



Drug-driving competencies

Oct 2021 Review date Oct 2024 - check www.fflm.ac.uk for latest update

The medico-legal guidelines and recommendations published by the Faculty are for general information only. Appropriate specific advice should be sought from your medical defence organisation or professional association. The Faculty has one or more senior representatives of the MDOs on its Board, but for the avoidance of doubt, endorsement of the medico-legal guidelines or recommendations published by the Faculty has not been sought from any of the medical defence organisations.

Introduction

The Faculty of Forensic & Legal Medicine (FFLM) is a charity established to develop and maintain the highest possible standards of competence and professional integrity in forensic and legal medicine. The specialty covers doctors working in related disciplines: forensic physicians working in general forensic medicine and/or sexual offence medicine; medico and dentolegal practitioners; medically qualified coroners; and clinicians working in secure and detained settings.¹

Healthcare professionals, including nurses and paramedics, can also be members of the FFLM. The standards advocated by the FFLM have Government recognition, as 'Guidance as to the level of professional and clinical qualification required for doctors or nurses is issued by the Faculty of Forensic and Legal Medicine (FFLM).'²

As a result of changes in legislation³ in 2015 that stemmed from recommendations in Sir Peter North's 2010 report into drink and drug-driving legislation,⁴ the role of nurses and paramedics in road traffic procedures was extended to allow them to undertake certain processes that had previously only been conducted by doctors, including:

- In hospital settings, nurses and paramedics are allowed to take blood from drivers suspected of driving under the influence of alcohol or drugs.
- In the custody setting, nurses and paramedics are permitted to form the opinion required for offences under section 7(3)(c) RTA 1988, that is, to advise whether the driver has a condition that might be due to a drug.

In line with these changes, the FFLM was asked by NHS England in 2014 to compile a list of competencies to ensure that high standards of advice to police and of patient safety would be maintained in dealing with drink and drug-drive cases. This document represents a further update on the original FFLM publication.

Terminology and background

Whilst, currently, road traffic legislation and the Police and Criminal Evidence Act differentiate, in places, between a Health Care Professional and a Medical Practitioner, for the purposes of these competencies, the term registered Health Care Professional (HCP) will be used to include forensic physicians, nurses and paramedics.

Patient safety is paramount in the custodial setting. Some detainees may have been involved in road traffic collisions and not been taken to hospital but have significant injuries, e.g. head injury. Other conditions might mimic the presence of a drug, e.g. diabetes, stroke, Parkinson's disease. This necessitates that the HCP must be able to undertake a full neurological examination and must be able to give immediate treatment or refer appropriately for any relevant medical problem that might be identified, e.g. hypoglycaemia, ruptured spleen, etc. Similarly, mental health conditions may be accounting for the detainee's behaviour. Research has shown that mental health problems can present in this way.⁵

It is recommended that an acceptable, approved pro forma is used when assessing the patient's condition, e.g. the RTA assessment pro forma as issued by the FFLM.⁶ This simplifies

the procedure for the HCP, as they can rely upon a sequence of assessment that might be otherwise difficult to recall in a stressful custody environment.

HCPs must have access to the latest version of the British National Formulary (BNF), in either paper or electronic format. They must also have access to appropriate, maintained and calibrated clinical equipment including sphygmomanometer, stethoscope, thermometer, glucometer and stopwatch.

The FFLM is aware that there have been requests from Police that clinical forensic procedures in relation to the Road Traffic Act (RTA) are recorded on body worn cameras (BWC) by police officers (see [FFLM Position Statement on video recording assessments in custody](#)). There has never been a legal requirement for the video-recording of any clinical interaction in the police custody environment in England and Wales, this includes taking any forensic samples.

In relation to the RTA the Crown Prosecution Service (CPS) has confirmed the guidance on drink and drug driving offences is available on the CPS website at Road Traffic – Drink and Drug Driving. That guidance does not include any suggestion that clinical forensic procedures, such as an examination conducted under section 7(3)(c) of the Road Traffic Act 1988 to determine the condition of the detained person might be due to some drug or the taking of blood samples should be recorded on BWC or CCTV.

The HCP needs to assess (take a history, perform the relevant required examination) a detainee prior to taking a blood sample in order to obtain the appropriate consent for the sample. This process should not be recorded. The officer wearing the BWC can return to the medical room for the provision of the blood sample if so required.

Current Practice

In England, anyone suspected of driving a road vehicle under the influence of drink or drugs may be arrested for a range of offences under the Road Traffic Act 1988. Section 7 and 7A RTA 1988 make allowance for provision of evidential breath, blood or urine specimens from the driver – and in the case of blood or urine, for forensic laboratory analysis.

Currently, when a driver is arrested on suspicion of a drug driving offence, a doctor, nurse or paramedic will be called to undertake a medical assessment:

- To establish whether there is a condition that *might* (emphasis added) be due to a drug.
- If the specimen required is one of blood, to take a blood sample from the driver.
- To ensure there are no contra-indications to blood or urine being taken.

At the same time the doctor, nurse or paramedic may also seek:

- To establish whether there are any medical conditions that might affect driving, and that might be mimicking the appearance of prescribed or illicit drugs and treat them appropriately if necessary.
- To establish whether there are any medical reasons for failing to provide a breath, blood or urine sample.



Competencies for HCPs for patient safety and clinical care requirements

1. The HCP must be competent to take a comprehensive and complete medical history, which must include past medical, surgical and psychiatric history.
2. The HCP must be competent to undertake a clinical examination including a full neurological examination of the patient as and when required.
3. The HCP must be competent to assess the detainee's mental state and identify any mental health condition that may be accounting for the detainee's behaviour.
4. The HCP must be competent to identify the symptoms and signs of illicit drug use, intoxication and withdrawal.
5. The HCP must be competent to recognise the common side effects of prescribed drugs and be aware of atypical situations such as drug interactions and pregnancy.
6. The HCP must be competent to identify potential indications for transfer to hospital where a road traffic collision has occurred.

Competencies for HCPs relating to section 7(3)(c) RTA 1988

These competencies relate to those cases where the HCP is called upon to advise whether the person has a condition that *might* be due to a drug.

1. The HCP should be able to identify 'a condition which might be due to some drug' and be familiar with Section 7(3)(c) Road Traffic Act 1988.
2. The HCP should know what conditions might be due to a drug and how to recognise, assess and record them.
3. The HCP should be competent in the use of the standardised impairment tests including the effect age may have on the ability to perform the tests. It is recommended that the HCP be familiar with the FFLM RTA assessment pro forma and the abbreviations and procedures outlined in it.
4. The HCP should be familiar with form MG/DD/B, in particular the directions in any sections that deal with the investigation of drug driving offences. Also and especially:
 - The case of *Angel v Chief Constable of South Yorkshire Police*;⁷
 - That an examination might not always be agreed to and that it might be possible to form an opinion from observations alone;
 - That gauging impairment is not required, is not essential and does not form part of the opinion sought;
 - That the process of forming an opinion is not covered by the usual rules of patient confidentiality.
5. The HCP should be familiar with forms MGDD/E and MGDD/F (a copy of which may have previously been completed by the investigating officers) and the Department for Transport Code of Practice for Preliminary Impairment Tests in appreciating what the condition of the detainee was at the time of testing.

Other competencies for HCPs relating to drink or drug driving cases

1. The HCP should be familiar with forms MG/DD/A and MG/DD/C.
2. The HCP must be proficient in taking venous blood samples, and must be familiar with non-medical reasons that might be offered against taking blood samples.
3. The HCP must be competent to write a statement outlining their assessment of the detainee, the taking of forensic samples, and their conclusions for the court.
4. The HCP must be competent to robustly present and defend their actions in a courtroom setting.

Training

The FFLM advises that all HCPs who conduct assessments under the Road Traffic Act should ensure that they remain up-to-date in the field of Traffic Medicine, e.g. by attending the FFLM GFM Best Practice Day.

All HCPs undertaking assessments under the Road Traffic Act must also receive formal training in the writing of witness statements and courtroom skills.

References

1. FFLM website
www.film.ac.uk
2. Hansard, 18 Mar 2009: Column 1162W
publications.parliament.uk
3. Schedule 11, Part 1, of the Deregulation Act 2015
www.legislation.gov.uk
4. Sir Peter North CBE QC
Report of the Review of Drink and Drug Driving Law June 2010
5. Odell, M.S. (2002)
Expert Opinion in DUID Cases Based on Interpretation and Observation and Toxicology in T2002 Proceedings of the 16th International Conference on Alcohol, Drugs and Traffic Safety. Montreal. 2002
6. *Pro forma – Assessments (alcohol & drugs) under the RTA (England, NI and Wales) (Sep 2020).*
<https://film.ac.uk/resources/publications/assessments-alcohol-drugs-under-the-rt/>
7. *Angel v Chief Constable of South Yorkshire* [2010] EWHC 883 (Admin)

Make sure you have the latest version of this document by scanning the QR code to visit our website.

