

## **BLOOD AND URINE SPECIMENS – an explanatory note**

### **REQUIRING BLOOD OR URINE – AT A POLICE STATION**

In drink or drug driving cases, a blood or urine specimen may only be required (or offered in statutory option cases) at a police station where:

- The case is one of alcohol (excess alcohol or impairment through alcohol) and an evidential breath testing instrument cannot be used because:
  - o The officer has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required. (Sec 7(3)(a) RTA 1988)
  - o An instrument cannot be used – no machine, no operator, defective etc etc. or not practical to use such a device (Sec 7(3)(b) RTA 1988)
  - o The result provided by the instrument cannot be relied upon (Sec 7(3)(bb) RTA 1988)
- The case is one of impairment (drugs, or drink or drugs (including drink and drugs)) (section 3A or 4 RTA 1988) and a medical practitioner (doctor only) has advised that the person has a condition which might be due to some drug.

The officer has ‘a very wide discretion’ as to whether to require (or offer in statutory option cases) specimens of blood or urine. The officer cannot be directed and a policy cannot be created compelling or inducing the officer to choose one or the other. The matter is entirely for the officer (DPP v Joseph 2003) who may be guided by all the circumstances.

Although the only statutory route for moving on from blood to urine, once blood has been required, is where a doctor or registered health care professional has decided that for medical reasons a specimen of blood cannot be provided or should not be required (there is no similar statutory provision for moving on from urine to blood), it is possible for the officer to have a change of mind and require urine instead of blood (or indeed blood instead of urine in cases where urine is first required) - for example where it is subsequently established that it will take too long for the doctor to arrive (DPP v Hayes 1994). It would be best to use this facility carefully. The explanation would have to be recorded in the MGDDA Addition Notes and the process re-entered at B16 or B18 as appropriate.

If blood is required (or offered in statutory option cases) at a police station, the specimen may be taken in section 3A, 4 and 5 cases (but see note above about unfit through drugs cases) by:

- o A registered medical practitioner (doctor)
- o A registered health care professional (nurse or paramedic only)

both of which may also determine that the person is fit to provide the specimen.

### **REQUIRING BLOOD OR URINE – AT A HOSPITAL – WHERE A PERSON IS ABLE TO GIVE VALID CONSENT e.g. CONSCIOUS CASES**

In drink or drug driving cases a blood or urine specimen may only be required where:

The doctor in immediate charge of the patient has no legitimate objection (see Sec 9 RTA 1988)

The officer has the same 'wide discretion' as at a police station and may have the same change of mind as in police station cases.

If a specimen of blood is required, the specimen may only be taken by a Registered Medical Practitioner (doctor) - never in any circumstances by a nurse or paramedic. Any medical doctor may take the specimen, it does not have to be a police surgeon and it can be the doctor in immediate charge of the patient. All such doctors may also decide that the driver is fit to provide the specimen.

### **REQUIRING BLOOD OR URINE – AT A HOSPITAL – WHERE A PERSON IS UNABLE TO GIVE VALID CONSENT FOR MEDICAL REASONS e.g. UNCONSCIOUS CASES**

In drink or drug driving cases, a blood specimen only may be taken. In no circumstances can a urine specimen be taken and a blood specimen may only be taken from a person who cannot give valid consent for medical reasons, if the circumstances arose from a road traffic collision – not a suspicion of alcohol or a moving traffic offence.

The specimen may only be taken where the doctor in immediate charge of the patient has no legitimate objection.

The specimen of blood may only be taken by a Registered Medical Practitioner (doctor) - never in any circumstances by a nurse or paramedic. In this case the specimen may be taken by a police surgeon or any other medical practitioner – but not one who has any clinical responsibility for the patient i.e. casualty officer – casualty consultant, anaesthetist etc.

### **PREREQUISITE TO REQUIRING BLOOD OR URINE SPECIMENS IN ROAD TRAFFIC DRUG CASES**

In a case where a person is being investigated for driving etc. whilst unfit through drugs, a specimen of blood or urine may only be required if the police officer has been advised by a medical practitioner (doctor – never a nurse or paramedic) that the person has a condition which might be due to some drug. Sec7(3)(c) Road Traffic Act 1988

This prerequisite to the requirement for a blood or urine specimen only applies at a police station. It does not apply at a hospital although such an opinion from a doctor might be helpful to the prosecution case.

**Police Liaison Office  
Department for Transport**