



Duty of Care: meeting your legal obligations

Workplace Health and Safety Regulations and Duty of Care (DoC) obligations have become increasingly important, particularly for companies that operate fleets of vehicles which are considered as places of work under UK law.

While, for some, DoC has either been ignored or treated as an additional unwelcome administrative burden, many companies have found addressing their legal requirements has been a blessing in disguise.

What is Duty of Care?

The law, including various road traffic acts and regulations, requires employers to develop Health and Safety (H&S) policies to minimise the risks to the health and wellbeing of employees while at work - this is a company's 'Duty of Care'.

In 2008, the Corporate Manslaughter and Corporate Homicide Act came into force – and never had a piece of legislation lead to such widespread calls to action for companies to introduce systems to manage road risk.

The act requires employers to regularly assess the risks that their employees are exposed to. Once identified appropriate action plans must be created, communicated and deployed to the workforce.

This legislation makes it easier to prosecute organisations and corporate bodies for failures that result in a person's death. This becomes all the more pertinent to fleet operations when you consider that employee deaths resulting from using the roads on employers' business are believed to be the biggest cause of at-work fatalities.

In the 12 years to 2011, the police recorded more than three million road casualties in Great Britain and estimates suggest that a third of all accidents involve at-work drivers. This statistic is remarkable when you consider that out of more than 34 million vehicles on British roads, the commercial count is less than one and a half million. Every week around 200 road deaths and serious injuries involve drivers on work-related journeys.

The implications of DoC failings

The consequences of not implementing a road risk reduction programme can be severe. Courts can impose unlimited fines for Corporate Manslaughter convictions and the damage to a company's reputation could have even graver implications. In addition to corporate exposure individual criminal charges, including manslaughter, can be brought against directors or 'thinking minds' of an organisation.

DoC considerations were brought to the fore following the Selby rail disaster back in February 2001. A driver fell asleep at the wheel and drove onto the railway track, causing the derailing of an oncoming train. The investigation revealed the driver was exhausted due to excessive working and commuting times which could have been avoided. This incident was the start of tighter regulations on DoC to prevent such incidences happening again.

Let's drive business®

www.tomtom.com/business

TOMTOM

Selby exemplified the problem that while most companies are used to applying health and safety practice in the workplace, all too often the same rigour is not applied to employees driving on company business. Fleet operators can overlook working time limits, by not taking into account the hours employees spend driving to and from jobs. Approximately 300 people are killed each year as a result of drivers falling asleep at the wheel, while 4 in 10 tiredness-related crashes involve someone driving a commercial vehicle.

Also, service intervals might not be rigorously managed or alerts set to ensure best practice is adhered to.

Detailed logs and records need to be kept, proving a company has and maintains a policy to minimise employee risk. Ignorance of DoC-related laws will not be considered as a valid excuse for non-compliance by UK courts.

In 2011 the first prosecution was brought under the legislation. The company involved, Cotswold Systems, a small business, was fined £385,000 after being found guilty of causing the death of an employee due to their negligence. A prosecution for manslaughter was also brought against their sole Director Peter Eaton but he has been too ill to date to stand trial.

Technology solutions

In the past, businesses had very little technology to help them, making the compilation of detailed logs and records an arduous task for managers and drivers alike. However, the advent of fleet management solutions has meant that all necessary data can be relayed from mobile workers and their vehicles to back office PCs. This data can be systematically logged, electronically, with management reports automatically generated. Notifications can even be triggered to remind managers when a vehicle needs to be serviced.

Driver identification solutions mean detailed logs can show who was driving, how long for, how fast and whether they were braking or steering harshly. Fleet management systems can enable companies to demonstrate they have taken due care in minimising the risk of injury, therefore reducing the risk of liability. By monitoring driver performance, fleet management technology can also improve employee safety by helping to promote safer driving techniques. This, in turn, can have significant impact on fleet risk profile and bring insurance benefits.

The £1m Department for Transport-funded Safe and Fuel Efficient Driving (SAFED) demonstration programme claims that drivers typically improve their fuel consumption by up to 10 per cent after completing a driver training programme. However, it is less clear how quickly safer and more efficient driving improvements diminish if good habits behind the wheel aren't reinforced and monitored as part of a long-term sustainable plan.

Measuring driver performance following training sessions becomes an important issue to protect a business's investment in meeting its DoC obligations. Historically, monitoring has been a cumbersome and admin heavy function to monitor detailed improvements but with the latest fleet management solutions, vehicle engine data and harsh steering and braking can all be recorded and assessed to complement an ongoing driver training programme. This becomes all the more effective with systems that feed this information back to the driver so they can change their behaviour accordingly in real time.

