

## COVID-19

Safety, Health and Environment  
Regulatory - Motor Crime Team's  
Transport & Logistics Update

May 2020

## Introduction

The rapid global spread of COVID-19 is severely affecting the transport and logistics industry's ability to continue under the financial strain. In our May 2020 update, we consider the substantial challenges which are facing these businesses who are helping to keep the country moving during the lockdown and what changes could be introduced to obviate their position.

We also look at:

- The Government's recently released guidance for employers, employees and the self-employed on working safely during Covid-19 in or from a vehicle<sup>1</sup>.
- The recent relaxation of the renewal process for bus and HGV licence holders and how the unions have assisted businesses by successfully lobbying the Government in bringing about this change.
- The current position regarding the introduction of automated vehicles. The Law Commission's final report and recommendations are expected in 2021, but various regulatory considerations still remain to be addressed.
- The suspension of certain speed awareness courses and data from a Freedom of Information request which shows the thousands of new drivers banned every year under the New Driving Act 1995.

## Fleet industry in crisis?

*"The impact on the UK's road haulage industry has been colossal.... As well as the huge damage this will do to the economy in terms of unemployment, the medium-term impacts on our economic recovery could be even worse. Our sector would likely find it impossible to provide enough capacity to meet demand going forward."*<sup>2</sup>

## Economic Risk

With nearly 50% of lorries now parked up and low profit margins, the UK road haulage system faces a potentially unsustainable position in the current crisis, with many businesses at significant risk of going under.

Whilst industry leaders welcome the Government's support, the current announcements are not enough as they provide too little comfort for SME businesses which make up 85% of the sector.

In an independent survey, nearly 75% of UK commercial fleet companies said they feared they may lose their business while there was also a strong feeling that larger companies could be doing more to help smaller contract or franchised hauliers.<sup>3</sup>

As a result the industry has requested the following support:

1. Rates – include all hauliers' sites in the business rates holiday offered to other sectors.
2. VED/Road Levy – allow weekly SORN refunds.
3. Cash Injection and Debt Support – grants and payment holidays at a proposition amount not exceeding £10,000 per truck.
4. Fuel Duty Rebate – essential-user fuel duty rebate for hauliers still operating, who are ensuring food, medical and other critical supply chains are maintained in these unprecedented times.
5. Weekly Furlough – moving to a weekly furlough model will substantially improve flexibility in the haulage sector.

1. <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/vehicles>

2. Letter to Boris Johnson from Road Haulage Association, Transport Association, Cold Chain Federation, British Association of Removers, Association of Pallet Networks and Chartered Institute of Logistics and Transport, 17 April 2020

3. <https://motortransport.co.uk/blog/2020/04/22/new-survey-of-fleet-managers-reveals-true-impact-of-covid-19-crisis/>

The RHA have asked members on their website to write to the Chancellor directly to maintain the pressure on the Government, but no response has been forthcoming, albeit the Transport Secretary for Scotland recently wrote a letter thanking the industry and recognising the difficulties faced.<sup>4</sup>

The current climate may also have an effect on tenders which will impact the industry. In the survey by Fleet Source, a clear majority of buyers thinks tenders will be postponed across the board. An even greater majority of suppliers (75%-86%) think those tenders will not go ahead unhindered.<sup>5</sup>

In addition, not only is the fleet industry at risk of being unable to stay afloat, there is a risk to business strategies in those fleet companies trying to expand to get ahead of their competitors, for example 66% of suppliers predict that electrification will take a back seat and that pragmatism will dictate a revival of petrol and diesel vehicles.

#### *Health and Safety Risk*

In addition to the economic risks to the fleet industry, drivers face unprecedented risks due to anxiety and fatigue, as part of the new culture during the pandemic of working longer hours.

Simon Turner, campaigns manager at Driving for Better Business, confirmed "*despite any changes in requirements, the responsibility to ensure all your drivers and vehicles are fit and safe to be on the road has not changed. It is essential to reinforce to any drivers you have that are still operating that driving standards need to be maintained thoroughly at the current time*".<sup>6</sup>

drivers have received adequate, up-to-date training. A number of training providers have adapted their training provision in light of these recent developments. For example, RED Driver Training is using its e-learning platform to deliver online fleet driver training to support the increased demand for delivery drivers due to COVID-19. The training can be carried out at home, and provides an assessment of a driver's skills, knowledge, history and attitude. RED then uses this profile to identify further e-modules tailored to each driver's requirements in areas such as safety margins, fatigue, journey planning and even road signs. For heavy goods vehicle fleets, TTC Group has developed online fleet and driver risk management courses for fleet managers, as well as a 'live' half-day training course for drivers, which cover driver hours, distractions, health and well-being, safe loading, and speed and safety awareness.

#### **On the road to work- Government guidance issued**

On 11 May 2020, the Government released guidance for employers, employees and the self-employed on working safely during Covid-19 in or from a vehicle.<sup>7</sup>

#### *Managing Risk*

All employers must carry out a Covid-19 risk assessment and do everything reasonably practicable to minimise risks, recognising that it is not possible to completely eliminate the risk of Covid-19. Employees must be consulted on health and safety and should be listened to on how to manage risks from Covid-19. By including the workforce in these discussions, it is hoped a culture will be created where the working relationship is based on collaboration, trust and joint problem solving.

4. <https://www.rha.uk.net/getmedia/e3c6a8e8-6e04-469d-b822-b7b21d69e21c/Letter-to-RHA.pdf.aspx>

5. <https://www.fleeteurope.com/en/financial-models/europe/analysis/exclusive-survey-shows-covid-19-puts-your-job-risk?a=FJA05&t%5B0%5D=Coronavirus&t%5B1%5D=COVID-19&t%5B2%5D=MaaS&t%5B3%5D=EV&t%5B4%5D=TCO&curl=1>

6. <https://www.fleeteurope.com/en/safety/europe/features/how-covid-19-increasing-fleet-driver-risk?a=JMA06&t%5B0%5D=Road%20Safety&t%5B1%5D=COVID-19&curl=1>

7. <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/vehicles>



Any business with more than five workers, must record in writing the findings of the risk assessment. Any business with more than 50 workers is advised to also publish on its website.

Employers should plan for the minimum number of workers needed to operate safely and effectively. All employers should be ensuring individuals who are advised to stay at home do not physically come to work.

Steve Pinchen, sales director at Licence Bureau, a provider of employee licence driver checks, said:

*"There will be those fleets with strong health and safety cultures and practices already in place that will adapt seamlessly, whilst inevitably others will be challenged by the additional measures. Regardless, being Covid-19 Secure is a must and working alongside businesses, we need to help lead that change."*

*A squash and a squeeze? Social distancing in vehicles*

Initially, the Government confirmed that those still travelling to work needed to be "at least two metres apart in a vehicle". This would have been particularly difficult, especially for those still travelling for critical work, given that almost all vehicles do not have the internal space for this to be practicable and employees using vehicles are in much closer immediacy.

The Government now recognises that it is not always possible to keep a distance of two metres inside vehicles and many in-vehicle tasks require more than one person. The guidance on social distancing advises to:

- Keep the activity time involved as short as possible i.e. plan the most effective routes;
- Use screens or barriers to separate people but only if this is safe and would not reduce visibility;
- Reduce the number of people each person has contact with by using 'fixed teams or partnering' in vehicles where sole travel is not possible;

- Find alternative solutions to two-person delivery i.e. delaying deliveries of large items or mechanical/material handling equipment;
- Have clear signage in the vehicle to outline social distancing measures; and
- Ensure vehicles are well-ventilated to increase the flow of air by opening a window.

#### *Cab sharing*

It is unlikely that maintaining the recommended two metre distance in a vehicle cab, such as HGV vehicles, will be possible so ideally there should be only one person in the cab.

Where this is not possible, workers should:

- Wash their hands with soap and water for 20 seconds or longer before getting into, or after getting out of, the vehicle, or use hand sanitiser;
- Keep the window open for ventilation;
- Avoid touching their face at all times;
- Face away from each other or, where face-to-face contact is essential, keep to 15 minutes or less wherever possible; and
- Catch coughs and sneezes in tissues.

#### *Car pooling*

Public Health England ("PHE") and the Department for Business, Energy and Industrial Strategy have performed a U-turn on the guidance for carpooling, updating original guidance<sup>8</sup> to confirm that those who normally share a car with people who are not members of their own household for a journey that is essential, should consider alternatives such as walking, cycling and public transport.

4. <https://www.rha.uk.net/getmedia/e3c6a8e8-6e04-469d-b822-b7b21d69e21c/Letter-to-RHA.pdf.aspx>  
 5. <https://www.fleeteurope.com/en/financial-models/europe/analysis/exclusive-survey-shows-covid-19-puts-your-job-risk?a=FJA05&t%5B0%5D=Coronavirus&t%5B1%5D=COVID-19&t%5B2%5D=MaaS&t%5B3%5D=EV&t%5B4%5D=TCO&curl=1>  
 6. <https://www.fleeteurope.com/en/safety/europe/features/how-covid-19-increasing-fleet-driver-risk?a=JMA06&t%5B0%5D=Road%20Safety&t%5B1%5D=COVID-19&curl=1>  
 7. <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/vehicles>  
 8. <https://www.gov.uk/guidance/social-distancing-in-the-workplace-during-coronavirus-covid-19-sector-guidance>

The updated guidance confirms that if there is no option but to share a car with people, journeys should be shared with:

1. The same individuals; and
2. The minimum number of people at any one time.

#### *Carrying out deliveries or collections*

The objective is to avoid surface transmission when goods enter and leave the vehicle. Recommendations include:

- Scheduling to limit exposure to large crowds and rush hours;
- Revise collection points;
- Where possible and safe, have single workers load or unload vehicles;
- Encourage drivers to stay in their vehicles where this does not compromise their safety and existing safe working practice;
- Ensure delivery and receipt confirmation can be made contactless and avoid physical contact when handing goods over to the customer; and
- Regularly brief drivers and provide in-vehicle guides as a reminder of the guidance.

#### *Cleaning in the vehicle*

Vehicles can harbour a lot of bacteria and so the objective is to keep the vehicle clean and prevent transmission by touching contaminated surfaces. The guidance includes:

- Increasing the frequency of hand washing and surface cleaning;
- Ensure regular cleaning of vehicles, in particular between different users and surfaces that are regularly touched such as door handles, fuel pumps and vehicle keys;

- Retain sufficient quantities of hand sanitiser and wipes in vehicles; and
- Clear the vehicle and remove waste and belongings at the end of each shift.

Sharing vehicles for work is an important part of many businesses and also has associated environmental benefits. Laura Finlayson, Scotland director of the shared transport charity, CoMoUK, said<sup>9</sup> "it is crucial that we do not go back to a climate-damaging normal. Shared transport is a vital weapon in the fight to achieve net zero greenhouse gas emissions, reduce congestion and improve air quality".

With Covid-19 still a very real threat in the UK, businesses are advised to review, apply and strictly adhere to the above guidance. Our Motor Crime Team can provide further guidance and assistance if required.

### **Bus and Lorry Drivers' Licence- keeping the country moving**

*"With our NHS staff working around the clock to combat coronavirus, we are determined to help vital bus and lorry drivers support our incredible industry and keep Britain moving."*<sup>10</sup>

As part of the ongoing nationwide response to coronavirus, the Government recently announced that it will be easier for bus and lorry drivers to renew their expiring driving licences by temporarily removing the routine D4 medical. As long as drivers are fit to drive, that is to say they do not have any medical conditions that affect their driving and their current licence expires in 2020, they will be able to apply for a 1-year temporary licence without the need to provide further medical evidence. The scheme will run from 23 March to 31 May<sup>11</sup> and will keep 30,000 drivers on the road each month.

9. <https://www.independent.co.uk/travel/news-and-advice/coronavirus-uk-carsharing-department-transport-aa-a9515656.html>

10. Transport Secretary Grant Shapps announcement on 17 April 2020

11. <https://www.gov.uk/government/news/government-takes-further-action-to-support-bus-and-lorry-drivers-who-are-keeping-the-country-moving>

Ordinarily, as part of the conditions of holding an HGV or bus licence, drivers are required to undergo regular medicals to ensure they are fit to drive. Drivers are required to undergo an initial medical and after the age 45 to have one every five years until the age of 65 when they are renewed annually without an upper age limit.

Drivers with health issues will still need to declare these, and those with health issues that prevent them from driving safely will not have their licence renewed.

Unite the Union, who lobbied for the relaxation, has long championed the absolute requirement that drivers have regular medicals but due to the unprecedented nature of the current crisis, it believes that a short relaxation is required as a temporary and short-term measure.

Unite National Officer for Road Haulage, Adrian Jones said, *"At a time when we urgently need qualified drivers it would be wrong and deeply unfair to force experienced drivers off the road because the doctors who would normally perform the medicals are full focused on fighting coronavirus"*. He added, *"any relaxation in the medical rules for drivers must be temporary and for a clearly specified limited time and drivers and employers have to be responsible and ensure that if anyone is unwell or unfit they do not drive, to ensure road safety is not compromised"*.<sup>12</sup>

Whilst this temporary respite is to be welcomed during the current crisis, employers will no doubt remain mindful of the associated risk of the relaxation in the submission of driver medical reports.

This development although welcomed by the industry, also highlights the difficult balance which employers face in considering their health and safety responsibilities and the health of drivers, with the current pressures to assist in the fight against Covid-19. Employers are only too aware that a shift of focus from maintaining stringent safety

standards could have serious or fatal consequences for their business, their staff and other road users.

### Automated vehicles- back on track?

Despite Covid-19 limiting our mobility, work continues to progress on the introduction of automated vehicles.

The Law Commission launched their second consultation paper<sup>13</sup> in their three year project commissioned by the UK Government's Centre for Connected and Autonomous Vehicles. The paper focuses on Highly Automated Road Passenger Services ("HARPS"), a service which uses such vehicles to supply road journeys to passengers without a human driver or user-in-charge, allowing the vehicle to travel empty or with only passengers on board.

COVID-19 could give an extra push to introducing HARPS as the current pandemic is putting pressure on deliveries and logistics companies. The World Economic Forum's report on 'The Future of the Last-Mile Ecosystem'<sup>14</sup> anticipates that demand for e-commerce delivery will result in 36% more delivery vehicles in inner cities by 2030. The current situation has certainly added to this demand as people are self-isolating, working from home or have an increased need for essential items.

Automated vehicles could eventually help relieve the strain on the industry, whilst reducing the risk of exposure to customers. It is anticipated that the pandemic could act as a catalyst for unmanned delivery vehicles to be seen as the new 'normal' in the future.

The final report and recommendations of the Law Commission are expected in 2021 but, with various regulatory considerations still to be addressed, introducing automated vehicles to the UK will inevitably take more time.

12. <https://unitetheunion.org/news-events/news/2020/april/government-risks-lorry-driver-shortage-during-coronavirus-crisis-unless-medical-rules-are-relaxed/>.

13. <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/10/Automated-Vehicles-Consultation-Paper-final.pdf>

14. <https://www.weforum.org/reports/the-future-of-the-last-mile-ecosystem>

## Less speed, more haste- update on speeding courses

*"The world may have changed, but the speed limit and traffic laws remain the same."*<sup>15</sup>

We previously reported on the temporary suspension of all speed awareness course classroom sessions in light of COVID-19.<sup>16</sup>

As a result of the suspension, course providers have been working hard to try to adapt their service offering and get people to attend courses online. For example, DriveTech has created online workshops which can be completed in 2.5 hours - compared to the 4 hour classroom-based course.

TTC, which runs speed awareness courses for UK Road Offender Education, is now offering remote options. CEO for TTC, Jim Kirkwood said *"we are now moving drivers to take their currently booked classroom course onto the online version, via a secure video link within a Digital Classroom...if drivers choose not to participate in the online course the police will make contact to advise the driver directly about the next steps available"*.<sup>17</sup>

Despite police forces and course operators teaming up to do everything they can to support drivers in completing online courses to avoid more serious penalties such as fines and points, reckless drivers have been taking advantage of the quieter roads and driving at excessive speeds. Forces reporting an increase in speeding offences include Northumbria, Leicestershire, Bedfordshire, Cambridgeshire, Hertfordshire and Merseyside, with one driver recently reaching 134mph in a 40mph zone.<sup>18</sup>

As a result, the Metropolitan Police are set to launch a special unit to crack down on speeders, which has seen seven people killed since the beginning of the lockdown. Superintendent Andy Cox, from the Met

Police, will be heading the unit and vowed that police would come down hard on "unacceptable" speeding.

Joshua Harris, director of campaigns at road safety charity Brake said *"with only essential travel permitted, we would hope to see speeding decline and so the reported increase is deeply concerning"*.<sup>19</sup>

### Challenging withdrawal

Our motor crime team was recently involved in a case whereby our Client was advised her classroom course had been withdrawn by the police, on the basis it could not go ahead during the lockdown, and was subsequently advised that the police were prosecuting the matter.

We contacted the Officer in the case who explained that as the six month statutory limitation period was approaching, coupled with the fact the particular course was not being offered online, it was not possible for the course to be postponed until such time as the measures eased.

We escalated the matter with the Sergeant, raising the point that the withdrawal of the course was an abuse of process. We managed to persuade him to allow the Client to undertake a lower level course online which was being offered by a different police force. The Officer raised the fact that the statutory limitation period had passed, which in essence would mean the police had no authority in prosecuting the matter should the Client decide not to complete the course. We therefore suggested that our Client plead not guilty which would require a court date to be set, giving the police the reassurance they required. Once the Client has successfully completed the course, the proceedings will be withdrawn.

15. Teresa Ciano, Partnership Manager for Go Safe, the all-Wales road safety partnership

16. <https://www.clydeco.com/blog/insurance-hub/article/covid-19-safety-health-environment-regulatory-motor-crime-team-coronavirus>

17. <https://www.thesun.co.uk/motors/11450782/coronavirus-lockdown-speed-awareness-zoom>

18. <https://www.thesun.co.uk/motors/11452398/drivers-racing-speed-limit-empty-coronavirus-lockdown-roads/>

19. <https://www.bbc.co.uk/news/uk-52370352>



## Speeding to disqualification?

"The amount of people who are caught without car insurance is staggering...these figures show insurance is actually the single biggest barrier to new drivers staying legal and keeping hold of their licence."<sup>20 21</sup>

In a recent Freedom of Information request, the DVLA confirmed that in 2019, 11,125 drivers were banned from driving within two years of passing their driving test, equating to an average of 30 new drivers per day.

Under the New Driver Act 1995, a driving licence can be revoked if the driver accumulates six or more points within two years of passing their test.

49% had their licence revoked for having no insurance (which results in fines and six penalty points, so even those with a clean driving history would have their licence stripped). The second most common offence was 25% of motorists having accumulated too many speeding offences (which results in anything from three points or more and a substantial fine).

Other offences resulting in disqualification included:

- Miscellaneous – 10%;
- Vehicle defects – 6%;
- Distractions and careless driving - 5%;
- Failing to stop after an accident – 1%;
- Alcohol-related driving offences – 0.8%;
- Drug offences – 0.3%.

These figures are 7% lower than in 2018 and only account for a small percentage of the 750,000 drivers or more who pass their test each year.

In 2019, the Department for Transport suggested a graduated licensing system<sup>22</sup>

which would see new drivers eased into driving before given full freedoms. These schemes could put restrictions on new drivers, such as a minimum learning period, not driving at night, or not driving with passengers under a certain age in the car. Graduated licensing schemes already operate in New Zealand; New South Wales and Victoria in Australia; New York and California in the USA; Ontario and British Columbia in Canada and in Sweden. We would suggest that serious consideration should be given by the Government to a similar scheme in the UK in order to protect our least experienced drivers who are involved in a substantially disproportionate number of road traffic collisions.

Sarah Rees confirmed "more must be done to educate people on the risks of driving when uninsured as well as improve education around other risky driving behaviours such as speeding and using handheld mobile phones".

Our experienced Motor Crime Team is here to assist with all motor, fleet and logistics queries. In addition, if you would like to discuss any aspect of this article further, please get in touch with a member of our team at [MotorCrimeTeam@clydeco.com](mailto:MotorCrimeTeam@clydeco.com) or call us directly on 0161 240 8514.



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20. Sarah Rees, Managing Director of AA Driving School

21. <https://www.thisismoney.co.uk/money/cars/article-8297641/More-11-000-new-drivers-LOST-licences-2019.html>

22. <https://www.gov.uk/government/news/government-looks-at-steps-to-make-new-drivers-safer>



# Covid-19 Advice

The world is facing unprecedented impacts from the Coronavirus (COVID-19) pandemic. The impact on people, businesses and supply chains is unfolding rapidly, and is now being felt in every part of the globe.

Clyde & Co is supporting clients around the world from over 50 offices and associated offices, assisting as developments unfold.

If your business or people are impacted, please speak to your usual Clyde & Co contact or access our online resources by clicking below:

[Coronavirus Information Hub >](#)

[The Insurance Hub >](#)

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# 440

Partners

---

# 1,800

Lawyers

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# 4,000

Total staff

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# 2,500

Legal professionals

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# 50+

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