

Reducing the Drink Driving Limit in Scotland

Analysis of Consultation Responses

**REDUCING THE DRINK DRIVING LIMIT IN
SCOTLAND**

ANALYSIS OF CONSULTATION RESPONSES

Sue Granville and Shona Mulholland
Why Research

Scottish Government Social Research
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EXECUTIVE SUMMARY

Background

1. Following the recent transfer of the power to set the level of the drink drive limit from Westminster to the Scottish Parliament, the Scottish Government published the consultation paper 'Reducing the Drink Driving Limit in Scotland'. The consultation sought views on the Government's proposals to reduce the drink drive limit in Scotland. The consultation ran from the 6 September 2012 until 29 November 2012. Although the Scottish Government has not been given associated powers relating to drink driving, such as being able to change the penalties for drink driving and introduce the ability for the police to breath test anytime, anywhere, the consultation invited suggestions on other measures that may be considered to tackle drink driving.
2. A total of 138 consultation responses were received; 82 from individuals and 56 from organisations.
3. The consultation posed five questions (one of which had two parts) relating to the proposal to reduce the existing blood / alcohol limit of 80mg / 100ml to 50 mg / 100ml and consequential equivalent reductions in the breath and urine limit.

Overview of responses

4. The following paragraphs highlight the main themes that emerged in relation to each of the questions in the consultation document.

Reducing the drink driving limit

5. Most respondents said that drink drive limits should be reduced in Scotland; 102 (74%) said yes, 33 (24%) said no and three did not reply to this question. Almost all of those who said no were individuals.

Scottish Government proposal

6. The Scottish Government is proposing:
 - A reduction in the blood limit from 80mg of alcohol in every 100 ml of blood to 50 mg of alcohol in every 100 ml of blood.
 - An (equivalent) reduction in the breath limit from 35 mcg of alcohol in 100 ml of breath to 22 mcg of alcohol in every 100 ml of breath.
 - An (equivalent) reduction in the urine limit from 107 mg of alcohol in 100 ml of urine to 67 mg of alcohol in every 100 ml of urine.
7. The 102 respondents who supported a reduction in the drink drive limits were asked whether they agree with the Scottish Government proposal to reduce the drink driving limits.

8. There was also widespread agreement with this proposal, with 89 respondents (87%) saying 'yes' and 11 (11%) disagreeing, two did not reply to this question. Again, most disagreement came from individuals.

Consequences

9. Respondents were asked whether they had any evidence for the main consequences of the proposals. The main theme to emerge related to likely benefits such as fewer road accidents, fewer casualties or the reduced risk of road accidents.
10. There were also comments from a small number of respondents that the proposals would lead to increased public awareness on the impact of alcohol on society, that the proposals would provide a central message to drivers not to drink and drive, or that the proposals would help to deter drink driving.
11. A main concern identified by respondents related to a potential loss of business for local pubs, restaurants and hotels or a loss of tourism business to Scotland.
12. Some respondents voiced concern over a lack of available data and called for more data to be collected or made available in relation to drink driving accidents.

Financial impact

13. Few respondents provided evidence relating to any financial impact of the Scottish Government proposals and some of these found it difficult to provide figures in relation to the financial impact. However, these respondents pointed to a number of benefits such as a reduction in costs to the NHS, emergency services and health and social care services. Additionally, there were a small number of comments that there would be benefits to employers through fewer workplace accidents and less absenteeism.
14. One main comment was that while there would be some initial costs in implementing these proposals, these would be outweighed by the longer term savings. A few respondents pointed to a number of areas where additional costs would be generated and these included the need to re-calibrate roadside and evidential breathalysers, an advertising campaign, increased costs in enforcement, increased prosecutions and an increase in workloads for the police and court services.
15. There was again concern over the potential loss of business to the licensed trade and to tourism, with rural areas in particular seen as vulnerable.
16. There was also some concern over a lack of quantifiable evidence with which to assess savings.

Ancillary matters

17. The consultation document explained that drivers who have a breath sample reading over the current limit of 35 mcg and below 50 mcg of alcohol per 100 ml of breath, have a legal right to ask for the breath sample to be substituted with a sample of either blood or urine.

18. Very few respondents commented on ancillary matters; the main theme to emerge was agreement that the statutory option and ratios should be retained as set out in the consultation document.

Other measures

19. A wide range of other measures that should be considered in order to tackle drink driving was suggested by respondents¹.

20. There was some support for a zero limit; other respondents wanted to see a 20mg limit. There were comments on the need for different limits; especially for young, new or commercial drivers.

21. The need for clear information; delivered through publicity or education, was noted. This would apply especially to morning after effects and how to equate units to drink measures.

22. Respondents were in favour of additional powers for Scotland, particularly with regard to random breath testing.

23. There were calls for better, more consistent enforcement; and especially for more visible policing.

24. Respondents commented on the need for stricter penalties; vehicle forfeiture in particular.

25. There were also comments on the need for education to raise awareness of the limits and the effects of alcohol, with an emphasis on education for young or new drivers.

26. Respondents wanted to see publicity campaigns to promote the new limit and to promote the 'don't drink and drive' message.

27. There was a degree of concern over persistent offenders and the need to target this group.

28. Respondents commented on the need to look at preventative measures, especially alco-locks² and individual breathalysers.

Summary

29. The proposals put forward were widely supported and a number of respondents felt that the Scottish Parliament should be given further powers; especially in relation to random breath testing.

30. The need for publicity and education was noted in many responses.

¹ A range of proposals have also been under consultation by the UK Government: Enforcement procedures against drink drivers and other offenders (DfT 2012)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/14959/drink-driving-consultation.pdf

² The driver is required to breathe into a breathalyser connected to an immobiliser; this will not allow the vehicle to start if the alcohol level is over a set amount.

31. Respondents wanted to see consistent enforcement and penalties and there were also comments on the need for preventative measures such as alco-locks.
32. There were calls for better data collection and availability in relation to drink driving, including accidents, test levels and costs.
33. There was a degree of concern from a small number of respondents over any impact on businesses and especially any impact in rural areas.
34. The findings from this consultation will help to inform policy and support discussion on what else can be done to tackle drink driving in Scotland.

1 INTRODUCTION

Background

- 1.1 The Scotland Act 2012 provided amendments to the Scotland Act 1998 that included devolving power to prescribe the drink driving limits in Scotland to the Scottish Government. Other powers over drink driving such as being able to change the penalties for drink driving and introduce the capacity for the police to breath test anytime, anywhere have not been devolved and therefore remain the legislative responsibility of the UK Government.
- 1.2 On 6 September 2012, the Scottish Government published the consultation paper 'Reducing the Drink Driving Limit in Scotland'. The consultation sought views on the proposal to reduce the drink drive limit in Scotland and ran until 29 November 2012.
- 1.3 The consultation paper contained a series of five questions (one of which had two parts) relating to the proposal to reduce the existing blood / alcohol limit of 80mg / 100ml to 50 mg / 100ml and consequential equivalent reductions in the breath and urine limit.

Overview of responses

- 1.4 In total, 138 responses were received; 82 from individuals and 56 from organisations. As part of the analysis process, responses were assigned to groups. This enabled analysis of whether differences, or commonalities, appeared across the various different types of organisations and / or individuals that responded. The following table shows the numbers of responses in each group.

Table 1.1: Consultation responses

Respondent group		Number
	Individual expert*	3
	Other individuals	79
Total Individuals		(82)
	Alcohol / Drugs	14
	Health	10
	Local Authority	8
	Legal**	3
	Safety / Road Safety	12
	Transport	3
	Other organisation	6
Total Organisations		(56)
Total		138

*Individuals who are expert in the field of drink driving law.

**One response from a Legal organisation merely stated they had no comments and so this response has not been included in this table or in any of the later counts or analysis.

- 1.5 A list of all those organisations who submitted a response to the consultation is included in Appendix 1.

Analysis and reporting

- 1.6 Two questions contained yes / no tick box options to allow respondents to indicate whether or not they agreed with a particular point. Results from these tick box questions are presented in table format at each relevant question.
- 1.7 Where respondents did not use the questionnaire format for their response but indicated within their text that they agreed or disagreed with a point, these have been included in the yes / no counts.
- 1.8 Comments given at each open question were examined and main themes, similar issues raised or comments made in a number of responses, were identified. In addition, we looked for sub-themes such as reasons for opinions, specific examples or explanations, alternative suggestions or other related comments.
- 1.9 A copy of the consultation questions is included at Appendix 2.
- 1.10 Comments from responses which did not follow the consultation questionnaire were assigned to the relevant question. For responses which followed the consultation questionnaire, any comments which did not relate to the specific questions posed were reassigned to the final question of the consultation in order that all similar comments could be analysed together.
- 1.11 The main themes were looked at in relation to respondent groups to ascertain whether any particular theme was specific to one particular group, or whether it appeared in responses across groups. When looking at group differences however, it must also be borne in mind that, where a specific opinion has been identified in relation to a particular group or groups, this does not indicate that other groups do not share this opinion, but rather that they have simply not commented on that particular point. Where no groups are specified in the commentary this means that the particular point was noted in responses from a variety of groups.
- 1.12 While the consultation gave all those who wished to comment an opportunity to do so, given the self-selecting nature of this type of exercise, any figures quoted here cannot be extrapolated to a wider population outwith the respondent sample.
- 1.13 The following chapters document the substance of the analysis and present the main views expressed in responses. Appropriate verbatim comments, from those who gave permission for their responses to be made public, are used throughout the report to illustrate themes or to provide extra detail for some specific points.

2 REDUCING THE DRINK DRIVING LIMIT

- 2.1 The consultation paper set out the consequences of drink driving to the people of Scotland and included recent statistics on offences, injuries (including associated costs) and deaths involving drink driving. It outlined the drink drive limits in operation across Europe, set out the current legislation, offences and penalties as well as associated police powers.
- 2.2 The consultation also presented some of the evidence and findings from the 2010 North Review³ recommendations and stated: ‘The Scottish Government strongly agrees with the opinion of the North Report that a reduction in the drink drive limit will save lives’.

Whether the drink drive limit should be reduced

- 2.3 Alcohol concentrations can be measured using breath, urine or blood samples and the Scottish Government proposes that there should be a lower drink drive limit for blood with equivalent reductions in the breath and urine limits.

The first question in the consultation asked respondents: ‘Do you agree that the drink drive limits should be reduced in Scotland?’

Table 2.1: Whether the drink drive limits should be reduced in Scotland

Respondent group		Yes	No	No response
	Individual expert (3)	2	-	1
	Other individuals (79)	45	32	2
Total Individuals (82)		47	32	3
	Alcohol / Drugs (14)	14	-	-
	Health (10)	10	-	-
	Local Authority (8)	8	-	-
	Legal (3)	3	-	-
	Safety / Road Safety (12)	12	-	-
	Transport (3)	3	-	-
	Other organisation (6)	5	1	-
Total Organisations (56)		55	1	-
Total (138)		102	33	3

- 2.4 As can be seen in table 2.1, there was majority support for this proposal; with 102 agreeing and 33 disagreeing. All but one of those who disagreed were individuals.
- 2.5 While most respondents provided either a yes or no answer, eight organisations also opted to provide some additional comment on this question. As these raise themes similar to those made by respondents in later questions, these comments have been analysed alongside responses to Q5.

³

<http://webarchive.nationalarchives.gov.uk/20100921035225/http://northreview.independent.gov.uk/docs/NorthReview-Report.pdf>

The Scottish Government proposal to reduce the drink driving limits

- 2.6 The consultation document referenced evidence from the North Report which indicated that drivers are six times more likely to die with a blood alcohol concentration between 50 and 80 mgs than with zero blood alcohol.
- 2.7 It also referenced evidence from the British Medical Association⁴ that the relative risk of being involved in a road traffic accident for drivers with a reading of 80mg of alcohol per 100ml of blood was 10 times higher than for drivers with a zero blood alcohol reading. The relative accident risk for drivers with a reading of 50mg of alcohol per 100ml blood was twice the level than for drivers with a zero blood alcohol reading. The Scottish Government is proposing:
- A reduction in the blood limit from 80mg of alcohol in every 100 ml of blood to 50 mg of alcohol in every 100 ml of blood.
 - An (equivalent) reduction in the breath limit from 35 mcg of alcohol in 100 ml of breath to 22 mcg of alcohol in every 100 ml of breath.
 - An (equivalent) reduction in the urine limit from 107 mg of alcohol in 100 ml of urine to 67 mg of alcohol in every 100 ml of urine.

Question 1A: Do you agree with the Scottish Government proposal to reduce the drink driving limits?⁵

- 2.8 As table 2.2 shows, there was widespread agreement with this proposal, with 89 respondents saying 'yes' and 11 disagreeing. Most disagreement came from individuals, although three organisations (one local authority and two from the alcohol / drug group) disagreed with this proposal.

Table 2.2: Whether agree with the Scottish Government proposal to reduce the drink driving limits (Base: Those who answered Yes at Q1)

Respondent group	Yes	No	No response
Individual expert (2)	2	-	-
Other individuals (45)	36	8	1
Total Individuals (47)	38	8	1
Alcohol / Drugs (14)	12	2	-
Health (10)	9	-	1
Local Authority (8)	7	1	-
Legal (3)	3	-	-
Safety / Road Safety (12)	12	-	-
Transport (3)	3	-	-
Other organisation (5)	5	-	-
Total Organisations (55)	51	3	1
Total (102)	89	11	2

⁴ 2010 submission by the British Medical Association to the House of Commons Transport Committee's inquiry into drink and drug driving law

⁵ This consultation question was directed only to those who answered yes at Q1. However, eight respondents who answered no at Q1 also answered no at Q1a – these have not been included in table 2.2.

3 EVIDENCE

Evidence for main consequences of the proposals

- 3.1 The consultation went on to ask respondents whether they had any evidence for what would be the main consequences of the Scottish Government proposals and 55 respondents commented.

Question 2: Do you have any evidence for what would be the main consequences of the Scottish Government proposals?

Reference to published reports

- 3.2 Twenty-one respondents, mainly organisations working within alcohol / drugs, safety / road safety and health as well as two local authorities, referred to a number of reports providing evidence to back up the Scottish Government's proposals.
- 3.3 Perhaps not surprisingly, 12 respondents referred to the North Report (five alcohol / drugs organisations, four safety organisations, two local authorities and one individual expert).
- 3.4 Four respondents also referred to a NICE report⁶ which claimed that a driver with a BAC of between 50mg / 100ml and 80mg / 100 ml is at least six times more likely to die in a collision with a driver who has not consumed any alcohol.
- 3.5 Other reports referenced by respondents included:
- BMA (2008)⁷ which showed the relative accident risk of drivers with a BAC of 50mg / 100ml is double that for a person with zero BAC.
 - PACTS (Parliamentary Advisory Council for Transport Safety) research conducted by Professor Richard Allsop⁸ which showed that reducing BAC to 50gm / 100ml would prevent 65 deaths and 230 serious injuries per year across the UK.
 - Work conducted by the Institute of Alcohol Studies, 2010⁹.
 - Work conducted by researchers at Sheffield University.
 - Evidence provided by Alcohol Focus Scotland and SHAAP (Scottish Health Action on Alcohol Problems) of a reduction in the number of accidents that would be allied to a reduction in the BAC.
 - Reference to figures provided by the European Commission¹⁰.

⁶ <http://www.nice.org.uk/media/3fe/1a/bloodalcoholcontenteffectivenessreview.pdf>

⁷ British Medical Association (2008): Alcohol misuse: tackling the UK epidemic

⁸ <http://www.pacts.org.uk/docs/pdf-bank/lowerlimit.pdf>

⁹ Institute of Alcohol Studies: Alcohol and Drink Driving, 2010

¹⁰ http://www.ec.europa.eu/transport/road_safety/specialist/knowledge/alcohol/index.htm

- 3.6 There were also references to unspecified studies linking a lower BAC with reductions in the number of road casualties and road deaths.
- 3.7 Three respondents noted that the proposed changes would bring Scotland into line with other European countries.

Main consequences

- 3.8 A number of potential consequences were identified by 28 respondents. The key consequence, cited by 24 of these respondents was that there would be fewer road accidents, fewer casualties or the reduced risk of road accidents. Two of these referred directly to less pain and suffering caused by road casualties. A respondent in the alcohol / drug group noted,

“The proposed reduction is therefore likely to reduce the risk of road accidents and subsequent injuries, mortality rates and the devastating consequences for families and communities directly affected.”
- 3.9 Two of these respondents (one from the alcohol / drug group and one from the safety / road safety group) noted that this would lead to increased public awareness on the impact of alcohol on society or that it provides a central message to drivers not to drink and drive. A transport organisation also noted that this would deter drink driving. The safety / road safety organisation noted,

“Changes to drink driving laws, and the public attention that will accompany such changes also has the potential to raise public awareness of the broader impact alcohol has on society, in terms of public health and crime prevention and could support the cross department strategic direction in terms of tackling the effects of alcohol.”
- 3.10 Some of these respondents quoted road accident figures from other countries such as Switzerland, Austria, France, the USA or Australia where a lowering of the BAC has led to a reduced number of accidents and casualties.
- 3.11 There was a small number of comments that this would lead to more convictions for drink driving, with more ‘morning after’ detections; although there were also some comments that the current penalties are too onerous or that this would lead to undeserved criminal convictions.
- 3.12 There was also a small number of queries as to whether those over the limit in the early morning are responsible for causing a significant number of accidents.
- 3.13 A few respondents referred to the impact a lowering of the limit would have on resources that are already overstretched; with comments on a higher number of offenders for the police, courts and procurators fiscal to deal with.
- 3.14 A small number noted that the proposed changes would help to increase public awareness of the impact of alcohol on society or that this would provide a key message to drivers not to drink and drive.

- 3.15 Thirteen respondents commented on a number of consequences in relation to business that could ensue if these proposals are instigated.
- 3.16 Another key comment was in relation to a likely loss of business for local pubs, restaurants and hotels or a loss of tourism business to Scotland, with a couple of comments that the proposed changes would penalise social drinkers who like to have one or two glasses of wine. One individual noted:
- “Currently the Tourist, Drinks, Entertainment Industry and local social clubs are struggling to attract visitors. Bringing the limit down would prevent or discourage persons using these industries having even one drink and this could result in significant numbers of businesses closing.”
- 3.17 There were also comments from two of these respondents about the lack of public transport in rural areas and how vehicle seizures could penalise those working in rural areas.

The need for statistics

- 3.18 Six respondents (a transport organisation, a local authority, a legal organisation and three individuals) commented that there are no statistics available for casualties who have been drinking but who are within the current drink drive limit of 80mg / 100ml. They felt figures were needed for individuals who are breathalysed at levels between 50mg / 100ml and 80mg / 100ml in order to ascertain whether a reduction in drink driving limits will have a significant impact in reducing drink driving.
- 3.19 Another individual requested information on the incidence of personal injury accidents in which drink driving was contributory factor.
- 3.20 Additionally, two other respondents (a local authority and an individual) commented that there will be a need for statistics to build upon the evidence base in measuring the effectiveness of the reduced drink drive limits if they are introduced in Scotland.

Evidence for financial impact of the proposals

- 3.21 The consultation also asked respondents whether they had any evidence for what would be the financial impact of the Scottish Government proposals and 44 respondents commented.

Question 3: Do you have any evidence for what would be the financial impact of the Scottish Government proposals?

Short term versus long term

- 3.22 While there were concerns over the initial costs of implementation of these proposals from a small number of respondents, a greater number felt that in the longer-term savings made would increasingly outweigh any (initial) additional costs. Three respondents also noted that the initial costs would be relatively low or minimal. As noted by a respondent from the safety group:

“Whilst it is possible that a lower legal blood alcohol level would result in more prosecutions and increased criminal justice costs, these costs would more than likely be outweighed by the benefits. With a cost of £1,643,754 per fatality and £184,712 per serious (reported Road Casualties Scotland 2011) and with 30 people being killed on Scottish roads every year as a result of drink and 150 seriously injured, the potential financial savings in reducing these incidents will far outweigh any additional enforcement costs.”

Possible benefits

3.23 Most respondents did not provide definitive or estimated data as to the likely financial impacts of these proposals.

3.24 A small number of respondents (9) did attempt to provide estimated figures for the likely reduction in costs if there is an associated reduction in road accidents through the implementation of these proposals.

3.25 These included three respondents who quoted the figures provided in the Reported Road Casualties Report 2010 referred to in the consultation document. As an alcohol and drugs organisation noted:

“The physical process of dealing with KSI’s has been addressed in the Statistical Bulletin, Transport Series, TRN/2011/1 entitled Key Reported Road Casualties Scotland 2011. Using 2009 prices, the cost of dealing with a fatal road accident averages £1,855,013 and a serious injury costs £205,303. Applying these sums to the extrapolated figures calculated using the Australian study referred to previously, there would be a saving in dealing with fatal road accidents of £20,034,140. The savings on serious injury accidents total £4,988,862. Together, these equate to an estimated total saving of £25,023,002 in the first year alone and this saving should increase as the number of offenders reduce due to changes in social pressure.”

3.26 Other comments included:

- An alcohol / drugs organisation referred to a study published in the Journal of Public Health 2011 which estimated the costs to the NHS in the UK of alcohol attributable motor vehicle accidents to be at £238m in 2006-07¹¹. They noted that “a reduction in the number of drink driving related casualties and fatalities as a result of the proposed legislation would reduce the significant financial burden on health and social care services and lost productivity in workplaces”.
- An organisation in the safety / road safety sub-group referred to a report produced by ESTC¹¹.
- One respondent suggested there would be annual costs of around £7.5 million per annum if five lives are saved.

¹¹ http://www.etsc.eu/documents/ETSC_2011_PIN_Report.PDF

- An alcohol / drugs organisation cited Department for Transport figures showing savings in Scotland of between £5-£27 million per year.
- Another respondent who calculated savings of around £3.5 billion.
- Another respondent who calculated savings of around £5.5 million (based on three lives saved at an average cost of £1.85 million).

3.27 Some respondents, while unable to provide details of likely cost savings noted a number of benefits to the economy, and these included:

- a reduction in costs to the NHS and emergency services;
- a reduction in costs to health and social care services; and
- benefits to businesses through fewer workplace accidents and less absenteeism. An organisation operating within the Legal sector commented:

“If the reduction in the limit reduces the number of injuries on the road as a result of accidents then this will have a positive financial impact on many public services of the country including, the Police, Fire & Rescue Services, Scottish Ambulance Service and NHS Scotland as well as businesses and commerce.”

Likely additional costs

3.28 A number of respondents (24) found it difficult to provide specific figures for the financial impact of the proposals and instead focused on areas that would incur additional costs or where there would be a negative impact if the proposals are implemented. A key concern noted by many of these respondents (two alcohol / drugs organisations, one transport, one legal, one safety and ten individuals) was the loss of business to the licensed trade including public houses, restaurants and social clubs, and tourism in general. Some of these focused on businesses in rural areas where there is a lack of available public transport as an alternative to driving. Other concerns included the cost of:

- Re-calibrating roadside and evidential breathalysers, together with associated administrative costs of changes to IT.
- An advertising campaign to increase awareness of changes to the law on drink driving and to encourage public support for these changes.
- Increases in the cost of enforcement.
- An increase in prosecutions of individuals found to be over the drink drive limit the morning after.
- An increase in workloads for the police and court services, or for training for police officers.

- Increased vehicle seizures or driving bans and the possible ensuing job loss for an individual, which in turn could create more reliance on the benefits system.
- Other financial impacts on individuals such as the loss of their vehicles or increased car insurance premiums.

3.29 Twelve respondents noted concerns over a lack of quantifiable evidence with which to assess any likely savings. For example, an organisation in the transport sector noted that there is no information on the numbers of individuals involved in accidents who fall between the current alcohol levels and the proposed levels so it is not possible to extrapolate any figures in relation to the likely cost savings.

3.30 An individual suggested that, if the proposals are introduced, there will be a need to gather statistics to validate these proposals.

4 ANCILLARY MATTERS

- 4.1 The consultation document explained that drivers who have a breath sample reading over the current limit of 35 mcg and below 50 mcg of alcohol per 100 ml of breath, have a legal right to ask for the breath sample to be substituted with a sample of either blood or urine.
- 4.2 This right was introduced because of a concern, in the past, over the reliability of breath testing devices and also to take account of differences between individuals in the ratio of alcohol in breath to that in blood; this right is commonly known as the 'statutory option'.
- 4.3 If the proposals go ahead, the availability of the statutory option will remain and the only change will be a consequential, technical change to reflect the new lower breath limit (22 mcg of alcohol in every 100 ml of breath).
- 4.4 The consultation document also explained that there are no plans to change the ratios that establish in law the relationships between the alcohol concentrations in breath and in blood, or between the alcohol concentrations in blood and in urine.
- 4.5 Respondents were asked whether they had any comments on these ancillary matters.

Question 4: Do you have any comments to make on the ancillary matters related to the Scottish Government's proposal to reduce the drink drive limits?

- 4.6 Around half of all respondents provided comments at Question 4. However, the vast majority of these dealt with issues other than the ancillary matters of the statutory option or the ratio between the drink drive limits. These comments were reassigned to Question 5 in order that they could be analysed alongside other comments on the same issues; the findings are presented in the next chapter (Chapter 5) of this report.
- 4.7 Only eight respondents (three safety organisations, two expert individuals and one each from the individual, health and legal groups) commented specifically on the ancillary matters of the statutory option or the ratio between the drink drive limits. These comments are summarised below.
- 4.8 The three safety organisations along with the health organisation agreed that the statutory option and the ratios should be retained as set out in the consultation document.
- 4.9 The legal organisation and individual respondent both commented on breath testing equipment.
- 4.10 The individual felt that there should be a trial period in which the current limits are retained until it is clear that equipment does not give a false reading above the new limit.
- 4.11 The legal organisation pointed out that the Road Traffic Act 1988 came into force at a time when equipment was not as accurate as it is today; they

suggested that this might be a good opportunity to revisit these 'out-dated' thresholds and that this could lead to savings in police, medical examiner, laboratory and other costs.

- 4.12 This legal organisation also commented on the 'tolerance' threshold of 39mcg currently operated by the police force and asked whether this would be reduced or removed.
- 4.13 One expert individual suggested that steps should be taken to remove the statutory option as soon as possible and that when this has been achieved the ratio should change from the current 2300:1 to 2000:1.
- 4.14 Another expert individual commented that both the statutory option and the ratios are at present under consideration by the UK Government and suggested that, apart from the technical changes, no action should be taken until it is clear what is being proposed by the UK Government.

5 OTHER MEASURES

- 5.1 In the final question of the consultation, respondents were asked whether they wished to suggest any other measures that should be considered in order to tackle drink driving in Scotland.

Question 5: Are there any other measures that should be considered in order to tackle drink driving?

- 5.2 Various key themes were noted at this question; these same themes were also noted at other questions and in free-flowing responses. All similar comments were collated and analysed together and the findings are presented in this chapter.
- 5.3 Comments on other measures were noted in 127 responses.

Comments on limits

- 5.4 A variety of comments and suggestions in relation to the drink drive limit was noted in responses.

Zero limit

- 5.5 Twenty respondents said that they would favour a zero limit (some said as close to zero as possible); this included six organisations from the health and alcohol / drugs groups and 14 individuals.
- 5.6 Reasons for this support included that a zero limit would be more easily understood or that having a limit of 50mgs would give the message that it is all right to drink and drive.
- 5.7 A respondent from the alcohol / drugs group commented:
- “There is a compelling body of evidence, as highlighted in the consultation, providing justification for further reducing the limit and we hope the Scottish Government will in future have the opportunity to consider adopting a zero tolerance stance to drink driving. Encouraging the public to adopt a zero tolerance attitude towards driving should help save more lives by reducing the likelihood that people will try and rely on their own estimations of how much alcohol is in their system and fitness to drive”.
- 5.8 Three respondents (two organisations and an individual) said that they did not support a zero limit. A respondent from the alcohol / drugs group said that their reason for not supporting a zero limit was “to avoid the inevitable cases where people have alcohol in their blood through not drinking”.

20mg limit

- 5.9 Twelve respondents (eight organisations, particularly local authorities and safety / road safety organisations, and four individuals) favoured a 20mg limit; there were comments that this would be in line with recommendations from the

European Commission. An organisation from the alcohol / drugs group commented on a move to a 20mg limit:

“Introducing an ‘effectively zero’ limit of 20mg / 100ml over the longer term would reduce the KSIs even further than the 50mg / 100ml limit. However, reducing the limit too dramatically would alienate a huge proportion of the public. The limit needs to be reduced on a gradual basis so that it is a more acceptable process”.

5.10 Nine individuals, however, commented that the consultation had not provided evidence that a lower limit would lead to fewer accidents.

Different limits

5.11 Respondents (mainly organisations from the alcohol / drugs or safety / road safety groups) suggested various categories of drivers that, they felt, should be subject to lower or zero limits and these included:

- Young / new drivers (17 respondents): “have the Scottish Government considered lowering the Blood Alcohol level for novice drivers to a level which is even lower than what is being proposed in the current consultations. The current evidence from the consultation (Keall et al 2004) would suggest that younger drivers are more at risk from the effects of lower doses of alcohol” (alcohol / drugs).
- Commercial or professional drivers (nine respondents): “The SG may like to consider a lower limit for professional drivers in the future, to reflect their significant responsibility for the safety of other road users whether they be the driver of a passenger vehicle or a large vehicle. This limit would be in line with other transport professionals such as train drivers, airline pilots and air traffic controllers” (safety / road safety).
- Motorbike riders (two respondents).

5.12 However, six respondents (five organisations and an individual) did not want to see different limits; there were comments that this would send out a mixed message or cause problems when changing to an upper limit due to age or experience.

5.13 As one safety / road safety respondent noted: “... road safety experts are concerned that once drivers who are subject to a 20mg / 100ml limit become subject to the 50mg / 100ml limit, they may mistakenly think it is safe to drink more and drive”.

5.14 Two respondents wanted to see a Europe-wide limit.

Random breath testing / Other additional powers

5.15 Another main theme to emerge was the need for random breath testing. Comments in support of random breath testing were noted in 39 responses, mainly from those who supported a reduction in drink drive limits in Scotland. Twenty-four of these respondents were organisations.

5.16 Comments included the following examples:

- “The UK has particularly low levels of breath testing, with the SARTRE 3 study in 2004 showing that only 3% of drivers in the UK had been stopped and tested in the previous 3 years. This is well below the European average of 16%” (alcohol / drugs).
- “[The respondent] accepts the public anxiety about random testing, with the potential for abuse and the challenge of ‘morning after’ low levels of blood alcohol but random testing has been shown to be effective in seasonal campaigns and merits further consideration” (health).
- “[The respondent] believes that increased police powers to carry out random, blanket and targeted testing would also be beneficial to achieving wider testing. International evidence shows that an increase in breath testing, and introduction of random testing, both result in fewer drink drive casualties” (safety / road safety).

5.17 There were also some comments that roadside tests should be allowed in court.

5.18 While there was acknowledgement that this would require a transfer of power from Westminster, some respondents assumed that random testing already takes place, for example in the Christmas period.

5.19 Conversely, two individuals voiced their opposition to random testing.

5.20 Four respondents commented on the need for other additional powers, such as the ability to alter penalties, and suggested that the Scottish Government should continue to lobby for additional powers.

Enforcement

5.21 The issue of enforcement appeared in 34 responses, from organisations and individuals, and both from those supportive and opposed to a limit reduction.

5.22 Those opposed to a reduction commented on the need for better enforcement of current limits including better use of all penalties available. Many of those in support of a reduction commented that a new limit would need to be enforced. For example:

“The courts must use their full powers in sentencing drunk / drugged drivers. All the legislation in the world will be ineffective if they do not.”
(safety / road safety)

5.23 The main area addressed by respondents was that of the need for more visible policing. Respondents acknowledged that this would require more resources but saw visible policing as an important method of discouraging drink driving. In relation to this issue, three organisations commented on the need to consider any negative effects on traffic policing following the introduction of the new single police force. A safety / road safety organisation commented:

“[The respondent is] concerned that the upheaval caused by the transition to a single Scottish police force combined with tighter spending controls may impact on future numbers of traffic police available to enforce this new law. It is essential that the key role of a highly visible on-road traffic police deterrent is recognised and fully resourced. The majority of drink drive convictions are secured through the vigilance of trained police officers out on the roads and this must continue if drink driving is to be further reduced”.

5.24 Other specific areas of enforcement that respondents wanted to see used or strengthened included the need for consistency in policing and in the courts.

5.25 An expert individual suggested:

“Police forces should continue to make every effort within the resources available to them to increase drivers’ perception of the likelihood of apprehension when driving over the limit, and the justice system to use vigorously the available penalties, whilst also encouraging offenders to accept the option to attend drink driver rehabilitation courses”.

5.26 Two organisations and an individual felt that all drivers involved in accidents should be breathalysed, for example “Paragraph 2.31 indicates that only 59% of motorists involved in injury accidents were asked for a breath test. Would there be merit in mandating breath testing in all cases of accident or in all cases where injury has occurred?” (health)

Penalties

5.27 Comments on the need for more severe penalties were noted in responses from 22 respondents, many of whom were individuals.

5.28 More specifically, support for vehicle forfeiture was noted in 14 responses, mainly from individuals. An expert individual said that they “commend the ACPOS measures relating to the seizure of vehicles”.

5.29 However, a local authority response contained the following comment: “The mandatory use of vehicle alcohol interlock would appear to be a more effective casualty reduction tool than the forfeiture scheme. While forfeiture will undoubtedly have some deterrent effect, there is still a low risk of being caught”.

5.30 Immediate action following a road-side positive test, including licence suspension or vehicle forfeiture, was supported by four organisations and five individuals.

5.31 There was also some support for graduated penalties, depending on the amount over-limit, from eight respondents (organisations and individuals).

5.32 One safety / road safety respondent commented on the value of restorative justice to both offenders and victims while a health organisation supported community pay-back orders.

- 5.33 An individual wanted to see drivers re-sit their test following a ban.
- 5.34 Looking at the wider context, one organisation from the 'other' group suggested that "the civil liability framework should be reformed so that the burden of proof falls upon the driver to prove that they were not at fault in the event of a collision with a vulnerable road user, as is the case in most other European countries".

Education

- 5.35 The need for education was noted in 32 responses, mainly from organisations and, again, mainly from respondents who supported a limit reduction.
- 5.36 Various objectives, mainly preventative measures, were put forward including the need to ensure people are aware of the drink drive limits, and that they understand what this means in terms of the number of different types of drinks. Raising awareness of the effects of alcohol was also seen as very important as was the importance of educating people about lingering effects of alcohol the next morning.

"It is very difficult to know exactly how much alcohol has been consumed, and how long for it to be removed from the bloodstream (which varies from person to person). Therefore, the new lower limit should be accompanied by sustained publicity and education to raise awareness of the much greater likelihood of exceeding the new lower limit"

(safety / road safety)

- 5.37 Concerns over, or the need to increase awareness of, morning after issues were noted in 13 responses; five organisations and eight individuals commented on this issue. For example: "There is likely to be confusion about the amount of alcohol that people consume the evening before and their ability to drive within the legal limit the next day. There will need to be a clear message about this" (health).
- 5.38 The need for education for repeat offenders was noted in responses as were calls for more or better use of rehabilitation orders, support or treatment; 11 responses contained comments on these issues. For example, one safety / road safety organisation suggested that the Scottish Government should monitor the success of measures proposed in Northern Ireland:

"Northern Ireland proposes to automatically refer convicted drivers to a drink drive rehabilitation course, unless a District Judge thinks it inappropriate to do so, because research shows that drivers who have completed such a course are less likely to commit a second drink drive offence".

- 5.39 A safety / road safety organisation commented:

"In addition to legal deterrents some form of compulsory educational rehabilitation imposed by the courts should be considered. Courses covering alcohol education, the law and sentencing, responsible

driving and the implications both personal and for victims of drunk driving may change attitudes and behaviours of convicted offenders and make a valuable contribution towards reducing the number of people killed or seriously injured on our roads”.

5.40 Targeted education specifically for young or new drivers, or for pre-drivers, perhaps as part of the national curriculum, was mentioned by eight organisations and two individuals.

5.41 An organisation from the ‘other’ group said that they wanted to see ‘Pass Plus’ or a similar scheme introduced

“as a compulsory element of learning to drive in return for equality in the cost of car insurance for younger drivers. We see no reason why education on drink driving, including the effects on driving the day after drinking, could not be included as a key part of this learning, contributing to a reduction in young drivers’ premiums”.

5.42 Also in relation to young or new drivers, six respondents (four organisations and two individuals) wanted to see Graduated Driver Licencing. An individual suggested P plates should be used while an organisation from the ‘other organisations’ group wanted to see young drivers undertake advanced driver training.

5.43 Allied to education, three respondents wanted to see a longer period of driver training and / or a stricter driving test.

Publicity

5.44 Twenty-eight respondents (predominantly organisations and all of whom supported a reduction) stressed the need for publicity to accompany any changes. A transport organisation commented:

“A change in legislation must be backed up by information campaigns, marketing and education to gain the public’s support and ensure a full understanding of the changes and their impact”.

5.45 An advertising campaign to raise awareness of changes was seen as essential and there were suggestions that this should include information on how many units of alcohol make up the limit (including, again, what this amount would include in terms of measures and types of drinks).

5.46 There was a number of comments on the need to avoid any confusion over a new limit; and respondents noted confusion over what the current limit actually equates to.

“The reduction in the legal alcohol limit must be supported by national publicity campaign demonstrating how the new limit translates to actual measures.”

(local authority)

5.47 There were also suggestions that any campaign should include information on the effects of alcohol. A small number called for hard-hitting campaigns along the lines of the current anti-knife campaign or the old seatbelt campaign; the need to promote designated drivers was also mentioned.

“Re-introduce the media campaign against drink driving employing shock tactics to bring to bear the real importance of zero tolerance for drink driving, The campaign many years ago for the compulsory use of seatbelts showing graphic images of penetrating facial and eye wounds proved successful. The campaign in those days involved public transport hoardings, as well as radio and TV with the phrase ‘Clunk-Click every trip’”.

(health)

5.48 Fifteen respondents (again, predominantly organisations) stressed the need to promote the ‘Don’t drink and drive’ message, regardless of the limit set.

“[The respondent] strongly supports the ‘don’t drink and drive’ message to drivers as we know that any level of alcohol impairs driving.”

(safety / road safety)

Persistent offenders

5.49 The issue of persistent offenders was raised in 23 responses (five organisations and 18 individuals); this was the main theme to emerge from respondents opposed to a reduction in the drink drive limit.

“What could be termed ‘criminal’ or ‘excessive’ drink driving is not mentioned in the consultation report. What proportion of drivers involved in accidents would not be affected by the proposed lowering of the legal drink drive limit? It is interesting that the proportion of positive / refused tests where requested after a reportable accident has not really changed much in 20 years ... supporting the assertion that there is a continuing problem in Scotland. It is accepted that 2/3rds of drink drivers involved in accidents are actually tested and estimates reflect this. With this in mind, it is difficult to see how the accident reduction claims attributed to simply lowering the limit would exceed those gained by more effective measures against the group that currently offends.”

(local authority)

5.50 Many of these respondents stressed that most drivers do not drink and drive; there were comments that it has become socially unacceptable. Respondents felt that those who currently drink and drive will not be deterred by a lower limit but rather by targeted enforcement and harsher penalties.

Prevention

5.51 A number of responses contained suggestions for preventative measures and these included:

- Alco-locks¹² (11 respondents).
- Breathalysers in cars; as are used in France (10).
- Strong company policies in relation to alcohol for professional / commercial drivers (5).
- Information or breathalysers available in licensed premises (3).
- Support for minimum alcohol pricing (2).
- Multi-agency approach (2).

Other offences

5.52 A number of respondents commented on the need to address the problems of other driving offences.

- Eight respondents (mainly organisations) wanted to see action against drug driving.
- Nine respondents (mainly individuals) wanted to see more action taken against those who use mobiles while driving or who speed.

Cross-border issues

5.53 Eleven respondents (seven organisations and four individuals) commented on cross border issues. Concerns included:

- The need to record in which country the penalty occurred; including the need for this to be noted on licenses.
- The need to ensure drivers know exactly when they have crossed the border into Scotland (not all crossings are clearly defined).
- The need for publicity / information for drivers in other parts of the UK.
- Queries as to how insurance companies, employers and others will approach drink drive convictions with two sets of limits.
- The need to amend the driving test and Highway Code.
- That changes to the Road Traffic Act 1988 and Road Transport Act 1988 will be required.

¹² The driver is required to breathe into a breathalyser connected to an immobiliser; this will not allow the vehicle to start if the alcohol level is over a set amount.

6 OTHER COMMENTS

- 6.1 A number of respondents provided additional comments in their consultation response.
- 6.2 Some of the organisations included background information on their organisation to help set the context in which they were responding.
- 6.3 Ten individuals commented that the proposals are unfair to the law abiding and / or made negative comments on government interference or a nanny state.
- 6.4 There were comments in support of the proposals and some respondents welcomed the opportunity to respond to the consultation.
- 6.5 Two respondents in the health sector noted their support or endorsement of the submission from SHAAP.
- 6.6 Other comments made by small numbers of respondents were as follows:
 - Negative comments on the questions asked in the consultation paper; such as poorly worded, using emotive terminology and language (four respondents, all individuals);
 - Concern over the lack of alternative options in the consultation paper (an 'other' organisation).
- 6.7 A number of respondents provided a number of examples or best practice from other parts of the UK, Europe and from further afield such as Australia.
- 6.8 An individual also provided additional documentation with details of the tolerance levels in different countries, together with information on countries with different tolerance levels for holders of provisional licences or where age limits and inexperience are taken into account to restrict drivers more so than other qualified drivers.

7 SUMMARY

- 7.1 There were 138 responses to the consultation; this included 82 individuals and 56 organisations.
- 7.2 There was majority agreement that the drink drive limits should be reduced in Scotland. There was also majority support for the Scottish Government's proposal to reduce the drink driving limits.
- 7.3 When asked to provide any evidence for the main consequences of the proposals, respondents mentioned impacts such as fewer road accidents, fewer casualties or the reduced risk of road accidents. Road accident figures from other countries which have lowered their limits were quoted. Other impacts identified by respondents related to a potential loss of business for local pubs, restaurants and hotels or a loss of tourism business to Scotland. There were concerns over a lack of available data and calls for more data to be collected or made available in relation to drink driving accidents.
- 7.4 Respondents were also asked whether they had any evidence for what would be the financial impact of the Scottish Government proposals. Most of those who answered did not provide figures.
- 7.5 While some respondents commented that longer-term savings would increasingly outweigh any additional costs, others expressed concern over a potential loss of business to the licensed trade and tourism; rural areas in particular were seen as vulnerable. There was some concern over a lack of quantifiable evidence with which to assess savings.
- 7.6 Very few respondents commented on ancillary matters.
- 7.7 A wide range of other measures that should be considered in order to tackle drink driving were suggested by respondents. The main suggestions were:
- Zero limit.
 - 20mg limit.
 - Different limits for different types of drivers.
 - Concern over morning after issues if the limit is lowered.
 - The need for random breath testing.
 - The need for stronger enforcement; especially more visible policing.
 - The need for stricter penalties; vehicle forfeiture in particular.
 - The need for education on the limits and the effects of alcohol; particular emphasis on young or new drivers.
 - The need for publicity campaigns to promote the new limit and to promote the don't drink and drive message.
 - Concern over persistent offenders and the need to target this group.
 - The need to look at preventative measures.
- 7.8 The findings from this consultation will help to inform policy thinking and support discussion on what else can be done to tackle the scourge of drink driving in Scotland.

APPENDIX

APPENDIX 1: LIST OF ORGANISATIONS

Alcohol / drugs

Aberdeenshire Alcohol & Drug Partnership
Aberdeen City Alcohol & Drug Partnership
Alcohol Focus Scotland
Alcohol Health Alliance
East Renfrewshire Alcohol & Drug Partnership
Highland Alcohol & Drugs Partnership
Scottish Health Action on Alcohol Problems
South Ayrshire Alcohol & Drug Partnership
Stirling Alcohol & Drug Partnership
The Wellbeing Alliance
The White Ribbon Association
Victim Support Scotland
VMCL
West Dunbartonshire Alcohol & Drug Partnership

Health

Academy of Medical Royal Colleges & Faculties in Scotland
BMA Scotland
NHS Greater Glasgow & Clyde
NHS Health Scotland
Royal College of General Practitioners
Royal College of Nursing
Royal College of Physicians
Royal College of Physicians and Surgeons of Glasgow
Royal College of Surgeons of Edinburgh
Scottish Medical & Scientific Advisory Committee (SMASAC)

Legal

Association of Personal Injury Lawyers (APIL)
ACPOS
Law Society of Scotland

Local authorities

Glasgow City Council
Highland Council
Moray Council
Scottish Borders Council
Shetland Islands Council
South Lanarkshire Council
Stirling Council
West Dunbartonshire Council

Safety / road safety

BRAKE
European Transport Safety Council
Highlands & Islands Fire and Rescue Service
Institute of Advanced Motorists (IAM)
Lanarkshire Driver Trainers Association

Orkney Road Safety Forum
Parliamentary Advisory Council for Transport Safety (PACTS)
Royal Society for the Prevention of Accidents (RoSPA)
SACRO
Scotland's Campaign against Irresponsible Drivers (SCID)
Scottish Accident Prevention Council
Shetland Community Safety Partnership

Transport

Automobile Association
Nestrans
Society of Chief Officers of Transportation

Other

Ardwell Policy Forum
Association of British Insurers
Direct Line Group (DLG)
Living Streets Scotland
Scottish Licensed Trade Association (SLTA)
Scottish Youth Parliament

In addition there were 82 responses from individuals.

Question

4. Do you have any comments to make on the ancillary matters related to the SG's proposal to reduce the drink drive limits?

Comments:

Question

5. Are there any other measures that should be considered in order to tackle drink driving?

Comments:

Please email this response by 29 November 2012 to:

Drink.drivelimit@scotland.gsi.gov.uk

Or you can post it to:

Jim Wilson
Room 2W
Justice Directorate
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

The full consultation document can be accessed at
<http://www.scotland.gov.uk/Resource/0040/00401340.pdf>



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