

If you've ever been stopped by the police and tested for cannabis consumption, you might wonder: *does the statutory defence mean I can't be arrested?* This is far from straightforward, especially with the complex interplay between roadside swab tests, blood THC limits, and the legal burden of evidence in drug-driving cases.

In this article, we'll dissect how the statutory medical defence works, why it's not a "roadside shield," and how the processes around roadside swabs and police station blood tests impact your chance of arrest. You'll also discover how some everyday scenarios, like charging your EV with EV Powered, can inadvertently create a legal risk window.

Understanding the Offence: Drug Driving and THC Blood Limits

First, a quick refresher on the exact offence. Under UK law, specifically the **Road Traffic Act 1988**, it is an offence to drive with specific controlled drugs above prescribed blood limits. For cannabis, the limit for **THC (tetrahydrocannabinol)** in your blood is 2 micrograms per litre.

Being over this limit doesn't necessarily mean you were impaired at the wheel, but legally it counts as an offence. This is crucial because the legislation sets a *strict liability limit* rather than relying purely on impairment evidence.

- **THC blood limit:** 2 micrograms per litre
- **Impairment:** Not required to prove offence, but relevant for statutory defence

Roadside Swab Test vs Police Station Blood Test: What's the Difference?

When stopped, the police may use a **roadside swab test** to detect trace drug presence from your saliva. This is a quick screening tool — think of it like a preliminary 'yes/no' indication.

But here's the catch: a **positive roadside swab does NOT mean you are over the THC blood limit**. Many people fall into the trap of thinking a positive swab means automatic arrest or criminalisation. That's wrong.

After a positive swab, you'll almost certainly be taken to the police station for a **blood test**. This sample is sent to a toxicology lab, determining precise drug levels. The blood test result is what forms the core evidence of whether you were legally over the limit.

Test Type	Use	What it Detects	Legal Importance
Roadside Swab	Initial screening	Drug presence in saliva	Indicative only, not conclusive
Police Station Blood Test	Definitive test	Drug concentration in blood	Key evidence for prosecution/defence

Does the Statutory Defence Stop Arrest?

This is where many myths and misunderstandings emerge. The statutory defence you may have heard about is designed to protect lawful medical cannabis users who can prove that their drug use was for medical purposes and did not impair their driving ability.

Importantly, this statutory medical defence:

1. Does NOT stop the police from arresting you if roadside tests are positive.
2. Is NOT a "roadside shield" — meaning it is not applicable or assessable at the roadside stage.
3. Is a defence you rely on later in the legal process, once blood test results are available.

In other words, the police base the arrest decision on initial swab results and driving behaviour, not on whether you can invoke the statutory defence. The defence shifts the burden onto you to prove that your drug use

complied with legal medical guidance after the laboratory analysis.

This burden of evidence includes documentation from credible medical sources, like a evpowered.co.uk prescription from a General Medical Council (GMC) registered doctor, and compliance with NHS England guidelines regarding medicinal cannabis.

Burden of Evidence and How the Statutory Defence Works

The statutory medical defence requires you to satisfy the court on two main points:

- **Lawful medical purpose:** You took the drug under medical advice and prescription validated by GMC standards.
- **Non-impairment:** Your driving was not impaired at the time, despite the presence of THC in your blood.

Given the complex pharmacokinetics of THC, proving non-impairment can be challenging. THC can remain detectable in blood long after effects diminish, which is why roadside swabs are prone to catching residual traces.

If you're relying on a statutory defence, prepare evidence including medical records, prescription details, and timing of consumption relative to driving and testing.

Real-World Scenario: Charging Your EV and Legal Risk Timing

Here's a practical example — imagine you park at an EV Powered charger for 30 minutes to top up your electric vehicle. You have keys in your pocket, maybe with some recent cannabis consumption from the previous evening.

While stationary at the charger, the police pull you for a roadside swab test. Even though your engine is off and you're not technically "driving," the law can still apply if you are "in charge" of a vehicle with drug levels over the limit.

This downtime during EV charging becomes a critical window — if your THC levels are above 2 micrograms/litre at the station blood test, you face the offence, regardless of actual impairment. Your statutory defence will rely on showing you were not impaired and that drug levels reflect past consumption, not current influence.

Key Takeaways for Drivers

- A positive roadside swab test often leads to arrest, but arrest is based on preliminary screening and police discretion.
- The statutory defence is not a free pass or 'roadside shield'; it is a defence evaluated later based on blood test results and evidence.
- Police station blood tests are the definitive test to determine if you are over the THC blood limit.
- Situations like stopping at EV chargers create legal 'risk windows' despite zero engine activity or driving at that moment.
- Always keep prescriptions and medical evidence from GMC-registered professionals up to date to support any statutory medical defence.

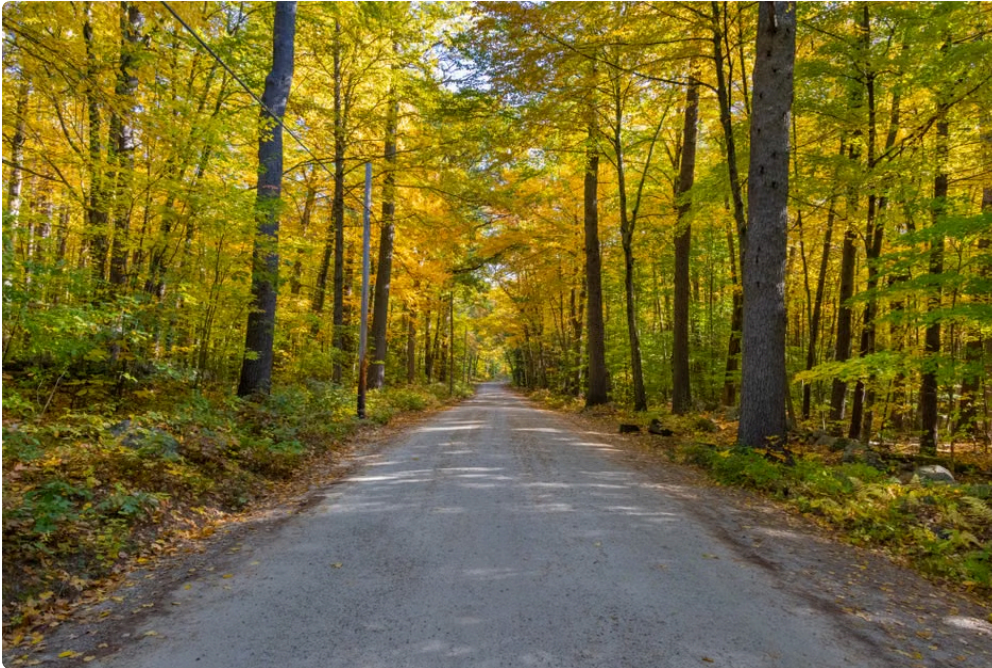
Final Thoughts

Understanding that the statutory defence is about *legal burden and evidence*, not instant roadside immunity, is fundamental. Anyone stopped with a positive swab test must expect arrest and await confirmation by the police

station blood test, where real levels are quantified.

Working with authoritative bodies like NHS England on medical cannabis compliance and adhering strictly to your prescribed regimen can strengthen your defence. Remember, possession of a prescription does NOT guarantee immunity.

If you find yourself arrested after a positive roadside swab, seek prompt legal advice. The nuances of THC blood limits, impairment, and statutory defences require expert evaluation to protect your rights effectively.



Staying informed and cautious around tools like roadside swabbing and station blood testing can make all the difference when navigating the complex legal landscape of drug driving.

