



South Cumbria &
North Lancashire Branch

Joint Zoom meeting 18th March 2021



South Cumbria Occupational
Health & Safety Group

Topic: *Health and Safety prosecutions, including road transport, and how to avoid them*

Speakers: Ian Whitehurst, Barrister, Exchange Chambers
Mark Davies, Director, Backhouse Jones Solicitors, Clitheroe

Elsa Mason, Vice Chair, *South Cumbria & North Lancashire IOSH Branch*, welcomed members to the joint virtual meeting with *South Cumbria Occupational Health & Safety Group (SCOHS)*. She then introduced our first speaker, Ian Whitehurst, Barrister, Exchange Chambers

Ian Whitehurst began the session by defining workplace transport as any activity involving vehicles used in the workplace environment. He explained that vehicles driven on public roads are excluded except when they are being loaded, or unloaded, on a public road adjacent to a workplace.

He then explained the scale of the problem – that on average more than 5,000 accidents per year workplace transport were reported every year with the most common incidents being falls from vehicles, being crushed by vehicles or being struck by a vehicle. For example, between 2014 and 2019, 19% of transport related fatalities involved being struck by moving vehicle.

Next Ian considered the role of law enforcement agencies. He explained that traditional law enforcement agencies such as the police and CPS are under substantial economic pressures. HSE has therefore taken on wider role advising employers and in regulating workplace transport.

Ian then looked at practical ways of managing transport safety on site such as:

- Ensure that vehicles and people (employees and visitors) are segregated.
- Mark traffic routes and use one way system if practical.
- Provide a well-lit loading area with good sight lines if possible.
- Use unambiguous signs to provide clear information for drivers and for pedestrians.
- Limit reversing of vehicles on site where practical (reversing causes 25% of site transport fatalities).
- Designate specific areas for high-risk activities such as loading, tipping, coupling and recouping if possible.

He said that vehicle maintenance and driver training was also an important factor in managing workplace transport safety. This included ensuring that workplaces:

- Set up a routine, traceable vehicle maintenance programme.
- Developed an effective, traceable driver and loading training programme that was regularly updated.
- That drivers, loaders and banksmen (if used) were competent to undertake their allotted tasks and
- That employees' ability to work was not impaired by health problems, substance abuse etc...

Ian explained that it was also important for employers to ensure that they maintained risk assessments that were regularly reviewed to take account of changing circumstances.

Ian then summarised the sentencing guidelines that regulators consider when deciding whether to prosecute a firm and the level of fines imposed. He explained that regulators focus on assessing exposure to risk. Organisations that put employees or the public at risk can be

prosecuted irrespective of whether, or not, injuries have occurred. This means that a system of work which exposes employees and/or members of the public to risk is vulnerable to a prosecution. Factors used when assessing potential prosecutions and/or sentencing include:

- The number of employees and/or members of public who were exposed to risk of harm resulting from the incident, and the amount of harm caused.
- The seriousness of any injuries and/or damage incurred.
- The timespan of the incident(s).

Ian followed this with examples of recent fines and penalties imposed for health and safety failings relating to workplace transport.

Ian then handed over to Mark who focussed case studies and practical ways of minimising workplace transport accidents, especially those associated with loading and unloading vehicles and other high risk transport activities. Unfortunately, there was a problem with the sound system that Mark was using. His speech faded 'in and out' and members had difficulty hearing what he was saying. Elsa stopped the proceedings while Mark was given technical assistance. Mark then resumed his presentation, but the sound was still not ideal.

He said that the transport industry needed to change its mindset – rather than just focussing on obvious potentially high-risk situations relating to the management of vehicles on site employers need to have up-to-date risk assessments covering the yard, access to offices, management of maintenance facilities, management of warehouses and the use of lifting equipment such as forklift trucks and cranes.

Mark explained that workplace incidents where a vehicle knocked people over, especially if it led to serious injuries or fatalities, were likely to generate larger fines for the organisation. He cited the following cases:

- 2016 *Wilson James Limited* - £850,000
- 2018 *Viridor Waste Management Limited* - £237,500 (2015 accident)
- 2018 *G-Tekt Europe Manufacturing Limited* - £520,000
- 2019 *Viridor Waste Management Limited* - £400,000 – banksmen
- 2019 *William Leeson/ AW Leeson and Son* - 17 weeks prison suspended for 12 months

Mark explained that the 2019 *Viridor* accident highlighted the problems associated with using a banksman. Both the driver and the banksman needed to be adequately trained and it was important that both understood the limitations of the driver's sight lines on site.

Mark reminded members that any workplace transport incident that led to a prosecution was likely to lead to a concurrent investigation by the *Traffic Commissioner* to assess whether, or not, the business should retain its Vehicle Operators' Licence. He said that his experience of workplace transport prosecutions demonstrated that it was important for businesses to have up-to-date risk assessments that both managers and employees understood and implemented. He stressed that these risk assessments need to:

- Include Specific information for different types of vehicles.
- Ensure that contractors on site were aware of the site's safe system of work for vehicular traffic, loading and unloading etc...
- Include traceable monitoring systems for visitors, drivers, vehicles, other employees etc...
- Include training for directors as well as managers and other employees.

Mark then fielded some members' questions that Elsa extracted from the Zoom chat facility. She then thanked Ian and Mark for their helpful tips about managing workplace transport before closing the meeting.

Related UK Government and HSE web site links:

Vehicles at work: [Vehicle and transport safety at work \(hse.gov.uk\)](https://www.hse.gov.uk/vehicles-at-work/)

Getting started: [Vehicles at work safety - getting started \(hse.gov.uk\)](https://www.hse.gov.uk/vehicles-at-work-safety-getting-started/)

People's safety: [Vehicles at work - personnel \(hse.gov.uk\)](#)

Vehicle safety: [Vehicles at work - Vehicle selection and maintenance \(hse.gov.uk\)](#)

Site Safety: [Vehicles at work - site layout \(hse.gov.uk\)](#)

Lift trucks: [Lift trucks - Vehicles at work - HSE](#)

Inspection check list: [Vehicles at work checklist \(hse.gov.uk\)](#)

HSE resources: [Vehicles at work - Additional technical information and guidance \(hse.gov.uk\)](#)

The Traffic Commissioners' web site also has relevant information:

[Traffic Commissioners for Great Britain - GOV.UK \(www.gov.uk\)](#)

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