

DRINK & DRUGS DRIVING LAW

The Review of Drink and Drug Driving Law by Sir Peter North CBE QC



In the last edition (49) of **Private Hire News** we responded to the **Independent Review of Drink and Drug Driving** by **Sir Peter North CBE QC** following a meeting with **Sir Peter** and his team at **Westminster** in **February**.

Sir Peter published his findings on 16th June and whilst they are at this stage recommendations, government will consider and potentially implement some or all of them.

The full report can be found on the website <http://northreview.independent.gov.uk>

Background to the Review

Sir Peter North CBE QC has led an independent review of the law on drink and drug driving. The former **Secretary of State for Transport, Lord Adonis**, asked **Sir Peter** to examine possible changes to the legislative regime.

The **North Review** was completely independent of the **Department for Transport**. It was a matter for **Sir Peter** how he proceeded; and he has acted wholly independently in publishing his conclusions and advice.

In parallel with the study, the **Department for Transport** has been 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**.

The **Review of Drink and Drug Driving Law** was requested by the **Secretary of State for Transport** to carry out a study into the legal framework in **Great Britain** governing **Drink and Drug Driving**. It was asked to consider, in particular:

- The legal framework applying to drink and drug driving in **Great Britain**;
- The evidence on the nature of the drink and drug driving problems which the nation faces;
- The evidence on the impact of potential measures to reduce drink and drug driving casualties;
- Discussions with, and representations received from, interested groups and individuals. In carrying out the Review, fundamental principles were considered:
- Drink and drug driving are clearly activities which endanger public safety and more should be done to detect and deter those driving while impaired by drink and drugs;
- There should be a focus on practical steps which can deal with a significant part of the problem of drink and drug driving – the best must not be the enemy of the good;
- The law should command respect among the general public and the public should understand both the law and the effects of drugs and alcohol upon driving;
- The law and penalties imposed should be focussed on road safety (not on enforcement of wider law or policy on drugs and drink) and should reflect the degree of risk caused by impairment;
- The procedures involved in enforcing the law should be fair to both the citizen suspected of the offence and to the wider public who are at risk from drink and drug driving;
- The evidence of both the level of drink or drugs in a suspect's body and the level of impairment should provide the best practicable indication of the levels at the time of driving;

■ The penalties for the offences should be a deterrent, adequate punishment for the offence and should safeguard the public;

■ Any changes to the law or legal procedure need to be accompanied by appropriate and complementary campaigns of public information and enforcement.

For those who did not see **Edition 49**, our response to **Sir Peter** is published in full with more background which is available from our website www.lphca.co.uk but our immediate concerns were with extra requirements with regard to **Taxi & Private Hire Drivers** in question 8 (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)?

We said:

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 that – **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.**

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Success!!!

We are delighted to report further success for the **LPHCA** in **Sir Peter's** recommendations that concur with our submission.

Recommendation (5): There should *not* be a lower prescribed blood alcohol limit of 20 mg of alcohol per 100 ml of blood for drivers of HGVs, PSVs or taxis and private hire vehicles.

Having argued strongly that **Professional Drivers** were far less likely than ordinary motorists to be over the Drink Drive limit and therefore should not be treated more draconianly than ordinary drivers, we are very pleased with **Sir Peter's** considered recommendations.

In the report Section **3.21** covering 'breath testing statistics for professional drivers' it states that in **2008, professional drivers**, (those that drive **HGVs, buses, coaches, minicabs** and **taxis**) had a lower proportion of positive breath testing when tested than ordinary motorists.

Statistics revealed that 3.8% of **private car drivers** tested failed testing following accidents, which was more than **6 times the likelihood of a taxi or private hire driver failing a breath test**. In fact **Motorcycles, Private Cars, Minibuses, Light Goods Vehicles, Heavy Goods Vehicles** and **Other Motor Vehicles**, were considerable as a percentage on average far more likely to have failed testing following accidents.

The only vehicle drivers to be negligibly under the **Taxi & Private Hire** figures were, not surprisingly, from **Bus** and **Coach**.

The case for a different blood alcohol limit for driver sub-groups

The Review took a good deal of evidence on the issue of whether to apply a lower drink drive limit, 20 mg/100 ml, to two sub-groups of drivers, but for different reasons.

There was a conviction in some quarters that it was right to place a lower limit on young or novice drivers, given their disproportionate association with drink drive casualties.

There was also a desire from some to see a lower level applied to classes of **Professional Drivers – drivers for Hire or Reward of Buses, Coaches and Taxis / PHVs and HGV drivers**. This was in particular because of their professional duty to protect their passengers.

*The LPHCA had rejected this narrow minded, stereotypical thinking that is usually propagated by bureaucrats who seek to constrain or discriminate against the **Taxi and Private Hire Sector** without fact or reason for their poor judgement and misperception of an industry that they clearly fail to understand.*

The full figures are in this table below, supporting the evidence we put forward that there was absolutely no need to set requirements differently for Taxi and Private Hire Drivers.

When a **Taxi or Private Hire Driver** is found to have been drinking or drug driving (over prescribed limits) when working, magistrates rightly already have the capacity, to fine and punish them more heavily as they are professional drivers, so a lower limit would be wrong and we are pleased **Sir Peter** agreed.

Table 3.3: **Reported breath tests and breath test failures of drivers tested after being in a reported personal injury accident, by road user type: 2008 Great Britain**

	Involved in accident	Tested ¹	Tested as % of those involved	Failed ²	Failed as % of involved	Failed as % of tested	Drivers killed – number over the legal blood alcohol limit: 2007 over 80mg/100ml
Motorcycle	22,427	11,569	52%	314	1.4%	2.7%	46
Car	230,852	129,433	56%	4,872	2.1%	3.8%	159
Taxi/Private Hire Car	5,144	2,714	53%	17	0.3%	0.6%	0
Minibus	927	561	61%	10	1.1%	1.8%	0
Bus or Coach	8,375	3,218	38%	13	0.2%	0.4%	0
Other Motor Vehicle	4,056	1,744	43%	47	1.2%	2.7%	0
LGV	13,621	7,594	56%	208	1.5%	2.7%	10
HGV	9,040	6,136	68%	39	0.4%	0.6%	0
Total	294,442	162,969	55%	5,520	1.9%	3.4%	215
Source: STATS 19							Source: Coroners data only

1. Excludes cases where test not requested (53,377), driver not contacted (67,203) or not provided for medical reasons (11,889)

2. Failed breath test or refused to provide a specimen