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BRIEFING



A BRIEF HISTORY OF DRINK-DRIVING POLICY

October 2020 | www.ias.org.uk | @InstAlcStud

This briefing contains the following chapters:

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A brief history of drink-driving policy

Summary

- Since the introduction of breath testing in 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
- Campaigns and technological solutions such as breathalysers sit along punitive legislation aiming to deter other drivers from taking the risk of drinking with alcohol present in the bloodstream
- However, the government has resisted adopting measures to reduce drink-driving injuries on Great Britain's roads, such as lowering the drink drive limit, and enforcement of breath testing has declined in recent years

Introduction

Otherwise known as Driving Under the Influence (DUI) or Driving While Intoxicated (DWI), drink-driving in the UK is defined as the act of being in possession of a recognised mode of transport (car, truck, etc) while under the influence of alcohol. It can become a criminal offence when a subject is caught with blood levels of alcohol in excess of a legal limit. 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.

In the UK, concerted efforts by the state to reduce drink-driving were first made in the mid 20th century, most notably with the *1967 Road Safety Act*, which established – among other things – the nation's first drink-driving limits.

Subsequent governments have sought to discourage drink-driving further, in large part by the adoption of technologies to measure a driver's alcohol intake (breathalysers), imposing strict penalties on offenders, and running high-profile campaigns to raise awareness of those who haven't.

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. 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.

Campaigns and advertising

Since the introduction of breath testing in 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. Department for Transport (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; ie 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 were targeted primarily at young men in their late twenties who are over-represented in accidents. To date, publicity campaigns are believed to be 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 six months, then a licence is refused.

High Risk Offenders are drivers who:¹

- Have been found to be over two-and-a-half times the legal limit
- Have two 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

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>

* 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 the *Drink Driving (Repeat Offenders) 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:¹

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.² However, the *Drink Driving (Repeat Offenders) Bill* failed to complete its passage through the Houses before the end of the 2013–14 parliamentary session.³

¹ Drink Driving (Repeat Offenders) Bill, Rehman Chishti Member of Parliament for Gillingham and Rainham, website <<http://www.rehmanchishti.com/campaigns/drink-driving-bill>>

² www.parliament.uk (February 2014), 'HC Written Answers – Justice: Reoffenders, c554W' <<http://bit.ly/1OIXcUo>>

³ www.parliament.uk, 'Drink Driving (Repeat Offenders) Bill 2013–14' <<http://services.parliament.uk/bills/2013-14/drinkdrivingrepeatoffenders.html>>

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 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 would 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.¹ In a memo response to the session, the ACPO 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.²

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.³

¹ www.legislation.gov.uk, 'Road Traffic Act 1988: Section 163'
<http://www.legislation.gov.uk/ukpga/1988/52/section/163#_blank>

² 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>>

³ 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>

A lower legal limit?

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'.¹ Ten 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.² However, to date, the UK (except Scotland) and Malta remain the only EU Member States with BAC limits over 0.5mg/ml.³ 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 nine months offending fell by 12.5% compared with the same period the previous year.⁴

The discrepancy that has emerged between Scotland and England has become a major focal point of a bill amendment to the *1988 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 milligrammes of alcohol per 100 millilitres of blood down to 50 milligrammes of alcohol per 100 millilitres of blood.' The bill has since been passed through the House of Lords, however was unsuccessful in its entry into the House of Commons.⁵

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 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...⁶

Police figures indicate that 2% of drivers' breath tests 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 NPCC claims there is some evidence to show that a reduction in the limit to 50mg per 100ml would save 64 lives a year.⁷

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 permitted 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.⁸

Separate polls have shown the UK public consistently support 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.⁹ 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).¹⁰ 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.¹¹

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'.¹²

Despite the weight of evidence produced by the North review, and popular support from several polls, in 2011 the UK Government rejected Sir Peter North's headline proposal. Their justification for this was described as thus:

Figure 1 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 efforts by Sir Peter North CBE QC and the Transport Select Committee on drink and drug driving', p. 18

¹ 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>

² ETSC, 'Drink-driving: Towards zero tolerance', p. 12

³ ETSC, p. 32

⁴ BBC News Scotland (December 2015), 'Drink drive numbers fall after Scottish limit reduced' <<http://www.bbc.co.uk/news/uk-scotland-34999421>>

⁵ www.parliament.uk, 'Road Traffic Act 1988 (Alcohol Limits) (Amendment) Bill [HL] 2015–16' <<http://services.parliament.uk/bills/2015-16/roadtrafficact1988alcohollimitsamendment.html>>

⁶ 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

⁷ Transport Committee, 'Drink and drug driving law', Ev 54

⁸ North, p. 98

⁹ 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/>>

¹⁰ 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>>

¹¹ The Guardian (December 2015) 'Two-thirds of drink drivers would abstain if limit was lower, survey finds' <<http://gu.com/p/4ek9j/stw>>

¹² North, p. 96

Alcohol availability at motorway service areas

The Home Office has since been in the process of considering whether it should lift the partial restriction on selling 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.¹

Section 176 of the Licensing Act 2005 'prohibits the sale of alcohol at motorway service areas 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 did consult on this issue as part of its Alcohol Strategy consultation at the time, but subsequently stated in its response only that 'it would be considered further'.²

¹ The Huffington Post (June 2013), 'Wetherspoons Defends Opening Motorway Pub'
<http://www.huffingtonpost.co.uk/2013/06/03/wetherspoons-defends-open_n_3380165.html>

² Home Office (July 2013) 'Next steps following the consultation on delivering the Government's alcohol strategy'
<<https://tinyurl.com/pmgec4j>>

Drink drive policy: Running on empty?

In the meantime, IAS analysis of Freedom of Information (Fol) responses from 35 out of 39 police constabularies revealed that both the number of officers and breath tests conducted by them on England's roads fell by a quarter over a five-year period.

'Running on empty: Drink-driving law enforcement in England' found that there were 27% fewer dedicated Roads Policing Officers between 2011/12 and 2015/16, and 25% fewer breath tests in 2015 than in 2011 – a drop of 149,677 breath tests. In other words, if breath testing had been maintained at 2011 levels, there would have been over a quarter of million (260,681) more breath tests performed during this period. The average roads policing budget for forces also steadily declined, by almost a million pounds per force.¹

In response to the findings, RAC road safety spokesman Pete Williams added that data compiled on drivers' habits found around 5 million admitting they may have got behind the wheel while over the limit at least once in the past year.²

The report made the following policy recommendations to the UK Government:³

- **Lower the drink drive limit to 50mg alcohol/100ml blood:** England and Wales are an outlier in Europe (and indeed, much of the world). Evidence has demonstrated reducing the limit to 50mg/100ml would be a life-saving measure
- **Enhanced enforcement of drink-driving law:** including enhanced powers for police to conduct random roadside breath-testing of drivers and the introduction of Mobile Evidential Breath Testing Equipment to avoid delays in testing samples once drivers are pulled over
- **Mass media public education campaigns to ensure understanding of the dangers and penalties of drink-driving:** High profile mass media campaigns are needed to properly communicate drink-driving law, as well as the dangers of drink-driving. These campaigns should be government run, rather than industry partnerships.

¹ The Institute of Alcohol Studies (December 2017), 'Running on empty: Drink-driving law enforcement in England' <<https://bit.ly/runonempty>>

² The Scottish Sun (December 2017) 'WINE AND PUNISHMENT Millions of Brits getting away with drink-driving as traffic cop numbers are slashed' <<https://bit.ly/2y74HjB>>

³ The Institute of Alcohol Studies, 'Running on empty'