

Topic guide

Updated 25 November 2019

Driving with excess alcohol convictions

Background

This guidance relates to convictions for driving with excess alcohol and may also apply to offences of driving under the influence of drugs.

Our role in dealing with reports of such convictions is not to duplicate the criminal process or punish a person twice for the same offence. However, regulated individuals are expected to behave with integrity and in a way which promotes public trust in the profession. They are also expected to uphold the constitutional principle of the rule of law and the proper administration of justice.

We have published separate guidance on our approach to criminal conduct outside of practice [<https://www.sra.org.uk/sra/strategy/sub-strategies/enforcement-practice/criminal-offences-outside-practice>] and to Principle 1 and the obligation to uphold the constitutional principle of the rule of law and administration of justice [<https://www.sra.org.uk/sra/strategy/sub-strategies/enforcement-practice/guide-application-principle-1>] .

Our approach to enforcement

Driving with excess alcohol presents a risk of serious harm or death to individuals. Where a regulated individual has a conviction for an offence of this nature, this demonstrates conduct that would tend to diminish public trust and confidence in the profession.

When considering the appropriate sanction, the sentence handed down by the courts will often in itself be an indication of the seriousness of the case, as this will reflect its aggravating or mitigating features. Therefore, as a minimum, a certificate of conviction will be obtained, and a record of the summary circumstances of the offence and, where available, the court's sentencing remarks.

Indicative sanctions guidelines

In considering what action we need to take, if any, we will consider any mitigating and aggravating factors, including those set out below.

Mitigating features	Aggravating features
Prompt reporting of conviction to the SRA, and	There has been a failure to report, or delay in reporting, the conviction to the



any employer or body to whom the individual has an obligation to report the conviction	SRA, and any employer or other body to whom the individual has an obligation to report the conviction
This is an isolated incident, and is out of character	There are historical convictions of Driving with Excess Alcohol, or a pattern of offending behaviour
No harm has been caused to property or persons as a result of the offence	Harm was caused to property or persons as a result of the offence
Insight and remorse has been shown	Third parties were travelling in the vehicle who were not able to give consent ie children and/or vulnerable adults
	There was a refusal to be breathalysed or produce a specimen
	Individual resisted arrest or fled the scene
	Attempts to mislead police, courts, employer or SRA in relation to event
	Particularly high level of alcohol in blood, urine or breath
	High sentence given such as a ban of over 18 months or a custodial sentence

The presence of mitigating features will indicate a less serious sanction. Strong mitigating features combined with a lack of aggravating features is likely to result in either a warning or a rebuke.

We will impose serious sanctions where aggravating features are present, and in the most serious cases refer the matter for a hearing before the Solicitors Disciplinary Tribunal. For example, cases which suggest persistent or repeat offending, or in which the circumstances demonstrate a lack of honesty or integrity, and/or a recklessness to the possibility of causing serious harm or death.

We also take very seriously any failure to cooperate with the criminal process (such as resisting arrest, fleeing the scene or refusing to be breathalysed/failing to provide a specimen), or to comply with any duty to report. These underpin the rule of law as they are essential to the effective operation of the criminal justice and/or regulatory systems.