Safety at the wheel: employing drivers

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The fatal accident inquiry into the Glasgow bin lorry crash, which killed six people and injured 15, heard that the driver was unconscious when the lorry veered out of control on 22 December 2014. The question of the driver’s health was central to the inquiry. The incident raises important issues, which companies running fleets and employing drivers need to be aware of and take action on.

Driving is the single most dangerous activity employers ask their employees to do. It is safety critical work. Alarmingly, about 25% of all road traffic incidents involve somebody who is at work at the time. For employers, having a focus on safety in the driving environment is, therefore, vital to ensure fleet drivers are safe to drive. Having robust processes and procedures in place will help to ensure that both drivers and those they interact with are as safe as possible.

Ensuring fitness to drive

A driver must confirm that he has met the relevant medical standards when applying to the Driver and Vehicle Licensing Agency (DVLA) for a driving licence for the first time. Fleet drivers are required to meet more stringent rules, depending on the size and weight of the vehicle and the amount of time spent at the wheel. Disclosure of any medical conditions is (crucially) a process of self-declaration whereby the employer places reliance on the driver’s honesty and willingness to disclose any relevant medical history.

The Glasgow lorry driver had a history of fainting episodes dating back to 1976. This included dizziness and vertigo, tightness in his chest whilst driving and an episode whilst driving a bus in 2010. In 2003 he was advised not to drive an oil tanker. Sadly, he appears to have concealed the extent of his condition when he was employed by Glasgow City Council. His true medical history did not come to light until the fatal accident inquiry.

What more, therefore, can an employer do to protect itself and the public?

The Access to Medical Reports Act 1988 (AMR) is a vital tool for an employer. It permits them to request a medical report from a medical practitioner (normally the GP) for employment purposes, on an employee who is, has been or is seeking employment.

Whilst the candidate may wish to conceal information from the DVLA or the potential employer within his or her health declarations, the medical practitioner is obliged to reveal relevant medical information about the employee.
Prospective employees

Ideally, an employer will want to be satisfied that any declaration of good health from a prospective employee is independently verified. The prospective employer may make it a requirement for the candidate, whether recruited directly or via an agency, to organise the completion of an appropriate health checklist to include confirmation of any medical history that might affect their ability to drive. The checklist could include, for example, a “fitness to drive licence”, to be signed off by the candidate’s GP, in advance of any job application, the GP having been requested to satisfy him or herself that the individual’s full medical history has been checked.

Once a position of employment is offered to a successful candidate, employers can make the offer subject to a satisfactory medical report to be obtained through their occupational health teams, within a specific period. Such a step would reduce delays in the recruitment process. It would also ensure that the employer is fully aware of any conditions that may affect the employee’s ability to drive before the successful candidate takes to the wheel.

Current employees

An employer may request a medical report from an employee’s GP under the AMR or could implement and enforce regular health assessments and/or checks into the company’s ongoing health surveillance and training policies and procedures. The frequency of doing so would depend on the driver profile, type of vehicle and size of fleet involved. However, doing so would help to ensure that employees remain fit and suitable to drive and eliminate the risk of any relevant condition going unnoticed.

It is crucial that occupational health and human resource departments work alongside line management to ensure a joined up approach towards these responsibilities. For example, in obtaining a medical report or health assessment, an employer must ensure compliance with the Data Protection Act 1998. Given that the information is to be used for a specific purpose, personal information must be adequate, relevant and not excessive and the information must be stored securely.

Employers must also ensure that they do not fall foul of the requirements of the Equality Act 2010 – which specifically prevents discrimination against potential and/or current employees based on a protected characteristic, which includes, amongst other things, disability.

The occupational health profession in the UK has been in decline for a number of years now. Most companies now outsource this function to providers who may not have ‘bought into’ the company’s ethos. Incorporating medical checks into the recruitment process and enforcing regular health assessments will give companies greater control and certainty that the employee is and remains fit to drive. Such action should be approached in a positive manner - not only to support the employee but also to ensure, as far as possible, the safety of members of the public.

Our thoughts remain with the families of the victims of the tragedy in Glasgow.

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