

# **PACTS WORK-RELATED ROAD SAFETY CONFERENCE**

## **DRIVING DOWN RISK**

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28 March 2019

**Keoghs**



# CONTEXT

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- › “Work related” and remoteness
- › The no blame accident?
- › Interplay between driver and company
- › “reasonable care” Charget and creation of risk?

# INDICATIVE QUESTIONS

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- › Health and Safety
- › Transport
- › Insurance
- › Risk
- › Fleet
- › Security?
- › Logistics?
- › Environment?

# INDICATIVE QUESTIONS

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- › Hierarchy of measures
- › Polyflor and new technology
- › Leadership of WRRS initiatives?
- › Disciplinary and bad driving record?
- › Behavioural safety culture and supporting your drivers
- › Risk assessments to include WRRS?
- › RIDDOR for WRRS issues?
- › Res ipsa loquitur?

# THE AMBIT OF HEALTH AND SAFETY LEGISLATION

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- › Section 3 of the Health and Safety at Work Act 1974 – General duties of employers to people other than their employees (e.g. passengers, pedestrians) –
- › *“...it shall be the duty of every employer to conduct their undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in their employment who may be affected thereby are not thereby exposed to risks to their health or safety”.*

# JEAN CHARLES DE MENEZES PROSECUTION

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- › Honest, genuine but mistaken belief victim suspected terrorist.
- › Insufficient evidence to charge individuals including officers and the commander.
- › Inability to charge the Metropolitan Police with Corporate Manslaughter.
- › Prosecution against Metropolitan Police under Section 3 of the Health and Safety at Work Act 1974.
- › Metropolitan Police fined £175,000 and ordered to pay £385,000 in costs.

# HSE v MIDLAND RED (SOUTH) LTD (PARENT COMPANY – STAGECOACH)

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- › HSE prosecution following employee bus driver colliding into Sainsbury's store in Coventry on 3 October 2015 killing a pedestrian and passenger and seriously injuring other passengers.
- › Driver Mr Kailash Chander, 77, found to have driven dangerously after mistaking accelerator for brake.
- › No mechanical defect with vehicle involved.

# HSE v MIDLAND RED (SOUTH) LTD (PARENT COMPANY – STAGECOACH)

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- › Company guilty pleas to charges under sections 2 and 3 of the Health and Safety at Work Act.
- › Judge found the company's failings were a significant cause of the crash.
- › Inadequate response to previous complaints of Mr Chander's standard of driving.
- › Allowing Mr Chander to work in excess of 70 hours per week.
- › Failures at operational level in driver supervision.
- › Fine of £2.3 million.

## STEPS THAT CAN BE TAKEN BY EMPLOYERS TO ADDRESS WORK-RELATED ROAD SAFETY RISK AND REDUCE RISKS OF ACCIDENTS AND PROSECUTIONS

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- › Tighter controls on driver working hours.
- › More frequent medical checks for older drivers.
- › Drivers periodically being accompanied by an experienced “buddy” to observe driving.
- › More comprehensive investigation regarding previous complaints in relation to employees standard of driving.
- › In-vehicle CCTV and actually do monitor it from time to time
- › Telematics technology.

## STEPS THAT CAN BE TAKEN BY EMPLOYERS TO ADDRESS WORK-RELATED ROAD SAFETY RISK AND HELP AVOID ACCIDENTS AND PROSECUTIONS

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- › Identify additional training and refresher training required.
- › Review relevant health and safety policies.
- › Supervision to ensure employees' compliance with relevant policies and procedures.

# Contact Us

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# Any Questions?



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