

## **Corporate Manslaughter**

During 2006 the government is planning to introduce the Corporate Manslaughter Act which will have huge implications for companies as there are over 3m company car drivers and over 5m employees who use their cars on work-related business.

Following the implementation of this Act organisations, not individuals, can be prosecuted and fined for management failures that lead to the deaths of employees or others or for failures to provide reasonable duty of care. Ten people each day are killed on the roads in the UK and companies need to ensure that they are covered for every eventuality. Too many businesses ignore safety issues with their employees.

With the Corporate Manslaughter Act, companies of all sizes will be affected and should consider implementing a driver handbook or as a bare minimum a formal safety policy as part of the employee handbook.

The four main areas a safety policy should cover are:

- Technical safety and roadworthiness
- Control of mobile phone use
- Control of driving periods/taking breaks
- Advice on safe driving practices and formal training

According to research, only two per cent of car fleet managers regularly check private cars, used for work-related journeys, for general roadworthiness and safety compared with 80% of fleet managers who regularly check their company cars. Given that these private cars account for 36% of all corporate mileage, are on average significantly older and are serviced less often should be of concern.

Legislation was introduced in 2003 related to the use of mobile phones whilst driving, however, only a third of fleet managers currently have a formal policy in place which prohibits the use of mobile phones when driving and just under a half issue their company car drivers with a hands-free kit. However, company car drivers are still more likely to have a hands-free kit compared with employees driving private cars.

Company drivers are spending more time behind the wheel; with increasing pressure to spend longer days at the wheel. Again few car fleet managers issue guidelines regarding the maximum number of hours employees should drive before taking a break.

Many companies offer no driver training to their employees and where driver training is offered it is generally based around in-vehicle training rather than classroom training on safety issues such as low concentration, breaking speed limits, driving on auto pilot and multi-tasking.

Most employees driving in private cars on company business are not adequately insured or even covered for business use, an issue which most fleet managers are unaware of. There is also no clear guidance as to who should be responsible for ensuring drivers are insured with almost as many fleet managers saying it is the individual's responsibility as saying it is up to the company.

Drivers licences are rarely checked, which is of concern given the rising number of speeding cameras and points that are being amassed by drivers in the UK. Companies need to check their employees are still legal to drive.

Cars should be checked on a regular basis to ensure they are safe and well maintained.

Accidents should be fully investigated to check out the facts that employees are giving are true.

To improve safety research has shown that opinions favour fixing the maximum number of hours an employee could drive each day, introducing a "Well Driven?" type scheme or the use of satellite monitoring systems to monitor in-car behaviour.

The provision of a company car or cash alternative should be stipulated as a written term of the contract of employment. Elements to be included could be:

- what type of vehicle the employee is entitled to
- whether it is available for private use and whether there are restrictions on its use
- who is allowed to drive the car
- when it will be replaced (typically based on age or mileage)
- who is responsible for the cost of fuel, maintenance, tax, insurance and repairs
- whether the car user is required to make a contribution in return for private use of the car
- whether there are circumstances (such as extended leave or during a driving ban) when the vehicle may be withdrawn
- the car user's responsibilities in respect of the vehicle.

All this has implications for keeping the correct paperwork on employees so that companies can defend any potential claims of corporate manslaughter.

The Corporate Manslaughter Act should persuade companies to take responsibility for the health and safety of their employees on the road, but there are also other benefits of adhering to the legislation such as fewer days lost to injury or work-related ill health, reduced need for paperwork, fewer vehicles off the road for repair, better driving standards, increased profits due to fewer missed orders, less chance of employees being banned and promoting a culture of health and safety.

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