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Your reference:
Our reference: DO1-09-1373

Date: 09 April 2009

Dear Consultee

CONSULTATION ON THE DRINK DRIVING LIMIT IN NORTHERN IRELAND, PENALTIES AND POLICE POWERS TO DETECT DRINK DRIVERS

I am writing to invite your views on a range of proposed measures aimed at deterring people from drinking and driving. We wish to consider if the current blood alcohol content level, more commonly referred to as the drink-drive limit, is the appropriate point at which the law should intervene to penalise drink drivers or whether we would save lives with a lower limit, and the deterrent effect of new penalties and rigorous enforcement.

Too many people are killed or seriously injured on our roads as a result of drink driving. Between 2003 and 2007, around 20% of all road deaths and 10% of all serious injuries in Northern Ireland were caused by drivers impaired through alcohol or drugs. That's an average of 25 people killed and 119 seriously injured every year in collisions attributable to driver/rider alcohol or drugs. Based on the estimated economic cost of such deaths or serious injuries to society, it is believed that the total value of preventing these casualties over the five years from 2003 to 2007 would have been in the region of £286m.

The current legal blood alcohol content limit applicable to all drivers in Northern Ireland is 80mg of alcohol per 100ml of blood. The penalties for exceeding this limit range from a minimum 12 month driving disqualification up to 14 years imprisonment and unlimited fines. There are higher penalties for high risk offenders.

The consultation paper assesses the impact of drinking and driving, both in terms of the effect of alcohol on driving ability and the deaths and injuries

caused by drink driving in Northern Ireland. It considers the need for change, reports on the outcomes of alternative approaches in other jurisdictions and proposes changes to our current legislation to tackle our problems.

The consultation paper can be found on the Road Safety Division's website at <http://www.roadsafetyni.gov.uk>. If you would like a hard copy of the document, please contact Emma Roddy (details below) and she will be happy to arrange this. If the papers are not in a format that suits your needs, she can arrange for them to be provided in a suitable format.

To assist in your consideration of the issues, a response form is provided at the end of the document. This sets out the Department's proposals with principal questions to assess your views and other areas we would ask you to consider, including the assessment of the potential impacts of this policy. Obviously, you need not be restricted to these questions and can provide additional comments if you wish and all comments will be considered carefully. An online version of the form is also available on Road Safety Division's website.

How to Respond

Responses should be received **no later than 31 July 2009** and should be sent in any of the following ways:-

Write to: **Emma Roddy
Road Safety Policy Branch
Road Safety Division
Department of the Environment
Clarence Court
10-18 Adelaide Street
Belfast
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or

E-mail: drinkdrive@doeni.gov.uk

or

Textphone: **028 9054 0642**

When responding, please indicate whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

If you have any questions on this document or attached papers, please contact Emma Roddy on 028 9054 0661 or Harry Green on 028 9054 0073.

Freedom of Information Act 2000 – Confidentiality of Consultations

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided.
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature.
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

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Alternatively, see their website at: www.informationcommissioner.gov.uk
Yours sincerely

A handwritten signature in black ink, appearing to read 'DESI McDONNELL', written in a cursive style.

DESI McDONNELL

TACKLING DRINKING AND DRIVING IN NORTHERN IRELAND

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1. Drinking and Driving Introduction

1.1. Issue

The consequences of drinking and driving are devastating. Drivers who consume alcohol before getting behind the wheel kill or injure not only themselves but their passengers and other road users. Annually, drink driving contributes to at least 10,000 road deaths in Europe alone. It is estimated that 2–3% of journeys undertaken in Europe are by drivers with an illegal blood alcohol content (BAC).¹ In Northern Ireland, on average, 25 people die each year as a result of driver/rider alcohol or drugs.

Analysis of 345 cases of driver/rider fatalities in Northern Ireland between 2003 and 2007 showed that 18 of those fatalities (5%) had levels of alcohol in their system below the legal limit².

There are a number of ways in which Blood Alcohol Concentration (BAC) can be expressed. In the UK and Republic of Ireland it is usually expressed as the weight in milligrammes of alcohol in 100 millilitres of blood (mg/100ml). In the UK and Republic of Ireland the legal limit for driving is usually stated as 80 milligrammes of alcohol per 100 millilitres of blood.

This paper assesses the impact of drinking and driving, in terms both of the effect of alcohol on driving ability and of the deaths and injuries caused by drink driving in Northern Ireland. It assesses the need for change, reports on the outcomes of alternative approaches in other jurisdictions and considers possible changes to our current legislation. The Department of the Environment seeks your views on how we might move forward, and any other comments you might have with regard to drinking and driving in Northern Ireland.

¹ European Transport Safety Council Factsheet, January 2008, http://www.etsc.be/documents/Fact_Sheet_DD.pdf

² It should be noted that this does not imply that alcohol was the cause of the fatal collision or was the only impairing drug present.

1.2. Overview of Physical Impact of Alcohol on Driving

Drivers need to use a variety of skills when they are behind the wheel, from hazard perception to judging distance, and from defensive driving to vehicle control. There are many factors, both internal and external, which can impact on a person's ability to drive safely – weather conditions, vehicle faults, distractions – but the single biggest factor within a driver's control is impairment through alcohol consumption.

The body's ability to process alcohol depends on a number of factors, such as:

- amount – how much alcohol has been taken and how quickly;
- age – younger drivers are particularly affected by alcohol, having less tolerance to its effects and less driving experience;
- weight/size – the smaller you are, the lower your blood volume is likely to be, so the same amount of alcohol may affect you more;
- gender – women are typically smaller and have proportionately more body fat and less body water than men; ingesting the same amount of alcohol is likely to result in a woman having a higher blood alcohol concentration than a man;
- water intake – dehydration leads to a higher concentration of alcohol in the blood; and
- food intake – alcohol is absorbed more slowly if there is food in the body.

1.3. Main Drink-Driving Offenders

In the period 2003 to 2007, approximately 93% of road deaths as a result of drink/drugs driving were caused by males. Young men aged 17 to 24 are the group most likely to be responsible for drink driving deaths and serious injuries. They are responsible for 35% of drink-related fatal and serious casualties while accounting for only around 11% of licence holders. However, in focusing on one problem group we must not lose sight of the fact that the

other offending groups are collectively responsible for almost two-thirds of the deaths and serious injuries on our roads that are attributed to driver alcohol/drugs.

1.4. Peak Periods for Drink Driving

Research indicates that the peak times for drink driving are:

- summer months and the Christmas period;
- weekends;
- late at night/early morning.

Drink drivers are often detected 'the morning after', and the Department of the Environment and PSNI always ensure that this issue is highlighted in public information campaigns.

The charts below illustrate that December is the worst month of the year for deaths and serious injuries due to driver/rider alcohol or drugs, with relatively high numbers also occurring in July and August. More deaths and serious injuries occur on Saturdays and Sundays than on any other day of the week. The peak times of the day for deaths and serious injuries due to drink or drug driving fall between the hours of 8pm and 4am, with almost 30% occurring between midnight and 2am alone.

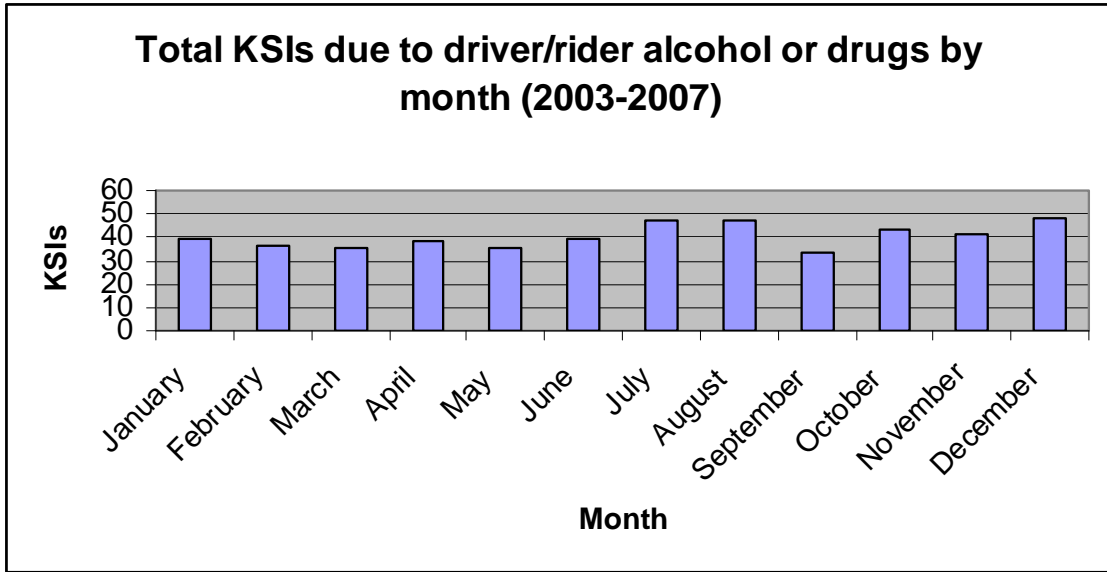


Figure 1

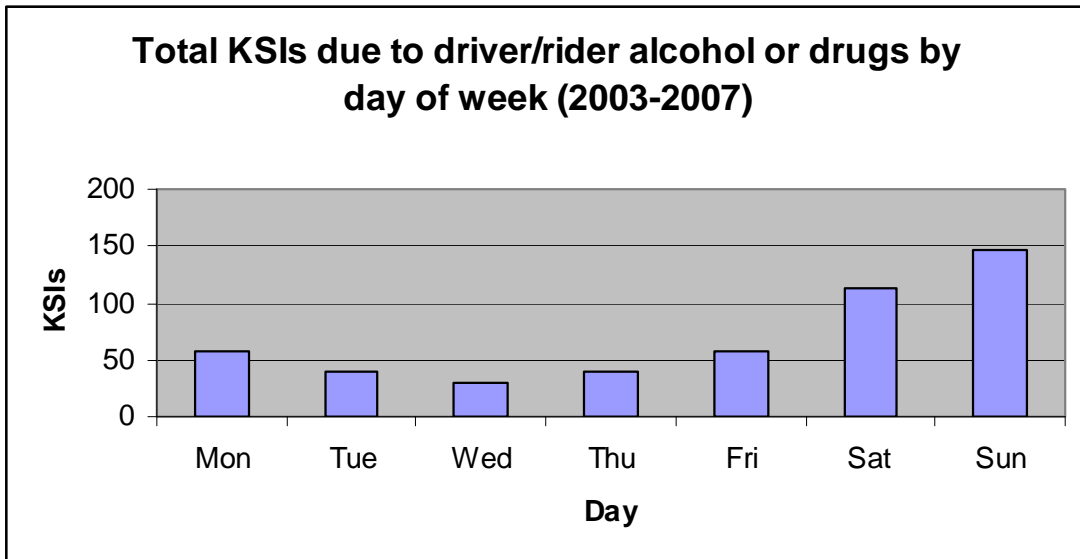


Figure 2

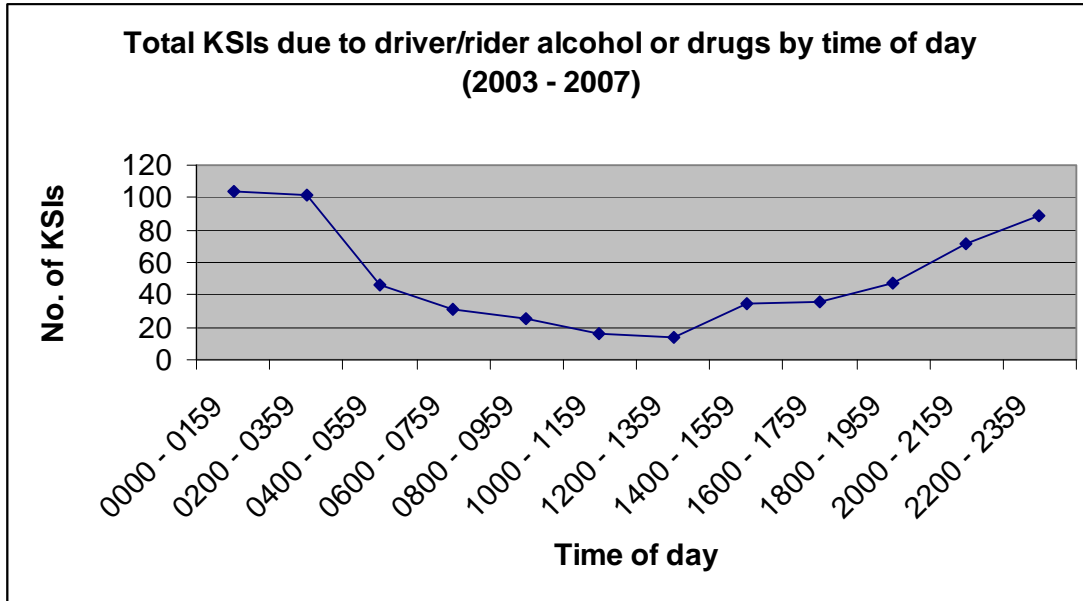


Figure 3

1.5. Impact of Alcohol on Driving Ability

There is clear evidence that alcohol impairs the cognitive and motor skills required for safe driving and there is now a wealth of research (DHS 2008) indicating that the impairment begins with any departure from zero blood alcohol concentration (BAC).³

Impairment

While it is true that people metabolise alcohol at different rates and react differently to alcohol, evidence shows that drivers will generally react in broadly similar ways to alcohol consumption. The following is included to indicate the progressive nature of intoxication and impairment.

Alcohol Level 20mg - 50mg

Judgement of distance and speed of oncoming vehicles is affected. Drivers will tend to take greater risks, particularly in dangerous manoeuvres such as overtaking or driving too close to the vehicle in front.

³ German Centre for Addiction Studies (DHS), 2008. "Reducing Drinking and Driving in Europe, Hamm, DHS

Alcohol Level 50mg - 80mg

Vision is affected, slowing reactions to red lights and tail lights. Drivers are more likely to drive too fast and to misjudge distances when approaching bends. Motorcyclists will find it difficult to drive in a straight line.

Alcohol Level 80mg +

Drivers will overestimate their own ability. Vision is so affected they may not notice cyclists, pedestrians or parked vehicles in sufficient time to avoid them.

Alcohol is typically eliminated from the system at a rate of about one unit per hour. If you have had a lot to drink the night before, your blood alcohol level may well still be in excess of the legal limit the next morning. There is nothing that can be done to speed up the elimination process or 'sober up'. For example, taking tea or coffee, exercising, taking a shower or eating will make no difference to your BAC.⁴

In a review of 112 studies into the 'Effects of Low Doses of Alcohol on Driving Related Skills', Moskowitz and Fiorentino (2000) concluded that *'there is no BAC level at which impairment does not occur'*. They found that at under one-eighth of our legal limit both basic driving skills and "divided attention" ability (the ability to focus simultaneously on different sources of information on the road) were found to be impaired in half or more of the behavioural tests.⁵ Evidence showed that impaired drivers tended to focus more on the most basic activities, such as steering, to the detriment of other key driving skills.

Collision Risk

Due to differences in driving factors and conditions and the methodologies used, estimates vary of the precise extent to which alcohol increases crash

⁴ Road Safety Authority, Ireland, "Cause of Road Crashes", www.rsa.ie

⁵ Moskowitz, H. and Fiorentino, D. (2000) *A review of Literature on the Effects of Low Doses of Alcohol on Driving-Related Skills*, DOT HS 809 028, U.S. Department of Transportation, National Highway Traffic Safety Administration, Washington, DC.

risk. However, numerous studies demonstrate that even moderate amounts of alcohol increase the risk of collision. Results of studies have repeatedly demonstrated that there is a clear relationship between relative crash rate and BAC level. As BAC increases, so too does the risk of being responsible for collisions (Hole 2007).⁶

Such studies compare the BACs of drivers in collisions with the BACs of drivers not involved in collisions. Borkenstein (1964)⁷ demonstrated that at BAC levels between 50mg/100ml and 100mg/100ml a driver is twice as likely to be involved in a collision. Kruger (2004)⁸, in a more recent study, found that a driver with between 50mg/100ml and 80mg/100ml alcohol was nearly three times more likely to have a collision than someone with a zero BAC. Research by Compton (2002) indicates that the crash rate per kilometre driven for a driver with 80mg/100ml alcohol in his blood (the current legal limit) is approximately 2.7 times higher⁹. Zador (2000) found that at BACs between 20mg/100ml and 49mg/100ml drivers were at least three times more likely to die in a single vehicle crash and that this increased to at least six times with a BAC between 50mg/100ml and 79mg/100ml.¹⁰

Younger Drivers

Younger drivers, in particular, are hampered by a lack of experience, by an often inaccurate assessment of their level of competence and by the effects of alcohol on their ability to drive, to make prudent choices, and on their behaviour.

There is clear evidence (Keall *et al.* 2004) that low doses of alcohol (below 50mg/100ml) have a much stronger effect on younger drivers (24 years of age

⁶ Hole, G (2007) *The Psychology of Driving*; Lawrence Erlbaum Associates..

⁷ Borkenstein, RF, Crowther, FR, Shumate, RP, Ziel, WB, and Zylman, R, (1964). *The role of the drinking driver in traffic accidents*. Illinois: Indiana University, Dept of Police Administration

⁸ Kruger, HP and Vollrath, M, (2004). The alcohol-related accident risk in Germany: Procedure Methods and Results. *Accident Analysis and Prevention*, 36, 125-133.

⁹ Compton, R.P., Blomberg, R.D., Moskowitz, H., Burns, M., Peck, R.C. & Fiorentino, D. (2002) Crash rate of alcohol impaired driving. Proceedings of the sixteenth International Conference on Alcohol, Drugs and Traffic Safety ICADTS, Montreal

¹⁰ Zador, P. L., Krawchuk, S. A., & Voas, R. B. (2000). Alcohol-related relative risk of driver fatalities and driver involvement in fatal crashes in relation to driver age and gender: An update using 1996 data. *Journal of Studies on Alcohol*, 61, 387–395.

and younger) than on older drivers¹¹. US research confirmed the greater impact of alcohol on young people's risk levels, including at levels below 50mg/100ml. For example, at zero BAC a driver aged 21-24 has a 1.79 times greater crash risk than a driver aged 35-49. This rises to a 2.48 times greater risk at 40 – 50mg/100ml (Preusser 2002)¹².

Studies have also indicated that the relative risk of a younger driver sustaining fatal injuries increases much more quickly with each alcoholic drink. A Norwegian study (Glad 1985), for example, found that the fatality risk for an 18-25 year old driver with a BAC at or above 50mg/100ml is significantly increased¹³.

So, while drink driving is certainly dangerous at all ages, the impact on young drivers is even more severe. Research also shows that at the age of 18 areas of the human brain which are responsible for the integration of information and impulse control are still developing¹⁴. In considering a younger person's general competence to drive there is also a need to take into consideration 'social maturity' and other psychological factors - for example, reaction to peer pressure and impulse control, which can be further impaired by the use of alcohol.

1.6. Drinking and Driving – The Cost

Social

Road traffic collisions represent a significant cost to Northern Ireland both in social and economic terms. Between 2003 and 2007, 127 people died in collisions attributed to driver/rider alcohol or drugs – 20% of all road deaths in Northern Ireland in that period. Five hundred and ninety five people were seriously injured – 10% of all serious injuries on Northern Ireland's roads.

¹¹ Keall, M., Frith, W. & Patterson, T. (2004) *The influence of alcohol, age and number of passengers on the night-time rate of driver fatal injury in New Zealand*. In: *Crash Analysis & Prevention*, Vol. 36 p. 169-178.

¹² Preusser, D.F. (2002) *BAC and fatal crash rate*. In: ICADTS 2002 Symposium Report 'The Issue of Low BAC', p937.

¹³ Glad, A. (1985), *Research on Drinking and Driving in Norway: A Survey of Recent Research on Drinking and Driving and on Drinking Drivers*, Transportøkonomisk Institutt (TØI), Oslo.

¹⁴ European Road Safety Observatory, http://www.erso.eu/knowledge/content/06_young/novice_drivers.htm

In 2007 alone, 18 people were killed and 113 were seriously injured in alcohol or drug-related collisions. For each death and serious injury there is a chain of people affected, including the family, friends and wider community as well as the emergency and health services.

In 2007, in comparison with the rest of the UK, Northern Ireland had a similar proportion of deaths but a higher proportion of serious injuries attributed to driver/rider alcohol or drugs. In Northern Ireland, 16% of fatalities and 10% of serious injuries were due to driver or rider drugs/alcohol. In GB, 16% of all road deaths (460 out of 2,946) and 6% of serious injuries (1,760 out of 27,774) were due to driver or rider alcohol.

Financial

The value of avoiding each road death is £1.65m and each serious injury £185k (at 2007 prices)^{15, 16}. In the period from 2003 to 2007 it is estimated that the value of avoiding the 722 drug/alcohol-related deaths and serious injuries would have been around £286 million. It can be expected that a reduction in the BAC limit, if appropriately enforced, and assuming that people who comply with the current limit would comply with a new lower limit, would result in a reduction in collisions. The projected benefit of a reduction in the BAC level from 80mg to 50mg is detailed below in paragraph 1.7.

¹⁵ <http://www.dft.gov.uk/pgr/roadsafety/ea/pdfeconnote105.pdf>

¹⁶ Road casualties in Great Britain: Annual Report 2007, DfT, 2008.

Deaths and Serious Injuries attributable to driver/rider alcohol and costs, 2003 – 2007

Year	Deaths	Serious Injuries	Cost of Deaths £m	Cost of Serious Injuries £m	Cost of KSI Casualties £m
2003	37	148	24	17	40
2004	30	124	25	18	43
2005	24	95	34	15	50
2006	18	115	45	21	65
2007	18	113	61	27	88
Total	127	595	188	98	286

Table 1

1.7. Reducing the BAC Limit: Projected Benefits through reductions in fatalities, injuries and costs

Allsop (2005)¹⁷ estimates that in Great Britain 65 lives would be saved annually if the legal limit for the general driver population were to be reduced from 80mg/100ml to 50mg/100ml. The Department for Transport's research in 1998 indicated that 50 lives might be saved in Britain with a reduction to 50mg/100ml. This assumed that those people who adhered to the current limit would adhere to the new limit, with similar levels of enforcement.

Research in Northern Ireland indicates that a reduction to 50mg/100ml for all drivers could result in between one and two lives saved here every year, and around ten serious injuries avoided¹⁸. This represents a potential saving to society of between £3.5m and £5.1m per annum. There is no research estimate for other BAC reductions. However, it is anticipated that other levels of reduction would in fact deliver broadly similar benefits, as the underlying objective of any option would be to prevent people from drinking and driving at all.

¹⁷ Allsop, R.E. (2005) How much is too much?-Lowering the legal drink-drive limit. In: Proceedings of the Brake Conference on Drink and Drug Driving, London, May 2005.

¹⁸ Based on GB projections on the potential number of fatalities and injuries that could be prevented from Allsop, R.E. (2005) How much is too much?-Lowering the legal drink-drive limit. In: Proceedings of the Brake Conference on Drink and Drug Driving, London, May 2005.

2. Drinking and Driving - The Law

2.1. Police Powers

Random breath testing

Random breath testing (RBT) has been shown to be twice as effective as selective breath testing (where there is a suspicion that a driver has consumed alcohol) in detecting drivers with an illegal BAC.¹⁹ Highly visible RBT in the vicinity of places where alcohol is consumed acts as a deterrent to drink driving. This, combined with less visible checkpoints to detect drivers with an illegal BAC, is thought to enhance the effectiveness of RBT.

There is widespread public support for the introduction of RBT in Northern Ireland. According to a 2008 study by the NI Statistics and Research Agency, 86% of people here think that the police should be able to stop and breathalyse people at random²⁰.

Enforcement in the EU

The use of RBT is now widespread in the EU. However, the likelihood of being detected varies greatly between member states. In Finland, for example, where RBT has been used for over 25 years, some 40% of drivers are breath tested every year²¹.

The SARTRE report (Sardi and Ever 2004) on “European drivers and road risk”²² revealed that nearly 30% of drivers believe they would never be breathalysed, while 45% believe that they would be breathalysed only rarely. Over 70% of drivers in Europe stated that they had not been breathalysed in the last three years.

¹⁹ http://www.erso.eu/knowledge/content/05_alcohol/police_enforcement.htm

²⁰ Road Safety Monitor May 2008, Northern Ireland Statistics and Research Agency.

²¹ 'Traffic enforcement in Europe: effects, measures, needs and future' (Mäkinen et al, 2003).

²² Sardi, GM and Ever, C (2004), “Drinking and Driving”, European drivers and road risk: part 1 – Reports on principal analyses, edited by Sartre, INRETS, <http://sartre.inrets.fr/documents-pdf/repS3V1E.pdf>

However, more than 60% of Finnish drivers reported that they had been tested at least once in that period. In Italy, few if any drivers reported that they had been tested, with similarly low levels of testing reported by drivers in the United Kingdom and Republic of Ireland.

A more recent European Transport Safety Council report²³ shows that, in those countries where numbers of drink driving deaths have dropped most rapidly, there has also been an increase in drink drive enforcement. Again the UK was included among the countries with the lowest testing levels.

Mandatory Alcohol Testing in Republic of Ireland

Mandatory alcohol testing was introduced in Republic of Ireland in July 2006 and authorities view it as playing a significant part in reducing fatalities. This gave An Garda Síochána powers to conduct checkpoints for the purpose of random breath testing in any public place (once authorised by an Inspector).

In the period immediately preceding the introduction of mandatory alcohol testing - up to July 2006 - road deaths in Republic of Ireland had actually risen by approximately 6% over the same period in 2005, but from August to December road deaths fell by around 25% compared with the same period in 2005. Figures for the first 12 months after the introduction of RBT demonstrated that road deaths had fallen by 22%, resulting in 92 fewer deaths²⁴.

Enforcement levels have been significant in the period following the introduction of these powers and An Garda Síochána now carries out approximately 30,000 roadside screening breath tests on drivers per month - aiming for around 400,000 per year. This equates to approximately one roadside breath test per annum for every six licensed vehicles. It should be noted that the number of police officers deployed full-time on traffic duties has increased from 500 to 1200 since 2004.

²³ Enforcement Monitor no. 5. ETSC, January 2006.

²⁴ "Ireland: Drink Driving Facts", Road Safety Authority, 2008.

Enforcement in Northern Ireland

In Northern Ireland, around 25,600 roadside breath tests were carried out in 2007. Compared with the numbers of licensed vehicles on the roads, this was a higher number than in England and Wales (1 in 39 compared with 1 in 50).

While mainstream public attitudes in Northern Ireland about the unacceptability of drinking and driving are positive, there remains a hard core of drink drivers who will not be persuaded by advertising campaigns and who still see drink driving as a risk worth taking, with little chance, in their view, of being detected by the police.

The NISRA survey showed that 39% of motorists in Northern Ireland who drank alcohol thought it was unlikely they would be stopped by police if they were drinking and driving.²⁵

Despite such reported perceptions of a lack of enforcement in Northern Ireland²⁶, the PSNI has more than doubled the number of breath tests carried out annually in the five years since the introduction of the NI Road Safety Strategy in November 2002. The number of roadside screening breath tests for driver/rider alcohol in Northern Ireland has risen from 11,910 in 2002 to 25,628 in 2007.

No. of roadside breath tests performed in Northern Ireland – 2002 – 2007

	2002	2003	2004	2005	2006	2007
Roadside Screening Breath Tests	11910	13986	21175	23081	25107	25628
Number Positive	2596	2836	4460	5152	5043	3452
%	21.8	20.3	21.1	22.3	20.1	13.5

Table 3

It should be noted that the evidential breath-testing equipment currently used by the PSNI is type-approved only for the current prescribed limit for alcohol. If the Minister's decision is ultimately to change that limit, consideration will

²⁵ Road Safety Monitor May 2008, Northern Ireland Statistics and Research Agency.

²⁶ Road Safety Monitor May 2008, Northern Ireland Statistics and Research Agency.

have to be given to the equipment that would be used to enforce any new limit or limits. However, the decision about setting an appropriate level should not be determined by what technology is currently in use or available: the Department's objective is to establish the right limit/s. If necessary, the Department will subsequently work with the police to ensure that any new limit/s can be effectively enforced.

The number of drivers/riders who have lost their licences from 2005 to mid 2008 as a result of drink-driving or while under the influence of drugs is illustrated in the table below.

Driving disqualifications for drink/drug driving related convictions in Northern Ireland

Nature	2005	2006	2007
Mandatory Disqualification	3676	3402	3058
Discretionary Disqualification	335	294	249
Total	4011	3696	3307

Table 4

2.2. Offences

Drink driving legislation is a transferred matter in Northern Ireland, though historically legislation has mirrored that in Great Britain. The legislation governing drink driving limits can be found in Article 13 (2) of the Road Traffic (Northern Ireland) Order 1995.

The main drink driving offence in Northern Ireland is that of exceeding:

- 80 milligrammes of alcohol per 100 millilitres of blood;
- 35 microgrammes of alcohol per 100 millilitres of breath; or
- 107 milligrammes of alcohol per 100 millilitres of urine.

2.3. Penalties

The penalties for drink driving in Northern Ireland are as follows:

Conviction	Maximum Imprisonment	Maximum Fine	Minimum Disqualification	Required to resit driving Test?
Causing death or grievous bodily injury by careless driving while under the influence of drink or drugs	14 years	Unlimited	2 years	Yes (extended test)
Driving or attempting to drive whilst unfit through drink or drugs	6 months	£5,000	12 months (3 years if convicted twice in 10 years)	Yes
Driving or attempting to drive with excess alcohol in blood, breath or urine	6 months	£5,000	12 months (3 years if convicted twice in 10 years)	Yes
Failing to provide a specimen of breath, blood or urine for analysis	6 months	£5,000	12 months (3 years if convicted twice in 10 years)	Yes
In charge of a vehicle whilst over the legal limit or unfit through drink/drugs	3 months	£2,500	Discretionary	No

Table 2

2.4 High Risk Offenders

There are higher penalties for 'high risk offenders', i.e. those drivers who are more than two and a half times the limit, (equivalent to a BAC of 200mg/100ml), who are convicted of a repeat drink drive offence within ten years, or who refuse to provide a sample to police.

Even the most conservative estimates indicate that at levels of alcohol well below 150mg/100ml the chances of a typical motorist being involved in a crash are significantly more than 10 times greater. The increased risk facing a driver at 200mg/100 ml is more than 20-30 times that of a driver who has not drunk any alcohol (Hole 2007)²⁷.

2.5 Courses for Drink Driver Offenders

Courts in Northern Ireland have the power to offer an offender the option of attending a rehabilitation course. These educational interventions aim to reduce the likelihood of re-offending. On satisfactory completion, the offender's period of disqualification is reduced by 25%.

A review carried out by NISRA looked at reconviction rates for drink drive offenders. This indicated that for two years after attendance those who did not complete a course were 6.3 times more likely than those who completed a course to be reconvicted of a drink drive offence and that for three years those who did not complete a course were 3.8 times more likely to be reconvicted.²⁸

2.6 Public Awareness Campaigns and Public Attitudes

Campaigns have been mounted over a number of years by the DOE and PSNI to inform people of the limits and penalties and to seek to change driver behaviour. Campaigns have tended to seek to separate entirely drinking from

²⁷ The Psychology of Driving; Graham Hole; Lawrence Erlbaum Associates; 2007.

²⁸ Evaluation of Courses for Drink Drive Offenders- Reconviction Rates; NISRA, 2004.

driving, in recent years using the message NEVER EVER DRINK AND DRIVE. These campaigns have been very hard hitting, graphically portraying the impact and consequences of alcohol on driving.

In Northern Ireland, the 2008 NISRA NI Road Safety Monitor survey revealed that 21% of motorists who drink alcohol said they would normally drive after one drink. Thirty one per cent of motorists who drink alcohol said they would drive the morning after an evening on which they had four or more (for female motorists) or five or more (for male motorists) alcoholic drinks.

The 2008 Road Safety Monitor also reported that 65% of respondents said that motorists should not be allowed to drive after drinking any alcohol, with a similar proportion of drivers and non-drivers who were interviewed responding this way. A further 8% of respondents said the amount motorists should be allowed to drink before driving should be reduced.

While 98% of NISRA survey respondents stated that they had never driven at any time in the last 12 months when over the limit, around 2% said they had done so once or twice and small percentages (fewer than 1% in each instance) said they had done so three to four times or more than four times²⁹.

²⁹ Continuous Household Survey, 2006-07. NISRA.

3. Drinking and Driving – International Experience

3.1. European BAC Limits

An EU recommendation in 2001 suggested that all member states introduce a BAC limit of 50mg per 100ml and a lower limit of 20mg per 100ml for certain higher-risk drivers, for example novice drivers, lorry drivers and motorcyclists. In the Commission Communication on an EU strategy adopted in 2006, member states were invited to consider a zero BAC limit for young and novice drivers.

A list of the current BAC limits in the European Union member states can be found at Appendix A.

Only three EU states still have a BAC limit of 80mg: the UK, Republic of Ireland and Malta. Republic of Ireland has already announced its intention to reduce the limit to 50mg in 2009.

Many countries have opted for lower limits: for example, Romania, Czech Republic and Slovakia, among others, have a zero blood alcohol limit for all drivers.

3.2. Impact of Limits and Penalties in Europe

In Europe as a whole, reductions in drink driving deaths have been more significant over the last decade than reductions in other areas such as speeding on the roads. There is ample evidence that reductions in BAC limits, supported by effective enforcement and publicity, can reduce drink driving at all BAC levels.

According to Bartl and Sturmvoll (2000), implementing a BAC limit of 10mg/100ml in **Austria** for novice drivers resulted in a 16.8% fall in fatal crashes involving drivers with a BAC level of 80mg/100ml or more.³⁰ Austria is

³⁰ Bartl, G. & Sturmvoll, G. (2000) Description of post licensing measures in Austria, DAN-Report

now considering a zero BAC limit and higher sanctions for all school bus drivers, although there are no plans to introduce mandatory driving disqualifications.

Significant reductions have been seen in the **Czech Republic** (zero BAC) and **Germany** (50mg/100ml BAC and zero for novice/professional drivers), where drink driving deaths have decreased by more than 10% every year on average over the period 1996 to 2005. Germany is introducing higher sanctions for drink drivers in 2009, in the form of higher fines, but again not mandatory driving bans.

On the other hand, in some countries, for example **Hungary** (zero BAC), **Lithuania** (20-40mg/100ml BAC), **Spain** (30-50mg/100ml BAC) and **Great Britain** (80mg/100ml BAC), the drink driving problem had not improved up to 2006.³¹ GB has, however, reported that the provisional number of killed or seriously injured casualties in 2007 due to driver or rider alcohol was 12% below the 2006 level³².

Belgium (50mg/100ml BAC) has seen a 27% reduction in road crash fatalities between 2001 and 2007.³³ The proportion of drivers found over the 50mg limit decreased from 3.3% in 2003 to 2.1% in 2005. New legislation introduced in 2004 brought in higher minimum fines for drink drivers. The Belgian road safety strategy adopted a target of breath tests for one in three drivers (which will amount to two million tests annually).

Poland (20mg/100ml BAC) experienced a slight increase (1%) in the number of alcohol-related road fatalities, although there was a marked decrease of 20% in the number of detections for drink-driving.³⁴ This decrease in drink driving detections is attributed to changes in the traffic penalty regime and increased publicity.

³¹ European Transport Safety Council Annual Report, June 2007, Chapter 3.
www.etsc.be/documents/PIN_Report.pdf

³² Road casualties in Great Britain: Annual report 2007, DfT, October 2008.

<http://www.dft.gov.uk/pgr/statistics/datatablespublications/accidents/casualtiesgbar/roadcasualtiesgreatbritain20071>

³³ www.etsc.be 2008

³⁴ Bringing an End to Drink Driving in Poland: Poznan and beyond, October 2008, www.etsc.be

Sweden (20mg/100ml BAC) currently imposes a minimum mandatory ban at levels above 100mg/100ml, although bans are possible at levels above 30mg. However, the Swedish government is currently consulting on proposals to allow drivers to opt for a breath alcohol ignition interlock ('alcolock'), as a condition of keeping their licences, even at levels above 100mg (an alcolock is a device, similar to a breathalyser, that is integrated into a vehicle's ignition. The driver must breathe into the alcolock and any result above the pre-programmed BAC level will prevent the vehicle from starting).

In **Finland**, around 23-25% of road deaths are caused by drink drivers, and this increased slightly from 1996 to 2005. Finnish researchers believe that the problem is mainly due to drivers with an alcohol problem – over 60% of drivers detected are over 120mg/100ml, and there are high levels of repeat offences (up to 23% reoffend within five years). For these reasons, Finland has introduced alcolocks, which must be used in conjunction with alcohol treatment and rehabilitation, as an alternative to driving disqualification. It is estimated that this could lead to a 25-28% annual reduction in alcohol-related road deaths.³⁵

In **Switzerland**, the number of road deaths decreased by an estimated 20% from 2004 to 2005. Preliminary findings show that one of the main reasons for this is a 25% reduction in alcohol related deaths in 2005. On 1 January 2005, the legal BAC limit was reduced from 80mg to 50mg/100ml and random breath testing was introduced.³⁶

Key Points

Experience in Europe indicates that reducing the existing BAC limit for all drivers in a country reduces serious collisions. Some analysts (Elvik and Vaa 2004) suggest that any reduction, properly enforced, would lead to a reduction of 8% in fatal crashes and 4% in injury crashes.³⁷

³⁵ www.etsc.be, Drink Drive Monitor 06

³⁶ European Transport Safety Council Factsheet, January 2008, http://www.etsc.be/documents/Fact_Sheet_DD.pdf

³⁷ Elvik, R. & Vaa, T. (2004) The handbook of road safety measures. Elsevier Ltd, Oxford, UK

Although currently under consideration in some member states, it is perhaps notable that no EU state currently imposes a mandatory driving disqualification for first time offenders with BAC levels between 50 and 80mg. Instead they rely on graduated penalties such as fines, penalty points and/or discretionary prison sentences and discretionary disqualifications (although in some cases the driver's licence may be confiscated until the sentence has been issued in court).

Research has shown that for young drivers, starting from a position of a legal BAC limit of 80mg/100ml, only a reduction to zero mg or 20mg is effective, and that lowering BAC levels to 40mg or 60mg has not tended to produce significant reductions in alcohol-related fatalities.³⁸ As shown in section 3.2, a reduction in BAC levels has, in other countries, reduced fatal collisions by between 8% and 20%.

Generally speaking, police across the EU have powers to conduct random breath tests, although some states have operational requirements such as authorisation by a senior officer).

3.3. Position in Great Britain

BAC limits are currently the same throughout the UK. At 80mg/100ml, they are amongst the highest in Europe, with those of Republic of Ireland and Malta. A consultation document issued in GB in 1998 with a range of proposals to combat drink-driving, and while a majority of responses favoured a lower limit no action was subsequently taken.

It is worth noting that while Northern Ireland and Great Britain are among the countries with the highest BAC limits the penalties are also among the most severe, with mandatory disqualification for drivers convicted of driving above the legal limit and a requirement here to resit the driving test. Many countries with lower legal BAC limits do not have such severe penalties, even for drivers convicted at above 80mg (see section 3.2 below).

³⁸ European Road Safety Observatory, http://www.erso.eu/knowledge/content/06_young/novice_drivers.htm

The UK Government's current policy is to "reduce drinking and driving through a combination of effective law enforcement, maintaining a tough penalties regime and continuing to invest in high-profile national publicity campaigns."

³⁹ The UK Government does not accept that there is enough evidence to warrant reducing the limit and is not proposing to do so - instead focusing on compliance with and enforcement of the current limit⁴⁰.

Provisional statistics on collisions involving drinking and driving in Great Britain in 2007 show that:

- fatalities resulting from drink drive collisions fell by 18 per cent from 560 in 2006 to 460 in 2007;
- seriously injured casualties fell by 11 per cent from 1,970 to 1,760;
- slight casualties, however, rose by 4 per cent from 11,840 to 12,260;
- total casualties therefore rose by 1 per cent from 14,370 to 14,480;
- fatal collisions fell by 16 per cent from 490 to 410;
- there was an overall increase of 2 per cent in drink drive collisions from 9,400 to 9,620⁴¹.

3.4. Position in Republic of Ireland

The Road Safety Authority has recommended a reduction in the BAC in Republic of Ireland for drivers from the current level of 80mg to 50mg and a reduction in the current limit to 20mg for learner and professional drivers. (Road Safety Strategy⁴² 2007-2012, Action Point 76).

Tougher penalties for drink driving offences were introduced in March 2007, as set out below.

³⁹ Commons Hansard, Written answers for 13 June 2008. See: <http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmhansrd/cm080613/text/80613w0003.htm>

⁴⁰ Road Safety Compliance Consultation. DfT, November 2008. <http://www.dft.gov.uk/consultations/open/compliance/>

⁴¹ Road casualties in Great Britain: Annual report 2007, DfT, October 2008.

<http://www.dft.gov.uk/pgr/statistics/datatablespublications/accidents/casualtiesgbar/roadcasualtiesgreatbritain20071>

⁴² http://www.rsa.ie/NEWS/upload/File/822_RSA_Strategy_ENG.pdf

- The disqualification periods for drink driving offences now range from one year to six years depending on the level of alcohol detected and whether it is a first or subsequent offence. This compares with the previous range of three months to four years.
- The offence of refusing to provide a sample of blood, urine or breath for evidential purposes now attracts an automatic disqualification of four years for a first offence and six years for a second or subsequent offence. Previously it was two and four years respectively.
- The process of applying to have a licence restored following a disqualification has also been changed and only those who have not been disqualified in the preceding ten years can apply for a reduction in their disqualification periods. Only those who have been disqualified for two or more years are allowed to apply for the removal of a disqualification. Those with shorter disqualifications have to serve them in full.

Statistics show that road fatalities in Republic of Ireland have dropped consistently over the last three years from 396 in 2005, to 365 in 2006 and to 338 in 2007. However, Republic of Ireland does not yet have separate data on collisions involving drinking and driving relating to 2006 and 2007.

4. Tackling Drink Driving – Recommended Approaches

4.1. EU Recommendations

The Institute for Alcohol Studies in London, acting on behalf of the European Commission, published a report on the use of alcohol in the EU, including issues around drinking and driving. The report was published in 2006, making a number of recommendations for tackling drink driving, many of which have been adopted by EU Member States⁴³.

The nine recommendations were:

1. a maximum blood alcohol concentration limit of 50mg/100ml should be introduced throughout Europe; countries with existing lower levels should not increase them;
2. a lower limit of 20mg/100ml should be introduced for young drivers and drivers of public service and heavy goods vehicles; countries with existing lower levels should not increase them;
3. unrestricted powers to breath test, using breathalysers of equivalent and agreed standard, should be implemented throughout Europe;
4. common penalties with clarity and swiftness of punishment, with penalties graded depending at least on the BAC level, should be implemented throughout Europe;
5. driver education, rehabilitation and treatment schemes, linked to penalties, based on agreed evidence-based guidelines and protocols should be implemented throughout Europe;
6. action to reduce drinking and driving should be supported by a Europe-wide campaign;
7. existing designated driver campaigns should be evaluated for their impact in reducing drink driving collisions and fatalities before financing and implementing any new campaigns;

⁴³ http://ec.europa.eu/health-eu/doc/alcoholineu_summary_en.pdf European Commission Report "Alcohol in Europe: A Public Health Perspective", 2006

8. effective and appropriate training for the hospitality industry and servers of alcohol should be implemented to reduce the risk of drinking and driving;
9. comprehensive community-based educational and mobilisation programmes, including urban planning and public transport initiatives, should be implemented to reduce drinking and driving.

4.2. Best Practice Recommendations

Other experts⁴⁴ recommend taking the following steps to tackle the issue of drinking and driving:

- *reduce the availability of alcohol*, for example by limiting selling points, raising prices or raising the minimum drinking age;
- *separate drinking from driving*, e.g. through the use of alcohol ignition interlocks or designated driver programmes;
- *police enforcement*, through legal blood alcohol limits, roadside breath tests and sanctions or penalties;
- *education and information*, through schools and driver training, rehabilitation courses, public campaigns and promotion of safety culture.

The British Medical Association (BMA)⁴⁵, in a drink driving seminar in London in March 2008 considered the views of road safety and health representatives and police from across the UK and Republic of Ireland. It concluded that the BAC limit should be reduced to 50mg and agreed to encourage such a reduction across the UK.

⁴⁴ European Road Safety Observatory, http://www.erso.eu/knowledge/content/05_alcohol/measures.htm

⁴⁵ http://www.bma.org.uk/health_promotion_ethics/alcohol/Drinkinganddriving.jsp

Reducing the limit would also reflect the views of the Parliamentary Advisory Council for Transport Safety (PACTS)⁴⁶ and the Association of Chief Police Officers (ACPO)⁴⁷.

⁴⁶ <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmtran/460/46005.htm>

⁴⁷ <http://www.acpo.police.uk>

5. The way ahead in Northern Ireland

5.1. Key Policies in Northern Ireland

This consultation paper examines and seeks views on the following policy and legislative options for dealing with drink driving:

- reduction in BAC limits;
- penalties for exceeding the limit or limits;
- greater use of rehabilitation courses; and
- powers to detect drink drivers.

There are further measures and proposals to reduce drink driving that might be included in future consultation papers. These could include alcohol ignition interlocks ('alcolocks'), rehabilitation of repeat offenders, publicity and education campaigns and the removal of the right to a blood or urine sample to replace the breath test.

5.2. Options for BAC Limits

The options to be considered are to:

- retain the current limit of 80mg/100ml;
- introduce a 50mg/100ml limit for all drivers;
- introduce a 20mg/100ml limit for all drivers;
- introduce a limit of 50mg/100ml for most drivers and a lower limit of 20mg/100ml for all inexperienced drivers and professional drivers.

Zero BAC

An absolute zero BAC limit is not included as an option as it would be unrealistic and problematic to enforce. Even people who never drink alcohol produce small amounts of it during the digestive process and there are many ways that people can unknowingly ingest small quantities of alcohol.

80mg/100ml BAC

One option is to make no change, i.e. to leave the BAC limit at 80mg/100ml. It is argued that our current BAC limit of 80mg/100ml, accompanied by our tough penalties, act as more of a deterrent than lower limits in other countries, where mandatory disqualification is not the norm.

50mg/100ml BAC

Another option is simply to reduce the current limit from 80mg/100ml to 50mg/100ml. The penalties that currently apply at 80mg/100ml could simply move to the new limit. Alternatively, graduated penalties could be introduced, with the current penalties only applying at 80mg/100ml or above (see section 5.4 for further discussion of penalties).

Those supporting a 50mg/100ml limit such as the BMA note that the risk of involvement in a collision rises significantly once the blood alcohol level rises above 50mg/100ml⁴⁸. Research (Babor *et al* 2003) indicates a marked deterioration in driving performance between 50mg/100ml and 80mg/100ml: the relative crash risk of drivers with a BAC of 50mg/100ml is double that for a person with a zero BAC, and the risk rises to 10 times for a BAC of 80mg/100ml⁴⁹.

20mg/100ml BAC

A third option would be to reduce the current limit from 80mg/100ml to 20mg/100ml. The penalties that currently apply at 80mg/100ml would simply move to the new limit.

A BAC limit of 20mg/100ml could be regarded as a more workable “zero” limit. In effect this would mean that taking even a small amount of an alcoholic beverage before driving is likely to result in a driver exceeding the limit. It does allow, however, for certain factors such as the natural production of alcohol in the body, and consumption of some medicines and foodstuffs that might have very low levels of alcohol present.

⁴⁸ Briefing Paper on Drinking and Driving, Great Britain. BMA. December 2008.

⁴⁹ Babor T, Caetano R, Casswell et al (2003) Alcohol: no ordinary commodity. Oxford: Oxford University Press.

50mg/100ml for most Drivers and 20mg/100ml for Inexperienced and Professional Drivers

A limit of 50mg/100ml for most drivers, together with a lower limit of 20mg/100ml for all inexperienced drivers and professional drivers, would be in line with recommendations from the EU and with the current limits in most European countries.

They reflect levels of risk associated with different categories of driver and the potential scale of collisions associated with driving vocationally, along with the duty of care owed to passengers and to other road users.

It should be borne in mind that the only safe option for drivers is never to drink and drive. The limit is the point at which the law will become involved to penalise, prevent recurrence and deter others from similar behaviour. It should be set at a level at which such intervention is deemed reasonable and acceptable.

The Department seeks your views on retaining or reducing the BAC limit. (Please see questionnaire at Annex G, Questions 1 and 2)

5.3. Professional Drivers

If there were to be a lower limit for '*professional drivers*', the term would have to be defined. It is likely to mean 'any driver who is licensed to carry passengers or goods for hire and reward' but could be further refined to specify the nature of the vehicle being driven. The Department is interested in views on the definition of a '*professional driver*'.

5.4. Penalties

In considering the way forward, the Department must seek to balance any new limits against the possible penalties they will attract. The most effective

legislation will maximise the deterrent effect while making reasonable, publicly acceptable and well understood law. It will enable police efforts to detect offenders while seeking to rehabilitate and minimise recurrence. Penalties must be commensurate with the offence or offences.

Currently at BAC 80mg/100ml in Northern Ireland the penalties are among the most severe in Europe. However, experience in other countries has demonstrated that less severe penalties, lower limits and effective enforcement can have significant impacts on drink driving rates and fatal and serious collisions.

If the legal blood alcohol limit is reduced, the Department has identified the following options for motorists other than inexperienced and professional drivers.

- For any new offence or offences at BAC levels below 80mg/100ml, simply use the penalties that currently apply.
- Keep the existing penalties at 80mg or above. For any new limits below 80mg introduce graduated penalties. This means that the severity of the penalty is matched to the level of the limit or your status as a professional or novice driver. These penalties could include penalty points, fines and attendance at drink drive courses. If an offender goes to court and is convicted, higher fines, penalty points and/or possible disqualifications for periods shorter than 12 months could then apply. This approach would reflect common practice in other EU countries.

If we were to have one limit it would be necessary to apply a ban, regardless of the BAC level at which it is set. We would not want it to be the case that a driver who offends at 80mg/100ml or higher would be treated more leniently than at present. If one or more limits are to be introduced with lower penalties, the 80mg/100ml limit and penalties should also be retained.

Mandatory Drink Drive Courses

Drink drive courses are currently used as a sentencing option in courts in Northern Ireland. These are voluntary, and offenders receive a reduction of 25% in the period of disqualification on successful completion. If mandatory courses were to be introduced for BAC levels below 80mg/100ml, it would seem important also to make this provision for drivers at or above 80mg/100ml. It would further require consideration to be given as to whether such courses would replace the resit of the driving test or should sit alongside that requirement at 80mg/100ml or remain only for high risk offenders⁵⁰.

While it might be argued that the deterrent effect of a retest is strong, its primary purpose is to improve behaviour and prevent reoffending. Participation in a drink drive course could result in greater improvements as it focuses specifically on separating drinking alcohol from driving rather than on a broader assessment of driving skills and knowledge. This would seem to be supported by the NISRA review which indicated that the reconviction rate of those who did not complete a course was 3.8 times the rate of those who did complete a course⁵¹.

It would seem reasonable that, if mandatory courses were introduced and the need to resit a driving test removed, no reduction in the period of disqualification would be granted. It would seem reasonable to retain the need to resit a driving test for high risk offenders. If a driver is to be disqualified for a number of years, it would seem sensible to ensure that his/her driving skills and knowledge are refreshed and up-to-date.

The Department seeks your views on drink drive penalties.

(Questionnaire, Questions 3 – 5)

⁵⁰ The requirement to resit a driving test is unique in the UK to Northern Ireland.

⁵¹ Evaluation of Courses for Drink Drive Offenders- Reconviction Rates; NISRA, 2004.

5.5. High Risk Offenders

The Department is not proposing to change the current practice of imposing higher sanctions against 'high risk offenders'. However, the current BAC level at which a 'first offence' drink driver is considered to be a high risk is 200mg/100ml, based on 2.5 times the current drink drive limit of 80mg/100ml. This would seem high given the extremely elevated levels of risk at such a level.

The Department seeks your views on reducing the threshold BAC level for the purposes of defining a high risk offender. (Questionnaire, Question 6)

The other criteria defining high risk offenders are **refusal to provide a sample** to police or on conviction of a **repeat offence** within ten years. While the former would clearly not change, the latter would require clarification as to what offence is intended, as there could be more than one limit.

If new lower limits are introduced, they might attract lower penalties. It would seem unreasonable to, for example, categorise as a high risk offender a driver who has committed two offences, neither of which has resulted in a ban. It would seem more reasonable that the 'high risk' category would be triggered by a second disqualification for a drink drive offence within the set time period.

The Department seeks your views on relating the term 'high risk' to convictions that draw a disqualification from driving. (Questionnaire, Question 7)

5.6. Police Powers

Current position

Current legislation⁵² in Northern Ireland requires a police officer to have 'reasonable cause to suspect' that a person is driving, has driven or will attempt to drive a vehicle while they have alcohol in their body before they can require a breath test. A key EU recommendation is that police forces be given unrestricted power to require breath tests without the need to have 'reasonable suspicion'.

The research and experience outlined in paragraph 2.1 indicate that random breath testing is widely used in the EU, is effective as a deterrent, would help to detect those who drink and drive at any BAC level, and would have widespread public support in Northern Ireland.

The Department seeks your views on giving the police powers to stop and breathalyse drivers at random. (Questionnaire, Question 8)

Blood and urine tests

A driver with a breath alcohol concentration reading in excess of 35 microgrammes per hundred millilitres of breath (35µg/100ml - equivalent to a BAC of 80 mg/100 ml) will normally be arrested and subjected to an evidential breath test. If the evidential breath alcohol concentration reading is in excess of the prescribed limit but no more than 50µg/100ml, the law allows a driver to ask for a blood or urine specimen to replace the breath test. This concession was introduced in the early days of breath testing to provide confidence in evidential breath tests. Over time, evidential breath tests have proved reliable and accurate. Other countries do not afford this right which usually works in the driver's favour. The inevitable delay in carrying out the blood test allows elimination of alcohol that was present when he or she was driving. Some

⁵² Road Traffic (Northern Ireland) Order 1995, Articles 14-21

drivers, therefore, avoid being charged, even though they were in fact driving while above the limit. Any person exercising this right would also take away the advantage of any future evidential roadside testing.

The Department seeks your views on whether this right should be withdrawn (Questionnaire, Question 9). The Department does not propose to withdraw blood or urine tests to be used where a valid evidential breath test cannot be obtained.

Appendix A

BAC levels and penalties in Europe

Country	BAC (mg/100ml)	Public Transport Drivers	Commercial Drivers	Novice/ Probationary Drivers	Mandatory Ban?
Austria	50	10	10	10	Possible ban for third drink driving offence in 2 years, or for BAC over 80mg
Belgium	50	50	50	50	> 50mg/100ml for drivers with less than two years
Bulgaria	50	50	50	50	Possible fines of up to €350 & up to two year ban
Cyprus	50	20 (planned)	20 (planned)	20 (planned)	Over 39mg, licence will be confiscated until court hearing
Czech Republic	0	0	0	0	Ban possible but not mandatory
Denmark	50	50	50	50	> 120mg/100ml or for repeat offences at lower BAC
Estonia	0	0	0	0	No mandatory ban, appear to use fines & imprisonment

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Finland	50	50	50	50	No mandatory ban, appear to use fines & imprisonment
France	50	20	50	50	No mandatory ban, appear to use fines, imprisonment, penalty points, or confiscation of vehicle.
Germany	50	50	0	0	> 110mg/100ml
Greece	20	20	20	20	No mandatory ban - fines, imprisonment or ban (only for BAC above 40mg or repeat offences)
Hungary	0	0	0	0	Fines, imprisonment and police power to confiscate licence on the spot.
Republic of Ireland	80	80	80	80	> 80mg/100ml – minimum 12 month ban
Italy	50	20	50	50	> 150mg/100ml or recidivist offenders

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Latvia	50	50	50	20	Between 20-50mg/100ml – 3 month ban (<2 years driving experience).
Lithuania	40	40	20	20	>40mg/100ml – minimum 12 month ban
Luxembourg	50	50	20	20	No mandatory ban, appear to use fines & imprisonment only
Malta	80	80	80	80	n/a
Netherlands	50	50	50	20	> 82mg/100ml
Poland	20	20	20	20	No mandatory ban, appear to use fines & imprisonment only
Portugal	50	50	50	50	Possible one month to one year ban for 50mg – 80mg/100ml.
Romania	0	0	0	0	Police power to confiscate licence on the spot
Slovakia	0	0	0	0	Possible fines of up to €500 & up to two year ban
Slovenia	50	0	0	0	n/a

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Spain	50	30	30	30	Police power to confiscate licence on the spot
Sweden	20	20	20	20	> 100mg/100ml – mandatory min 12 month ban > 30mg/100ml – possible 2-12 months ban
United Kingdom	80	80	80	80	> 80mg/100ml

REGULATORY IMPACT ASSESSMENT

Title of Proposal

1. Review of drink driving legislation in Northern Ireland, including blood alcohol limits, penalties and police powers.

Purpose and intended effect of measure

Objectives

2. The main objectives of this consultation are as follows:
 - i. To reduce fatal and serious collisions where driver/rider alcohol is a causation factor;
 - ii. To review the current legislation relating to blood alcohol limits and recommend appropriate limits to the Minister;
 - iii. To review the penalties associated with drink driving and recommend appropriate penalties to the Minister where appropriate;
 - iv. To review police powers in relation to detecting drink drivers.

Background

3. The current legal blood alcohol content (BAC) limit applicable to all drivers in Northern Ireland is 80mg of alcohol per 100ml of blood.
4. The penalties for exceeding this limit range from a minimum 12-month driving disqualification up to 14 years imprisonment and unlimited fines. There are higher penalties for high risk offenders.
5. While the penalties in Northern Ireland and GB are among the most severe in Europe, we are at present, along with Ireland and Malta, the only member states in the EU that allow citizens to legally drive at BAC levels above 50mg /100ml.
6. An EU recommendation in January 2001 suggested that all Member States introduce a BAC limit of 50mg per 100ml and a lower limit of 20mg per 100ml for certain higher-risk drivers, for example novice drivers, lorry drivers and motorcyclists.
7. PSNI has more than doubled the number of breath tests carried out annually in the five years since the introduction of the Road Safety Strategy for Northern Ireland in November 2002.

8. Current legislation¹ in Northern Ireland requires a constable to have 'reasonable cause to suspect' that a person is driving, has driven or will attempt to drive a vehicle while they have alcohol in their body before they can require a breath test. A key part of the EU recommendation is that police forces be given unrestricted power to breath test without the need for the constable to have 'reasonable suspicion'.
9. Random breath testing has been implemented in many other countries and is viewed as having made a significant contribution to detecting and deterring drink driving.

Risk Assessment

10. From 2003 to 2007, around 20% of all road deaths and 10% of all serious injuries in Northern Ireland have been caused by drivers who are impaired through alcohol or drugs.
11. An average of 25 people were killed and 119 seriously injured every year from 2003 to 2007 in collisions attributable to driver/rider alcohol or drugs.
12. Based on the estimated value to society of avoiding such deaths or serious injuries, it is believed that the total value of preventing these casualties over these five years would have been in the region of £286m.
13. A 2008 survey (the NI Road Safety Monitor) indicated that 79% of motorists who drink would not drive after one drink, and 87% would not drive after two drinks. While the survey indicates that many drivers not only avoid exceeding the current drink drive limit but try to avoid any alcohol, it is expected that others will be persuaded that it is unsafe to drive after one drink.
14. There are no reliable data on the numbers of people who currently drink to levels below the present limit and drive in Northern Ireland. Analysis of 345 cases of driver / rider fatalities here between 2003 and 2007 showed that 18 of those fatalities (5%) had levels of alcohol in their system below the legal limit.²
15. There is significant evidence to show that drivers aged between 17 and 24 years old are more likely to be involved in collisions attributable to alcohol (35% of what?). Research also clearly indicates a marked difference in impairment at lower levels of BAC to young drivers. Clearly less experienced drivers will be also less able to deal with the unexpected even without the addition of impairment through alcohol.

Options

¹ Road Traffic (Northern Ireland) Order 1995, Articles 14-21

² It should be noted that this does not imply that alcohol was the cause of the fatal collision or was the only impairing drug present.

16. The options to be considered are whether to:

- Do nothing – i.e. retain the current limit of 80 mg/100ml; or
- Introduce a limit of 50 mg/100ml for most drivers and a lower limit of 20mg/100ml for all inexperienced drivers and professional drivers; or
- Introduce a 20mg/100ml limit for all drivers.

Costs

Option 1: Do nothing

17. There would be no direct cost. Some drivers would continue to drink and have collisions in the mistaken belief that it is safe to drive as long as the current limit is not exceeded. There would be no change to penalties or police powers.

Option 2: Introduce a limit of 50 mg/100ml for most drivers and a lower limit of 20mg/100ml for all inexperienced drivers and professional drivers

18. Assuming similar levels of enforcement and compliance with the new limits as with the current limit, there would be no additional cost to the PSNI, Courts Service or other agencies. If compliance levels are less than at present, there may be additional costs, in for example, the increased numbers of detections and prosecutions.

Option 3: introduce a 20mg/100ml limit for all drivers

19. Assuming similar enforcement and compliance levels, there would be no additional cost to the PSNI, Courts Service or other agencies. If compliance levels are less than at present, there may be an additional cost for the increased number of detections, prosecutions etc.

Penalties and Police Powers

20. Increased police powers for random breath testing may result in additional costs to the police, for example in mounting checkpoints and associated administration, and to the Court Service for processing offenders. However, it is anticipated that regionally this would be outweighed by the resulting reduction in alcohol-related collisions and casualties.

21. Dependent on the nature of penalties introduced and levels of non-compliance, there may be costs associated with processing of, for example, fixed penalty notices and/or penalty points for offences at lower BAC levels. However, this cost would only arise if it were above and beyond, rather than instead of, prosecutions.

Benefits

Option 1

22. If enforcement and compliance levels remain the same as at present, then we do not anticipate any benefit from this option.

Option 2 and Option 3

23. Both options would make a positive contribution to road safety in terms of deterring and detecting drink drivers.

24. It is anticipated that the clear message that drinking and driving is not acceptable at any level, reinforced by a lower limit or limits and with clear public commitment to rigorous enforcement by the police would present an opportunity to engender a new culture separating alcohol from driving.

25. Research has indicated that a reduction to 50mg could result in between one and two lives saved every year, and around 10 fewer serious injuries. At today's casualty values, this represents a financial saving of between £3.5m and £5.1m per annum. There is no research estimate for a reduction to 20mg, however it is anticipated that this would produce broadly similar benefits.

26. If lesser penalties such as penalty points and/or fines were introduced for lower BAC levels, there may be a benefit to the police, courts and other agencies in terms of reduced administration costs associated with fewer prosecutions. It is understood that an administrative penalty costs less to process than proceedings in a District Judges Court with a 'guilty' plea; which would, in turn, be less than such proceedings with a 'not guilty' plea. Furthermore, it would be expected that lesser penalties would be accepted much more readily and without challenge than, for example, disqualification.

Business sectors affected

27. There are no identified direct costs for business, charities or voluntary organisations although there may be an indirect impact on certain organisations or individuals.

28. It has been argued that tougher drink driving laws rigorously enforced would have a detrimental impact on licensed premises, particularly in rural areas. It is uncertain how many such premises rely on customers who drink a few units of alcohol and drive home afterwards and who would be disinclined to visit the premises if they could not legally do this.

29. It should be stated that DOE's research survey indicates that a significant proportion of motorists who drink alcohol respond that they already refuse to drive after one drink and a majority of respondents say they would not travel in a car with a driver who has had one drink³.

³ NI Road Safety Monitor 2008, NISRA, October 2008: 79% of motorists interviewed who drink alcohol said they would not normally drive after one drink; and 61% of respondents said they would not travel in a car in which the driver has had one drink.

30. New legislation would mean that drivers could be over the limit after one drink. The long standing road safety message from Government is already that no one should drive after even one drink. The Department's proposals will bring the law into line with the road safety message. However, there is no compelling evidence to suggest that a lower limit will result in people frequenting licensed premises less.
31. In countries where there are lower limits and stricter enforcement, there are many initiatives designed at maintaining customer numbers in licensed premises while ensuring road safety, for example designated driver schemes, community taxi services and local bus initiatives. Such initiatives are often sponsored by the drinks industry. There is no reason to believe that such schemes could not work equally well in Northern Ireland, and indeed some similar programmes have been run here in over the festive season in the past.
32. Furthermore, it should be noted that these proposals include reductions in the drink drive limit and do not, in themselves, remove a person's right to use any mode of transport. They simply propose that vehicles should not be driven by a person above a BAC limit than is lower than is currently the case.
33. The meaning of 'professional driver' has yet to be defined. It is likely to mean any driver who is licensed to carry passengers or goods for hire and reward but this might be further refined to also specify the nature of the vehicle being driven possibly as being licensed to carry goods or passengers or exceeding a prescribed weight or number of seats. The Minister will take this decision following the consultation process.
34. The extent to which these proposals might impact on such drivers is unclear, as we have no data on levels of compliance with drink drive limits or behaviours and attitudes towards driving after one alcoholic drink among different types of driver. However, it is clear that professional drivers may carry heavy loads, drive large and/or more complex vehicles, or carry a greater number of passengers either in one trip or over a series of journeys. They typically will cover greater distances and drive for longer than, say a typical motorist. Any risk increases with greater exposure and the outcome of a collision in such circumstances might be larger numbers of casualties. It is also clear that a professional driver also has a significant duty of care to their passengers and/or other road users.
35. Equally, because many professional drivers are employed on a hire or reward basis, a driving disqualification would potentially have a greater impact on their livelihood than on other drivers. It must be remembered however, that driving penalties are typically temporary measures designed to improve driver behaviour, and any impact tends to be for a limited period. However, it might be inevitable that a drink drive conviction would result in hardship for a professional driver, even if he or she was able to continue in employment or subsequently resume his/her career after a disqualification.

Other Impact Assessments

36. There are no disproportionate equality, environmental, rural or health issues involved. In addition, the proposed measure will have no impact on development, sustainable or otherwise.

Consultation with small business: the Small Business Impact Test

37. Not applicable

Enforcement and Sanctions

38. Enforcement will be a matter for the police and the courts.

Monitoring and Review

39. The Department will continue to monitor road traffic casualty statistics and police enforcement statistics including those specifically on drink driving. The Department will also continue with anti-drink driving publicity and awareness campaigns.

Consultation

40. Comments have been invited on the proposals set out in the accompanying consultation document. Comments are also invited on this partial regulatory impact assessment. It will be amended to take account of any comments made during the consultation.

Contact Point

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DOE SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM

Section 1

Introduction

This form is intended to help you to consider whether a new policy (either internal or external) or legislation will require a full equality impact assessment (EQIA). Those policies identified as having significant implications for equality of opportunity must be subject to full EQIA.

The form will provide a record of the factors taken into account if a policy is screened out, or excluded for EQIA. It will provide a basis for consultation on the outcome of the screening exercise and will be referenced in the Annual Report to the Equality Commission. Copies of completed forms should be retained on file within business areas (**and a copy sent to the Equality Unit**) and reference should be made to the outcome of the screening exercise and subsequent consultation in any submission made to the Minister.

Background

The Legal Background

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The main groups within each of the nine categories, highlighted above, are identified at Appendix 1.

In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

Advice on Completion of the Screening Form

It is important that the screening form is completed carefully and thoughtfully. Your Divisional or Agency Equality Officer and the Department's Equality Unit in room 413A Clarence Court (ext 40203/40813) will be happy to assist with all aspects of the screening process and will help with the completion of the form, if required.

Further advice on the screening process can be accessed at Section 4 of the Equality Commission's Guide to the Statutory Duties.

Policies included for EQIA

If, after screening, it is decided that a policy will require a full EQIA, a decision will be required on the priority and timing of the assessment. The screening form should be noted accordingly, signed off and copied to the Equality Unit for inclusion in the EQIA programme.

Policies excluded for EQIA

If a decision is taken to screen out the policy or where there is ambiguity about the equality implication of the proposal, the screening form should be signed off by a senior officer responsible for the policy and a copy sent to the Equality Unit. Copies of all screening out forms will be placed on the Department's website.

Section 2 – Policy to be Screened

Definition of Policy

There have been some difficulties in defining what constitutes a policy in the context of Section 75. To be on the safe side it is recommended that you consider changes to or any new initiatives, proposals, schemes or programmes as policies. The policies covered in the Equality Scheme EQIA programme are a reasonable guide both to the nature of external departmental policies and the level at which they should be considered.

The revised Guidance from The Equality Commission emphasises that the Statutory duties apply to **internal** policies (relating to people who work for the organisation) as well as **external** policies (relating to those who are, or could be, served by the organisations).

It is important to remember that even if a full EQIA has been carried out in respect of an “overarching” policy or strategy, it will still be necessary for the policy maker to consider if a further EQIA needs to be carried out in respect of those policies cascading from the overarching strategy.

OFMDFM Guidance on Legislative Procedures (Primary and Subordinate) sets out clearly the stages at which equality of opportunity considerations should be taken into consideration in the development of legislation.

Overview of Policy Proposals

The aims and objectives of the policy must be clear and well defined. You must take into account any available data or evidence that will enable you to come to a decision on whether or not a policy may or may not have a differential impact on any of the S75 categories. Evidence may be qualitative and or quantitative and may include research or internal information and or experience in relation to service and customer monitoring exercises. Where appropriate, arrangements should be made to obtain any data necessary to assist screening. The Equality Unit or Central Statistics & Research Branch (Stephanie Harcourt ext 40878 or Michael Bennett ext 40916) are available to provide advice on data requirements.

2.1 Please insert below a brief description of the policy/legislation, including the title and all the main aims and objectives

Title Review of the drink driving limit in Northern Ireland, of penalties and police powers to detect drink drivers.

Aims To reduce the number of deaths and serious injuries on Northern Ireland's roads due to drink driving.

There is currently one drink drive limit in Northern Ireland for all drivers at BAC (Blood Alcohol Concentration) 80 mg/100 ml¹. The EU recommends that member states have two different threshold levels at which it becomes illegal to drive - 20mg/100ml for learner/novice drivers and professional drivers and 50 mg/100ml for all other motorists. This review considers the 80 mg/100 ml limit in Northern Ireland and proposes replacing it with two new limits.

It is essential that all the aims/objectives of the policy be clearly and fully defined.

2.2 On whom will the policies/legislation impact? Please specify

All road-users

Police (in terms of enforcement)

NI Courts Service (in terms of processing offenders)

2.3 Who is responsible for (a) devising and (b) delivering the policy, eg is it DOE, a Whitehall Department or EU? What is the relationship and have they considered this issue and any equality issues?

(a) DOE

(b) DOE

2.4 What linkages are there to other NI Departments/NDPBs in relation to this policy/legislation?

PSNI will be required to enforce the legislation.

NI Courts Service will process offenders

DVA will administer aspects of the legislation e.g. in terms of endorsements, disqualifications, re-testing and rehabilitation etc.

¹ There are a number of ways in which Blood Alcohol Concentration (**BAC**) can be expressed. In the UK and Ireland it is usually expressed as the weight of alcohol in 100 millilitres of blood (mg/100ml). Therefore in the UK and Ireland the legal limits for driving are usually expressed as 80 milligrammes of alcohol per 100 millilitres of blood.

2.5 What data are available to facilitate the screening of this policy/ legislation?

Police data on casualties and collisions attributable to driver/rider alcohol or drugs

Police enforcement data – breath testing, convictions, driving disqualifications

DOE Road Safety Monitor (NISRA)

Continuous Household Survey (NISRA)

Northern Ireland Office

2.6 Is additional data required to facilitate screening? If so, give details of how and when it will be obtained.

N/A

See Appendix 4 of the Equality Commission Practical Guidance on EQIA which provides a list of Sources of S75 data or speak to Central Statistics and Research Branch (Stephanie Harcourt, ext 40878, or Michael Bennett, ext 40916) or Equality Unit (Alex Boyle, ext 41194, or Laura McAleese, ext 40203).

Section 3 – Screening Analysis

In cases where there is no available quantitative evidence, you will need to take a pragmatic, common sense judgement as to whether the policy/legislation you are screening may have a particular/differential impact on any of the groups. Discussions with Equality Unit, Statistics Branch and organisations representing the Section 75 Groups will be important and helpful at this stage in obtaining qualitative evidence of impacts. Every effort should be made to ensure that assessments are evidence based.

The following criteria must be considered when screening.

3.1 Is there any indication or evidence of higher or lower participation or uptake by the following Section 75 groups?

	Yes	No
Religious belief		x
Political opinion		x
Racial group		x
Age	x	
Marital status		x
Sexual orientation		x
Gender	x	
Disability		x
Dependants		x

Please give details

There is very significant evidence that drink driving is more prevalent among males. Approximately 93% of road deaths between 2003 and 2007 as a result of drink/drugs driving were caused by males. Over the same period, 89% of those detected by the police for drink driving were male².

Seventeen to twenty-four year olds are the age group most likely to be responsible for drink driving deaths and serious injuries, being responsible for 35% of drink drive fatal and serious casualties between 2003 and 2007 while only accounting for around 11% of licence holders³.

In 2006, 13 males were killed and 89 seriously injured due to drink/drug driving: 72% and 77% of the respective totals⁴.

In 2006, 10 people aged between 16 and 24 were killed and 41 seriously injured due to drink/drug driving: 56% and 36% of the respective totals⁵.

² Source: PSNI.

³ Source: DVA.

⁴ Source: PSNI.

⁵ Source: PSNI.

In 2006, 87% of those convicted for drink drive offences were male and 20% were aged between 16 and 24⁶.

3.2 Is there any indication or evidence that any of the following Section 75 groups have different needs, experiences, issues and priorities in relation to this policy issue?

	Yes	No
Religious belief		x
Political opinion		x
Racial group		x
Age	x	
Marital status		x
Sexual orientation		x
Gender		x
Disability		x
Dependants		x

Please give details

There is evidence that a further lower limit may be beneficial for novice or inexperienced drivers. In Northern Ireland, 17 – 24 year olds account for 75% of novice drivers (those with less than two years driving experience)⁷.

Between 2003 and 2006 people aged between 17 and 24 years old accounted for the highest number of fatalities and deaths and serious injuries due to drink/drug driving out of all age groups, across all road types:

- 41% of fatalities on urban roads;
 - 39% of fatalities on rural roads, and
 - 50% of fatalities on motorways/dual carriageways.
-
- 38% of deaths and serious injuries on roads in urban areas;
 - 34% of deaths and serious injuries on roads in rural areas, and
 - 34% of deaths and serious injuries on motorways/dual carriageways.

DOE's 2008 NI Road Safety Monitor reported that 52% of respondents aged between 16 and 24 said that motorists should not be allowed to drive after drinking any alcohol, with a similar proportion of drivers and non-drivers who were interviewed feeling this way. A further 8% said motorists should be allowed to drink less before driving.

⁶ Source: PSNI.

⁷ DVA.

3.3 Have consultations with the relevant representative organisations or individuals within any of the Section 75 categories, indicated that policies of this type create problems specific to them?

	Yes	No
Religious belief		X
Political opinion		X
Racial group		X
Age		X
Marital status		X
Sexual orientation		X
Gender		X
Disability		X
Dependants		X

Please give details of any consultations carried out, and any problems identified.

3.4 Is there an opportunity to better promote equality of opportunity or community relations by altering the policy, or by working with others, in Government, or in the larger community in the context of this policy?

Yes No

Please give details

N/A

3.5 It may be that a policy/legislation has a differential impact on a certain Section 75 group, as the policy has been developed to address an existing or historical inequality or disadvantage. If this is the case, please give details below:

There is clear evidence that low doses of alcohol (below 50 mg/100ml) have a far more devastating effect on younger drivers (24 years of age and younger) than on older drivers⁸. US research confirmed the greater impact of alcohol on young people's risk levels, even at levels below

⁸ Keall, M., Frith, W. & Patterson, T. (2004) *The influence of alcohol, age and number of passengers on the night-time rate of driver fatal injury in New Zealand*. In: crash Analysis & Prevention, Vol. 36 p. 169-178.

50mg / 100ml. For example, at zero BAC, a driver aged 21-24 has a 1.79 times greater crash risk than a driver aged 35-49 which rises to a 2.48 times greater risk at 0.4-0.5 mg /100ml⁹.

Studies have also indicated that the relative risk of a younger driver sustaining fatal injuries increases much more quickly with each alcoholic drink. A Norwegian study, for example, found that if the fatality risk for a driver who has a zero BAC is set at 1, the corresponding relative figure for an 18-25 year-old with a BAC at or above 50mg /100ml is 901 and 142 for a person aged 25-49¹⁰.

So, while drink driving is certainly dangerous at all ages, the impact on young drivers is even more severe. Research also shows that at the age of 18, areas of the human brain which are responsible for the integration of information and impulse control are still developing¹¹. There is also a need to take into consideration 'social maturity' and psychological competence, for example, processing peer pressure and impulse control which can be further impaired by the use of alcohol.

The Department is recommending a lower blood alcohol limit for novice drivers. A driver is considered a novice for a period of 2 years beginning with the day on which he becomes a qualified driver, i.e. on passing the driving test.

3.6 Please consider if there is any way of adapting the policy to promote better equality of opportunity or good relations.

Please give details

N/A

⁹ Preusser, D.F. (2002) *BAC and fatal crash rate*. In: ICADTS 2002 Symposium Report 'The Issue of Low BAC', p937.

¹⁰ Glad, A. (1985), *Research on Drinking and Driving in Norway: A Survey of Recent Research on Drinking and Driving and on Drinking Drivers*, Transportøkonomisk Institutt (TØI), Oslo.

¹¹ European Road Safety Observatory, http://www.erso.eu/knowledge/content/06_young/novice_drivers.htm

Section 4

EQIA Recommendation

You should consider carefully in this section whether full EQIA is necessary, particularly where answers to any questions in Section 3 are affirmative.

- 4.1 Full EQIA procedures should be carried out on policies considered to have significant implications for equality of opportunity. Please fill in the following grid in relation to the policy/legislation.

Prioritisation Factors	Significant Impact	Moderate Impact	Low Impact
Social Need.			X
Effect on people's daily lives.			X
Effect on economic, social and human rights.			X
Strategic significance			X
Financial significance			X

Please give details

N/A

- 4.2 **In view of the considerations in Section 3 and 4 do you consider that this policy/legislation should be subject to a full EQIA? Please give reasons for your considerations. If you are unsure, please consult with affected groups and revisit the screening analysis accordingly. Yes/No/Unsure**

We do not believe that a full EQIA is required as a) the evidence clearly points towards a marked difference in risk among inexperienced drivers, who tend to be younger; b) the policy is designed to take account of this difference and will apply for a period of 2 years while the driver is considered to be a novice; and c) the policy is designed to improve safety on the roads for all road users.

4.3 If an EQIA is considered necessary please comment on the priority and timing in light of the factors in table 4.1.

N/A

4.4 If an EQIA is considered necessary is any data required to carry it out/ensure effective monitoring?

Please give details

N/A

Section 5

Endorsement

I can confirm that the proposed policy has been screened for equality of opportunity and good relations implications and has been screened out for equality impact assessment/requires a full equality impact assessment.

Signed: _____

Agency/Division: _____

Date: _____

PLEASE FORWARD A COPY OF THE COMPLETED FORM TO:

**DOE EQUALITY UNIT
ROOM 413A
CLARENCE COURT
10-18 ADELAIDE STREET
BELFAST
BT2 8GB**

QUERIES TO: **ALEX BOYLE, EXT 41194**
alex.boyle@doeni.gov.uk

LAURA McALEESE, EXT 40203
laura.mcaleese@doeni.gov.uk

Section 6

For Completion by Equality Unit

Date

Screening result recorded: _____

Placed on website: _____

Screening out completed: _____

Screening to be reconsidered: _____

Give reasons:

Agency/Division notified date: _____



Main Groups Relevant to the Section 75 Categories	
<u>Category</u>	<u>Main Groups</u>
Religious belief	Protestants; Catholics; people of non-Christian faiths; people of no religious belief
Political opinion	Unionists generally; Nationalists generally; members/supporters of any political party
Racial Group	White people; Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Black Caribbean people; people with mixed ethnic group
Gender	Men (including boys); women (including girls); trans-gendered people
Marital status	Married people; unmarried people; divorced or separated people; widowed people
Age	For most purposes, the main categories are: children under 18, people aged between 18-65, and people over 65. However, the definition of age groups will need to be sensitive to the policy under consideration
“Persons with a disability”	Disability is defined as: A physical or mental impairment, which has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities as defined in Sections 1 and 2 and Schedules 1 and 2 of the Disability Discrimination Act 1995
“Persons with dependants”	Persons with personal responsibility for the care of a child; persons with personal responsibility for the care of a person with an incapacitating disability; persons with personal responsibility for the care of a dependant elderly person
Sexual orientation	Heterosexuals; bi-sexuals; gays; lesbians

Rural

Rural	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	<p>1. Does the policy apply in rural areas and communities?</p> <p>If NO: set out the reasons why</p> <p>If Yes:</p> <p>a. Does the policy have the potential to have a negative impact on rural areas and communities?</p>	x			x	<p>The policy will apply equally in both rural and urban areas.</p> <p>It has been argued that tougher drink driving laws, rigorously enforced, would have a detrimental impact on licensed premises, particularly in rural areas.</p> <p>It must be stated that DOE’s research survey indicates that a significant proportion of motorists who drink alcohol respond that they already refuse to drive after one drink and a majority of respondents would not travel in a car with a driver who has had one drink¹.</p> <p>New legislation would mean that drivers could be</p>

¹ NI Road Safety Monitor 2008, NISRA, October 2008: 79% of motorists interviewed who drink alcohol said they would not normally drive after one drink; and 61% of respondents said they would not travel in a car in which the driver has had one drink.

					<p>over the limit after one drink. The long standing road safety message from Government is already that no one should drive after even one drink. The Department's proposals will bring the law into line with the road safety message.</p> <p>There is no compelling evidence to suggest that a lower limit will result in people frequenting licensed premises less. In countries where there are lower limits and stricter enforcement, there are many initiatives designed at maintaining customer numbers in licensed premises while ensuring road safety, for example designated driver schemes, community taxi services and local bus initiatives. Such schemes are often sponsored by the drinks industry. There is no reason to believe that such initiatives could not work equally well in Northern Ireland, and indeed some similar programmes have been run here in over the festive season in the past.</p> <p>It is recognised that pubs and hotels can be a locally significant source of employment, and those in rural areas are particularly dependent on access by car and do not have the same level of access to alternative modes of transport, such as public transport, as in urban areas. However, it must be noted that these proposals include reductions in the drink drive limit and do not, in themselves, remove a person's right to use any mode of transport or reduce their access to travel options. They simply propose that vehicles should not be driven by a</p>
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					<p>person above a BAC limit that is lower than is currently the case.</p> <p>The vast majority of citizens, whether living in rural or urban areas, comply with the law as it stands. It is expected that these people will continue to comply with the law, even if amended. Those who currently disregard road safety advice and/or who break the law might continue to do so. However, stronger police powers will mean that there may be a greater likelihood of detection.</p>
	<p>b. Does the policy have the potential to have a positive impact on rural areas and communities?</p>	<p>x</p>		<p>x</p>	<p>The principle positive impact anticipated is a reduction in road traffic collisions due to alcohol impairment and a reduction in fatal and serious casualties.</p> <p>Data demonstrate that there are more deaths and serious injuries due to road traffic collisions in rural areas than in urban areas. Furthermore, most deaths and serious injuries due to driver/rider alcohol happen on rural roads.</p> <p>In Northern Ireland in 2007, 14 of the 18 deaths (78%) and 62 of the 113 serious injuries (55%) due to driver/rider alcohol occurred on rural roads.</p> <p>It is therefore very likely that any reductions in the numbers killed or seriously injured due to driver/rider alcohol would be proportionally greater in rural areas.</p>

	CONCLUSION			It would be inappropriate and unenforceable to have different BAC limits in rural and urban areas and would actually reduce the potential positive benefits of this policy to rural areas.
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Crime Impact Assessment

Community Safety	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the policy impact on the costs of or demand for legal goods or services to consumers, or impact on the costs of disposal of legal goods?		x			
Will the policy involve the introduction, delivery or amendment of a financial measure, i.e. a tax or concession, grant or subsidy?		x				
Will the policy introduce, remove or amend a legal requirement or regulatory power?	x				x	The policy could lead to a reduction in the drink drive limit and/or the introduction of different limits dependent on the category of driver. Additional police powers may be introduced to allow for random breath testing. The penalties associated with drink driving may also be amended.

	Will it impact on funding for law or regulatory enforcement activity including demand for legal aid?	x			x	It is possible that an increase in police powers may lead to additional enforcement costs in this area of activity at least in the short term. In addition, the change in policy may initially result in an increase in drink drive detections and prosecutions, however it is to be expected that this will reduce as compliance levels increase.
CONCLUSION						

Summary of Consultation on Measures to Address Drink Driving - Annex F

Background

1. In Northern Ireland, as in the rest of the United Kingdom and in Republic of Ireland, the main drink drive limit is 80 milligrammes of alcohol per 100 millilitres of blood. This is referred to as a blood alcohol concentration (BAC) limit of 80mg/100ml. The limit here is out of step with most of Europe, the USA, Canada, Australia and New Zealand, where limits of 50mg/100ml or lower are typical.
2. In the period 2003 to 2007, around 20% of all deaths and 10% of all serious injuries on our roads in Northern Ireland were caused by drivers/riders impaired through alcohol or drugs. An average of 25 people were killed and 119 seriously injured each year in collisions attributable to driver/rider alcohol or drugs.
3. There is a wealth of research which indicates that very low levels of alcohol in your blood will impair the skills you need for safe driving. Research also indicates a clear relationship between your BAC level and how much more likely you are to be involved in a collision.
4. Younger people are particularly hampered by the effects of alcohol on their ability to drive. Alcohol also has a greater effect on a young person's ability to make prudent choices and on his/her behaviour. This is compounded by a lack of experience and an often exaggerated assessment of his/her level of competence. However, it is important to remember that all age groups can be, and are, responsible for drink drive casualties. Indeed drivers aged above 25 are responsible for almost two-thirds of these deaths and serious injuries on our roads. The Department of the Environment is seeking views on ways to reduce the numbers of deaths and serious injuries caused by drink driving.

The Limit

5. In January 2001 the European Union recommended that member states should introduce a limit of 50mg per 100ml for all drivers, with a lower limit of 20mg per 100ml for certain other categories such as novice and professional drivers.

Such graduated limits are now common. Experience in Europe indicates that reducing the BAC limit reduces the number of fatal and serious traffic collisions, although the Department for Transport in GB challenges whether there is enough evidence for such an assertion. If Northern Ireland were to move to change the limit it is therefore likely that it would be the first part of the UK to do so. Republic of Ireland is already committed to reducing its limit.

6. Consultees might wish to consider whether graduated limits to reflect risk and responsibility should be introduced or if it would be clearer and simpler to have just one limit – at the current level or lower. It should also be noted that a limit of 20mg/100ml is regarded as a workable “zero” limit.
7. The Department seeks views on the following options:
 - no change – i.e. retaining the current limit of 80mg/100ml; **or**
 - introducing a 20mg/100ml limit for learner/novice drivers; **and**
 - introducing a 20mg/100ml for professional drivers; **and**
 - introducing a limit of 50mg/100ml for all other drivers; **or**
 - introducing a limit of 50mg/100ml for all drivers; **or**
 - introducing a limit of 20mg/100ml for all drivers.

To give us your views on the drink drive limit, please complete questions 1 and 2 on the questionnaire at: <http://www.roadsafetyni.gov.uk/>

Penalties

8. Current penalties for driving above the legal limit in Northern Ireland are among the toughest in the European Union. They range from a minimum of 12 months driving disqualification up to 14 years imprisonment and unlimited fines; with higher penalties for high risk offenders. The Department seeks your views on the following options:
 - for any new offence or offences at BAC levels below the current limit of 80mg/100ml, simply use the penalties that apply at the current limit; **or**

- keep the existing penalties for anyone caught at 80mg/100ml or above; **and**
- for any new limits below 80mg/100ml, introduce lower and/or graduated penalties. These could include penalty points, fines and/or attendance at drink drive courses. If an offender goes to court and is convicted, higher fines, penalty points and/or possible disqualifications for periods shorter than 12 months could then apply. This approach would reflect common practice where countries have more than one limit.

Other considerations include whether:

- the term '*high risk*' should apply only to those convictions that carry a disqualification from driving;
- the BAC level of 200mg/100ml, which currently defines a high risk offender, should be lowered (it is currently 2½ times the limit);
- mandatory attendance on a drink drive offenders course should be introduced for offences at 80mg/100ml, if we introduce them for lower level offences. We also need to consider if such courses would replace the resit of the driving test, or sit alongside that requirement at 80mg/100ml, or remain only for high risk offenders.

To give your views on penalties and high risk offenders, please answer questions 3 to 8 on the questionnaire at: <http://www.roadsafetyni.gov.uk/>

Police Powers and Enforcement

9. Current law in Northern Ireland requires a constable to have 'reasonable cause to suspect' that a person is driving, has driven or will attempt to drive a vehicle while they have alcohol in their body before a breath test can be required. The European Union recommendation included the unrestricted power for police to stop and breath test without the need for 'reasonable suspicion'.
10. Random breath testing has been shown to be more effective than selective breath testing (where there is a suspicion that a driver has consumed alcohol) in detecting drink drivers. Random breath testing has been implemented in

many other countries and is viewed as having made significant contributions to detecting and deterring drink driving. The Department seeks views on whether:

- the police should be given powers to stop and breathalyse drivers at random.

11. If a driver's roadside breath test indicates that he/she is above the limit the driver will normally be arrested and subjected to a further breath test using equipment approved to a standard that allows its use as evidence in court. However, a concession from the early days of breath testing still allows a driver to ask for a blood or urine specimen to replace that evidential breath test where the reading is above the legal breath alcohol concentration limit of 35 microgrammes per hundred millilitres of breath but no more than 50 microgrammes per hundred millilitres of breath.

12. Breath tests have now been in use for many years and have proven very accurate and reliable. The inevitable delay in carrying out a replacement test results in some drivers avoiding charges even though they were above the limit when driving. Furthermore, work is progressing to produce a screening device which provides readings at the roadside that can be used as evidence in court, and such a concession would seriously reduce its value. GB is also consulting on this proposal. The Department seeks your views on whether:

- the right to ask for a blood or urine specimen to replace a breath test should be withdrawn.

To give your views on police powers to stop and breathalyse drivers at random and a driver's right to a replacement test, please complete questions 9 and 10 on the questionnaire at: <http://www.roadsafetyni.gov.uk/>

13. Further information can be found in the detailed consultation paper at <http://www.roadsafetyni.gov.uk/>. If you have other comments not covered by the questionnaire, please email them to drinkdrive@doeni.gov.uk.

FEEDBACK ON PROPOSALS

Please use the following questionnaire to let us know your views. There are ten (10) questions in total, covering proposed drink drive limits, penalties and police powers. Details on all of our proposals, as well as background information on drink driving in Northern Ireland and the potential impacts of any changes, can be found in our consultation paper or the executive summary paper at www.roadsafetyni.gov.uk. Space is provided at the end of the questionnaire for any additional comments you wish to make, but if there is insufficient space, you may submit your comments by email to drinkdrive@doeni.gov.uk (please enter “Drink Driving” in the email subject line). A hard copy of the questionnaire is also available at www.roadsafetyni.gov.uk.

<u>BAC LIMIT</u>	Yes	No	Don't Know
Q1. Do you agree that the BAC limit should be reduced in Northern Ireland?			
If no, please go to Q3.			
If yes, do you agree with the limits listed below?			
a. 20mg/100ml for learner/novice drivers?			
b. 20mg/100ml for professional drivers?			
c. 50mg/100ml for all other drivers?			
If you have answered 'NO' at a, b or c please answer Q2			
Otherwise go to Q3			
Q2. If you do not agree with the limits listed above, do you agree with either of the options listed below?			
a. 50mg/100ml limit for all drivers (including learner/novice and professional drivers)?			
b. 20mg/100ml limit for all drivers (including learner/novice and professional drivers)?			

PENALTIES

Q3. If the general limit were lowered to **50mg/100ml**, what do you think should be the penalty for driving over this limit **but under 80mg/100ml** (please tick all that apply)?

- a. fixed penalty (points and fine)
- b. attend a drink drive course
- c. driving ban

If you have selected driving ban, please select an option below:

- d. driving ban - 3 months
- e. driving ban - 6 months
- f. driving ban - 9 months
- g. apply all current penalties at 80mg/100ml
- h. other- please specify _____

Q4. If the limit for learner/novice drivers were lowered to **20mg/100ml**, what do you think should be the penalty for driving over this limit **but under 50mg/100ml** (please tick all that apply)?

- a. fixed penalty (points and fine)
- b. attend a drink drive course
- c. driving ban

If you have selected driving ban, please select an option below:

- d. driving ban - 3 months
- e. driving ban - 6 months
- f. driving ban - 9 months
- g. apply all current penalties at 80mg/100ml
- h. other- please specify _____

Q5. If the limit for professional drivers were lowered to **20mg/100ml**, what do you think should be the penalty for driving over this limit **but under 50mg/100ml** (please tick all that apply)?

- a. fixed penalty (points and fine)
- b. attend a drink drive course
- c. driving ban

If you have selected driving ban, please select an option below:

- d. driving ban - 3 months
- e. driving ban - 6 months
- f. driving ban - 9 months
- g. apply all current penalties at 80mg/100ml
- h. other- please specify _____

Q6. If the general limit were lowered to **20mg/100ml**, what do you think should be the penalty for driving over this limit **but under 80mg/100ml** (please tick all that apply)?

- a. fixed penalty (points and fine)
- b. attend a drink drive course
- c. driving ban

If you have selected driving ban, please select an option below:

- d. driving ban - 3 months
- e. driving ban - 6 months
- f. driving ban - 9 months
- g. apply all current penalties at 80mg/100ml
- h. other- please specify _____

	Yes	No	Don't Know
Q7. Do you agree that the threshold BAC level for the purposes of defining a high risk offender should be reduced?			
If yes, what should be the new threshold limit for a high risk offence?			
a. 150mg/100ml	<input type="checkbox"/>		
b. 125mg/100ml	<input type="checkbox"/>		
c. other – please specify _____			
Q8. Do you agree that the term 'high risk' should apply to drivers convicted and disqualified twice?			
<u>RANDOM BREATH TESTING</u>			
Q9. Do you believe that the police should have powers to stop and breathalyse drivers at random?			
<u>BLOOD AND URINE TESTING</u>			
Q10. Do you agree that the right to ask for a blood or urine specimen to replace the breath test should be removed for drivers who have a breath alcohol concentration reading in excess of the legal limit?			

Thank you for taking the time to complete the questionnaire. Your responses to our proposals will help the Department to decide the best way to tackle the issue of drink driving in Northern Ireland.

If you wish to comment on the definition of a 'professional driver', offer views on the retest, on the potential rural, equality, regulatory or crime impacts of this policy or to provide any other additional comments, please indicate to which question they refer and/or whether they relate to Limits, Penalties, Police Powers, Professional Drivers or to the relevant impact assessment.

