

BUSINESS BULLETIN: MOTOR SAFETY EDITION



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FOREWORD



Beccy Richards ACII Chartered Insurer, Client Engagement Manager, NFU Mutual Corporate Insurance

Figures provided by the HSE suggest that more than a quarter of all UK road traffic incidents involve someone who is driving as part of their work*. It's an eye-opening statistic. To all employers with workforces that are regularly out and about, it's a call to review and refresh business practice in managing fleets.

In this issue, we bring together expert insight on the topic of fleet safety. Our attention-grabbing lead article is a real-life case study from Simon Brentnall, Head of Health and Safety at our affinity partner, the British Frozen Food Federation.

Sally Roff, Head of Safety, Health & Environment at DAC Beachcroft provides an update on the impact of the 2016 Sentencing Guidelines, which impact on Corporate Manslaughter and breaches in the Health and Safety at Work Act.

Our final piece comes from James Ranford, Claims Relationship Consultant at

NFU Mutual Corporate Insurance, with guidance on promoting safer driving at work.

While specific regulations exist for those driving LGVs and passenger-carrying vehicles, some core principles extend from these to also include smaller commercial vehicles, company cars or even personal vehicles that are used on business.

As Simon's case study draws out, much of this comes down to culture: with focus on increasing productivity and reducing costs, is there a risk that corners get cut? Beyond what company policies state, how confident are you that they are being properly adhered to on a day-to-day basis?

With so many miles driven on business per year, the implications reach far beyond insurance premiums. The effect that a single incident can have on the reputation of a business, and for those individuals involved, can be profound.

I hope you find this insight valuable.

Over

25% road traffic incidents involve someone who is driving as part of their work.

* HSE (2014) Driving at work: Managing work-related road safety, <http://www.hse.gov.uk/pubns/indg382.htm>



“It could have been much, much worse..”

In this real-life case study, Simon Brentnall demonstrates the danger that high-pressure workplace culture can put on your staff, the public, and business reputation.

This example highlights the value of ISO 45001 as an active management system within any large business to protect against Occupational Health and Safety Risks.

It has been rare that I’ve had to investigate a road traffic accident as an Occupational Health & Safety incident. However, several years ago in a previous role, I was called out to one involving a high-performing young employee, who I’ll refer to as ‘Rachael’. The cause of the accident has stuck with me.

Early morning in a busy part of Leeds, a car had been seen swerving across the road, eventually colliding head on with a stationary vehicle on the other side. Bystanders naturally assumed that the driver, Rachael, was drunk. However, when the emergency services arrived, they discovered that she had been asleep at the wheel.

By uncanny coincidence, the stationary driver also worked for the same company (though was on the way to a completely different site), and both drivers escaped without major injury. Given the highly pedestrianised nature of the location, with several schools nearby, it’s clear that it could have been much, much worse.

THE CONTEXT

Turn the clock back several months. The business as a whole was under a lot of stress, with targets consistently being missed. The Sales Director had walked out of a Board meeting, never to return and was quickly replaced.

It seemed initially that the new Sales Director was just what the company was looking for: a tough operator who knew how to get the staff working harder to drive new business. And it seemed to be working. However, behind the gradually improving sales numbers, there was an uncompromising culture of high demand and low support.

“Behind the gradually improving sales numbers, there was an uncompromising culture of high demand and low support.”

Rachael was on the sales team and, despite the pressure, seemed to be performing well. She was seen as a reliable employee who was prepared to put in the extra hours to get the results.

THE NIGHT BEFORE THE INCIDENT

One evening she left the office, aware that she still had a key client presentation to prepare for the next morning in Leeds. As she arrived home, she checked her phone only to find that the Sales Director had called her team to a mandatory meeting the following afternoon in Manchester. Each of them would have 20 minutes to present on their current work and strategy to achieve sales targets, and given the company’s situation, it was clear that her presentation had to be on the money.



When Rachael sat down to start her evening's work, she found that her internet was out of order, and she couldn't connect her laptop to the company network. It was already late in the day, so she set out to find a fast-food restaurant that offered a Wi-Fi connection for her to get both her presentations done.

It's unclear whether Rachael slept that night, having finished her two last-minute pieces of work. What we do know is that a prolonged period of extended work hours, where it was the expectation to take work home and answer emails late at night, was brought to a head by this particular bout of late-night work. With the prospect of a 280 mile round trip ahead of her that she'd been unable to prepare for, she left her home in Droitwich to make the first leg of the journey. She hadn't even reached her first destination when fell so deeply asleep that even the impact didn't wake her.

CHANGE NEEDED

As you'd imagine, this sent shockwaves through the company. The directors were devastated that such an event could happen, particularly considering how much worse the accident could have been, both for the employee concerned and the general public.

Cultural change began immediately. An outright ban on emails being sent out of

hours without management authorisation was set in place, telematics were brought in to monitor employee driving behaviours, and the necessary balance was established to ensure that staff health and safety were protected in a more holistic way.

ISO 45001: 2018 - DRIVING A CULTURE AND SYSTEM TO REDUCE OH&S RISKS

Prior to 2018, when ISO 45001 was introduced as a management system, OHSAS 18001 was the key standard. While there were many benefits that this brought about in reducing workplace accidents and illness through better workplace safety and conditions, there were several key areas of shortcoming.

In my opinion, foremost among ISO 45001's improvements is the leadership and management commitment that the new standard brings. Clause 5.1 in particular places strong emphasis on the top tier of management within a company to proactively engage and take accountability for the effectiveness of the Occupational Health and Safety (OH&S) management system.

“ISO 45001 avoids robbing Peter to Pay Paul.”

The Standard mandates that senior management takes an active role in mitigating organisational level risks, ensuring that the company's strategy, structure and systems remain balanced: it avoids robbing Peter to pay Paul. In Rachael's story, the OH&S outcomes of the business were being sacrificed for the sales performance, and this would have been mitigated with ISO 45001 principles being well-established in the company.

REDUCING YOUR COMPANY'S RISKS

By giving the due consideration to workplace conditions – including physical safety and the expectations placed upon staff – employees are more likely to be engaged and sustainably productive. Naturally, this is a positive outcome for both the individuals' wellbeing as well as company performance.

With 15.4 million days lost in Great Britain due to work-related stress, depression or anxiety in 2017/18*, workplace culture is a consideration that businesses can little afford to ignore.

“Taking OH&S matters seriously is more than just about managing the numbers.”

It was pure luck that this case study didn't end up in a reputational nightmare, either with an employee or public fatality. But this story demonstrates that taking OH&S matters seriously is more than just about managing the numbers: it's about protecting the people who make up your valuable workforce. Failure to do so can have ripple effects that shatter families, workplaces and communities.



Simon Brentnall CMIOSH, Head of Health & Safety, British Frozen Food Federation

With over 30 years of experience in senior Health & Safety roles in large businesses, Simon holds a wealth of valuable insight on issues impacting the Food and Drink and Construction sectors.



INCREASED SENTENCING CONTINUES



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Three years after the new Sentencing Guidelines for Health and Safety, Corporate Manslaughter, and Food Safety and Hygiene offences came into force, it is clear that fines upwards of £1 million are becoming the norm, with a large proportion of these are in non-fatal cases. We are no longer shocked to read about extremely high fines coming in on an almost weekly basis.

In 2017/18, the single largest fine was £3m, and a total of 45 cases received fines over £500,000. This contrasts with the 2014/15 period, where the single largest fine was £750,000 and only five cases were at £500,000 or above.

Additionally, the average level of fine has risen to £147,000 per conviction – a 16% increase from the 2016/17 period, which was already more than double the average from the previous year.

Fines remain the most common penalty following a conviction, with the use of immediate custodial sentences rising to 7% of cases.

Notable fines from 2018:

- Glynwed Pipe Systems fined **£1m** after a delivery driver was struck and killed by a forklift truck
- Tesco fined **£1.6m** following life-changing injuries caused to a tradesman who was crushed by a Tesco lorry that was reversing unassisted into a loading bay
- Stagecoach Group fined **£2.3m** after failings in driver supervision led to a bus crashing into a Sainsbury's store, killing a pedestrian and passenger

2018 also saw some notable successful appeals against high fines in the Court of Appeal, demonstrating that the application of the Sentencing Guidelines is far from a scientific exercise. On appeal, judges' assessments of harm and culpability have been reviewed, resulting in the substitution of lower fines as a result.

Ultimately, it is now more important than ever that businesses take positive steps to ensure that a positive health and safety culture is embedded within their business. Risk assessments and method statements should not only be in place, but need to be adequate and followed by everyone.

2014/15 PERIOD

The last full period before new sentencing guidelines implementation

Largest Single Fine

£750,000

and

5 CASES

where fines over £500,000

2017/18 PERIOD

Largest Single Fine

£3,000,000

and

45 CASES

where fines over £500,000

PROTECTING YOUR WORKFORCE ON THE ROAD



James Ranford, Claims Relationship Consultant, NFU Mutual Corporate Insurance

Every organisation, no matter the size, should seek to reduce risk in all of its operations. This applies as much to road safety and work-related driving as to any other task undertaken by a business. Reducing occupational risk generally within business has many benefits, from the obvious reduction in injuries and improvement in cost control, through to reduced stress and improved morale of employees.

When it comes to road safety, the open and high-profile nature of events can also cause reputational backlash against large companies. Branding is often visible, and the press can be on site before the Board has even been notified of the incident. The knock-on reputational damage can be devastating for businesses, and the indirect costs associated with an incident demonstrate that proactive measures are preferable.

“When it comes to road safety, the open and high-profile nature of events can also cause reputational backlash against large companies.”

GROSS BREACH OF A RELEVANT DUTY OF CARE

Where an incident takes place on a public road, in most cases, the Police will take the lead in any investigation. The HSE will usually only become involved, and potentially take enforcement action, where serious management failure have been a contributory factor.

If one of your employees is killed while driving for work and the Police investigation uncovers evidence that 'gross breach of a relevant duty of care' has occurred through management failure, both the organisation and relevant directors or other senior management could be prosecuted under the Corporate Manslaughter and Corporate Homicide Act 2007.

Imagine the situation where an employee causes a crash while driving for work. It's found that they were making a business phone call at the time. For example, if the investigation uncovered a culture where staff are expected to make and receive calls while on the road, and that senior management are either aware of or complicit encouraging in the practice, this could constitute a 'gross breach'.

Depending on the specific circumstances, this example could lead to constitute High or Very High Culpability under the 2016 Sentencing Guidelines, which can lead to seven-figure fines and custodial sentences for senior management figures.

BUILDING A CULTURE THAT PROMOTES SAFE WORKING

In their excellent advice piece ‘Driving at Work: Managing work-related road safety’ (2014), the HSE outlines four stages of addressing the challenge. The result of this will be a thoroughly implemented and maintained health and safety policy relating directly to the various aspects of work-related road safety issues that are relevant to your business.

Key to this approach is the visibility of, and engagement with, that policy from senior management, with top-level figures in the business taking responsibility for implementing. As business leaders, it’s worth asking yourself some challenging questions:

- When was your Road Safety/Driving at Work policy last reviewed?
- How confident are you that the behaviours required by the policy are adhered to?
- Do the workload expectations actively promote these behaviours, or do other business pressures subtly undermine them?
- When was the last time that the conversation on staying safe on the roads was raised in your division?

“Any health and safety policy that truly lives and breathes within the day-to-day of company life is likely to be more effective in reducing risk.”

Naturally, any health and safety policy that truly lives and breathes within the day-to-day of company life is likely to be more effective in reducing risk both to employees and the public.

And in the event of an incident, where it can be evidenced that effective health and safety procedures are in place, this can be looked on favourably. By contrast, where the investigation finds that the policy does little more than gather dust, or where business decisions such as cost-cutting (e.g. staff reduction leading to unmanageable workloads) contributed to the incident, this is likely to have a negative impact on sentencing.

THE NEXT STEPS FOR YOUR BUSINESS

While large companies will no doubt have teams dedicated to health and safety, it takes every area of the business to respond in a way that is appropriate to the tasks undertaken.

Whether you manage a fleet of LGVs or lead a field-based sales force, immediate action can be taken that can make a difference. Sometimes the most simple, small changes can be highly effective in affecting a cultural change.

Consider:

- If you phone one of your team and hear they are on the road, ask them to call back when they’ve arrived at their destination and quickly end the call.
- Review your schedule of meetings requiring field teams to travel: are they all necessary? Can technology or alternative communication methods help?
- Take time to review the expectations on your team, and the impact they may be having on their wellbeing in a holistic sense.

When it comes to promoting employee safety on the roads, grasping the opportunity can have profound impact on your staff, and help to protect the reputation of your business.



THE NEXT STEP

For more information on how NFU Mutual can help your business, please call **01789 412 569** or email **corporate_enquiries@nfumutual.co.uk**.

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