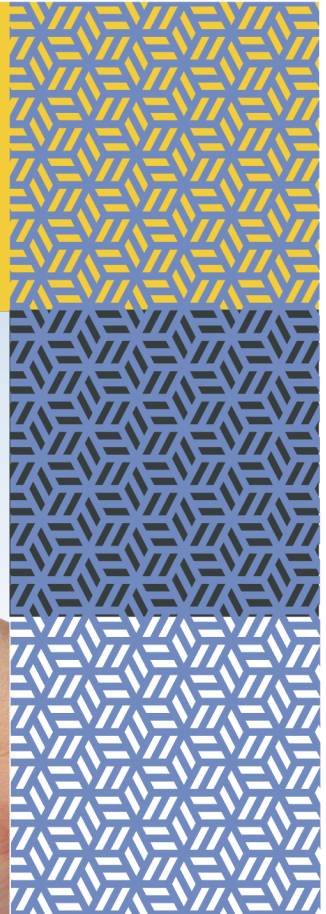
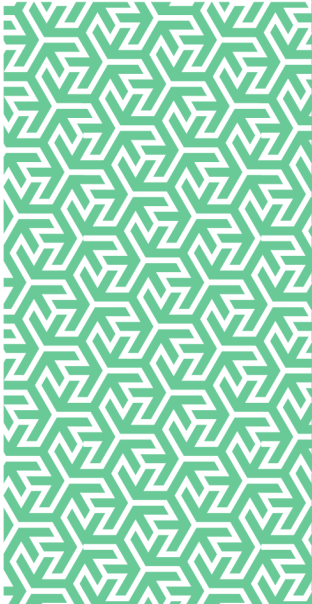


rmp

Risk control

Managing risks
associated with online
vehicle booking systems



In partnership with



Managing risks associated with online vehicle booking systems

Introduction

To save costs and increase efficiencies, many organisations are introducing self-service style online management systems for vehicle booking and document management. In these models the necessary information is held on dedicated webpages with little or no human interaction or oversight.

This guide relates to the use of these systems by persons booking hire or pool-cars for work-related purposes, and considers the risks to employees, drivers and service providers.

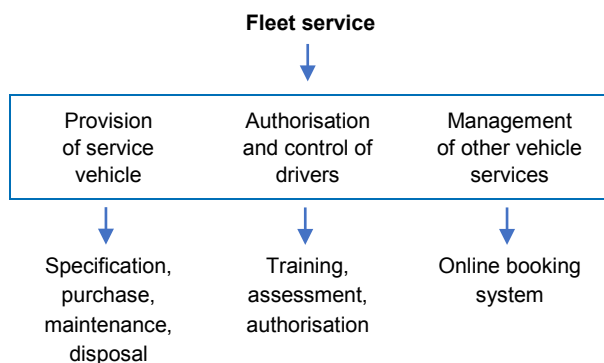
Who's at risk?

The Health and Safety at Work etc. Act 1974 applies to all employees whilst at work, but extends duties further to protect those who may be affected by an organisations acts or omissions. There are risks to the wider public from involvement in road traffic collisions caused by those driving whilst on work-related business.

The guiding principle is that the management of the online booking system is maintained 'so far as reasonably practicable' for the safety of the public, employees and contractors. Those to be considered within the initial assessment of risks associated with online booking systems should include:

- Authorised drivers
- Contractors and passengers
- Members of the public
- The organisation and its reputation

The overarching control of safety whilst delivering a vehicle for use by employees can be thought of as comprising of three components:



In this model of an online booking system, the scrutiny and authorisation process for drivers should be part of the booking system, not separate from it.

Management of Online booking

Policy

An internally appointed person may be available to assist those booking vehicles to comply with the legal requirements associated with driving on work-related business (full details are usually contained within a Driving at Work Policy). Commonly, it is an appointed person who will undertake DVSA (Driver and Vehicle Standards Agency) Driving Licence checks.

Checking procedures must be proportionate and include consideration of vehicle suitability, the health and mobility of the driver, (DVSA) Driving Licence type and, where necessary, appropriate insurance checks.

Where vehicle provision is outsourced, the Insurance and Risk Manager must ensure that process infrastructure is developed and persons are appointed to ensure vehicles are fit for purpose and employees are providing the correct documentation.

Vehicle safety and diversity

The organisation's existing Driving at Work Policy and associated procedures must be reviewed to ensure that the remote nature of online booking does not circumvent or contradict existing procedures and controls.

For example, it may not be appropriate to mandate the use of pool vehicles across the organisation if the number and type of vehicles available are not suitable and sufficient for the needs of those attempting to book the vehicles.

Where the vehicles to be booked are owned or controlled by the organisation, it will usually be the organisation that will be responsible for maintaining the vehicle, ensuring that they are roadworthy. To reduce greenhouse gas and other emissions, an increasing number of hybrid and electric vehicles are now being utilised. The organisation should ensure that those who book these technologically advanced vehicles are familiar with the operational, maintenance and performance characteristics of these vehicles, including acceleration and braking.

Physical familiarisation with these vehicle characteristics should be satisfactorily achieved by the intended driver prior to the vehicle being taken onto the public highway.

Insurance

Hire vehicles

For vehicles hired for work-related activity, many will be insured under the organisation's Motor Insurance Policy from the commencement to the end of the hire period. If the driver subsequently agrees with the hire company for an early delivery or a late collection the driver must inform the Insurance Department of the changes to ensure these periods are covered.

All vehicles must be visually checked and signed for by the driver or a nominated individual on delivery of the vehicle and on surrender at the end of the hire period.

Any damage or defects must be noted and agreed with the hire company.

Drivers must not arrange to leave the keys anywhere other than in a secure location or with an authorised person.

Minibuses – special requirements

The classification for a minibus is a vehicle that has between 9 to 16 passenger seats. With more than 16 passenger seats the vehicle is classed as a coach.

There are strict guidelines laid down by DVSA with regard to licence requirements in order to drive a minibus. These rules also differ depending on whether use is in the UK or overseas. Such vehicles must not be part of any self-certification online booking system process as the increased number of people carried within would dictate that a much higher standard of risk management and control is required.

Licence checks

Many authorities believe that it is the sole responsibility of the applicant driver to correctly and truthfully provide the information requested by the online booking system. However, it must be recognised that there are factors that counter the assumption that all information will be accurate and truthful. These include:

- Driver knowledge of what is required (for example, categories of DVLA driving licence)
- Lack of attention (clicking the box without reading the criteria)
- Disinclination to be truthful with any management “big-brother” system
- Fear of consequences (significant number of penalty endorsement points or serious road traffic violations could result in termination of employment)

Therefore it is incumbent upon the employer to maintain management oversight of the data being entered to determine the level of accuracy.

Management oversight should include an audit process where line managers are required to, at fixed intervals, request information on driving licence details, health or other personal data, from their employees. It must not be assumed that line managers are knowledgeable about driving licence requirements (entitlement to drive – classification of vehicle etc.) and so guidance must be available.

All drivers of work-related vehicles (including hired or pool vehicles) must hold a valid DVLA driving licence applicable to the category of vehicle they are booking - the driver will not be insured if they have not satisfactorily completed the authorised driver application process.

The DVLA provides an online facility to view or share driving licence information, which allows organisations and appointed managers to:

- view the driver driving record, e.g. classification of vehicles the driver is qualified to drive
- check any penalty points or disqualifications the driver may have
- create a licence ‘check code’ to share the driver driving record with someone, e.g. a car hire company

To meet with employers' and insurance obligations, it is recommended that all employees who drive on behalf of an organisation are required to have their DVLA driving licence checked on initial driving authorisation and then at least annually throughout the period of their authorisation to drive.

Specialist vehicle management companies can (at a cost) provide bespoke solutions that meet each organisation's needs. Contracted out expertise in both licensed vehicle inspections and back office support should include driving licence checks, DVLA checks, vehicle safety checks, and driver authentication.

Telematics

Risk Management software is increasingly fitted to vehicles allowing the identification, analysis, monitoring, review and treatment of both existing and potential driving risk throughout the vehicle fleet operation. These systems need careful consideration as they impact on future policy decisions on the sensitive issue of workers' rights and monitoring employees at work. At present many organisations only use telematics in cases of determining blame-worthiness in road traffic collision investigation: however, it is increasingly likely that such systems will develop into more comprehensive vehicle management systems in time.

Line manager responsibilities

These responsibilities should be clearly defined within the organisation's Driving at Work Policy and within all relevant job descriptions. These responsibilities should include:

- Completion of a comprehensive risk assessment
- Development of safe systems of work
- Appropriate vehicle provision, meeting the needs of the individual and task
- Suitably trained and qualified staff, including organisational road risk

Monitoring

Good risk management principles include monitoring as a fundamental part of an overall risk control strategy. Monitoring activities for those who drive for work purposes include:

- Ensuring that the organisation's Driving at Work Policy is effective
- Identification and analysis of failures of operational practice and procedures, road traffic collisions and near miss events
- Management oversight and engagement with all vehicle road traffic collision reports
- Timely reporting of vehicle road traffic collisions, to line managers, Fleet Managers and, where appropriate, Risk and Insurance Managers
- The use of data and information collected on vehicle road traffic collisions and system failures routinely analysed and used to identify trends in location, incident type, driver performance, and costs
- The use of road traffic collision data to design specific training initiatives and working practices to help reduce organisational road risk

Medical conditions of drivers

Key points for medical conditions that must be considered when implementing an online booking system and driver authorisation include:

1 The legal status of self-declaration:

The DVSA must be notified if a driver holding a driving licence develops a 'notifiable' medical condition or disability, or if a condition or disability has worsened since initially receiving the licence. Notifiable conditions are anything that could affect the ability to drive safely and can include:

- epilepsy
- strokes
- other neurological and mental health conditions
- physical disabilities
- visual impairments

For a comprehensive list of reportable medical conditions and illnesses, please visit: www.gov.uk/health-conditions-and-driving

2 The insurance status

It is a general condition of a motor insurance policy that insurers have the right to refuse to pay for any liability, loss, damage, cost or expenses which takes place while any car insured under this policy is:

- being used for a purpose other than that permitted in the limitations as to use in the certificate of motor insurance; or
- driven by someone who does not have a valid driving licence; or is breaking the conditions of their driving licence

Duty of fair representation

The Insurance Act 2015 introduced a 'duty of fair presentation' which clarifies what an insured must disclose to an insurer and what an insurer ought to know about its insureds.

If an insured deliberately or recklessly fails to make a fair presentation of the risk, the insurer may:

- avoid the policy and retain the premium; and
- recover any amounts paid (e.g. claims) and/ or expenses incurred

If an insured's failure to make a fair presentation is not considered deliberate or reckless, the insurer may:

- Avoid the policy - if the insurer would not have entered into the policy if it had received fair representation of the risk. In these circumstances the premium would be returned and the insurers incurred expenses recovered; or

- Apply different policy terms - if the insurer would have entered into the policy, but on different terms. In these circumstances, different limits of indemnity, or excesses or exclusions may be applied and/or an additional premium charged

3 Health and Safety Law

Health and Safety at Work Act etc1974

Section 7(1) of the Act places a duty on employees to take reasonable care for the health and safety of themselves and of others who may be affected by their acts or omissions while at work or performing work-related activities.

Road traffic regulations take precedence over health and safety legislation where relevant. However, it should be noted that the Health and Safety at Work etc. Act 1974 is wide reaching in its terms and definitions and may well include aspects not covered under Road Traffic Law.

Risk assessment – evaluating the risks

In order to ascertain which individuals are at greatest risk, an organisation needs to consider both existing and potential future risk factors. There are a number of elements that need to be considered as part of the risk assessment:

- Driving experience, history, capabilities and licence endorsements
- Licence entitlements
- Age and medical history
- Behavioural factors, including attitudes to driving
- Role, mileage (high, medium or low), and hours of work

If a driver's role or personal circumstances change significantly, then a review of the existing risk assessment should be undertaken.

4 Judicial recommendations

The inquiry into the fatal road traffic collision involving a refuse collection vehicle which occurred in Queen Street, Glasgow, made a number of recommendations.

- Doctors should ensure medical notes can easily indicate any repeated episodes of loss of consciousness or loss of/ altered awareness. They should also work closely with organisations employing drivers to ensure fitness to drive is monitored on both sides with employers providing full information about any incidents and doctors notifying companies of any existing incidents experienced by a driver
- The organisation should carry out an internal review of employment processes, specifically in terms of checking medical and sickness absence information

It may be inferred that a learning outcome presented by the event is that occupational health checks and certification should be more rigorous, with a percentage of drivers randomly selected and referred to Occupational Health services for appropriate health checks.

For some increasingly common diseases such as type 2 diabetes and sleep apnoea, these occur and manifest themselves in far shorter periods than five years, and the current DVSA requirement for a once every five years medical examination report (D4) (including a vision assessment) may be too long an interval.

Summary of medical conditions

It must be concluded from the above that the declaration of medical conditions must be foremost in the minds of both those managing and those declaring fitness to drive. It is both a criminal and a civil offence to neglect to declare any medical condition that may impair or prevent safe driving.

Where it would have been reasonable for the employer to know that a member of staff has a medical condition and they fail to address this and the driver continues to drive for the organisation and causes a road traffic collision and serious injury or death results, then the employer may be found jointly liable.

Summary of legal responsibilities

All organisations have a responsibility to take reasonable care to avoid acts and omissions which could reasonably foreseeably injure a neighbour. Donoghue (a) created the modern concept of negligence, by setting out general principles whereby one person would owe another person a duty of care.

Conclusion

The number of organisations that are seeking to introduce self-service style online systems for vehicle booking and document management is increasing. These systems present a very attractive proposition and offer cost savings and efficiency gains.

RMP fully endorse the use of technology in improving service delivery and maximising efficiencies, however, it is clear that some caution should be exercised when considering such advancements, as to not undertake a comprehensive risk assessment prior to selection and implementation could foreseeably result in a loss of any perceived gains due to an increase in risk factors and adverse events occurring.

References

- 1 Health and Safety at Work Act 1974 s 2,3,4,7,8
- 2 Management of Health and Safety at Work Regulations 1999 reg 3,4,5
- 3 Workplace (Health Safety Welfare) Regulations 1992 regs 21-15

Case Law

Donoghue vs Stevenson [1932]
AC562 [duty of care]

Other useful links

Morrell, J and Foster R (His Honor): Local Authority Liability
5th edn. Bristol. Jordon Publishing Ltd

www.rospa.com/occupational-safety/

www.hse.gov.uk/pubns/indg382.pdf

Driving at work managing work-related
road safety

<http://www.drivingforbetterbusiness.com/case-studies/>

www.brake.org.uk

www.gov.uk/dvsa

www.orsa.org.uk

www.roadsafe.com

'Think!'

Department for Transport's road safety site for road users:

www.think.gov.uk

Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

contact@mpartners.co.uk



Risk Management Partners

The Walbrook Building
25 Walbrook
London EC4N 8AW

020 7204 1800
rmpartners.co.uk

This newsletter does not purport to be comprehensive or to give legal advice. While every effort has been made to ensure accuracy, Risk Management Partners cannot be held liable for any errors, omissions or inaccuracies contained within the document. Readers should not act upon (or refrain from acting upon) information in this document without first taking further specialist or professional advice.

Risk Management Partners Limited is authorised and regulated by the Financial Conduct Authority. Registered office: The Walbrook Building, 25 Walbrook, London EC4N 8AW. Registered in England and Wales. Company no. 2989025.