

DRAFT

**MINUTES OF THE MEETING OF THE SECRETARY OF STATE FOR
TRANSPORT'S HONORARY MEDICAL ADVISORY PANEL ON ALCOHOL,
DRUGS AND SUBSTANCE MISUSE AND DRIVING**

WEDNESDAY, 9 OCTOBER 2013

- Present:** Professor E Gilvarry (Chairperson)
Dr A Lowe
Professor A R W Forrest
Dr K Wolff
Dr N Sheron
Dr J Marshall
Professor C Gerada
- Lay Members:** Mrs P Moberly
Mrs J Cave
- Ex-Officio:** Professor D Cusack, Forensic Physician and Director of the Medical
Bureau of Road Safety, Dublin
Dr M Prunty, Senior Medical Officer, DoH, London
Dr N Dowdall, Head of Aviation Health Unit, CAA
Mr M Ellis, Road User Licensing, DfT
Mr N Jones, Legislation Enforcement and Standards, DfT
Ms E Shovelton, Head of Legislation Enforcement Standards, DfT
Mr M Davies, Medical Licensing Policy, DVLA
Mr B Jones, Business Change & Support Manager, DVLA
Mr R Thomas, Business Change & Support, DVLA
Dr B Wiles, Senior Medical Adviser, DVLA
Dr M DeBritto, Panel Secretary, Medical Adviser, DVLA

1. Apologies for Absence

Apologies were received from Dr A Brind, Dr P Rice and Dr O Bowden-Jones.

2. Chair's Remarks

The Panel Chair thanked the Panel Members and Observers for their attendance.

3. Panel Chairmen's minutes held on 20 June 2013

Dr K Wolff attended the annual Panel Chairmen's meeting on behalf of Professor Gilvarry. The minutes of the Panel Chairmen's meeting were provided for information. There is a fund available for research that would have a clear road safety benefit. Following the Panel Chairmen's meeting, several research topics were considered by the research team of the DVLA. Currently, the topics of multiple medical conditions linked with road traffic accidents and the link between medical conditions and effects on driving are being considered. The criteria for research projects is being finalised, and would be sent to the Panel Chairs for comment before tendering for contracts. More information regarding this would be provided by the Senior Medical Adviser in due course.

4. Minutes of the last meeting held on 27 February 2013

The minutes of the last meeting held on 27 February 2013 were agreed as accurate and were signed-off by the Panel Chair.

5. Hepatic Encephalopathy

The Panel has not received the report of the Hepatic Encephalopathy Working Party. It was agreed that Professor Gilvarry would write to the Working Party to request a copy of the completed report.

Dr Sheron advised the Panel of an article recently published in the GUT Journal regarding hepatic encephalopathy and various testing methods, a copy of which has been circulated to Panel following the meeting.

6. CDT Testing

a. Mr Rob Thomas gave the Panel a presentation of the data collected from the CDT pilot study. The Panel agreed that the information presented was very

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useful. It was suggested that this cohort of CDT pilot cases be followed-up in 5 years and 10 years and it would be useful if the data of this pilot be published. Mr Thomas advised the Panel that King's College were analysing the group where the CDT levels were unable to be quantitated further. In these cases, it was suggested that ethnicity should be noted to see if this was a factor in any way.

- b. Following the last Panel meeting in March 2013, a teleconference was arranged to determine whether the CDT cut-off levels the DVLA are using were satisfactory. As the cut-off levels used by the DVLA are for a clinical setting related to driving, the higher cut-off levels than those used in clinical practice were thought to be effective and satisfactory.
- c. It was advised that Dr K Wolff's paper on CDT was submitted to a journal, and will be peer reviewed shortly.
- d. It was agreed that the Sebia method of analysing the CDT levels was superior to other methods due to the specificity and sensitivity of the testing method.

7. Progress on HRO Legislation

Mr M Davies of Medical Licensing Policy, DVLA, advised that the changes to the HRO legislation were enforced on 1 June 2013. The changes to the previous HRO process are that:

- a. When a HRO's disqualification expires, it is now mandatory to undergo a medical examination before a licence application can be made to the DVLA thereby abolishing the Section 88 cover to drive.
- b. The driver who refuses to consent to analyse a blood sample taken is disqualified as a HRO.

Mr Davies also advised the Panel that these changes would apply to the HRO convictions taking place on or after 1 June 2013 and, therefore, the DVLA will see these cases filter through in a year to 3 years' time.

8. Department for Transport Update on Drug Driving

Mr Ellis advised that the consultation on the new drug driving offence closed on 17 September 2013. Three main options were set out in the consultation.

Option 1: Zero tolerance to 8 illegal controlled drugs, and road safety risk based approach to 8 controlled drugs which have medicinal uses. In the case of amphetamine, a further short consultation would be arranged to determine the proposed limit for this drug.

Option 2: This option follows the Expert Panel's recommendations to include 15 controlled drugs in the regulations with corresponding limits all based on a road safety risk approach.

Option 3: This option takes zero tolerance approach to all 15 controlled drugs.

Mr Ellis advised that 93 responses were received and 43 agreed with option 1. 8 responses had agreed with option 2, and 3 responses had agreed with option 3. Proposals following the consultation are being analysed and will be published shortly.

Medical defence was discussed. The new offence in Section 5A of the Road Traffic Act 1988 contains a medical defence. This applies where the specified controlled drug which the person has taken was prescribed or supplied for medical or dental purposes; where the accused took the drug in accordance with the directions given by the health care professional who prescribed or supplied it, or with any accompanying instructions given by the manufacturer. This defence places evidential burden on the person accused of committing the offence. Should the

accused be impaired due to the drug taken, then he may be prosecuted under the impairment regulations under Section 4 of the Road Traffic Act 1988. It was also recommended that a form of words to advise the patient should be given when DVLA is notified that a driver is under a drug treatment programme.

Discussion ensued around the practicality, ethical and medico-legal issues of the proposals. It was emphasised that the health care professionals prescribing the controlled drugs, pharmacies issuing the controlled drugs, drug companies, the BNF and other such publications should highlight the importance of carrying evidence of treatment should they be on a controlled drug treatment programme.

It was also discussed that should a patient feel impaired, they should be advised not to drive until such time as they develop tolerance to the side effects and to regulate their treatment programme so that the side effects of the medication may be alleviated.

9. Department for Transport update on Drink Driving

The Department for Transport is introducing changes to drink driving enforcement as part of the draft De-regulation Bill which should be introduced into Parliament later this year. The detailed provisions relating to drink driving are set out in one of the schedules to the Bill. This Bill contains the changes to the drink driving regime which are proposed in Sir Peter North's report and was subject of the subsequent consultation which concluded earlier this year. There are 4 legislative changes proposed that relate to drink driving.

1. The removal of the statutory option. The statutory option gives the drink driving suspects the right to replace the breath specimen with the specimen of either blood or urine where the lower level of the 2 breath readings does not exceed 50 micrograms of alcohol per 100 ml of breath. This was originally introduced due to the concerns about the reliability and potential challenges to the evidential

breath test results. However, this is no longer a valid concern as the technology of the breath testing devices is improved.

2. Preliminary breath testing. It is proposed to remove the requirement for a preliminary breath test where a road side evidential breath test is being performed. Currently, evidential breath testing equipment is only available at police stations. The Home Office type approved process for mobile evidential breath testing equipment should conclude in 2014 and following this evidential breath tests will be possible at the road side.
3. Testing procedures in hospitals. Currently, both medical practitioners and registered health care professionals can take evidential blood specimens in police stations, but only medical professionals can take evidential blood specimens in venues other than police stations. In practice this would allow nurses and paramedics to take evidential blood samples in hospitals and other such places. Therefore, it is proposed to allow registered health care professionals to take evidential specimens in hospitals.
4. Determining whether the condition of a drug driving suspect is possibly due to a drug. Currently only medical practitioners can advise police whether a drug driving suspect has a condition that might be due to a drug. Changes to who can advise police on whether someone has a condition that might be due to a drug are important to implement as screening machines are unlikely to be available in all police stations and they will not screen for all drugs. It is therefore proposed to allow registered health care professionals to advise whether a drug driving suspect has a condition that might be due to a drug. A brief discussion took place on the necessary competencies of practitioners to provide this assurance, both to advise whether a condition might be due to a drug and whether that condition was not likely to be due to another cause. It was noted that training/development of the competencies of health care practitioners to give this advice will need to be suitably extensive or clear definition of the breath and limits of the competence expected may be needed.

A final change is proposed to allow vacuum packed sterile blood collecting devices for taking blood samples from persons accused of drink or drug driving. It is anticipated that this will reduce the requirement to procure bespoke blood taking equipment and reduce the need for extra training by allowing the use of equipment common across the Health Service.

10. Scottish Consultation

More information on the Scottish Consultation will be provided at the next Panel meeting.

11. Methadone Programme

It was agreed that medical health care professionals advise their patients to notify the DVLA when starting methadone or altering the dose of methadone. However, it was noted that all patients driving on methadone did not actually notify the DVLA. The criteria DVLA use when licensing a driver whilst on a methadone programme requires that random drug screens are taken and are always clear of illicit drug misuse. However, it was advised that the levels of random drug screens being carried out are far less than before, the range of illicit drugs tested much more narrow and, therefore, a random positive test is less likely to be picked up and may not represent an accurate clinical picture.

Dr Wolff advised that there is some work being carried out where the community pharmacies prescribing methadone are being asked whether they give out any information about driving and methadone and also asking the patients receiving the methadone whether they drive, and if driving, whether they reduce the methadone dose. Dr Wolff advised that she will collate this information and provide it at the next Panel meeting.

12. Oral exudate testing for drug screening

Oral exudate testing has a shorter window to detect drugs in the system. It was agreed that the oral exudate test was reserved for cases where urine samples were not possible to attain.

13. Cases for Discussion

A case was discussed where a patient was diagnosed with regional pain syndrome and was on temazepam, dihydrocodeine and ketamine for pain relief. The patient's general practitioner had completed a medical questionnaire (G2) and had no concerns regarding his medical condition and driving. He had also undergone a driving assessment and gained a satisfactory report. It was agreed that such cases are looked at individually, similarly to that of prescribed oral Sativex. There should be evidence that the patient is not impaired by the dose and has no side effects that may impair driving.

Discussion ensued regarding the use of other drugs such as pregabalin which also may impair safe driving.

14. Any Other Business

The determination of a case by the Sheriff of Glasgow and Strathkelvin, where a patient known to have been alcohol dependent, was involved in a fatal road traffic collision was discussed.

It was agreed that where there is evidence that a patient who is clearly alcohol dependent or persistently misusing alcohol, should be advised not to drive by the medical health care professionals, should they refuse to co-operate and fail to notify the DVLA, GMC guidelines on breaking confidentiality and notifying the DVLA should be followed. The moral responsibility of other health care professionals such as nurses who run addiction clinics to advise patients and where necessary notify the

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DVLA was discussed. The Panel agreed that the doctors should be reminded of their duty of care.

15. Date and time of next meeting

The next meeting will be held on 12 March 2014. The proposed date for the future meeting is 17 September 2014.

A handwritten signature in black ink, appearing to read 'M De-Britto', with a horizontal line underneath the name.

DR M DE-BRITTO MBBS
Panel Secretary

17 October 2013