposed to prosecution risk.



Summary: What Drivers Should Take Away

- Public car parks are public places under the Road Traffic Act.
- Being plugged into an EV charger with keys on you can count as "in charge," regardless of the engine state.
- THC blood limits are strict, but legal limits differ from actual impairment.
- Roadside swab tests are preliminary; police station blood tests determine offences.
- Medical defences require robust evidence including prescriptions and expert opinions.
- EV charging downtime can be a legal risk window; don't assume "engine off" means safety.
- Refer to authoritative organisations like the General Medical Council for prescribing rules and NHS England for medical guidelines.

Further Resources and Advice

For drivers using EV Powered or other electric networks, always be aware of your position and control of the vehicle in public spaces.

If you are prescribed controlled cannabinoids, consult your doctor and ensure prescriptions are up to date and documented clearly in case of roadside stops. The GMC provides essential guidance for prescribers which may affect your legal protections.

Finally, if stopped by police near a charger with a positive roadside swab, ask about the blood test process and consider legal advice promptly. The window between roadside test and blood test is often crucial.

Understanding these nuances can make the difference between a caution and prosecution.