



## Grey fleet management

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## What is the 'grey fleet'?

Employees who use their own cars for business journeys are increasingly referred to as the grey fleet, and can carry a large risk if employers don't take steps to ensure their safety.

The term 'grey fleet' is one which is often bandied around the fleet industry. Put simply, this refers to drivers who are not eligible for a company car or permitted to be part of a cash allowance scheme, but who use their own cars for business journeys. These are the drivers, however, that many employers are likely to have very limited knowledge of in respect of the type of car they use and how safe it is to drive.

Richard Schooling, chief operating officer at Alphabet, explains: 'The term grey fleet is about the people that use their own personal car on business journeys. For example, it could be an administrator who is sent on a training course and uses his or her own car to [travel there].'

## Risk of prosecution

This is not a small scale issue, as one-in-six employees in the UK who are not eligible for a company car currently drive for business reasons throughout the year (Alphabet's Risk and reward report 2007).

The legal position is that an employer owes a duty to ensure, so far as is reasonably practicable, the health safety and welfare of its employees whilst at work (Health and Safety at Work Act 1974). This includes work related driving incidents. To show that it has taken reasonably practicable steps an organisation will need to provide tangible evidence.

The Corporate Manslaughter and Corporate Homicide Act 2007 also has application in this area. The Act came into force in April 2008 and has resulted in a clarification of the law for prosecuting companies involved in fatalities. A prosecution will be considered where failings in the organisation's senior management are a substantial element in the gross breach of duty that has resulted in a death. The possibility of an individual prosecution against a senior manager for gross negligence manslaughter also remains.

The presumption is that prosecutions for corporate manslaughter will be more likely. Driving is an essential part of the operation of most organisations, but is also statistically the most hazardous. It follows that it must be considered a priority when considering workplace fatality risks.

Grey fleet risk has also been given recent prominence by claims management companies who have a vested interest in talking up risk as it provides a business opportunity.

What then is the current position? Although historically work related road deaths have been under recorded this cannot be guaranteed in the future. The Crown Prosecution Service has stated that it intends to work much closer with the Health and Safety Executive to regularly assess whether employers should be held responsible for incidents involving workplace driving. Organisations that have grey fleet drivers may be investigated if those drivers are involved in accidents while on business journeys.

On the other hand, provided sensible, practical steps are taken then the duties owed can be complied with.

## What should Higher Education Institutions do?

The issue of grey fleet for Institutions is unusual as it will cover both staff and students.

Commuting is not an issue as the employers duty only extends to business mileage not home to work. However going from site to site and longer journeys on Institution business will come within the duty. It is appreciated that some institutions are situated on sites that are spread about the locality, necessitating travel between them.

Generally speaking one of the purposes of reviewing grey fleet usage is to consider what other options are available. Allowing employees to use their own vehicles and paying for the mileage is often the most expensive option compared to using fleet vehicles, hire vehicles or public transport. Reviewing grey fleet usage can actually result in costs savings as well as increase safety!

Assuming that grey fleet vehicles will continue to be used, evaluating the risk the falls into two main areas:

- **The driver**

Is the driver competent? Do they hold a current, valid clean UK driving licence?

- **The vehicle**

Perhaps the most important issue. The main problem behind many organisations' failure to take appropriate steps, is the failure to see these cars as being part of the company's fleet. Is the vehicle fit for purpose? Does it have a valid MOT certificate? Is it insured for business use and regularly serviced (ie oil checks and tyre pressure)?

To give some practical assistance, three scenarios are given below:

### 1. A regular usage employee (eg a lecturer)

Using their vehicle for business purposes attending conferences, training sessions and site to site travel.

It will be necessary to ascertain under which motor policy the vehicle is being driven. Is business usage covered under their private policy and if not, who covers?

Because the employee is a regular user, greater control of the vehicle will need to be accepted by the employer. Practically this can be done by requesting drivers to complete a claim form including details of the vehicle insurance, age, mileage, service history and related matters when claiming for reimbursement for fuel. The driver should be made aware of the institution policy on road safety and grey fleet management and why the policy is necessary for the employer, and employee.

### 2. An ad hoc user employee

When the user is ad hoc and irregular, the stringencies needed for a regular user can be relaxed. The degree to which this is done will depend on the level of caution to be employed. Ultimately, although irregularly used, these are grey fleet vehicles and the duty as employer will apply. At the very least it will be appropriate to prepare a fact sheet explaining the institution's policies on fleet vehicles and information on rules such as drink driving or maximum hours of driving that can be undertaken in a day.

### 3. Student drivers

On the face of it not necessarily a problem because they are not employees. However they may use their cars to drive to placement and field courses giving lifts to employees and other students. They will also be the most inexperienced drivers, with an assortment of driving licences (if foreign students) and use the most 'varied' vehicles. Although the institution's duty is limited, it would be good practice to also prepare a fact sheet to draw students attention to the issues, similar to that used for ad hoc users.

#### To conclude...

- The term grey fleet refers to staff who are not eligible for a company car or a cash allowance, but instead uses his or her own vehicle for business use.
- There is a risk involved here because employers often have no idea what car these employees own and how safe these vehicles are to drive.
- Employers should take steps to identify grey fleet drivers within their organisation and prepare and communicate a policy to deal with them.
- To mitigate potential risks, employers should actively ask their grey fleet drivers to record information such as when their vehicle last had an MOT, its service history and insurance details.

#### Useful links

Health & Safety Executive (HSE)

<http://www.hse.gov.uk/pubns/indg382.pdf>

Royal Society for the Prevention of Accidents (ROSPA)

<http://www.rosipa.com/roadsafety/info/ownvehicle.pdf>

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