

An Update on Drink and Drug Driving

Sir Peter North

Report of the Review of Drink and Drug Driving Law 2010: Drink (i)

- Prescribed BAC of 80mg per 100ml be reduced to 50mg and equivalent reductions for breath and urine.
- Penalties should be maintained at present levels, including 12 month mandatory disqualification.
- No lower limit (20mg) for special groups of drivers.

Drink (ii)

- Statutory option to have blood or urine tests to be abolished.
- High risk offenders to have medical assessment before re-driving.
- England and Wales to follow Scotland in having car seizure power.
- Unrestricted power to require preliminary breath tests.
- Type approval of portable evidential breath testing equipment to be completed by end of 2011.

Recent Developments: Drink (i)

- Rejection (for England and Wales) of lower drink drive limit.
- Decided to consult on abolition of “statutory option” (likely early 2013) with probably lead option of abolition.
- Same consultation likely to include greater use of powers to seize drivers’ vehicles.

Recent Developments (ii)

- Also consultation on removing legal need for preliminary breath tests before evidential tests. Linked to:
- Type approval of roadside equipment to be completed by Home Office by 2014. This is under way.
- Within next 6 months, high risk offenders will be unable to drive until medical assessment completed.
- Consultation on allowing registered health care professionals as well as doctors to take blood samples in police stations and hospitals in drink and drug driving cases.

Drink Drive Developments Beyond England and Wales: Scotland

- Power to set drink drive level devolved by s 20, Scotland Act 2012.
- Current consultation (closes on 29 Nov) on Scottish Government proposal to reduce the level from 80 to 50, with consequential amendments to operation of the statutory option level, but keeping current penalty levels.
- No power to make more extensive reforms involving GB legislation.

Northern Ireland

- Fuller discussion of NI position later this morning from Iain Greenway.
- Consultation closed on 5 October on NI proposals along the lines of my Report, e.g. drink drive level to be reduced from 80 to 50 (though with lesser penalties between 50 and 80) and removal of statutory option.

Republic of Ireland

- Major changes introduced by Road Traffic Act 2010.
- General reduction of drink drive limit to 50 with 20 for novice drivers.
- Graduated penalties between 50-80, 80-100 and above 100; though mandatory disqualification for novice drivers at 50.
- Under Road Traffic Act 2006, random breath tests at authorised checkpoints.

Wider European Position

- All other Western European countries have limits of 20 or 50, with sole exception of Malta (still 80).
- But penalties at lower levels are often fines and/or penalty points.

Main Drug Driving Proposals in 2010 Report: Road Map for Action (i)

- Improve current police and testing procedures, especially by allowing nurses to do blood tests for drugs in police stations and to assess whether a driver has a condition that might be due to a drug.
- Early type approval and supply to police stations of drug screening kits.

Road Map for Action (ii)

- Active research to determine the levels of the most problematic controlled drugs which can be deemed impairing. As and when that is/can be done, introduce a new offence of driving with any of the listed drugs in excess of the prescribed level. If that proves impossible, then consider the introduction of a “zero tolerance” offence of driving whilst having taken certain listed drugs.

Road Map for Action (iii)

- Once drug screening kits are available for police stations, research should address type approval of roadside screening kits.
- Research to seek reliable evidential drug testing devices for an appropriate range of drugs.

Recent Developments: Drugs (i)

- Broad Government acceptance of the “road map”.
- Consultation (and probable legislation in 2013) on the use of other health professionals in taking blood tests in police stations and hospitals.
- Discussions with stakeholders over allowing health professionals to determine whether a driver’s condition may be due to a drug.

Recent Developments (ii)

- Type approval for police station drug screening kits due to be completed by December 2012.
- Legislation to create a new offence of driving with a specified controlled drug in the blood or urine, at a level in excess of the specified limit for that drug, is contained in Clause 27 of the Courts and Crime Bill, currently progressing through the House of Lords.

Recent Developments (iii)

- Expert Technical Panel, chaired by Dr Kim Wolff, established earlier this year to advise on which drugs should be specified in the new offence and at what impairing level. Their advice expected by the end of October, with the necessary regulations hoped to come into effect in early 2014. (Fuller discussion later).
- Specification for the type approval process for road side drug screening kits is to be finalised in the light of the Expert Panel's advice, with the whole process due to be completed in 2014.