

GREATERLONDONAUTHORITY

Report to the Metropolitan Police Authority

Mayor's proposal to develop a Compulsory Alcohol Sobriety scheme for London

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Summary

The purpose of this report is to provide MPA members with an outline of the Mayor's proposal to develop a compulsory alcohol sobriety scheme for London.

The compulsory alcohol sobriety scheme is an enforcement approach providing specific powers for the court to order sobriety as an order for alcohol related violence offences. The Mayor is tabling an amendment to the Police Reform and Social Responsibility Bill for changes in the current law to enable the courts to make this order. The compulsory alcohol requirement will involve twice daily testing and failure of the test will result in immediate breach and sanctions, such as custody.

A. RECOMMENDATIONS – That

1. Members note the contents of this report.

B. SUPPORTING INFORMATION

1. The Mayor wishes to trial a compulsory sobriety scheme in London, similar to a scheme that has been tried and tested in South Dakota and is currently being rolled out in other US states (for more details see appendix A). The Mayor appreciates the crime types are different to those in South Dakota and that our legal system is based upon different principles. However it is felt that the essential key principles upon which this model is based would be beneficial for London.
2. The Mayor is committed to making London a safer and better place to live, and in doing so has identified the need to tackle alcohol related violence in the capital, particularly in town centres. London experiences disproportionate levels of alcohol related crime in comparison to the rest of the country (please see appendix B for more details on the impact alcohol related crime). This poses a huge threat not only the safety of Londoners, but also to the general well being of Londoners, particularly those who live or work in boroughs with prominent town centres. It also has huge cost implications for the MPS and the NHS, as well as borough budgets, diverting increasingly scarce resources away from priorities.

Objectives for a London based compulsory sobriety scheme

3. The Mayor recognises that there are a number of schemes and programmes available on both a compulsory and voluntary basis. However, he feels that Londoners would benefit from a clear and simple programme of compulsory sobriety that could be clearly promoted and articulated to both perpetrators and victims. This is with the view that there needs to be long term changes in attitudes towards acceptability of behaviour.
4. The Mayor's vision for a sobriety scheme has three clear and simple objectives:
 - Reduce the number of alcohol related incidents in London, therefore making improvements in public safety, perception of safety and public well being.
 - Reduce the cost of alcohol related crime on Londoners, including MPS, NHS and borough budgets.
 - Support a long term shift in public attitudes towards the use of alcohol, by making a clear statement about the acceptability of behaviour surrounding alcohol consumption, supported by clear consequences.

Basic principles of a compulsory sobriety scheme for London

5. The programme works in a very specific way in South Dakota and mainly focuses on drink driving crimes, as well as anti-social behaviour, violent crime, domestic violence and child protection cases (please see appendix A for more details on the South Dakota scheme). It is based around some key principles:
 - The judges opt to use compulsory sobriety as a sentencing option instead of choosing to incarcerate offenders.
 - The convicted individual is required to check into a designated venue twice daily to be breathalysed for alcohol consumption.
 - If the terms of the sentence are breached, the individual is arrested, put into a police cell over night and presented to the judge the following day. The judge has the discretion to decide what happens to the offender, for example incarcerate them, put them back on community sentence etc.
 - Individuals pay for their testing.
6. In London it would be likely that the sentencing tool would be used for different crime types than for those in the US. For example it would be a useful tool to focus on violence against the person and criminal damage offences, as well as violence against women offences.
7. It is the Mayor's view that sentencing should be proportionate to the crime committed and therefore a sobriety scheme should not replace a prison sentence when a prison sentence is most appropriate. However in cases that do result in a prison sentence, the scheme could be added (at the time of sentence) as part of their release terms.

8. It is felt that this programme could be used in response to a range of offence types where alcohol has played a key part in the offence or where alcohol plays a secondary role. This would work either as a part of a suspended sentence, as an alternative to incarceration or where a community sentence is relevant, it is also felt that this could be built into the terms of release from prison.
9. It is not felt that a programme of compulsory sobriety would necessarily be suitable for those diagnosed with alcoholism. Nor is it felt that this scheme has to be delivered as a lone scheme. There is nothing to say that compulsory sobriety could not be delivered alongside other schemes developed to tackle offending behaviour, including those developed to tackle alcohol related crime.
10. There are a number of key principles that must stay in any scheme delivered in London. It is felt by those who developed the original scheme that the following are key to its success:
 - Offender must undergo daily testing;
 - Offender must pay for their testing in some form (ideally this would be on a daily or weekly basis as opposed to a one off fine);
 - There must be a formal process for apprehension of offender if the terms of the programme are breached.

Amending the current legislation

11. The current sentencing framework does not allow for compulsory alcohol sobriety as a court order. Therefore the Mayor is seeking to introduce an amendment into the Policing Reform and Social Responsibility (PRSR) Bill. The Bill is currently at the committee stage and the amendment has been tabled. The committee stage completes on 17th February 2011.

Development of the scheme

12. The scheme is at the development stage and there are a number of aspects which need further scoping. A number of statutory agencies are working together, including the MPA and the MPS, to develop the scheme to implementation.
13. The police will need to support the delivery of the scheme through taking action on any breach of the court order on failure of the alcohol test. The indications from South Dakota and other similarly structured schemes, is that the breach rate is very low.
14. Violence against women and girls (VAWG) is a key priority for the Mayor, in his strategy 'The Way Forward', he sets out a particular objective to focus on expanding the work to tackle the impact of alcohol on VAWG. The strategy

recognises that alcohol does not cause VAWG. Alcohol (treatment or abstinence) in and of itself, will not be sufficient to tackle the problem. A compulsory sobriety scheme could provide the courts with a useful tool, alongside other sentencing powers, in many cases of VAWG, particularly domestic violence cases. The development of the use of alcohol sobriety in relation to VAWG will be developed in conjunction with the London Violence Against Women Panel.

15. It is proposed to pilot the scheme which allow the scheme to be fully tested; in particular the breach rate. The details of the pilot are still to be developed.

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Background papers: The amendment to the Police Reform and Social Responsibility Bill has been tabled. The Amendments are entitled : New Clause 10 (for adults) and NC 11 (for juveniles). Details can be found at:

<http://www.publications.parliament.uk/pa/cm201011/cmbills/116/amend/psc1161002m.576-582.html>

<http://www.publications.parliament.uk/pa/cm201011/cmbills/116/amend/psc1161002m.583-589.html>

Appendix A - The South Dakota scheme

Where did the idea of compulsory sobriety originally come from?

The state of South Dakota in the United States, has been running a 24/7 sobriety programme since 2005, with excellent results. They initially developed the scheme in response to high levels of alcohol related driving incidences and later rolled it out across the state to be used in response to a whole range of crime types. It is currently being rolled out across other US states. The concept had been being used on a small scale in the state since the mid 1980's.

How does it work in S.Dakota?

- Judges opt to use compulsory sobriety as a sentencing option instead of choosing to incarcerate offenders.
- The convicted individual is required to check into a designated venue twice daily to be breathalysed for alcohol consumption, this works like a community sentence.
- If the terms of the sentence are breached, the individual is arrested, put into a police cell over night and presented to the judge the following day. The judge has the discretion to decide what happens to the offender, for example incarcerate them, put them back on community sentence, etc.
- Individuals pay a dollar a day for the tests.

Results

- As of January 2010, over 13,000 offenders had been through the programme, amounting to 2.4 million tests, with a 99.6% pass rate.
- Over 66% were totally compliant during the entire term of their sentence.

Benefits

- Reduces recidivism.
- Improves public safety.
- Reduces the number of people going into prison and therefore the cost of prisons.
- Allows offenders to remain within the community and with their families.
- Allows offenders to remain in employment.

Appendix B – The impact of alcohol on London

In July 2010, the Home Office reported that the total cost of alcohol-related crime and disorder to the taxpayer is estimated to be between £8bn and £13bn per year (in 2009 almost one million violent crimes were alcohol related, with a fifth of all violent incidents taking place in or around a pub or club)ⁱ

According to the Cabinet's Office Alcohol Harm Reduction Strategy for England (March 2004), the cost of alcohol-related harm in relation to crime and disorder is up to £7.3bn per annum. This includes:

- Human costs of alcohol-related crime: £4.7bn;
- Cost of drink driving: £0.5bn;
- Cost to Criminal Justice System: £1.8bn;
- Cost to services as consequence of alcohol-related crime: £3.5bn;
- Cost to services in anticipation of alcohol-related crime: £1.7-2.1bn.

London has the highest rate of alcohol-related crime in England. In 2008/09, there were 12.4 alcohol-related crimes recorded per 1,000 population in London compared with 8.6 per 1,000 countrywide. London's rate was significantly higher than any other region in England. London also has the highest rate of alcohol-related violent crimes and sexual offences.ⁱⁱ

In the last year police alcohol flagged offences for London show: 18,403 violence against the person offences; 3,612 criminal damage offences; 2,136 theft and handlingⁱⁱⁱ

Alcohol-related calls now make up six per cent of calls to the London Ambulance Service (LAS). In 2009/10 LAS received 60,686 emergency calls because somebody had too much to drink – that works out at one call every eight and a half minutes. LAS are now responding to 25 per cent more alcohol-related calls than in 2004/5, before new licensing laws were introduced.^{iv}

Alcohol related admissions for London hospitals have been steadily increasing 1684 (2009-10) a rise from 1483 (2008/09)^v

Alcohol identified as a significant factor at the start of 37% of Community Orders (whilst for drugs 36%).^{vi} Alcohol Treatment Requirement order used 1,994 times 2009-10 ranging by borough from 29 to 106^{vii}, reflecting availability of suitable treatment services.

Perceptions of Drunk and Rowdy Behaviour^{viii}

- Perceptions of problematic drunk and rowdy behaviour are higher for London than any other region.
- 35.5% of Londoners think their local area has a problem.
- Perceptions vary considerably by borough for example from 24.1% in Richmond-upon-Thames to 51.6% in Newham.

Appendix C

Further areas where the alcohol sobriety scheme could be used

Young People

Alcohol and drug use strongest indicator of offending among young people and in most cases young people would be supported in a holistic manner and referred into appropriate health-based interventions.

For young people compulsory sobriety could be integrated into the Intensive Surveillance and Support order already available to the court as part of the Youth Referral order. The ISS is a direct alternative to custody and requires the young person to complete 25 hours of interventions each week for the first three months (minimum) it also includes tagging and curfew and runs for between 6-12 months.

Domestic Violence

The relationship between alcohol and domestic violence is complicated. Domestic violence is used to exert power and control over another; it does not represent a loss of control. An alcohol abstinence programme by itself will not tackle the issues of domestic violence or other forms of violence against women.

Compulsory alcohol sobriety may be a useful tool for the court to use in conjunction with other orders.

Child Care Proceedings

There is existing evidence of the impact of alcohol on child neglect and abuse. Providing for this type of order in child-care proceedings may provide further assurances to the family court that issues of alcohol are being addressed and more importantly effectively monitored whilst a child remains with the family.

Drink Driving

The scheme in South Dakota and other states has been principle used for drink-driving. In effect the scheme prohibits the drinking and allows the driving to continue, whereas currently in the UK we prohibit the driving and allow the drinking to continue

This scheme would allow the courts more flexibility to tackle the drinking behaviour. It could also enable non-custodial sentences where a custodial sentence is proscribed for levels of alcohol and provide an alternative to revoking a license.

Low level anti-social behaviour

The compulsory alcohol sobriety scheme would not be suitable for low-level anti-social behaviour which would not be charged by police as an offence, however could be suitable for a Fixed Penalty Notice or Penalty Notice for Disorder.

In some areas (for example Devon and Hertfordshire) this has been used to establish a self-financing scheme whereby recipients are referred for brief intervention (tier 1 alcohol intervention) paid for by the FPN.

ⁱ <http://www.homeoffice.gov.uk/media-centre/press-releases/licensing-act-overhaul>

ⁱⁱ Local Alcohol Profiles for England PCT download

ⁱⁱⁱ MPS alcohol flagged data (November 2009 to October 2010) unpublished

^{iv} Taken from London Ambulance Service website 31 January 2011

http://www.londonambulance.nhs.uk/news/alcohol-related_calls.aspx

^v Local alcohol profiles for England <http://www.nwph.net/alcohol/lape/download.htm>

^{vi} Predictors of compliance with community supervision in London, LCJP, 2010

<http://lcbj.cjsonline.gov.uk/area23/library/Predictors%20of%20compliance%20RR.pdf>

^{vii} Profile report on police detainees and offenders in London 2009-10, NHS London and Ministry of Justice, 2010

<http://lcbj.cjsonline.gov.uk/area23/library/JSNA/PoliceDetaineesAnd%20OffendersInLondon1.pdf>

^{viii} Place Survey 2008, Sample size 44,358.