



HM Inspectorate of Constabulary in Scotland
Improving Policing across Scotland

Tuesday, 25th April 2023

PRESS RELEASE

Drug Driving Forensic Processes Reviewed

Legislation to address the dangers of people driving having consumed drugs is proving to be a positive measure to improve road safety in Scotland.

The powers provided by the introduction of Section 5A of the Road Traffic Act 1988 are being used appropriately by Police Scotland and could lead to even greater road safety if processes and procedures to analyse blood samples are improved, thus contributing to a more efficient criminal justice process and banning of offenders from the roads.

In the three years since it gained the powers to carry out roadside drugs tests on motorists, Police Scotland is now identifying similar numbers of drug and drink drivers.

Around 50% of the drug roadside tests carried out by police officers, including at all serious and fatal accidents, prove to be positive.

A detailed report published today (Tuesday, 25th April) by HM Inspectorate of Constabulary for Scotland looks at the end to end processes, from roadside to reporting to the court, for drug driving offences.

It makes 25 recommendations which, once implemented, will make Scotland an even safer environment for all road users.

HM Chief Inspector of Constabulary, Craig Naylor, said: "Drug driving, involving both illegal and prescription drugs, can have a detrimental effect on a person's ability to drive safely.

“The introduction of drug driving legislation was significant in giving police the powers to remove many of these offenders from our roads and police have been using them in a balanced and proportionate manner.

“It was also a significant challenge for the forensic specialists to support the legislation through new analytical processes and to cope with the increased volume of testing.”

The assurance review of the Scottish Police Authority (SPA) Forensic Provision highlighted the demand and capacity for testing blood samples was underestimated by SPA Forensic Services, Police Scotland, Scottish Government and the Crown Office and Procurator Services (COPFS).

HMICS was asked to conduct the review by the SPA after it emerged that over 300 drug driving cases, now 447, had not been prosecuted as blood samples had not been analysed and processed within designated timescales. More cases would have been lost had the pandemic not led to the timescale for criminal proceedings being extended from six to 12 months and over £1,000,000 been spent on outsourcing analysis.

Mr Naylor remarked: “The prevalence of drug driving in Scotland is unclear and, as such, is a major public safety issue. It is our view that a long term strategy, including prevention activity, is required for the delivery of the legislation.

“There is a need to ascertain the scale and nature of the problem so that all relevant criminal justice agencies can ensure they have the agility and capacity to support drug driving enforcement.

“The strategic planning process for implementation was not sufficiently robust nor effective, was not subject to consistent oversight and underestimated the demand for toxicological analysis. As a result, despite a lot of hard work by dedicated staff, SPA forensic services was not prepared for the volume.”

He commends the organisation for its aim to build a gold standard analysis service and the design and delivery of a brand new accredited service. “It has many attributes, however without urgent investment, modernisation, a review of the Forensic Services Committee and a commitment to continuous improvement, the delivery of forensic toxicology will be at risk for years to come,” he warned.

HMICS is of the view there is an opportunity for Police Scotland, SPA and COPFS to work together to consider the lessons learned from this episode and plan for future change and development of the drug driving service delivery.

The report also highlights the lack of prevention campaigns aimed at educating motorists about the risks associated with drug driving. “The current approach is overwhelmingly focused on enforcement but should be supported by proactive prevention engagement. Everyone knows the drink driving messages but there is a dearth of similar activity in relation to drug driving,” said Mr Naylor.

“Police Scotland should expand its enforcement activity to make the roads of Scotland safer and this should be supported by capability within forensic services and public campaigns raising awareness of drug driving.”

Mr Naylor is disappointed with the minimal mention of drug driving in the Scottish Government and Transport Scotland’s Road Safety Framework to 2030, saying it is vitally important that key stakeholders work together to address this.

Ends

Notes

The assurance review of Scottish Police Authority Forensic Provision provided an overview of the issues leading to the 447 drug driving cases that were unable to be prosecuted with an assessment of the effectiveness surrounding the processes in place for obtaining, analysing and reporting drug driving blood samples to support criminal proceedings.

By their very nature, blood samples begin to degrade immediately, so analysis must begin as soon as reasonably practicable and within timescales set by UK Accreditation Service (UKAS). SPA Forensic Services drug driving analysis and reporting process has been accredited by UKAS since November 2019.

In Scotland, the Road Traffic Act 1988 creates the Section 4 offence of driving while unfit through drink or drugs and the Section 5 A offence of driving with a specified controlled drug above a prescribed limit. Section 6 of the Act allows for a roadside test for drug, and drink, driving to be administered under certain circumstances. The roadside drug kits test saliva for cannabis and cocaine only. If a driver fails a roadside test, they will be arrested and moved to a police station where a blood sample will be taken. There are currently 17 specified drugs with limits set under the legislation relating to drug driving.

Ends notes

NOTES TO EDITORS

The assurance review of Scottish Police Authority Forensic Provision will be available on the HMICS website www.hmic.scot from 1100 hrs on Tuesday, 25th April, 2023.

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