



DfT Protecting the public from repeat drug-driving offenders

AVZ response

June 2022

Key points

- A rehabilitation programme for high-risk drug drivers seems a sensible way to keep unsafe drivers off our roads.
- But ban reduction should not be used as the incentive for rehabilitation schemes.
- New criminal offences cannot be justified on data needs, and any new drink/drug driving related offence should be considered as part of a comprehensive review of motoring offences.
- A wider approach is needed to tackle drug driving, including mandatory drink/drug tests after any fatal/serious injury collisions.

Action Vision Zero supports campaigns ending traffic harm and road danger. We focus on those offences which pose the most harm to other road users, especially those walking and cycling.

Question 1 What evidence, if any, do you have that the absence of a drug driving rehabilitation scheme is a problem? Please provide a rationale for your answer.

We have no other evidence besides that provided in the consultation which included:

- Re-offending rates are high with 44% of those convicted of drug driving being re-offenders
- The effectiveness of the drink drive rehabilitation programme

Drug driving prosecutions have soared in recent years. In 2021, 21,211 drug driving offences were prosecuted, an increase of 54% from 2020. (MoJ, 2022). This should mean more potential candidates for a drug driving rehabilitation scheme. See Table 1 at the end of this response for data on the number of drug driving prosecutions, convictions and bans.

Question 2 Do you agree that the Government's proposal to introduce a drug driving rehabilitation scheme is the right approach? Please provide a rationale for your answer.

We support the use of rehabilitation as part of a wider strategy to tackle road crime. But we believe the incentive for attendance on a rehabilitation scheme should not involve a reduction in the disqualification period. Alternatives include a reduction in the fine or a restriction on driving (no night-time driving) or a telematics system that would record any driving offence, including that of speeding.

We note the proposed rehabilitation course will only be offered to high-risk offenders, a subset of those caught drug driving.

We believe a wider approach is required and should include all of the following:

- Mandatory drink/drug drive testing after fatal and serious injury collisions
- Interim licence suspension for those arrested on suspicion of drink/drug driving, or any motoring offence that carries a mandatory disqualification
- Reasons to be recorded if a drink/drug drive test is unable to be conducted, as well as reasons for drink driving ban exemptions
- Offenders should pay the cost of the impairment test.

Question 3 If a HRO drug-driver scheme is introduced, and with reference to the Expert Panel report, what criteria should be set for inclusion on the scheme? Please provide a rationale for your answer. No comment.

Question 4 Should consideration be given to creating an offence of causing death by dangerous driving whilst under the influence of drink and/or drugs? Please provide a rationale.

We do not think this justifies a new criminal charge. We believe the recommendation for this charge (and that of causing serious injury mentioned below) by the Expert Panel was out of desire for better data on this criminal activity. We agree that better data is needed but this is needed for motoring convictions in general as we still do not know how many are linked to a casualty crash, or how many involve speeding or use of a mobile phone, etc.

It cannot be justified out of the need for tougher sentencing. The government is set to approve a maximum lifetime custodial sentence for Causing Death by Dangerous Driving.

It would slow progress. New criminal charges take many years to get approved and implemented. The Sentencing Council is to undertake a consultation on motoring offences this year. This consultation would provide the opportunity to ensure the harm posed by the combined (and increased) risk of drink and drug driving was reflected. This would result in much quicker tougher sentences for such offenders.

If this new offence is considered, then it should only be undertaken as part of a wider review of motoring offences.

Question 5 Should consideration be given to creating an offence of causing serious injury by driving whilst under the influence of drink or drugs, or failing to provide a specimen? Please provide a rationale for your answer.

We note this question does not include any mention of dangerous driving (as did the offence referenced in Question 4). This was not clarified in the consultation but we assume this means a lower level of moving error will be required, as with causing death/serious injury by disqualified, uninsured and unlicensed driving.

A new charge of causing serious injury by careless driving is due to be introduced, with a maximum custodial sentence of two years. AVZ assumed this maximum custodial sentence was justified on the basis of offences involving impaired driving.

If there is to be a specific charge of causing serious injury by driving under the influence of drink or drugs, then the other charge of causing serious injury by careless driving should have its maximum custodial sentence reduced to a maximum of six months. With careless driving offences, we believe a serious injury should justify a longer driving ban rather than a custodial sentence. Prison should be based on culpability not the consequences as these may be due to different circumstances rather than increased criminality.

This should be considered with a wide discussion on the harm involved and culpability required in the wider review of motoring offences.

Question 6 Should consideration be given to amending the HRO drink-driver scheme to include offences of dangerous and careless driving, together with any offences involving death and serious injury? Please provide a rationale for your answer.

We do not oppose extending rehabilitation schemes to those convicted of causing death and serious injury. But we support lifetime bans for impaired drivers who have caused death. We do not think

any ban length should be reduced for drivers convicted of causing a death or serious injury by drink/drug driving.

Question 7 Should consideration be given to ensuring HRO drug-driver scheme includes offences of dangerous and careless driving, together with any offences involving death and serious injury? Please provide a rationale. Protecting the public from repeat drug driving offenders

We do not think there is a need for such assurance—not before more is known about the scheme and who would qualify.

Question 8 In order to comply with current medical practices, should the admissibility requirements in respect of a “specimen”, set out in section 15(5) and (5A) of the Road Traffic Offenders Act 1988 be amended to enable vacuum blood extraction? Please provide a rationale for your answer.

AVZ supports this amendment. We hope this would mean many more tests could be done as we assume this procedure would not require a doctor to conduct.

Question 9 Are there any comments on the relationship of medicinal cannabis to road safety that you would like to raise?

We support the comments made by PACTS re the relative lower amount of risk posed by medicinal cannabis users.

Table 1: Drug driving prosecutions and bans, England and Wales

	Prosecutions			2021		
	2020	2021	2020-21	sentenced	bans	% banned
Avon and Somerset	223	376	69%	364	345	95%
Bedfordshire	57	113	98%	99	92	93%
Cambridgeshire	176	229	30%	211	197	93%
Cheshire	369	532	44%	500	488	98%
Cleveland	325	586	80%	572	556	97%
Cumbria	243	371	53%	347	335	97%
Derbyshire	117	193	65%	186	180	97%
Devon and Cornwall	318	411	29%	391	368	94%
Dorset	139	171	23%	164	157	96%
Durham	284	286	1%	277	270	97%
Dyfed-Powys	298	352	18%	346	337	97%
Essex	786	946	20%	860	839	98%
Gloucestershire	119	332	179%	316	309	98%
Greater Manchester	606	903	49%	846	816	96%
Gwent	263	462	76%	442	429	97%
Hampshire	404	857	112%	837	810	97%
Hertfordshire	121	200	65%	177	175	99%
Humberside	155	300	94%	288	276	96%
Kent	255	559	119%	539	475	88%
Lancashire	398	747	88%	720	683	95%
Leicestershire	90	228	153%	220	213	97%
Lincolnshire	213	383	80%	371	362	98%
Merseyside	963	1,649	71%	1,608	1,554	97%
Metropolitan	1,149	2,050	78%	1,866	1,772	95%
Norfolk	530	348	-34%	323	311	96%
North Wales	621	759	22%	709	680	96%
North Yorkshire	222	347	56%	338	332	98%
Northamptonshire	69	142	106%	139	138	99%
Northumbria	150	247	65%	234	219	94%
Nottinghamshire	76	378	397%	367	346	94%
South Wales	375	503	34%	487	460	94%
South Yorkshire	188	342	82%	331	317	96%
Staffordshire	173	319	84%	307	301	98%
Suffolk	248	229	-8%	208	199	96%
Surrey	325	447	38%	416	409	98%
Sussex	352	632	80%	605	582	96%
Thames Valley	566	907	60%	878	854	97%
Warwickshire	40	17	-58%	16	16	100%
West Mercia	655	594	-9%	580	569	98%
West Midlands	199	263	32%	241	225	93%
West Yorkshire	693	1,128	63%	1,049	990	94%
Wiltshire	183	373	104%	364	356	98%
England and Wales	13,736	21,211	54%	20,139	19,342	96%

Source: [MoJ \(2022\), Criminal Justice System statistics quarterly: December 2021, Motoring Data Tool](#)