ACMD

Advisory Council on the Misuse of Drugs

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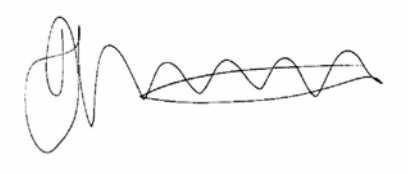
Dear Mr Fox,

The Advisory Council on the Misuse of Drugs (ACMD) are pleased to contribute to the Department for Transport consultation paper on road safety compliance.

We have responded specifically to those sections of the consultation that are within our expertise, namely: drink driving and drug driving.

Yours sincerely,



Professor David Nutt FMedSci

The Advisory Council on the Misuse of Drugs

The Advisory Council on the Misuse of Drugs (ACMD) makes recommendations to Government on the control of dangerous or otherwise harmful drugs, including classification and scheduling under the Misuse of Drugs Act 1971 and its Regulations. It considers any substance which is being or appears to be misused and of which is having or appears to be capable of having harmful effects sufficient to cause a social problem.

The ACMD also carries out in-depth inquiries into aspects of drug use that are causing particular concern in the UK, with the aim of producing considered reports that will be helpful to policy makers and practitioners.

Responses from the Advisory Council on the Misuse of Drugs to questions for consultation

Drink Driving

6. **Do you have any comments on the use of targeted checkpoint testing for drink drivers?**

This question requires comment and evidence outside of the ACMD's locus of expertise.

7. **Do you think we should withdraw the statutory right to a blood or urine test as an alternative to a breath test?**

This question requires comment and evidence outside of the ACMD's locus of expertise.

8. **Please comment on three options in respect of the proposal to take away cover for High Risk Offenders (HROs) to drive after submitting a re-application for a licence, while medical procedures are being carried out:**

    - **We move now to implement the change provided for in the Road Safety Act 2006 on the basis that we are satisfied that existing procedures allow ample time for medical examinations before a disqualification expires; or**

    - **We develop further powers either to require an HRO to submit a medical report with their re-application for a licence or to give them that option, to be implemented probably after we have removed the cover to drive; or**

    - **We defer implementing the change provided for in the Road Safety Act until we alos have powers either to require HROs to submit a medical report with their re-application for a licence or give them that option.**

This question requires comment and evidence outside of the ACMD's locus of expertise.

9. **Do you agree that the costs of implementing and enforcing a judicial alcohol ignition interlock scheme would be disproportionate?**

This question requires comment and evidence outside of the ACMD's locus of expertise.

10. What priority do you think should be given to a change in the prescribed alcohol limit for driving?

The current BAC limit is at 80mg/100ml. The evidence notes that most drivers that are caught are well over the present limit. Set against this statistic is the decreasing numbers of people killed or seriously injured. The ACMD consider that there are four options to further reduce the number killed or seriously injured:

1. Greater public awareness campaigns
2. Increased enforcement response
3. Lower BAC – possibly split age group
4. Combination of the above

The ACMD believes that the current campaigns are well resourced. In addition, greater detection, by enforcement, may not be cost effective if, from evidence presented in the consultation, it is a small minority that are determined to flout the law.

Evidence demonstrates that there is no BAC above 0 that is free from impairment and, although the statistics show the numbers killed or seriously injured are decreasing, the numbers are considerable.

The ACMD recommends, as in its *Pathways to Problems* report 2006 (see Recommendation 13), there should be opportunity for legislation to change, as it has in other European countries, particularly around the maximum BAC that a young person can have, when driving. The ACMD recommends that the Government should consider reducing the legal Blood Alcohol Concentration to 50mg/100ml or less for drivers under the age of 25. Lowering the BAC would bring the UK to being more in line with other European countries.

The ACMD does not believe there are any practical problems for enforcement: calibration of alcohol detection devices and verification of age. The ACMD understand that alcohol detection devices could be calibrated to different thresholds, and that there is provision within the Road Traffic Act for verification of age [at the roadside] to take place.

The consultation makes reference to a special limit for young drivers (paragraph 3.65) as suggested by the Transport Select Committee. The ACMD believe that the current statistics of accidents among the younger age groups should be reason to consider legislation changes that could better safeguard those accumulating age-related experience. The ACMD does not believe that such a change would create an impression (send a message) that it is acceptable for young drivers to drink more when they reach a certain age but would be a measure to reduce those who are most at risk (see *Pathways to Problems*, 2006; p11 recommendation 13).

11. What evidence are you able to offer – and what further evidence do you consider should be obtained – to support a fully-considered decision whether or not to change the limit.

The Transport Select Committee, in their 7th report, propose a BAC of 20mg/100ml. This report was based on evidence from a number of other countries and presented evidence from international reports (e.g. OECD).

It is important to re-iterate the Committee's statement that:

'If the Department introduces a lower permitted blood alcohol concentration for novice drivers it must be assiduous in countering any impression that it is acceptable for more experienced drivers to drive under the influence of alcohol.'

The ACMD would support the consideration of evidence led policy in this area, with, as above, due consideration given to the concerns of 'conveying the wrong message'.

Drug Driving

12. Do you agree that a new offence of driving with an illegal drug in the body is required to make the regulation of drug driving more effective?

It is important, from the outset, to iterate two issues. Firstly, that driving under the influence of any drug, prescribed or otherwise, has the potential to impair driving ability. Secondly, any impairment of driving ability will be irrespective of whether the drug being used is illegal or not. In the form that the consultation is constructed, separating illegal and prescribed drugs is not addressing the primary drug driving offence but rather appears to target illicit drug users.

There are several issues that need to be addressed if a new offence of driving with an illegal drug in the body was made legislation. These are set out below.

As far as the ACMD are aware, the technology is not currently available to provide roadside testing of the full suite of illegal drugs. Furthermore, analytical laboratory testing of biological samples may not allow the positive identification of the actual drug originally used.

However, analytical methods for drugs are many and varied and are often specific to the drug. In some cases there is a need to analyse for metabolites (breakdown products of the original drug in the body) to properly estimate the original drug. The ACMD have concern that the positive identification of metabolites of a given drug may not consider the full range of legal substances that could have been potentially used and produce the same metabolite.

The ACMD do not consider that the evidence base is sufficiently developed to support a framework of thresholds for individual drugs that is related to their impairment of driving a motor vehicle. To determine dose-related impairment of driving would require extensive research. It must be borne in mind that the taking of an illicit drug does not necessarily confer an impairment of driving ability, and indeed may improve it e.g. stimulants under conditions of fatigue.

Published evidence shows that the panoply of available drugs (licit or illicit) are often taken in combination (polydrug use). Therefore, there are substantial difficulties in determining the level of impairment against the threshold of any given drug in a person's system. In such cases, thresholds for individual drugs may not be as relevant as the sum total of their effects.

Many drugs can be prescribed that would otherwise be illegal (under the Misuse of Drugs Regulations). If enacted, the proposal in 12) could result in very mixed outcomes: for example, an individual may be prosecuted for impaired driving with an illegal drug in their body. However, another individual that has taken the same drug, but on prescription may not be prosecuted for the same offence. The ACMD believe it is important that the DfT maintain focus on the driving offence committed, by virtue of taking a substance, and not the legality of the substance itself – the possession and supply is already provided for under the Misuse of Drugs Act 1971.

For those people that take prescribed drugs that would otherwise be illegal such new legislation would require them to maintain records of their prescriptions (or return to their prescriber).

13. Do you think that such a new offence should apply to illegal drugs only, and not those that have been legally prescribed or obtained?

The ACMD has grave doubts about this suggestion. A punitive policy for illegal drug users only fails to recognise the primacy of the road traffic offence being committed. As described in our response to question 12) above, the key point of any new legislation in this area would be whether the driver is competent to drive i.e. are they a danger to themselves and/or others whilst in control of a motor vehicle; question 13), as posed, does not address this issue.

It is important to recognise that there are many drugs that are illegal which may be prescribed and therefore may be legally taken. Changes to the legislation would require very careful consideration and could be very expensive to investigate and prosecute.

Furthermore, current drug policy is focussed on supply and possession not use; users are prosecuted for having the drug in their possession for personal use or supply. It is not, and never has been an offence to have taken an illicit drug. If this suggestion was brought into law it would be a watershed in policy that could have broad, complex and currently unknown secondary consequences.

The ACMD has concerns that penalties for use may have unintended consequences that need to be considered e.g. users switching to those drugs that are eliminated from the system more quickly. The DfT will wish to note that many of the drugs that are most quickly eliminated from the system are some of the most harmful e.g. Gammahydroxybutyrate (GHB) and ketamine.

The ACMD does not believe that the question posed in 13) has any merit or scientific basis.

14. How do you think we should identify the drugs that would be the subject of the proposed offence? How should we incorporate new drugs under the proposed offence?

Please see our response to 12).

15. Do you have any other comments about the proposed new offence?

Please see our response to 12).

16. Do you have any other comments about our drug driving proposals?

None.