

HSC / DETR WORK-RELATED ROAD SAFETY TASK GROUP

PREVENTING AT-WORK ROAD TRAFFIC INCIDENTS

A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS

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The executive committee would like to acknowledge the assistance of the following people for assisting with the preparation of this response:

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1. The Association of Personal Injury Lawyers (APIL) was formed in 1990 and represents around 5000 solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants. The aims of the association are:
 - To promote full and prompt compensation for all types of personal injury;
 - To improve access to our legal system by all means including education, the exchange of information and the enhancement of law reform;
 - To promote health and safety;
 - To alert the public to dangers in society such as harmful products and dangerous drugs;
 - To provide a communication network exchanging views formally and informally.

2. APIL welcomes the opportunity to respond to this consultation regarding the prevention of at-work road traffic incidents. We fully support the Task Group's central proposition that employers should manage at-work road risk within the framework they should already have in place for managing all other occupational health and safety risks. In summary, we believe that:
 - an Approved Code of Practice should be developed;
 - employers should be required to report at-work road incidents under the RIDDOR scheme;
 - the Health and Safety Executive should be responsible for investigations and enforcement in this context.

Q1 Given the evidence, do you agree that action needs to be taken to reduce the number of at-work road traffic incidents? If you agree, what action should be taken and why? If you don't agree, please say why.

3. APIL was shocked to discover that between 25% and 33% of all serious and fatal road traffic incidents involve someone who was at work at the time. We believe these figures indicate that action in this area is both vital and urgent. Where at-work road risks are within the control of employers, employers should be required to take action to eliminate or reduce those risks. For this reason, we fully support the Task Group's central proposition that employers should manage at-work road risks within the framework they should have in place for managing health and safety generally. There is no reason why the existing legal framework cannot be used, but adapted, to include specific reference to at-work road risks where appropriate.

Q2 Do you think that health and safety management systems, if applied to at-work road risk, could reduce at-work road traffic incidents? If so, what practical suggestions can you offer on what should comprise such systems and why?

4. The current occupational health and safety management system requires employers to assess the risks arising from occupational activity and to take action to eliminate or reduce the chance of those risks occurring. We are confident, therefore, that the implementation of effective measures within our existing occupational health and safety system would lead to a significant reduction of at-work road incidents, and the fatalities and injuries arising from them.

Q3 Do you think that there should be specific training and/or testing for occupational drivers / riders? Why? What form should this take and to whom should it apply?

5. We fully support the provision of training and testing for occupational drivers and riders. Having conducted a risk assessment, an employer should have identified whether further training or testing is necessary for his employees, and if so, the kind of training and/or testing. Such a system should ensure that employees receive the training required in the context of their occupation. As noted on page 4 of the consultation document, such training could involve either additional training for general driving or training relating to particular vehicles or tasks, as required. It would be important for employers to review training requirements on an on-going basis.

Q4 We have no fixed view about the preferred status of the core document: which of the approaches do you think is the right one and why? Would different approaches work in different sectors? If it is none of these, what would you prefer to see happen?

6. APIL completely agrees with the Task Group that a document is necessary to assist employers align the approach to at-work road risks with general health and safety management principles. It is essential that employers have sufficient guidance on how to comply with occupational health and safety obligations in the context of work-related road incidents. It is also necessary, however, to establish clear standards for dealing with at-work road risks so that the relevant enforcing authority can enforce the obligations both consistently and fairly.
7. We believe that the relevant guidance should be contained within an Approved Code of Practice. This would firmly place employer's duties within the health and safety management system. As noted by the Task Group, an ACoP would have the necessary weight and influence to encourage people to act to reduce at-work road incidents, but also give the necessary guidance on how to comply

with the duties in context. It would be an effective tool for enforcing authorities.

8. We do not believe that the introduction of an ACoP would be premature. Whilst further research in this area is highly desirable, it should not be necessary to establish the extent and nature of the problem before taking action. We do not believe that producing generic guidance or publishing a document in the *Highway Code Explained* series would be sufficient. Neither would be a sufficient tool to effect change.

Q5 Looking at annex 3, does it address all the issues you would like to see covered? If not, what would you like to see omitted or included?

9. Annex 3 appears to address all the issues APIL would like to see covered in an ACoP. The devil is, of course, however, in the detail. It is essential that the ACoP contains effective guidance on how an at-work road risk assessment should be conducted and how any such risks can be avoided or eliminated.

Q6 What suggestions do you have about how best to get employers, particularly those running very small businesses, and the self-employed to adopt good practice guidelines?

10. We believe that the most effective way to ensure that all employers act to eliminate or reduce at-work road risk would be to:
 - Create legal obligations upon them to do so;
 - Ensure those obligations are effectively enforced by the relevant authority.
11. It would also be necessary, however, to educate employers, employees and the self-employed on the importance of addressing at-work road risks. It would

also be useful to highlight and publicise the business case for taking action, through, for example, case studies, as appear on page 5 of the consultation document. Employers may also be encouraged to comply with legal obligations in this context if occupation-specific guidance was issued in addition to an ACoP, which would make compliance easier.

Q7 What arrangements for enforcement do you consider the best and why?

12. We have fully supported the Task Group's proposition that employers should manage at-work road risk within the framework they should already have in place for managing all other occupational health and safety risks. If the relevant obligations are, therefore, intertwined with the more general occupational health and safety obligations, so should the enforcement of the obligations. For this reason, we believe that investigation and enforcement should fall to the Health and Safety Executive. As the police, however, are likely to be directly involved in a road accident, as is noted in the consultation document, existing lines of communication and co-operation between the HSE and police will have to be improved. We should stress, however, that it is vital that the HSE is sufficiently resourced and staffed if it is to carry out its enforcement duties effectively.

Q8 Do you think that employers should be required to report at-work road traffic incidents? If so, what should be reported – fatalities, major injuries, over 3-day injuries – and to whom?

13. For some time APIL has strongly maintained that employers should have a duty to investigate and report occupational accidents that occur on the road. We believe that this duty could easily be subsumed into the RIDDOR scheme that currently exists. This would reduce any confusion for employers and allow them to simply expand upon reporting systems that should already be in place. We believe that fatalities, major injuries and over 3-day injuries should be reported.

Q9 Is there any further action you would like to see taken (e.g. detailed guidance, campaigns, enforcement, research etc) and by whom?

14. We agree with the Task Group that “the issue of at-work road risk will, in time, need to be meshed in with other initiatives, particularly those highlighted in *Revitalising Health and Safety*, for example, education programmes and developing the business case for better health and safety management...”. Further research would also be most helpful to guide employers and enforcing authorities on the best means of eliminating and reducing work-related road traffic accidents.