

The interventions with the strongest evidence-base include ignition interlock devices, which test breath alcohol before driving have been found to be effective at deterring drink drive reoffending whilst installed. However, some studies such as the Cochrane review by Willis et al. (2009) suggest that the safety effects are limited and disappear once the devices are removed.

Other interventions, such as education-only, behavioural interventions and combined approaches (usually employing education, skills-based training and other behavioural elements) have also been evaluated, though the literature suffers from a number of methodological flaws, including a lack of control groups, non-randomised allocation to intervention groups, and other sampling caveats.

Moreover, meta-analytical studies which have evaluated only work that involves an experimental research designs (randomised allocation to groups, control group inclusion) have failed to find a significant effect of educational interventions on reoffending rates (Masten & Peck, 2004; Ker et al., 2005). In addition, education is mostly used for drink-driving and speeding offences rather than those where the EDT is used. Therefore the only sensible conclusion that can be drawn regarding the effectiveness of such interventions based on the current evidence is 'not proven'.

A view was expressed that Summary Court sentencers would welcome the opportunity to offer more educational courses as part of the sentence, reducing the latter's severity when completed, like drink drive rehabilitation courses. This reflects the conclusion of Beuret and Chorlton (2010) who explored perceptions of this legislative provision in certain circumstances and found sentencers in favour. Currently in law, EDTs are added on to a sentence (and may be seen as punitive as a result).

## **11.7 Review guidelines for use of mandatory and discretionary EDT**

The guidelines for the use of the EDT and standard retest should be reviewed to ensure that there is consistency regarding the standard of driving and the retest required.

### **11.7.1 Current guidelines**

There are currently five offences where the EDT is mandatory:

- Causing death by careless driving under the influence
- Dangerous driving
- Causing serious injury by dangerous driving
- Causing death by dangerous driving
- Motor manslaughter

There are several other offences involving death which do not have a mandatory EDT:

- Causing death by driving while disqualified
- Causing death by careless, or inconsiderate, driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers

EDTs may be used discretionally for any offences when an offender is disqualified, including ‘aggravated vehicle taking’.

Aggravated vehicle taking is defined (McCormac & Wallis, 2013, p. 15.30) as occurring when it can be shown:

“After its taking and before its recovery the vehicle is driven, or injury or damage caused:

- That the vehicle was driven dangerously on a road or other public place
- That an accident occurred (owing to the driving of the vehicle) by which injury was caused to any person or damage was caused to any property

Or

- Damage was caused to the vehicle”.

The minimum disqualification for both ‘aggravated vehicle taking’ and ‘dangerous driving’ is 12 months and the sentencing guidelines based on the descriptions of the level of seriousness are similar for both offences.

### 11.7.2 Our findings

Our research showed that three offences accounted for two-thirds of discretionary EDTs being ordered:

- Aggravated vehicle taking
- Driving while disqualified by order of court
- Drink driving

Our consultation and analysis suggested that EDTs were more commonly used:

- For young drivers (high risk)
- For older drivers (whose initial test may be a long time ago, so standards may have lapsed)
- Multiple offences or existing previous offences
- After exceptionally long disqualifications, when drivers may require a retest to ensure their driving standard meets requirements

The data showed that there were a substantial number of drivers who were ordered to take an EDT who did not regain their licence (analysis for standard retests was not possible) and also offenders who committed subsequent offences without regaining their licence.

Our consultation also suggested that there was a low awareness of EDTs amongst members of the judiciary (although the low response rate should be borne in mind), and little guidance given to magistrates for distinguishing when an EDT or a standard retest should be ordered, when discretionary. There was concern from survey respondents as to whether the retest requirement would be observed and whether it would be seen as an obstacle, and therefore drivers would not regain their licence (either not driving or driving unlicensed), and whether this would be greater for EDTs than for standard tests due to the increased length (and cost) of the test.

### 11.7.3 Recommendations

There is a difference as to whether EDT is ordered based on the driving behaviours exhibited or on their outcome. 'Dangerous driving', 'causing serious injury by dangerous driving' and 'causing death by dangerous driving' all have a mandatory EDT, suggesting that the retest is ordered due to the behaviour (dangerous driving), rather than the outcome (whether no injury or causing serious injury or death). However, 'causing death by careless driving under the influence' has a mandatory EDT, whilst driving, attempting to drive or being in charge of a vehicle under the influence does not, suggesting that the retest is due to the outcome (causing death) rather than the behaviour (driving under the influence). Such a discrepancy in the priority afforded to the risk (behaviour) or the outcome (death and injury) should be reviewed.

It is recommended that a review be undertaken to establish whether a mandatory application of the EDT would be suitable for the 'causing death' offences which do not currently have a mandatory EDT requirement.

The guidance on ordering a standard retest or EDT discretionally could be reviewed, and further examples could be included of when each should be ordered. In particular, the guidelines for 'aggravated vehicle taking' should be reviewed and compared with those for 'dangerous driving' to ensure that cases where driving is dangerous are treated similarly.

Any review of guidelines should ensure that these elements are included as examples or indications of what levels would require an EDT.

Any changes that are made to sentencing guidelines would need to be communicated to judges, magistrates and clerks.

It was suggested by a Crown Court judge respondent that the Probation Service rarely mentioned the suitability of ancillary orders in their pre-sentence reports. It was suggested that it would be helpful to the court if they were mentioned, especially where discretionary use of standard retests or EDTs were possible.

## 11.8 Improve understanding of driving offenders, testing and collisions

Linking offence data from DVLA and driver testing data with Stats19 collision data, would be of considerable value.

For example, linking offences that involved death with fatalities in Stats19 could be used to enhance knowledge of driving offenders, for example to estimate:

- What percentage of fatalities in Stats19 resulted in a driving offence of 'causing death by...' or another offence?
- Analysis of the linked data set would enable analysis of circumstances of the accident and offence together, for example:
  - When did the driving offences occur (month, day, time)
  - What were the contributory factors to the collision

Since the collision data do not include driver numbers for those drivers or riders involved in collisions, the linking would be based on data available in offence data and in Stats19, for

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