



Unite Submission to the North Review of Drink and Drug Driving Law – March 2010

Introduction

This submission is by Unite the Union. Unite is the UK's largest trade union with over 1.5 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, local government, food, agriculture, education, health, not for profit and the transport sector.

Unite the Union's current membership in road transport, which combines our Passenger Transport and Road Transport Commercial, Logistics and Retail Distribution sections, exceeds 162,000. Unite is the largest trade union representing drivers, engineers, administrative staff, inspectors and managers employed in the UK transport industry, with the vast majority of organised workers in the sector in Unite.

Unite has obtained the views of our members through our lay member committees at national and regional level. Therefore Unite is in a unique position to submit a response to the North Review of Drink and Drug Driving Law.

Drug driving

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?

Unite considers the current offence under s4(1) of the Road Traffic Act 1988 of driving while unfit due to drugs to be effective and adequate.

However, the methods available to police for detection of drug driving are arguably not. Currently police in the UK use five field impairment tests which is not the most scientific form of detection. Until instantly available technology is developed to determine what unacceptable levels of drug driving are (which is a question in its own right), in the way that the breathalyser test does for drink driving, this will remain the case.

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?

Unite believes that the current law is adequately enforced by the police with the technology that they currently have available to them and does not see the need for the police to be given greater powers to stop drivers to test if they are impaired.

Again, Unite sees the debate being around the lack of instantly available technology for police to determine what unacceptable levels of drug driving are in the way that the breathalyser test does for drink driving.

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?

Again, a new offence that prohibits driving with a specific drug or level of drug in the body would only make the regulation of drug driving more effective if there is a readily available technology that can determine what that is.

However before we get to this stage there needs to be some evidence that a tightening of drug driving regulation is needed. Unite has seen that according to the figures from the annual Christmas drink and drug driving campaign from 1st December 2009 - 1st January 2010 announced by the national Association of Chief Police Officers (ACPO):

- Police conducted 223,423 breathalyser tests for alcohol – 3% were positive, failed or refused.
- In comparison, just 489 Field Impairment Tests were carried out for drug driving – with 18% arrested.

However is this real proof of need or just a demonstration of the disparity between the amount of ‘breathalyser’ and ‘Field Impairment Tests’ that are taking place? The 18% arrest figure is based on a smaller sample size that is not as statistically robust in comparison to the amount of breathalyser tests data. Also how many of those 88 (18% of 489) arrests for drug driving will lead to a conviction?

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?**

An absolute ban on driving with drugs in the system would make it easier to enforce but would this offence be fit for purpose? Clearly some drugs are illegal to take so an absolute ban on driving with drugs in the system would be in keeping with the current legislation in this area. However prescribed drugs are not illegal so would an exemption be granted in the law for this situation?

With regards to driving with a certain specified level of a drug within the driver's system, as is the case with alcohol, expert medical opinion would need to be able to determine what drugs and at what levels driving became impaired. This raises the question as to whether this is uniformly possible because drugs affect people in different ways?

So again a new offence that prohibits driving with a specific drug or level of drug in the body would only make the regulation of drug driving more effective if there is a readily available technology that can determine what that is.

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?

Unite believes the existing offence would still be needed for drugs (legal or illegal) that were not encompassed by any new offence.

6. Do you consider that any new offence should apply to:

- **(a) all controlled drugs (eg heroin, cannabis, cocaine)?**
- **(b) prescribed or over the counter drugs which are used inappropriately or may otherwise have impairing effects?**

The offence should apply to illegal drugs that have been shown to impair driving.

Any new offence should not apply to prescribed or over-the-counter medicines, because some people may be deterred from taking the medicines that they need.

7. Do you think that the law should also specifically address impairment caused by combining drugs with alcohol?

No.

8. What is your view on compulsory drug testing of all drivers involved in fatal (or serious) road accidents?

Unite believes that we have to be extremely careful about introducing compulsory drug testing of all drivers involved in fatal (or serious) road accidents. The presence of drug levels in a driver's system may not be the relevant factor in the cause of a fatal or serious road accident and may in certain situations place an unwarranted suspicion of guilt on the driver.

It also poses the question as to whether pedestrians who have alleged to have contributed to a fatal or serious road accident be given a compulsory drug test?

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?

Due to the absence of an instantly available technology for police to determine what unacceptable levels of drug driving are in the way that the breathalyser test does for drink driving, the current system is not conducive to securing convictions.

10. What is your knowledge and view of the effectiveness of available drug testing equipment?

There have been attempts to develop a roadside drug tester for well over 20 years, but it has still not been possible to produce a device that can be type approved. Unite believes that changes to drug driving laws should depend upon such equipment becoming available.

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?

Unite understands that it is normal for a nurse to be present in custody suites. If so, the feasibility of nurses certifying the presence of drugs and taking samples should be investigated.

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

Unite believes that looking at international examples of practice would be useful but this needs to look at technological advancements as well as regulation.

Alcohol driving

1. Do you think that the current prescribed blood alcohol limit of 80mg/100ml should be reduced to 50mg/100ml or less?

Unite has signed alcohol policy agreements with companies across the road transport sector where standards have been set at 50mg/100ml. This should not be seen as an endorsement by Unite to lower the legal limit to 50mg/100ml because Unite also has many members whose companies' policies reflect the legal limit of 80mg/100ml.

However, Unite believes that if road transport employers wish to trial a reduced alcohol limit of 50mg/100ml then they should consult with the recognised trade union in the way that other road transport companies have if they want to engage the workforce in this process.

In addition, research should be gathered to see how widespread a lower limit of 50mg/100ml has become in the road transport industry so it can be quantified as to how big a potential step this would be.

2. Do you think that the current penalty regime for drink driving offences is sufficient?

Yes.

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?

Yes.

4. What other measures (other than stricter limits) do you consider could be effective in addressing drink driving?

More targeted education and advertising on the potential disastrous effects that drink driving can have on peoples lives.

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)?

Unite believes that the current law is adequately enforced by the police with the technology that they currently have available to them and does not see the need for the police to be given greater powers to stop drivers to test if they are impaired.

6. What is your view of the Government's drink and drug drive message and the relationship between that message and the law?

Unite feels that the Government's current drink drive message in relation to the law is more widely understood than its drug drive message. Unite is not sure

whether the general public understands the damage that can be caused and penalties received from drug driving in the way they do for drink driving.

7. If the blood alcohol limit were to be reduced, do you think that the penalty attached to a lower limit should be changed?

Any reduction in limit for a reduction in penalty would send out the wrong message. If it was reduced to 50mg/100ml then no change would be appropriate.

However, if the limit was reduced below the 50mg/100ml then the fairness of keeping the penalties the same would be brought into question.

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)?

Unite believes that the law must be applied fairly and equally to all and should not discriminate unfairly. There is also a danger of sending out the wrong message with regards to alcohol driving if two different limits were created.

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?

No. Anyone who has failed a breath test should retain their driving licence as it is currently until the date of their hearing.

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?

Yes, still justified.

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?

No.

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?

Unite perceives that a lowering of the blood-alcohol limit level could potentially have a positive affect, with a reduction in casualties and other health outcomes and potentially a negative affect on revenue generation for businesses and the economy. Research would need to be conducted in this area to try and forecast exactly what the potential positive and negative effects may be to both.

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

Unite believes that international comparisons are always important and the North review should factor these into the assessment but ultimately the UK must determine what is right for the people of this country.

Graham Stevenson
National Organiser – Transport
Unite the Union

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For clarifications and more information please contact:

John Neal

Researcher

Unite the Union

128 Theobald's Road, Holborn, London, WC1X 8TN

Tel: +44 (0)207 611 2633

Fax: +44 (0)207 611 2746

Email: John.Neal@unitetheunion.org

Internet: <http://www.unitetheunion.com>