



Best practice guidance

Zero tolerance: tackling drink and drug driving



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Drug and
Alcohol
Screening

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Introduction

Drink and drug driving remains one of the biggest causes of deaths and serious injuries on UK roads. Brake campaigns for a zero tolerance approach to drink and drug driving, in relation to the law, the attitudes and behaviour of members of the public, and the policies and procedures of organisations.

This report provides expert information and advice for employers and fleet and road safety professionals on tackling drink and drug driving, examining approaches that can be taken in the workplace, key messages to promote to drivers, and how drink and drug driving laws are being enforced. It is based on presentations delivered at a December 2014 Brake Professional seminar.



Drink driving facts

- Drink driving casualties have decreased significantly in recent decades, but it remains one of the biggest killers on UK roads.
- In 2012, there were 230 deaths and 1,210 serious injuries on our roads because of drivers over the drink drive limit¹.
- Even very small amounts of alcohol are dangerous when driving: drivers with BAC of 10mg/100ml, far below the limit in the UK or most other countries, are 46% more likely to be at fault in collisions than sober drivers², and when they crash, do more damage than sober drivers³.
- It's estimated 65 deaths a year in the UK are caused by drivers who are under the limit but have a significant amount of alcohol in their blood⁴. Including this estimate, drink driving is likely to cause one in six UK road deaths.
- In England, Wales and Northern Ireland the drink drive limit is currently 80mg/100ml of blood, higher than EU recommendations and almost all other EU countries. Brake campaigns for an effective zero limit of 20mg/100ml of blood to make clear that it should be 'none for the road'.
- In Scotland, in December 2014, the drink drive limit was reduced to 50mg/100ml of blood. Northern Ireland has announced its intention to do the same.

Drug driving facts

- Drug driving is estimated to kill 200 people a year on UK roads⁵.
- One study found 18% of drivers killed in crashes had traces of illegal drugs in their system, the most common being cannabis⁶.
- Illegal drugs can have serious and unpredictable effects on driving, in ways that often put lives at risk.
- Some medical drugs can have serious effects on driving, meaning that it is essential drivers always read the label and information leaflet or consult their doctor or pharmacist if unsure.
- From 2 March 2015, the law on drug driving has changed in England and Wales to make it easier to catch and prosecute drug drivers. Prior to this the police had to prove a drug was impairing a driver. The new law means limits have been set for a wide range of illegal drugs. These are effectively zero tolerance limits on the most common illegal drugs, including cannabis, cocaine and MDMA (ecstasy).

For more facts on drink and drug driving, see www.brake.org.uk/facts.





Campaigning for zero tolerance on drink and drug driving

Ellie Pearson – professional engagement

The current state of play

Drink and drug driving remains a huge danger on our roads. In 2012, there were 230 deaths and 1,210 serious injuries on our roads because of drivers over the drink drive limit⁷, with an estimated 65 more caused by under-the-limit drink drivers⁸.

Drug driving has been estimated to kill 200 people a year on UK roads⁹.

These deaths and serious injuries have a devastating effect on people's lives. The previous Victims' Commissioner Louise Casey highlighted that road death victims suffer similarly to homicide victims.

Brake, in partnership with Direct Line, regularly carries out surveys of UK drivers' reported attitudes and behaviours, and uses this to inform its educational and campaigning work. In a 2013 survey, nine in ten (90%) respondents said that they were certain that they had never exceeded the drink drive limit in the past year. However, many of those admitted to drinking some alcohol before driving, suggesting complacency around the dangers of drinking small amounts and driving, and misunderstanding of how variable amounts of alcohol can put you over the drink drive limit. The survey showed that in the past year:

- 10% are sure or think they possibly have exceeded limit
- 22% say they are certain they haven't exceed the limit, but have driven after small amounts of alcohol
- 19% have driven early the next day after a lot to drink
- 12% may have been a passenger with a drink driver
- 63% would get a lift with a designated driver who had been drinking in at least some circumstances.

In a Brake and Direct Line 2014 survey on drug driving, 3% of respondents said reported having driven on illegal drugs in the past year, equating to about a million UK drivers. One in ten (11%) said they thought they may have been a passenger of a driver on drugs. Almost a third (29%) said they would not speak out to stop a friend from driving on drugs.

Changes in the law

On 2 March 2015 the law on drug driving changes in England and Wales. Prior to this the police had to prove that a drug was impairing a driver. However, this new law incorporates new legal limits for a range of illegal drugs. These are effectively zero limits on the most common illegal drugs, including cannabis, cocaine and MDMA (ecstasy).

In Scotland, at the end of 2014, the blood alcohol limit for alcohol was reduced to 50mg per 100ml of blood. This brings Scotland into line with much of the rest of Europe. The Northern Ireland Assembly has plans to follow Scotland in lowering the limit for drivers, with plans to go further and introduce a 20mg per 100ml limit for young and professional drivers.

For England and Wales, however, there are presently no plans by Westminster to change the limit. The government has also slashed investment in publicity, education and enforcement. Hence Brake continues to campaign on this issue.

Our work: influencing policy, attitudes and behaviour

Brake supports the zero tolerance law on drug driving, which it has campaigned for for many years. Brake also calls for further policy changes:

- a zero tolerance drink drive limit across the UK of 20mg per 100ml of blood, to make clear the dangers of driving on even small amounts of alcohol;
- traffic policing to be made a national policing priority, and more investment in traffic policing to perform roadside tests;
- increased education and publicity campaigns.

To influence policy, we take the following steps:

- media activity – welcoming positive steps, and calling for more, emphasising the need to move towards zero tolerance;
- engaging government, including through responding to consultations, and engaging parliamentarians;
- working with bereaved and injured families;
- activating members of the public.



Brake's messaging looks to influence behaviour through:

- addressing gaps in understanding – not a drop;
- stories of devastation – anticipated regret;
- positive commitments – Brake Pledge;
- avoidance strategies – planning ahead;
- encouraging community responsibility – zero tolerance.

One of Brake's approaches to raising awareness about drink driving is to make what's acceptable unacceptable. While some aspects of drink driving have become socially unacceptable over recent decades, behaviours like driving after one or two small drinks, and morning-after drink driving remain commonly accepted. Brake is trying to make clear these behaviours still count as drink driving.

Brake is successful in using PR to get its message across in the media: print, radio, television, websites and social media. We use tools such as surveys to proactively get media coverage. Our focus is on summer and Christmas, times when there is a particular opportunity and need to raise awareness. We work in partnership with the Association of Chief Police Officers to do this, such as by conducting media work around the summer and xmas police enforcement campaigns. We also respond to developments in the media.

Brake's Pledge

Brake encourages people to make a commitment to safe and sustainable road use through its Pledge. This covers six key road safety topics. The "Sober" part of the Pledge states:

Drivers - I'll never drive after drinking any alcohol or drugs – not a drop, not a drag

Everyone - I'll plan ahead to make sure I, and anyone I'm with, can get home safely and I'll never get a lift with drink/drug drivers. I'll speak out if someone's about to drive on drink or drugs

The Pledge is a tool that road safety professionals and employers can make use of to communicate road safety messages, including on drink and drug driving, and persuade people of their importance. We offer training through free Pledge webinars and in-house courses. The Pledge is also promoted online at www.brake.org.uk/pledge, with links to driver advice.

We have a variety of materials for drivers that can be ordered or downloaded by professionals and employers in the Brake shop at www.brake.org.uk/shop. This includes our sober up leaflets and interactive sober up resource. We offer a variety of guidance reports for members of Brake Professional: see www.brakepro.org.

Practicalities of drug and alcohol testing in the workplace

**Steve Wilkinson – sales manager:
law enforcement, Draeger**

Legal position

A series of laws, taken together, give companies the power to introduce testing in the workplace. These include:

- The Health and Safety at Work Act 1974
- Transport and Works Act 1992
- Road Traffic Act 1988
- Rail and Transport Safety Act 2003
- Corporate Manslaughter and Corporate Homicide Act 2007
- Health and Safety Offences Act 2008.

The Misuse of Drugs Act 1971 covers the knowing use of work premises for the supply, production or misuse of drugs. In short, while case law is lacking on this topic, having a drug testing programme would not appear to run counter to current UK, EU or human rights legislation.

Performance and efficiency

The US National Institute for Drug Abuse has shown that employees using drugs are:

- Only two-thirds as productive as their colleagues;
- Two to three times more likely to absent for eight days or more a year;
- About four times as likely to have an incident in the workplace;
- Three-quarters (76%) of drug users are employed, and 44% would sell to work colleagues.

All of these problems lead to higher management costs.

Reducing risk

The reduction of risk is the key point of a drug testing policy:

- risk of the loss of productivity;
- risk of increased absence;
- risk of theft from the company;
- risk of harm to individuals caused by impairment;
- risk to harm of others, including members of the public, caused by impairment;
- risk of harm to the environment caused by impairment.



Drug testing policy

Your company should have a comprehensive drug testing policy. This should determine who is tested for drugs and alcohol. The policy should state which drugs are being tested for, or can cover all illegal drugs plus alcohol. The policy should outline what type of testing is conducted, and under what circumstances.

A drug awareness programme for employees should be part of the policy, as well as support for employees with substance abuse problems. Employers must explain the disciplinary procedure, and be regular and consistent in its enforcement.

Testing for drugs can occur:

- pre-employment;
- at random;
- when there is "probable cause", for example an employee behaving strangely;
- post-incident; or
- as a condition for access of employees or contractors to a site.

Types of drug testing

For alcohol, the breath test is accepted worldwide. It is not only quick and easy, it is a tried and tested method. For drugs, there are various testing methods available, and they depend upon the purpose of the test.

- **Saliva:** this detects recent use of drugs, so is the best choice for detecting what is impairing an individual. Ideal for screening after an incident, probable cause, or as entry to site. This produces instant results.
- **Hair:** drugs can only be detected in hair several hours after use, but remains there for months. It is ideal for "lifestyle" tests, i.e. to see if an employee is habitually using drugs (for pre-employment screening, for example). Drugs can't be detected in hair for several days after someone has taken drugs, and hair can only be tested in a lab.
- **Urine:** this is difficult to handle, and requires a special room and same-sex observation; adulteration is common practice. As drugs can't be detected in urine for several hours after use, it isn't ideal for detecting impairment.

When establishing procedures for drug testing, proper procedures and professional-level equipment could help if a case ends up going to a tribunal. The gold standard for equipment is Home Office type-approval.



Alcohol interlocks

Alcohol interlocks are devices fitted to vehicles to test the breath of the driver, and if alcohol is detected then the ignition won't start the engine. This makes sure drivers haven't been drinking before getting behind the wheel, and they are likely to become more common in the future. Interlocks can be used as a judicial measure, for example in the US they can be fitted after a drink driving conviction. In France, all new buses carrying children must be fitted with an alcohol interlock. Efforts are made by the manufacturers to detect if someone else is using the interlock, such as having a camera taking the photo of the person driving.

Police enforcement of drink and drug driving law

Sgt Chris Appleby – Force Road Safety

Main drink and drug offences

While there are a variety of laws that can be used to prosecute drink and drug driving, the main offences are:

- Driving/in charge whilst unfit (section 4 of Road Traffic Act) – this is about the effects of the drug or alcohol on the driver.
- Driving/in charge with excess alcohol (section 5) – this is about the amount of alcohol in the driver's body. From March 2015, section 5A will apply to certain controlled drugs.
- Failing to comply with a roadside requirement.
- Failing to provide an evidential sample (the sample at a police station that will be used in court).

Police are allowed to stop a driver and check for drink or drugs in a variety of circumstances. A driver can be tested if they commit a moving traffic offence. The law also states that a driver can be tested following an "accident"; the word "accident" in police powers is not defined by law, meaning that the law takes a broad definition along the lines of an "unexpected event". A driver can also be tested if an officer has suspicion the driver has drugs or alcohol in their body; or had alcohol or a drug in their body when driving and still has. For example, if an officer smells alcohol on a driver's breath: this is one of the reasons why police hold a conversation with a driver when stopping them. Finally, a test can be conducted with the agreement of the driver. It is essential that the police keep the public's confidence in the use of their powers.

Alcohol

Roadside detection for alcohol

In 2012, police conducted 682,558 roadside breath tests, with 75,868 (11%) over the limit. There is a broad public acceptance of the need to breathalyse drivers. The powers to randomly breath test a driver is not something that the police are calling for: as the police are always breathalysing people that they have some reason to suspect may have been drinking, the police currently have the powers to stop anyone they feel the need to.

Custody procedures for alcohol

The police aren't looking to waste time arresting people that are innocent, so the roadside test acts as a screening exercise. Evidential samples – those that would be used in court – are obtained using Home Office type-approved equipment from a variety of manufacturers. Breath is the most common, as it is cheap and easy to administer. However, if the driver physically cannot blow, blood or urine are available options.

Drivers who are over the limit are usually detained until they are below the limit, or that there is no likelihood that they will be driving, and then charged and bailed to court.

Penalties for drink driving

The current penalties are as follows, with the level of penalty awarded determined according to the circumstances of the crime and the individual:

- a fine of up to £5,000;
- 3-11 penalty points;
- disqualification for a mandatory minimum of 12 months, although attending a course can reduce this to a nine month ban;
- up to six months imprisonment (although this is rare for a first offence); and/or
- a forfeiture order, which could in exceptional circumstances include a company car.

Drugs

Drugs offences

The creation of a new offence (Section 5A) of driving with specific drugs over the prescribed limit comes into force on 2 March 2015. This limit is an effective zero limit for many illegal drugs, including cocaine, cannabis and ketamine. New equipment for roadside screening is being manufactured and approved.

Drug drivers can also be convicted by Section 4 of the Road Traffic Act, which makes it an offence to drive, attempt to drive, or be in charge of motor vehicle while unfit through drink or drugs. This is an offence that relates to the condition of the person, not the driving.



The prosecution need to prove that the driver is unfit, or that his ability to drive properly, for the time being, is impaired.

The legal definition of drugs includes any intoxicants other than alcohol. This means that it includes over-the-counter and prescribed drugs as well as illegal substances.

Drug roadside detection

For roadside tests, a screening device for cannabis and cocaine has received type-approval. This has the potential for a large impact, with cannabis and cocaine accounting for 86% of drug driving. For other drugs, the only test that can be performed at the moment at the roadside is the Field Impairment Test (FIT). This consists of a pupillary examination followed by four psychophysical tests which test skills used to drive correctly and safely.

Drugs custody

Currently within Thames Valley, police are required to get a forensic practitioner to examine the driver and determine whether the driver "may have a condition due to a drug". The practitioner believes there is a condition due to a drug then this authorises police to obtain a blood or urine sample for forensic analysis.

However, when police have purchased Home Office-approved equipment, they can conduct a screening test in custody for drugs; if this proves positive, it authorises the taking of a forensic sample without the need of the forensic practitioner to form an opinion. Currently, the Home Office type approval only covers the detection of cannabis via these devices.

Drivers are held until they are no longer under the influence, then bailed.

Drink and drugs

When it is expected that there is a combination of drink and drugs, police follow both procedures in tandem. However, once they can prove one offence the other is usually disregarded – usually, only one offence is charged as having two adds little to sentencing in most cases.



Enforcement

In organising roadside checks, police target their resources where and when people are likely to be impaired or over the limit. This can be at night time or early morning. An intelligence-led proactive approach can be used to target individuals – for instance, the man in the local pub who boasts that he never gets caught drink driving. After a crash, police will breathalyse the people involved: if it is at the side of a busy road, many drivers will see someone being breathalysed. Other offenders, such as speeders, can also be breathalysed. However, ultimately the best thing is the gut instinct of a police officer following a car and stopping it.

However, education can reach far more people still. Police hold events raising awareness of drink and drug driving at schools, military establishment, at public events and with businesses.

Further law changes

There will be further changes to the law in the future beyond the introduction of the new drug drive law in March 2015, but these are likely to be minor changes and the tidying up of procedural issues. The 'statutory option' (where a person can insist on a blood or urine test instead of a breathtest, causing delays that sometimes enable people to avoid prosecution) is being removed. Roadside evidential devices for alcohol breath-testing are also being type-approved, meaning that it will in future be possible to take evidential readings at the roadside, saving the time of taking people into a police station.



Skanska's approach to drugs and alcohol

Alison Moriaty – fleet risk and compliance manager

Skanska aims for an injury-free environment, and believes driving should be treated as seriously as any other safety issue at work. Skanska's road safety policy includes not only Skanska employees but also subcontractors, consultants and agency workers: in fact, anyone who drives a vehicle in connection with our business.

Skanska's drugs and alcohol policy statement

At Skanska we are committed to ensuring the health and safety of our employees, those who work on our sites and those who are and may be affected by our works. One element of that commitment is to ensure that our employees and others, such as consultants, sub-contractors or agency workers and other third parties, are not placing themselves or others at risk by the misuse of drugs or alcohol. The purpose of this policy is to ensure that employees and contractors do not report for work in an unfit state by virtue of use of alcohol or drugs of abuse, including both illegal drugs, legal medication and legal highs (known as Novel Psychoactive Substances), nor consume or be in possession of alcohol, or any drug that may affect their ability to undertake their duties.

Voluntarily seeking help

If an employee has issues with drink or drugs, if they voluntarily come forward then Skanska will offer them help and support. They must, however, come forward at the earliest possible opportunity. It is not regarded as seeking help voluntarily if it's after a positive test. If an employee seeks help, they will immediately be withdrawn from any safety critical work, including driving. They will only be returned to these duties when the director of health and safety advises that they are safe to do so. Skanska will help the employee with a programme of rehabilitation, but a testing regime might be put in place to ensure their compliance, for example, through daily testing or unannounced tests.

Testing regime

Testing has to be seen to be fair and it has to be applied to every grade in an organisation, otherwise it's hard to get buy-in. Skanska aims to be at the same level as or above its clients with robust testing regimes, like Network Rail.

Testing includes the following situations:

- pre-employment;
- after an incident, employees and contractors alike;
- if management suspects that unusual behaviour of an employee may be due to drink or drugs;
- at random.



Enforcement

A positive test is a clear case of gross misconduct. A refusal to submit a test is viewed in the same way. Every case of a positive or refused test goes down the misconduct route. The result of this is almost always dismissal. Skanska's policy on this is clear:

Skanska UK will not tolerate any departure from the requirements contained in either this policy or accompanying procedure and will regard any infringement, including where a member of staff refuses to be screened without good cause, as gross misconduct and will instigate appropriate disciplinary action.

It is also the case that a negative drug test could still require further action, such as when the appearance or behaviour of an employee causes concern. In these cases, a urine sample can be sent to the lab for testing. Skanska also establishes the limits for a definition of a positive screening result:

- for alcohol, these are lower than the legal drink drive limits: 13 micrograms of alcohol per 100ml of breath, 29 mg per 100 millimetres of blood, and 39 milligrams in 100ml of urine. This is an effective zero limit.
- for drugs, any controlled drug as defined in the Misuse of Drugs Act 1971, or any other substance that can affect a person's ability to carry out their duties safely.

Procedures

As a positive result will be followed by a HR process – and potentially a tribunal – it is essential that robust procedures are followed:

- all positive results are written up on prepared templates to ensure consistency between managers.
- every procedure is well documented, so make sure there are no technical issues that will inhibit the manager from proceeding with the case.
- the process is communicated to staff as part of the invitation to interview, and on appointment. The policy is reissued on promotion or transfer within the company, and regular briefings are given to reinforce the message.
- occupational health keep records of screenings carried out for a minimum of seven years.

Skanska's advice

It is essential that employers have a clear policy on drug and alcohol testing, with the relevant paperwork to ensure consistency of application. The policy must be communicated clearly so that every employee and contractor knows what is expected of him or her. Random testing must be communicated across the organisation, so that employees know that this can happen at any time. If there is a positive test, this should be publicised across the business so that the message is firmly spread. Finally, there has to be a fair approach across the organisation in which everyone is subject to the same processes no matter their job title or grade.

Learn more

Brake offers more guidance on tackling drink and drugs in the workplace at brakepro.org



End notes

- 1 Reported road casualties in Great Britain 2013, Department for Transport, 2014
- 2 Official blame for drivers with very low blood alcohol content, British Medical Journal, 2014
- 3 The relationship between serious injury and blood alcohol concentration, University of California San Diego, 2011
- 4 Reducing the BAC limit to 50mg - what can we expect to gain?, Professor Richard E Allsop, Centre for Transport Studies, University College London (PACTS, 2005)
- 5 Report of the Review of Drink and Drug Driving Law, Sir Peter North, report to the Department for Transport, 2010
- 6 The Incidence of Drugs and Alcohol in Road Accident Fatalities, Transport Research Laboratory, 2000
- 7 Reported road casualties in Great Britain 2013, Department for Transport, 2014
- 8 Reducing the BAC limit to 50mg - what can we expect to gain?, Professor Richard E Allsop, Centre for Transport Studies, University College London (PACTS, 2005)
- 9 Report of the Review of Drink and Drug Driving Law, Sir Peter North, report to the Department for Transport, 2010

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