

Submission by Ms. Moyagh Murdock CEO of the Road Safety Authority to the Joint Committee on Transport, Tourism and Sport concerning matters relating to the disqualification of drivers.

Chairman, thank you for the invitation to address the Joint Committee on the matter of driving licences and disqualified drivers.

The disqualification of drivers is an important road safety measure. It helps safety on our roads in two ways firstly by keeping dangerous drivers off our roads and secondly the deterrent effect of possible disqualification reduces risk taking by drivers. In that regard the proper administration and enforcement of driver disqualification is critical to safety on our roads.

The disqualification of drivers and the enforcement of the various provisions is a shared responsibility of the Road Safety Authority (RSA), the Department of Transport, Tourism and Sport, the Courts Service and An Garda Síochána.

For the information of members it might be helpful to describe the process involved that leads to a driver being disqualified. Essentially, there are two routes to disqualification, one is by accumulating seven or twelve penalty points within a three year period, the second is by way of a court disqualification on being convicted of an offence for which the penalty involves disqualification from driving. There is also a process known as a Special Disqualification Order where a Court

Order is sought to disqualify a driver usually on the basis of not being medically fit to drive, this happens infrequently with just a handful of cases each year.

Once the disqualification is confirmed the information is updated onto the National Vehicle Driver File (NVDF) which contains the driver record and is operated by the Department of Transport, Tourism and Sport. The updating of the driver record is initiated once one of the following happens:

- Following notification from the Courts Service to the RSA/NDLS where the disqualification results from the Court disqualification the record is updated by the National Driver Licence Service (NDLS),
- Following notification by An Garda Síochána of the payment of a Fixed Charge Notice to the Department of Transport, Tourism and Sport in Shannon (DVCSD), for certain drink driving offences or where the accumulation of penalty points reaches the threshold for disqualification,
- Following notification by the Courts Service of a conviction for a penalty points offence to the Department of Transport, Tourism and Sport in Shannon (DVCSD) where the accumulation of penalty points reaches the threshold for disqualification.

In each instance, the driver is written to by either the Courts Service or the RSA and informed that the licence must be surrendered to the

NDLS within 14 days of the disqualification taking effect. When the licence is surrendered the NDLS updates the driver record to reflect the licence has been received.

Chairman, recent media reports suggest that the number of licences surrendered are at a low level and this is borne out by the available statistics. The Table below sets out data for the last number of years. We can see that for the year 2017 just one in six of those disqualified surrendered their licence.

Table 1 Disqualified Drivers and Surrendered Licences

Year	Court Disqualifications			Penalty Points Disqualifications			Court Disq. and Accumulated PP Disq Total
	Number	Licence Surrendered	% of Licences Surrendered	Number	Licences Surrendered	% of Licences Surrendered	%
2014	8814	727	8%	348	92	26%	9%
2015	7816	1213	16%	844	405	48%	19%
2016	8296	1035	12%	1064	476	45%	16%
2017	9449	1289	14%	1271	535	42%	17%
2018*	4923	491	10%	451	143	32%	12%

*Up to 31 May 2018

It is a legal requirement for drivers who are disqualified, whether by the courts or by exceeding penalty point limits, to return their licences to the licensing authority, i.e. the Road Safety Authority.

It is an offence not to return a licence following disqualification. The penalty for non-return of a licence on disqualification is a fine up to a

maximum of €1,000 for a first offence, and up to €2,000 for a second or subsequent offence.

As seen in the table above, only a relatively small minority comply with this requirement. In 2017, 9,449 drivers were disqualified by the courts, but only 1,289 surrendered their licences. There is no doubt a myriad of reasons for this including the fact that in some cases the driver does not hold a licence in the first place. However, the level of compliance is entirely unacceptable and demonstrates a disregard and disrespect by the individuals involved of road traffic legislation. Clearly, there has not been a strong culture of surrendering a licence in this country.

I contrast this with the situation in Northern Ireland; I know from engaging with the Driver and Vehicle Agency that it's the norm to surrender a licence in Northern Ireland. No doubt this is largely attributable to the strong security presence during the troubles when vehicles were frequently stopped and documents demanded which created a culture of compliance. Compliance with this element of road traffic legislation in our nearby jurisdiction is also mirrored in the other areas of road safety as we know such as zero tolerance to driving unaccompanied by Learner Drivers. The legislation in both jurisdictions is relatively similar however attitudes and behaviour are very different. It should be noted that the mechanism for surrendering a licence appears to be less cumbersome in that it is surrendered to

the Court on conviction and then transmitted to the licensing authority.

In this jurisdiction, the licence is not retained in court rather the driver is asked to post it to the licensing authority. The rationale for this approach is generally that there is a period allowed for the driver to appeal any conviction. Neither do the existing legal provisions provide for the courts to retain the licence.

At the same time, it is important to bear in mind that the matter of greatest concern here is whether people are driving while disqualified. Non-return of licences cannot be taken as a proxy measurement for those driving while disqualified. A person who has retained their licence may not be driving, while a person who has returned the licence might continue to drive. The penalty for driving while disqualified is a fine up to a maximum of €5,000 and/or a prison term of up to 6 months. The low surrender rates naturally begs the question as to whether those who are disqualified continue to drive while disqualified. We know for sure that some do since we have data that shows 84 convictions for driving while disqualified in 2017. Naturally, as CEO of the Road Safety Authority this is a very serious concern and is an additional challenge in keeping our roads safe.

This brings us to the question of enforcement of the licence surrender and general disqualification rules. This is primarily a matter for An

Garda Siochána, but requires a significant input from the RSA and the Department of Transport Tourism and Sport. The Gardaí have access to the driver record and are able to see whether or not a driver is disqualified and whether a licence is surrendered in a particular case. However this is not easily accessible at the roadside during enforcement activities. As the Gardaí do not currently have the technology such as mobile devices to access the database files in a real-time scenario this somewhat inhibits effective detection of offenders.

In order to successfully prosecute for failure to surrender a licence having been disqualified, the RSA would most likely have to have a representative in Court alongside the Gardaí to give evidence of the failure to surrender the licence. The RSA would need significant resources to do this. The Gardaí would also need significant resources to prosecute the thousands of cases for failure to surrender licences.

I understand that Gardaí have many priorities but one of my responsibilities is to make the case for the appropriate resources be they personnel or technology, to be allocated to road safety matters. I have been on record over recent times to express the dissatisfaction of the Authority that the Garda Roads Policing Unit has not been staffed or prioritised to the levels committed to. I continue to raise this directly with the Garda at the highest level and I have also expressed my concern to the Policing Authority about this matter.

Clearly, if the Roads Policing Unit is not at core strength the ability of the Unit to enforce the law is diminished and drivers who should not

be on our roads may come to believe there is little chance of their being detected. I believe that the visible presence of Gardaí with smartphone lookup capability on our roads is the measure that will do most to reduce death and injury on our roads. It would also be the best use of the limited resources available to ensure targeted effective enforcement.

As regards the specific issue of how do we improve the compliance levels so that more disqualified drivers surrender their licence I think all the stakeholders should look at a number of measures which I will now set out.

The principal purpose of licence surrender is to prevent drivers from continuing to drive while disqualified. Members will be aware that the RSA has explored the possibility of publishing lists of disqualified drivers. The purpose of this initiative was to bring public pressure to bear on disqualified drivers to ensure they would not drive and be a danger on our roads as well as deterring them from committing the offences in the first instance. While there are legal and data protection impediments to proceeding with publishing such a list, we believe that the spirit of the proposal continues to have merit but we have more work to do in order to satisfy Data Protection requirements and to meet GDPR regulations.

As part of this, we are currently exploring the possibility of creating an information portal where employers who have employees driving for

work would, with appropriate privacy protections, be able to access their employees' driver records. This would be a progressive step particularly in keeping professional drivers of buses and trucks who are disqualified off our roads.

It is clear that the greatest impact can be made by enhancing enforcement capabilities of the Gardaí to detect disqualified drivers who drive while disqualified more so than pursuing and prosecuting those who do not surrender their licences. The RSA is aware the Gardaí has been developing an initiative that will see a specific focus on disqualified drivers including the need to surrender the licence. I understand that Gardaí are about to roll out this initiative which will allow them to extract the specific information on driver disqualification from the driver record and distribute it directly to Garda Divisions so that the information is known to the local Garda without having to access the driver record. This should help target offenders and give more focused information on the ground and enable enforcement to take place in a proactive fashion.

I am satisfied that the legislation is adequate for both the offences being discussed here today i.e. the non surrender of licences and driving while disqualified, along with the penalties prescribed therein and that the necessary powers have been given to the Gardaí to effectively deal with the issue. However, the necessary funding and resourcing must also be in place to enforce and change attitudes and

behaviour. The RSA acknowledges and fully supports the Garda Modernisation and Renewal Programme commitment to maximise the potential of technology. In practice this means that a Garda will have access to all systems needed to undertake their duties on their person. It also commits to the expansion of systems such as the Automated Number Plate Recognition (ANPR) system and the creation of 'watch lists' there is no reason why such lists should not include vehicles owned by disqualified drivers.

In our regular interactions with the senior Garda Roads Policing management, the RSA has affirmed a commitment to support in whatever way it can, An Garda Síochána in the development and roll-out of smart mobile technologies.

I acknowledge that there is an issue as regards the surrender of licences, the statistics don't lie; however, I believe that if all stakeholders work together we can make progress in resolving the issue.

Finally, I would like to touch briefly on broader road safety matters. Last year was the safest year on record on our roads, I'm afraid the position today is that we have an increased level of fatalities as against the same time last year. 76 people have died on our roads this year an increase of 5 on the same day last year. I appeal to all road users, as we enter a busy holiday period, to be extra vigilant. This time of year there are greater levels of traffic on our roads including visitors less

familiar with driving in Ireland. Each one of us can take simple steps that will make our roads safer- almost all collisions are preventable. Do not engage in killer behaviour on our roads.