**Driving at Work: Managing Work-Related Road Safety Guide**

In September 2003, the Health and Safety Executive published a guide called 'Driving at Work: Managing work-related road safety' guide. The guide highlights the legal responsibilities of companies, large or small, to comply, so far as is reasonably practicable, with the Health and Safety at Work etc Act 1974.

The guide stresses the benefits of managing work-related road safety and suggests ways of managing safety and assessing road risks. The aim of the guide is to reduce the number of casualties involving company car and van drivers, either in company or private vehicles.

Consequently, companies need to look at driver competency and training; driver health; knowledge of basic vehicle checks; vehicle suitability, condition and maintenance; if a valid MOT certificate is required, and safety equipment. The provisions of the guide even extend to allowing proper route planning and adequate travel time allowance.

As highlighted, the HSE guide applies equally to the use of privately-owned cars and vans on business trips. Companies are liable if employees use an un-roadworthy vehicle on company business so if they allow employees to use their own vehicles on business they have a duty of care to ensure they are monitoring the maintenance history of the vehicle and that the vehicle insurance also covers business use.

Incredibly one recent survey showed that 88% of staff using their own vehicles on company business had never had checks carried out on insurance or service records and over a third had not even had their driving licences checked!

Companies that fail to act on the guide run the risk, in the event of an accident, of facing significant fines. Company directors and senior management could also face large fines and even possible imprisonment.

Legal experts have warned that companies could face prosecution under corporate manslaughter laws if, for example, an 'at work' driver did not have insurance for business use and was found guilty of causing an accident.

## Draft Corporate Manslaughter Bill

Details of a draft Corporate Manslaughter Bill have been published, which would make it easier for companies to be prosecuted for failure to meet their duty of care responsibilities. The new Bill would make gross negligence by senior company management, resulting in fatalities, more easily punishable. The person prosecuted could be a company director or the most senior manager responsible for fleet.

The Bill underlines the need for companies to look at their duty of care responsibilities. This means reading the 'Driving at Work: Managing work-related road safety' guide carefully before conducting internal reviews and, if necessary, implementing new policy guidelines.

Duty of care prosecutions for 'at work' drivers involved in vehicle collisions will increase substantially as a result of the new Bill.

Furthermore, the police will now record in all accident reports if the crash involved an 'at work' driver. This will allow an accurate picture to be built up of the number of work-related road accidents. Many experts feel 'at work' drivers represent the biggest risk on the roads today and that proper attention should be paid to the Health and Safety at Work Act Approved Code of Practice on driving 'at work'.

## Exercising Proper Control

Fleet vehicle sales continue to rise and consistently account for over 50% of total new car sales. Commercial vehicle sales, including vans, are the best they have been for 25 years!

With more cars, vans and trucks on the roads comes an increasing need for companies to exercise proper duty of care towards their 'at work' employees.

As mentioned, directors could face manslaughter charges if deaths occur involving the use of vehicles not fit for the purpose or poorly maintained or not insured for business use. Such deaths would be deemed to be caused by managements' lack of duty of care, due to a failure to establish proper controls. In such instances, company disclaimers may not be sufficient to protect company directors if they do not exercise the right level of duty of care.

Many companies still do not have the right controls in place to ensure that vehicles are being properly maintained and insured, have a valid MOT certificate if required and are suitable for the purpose intended.

Survey results can be revealing. For example, in one survey, a quarter of fleet drivers did not check their vehicles or were not even aware that they should. In another, only a third of fleets imposed some form of penalty following an accident or fine and only an eighth introduced some form of driver training following an accident.

## The Right Vehicle for the Job

Duty of care can even be exercised at the time a new vehicle order is placed. Companies should make sure the new vehicle ordered is the right one for the job. For example, a hatchback or estate with the luggage platform at the right height would be the most appropriate for a sales representative regularly lifting loads. A sales representative off sick with a bad back is not what the employee or the company wants.

Vehicle specification could also be a determining factor in duty of care. By spending more on sensible options, companies can clearly demonstrate their duty of care. Many manufacturers offer power steering, ABS and driver/passenger airbags as standard but if not companies should specify them. Basic safety equipment should be on any company's checklist as being essential in meeting its duty of care responsibilities. And drivers need to know how to use the equipment.

Besides basic safety equipment, consideration should be given to front fog lights, heated front windscreens, steering column audio controls and wide-angle heated mirrors. For driver comfort, the checklist should include height-adjustable seating, a height adjustable steering wheel and, possibly, even air conditioning.

A few sensible optional extras could help avoid a potentially heavy fine for not providing a suitably equipped vehicle. Companies failing to meet their duty of care responsibilities to their drivers will feel the pain as fines impact their bottom line and their overall public image.

**Protecting Drivers**

Duty of care obligations extend to one of a company's most important assets, its drivers. So, what can companies do to meet their duty of care responsibilities?

The job interview is a good starting point. Companies should make sure that all new company car and van drivers employed are safe. They should follow up on references and check their driving licences. Every six months, driving licences should be checked again to make sure drivers have not been gathering points, or worse, without company knowledge. It's surprising how many employees may be driving while disqualified.

The next step is to issue a driver's handbook covering a company's guidelines to every driver working on company business. Besides helping to enforce compliance, providing a detailed driver's handbook demonstrates a company's duty of care to its employees.

So what should be covered in a driver's handbook? It should be a complete A to Z, from ABS to zebra crossings! Everything from stressing the importance of wearing seat belts to taking 15-minute breaks every two hours. The handbook should be regularly reviewed and updated as necessary.

Recent research shows that only about a quarter of companies have updated their company car policy regarding the use of mobile phones while driving despite a change in the law. A driver is no longer permitted to use a non-hands-free mobile phone while on the move. The vehicle's engine must be switched off.

Time spent behind the wheel is another important issue. Even where a company operates 3.5 tonne vans to avoid fitting tachographs, drivers will still need to watch their time behind the wheel. And with so many aftermarket telematic devices available, companies have no excuse not to keep track of driver movements.

One of the latest surveys revealed that more than 60% of companies did not offer any formal driver training. While there may be no obvious return, that is shortsighted thinking. The sum total of fewer accidents, less vehicles off the road, more drivers at work and lower insurance premiums should all be sufficient incentive to offer proper training. Any driver involved in an accident should have their driving record examined and offered additional training where necessary. Only one in eight companies do so at present.

On the subject of shortsightedness, although it is recommended that everyone should have their eyes tested every two years, less than a third of companies carry out an eyesight test. Adequate vision for the road ahead is a basic requirement.

Make no mistake, employees are one of a company's most important assets. A good driver, properly trained and armed with an up-to-date driver's handbook, will be safer as they go about a company's business. These simple measures can ensure directors meet their duty of care responsibilities.

**Expert Support**

From all of the above, it is clear that a company's duty of care responsibilities is extensive. No wonder duty of care is, or should be, so high up the boardroom agenda. To be properly covered, companies need to have a professional risk assessment audit undertaken of both vehicles and staff. They will then have to follow up on all recommendations and advice, and exercise their duty of care responsibilities on an on-going basis.

Undoubtedly, if companies do not meet their responsibilities then they will face legal action. As legislation becomes more prevalent, companies must heed their duty of care responsibilities, especially for 'at work' drivers.