



# Management Review of Driver Risk





# 1. Introduction

**Many organisations are not fully aware** that when they ask someone to drive as part of their work, that the task of driving is no different to any other work-related task and therefore the same legal (and moral) duty of having in place suitable arrangements to manage health and safety applies.

This is the case even if driving is not their main duty, for example their daily routine involves driving from one site to another. This is a very wide-ranging duty and should not be underestimated. Simply ask yourself when it comes to driving at work, (whether in a company-provided vehicle or the drivers own vehicle) have you:-

- |   | YES                      | NO                       |
|---|--------------------------|--------------------------|
| ▼ issued all drivers with a driver handbook and a process which records a driver has read and understood the contents.  | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ polices in place that include driver safety, vehicle safety and journey planning and a process which records a driver has read and understood the contents. | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ ensured that you have adopted a systematic approach to managing work-related road risk, ie Plan-Do-Check-Act.   | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ carried out a suitable and sufficient risk assessment?  | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ provided suitable information, training and supervision?  | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ ensured that driver performance is monitored and managed?   | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ ensured all vehicles used on company business are fit for purpose, well maintained, regularly serviced and appropriately insured?                           | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ given responsibility for driver management to a nominated senior manager in your organisation?  | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ a process in place to periodically review your management of occupational road risk?  | <input type="checkbox"/> | <input type="checkbox"/> |
| ▼ a Covid-Secure Policy relative to driving at work?  | <input type="checkbox"/> | <input type="checkbox"/> |

And what is your vehicle accident frequency rate, is it going up or down?

If you have answered either 'No' or 'I don't know' or are possibly unsure then your business may be carrying an unacceptably high risk.

There have been several successful prosecutions in court where the answer to some of the above questions would have been 'no'.



## 1.1 Related Court Cases

There have been a number of court cases where either the company or a Director has been found guilty of a manslaughter or health and safety offences through failing to manage their drivers.

### **Office of Rail and Road (ORR) v Renown Consultants**


In March 2020 Network Rail contractor Renown Consultants Ltd were found guilty of breaching sections 2 and 3 of the Health and Safety at Work etc Act 1974 and regulation 3 of the Management of Health and Safety at Work Regulations 1999 (the duty to carry out a risk assessment) following a prosecution by the Office of Rail and Road (ORR).

The prosecution concerned a fatal road traffic incident when two of the Company's employees died. Renown Consultants had failed to ensure that their employees were sufficiently rested to work and travel safely. On 13 May 2020 at a sentencing hearing held by video-link (because of COVID 19) the judge fined the company £450,000 and ordered them to pay £300,000 in costs.

At trial the Court heard that Zac Payne, 20, and Michael Morris, 48, died on 19 June 2013 when Mr Payne fell asleep at the wheel of a work van and came off the motorway crashing into a parked van. He was driving back to Doncaster after a night shift in Stevenage.

The judge when sentencing Renown found that Mr Payne was driving the van despite the Company's policy that stipulated that only employees over 25 could drive its vehicles. It was accepted during trial by the defendant company that under 25's frequently drove company vehicles.

**The judge found that its worst failure was failing to carry out a suitable and sufficient risk assessment the day before the fatalities, which led to the Company failing to comply with its own fatigue management procedures.**



The judge in his closing remarks said:

*“Operations and managers knew what they were supposed to do in relation to fatigue but lip service was paid to these systems. Senior operations cut corners and I found blindness at Doncaster in relation to people driving to and from jobs.*

*“This failure to take seriously was reflected in [Renown’s] attitude and wilful failure of its no under 25 policy. In regard to those breaches to fatigue falling far short... I consider this a serious and systemic failure by Renown.”*

### **R v Stephen Bowles and Julie Bowles**

The directors of a family haulage company were convicted of manslaughter and received custodial sentences of 15 months and 12 months suspended for two years. A driver employed by their company fell asleep at the wheel of his lorry, having regularly spent more than 60 hours per week on the road. He was involved in a seven-vehicle pile-up on the M25, killing two people.

**The prosecution argued the defendants should have known about the driver’s excessive hours and the effects this would have on his driving.**

### **R v Melvyn Spree**

The defendant was a director of Keymark Services, a road haulage company. He was convicted of manslaughter and conspiracy to falsifying driving records and sentenced to seven years in prison. Two deaths occurred after a lorry careered across the M1 during a driver’s 18-hour shift.

**The police discovered a widespread tachograph fraud in the company. The company was also fined £50,000 for manslaughter.**

### **R v Produce Connection**

The defendant company was fined £30,000 for health and safety breaches concerning driver fatigue and ordered to pay costs of £24,000. An employee was killed driving home from work when his van drifted into the path of an oncoming lorry.

**He had worked an average of 17 hours a day for 11 days without a day off.**

### **Eyres v Atkinsons Kitchens EWCA**

This was a personal injury claim. Mr Eyres was driving on the M1 at night when he braked suddenly and lost control of his van which overturned. He claimed the crash happened because his employer allowed him to drive when he was too tired. The trial judge found Mr Eyres was to blame for the crash, concluding he was sending a text message at the time.

**The Court of Appeal, however, overturned this judgment, concluding the crash happened due to driver fatigue which was the responsibility of Mr Eyres's employer.**

### **R v Transact and others**

Transact and its directors were prosecuted for manslaughter following a fatal road crash involving one of its lorries. The lorry driver was imprisoned having pleaded guilty to causing death by dangerous driving.


At trial the jury heard evidence that the driver was pressured into working long hours and that the company instead of employing more drivers, expected their drivers to cover the work by driving longer hours.

**The jury acquitted the defendants of manslaughter but convicted them of health and safety offences. Transact was fined £40,000 and two directors £7,200 and £4,500 respectively.**

## **1.2 Costs**

Managing your drivers is not just about compliance with the law. Work-related road incidents are much more expensive than many employers and employees realise.

The true cost of an incident is far greater than just the cost of the repairs to the damaged vehicle and any associated insurance excess payment. Depending on the insurance cover in place there may be many additional costs to be covered by the business. Estimates vary but the full cost of an incident to a business will be several times the insured losses.



**Figures quoted from various sources quote ranges of anything from eight to 36 times the insurable costs.** Even taking the lower figure of eight times the insurance costs will result in a significant reduction to the bottom line for any business. Simply multiply your insurance premium by eight and this could be the true cost of running your fleet if your drivers are not properly managed.

The list below shows those items not always covered by a fleet insurance policy:-

- ▼ Fines and some costs of prosecution
- ▼ Loss of company reputation and clients/customers/contracts
- ▼ Damage and repairs to products/plant/building and equipment
- ▼ Staff down time for medical appointments/attendance at court etc
- ▼ Replacement staff costs and sick pay
- ▼ Loss of production or production delays
- ▼ Increased insurance premiums and excess
- ▼ Excess on a claim
- ▼ Accident investigation
- ▼ Alternative transport for repair duration
- ▼ Inconvenience
- ▼ Re-delivery
- ▼ Management and administrative time.



## 1.3 Relevant Documents

There are two key documents that company directors and anyone responsible for driver and vehicle management should familiarise themselves with.

### **INDG382 Driving at Work.**

This is the health and Safety Executive's (HSE) guidance on managing work-related road safety. It sets out the legislative framework associated with driving at work and provides clear guidance on what a company and individuals are required to do <https://www.hse.gov.uk/pubns/indg382.pdf>

### **The HSE say about INDG382:-**

“Health and safety law applies to work activities on the road in the same way as it does to all work activities. You need to manage the risks to drivers as part of your health and safety arrangements. This leaflet suggests ways you can do this.


Effective management of work-related road safety helps reduce risk, no matter what size your organisation is. It could also result in, for example:-

- ▼ fewer injuries to drivers
- ▼ reduced risk of work-related ill health
- ▼ reduced stress and improved morale

The leaflet mainly applies to any employer with employees who drive (or ride a motorbike or bicycle) at work. It also applies to those using their own vehicle for a work-related journey. It will be particularly useful to those responsible for fleet management. Employees and their safety representatives will also find it helpful.”

## **Driving for Better Business (DfBB)**

This is a Highways England programme to deliver improvements in work related road safety. This report contains the results of a survey carried out in May 2019 on employees who driver whilst at work and also on executives/leaders of organisations who employ drivers. The results of



the survey are quite staggering, worrying, and clearly demonstrate that many organisations would be answering ‘no’ to the questions asked at the beginning of this document <https://www.drivingforbetterbusiness.com/>

**The DfBB study of 1,006 UK employees and 255 executive directors highlighted numerous “failures” by UK bosses to implement driving for work policy including:**

Despite three quarters (75%) of executives polled saying they ensured employees were aware of their legal obligations in relation to driving for work, nearly half of ‘grey fleet’ employees surveyed (45%) who used their personal car for work said they had not been given a copy of their employer’s driving for work policy.

60% of executives were unsure if or how many employees used their own car for business trips, yet 90% of drivers made work journeys in their own cars despite one in three not being insured to do so. **A total of 44% of executives said their organisations did not check that workers who used their personal car for business journeys had a valid driving licence.**

Almost half (49%) of executives expected their employees to answer their mobile phone at any time, with one in six employees who drove for work (17%) saying they had been involved in an incident when driving for work due to a phone call from a colleague. Despite that it is illegal, one in 20 executives and one in eight employees thought the hard shoulder was a safe place to take a phone call.

75% of employees said they used their personal cars for work journeys at least once a week, yet a third of those drivers (33%) were not insured to do so – saying they did not have cover for business use on their vehicle insurance.

The survey also found a poor approach to vehicle checks and maintenance by employees. Nearly three quarters of employees who drive for work (74%) said when they checked their tyres they simply took a quick glance to see that tyres looked ‘OK’.



## 2. How Can We Help?

**The information presented in this document** should by now have made it clear that a driver management system should be an essential part of an organisations health and safety management system.

This does not mean it necessarily has to be managed by the health and safety department and is often better placed within the fleet management function. Driver (and vehicle) management systems lend themselves to the use of technology as today's vehicles come pre-loaded with systems that provide useful management data.

### 2.1 Introducing Achieve Driver Management

**Achieve Driver Management** is a fully integrated driver, vehicle and journey programme, which promotes wellbeing and safety. All vehicle and driver, legal and health and safety compliance is managed as an integral part of the programme.

#### Communications

The programme can provide a comprehensive driver handbook and all relevant driver and vehicle specific driver documents, referred to as essential documents. In addition, there is available a range of guidance documents to support the successful implementation of **Achieve Driver Management**. All documents are FIAG approved.

#### Legal compliance

From licence checking to health issues, insurance cover to maintenance records, **Achieve Driver Management** ensures your drivers meet all necessary legal requirements and satisfies your own corporate social responsibility obligations.



## Cost benefits

The biggest influence on fleet operating costs is the way a vehicle is driven. By improving performance both safety and cost will improve. **Achieve Driver Management** encourages better driving, reduces stress levels, all resulting in measurable vehicle and driver cost benefits.

## Driver improvement

The **Achieve Driver Management** system helps you assess your drivers by continually measuring driver performance. Data is fed into the system from a variety of sources including telematics. The programme automatically triggers alerts, requests, driver training and assistance. Supporting an objective which ensures every driver goes home safe and well at the end of a working day.

## Operational efficiency

Utilisation of vehicles linked to operational efficiency is directly influenced by a variety of factors, all of which can be identified and managed as part of a programme of Achieve integrated services.

## Results and deliverable

The continuous measurement of vehicle, driver and journey data provide an invaluable source of information, presented using configurable dashboards and reports. Achieve Live Driver Scores are displayed on the front screen of the **Driver App**. The **Achieve Driver Management** programme will deliver on all agreed objectives.

# 3. Assessment Questionnaire

**This Assessment Questionnaire** considers the main requirements of driver management and although does not require you to provide detailed information will assists you in assessing and understanding how well (or otherwise) your organisation is managing its occupational road risk.

3.1 The vehicles in your business:	Number	Is this info monitored and updated at least quarterly	
		Yes	No
<b>1. Cars – how many vehicles are:</b>			
owned by the business?			
leased/contract hired by the business?			
rented by the business?			
employee-owned (grey fleet)?			
<b>2. Heavy Goods Vehicles (over 7.5 tons) – how many vehicles are:</b>			
owned by the business?			
leased/contract hired by the business?			
rented by the business?			
<b>3. Medium Goods Vehicles (3.5 to 7.5 tons) – how many vehicles are:</b>			
owned by the business?			
leased/contract hired by the business?			
rented by the business?			
<b>4. Light Commercial Vehicles (up to 3.5 tons) – how many vehicles are:</b>			
owned by the business?			
leased/contract hired by the business?			
rented by the business?			
<b>5. Are any other vehicles used for duties connected with your business:</b>			
motorcycles?			
scooters?			
other ..... (identify)?			
other ..... (identify)?			

### 3.2 Your health and safety policy:

	Yes	No	In hand
Do you have a health and safety policy statement that covers work-related road safety?			
If YES, does it cover all employees who drive on company business, irrespective of whether driving is the main part of their job or not?			
If YES, does it cover all aspects of driving, for instance use of telephone, journey breaks?			
If YES, does it cover expected driver behaviour at all times when driving on company business?			
Does your company at the top level give a commitment to managing work-related road safety?			
Is there a specific individual in the company with the prime responsibility for managing work-related road safety?			
If YES, has this individual been delegated the level of authority needed to exert influence on the management process?			
Are you able to show that sufficient resources – time, money and people – have been allocated for this management process?			
Is it clear to everyone how, when and by whom your health and safety policy will be reviewed?			

### 3.3 Risk assessment:

	Yes	No	In hand
Do you carry out risk assessments that cover all work-related driving activity?			
If YES, are they carried out by a competent person (HSE definition) with a practical knowledge and understanding of the activities being assessed?			
If YES, are the assessment findings recorded and recommendations for action carried out?			
If YES, are the assessment findings reviewed and updated as and when necessary?			
Does your company record and monitor system failures relating to driving for work?			
Does your company have a collision investigation system that identifies the immediate and underlying causes of crashes?			

### 3.4 The vehicle:

	Yes	No	In hand
Are you able to demonstrate that all vehicles being used on company business (including employees' own vehicles) are in a safe condition, are regularly maintained, and are fit for purpose?			
Do your employees go through a vehicle induction or familiarisation procedure when they are provided with an unfamiliar vehicle?			
Are you able to demonstrate that your drivers understand their role in taking care of the vehicle they drive on work business?			
Do you consider which vehicles are best for driving and for the safety of others when you are buying new or replacement vehicles?			
Do you have a process in place that monitors vehicle condition?			
Do you have a driver's handbook that provides health, safety and welfare guidance for drivers on company business?			
Do you ensure that driver-provided vehicles are not used for work purposes unless and until they are properly insured for business use, and that they have a current MoT Certificate where appropriate?			
Are vehicle service, maintenance and repair monitored to ensure maker recommendations are met?			

### 3.5 The driver:

	Yes	No	In hand
Do you carry out an assessment to determine whether a driver is sufficiently competent to drive safely on company business?			
Do you check that your drivers have the experience for the job they do, and that they have the correct driving licence for the type of driving undertaken?			
Do you maintain a register of authorised drivers?			
<b>Are you able to demonstrate that all drivers are aware of their legal responsibilities as road users, particularly in regard to:</b>			
routine vehicle checks (daily/weekly/ monthly)?			
incident reporting?			
changes in the condition of their health that influence driving capability?			
<b>Do your work-related road safety policies and/or Driver's Handbook deal with the following:</b>			
preventing/avoiding driver fatigue?			
drinking and driving?			
eyesight tests?			
use of mobile phone?			
seat belts?			
speeding?			
journey planning?			
what to do in an emergency?			
Are your drivers correctly trained for the driving they do?			
Do you provide induction training on routes and working practices used by drivers?			

### 3.6 The journey:

	Yes	No	In hand
Do you have a process for planning routes to be driven?			
Are you able to show that the work schedules you set are realistic and achievable, and do they take into account information on driving habits?			
Do your work systems ensure your drivers are allowed sufficient time to complete a journey safely?			
When planning a journey, do your drivers understand they must give sufficient consideration to prevailing weather conditions and then take appropriate action?			
Do your drivers understand that, when driving long distances, they should take appropriate breaks from driving?			



## 4. In Summary

**This review has considered the legal, the cost and the reputational risks** associated with the health and safety management of drivers whilst at work. The questionnaire in section 3 has asked many questions that organisations should be able to answer relatively easily but many will struggle to find the answers to.

References to useful guidance documents have been provided along with an introduction to the **Achieve Driver Management** programme.

The management of drivers need not be a difficult and daunting task, but it cannot be ignored. For many organisations it is the most common reoccurring incident they have but often sits outside of the health and safety management system.

Directors should now be asking the question “In our business what is the health and safety risk to our drivers and how do we manage it?”





# Achieve

Driver Management

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