

**HEALTH AND SAFETY COMMISSION**

**PREVENTING WORKPLACE TRANSPORT ACCIDENTS**

**A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS**

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

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## **A DISCUSSION DOCUMENT ON PREVENTING WORKPLACE TRANSPORT ACCIDENTS**

1. The Association of Personal Injury Lawyers (APIL) was formed in 1990 and represents more than 5300 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 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 supports fully the HSC's commitment to preventing workplace transport accidents and welcomes the opportunity to contribute to this discussion paper. Our response is limited to those issues towards which APIL feels it can make a valid comment in light of the experience of its members. In summary, APIL considers that employers should be able to manage at-work road risk within the current framework for managing all occupational health and safety risks. APIL considers that:
  - an Approved Code of Practice (ACoP) 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.
  
3. The number of employees killed or injured in road traffic accidents is evidently a serious problem. In our earlier response to the HSC/DETR Work-related Road Safety

Task Group consultation paper ‘Preventing At-work Road Traffic Incidents’, APIL indicated that this serious issue requires action urgently. Hence, we welcome the HSC in its call for further information on this important subject.

### **Better management?**

4. APIL agrees with the HSC that better management is key to improving the management of occupational risk. APIL considers that employers should be able to manage at-work road risk within the existing framework of the occupational health and safety management system. Because at-work road accidents are such a problem, however, we believe that the framework should be adapted to include a specific reference to at-work road risk. APIL considers it is imperative that there is a specific requirement for a risk assessment of all workplace transport. Risk assessments underpin efforts to raise the profile of occupational health and safety and prompt employers to raise their health and safety performance.
5. In response to the HSC’s question on whether there is too much health and safety law, APIL does not believe that there is. It has become obvious, however, that the legal system is not working as well as it could be in relation to at-work road risk. For this reason, we believe that the HSE should develop an Approved Code of Practice (ACoP) in order to clarify employers obligations in respect of managing at-work road risk and to provide guidance on how employers can comply. An ACoP would have the necessary weight and influence to reduce at-work road incidents and would provide a clear and consistent tool of enforcement.
6. APIL would like to re-iterate that it supports an ACoP provided that it would address the same issues that were outlined in Annex 3 of the earlier consultation paper. It is essential that an ACoP contains guidance on how an at-work road risk assessment should be conducted and how any risks can be avoided or reduced.

7. APIL maintains that employers should have a duty to investigate and report work-related road accidents under the current RIDDOR scheme. By retaining RIDDOR for at-work road accidents and injuries, employers will be able to expand on existing, familiar systems, which should already be in place. APIL considers that fatalities, major injuries and over 3-day injuries should be reported.

### **Better training?**

8. APIL supports fully the need for high standards of driver training and testing. Training is an ongoing issue, which changes according to the demands of the job, and therefore must be subject to review. Careful and regular monitoring is necessary in order that the needs of at-work drivers are met. We do not consider, however, that a specific law is required to ensure that training and driving standards are identified and upheld. Any deficiencies or needs would be identified by a comprehensive risk assessment for all employees. APIL considers that an ACoP could include guidance on how employers should assess the needs of employees and how to handle any training which is required

### **Driver fatigue**

9. APIL considers that driver fatigue is a serious problem based on currently available research. Health and Safety at Work Magazine (May, 2002) highlights Loughborough University's sleep research laboratory research which suggests that 10% of all road accidents and 20% of motorway collisions are caused by falling asleep at the wheel. Furthermore, it is claimed that professional and company car drivers are particularly at risk, according to a *Brake* survey: In 2001, 80% of high-mileage drivers surveyed admitted driving when tired, compared to 60% of all drivers. Nightshift workers are especially at risk, warns *Brake*, which also suggests avoiding driving between 2am and 6am, unless it is essential. Employers are also warned against radical changes in

driver's shift patterns. It has also come to our attention that research by the BBC, collated by five police forces, suggests that 15% of lorry drivers on Britain's roads are spending too long behind the wheel, thereby "putting the lives of other motorists at risk by working longer hours than legally allowed" (BBC News, April 15, 2002). APIL would support further research into this issue and believes that consideration should be given to limiting all drivers' hours.

### **Conclusion**

10. APIL supports fully the HSC's commitment to reducing at-work road traffic accidents. This important issue requires urgent attention and we are pleased to see that action is being taken to tackle the problem. APIL believes that while it is important that the framework for managing at-work road risk is suitable, it is equally important that that the framework is enforced. We consider that the responsibility for enforcement should lie with the HSE. This would, of course, require the HSE to be adequately funded to ensure that suitable resources are available for effective and consistent enforcement.
  
11. APIL acknowledges that full change cannot be effected only by reform in the legal context. Hence, we support fully the HSC in its efforts to promote improvements to managing at-work road risk in other ways, such as through improved education, further technical research and better housekeeping.