

The management of 'at work road risks' is becoming increasingly important with health and safety law requiring employers to have a duty of care for the safety of employees at work. The introduction of Corporate Manslaughter and Corporate Homicide Act on April 6th 2008 clarified the criminal liabilities of companies and directors where serious failures in the management of health and safety results in a fatality.

If someone is driving on behalf of a business, whether in a company car or their own vehicle, then the vehicle becomes "The Work Place". The company is legally responsible for the health and safety of staff when they are behind the wheel and if they fail to show a duty of care to them, the company – its directors and managers – can face prosecution if there is an accident. In addition there is potential liability under Traffic Law.

Guidelines issued by the Health and Safety Executive (HSE) and enshrined in the Health and Safety at Work... Act 1974 requires employers to take reasonable steps to safeguard the health and safety of staff. The HSE publication "Driving at work – managing work related safety" clarifies obligations relating to issues that employers must address.

Over 10% of the 27 million or so cars in the UK are company cars. It is estimated that one third of the 3,500 death per annum in the UK are work related. Under the Road Traffic Act 1988 it is already an offence to use, cause or permit a vehicle to be used on the road in a condition that is likely to create a danger or injury to another person.

It's not just the car

The new legislation goes further than requiring employers to simply tell employees what the policy is, the business must ensure that health and safety guidelines are followed. The HSE guidelines focus on the three critical areas:-

- The Vehicle
- The Driver
- The Journey

Companies have to be able to demonstrate that they are enforcing policy and may be asked to produce evidence to that effect. The commitment of resource to the management the 'fleet' will reduce accidents and benefits will be realised that far outweigh the cost of such resource.

Areas for attention are:-

- **Policy Statement**
A clean written statement should be produced and issued confirming the requirements of the business. Senior management should actively support this policy and it should be clearly communicated to all employees. The policy should put in place adequate systems to monitor the vehicles and their drivers and ensure that they are properly maintained.
- **Planning**
Risk assessments should be carried out. Particular attention should be given to such matters as:
 - *The competence of the driver – is training required?*
 - *Use of mobile phones.*
 - *Work schedules – are they realistic; do they place undue pressure on drivers?*
 - *Head restraints – are they correctly set to minimise whiplash?*
 - *Maintenance – if staff use their own car, is it being properly maintained?*
 - *What procedures are in place to regularly check licences? The Police National Vehicle Crime Intelligence Service (PNVCIS) warned that high quality fake driving licences are on the increase. The DVLA for a fee will verify if a licence is valid. Checking could be built into the health and safety policy, staff consent would be required.*
- **Fraudulent Claims**
This is an increasing hazard for the fleet operator particularly with regards staged "accidents" where the operator becomes the target of a fraudulent insurance claim usually involving alleged injury.

Unsuspecting fleet drivers may not realise that they have been "set up", consequently it is important to warn them of the possibility of this situation occurring. Drivers should be provided with a camera and an accident report form that should be completed at the time of the accident. Obtain witness details wherever possible.

The cost of vehicle insurance claims are not just limited to damage to the vehicle and third party injury. Hidden costs are invariably sustained such as:-
 - *administrative costs involving investigation and paperwork*
 - *staff and vehicle downtime including hire costs*
 - *increased insurance premiums*

- *work rescheduling and possible lost orders and/or income*
- *temporary or permanent replacement of employees*

Whilst there is, of course, a temptation to defer implementation of these procedures as other business pressures are encountered, we would urge you to tackle the issues raised soonest to obtain maximum benefit.

Checklist

- Include vehicles and driving procedures in Health and Safety Management Policies.
- Ensure vehicles are regularly maintained to manufacturer's specifications by competent mechanics.
- Check recruitment procedures to ensure they include driver competence.
- Implement comprehensive training policies for all drivers.
- Have all vehicles and drivers fully insured.
- Keep a file on every car used by staff for business, even private vehicles. Notify staff of the documents and information you need and explain why.

Useful websites:

HSE: www.hse.gov.uk
"Driving at work – Managing Work – Related Road Safety"

RAC: www.rac.co.uk
"Accident and Incidents"
"Going on a Journey"

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