

## Justice Committee

### Drug Driving (Specified Limits) (Scotland) Regulations 2019 [draft]

#### Written submission from the National Police Chiefs' Council

On behalf of Chief Constable Bangham, thank you for inviting our views on the introduction of new drug driving regulations in Scotland. You understand that given the timeframe, a more comprehensive response was not possible however I have the following observations for you based on your specific queries.

#### **1. Any lessons to be learned in Scotland from the implementation of the same offence in England and Wales?**

No formal review of the implementation of this legislation in England and Wales has yet taken place by the NPCC. It is therefore difficult to draw your attention to any specific lessons learned. However, I do have some operational feedback:

- The test kits are generally fit for purpose and provide an accurate level of detection, to the extent that the user is confident that a fail reading at the roadside will provide a positive blood result.
- Older legislation concerning driving under the influence of drugs appears to have been used less since the introduction of the new drug wipe test and driving offence. This is due to the ease of proving the new offence by screening at the roadside and the removal of the need for a field impairment test (FIT) test.
- There is a power for all persons driving, attempting to drive or in charge of a vehicle at the time of the accident to be breath tested and or drug tested. However, operational feedback tends to suggest that with the exception of the most serious collisions, officers are forming strong suspicion before testing for drugs even where there is an explicit power and so no requirement to form such suspicion. This is most likely to be reflective of the financial pressures on police forces.

(Operational feedback sourced from two forces only due to time pressure and may not necessarily be replicated across England and Wales).

A more academic evaluation of the new drug driving legislation, one year after its introduction, was commissioned and subsequently published by the Department for Transport. The report is available on the government assets publishing service website and can be found via this link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/609852/drug-driving-evaluation-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609852/drug-driving-evaluation-report.pdf)

The report draws on data from a greater number of police forces in England and Wales and addresses the following key themes:

- Operation and enforcement of the drug driving offences
- Drug driving and road traffic collisions
- Offending behaviour and recidivism
- Attitudes to the offence
- Cost-benefit analysis

You may find it useful to study this report if you have not already done so.

**2. The decision by the Scottish Government to select a zero-tolerance approach to eight controlled substances most commonly associated with illegal drug misuse (with limits set high enough to rule out accidental exposure), and a road safety risk approach to controlled substances associated with medical use – effectively replicating the approach taken in England and Wales in 2015?**

We are pleased by the decision of the Scottish Government to introduce this legislation, as pointed out in your correspondence this effectively replicates the approach taken in England and Wales. This decision offers consistency to drug driving offences across England, Wales and Scotland and ensures no confusion can exist in the public mind with regards to the tolerances offered by either piece of legislation.

**3. The resource implications of the new offence, including whether these are accurately reflected in the Scottish Government's financial impact assessment?**

We note the financial impact assessment you have provided. Your forecasts are clearly based on a one force implementation model and therefore it is difficult to draw comparisons with England and Wales due to the number of individual forces and regional collaborations using services such as forensic analysis, particularly given the tight time frame for our required response.

However, the costs of the roadside kit, being one use as opposed to multiple uses with a breath test kit for example and the subsequent forensic analysis costs mean that most forces have faced financial pressures in this area since the introduction of the road side screening test.

**4. Whether the planned implementation of the new offence from 21 October 2019 will create any difficulties?**

From an NPCC roads policing perspective, the introduction of this proposed legislation from 21st October 2019 in Scotland does not present any difficulties. Drug driving places motorists and other road users at a significant and socially unacceptable risk. The opportunity to reinforce the messaging around these risks as you prepare and subsequently introduce this proposed legislation is welcomed.

**5. Any other matters concerning the regulations you may wish to raise?**

The NPCC roads policing strategy, 'Policing our Roads Together 2018-2021' places great emphasis on these offences along with others we know cause the most significant harm on our roads. It is therefore satisfying to see the proposed introduction of this legislation in Scotland.

I hope this assists you and if you require additional detail feel free to come back to me,

Dean Hatton  
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For Chief Constable Anthony Bangham