



Late in February the LPHCA was invited to Westminster by Sir Peter North CBE QC to have input into the Independent North Review of Drink and Drug Driving Law alongside two Taxi Trade Bodies and the National Private Hire Association (NPHA).

Although the NPHA (represented by David Beck) and the LPHCA attended, the Hackney Carriage Taxi industry representatives were unable to make it.

For us it was essential to attend simply because of Question 8 of the section that is considering making a new offence in the Alcohol section which specifically embraced potential extra requirements for *drivers carrying passengers for hire & reward* (such as Taxis & PHV's). Whilst we have formally responded to the review it was good to engage with Sir Peter and his team to hear the rationale.

THE INDEPENDENT NORTH REVIEW OF DRINK AND DRUG DRIVING LAW

Background

Sir Peter North CBE QC is leading an independent review of the law on drink and drug driving. The Secretary of State for Transport, Lord Adonis, has asked Sir Peter to examine possible changes to the legislative regime, reporting by the end of March 2010.



The North Review is completely independent of the Department for Transport and the Secretary of State for Transport. It will be a matter for Sir Peter how he proceeds; and he will act wholly independently in publishing his conclusions and advice.

What is being covered?

For drink driving, the Review will advise on the case for changes to the prescribed alcohol limit for driving – such as reducing the current limit, or adding a new, lower limit, with an associated revised penalty regime.

For drug driving, the study will advise on whether there is a need to tighten the law or for new legislation to be introduced to make it an offence to drive with a named substance in the body. It is already illegal to drive while impaired by a drug but a new offence might make it illegal to drive with named drugs in the system at specified levels, in the way that it is already an offence to drive with a specified level of alcohol in the blood.

For both drink and drugs, the study will also consider the likely impacts of any changes on driver behaviour, and the practical steps needed to support introduction of any new or revised offence.

In parallel with the study, the Department for Transport is developing a full impact assessment, which will include an assessment of the costs of any proposed changes, including equipment costs and costs to the police and judicial system.

Sir Peter sees the challenge for the Review as establishing whether changes in the law and its processes can reduce casualties. He said:

“The legal and practical issues are not easy to resolve but I intend to consult widely on these matters. I shall form my own independent views on them with the objective of providing advice by the end of March.”

Sir Peter North

TERMS OF REFERENCE

To carry out a study into the legal framework in Great Britain governing drink & drug driving and to provide Ministers with initial advice by 31st March 2010. To consider in particular:

On Drugs

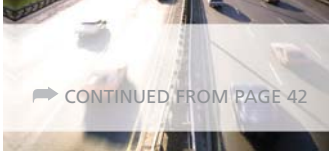
- the evidence that a new offence is needed, taking into account the evidence base on the involvement of drugs in road fatalities/accidents, data on cases brought to justice etc;
- how any new offence should be framed – for example, whether it should be based on an absolute ban, or as with alcohol and driving, a certain level of drugs within the driver's system;
- which drugs should be covered by any new offence (including the status of prescribed medications);
- the consistency of any new offence with wider government strategies for tackling the adverse health and social impacts of drugs;
- the practicability of identifying impairing substances in a legally robust way (including the availability of testing equipment);
- whether, and if so how, administrative procedures (including the role of the Forensic Medical Examiner) could be improved;
- evidence of any such offences in other countries, the associated penalty regimes and the success of policies in those nations.

On Alcohol

- the evidence that a new limit or framework of limits is needed, taking into account the evidence base on the involvement of alcohol in road fatalities/accidents;
- the impacts of any change in the blood-alcohol limit on health outcomes, businesses and on the economy more widely;
- how any reduction in the drink drive limit should be framed, and the associated penalty regime.



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Questions

The current law on driving while impaired by drink or drugs is set out on The UK Statute Law Database: Road Traffic Act 1988(c. 52) – Part 1 Principal Road Safety Provisions; Motor vehicles: drink and drugs.

Views are welcome on the following questions:

DRUG DRIVING

The current law: Road Traffic Act 1988(c. 52) – Part 1 Principal Road Safety Provisions; Motor vehicles: drink and drugs

1. Do you consider the current offence under s4(1) of the Road Traffic Act 1988 of driving while unfit due to drugs to be effective and adequate?
2. Do you think that the current law is adequately enforced by the police? Do you think the police should have greater powers to stop drivers to test if they are impaired?

A new offence

3. Do you consider that a new offence that prohibits driving with a specific drug or level of drug in the body would make the regulation of drug driving more effective?
4. Should any new or amended offence be based on:
 - (a) an absolute ban on driving with drugs in the system?
 - (b) driving with a certain, specified level of a drug within the driver's system, as is the case with alcohol? If yes, what drugs do you think should be included or specified and why?
5. If a new offence is created for some drugs, do you think that the existing offence of driving while unfit due to drugs needs to be retained for others?

The approach to drugs

6. Do you consider that any new offence should apply to:
 - (a) all controlled drugs (e.g. heroin, cannabis, cocaine)?
 - (b) prescribed or over the counter drugs which are used inappropriately or may otherwise have impairing effects?
7. Do you think that the law should also specifically address impairment caused by combining drugs with alcohol?
8. What is your view on compulsory drug testing of all drivers involved in fatal (or serious) road accidents?

The current procedures

9. Do you think that there are any legal or procedural barriers to securing a conviction for drug-driving? What alternatives or improvements can you suggest?
10. What is your knowledge and view of the effectiveness of available drug testing equipment?
11. Do you consider that the procedures for drug testing at the police station (including the role of the Forensic Medical Examiner) need to be improved?

International comparisons

12. Do you think that the drug drive laws in other countries provide examples of practice that could be adopted in the UK?

ALCOHOL

The current drink driving regime:

1. Do you think that the current prescribed blood alcohol limit of 80mg/100ml should be reduced to 50mg/100ml or less?
2. Do you think that the current penalty regime for drink driving offences is sufficient? (see table opposite)
3. Do you think that the current penalty regime is effective in tackling repeat offenders? How do you think repeat offenders should be dealt with?
4. What other measures (other than stricter limits) do you consider could be effective in addressing drink driving?
5. Do you think that the current law is adequately enforced by the police? Do you think the police should have greater powers to stop drivers to test if they are impaired or over the limit (eg random testing)?
6. What is your view of the Government's drink and drug drive message and the relationship between that message and the law?

A new offence

7. If the blood alcohol limit were to be reduced, do you think that the penalty attached to a lower limit should be changed?
8. Do you think there that different prescribed limit (or limits) should be imposed on different classes of drivers and riders (eg novice drivers, drivers of Public Service Vehicles (eg buses and coaches), HGVs and those driving for hire or reward)?
9. Do you think that there is a case for immediate suspension of a person's driving licence where that person fails a breath test?

The current procedure

10. Do you think that the right (under s8(2) of the Road Traffic Act 1988) to have a breath specimen replaced with a specimen of blood or urine where the lower of the two breath specimens is less than 50mcg/100ml is justified in light of modern testing equipment?
11. Do you consider there to be any legal or procedural barriers to enforcing the current law and / or securing a conviction for driving over the limit? What alternatives or improvements can you suggest?

The impact of a reduced limit

12. What do you consider the impacts of any lowering of the blood-alcohol limit may be on casualties, other health outcomes, businesses and on the economy more widely?

International comparisons

13. Do you think that the drink drive laws in other countries provide examples of practice that could be adopted in the UK?

DRINK & DRUGS DRIVING LAW



Drink drive penalty regime

Offence	Maximum Punishment	Disqualification	Penalty points (if not disqualified)
S 4(1) Road Traffic Act 1988 Driving or attempting to drive while unfit	6 months or £5000 or both	Obligatory minimum 12 months	3-11+
S4(2) In charge while unfit	3 months or £2500 or both	Discretionary (mandatory 3 years for repeat offences committed within a ten year period)	10
S5(1)(a) Driving or attempting to drive with alcohol above the prescribed limit	6 months or £5000 or both	obligatory minimum 12 months (mandatory 3 years for repeat offences committed within a ten year period)	3-11+
S5(1)(b) In charge with alcohol above the prescribed limit	3 months or £2500 or both	Discretionary	10
S6 Failing to cooperate with a preliminary test	£1000	Discretionary	4
S7 Failing to provide a specimen to be subjected to a laboratory test	(a) 6 months or £5000 or both where test is to establish ability to drive or proportion of alcohol	Obligatory in (a)	(a) 3-11
	(b) 3 months or £2500 in other cases	Discretionary in (b)	(b) 10
S7A Failing to allow a specimen to be subjected to a laboratory test	(a) 6 months or £5000 or both where test is to establish ability to drive or proportion of alcohol	Obligatory in (a)	(a) 3-11
	3 months or £2500 in other cases	Discretionary in (b)	(b) 10



Licensed Private Hire Car Association Inc London Private Hire Car Association

Sir Peter North CBE QC The North Review, Department for Transport, 2/17 Great Minster House, 76 Marsham Street, London, SW1P 4DR

22nd February 2010

Dear Sir Peter,

Many thanks on behalf of the Licensed Private Hire Car Association (LPHCA) and our members, for asking us to comment on your review and indeed for inviting me to join you and your colleagues personally to discuss it.

After full consideration it would be difficult for me as Chairman of the LPHCA to answer the detailed questions, which in certain instances require a considerable amount of technical and legal knowledge, which is outside my remit.

In an ideal world it would have been helpful to have sought our member's views at a full meeting but in the short window given that was not possible.

Having said that however I feel that I am mandated as chairman to comment on the specific area of whether a new offence or requirements should be introduced as below.

8. Do you think that different prescribed limit (or limits) should be imposed on different classes of drivers and riders (e.g. novice drivers, drivers of Public Service Vehicles (e.g. buses and coaches), HGVs and those driving for hire or reward)?

This is a complex and unclear question to a layperson outside of Taxi & Private Hire, so this needs to be treated with caution when considering its regulatory impact and effectiveness as a proposal.

Our traditional view on requirements for driving for hire or reward in the Taxi & PHV sector is that there should not be more prescriptive needs in regulations, with regard to safety, than those expected for anybody driving a motor vehicle. **Either you are safe to drive or you are not safe to drive.**

On this basis we are not convinced that a **different prescribed limit (or limits) should be imposed** on Taxi & Private Hire drivers. It must be considered that the punishment for any such driver is certain unemployment and loss of their Taxi or Private Hire Licence for a period well beyond their ban or sentence.

In the event that such a professional driver was found to be under the influence of drink or drugs whilst carrying passengers, both the courts and the licensing authority have powers to more severely punish such a driver.

It will be argued by some, that simply because drivers carry passengers for reward, they should have different requirements, we do not concur with this view and come back to the fact – **either you are safe to drive or you are not safe to drive.**

Where regulation such as **DVLA Group 2** medical requirements, (which were designed for drivers of large vehicles), has been required for **Taxi & PHV** drivers, there have been many negative regulatory impacts. These regulations have caused problems in the areas of Eyesight and Diabetic Drivers, who were clearly fit to work and once again we end up with the fact – **either you are safe to drive or you are not safe to drive.**

In our view, regulation must not be enacted to tick boxes or meet requirements that are only 'perceived to make a difference' rather than 'actually make a difference.'

It was good to meet you and your team last week and many thanks for engaging with the LPHCA.

Yours sincerely
Steve Wright MBE Chairman