

Drink-driving



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Drink-driving in the UK is defined as the act of driving a motor vehicle (car, truck, etc.) while under the effects of alcohol. In England, Wales, and Northern Ireland, the Blood Alcohol Concentration (BAC) limit is 80 milligrammes (mg) of ethanol per 100 millilitres (ml) of blood, as set in the Road Safety Act 1967. A lower drink-drive limit of 50mg / 100ml came into force in Scotland on 5 December 2014. The Northern Ireland Assembly has also passed a Road Traffic (Amendment) Bill (to be implemented in 2018) that includes lower drink-drive limits on its roads.

Otherwise known as Driving Under the Influence (DUI) or Driving While Intoxicated (DWI), it can become a criminal offence when a subject is caught with blood levels of alcohol in excess of a legal limit. Driving or attempting to drive a mechanically propelled vehicle while having a breath, blood or urine alcohol concentration in excess of the prescribed limit was one of the top 5 offences which recorded the highest number of convicted repeat offenders in 2012. A conviction for drink-driving may not necessarily involve driving a vehicle; you can also be prosecuted in charge of a parked vehicle and/or failing to cooperate with the police in taking a preliminary roadside breath test.

As well as being against the law, drink-driving in excess has also scientifically been shown to greatly increase the risk of injury to all parties on the road. The latest official figures show that there were 5,620 drink-drive accidents bearing 8,210 casualties in Great Britain (220 fatal drink-drive accidents; 240 fatalities). Despite a steady decline in the annual number of drink-driving accidents and fatalities to the lowest levels since records began, it remains the case that thousands of people are injured on the roads by drivers who drink, and the number of fatalities has stayed largely unchanged since 2010.

Therefore, measures have been and will continue to be taken by successive governments to lower the rate of casualties and fatalities for all drivers, riders, passengers and pedestrians. This includes the introduction of policies such as the High Risk Offenders Scheme, a series of state-sponsored anti- drink-drive campaigns and proposals to give the police indiscriminate powers to breathalyse all vehicle drivers and riders at the roadside.



Drink-driving and the law

Legal limits: UK

The legal blood-alcohol limit for driving in England, Wales and Northern Ireland is 80 milligrammes of alcohol (80mg) for every 100 millilitres, equivalent to 107 milligrammes of alcohol in 100 millilitres of urine, or 35 micrograms of alcohol in 100 millilitres of breath.¹

Figure 1: Legal drink-drive limits in England, Wales and Northern Ireland

Level of alcohol	England, Wales and Northern Ireland
Micrograms per 100 millilitres of breath	35
Milligrammes per 100 millilitres of blood	80
Milligrammes per 100 millilitres of urine	107

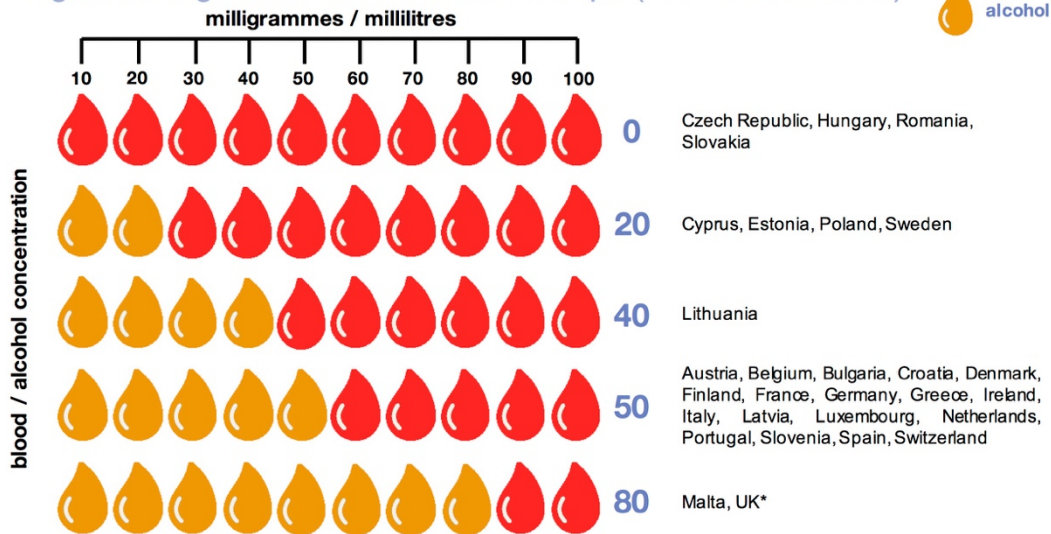
Source: www.gov.uk (January 2015) 'The drink-drive limit'

However, a driver will not be prosecuted under section 5 with a breath alcohol level under 40 micrograms, in accordance with the guidelines contained in Home Office circular 46/1983.²

Legal limits: The European Union (EU)

As of January 2015, England, Wales and Northern Ireland share the joint highest blood-alcohol concentration (BAC) limit for motorcar drivers out of all 28 Member States, along with Malta. Figure 2 displays a list of BAC limits for EU countries expressed in milligrammes of ethanol per millilitre of blood.

Figure 2: Legal drink-drive limits in Europe (EU + Switzerland)



Source: European Transport Safety Council, 'Blood Alcohol Content (BAC) Drink Driving Limits across Europe'

* England and Wales 80 mg / ml; Scotland is 50 mg / ml; Northern Ireland 50 mg / ml from 2018

As figure 2 shows, Scotland's drink-drive limit differs from the rest of the UK; the drink-drive limit was lowered in December 2014 to 50 milligrammes of alcohol for every 100 millilitres of blood. The Northern Ireland Assembly has followed suit, passing a Road Traffic (Amendment) Bill (to be implemented in 2018) that will introduce two new lower drink driving limits – 50mg / 100ml for all drivers and 20mg / 100ml for novice and professional drivers.³

Offences

Under the Road Traffic Act 1988, the following acts are deemed illegal in the UK and are given the following penalties:

Figure 3: Drink-driving offences and maximum penalties

Driving Offence	Prison Sentence	Fine	Driving Ban	Penalty Points	Endorsement Code
Driving or attempting to drive while unfit through drink or drugs	6 months	£5,000	Obligatory	3-11	DR20 (drink) DR80 (drugs)
Driving or attempting to drive with excess alcohol	6 months	£5,000	Obligatory	3-11	DR10
In charge while unfit through drink or drugs	3 months	£2,500	Discretionary	10	DR50 (drink) DR90 (drugs)
In charge with excess alcohol	3 months	£2,500	Discretionary	10	DR40
Failing to co-operate with a preliminary test	-	£1,000	Discretionary	4	DR70
Failing or refusing to supply an evidential specimen while driving or attempting to drive	6 months	£5,000	Obligatory	3-11	DR30
Failing or refusing to supply an evidential specimen while in charge	3 months	£2,500	Discretionary	10	DR60
Failing to allow a specimen to be subjected to a laboratory test	6 months	£5,000	Obligatory	3-11	DR31 / DR61
Causing death by careless driving while under the influence of drink or drugs	14 years	Unlimited	Obligatory	3-11	CD40 (drink) CD50 (drugs) CD60 (excess alcohol)
Causing death by careless driving and then failing to supply specimen for analysis	14 years	Unlimited	Obligatory	3-11	CD70

Source: <http://www.drinkdriving.org/>

Under the amendments made to the Act in 1991, a drink-driver may also be prosecuted in the event of a fatality arising from a motoring accident. These offences are given the CD code, which stands for 'Careless Driving'.

A drink-driving offence will stay on your licence for a period of up to 11 years from the date of conviction. The exact time period will depend on the particular drink-driving related offence you are convicted of (see figure 4).

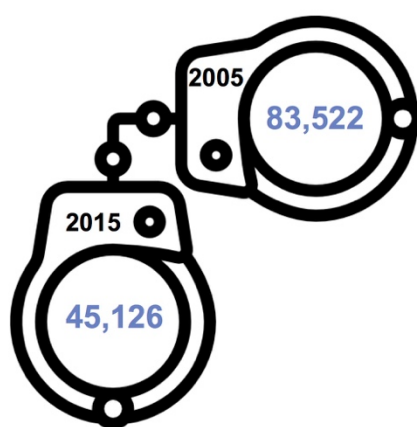
Figure 4: Drink-driving related endorsements

Offence	On driving licence for
DR10 - Drive or attempt to drive with excess alcohol	11 years (from date of conviction)
DR40 - In charge of a vehicle with excess alcohol	4 years (from date of offence)
DR20, DR80 - Drive or attempt to drive while unfit through drink or drugs	11 years (from date of conviction)
DR50, DR90 - In charge of a vehicle while unfit through drink or drugs	4 years (from date of offence)
DR30 - Failing to provide a specimen of analysis while driving or attempting to drive a vehicle	11 years (from date of conviction)
DR60 - Failing to provide a specimen for analysis while in charge of a vehicle	4 years (from date of offence)
DR70 - Failing to co-operate with a preliminary roadside breath test	4 years (from date of offence)

Source: http://www.drinkdriving.org/drink_driving_sentencing_guidelines.php

Current legislation contains provisions for serious – including repeat – drink-drive offenders to be made to retake the driving test at the end of their period of disqualification, under the Road Safety Act 2006. It also makes provisions for the courts, when imposing disqualification as a penalty, to order a reduced period of disqualification if it also makes an order requiring the offender to comply with the conditions of an alcohol ignition interlock programme. According to the Ministry of Justice data, in 2011, the average custodial sentence length for those convicted of causing death by dangerous driving was over 4 years.⁴

Figure 5: The number of court proceedings for (alcohol-related) motoring offences in England and Wales



Source: The Ministry of Justice (May 2016) 'Criminal justice system statistics quarterly: December 2015', Motoring data tool

The total annual number of convictions for alcohol-related motoring offences in England and Wales in 2015 was up on the previous year (+4%), the first such rise since 2005. Over that period, the number of court proceedings fell 46%, from 83,522 to 45,126 (see figure 5). The most common offence – driving with alcohol in the blood above the prescribed limit – accounted for between 84% and 95% of all drink / drug driving convictions.

¹ www.gov.uk (January 2015) 'The drink drive limit'

² Home Office circular 46/1983 <http://www.cps.gov.uk/legal/assets/uploads/files/home_office_circular_46_-_1983.pdf>; from The Crown Prosecution Service, 'Drink Driving Offences – The Law' <http://www.cps.gov.uk/legal/p_to_r/road_traffic_offences_drink_driving/index.html#a14>

³ Northern Ireland Assembly 'Road Traffic (Amendment) Bill' <<http://bit.ly/1HXvwB2>>

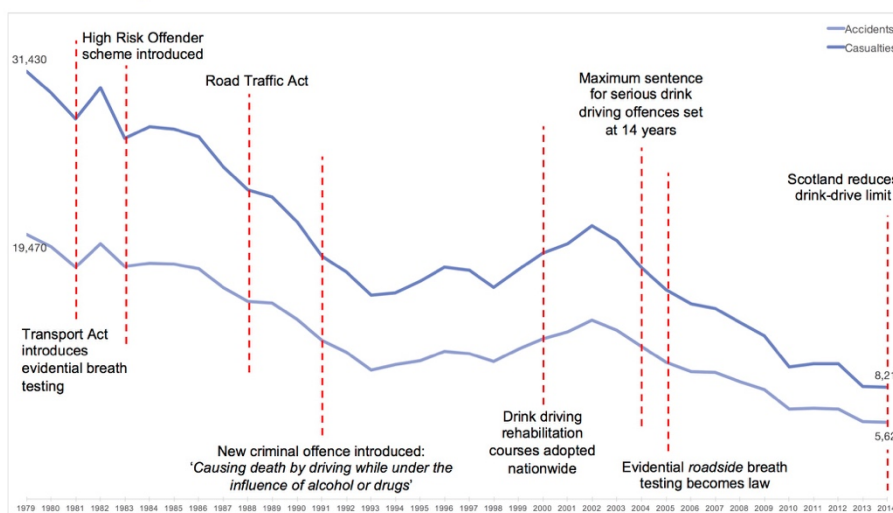
⁴ www.parliament.uk (May 2013), 'HC Deb, c878', Road Traffic Offences (Sentencing) <<http://bit.ly/1XqMod6>>



Accidents and casualties

According to the most recent Department for Transport (DfT) provisional data (figure 6), there were 5,620 accidents and 8,210 casualties as a result of drink-driving.

Figure 6: Estimated number of drink-drive casualties and accidents in Great Britain, 1979 to present

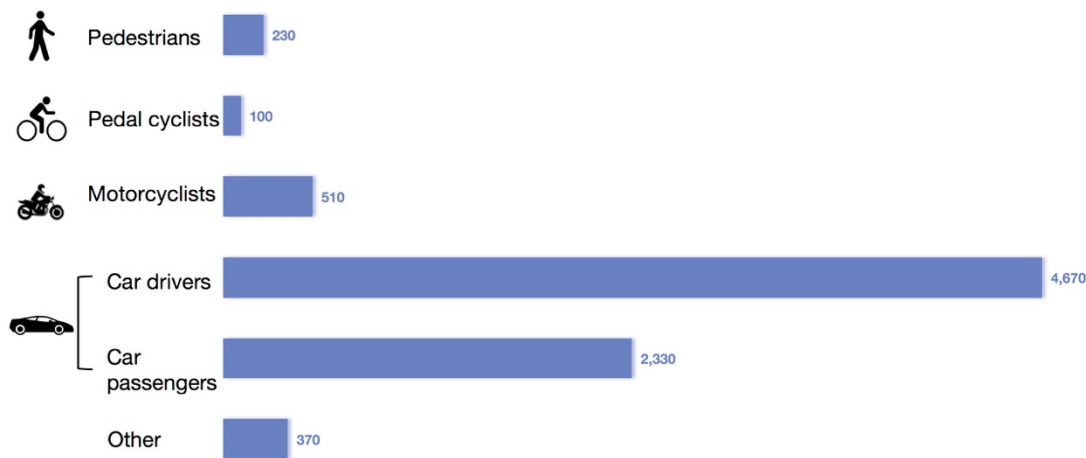


Source: Department for Transport, 'Reported drinking and driving (RAS51001)', STATS19 Statistical data set

Just over half of those involved (54%) were required to take a breath test. This ratio (of requested breath tests to reported accidents) has remained constant for the last decade.

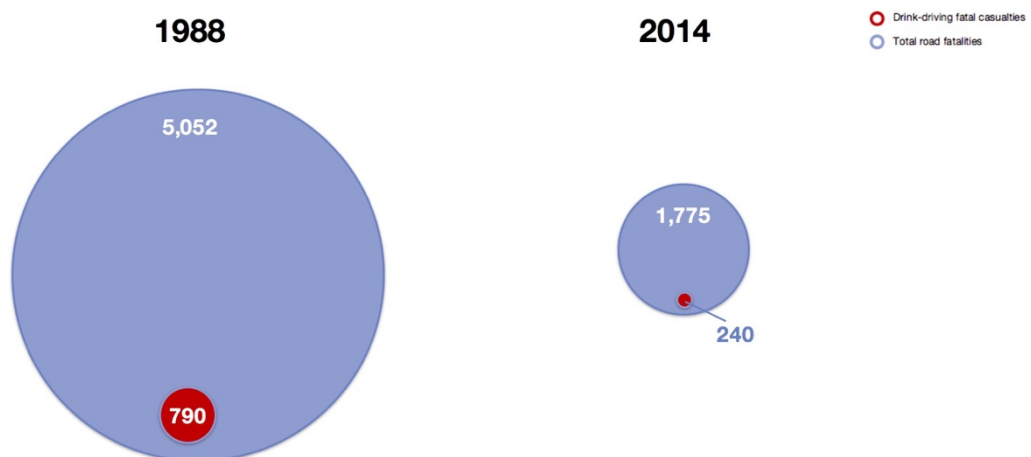
Figure 7 shows that, according to the most recent data, car users are most likely to be injured in a drink-drive accident, with drivers twice as likely as passengers to become casualties.

Figure 7: Estimated number of drink-drive casualties in Great Britain, by road user type, 2014



As figure 8 demonstrates, the number of drink-drive road accident fatalities has fallen by 70% since the introduction of the 1988 Road Traffic Act, from 790 to 240 deaths in 2014. There has been no significant change in the proportion of drink-drive deaths in relation to the total number of road deaths since the Act was passed.

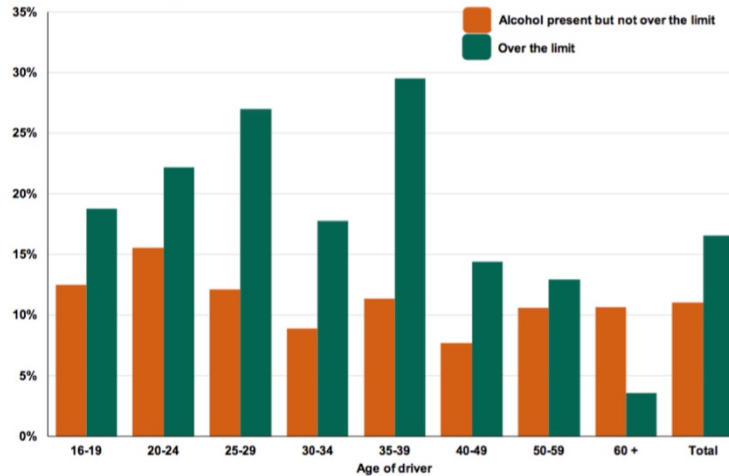
Figure 8: Estimated number of drink-drive road accident fatalities in relation to the total number of road accident fatalities in Great Britain, 1988 v. today



According to Department for Transport records, in 2014, 28% of all killed drivers/riders had alcohol present in the bloodstream. Of those, 40% in England and Wales and 30% in Scotland were below the respective legal limits.

The highest proportion of killed drivers/riders with alcohol present in the bloodstream (both below and over the limit) were in their twenties. Figure 9 below also shows that killed drivers/riders in twenties and thirties were more likely to be over the limit within their respective age groups than other drivers/riders.

Figure 9: Proportion of killed drivers / riders resulting from reported accidents, by BAC category



Source: Department for Transport, 'Reported drinking and driving (RAS51007)', STATS19 Statistical data set

Drink-driving costs

The cost of drink-driving accidents with casualties across the UK, where the driver was found to be above the 80mg limit, was £754 million in 2014.

This is calculated by multiplying the DfT's estimated number of fatal, serious and slight drink drive accidents by its average valuation of the cost of each type of accident (based largely on willingness to pay studies and surveys e.g. of emergency service providers, insurance companies).

'Drink-drive' incidents are defined here as those where one of the drivers or riders refused to give a breath test specimen, or was over the legal limit in a roadside test, or died and was subsequently found to have over 80mg/100ml in their blood.



Policies to reduce casualties

Campaigns and advertising

Since the introduction of breath testing 1967, successive governments have tried to promote a strong anti drink-drive message as part of a sustained effort to reduce the number of casualties on UK roads every year. DfT officials believe advertising campaigns are effective in reducing the rate of road casualties. They point to a large drop in 1987 when the slant of the slogans and advertising shifted from warnings about getting caught to an emphasis on the fact that drivers who drink endanger lives; i.e. the “Drinking and Driving Wrecks Lives” slogan. There have been variations on this theme ever since, including in 1992 a television advert that could only be broadcast after the 9pm watershed, showing a girl lying on the pavement covered with blood.

These campaigns are targeted primarily at young men in their late twenties who are over-represented in accidents. To date, the publicity campaign is believed to have been effective. However, it is difficult to isolate the effect of publicity from the other measures introduced over the same period such as tougher laws and higher levels of enforcement.

Targeting High Risk Offenders

First introduced in 1983, the High Risk Offenders (HRO) scheme is specifically aimed at convicted drink-drivers who may have a drinking problem. After their period of disqualification, high risk offenders’ licences are returned only if they can convince a court that they do not have or have overcome a drink problem. In order to do this, they must pass a medical examination by the Driver and Vehicle Licensing Agency (DVLA), which will assess the driver’s fitness to drive. If there is evidence of persistent misuse within the past 6 months, then a licence is refused.

High Risk Offenders are drivers who:¹

- Have been found to be over 2½ times the legal limit
- Have 2 convictions for being either unfit to drive because of drink or for exceeding the legal limit within a 10-year period, or
- Have been disqualified from driving for refusing to provide a sample for testing.

Since 2000, some people convicted of drink-driving may be offered rehabilitation courses at the discretion of a magistrate or judge, where they will be taught about the effects of alcohol on driving ability.² The course is optional and is paid for by the offender.*

Sir Peter North’s independent review of the law on drink-driving in Great Britain lists High Risk Offenders schemes among its list of recommended changes, stating that it “should continue to operate in respect of repeat offenders”.³

* More information on drink-drive rehabilitation courses is provided courtesy of the Driving Standards Agency <<http://bit.ly/1Oc0DTN>>

Targeting repeat offenders

In July 2013, Conservative MP for Gillingham and Rainham, Rehman Chishti, introduced a Bill in a Ten Minute Rule Motion in the House of Commons which sought to toughen up current sentencing legislation for those convicted of drink-driving.⁴

“I beg to move,

That leave be given to bring in a Bill to allow the Magistrates Court discretion to refer a third or subsequent offence for drink driving to the Crown Court for sentencing and to grant the Crown Court the jurisdiction to give a custodial sentence of up to two years.”

The reasoning behind this proposal was that the current law failed to act as a tough enough deterrent for many people as 12% of offenders and three out of 10 high-risk offenders go on to repeat the offence. A parliamentary question put by Rehman Chishti to the then Parliamentary Under-Secretary of State for Justice (Jeremy Wright; Kenilworth and Southam, Conservative) found that Driving or attempting to drive a mechanically propelled vehicle while having a breath, blood or urine alcohol concentration in excess of the prescribed limit was one of the top 5 offences which recorded the highest number of convicted repeat offenders in the last year.⁵ However, the Drink Driving (Repeat Offenders) Bill failed to complete its passage through the Houses before the end of the 2013–14 parliamentary session.⁶

Roadside testing

In the First Report Session 2010–11 of the House of Commons Transport Select Committee inquiry into Drink and Drug Driving Law, it was suggested that in order to reduce casualties, the police must be given indiscriminate powers to breathalyse all vehicle drivers and riders. The then Association of Chief Police Officers (ACPO, now the National Police Chiefs' Council or NPCC) believed that the increased likelihood of being tested at the roadside will deter potential drink-drivers from taking the risk of being caught.

Under current legislation, the police have a general power under Section 163 of the Road Traffic Act 1988 to stop any vehicle at any time, but there must be reasonable suspicion that the driver either has alcohol in their body, been involved in an accident, or committed a traffic offence, in order to proceed with a preliminary test for the substance's presence.⁷ In a memo response to the session, the NPCC supported North's recommendation to amend the Act to give police a general and unrestricted power to stop and breath test drivers – in effect, to allow “random” breath testing – for the reason that it:

... would support targeted checkpoint testing of drink-drivers carried out now is (sic) some areas but requiring an element of consent... we believe that this simple measure, widely publicised, would increase the perception in the minds of drivers that if they do drink and drive they are likely to be caught and brought to justice at any time, anywhere.⁸

When questioned by the Select Committee, DCC Briggs – representing the then ACPO Roads Policing Business Area – insisted that random testing would be the right way for the police to develop their “intelligence-led” tactics and therefore improve road safety.⁹

A lower legal limit?

As stated previously, the legal BAC limit in the UK is noticeably higher than most fellow European Union (EU) Member States, at 80 milligrammes of alcohol per 100 millilitres of blood, compared to 50mg on the continent.

In 2001, the European Commission made a Recommendation that “all Member States should adopt a legal maximum BAC limit of 0.5mg/ml, or lower, for drivers and riders of all motorised vehicles”.¹⁰ 10 years on, the European Parliament asked the Commission to prepare proposals for an EU-wide harmonised blood alcohol limit, including a 0.0g/l limit for novice and professional drivers, in line with the original recommendation.¹¹ However, to date, the UK (except Scotland) and Malta remain the only EU Member States with BAC limits over 0.5mg/ml.¹² The limit was lowered from 0.8mg/ml to 0.5mg/ml in Scotland in December 2014, and Police Scotland data revealed that within the first 9 months offending fell by 12.5% compared with the same period the previous year.¹³

The newly emerged discrepancy between Scotland and England has become a major focal point of a bill amendment to the Road Traffic Act – introduced to the House of Lords by Lord Brooke of Alverthorpe in June 2015 – which seeks to amend the Road Traffic Act 1988 “to lower the maximum alcohol limits permissible when driving in the UK from the present blood alcohol concentration of 80 milligrams of alcohol per 100 millilitres of blood down to 50 milligrams of alcohol per 100 millilitres of blood.” The bill has since passed through the House of Lords and awaits entry to the House of Commons in the current parliamentary session (2015–16).¹⁴

Those in favour of lowering the limit in the UK point to the increased risks of driving under the influence of alcohol present in the bloodstream. Findings published by the NICE Centre for Public Health and Excellence indicated that:

Drivers with a BAC of between 0.02 and 0.05 have at least a three times greater risk of dying in a vehicle crash. This risk increases to at least six times with a BAC between 0.05 and 0.08...¹⁵

Police figures indicate that 2% of drivers breath tested following a collision produce a result in the 50mg to 80mg range. Therefore, lowering the BAC limit would aim to deter those drivers from drinking before getting behind the wheel. The National Police Chiefs’ Council claims there is some evidence to show that a reduction in the limit to 50mg per 100ml would save 64 lives a year.¹⁶

In 2010, Sir Peter North CBE QC led an independent review of the law on drink and drug driving, in which he recommended that the current prescribed blood alcohol limit in section 11(2) of the Road Traffic Act 1988 of 80mg/100ml be reduced to 50mg/100ml and the equivalent amounts in breath and urine, citing both accordance with the public mood and strong widespread support from the majority of consultees to the review.¹⁷

Separate polls have shown the UK public to have consistently supported calls for a lower drink-drive limit. In 2016, an opinion poll of 5,000 respondents released by the Alcohol Health Alliance found that 77% of the British public favour a 50mg/100ml limit to bring England and Wales in line with Scotland and the rest of the EU.¹⁸ This adds to surveys from the Institute of Advanced Motoring (2015) and BRAKE (2014) that yielded similar results (70% of the public and 74% of drivers respectively).¹⁹ A Populus poll commissioned by the

Royal Society of Public Health also found that among those who had admitted to drink-driving, two-thirds said they would stop doing so if the limit was lowered.²⁰

Sir North's review concluded that a 50mg/100ml limit "would still allow the responsible driver who wishes to enjoy a drink to accompany their pub meal or have a glass of wine or a pint of beer to do so without being in danger of breaking the law".²¹

Despite the weight of evidence produced by the North review, and popular support from several polls, the Coalition Government (2010–2015) rejected Sir Peter North's headline proposal. Their reasoning is depicted in figure 10.

Figure 10: The Coalition Government's response to North Review recommendation on the drink-drive limit

Conclusion on prescribed limit

- 2.36 Our strategy is to help the police to focus on the most dangerous people – those who feature most prominently in the drink-drive offence and casualty statistics; as well as the drug-drivers who at present escape detection. We do not believe that widening the scope of the drink-drive offence by lowering the limit is consistent with this approach. It has various operational and practical difficulties; and imposes social and economic costs which we do not consider, on the present evidence, to be matched by potential benefits.
- 2.37 For all these reasons, the priority on drink-driving must be to make the present regime work better. We do not propose to lower the prescribed alcohol limit for driving as well.

Source: Secretary of State for Transport (March 2011), 'The Government's response to the reports by Sir Peter North CBE QC and the Transport Select Committee on drink and drug driving', p. 18

The Home Office has since been in the process of considering whether it should lift the partial prohibition of alcohol at motorway service areas (MSAs) entirely. In 2013, British pub chain JD Wetherspoon was granted permission by South Buckinghamshire District Council to open the country's first dedicated 24-hour public house at junction 2 of the M40, Beaconsfield services.²²

Section 176 of the Licensing Act 2005 "prohibits the sale of alcohol at motorway service area and garages etc" in respect of motorway service areas which are "premises situated on land acquired or appropriate by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes)". This law applies only to Government owned MSAs; privately owned ones are exempt, so both the owners of and the businesses operating at such premises can apply to the relevant local authority for an alcohol licence.

As a result, some MSAs already have licensed operators selling alcohol on their premises. The Government has already consulted on the proposal, but is yet to make a final decision over the matter.

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- ¹ VMCL LTD, 'High Risk Offender Scheme' <<http://www.vmcl.com/index.php?page=19>>
- ² Department for Transport (2004), 'Rehabilitation courses for drink-drive offenders'
- ³ North, Peter [Sir] (June 2010), 'Report of the Review of drink and drug driving law', p. 16 <http://webarchive.nationalarchives.gov.uk/20100921035225/http://northreview.independent.gov.uk/#_blank>
- ⁴ Drink Driving Bill, Rehman Chishti Member of Parliament for Gillingham and Rainham, website <<http://www.rehmanchishti.com/campaigns/drink-driving-bill>>
- ⁵ www.parliament.uk (February 2014), 'HC Written Answers – Justice: Reoffenders, c554W' <<http://bit.ly/1OIXcUo>>
- ⁶ www.parliament.uk, 'Drink Driving (Repeat Offenders) Bill 2013–14' <<http://services.parliament.uk/bills/2013-14/drinkdrivingrepeatoffenders.html>>
- ⁷ www.legislation.gov.uk, 'Road Traffic Act 1988: Section 163' <http://www.legislation.gov.uk/ukpga/1988/52/section/163#_blank>
- ⁸ House of Commons Transport Committee (December 2010), Memorandum from the Association of Chief Police Officers (ACPO) (DDD 11) <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/writev/460/m11.htm#_blank>, in 'Drink and drug driving law: First Report of Session 2010–1: Volume I (HC 460)', Ev 56 <<http://bit.ly/1R8MG35>>
- ⁹ Transport Committee, Examination of Witnesses (Questions 77 – 144) in 'Drink and drug driving law' <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/460/10091404.htm#_blank>
- ¹⁰ Official Journal of the European Communities, 'Commission Recommendation of 17 January 2001 on the maximum permitted blood alcohol content (BAC) for drivers of motorised vehicles', (January 2001), L 43/32 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001H0115:EN:NOT#_blank>
- ¹¹ ETSC, 'Drink-driving: Towards zero tolerance', p. 12
- ¹² ETSC, p. 32
- ¹³ BBC News Scotland (December 2015), 'Drink-drive numbers fall after Scottish limit reduced' <<http://www.bbc.co.uk/news/uk-scotland-34999421>>
- ¹⁴ www.parliament.uk, 'Road Traffic Act 1988 (Alcohol Limits) (Amendment) Bill [HL] 2015–16' <<http://services.parliament.uk/bills/2015-16/roadtrafficact1988alcohollimitsamendment.html>>
- ¹⁵ Centre for Public Health Excellence NICE (March 2010), 'Review of effectiveness of laws limiting blood alcohol concentration levels to reduce alcohol-related road injuries and deaths, Final report', p. 3
- ¹⁶ Transport Committee, 'Drink and drug driving law', Ev 54
- ¹⁷ North, p. 98
- ¹⁸ Alcohol Health Alliance UK (January 2016), 'Public calls for lower drink drive limit as Lords debate road safety law' <<http://ahauk.org/public-calls-for-lower-drink-drive-limit-as-lords-debate-road-safety-law/>>
- ¹⁹ Institute of Advanced Motorists (December 2015), 'Seventy per cent of people support reduced drink-drive limit, IAM finds' <<http://bit.ly/1YIFYH0>>; Road Safety GB (December 2014), 'Survey suggests appetite for lower drink drive limit' <<http://www.roadsafetygb.org.uk/news/4091.html>>
- ²⁰ The Guardian (December 2015) 'Two-thirds of drink-drivers would abstain if limit was lower, survey finds' <<http://gu.com/p/4ek9j/stw>>
- ²¹ North, p. 96
- ²² The Huffington Post (June 2013), 'Wetherspoons Defends Opening Motorway Pub' <http://www.huffingtonpost.co.uk/2013/06/03/wetherspoons-defends-open_n_3380165.html>



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