



April 2011

## DRINKING AND DRIVING

Although the level of drinking and driving has dropped dramatically over the last three decades, around 400 people are still killed in drink drive accidents every year (about 1 in 5 of all road deaths). Despite 30 years of drink drive education and enforcement, around 100,000 people are still caught drink driving annually.

In 2009, provisional figures show that 380 people were killed, 1,480 were seriously injured and over 10,000 slightly injured in drink drive accidents. Often it is an innocent person who suffers, not the driver who is over the drink drive limit. Around 150 pedestrians are killed or seriously injured by drink drivers each year, as are about 20 pedal cyclists and almost 600 car passengers. Around 70 children are killed or seriously injured by drink drivers annually.<sup>1</sup>

During 2009, over 800,000 breath tests were carried out, which more than 93,000 drivers or riders (12% of those tested) failed or refused to take the test.<sup>2</sup> Clearly, there is still much to do to prevent drink drive accidents, deaths and injuries.

### Lower Drink Drive Limit

The maximum blood alcohol limit in the UK should be lowered from 80mg of alcohol per 100ml of blood (80mg/100 ml) to 50 mg of alcohol per 100ml of blood (50mg/100ml).

The current limit was based on evidence that the likelihood of a road accident rises sharply at and above that level. However, the evidence also showed that most drivers are impaired and their risk increases below this limit.

In 2010, the then Government commissioned Sir Peter North to conduct the North Review of Drink and Drug Driving Law.<sup>3</sup> RoSPA gave evidence to the Review<sup>4</sup> and called for a lower limit, based on evidence that:

- Drivers with a blood alcohol level of between 50mg and 80 mg are 2 – 2.5 times more likely to be involved in an accident than drivers with no alcohol, and up to 6 times more likely to be involved in a fatal crash.<sup>5</sup>
- In 2000, the Government's Road Safety Strategy<sup>6</sup> estimated that reducing the limit to 50mg could save 50 lives and prevent 250 serious injuries each year. A later examination of the figures suggested it could save 65 lives each year and prevent 230 serious injuries.<sup>7</sup>
- An International review<sup>8</sup> of the impact of introducing or lowering limits found that they resulted in fewer drink drive accidents, deaths and injuries.

The North Review commissioned new research by the Centre for Public Health Excellence<sup>9</sup> into the likely effects of lowering the drink drive limit, which indicated that the number of lives saved by a lower limit would be much greater than previous estimates.



The North Review concluded:

*A reduction to 50 mg/100 ml would undoubtedly save a significant number of lives. In the first year post-implementation, estimates range from at least 43 to around 168 lives saved – as well as avoiding a larger number of serious injuries – a conservative estimate is 280 although as many as almost 16,000 has been modelled. It is estimated that the impact of any lowering in the blood alcohol limit will actually increase over the first few years of implementation with an estimate of up to 303 lives annually saved by the 6th year.*

Sir Peter North recommended that the limit be lowered to 50 mg of alcohol per 100 ml blood.

Unfortunately, in 2011 the British Government decided not to lower the limit as they concluded that improving enforcement is likely to have more impact on the most dangerous drink-drivers, than lowering drink drive limit, which they did not believe would be cost-effective.<sup>10</sup>

The estimates in the North Report of the number of lives that a lower limit would save do not include Scotland, which account for about 7% of drink drive-related casualties in Great Britain, so the overall number of lives saved would be even greater. The Scottish Government has called for the power to set the drink drive limit in Scotland if it is not lowered in England and Wales.<sup>11</sup> The majority (79%) of people in Scotland support a lower limit.<sup>12</sup> The limit should be reduced for the whole UK, but RoSPA would support a lower limit just in Scotland, if necessary. Northern Ireland's Road Safety Strategy to 2020<sup>13</sup> includes a commitment to reduce the drink drive limit (and to introduce random breath testing) in Northern Ireland. RoSPA hopes that both Scotland and Northern Ireland will lead the way for the rest of the UK to follow.

### **A Lower Legal Limit for Young Drivers**

RoSPA does not believe that there should be a lower drink drive limit of young or novice drivers.

Lower drink drive limits for novice drivers have been introduced in some countries (as part of their wider Graduated Driver Licensing Systems) with evaluation studies showing that this results in fewer alcohol related fatalities in this age group. However, they are not the age group with the highest rates of drink driving. Enforcing a separate limit for a specific group of drivers would require the Police to be able to check the driver's age (or licence status) which would be difficult as drivers are not required to carry their driving licence in the UK. There is also a risk that young drivers who are subject to a lower drink drive limit would be more likely to drink and drive when they reached the age at which they became subject to the higher limit for other drivers because they thought that they could then 'drink more and drive'.

RoSPA will continue to pursue the case for a lower drink drive limit for all drivers.



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## **Enforcement**

RoSPA is concerned about the inconsistent pattern of breath testing in Great Britain. The level of breath testing has varied over recent years. In the late 1990s around 800,000 roadside breath tests were conducted each year, but this fell to 534,000 in 2003 and has been rising since then. By 2009, the number of breath tests had risen again to the level it was at the end of the 1990s. The level of breath testing also varies significantly across the country. The number of tests in 2009 varied from just 2 per 1,000 of the population in the West Midlands to 60 per 1,000 of the population in North Wales.<sup>2</sup>

Effective enforcement of the drink drive laws is essential, and should be high profile and highly visible in order to enhance its deterrent effect. Drivers should perceive that if they choose to drink and drive there is a strong chance that they will be detected and prosecuted and that the penalties will be severe.

## **Wider Police Powers Breath Test without Prior Suspicion**

The Police can stop any driver for any reason, but they cannot require a breath test without a suspicion that the driver has consumed alcohol, or has committed a traffic offence or been involved in an accident. RoSPA believes that the Police should have the power to require a breath test without needing any other reason; this would increase drivers' perception of the risk of being caught without necessarily placing additional demands upon police resources. It would allow the police to target their resources at areas and times where they would be most effective, for instance at locations where it is reasonable to assume drinking may have taken place. This may be opposed on the grounds that it erodes civil liberties, but drink drivers also erode the civil liberties of everyone else. Drink driving is such a serious offence that it justifies giving the Police wider powers.

## **Random Breath Testing (RBT)**

Giving the Police powers to require breath tests without prior suspicion that a driver has been drinking would also provide the power to conduct Random Breath Testing. This has been widely adopted in Australia and helped to reduce drink driving, although it tends to be resource intensive. However, coupled with the power to implement intelligence-led breath testing, Random Breath Tests would be a powerful deterrent tool. As noted above, one of the Action Measures in Northern Ireland's Road Safety Strategy to 2020<sup>13</sup> is to introduce random breath testing) in Northern Ireland.

## **Evidential Roadside Breath Testing**

Drivers who fail a roadside breath test normally have to be taken to a police station for a second test because roadside breath test results are not admissible evidence in court. However, the Police now have the power to use roadside evidential breath testing devices, and the Home Office is producing a specification for an approved portable evidential breath testing device. This should be put into use as soon as possible because it will allow the police to test more suspected drink drivers with the same level of resources.



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In its response<sup>10</sup> to the North Report, the government announced it would implement a number of measures, which RoSPA support, to improve the enforcement process:

- revoke the right people have to opt for a blood test when their evidential breath test result is less than 40% over the limit (sometimes the delay in obtaining a blood test means that the alcohol in a driver's body has fallen below the limit even though they were above the limit when they took the roadside breath test, and so some drivers who had been drinking and driving 'get away with it').
- streamline the procedure for testing drink-drivers in hospital
- close a loophole used by high risk offenders to delay their medical examinations (sometimes the loophole has allowed high risk offenders to regain their licence at the end of their disqualification period before they have taken and passed the mandatory medical examination that high risk offenders are required to take).
- require serious drink-drivers to take remedial training and a linked driving assessment – as well as a medical examination - before recovering their licence
- re-launch the drink-drive rehabilitation scheme under which drink-drivers can obtain reduced driving disqualifications
- approve portable evidential breath testing equipment for the police
- provide for preliminary testing not to be required where evidential testing can be undertaken away from the police station (this will allow evidential breath tests to be conducted at the roadside using the portable evidential breath testing equipment mentioned above).

## Penalties for Offenders

Sentencing policy for convicted road traffic offenders should complement and support other road safety measures, such as education and training to produce better, safer drivers who are less likely to re-offend. For road safety purposes, the aim of sentencing should be to change the attitudes and behaviour of the individuals being sentenced and also of the wider driving public.

The UK's penalties for drink driving are considerably more stringent than most other countries. However, the effectiveness of laws and penalties depends to a large extent on the perceived and actual level of enforcement. The penalties are stringent enough to act as a significant deterrent, provided that people think there is a strong chance they will be caught if they drink and drive. If people do not think they will get caught, the level of penalties is largely irrelevant. An increase in breath testing and more consistency across the country would improve the effectiveness of drink drive laws.

## Disqualification Periods

RoSPA supports the courts having the power to impose a driving ban as part of bail conditions, where a defendant might commit a further drink-drive offence whilst on bail. The immediate confiscation of the driving licence of drivers who have failed an evidential breath test and who are high risk offenders would be another way of reducing the likelihood that such people would drive while waiting for their case to come to court. A further measure would be to ensure that where an offender is imprisoned as well as disqualified from driving, the disqualification period does not begin until they have been released from prison.

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### **Immediate Licence Confiscation**

The immediate confiscation of the driving licence of drivers who have failed an evidential breath test and who are high risk offenders would be another way of reducing the likelihood that such people would drive while waiting for their case to come to court. However, since drivers do not have to carry a licence in this country, it is difficult to see how this could be enforced.

### **Seizing Vehicles of Repeat Drink Drive Offenders**

In Scotland, the 2010/11 Christmas/New Year Drink Drive campaign included, for the first time, seizing the vehicle of repeat drink driver offenders.<sup>14</sup> During the campaign, four drivers had their cars forfeited, and a further 24 had their cars seized pending consideration by the Court. RoSPA believes that this is a significant additional deterrent, and should be adopted throughout the UK.

### **High Risk Offenders Scheme**

RoSPA supports the High Risk Offenders Scheme and would like to see it publicised more widely. It is quite right that repeat offenders are given ever more stringent penalties, including imprisonment where appropriate. The High Risk Offenders Scheme is an important part of the drink drive regime. In addition to a longer disqualification, higher fine and possible imprisonment, offenders must prove that they do not have a drink problem and are fit to drive before their licences are returned. They should be required to take an extended driving test at the end of their disqualification before being able to regain their driving licence.

### **Drink Drive Rehabilitation Courses**

Wider use should be made of sanctions designed to change offenders' behaviour, such as re-training, rehabilitation courses, and re-testing. RoSPA supports the use of rehabilitation courses. Some drink drivers have an overall alcohol problem, which is not effectively addressed through enforcement and sentences. Offenders who have completed a Rehabilitation course are less likely to re-offend than those who have not.<sup>15</sup> Around 60,000 drivers attend a drink drive rehabilitation course each year, but only about half of them complete the course.

### **Alcohol Ignition Interlock Devices (Alcolocks)**

Some countries require Breath Alcohol Ignition Interlock devices to be fitted to convicted offenders vehicles. They are designed to prevent a car engine from starting if the person who breaths into the device has been drinking alcohol. There is some evidence that they are effective in discouraging re-offending while the order is in force, but that re-offending occurs once the restriction is removed.

A small trial of an alcohol ignition interlock programme in Britain<sup>16</sup> in which alcolocks were fitted to the vehicles of convicted drink drive offenders found that almost half (43%) of the participants failed to complete the 12 months programme. However, the devices did detect, and therefore, prevent many occasions in which a participant tried to start their car with alcohol in their system, including 328 occasions when the level of alcohol was above the drink drive limit.



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The main problems reported by participants included being over the interlock limit the morning after drinking, delay in starting the car due to the time taken for the interlock to warm-up, and difficulties with rolling re-tests during a journey. Many of the participants indicated that the devices made them at least think seriously about their drinking, if not help change their drinking patterns outright.

## **Education and Publicity**

There is no doubt that the publicity and education campaigns conducted since the late 1970s have changed public knowledge and attitudes about drinking and driving. Long-term publicity is essential, supported by education programmes for school children and drivers and trainees.

A lower limit would be even more effective in saving lives and preventing injuries if it was supported by substantial, sustained publicity to ensure that the public are aware of the new limit and what it means in terms of their own behaviour. A law can only act as a deterrent if people are aware of its existence and meaning.

Particular attention should be focused on the 'Morning After' effect. It is very difficult to know exactly how much alcohol has been consumed, and how long it will take the liver to remove it from the bloodstream (which varies from person to person). Some drivers who do not drive when drinking at night, find themselves unknowingly still over the limit the following morning.

A more sustained educational effort will be required to raise awareness of this issue and enhance drivers' understanding of the length of time necessary following drinking to allow alcohol levels to decline to safe levels. Many agencies and organisations need to be involved, including employers of staff who drive both to commute and for work purposes. There needs to be a recognition that for those who drive on a daily basis regular heavy drinking is no longer a practicable option if they are to comply with the law. Given the very large proportion of the population in this category this will mean a major change in the Nation's drinking habits with related health benefits which in turn should be taken account of in any overall cost benefit analysis.

## **Alcohol Unit Labelling**

EC Regulations require the alcoholic strength of products to be stated on their containers. However, it is difficult for an individual to determine the amount they have consumed. Publicity and information concerning units of alcohol should stress the fact that it is not possible to accurately gauge how it will affect individuals and the only safe limit is zero.

The drinks industry could give clearer advice on alcohol content on labels and at point of sale in pubs. Research is needed on the best way to convey the message on alcohol content.



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## **Alternatives to Drinking and Driving**

Greater efforts are also needed to help people choose not to drink and drive by providing alternative options. The price of soft drinks and No or Low Alcohol Drinks in pubs and restaurants should be lower. The lack of good public transport in rural areas is often cited as a particular difficulty because it means that people must use their cars to go to the pub.

The Drinks industry should adopt a more enthusiastic marketing approach to promote a positive image for low or no alcohol drinks and introduce a price advantage for these drinks.

## **Self-Test Breathalysers**

There are many different types of self-test breathalysers available, ranging from very cheap 'blow-in-a-bag' devices to more expensive digital breathalysers. They tend to be marketed as a means for drivers to check whether they are over the limit, particularly the morning after they had been drinking.

RoSPA is concerned that self-test breathalysers may be inaccurate and may encourage people to try to drink up to the limit and drive, rather than plan ahead, and if they are intending to drink alcohol to make arrangements (taxis, designated drivers, etc.) so that they do not need to drive.

Self-test breathalysers have to be used according to the manufacturer's instructions, and the digital ones have to be calibrated properly by the user, and re-calibrated when necessary. Therefore, there is a strong potential for inadvertent misuse resulting in inaccurate readings. Even, if the devices give accurate readings and are used correctly, some people may use them to drink up to the limit and still drive.

However, it is clear that many people do not understand the 'morning after' effect; there is wide mis-understanding about how long it takes alcohol to be eliminated from the body. Many drivers behave responsibly the night before when they know they will be drinking alcohol by making sure they do not drive, but then drive the next morning without realising that they are (or might be) over the limit. They have no accurate way of knowing whether they are still over the limit the next morning, with the result that some people genuinely get this wrong and drink and drive inadvertently. There might be a useful 'morning after' role for self-test breathalysers, but only if their accuracy could be relied upon and people understand how to use them properly and did not mis-use them.



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