

Fact Sheet

Real life cases - and the vital importance of keeping an audit trail

This page provides summaries of prosecutions involving at-work drivers. Some of them resulted in company directors receiving prison sentences. Conversely, in one case the court exonerated an employer who put correct guidelines in place, although a driver chose to ignore them.

If a police investigation into a crash shows that an employee driving on company business was involved, they will look for the following evidence:

- Why was the vehicle at the scene?
- The mechanical condition of the vehicle - regardless of ownership.
- The physical condition of the driver, including signs of fatigue.
- The legalities of both vehicle and driver - licence, MOT, insurance etc.

Should they believe there is a case for prosecution they will hand the evidence to the Health & Safety Executive, which will seek to have the case tried in court.

For these reasons it is essential to be able to provide a vehicle and driver audit trail to show that the policy for employees driving on company business is based on health and safety best practice lines.

Forgery and Fatigue

A transport manager was found guilty of breaches of health and safety regulations, forgery and tachograph offences. The driver died in the crash when his vehicle veered on to the hard shoulder and collided with a vehicle that had stopped to change a wheel.

The court heard that the firm had encouraged drivers to drive excessive hours on a regular basis and that various ploys were used to falsify tachograph records. It was concluded that such practices had been the cause of the accident, in that the driver probably fell asleep at the wheel.

Outcome: The transport manager was jailed for 18 months.

Correct Policies and Procedures in Place

An employee using a non hands-free phone lost control of his vehicle and collided with another vehicle, resulting in the death of the other driver.

Outcome: The employee was sentenced to three years in prison plus a four year driving ban but the employers were cleared of all blame when it was shown that all their procedures and policies were in line with legislation. They had issued specific written instructions to all employees regarding the use of mobile phones while driving.

M6 crash case puts employers in firing line

A rear-seat passenger in a Land Rover was injured when the vehicle overturned on the M6. The subsequent court case centered on the condition of the vehicle. Witnesses said the overall level of maintenance was 'immaculate' but that the rear tyres were under inflated by 40%. The under-inflation contributed to the driver's loss of control when the offside front tyre suddenly deflated.

The court exonerated the driver and apportioned the blame equally between his employer and the company that fitted the front tyre. It ruled that the employer was liable because it caused the driver to use a vehicle with under-inflated rear tyres, while the tyre fitment company had allowed grit to get between the tyre and inner tube, leading to the sudden deflation.

Outcome: The case shows that in certain circumstances, the driver will be exonerated and the employer or their contractors held responsible for maintenance failings.

Garage liable to pay compensation on 'who last touched the vehicle' principle

The High Court ruled that a Manchester garage was to blame for a crash that left a man dead and the vehicle's owner in a wheelchair. The court found that a Transit van in which the two people were travelling had been booked into the garage for a service two days before the accident. Following the accident the van's rear brakes were found to be seriously defective and were almost certainly in that state when the garage serviced the vehicle.

Outcome: The garage was ruled to be fully liable to compensate the van's owner, who survived the road accident, for her injuries. The compensation figure has yet to be announced. It was the first time a business that had been working on a vehicle has been successfully prosecuted on the principle of 'who touched the vehicle last'.