



Ministry of Defence

Ministry of Defence
Main Building
Whitehall
London
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United Kingdom

Our Reference: FOI2015/10832

Reply to: [REDACTED]

18 December 2015

Dear [REDACTED],

Thank you for your e-mail dated 26 November 2015 to the Ministry of Defence (MOD) in which you requested the following information:

I would like the ministry of defence to clarify a few points if I may in relation to driving whilst impaired through alcohol on service establishments within the UK.

I understand that military police powers are limited on public roads due to civil police taking primacy, however, I consider that jurisdiction would remain with service police whilst on military establishments and when suspects are PSSL. Is this correct?

Are standing orders in place within service establishments within the UK which state that driving whilst over the prescribed limit for alcohol is illegal? If not, why not?

If it is illegal, then how are the service police supposed to get an evidential breath sample without having intoxylisers?

If the MOD are suggesting that it is in fact legal to drive whilst drunk then are there measures in place to rectify this?

I understand that civil police do not have road traffic powers on barracks as it does not constitute a public road, is this correct?

I appreciate there are a few questions here but believe they are strongly linked.

The underlying question, if you wish not to answer each valid question, is driving whilst over the prescribed limit legal on service establishments and if not, who would deal with the criminal proceedings?

The offence of 'driving or being in charge of a motor vehicle with an alcohol concentration above the prescribed limit' under Section 5 of the Road Traffic Act 1988 (RTA 88) can only be committed on a road or other public place. The definition of road within Section 192 of RTA 88, requires the public to have access to it and whilst public place is not defined by the Act, it is accepted to mean, 'Any place to which the public have open access, even if payment must be made to gain entry.'

Consequently, the vast majority of roads within military establishments in the UK are not classed as roads or public places by the RTA 88. Therefore, although the Service Police

are afforded powers to deal with impaired driving through alcohol and drugs in the UK under Section 184 of the Act, they do not have the statutory power to do so on roads within military establishments.

Notwithstanding this, each single Service has issued policy which requires Commanders to issue Standing Orders that forbid all Service personnel to drive any vehicle within the establishment whilst under the influence of alcohol. In addition, Officers, Non-commissioned Officers (NCOs) and duty personnel are empowered by these Standing Orders to stop any person that is suspected to be driving under the influence of alcohol, and should such a suspicion be founded, to order the driver not to continue driving. Measures such as requiring drivers to physically sign in and out of the establishment are routinely in place to identify such drivers.

In light of the above, while it is not possible to charge military personnel with a criminal (i.e. RTA 88) offence in these circumstances, Service Offences such as Contravention of Standing Orders (Section 13, Armed Forces Act 2006 (AFA 06)) or Disobedience to Lawful Commands (Section 12, AFA 06) are utilised and then dealt with by the Service Justice System. There is no statutory basis to require suspected drivers in these cases to undertake a preliminary or evidential breath test.

I confirm that Service Police *are* in possession of Type Approved breath testing devices within the UK.

I hope this clarifies the situation.

Yours sincerely,

Defence People Secretariat FOI