

The Importance of Instigating the Right Checking Procedure



There are many different categories of driving licence, with variations arising in the level of entitlement, vehicle classifications, and the licence holder's country of origin. All these issues make it very important that you ensure every driver on company business has a full and valid driving licence. Whether or not the company actually provides the vehicle that the employee is to drive on company business is an irrelevance. If an employee is driving on company time, for business purposes, the employer has a Duty of Care over the actions of that individual and, consequently, an absolute responsibility to ensure that the employee acts within the law.

Ensuring that every individual in an organisation is correctly qualified to drive their vehicle clearly presents some very real, practical problems. There is obviously some reliance on employees' honesty, but this guide outlines several widely utilised policies within the UK fleet environment that can help employers and fleet operators to ensure compliance with the regulations and that also satisfy an employer's Duty of Care responsibilities.

The approach taken to ensure that the employer has taken all reasonable steps to check drivers' eligibility to drive will depend on a company's size, location and management structure. In the event of a worst-case scenario, where a fatal incident has occurred involving an employee without a valid licence, the employer would be required to provide evidence of the policies and procedures in place to try and prevent such an occurrence. A poor policy or substandard implementation could lead to an element of responsibility falling on the company or its relevant managers/directors under Duty of Care obligations.

The best defence is, therefore, a robust and well-managed policy, which checks that all employees hold a valid licence and are eligible to drive the vehicles being used for company business. Such an approach should protect the company and its managers/directors, should the worst happen.



Guidance Policies

Firstly, let's examine some best practice driving licence checking policies commonly used to check and monitor employees' eligibility to drive, and suggests appropriate applications for such policies. The policies are intended to provide guidance only. Selecting the policy that best fits your company will depend to some extent on your company's corporate culture and perceived levels of risk exposure. Companies that employ many drivers or higher risk drivers, such as young drivers within their probationary driving period or overseas workers, may need to increase the level or intensity of the checks. On the other hand, companies with more mature staff, a low staff turnover and low accident rates, may consider a less rigorous policy as satisfactory. Carry out a positive risk assessment to identify the underlying risk levels in your organisation and establish the most suitable policy.

Whichever policy you decide is best suited to your organisation, the first step is to check the original driving licences of all employees who will drive on company business. You will base an employee's eligibility to drive on the findings of this check. Keep a signed, dated copy of the licence on record. Best practice suggests that driving licence checks are carried out on an annual basis. However, Since the abolition of the paper license counterparts in July 2015 an increasing number of checks are being performed online and the DVLA is now encouraging fleet managers to move away from annual checks to at least quarterly reverification – suggesting that that 7,621 people are still driving with 12 points or more on their licence, while a further 36,000 are on the brink of losing their driving licences.



Moving to quarterly checking reduces the risk of fleet drivers carrying undeclared endorsements and alongside this the breadth and type of data now available to fleet managers will enable them to better understand their drivers. Regular checking will also help to combat issues such as illegal workers in the commercial vehicle sector.

A New Era Requires A New Solution

The potential costs associated with an accident involving an employee who turns out to be without a valid driving licence, particularly where a fatality has occurred, can be astronomical. In addition to the human tragedy, the company could find members of its management team or board of directors held liable, as well as the company being prosecuted under Duty of Care, and health and safety legislation. In addition, the amount of management time involved in accident investigations would be significant.

Although the new system is more a marked improvement, the cost to the company and the drain on fleet manager's time has now increased as the process has changed so considerably over the last 18 months and many businesses find it more cost and time effective to employ a third party that will not only mitigate these problems but ensure that driver credentials are up to date at all times.

For example, solutions like DriverCheck use their DVLA approval on behalf of employers to check employees' driver licences with the DVLA on a remote basis using a bespoke interface with the DVLA. They also prevent the need to repeatedly gain driver's consent for mandates by having them sign a driver's consent form, or use E-Consent, which provides a 3 year authority for them to check a license on a pre-agreed frequency with the employer that is determined by the number of points on the license record (this is known as the Traffic Light System). The results are then posted into a secure portal which is held in the employer's name that they have 24/7 access to online. DriverCheck is also registered as a data controller with the information commissioner and holds an ISO27001 for Secure Data Management, the highest standard available for an information security management system (ISMS).

What all of this means is that checks cannot be missed – they are electronically set so that other conflicting business priorities, be they absences, training etc, will not disrupt the schedule. An audit trail is also automatically generated, and held, in the portal, which is indispensable for the fleet insurer or the police if a road incident/fatality was to occur and protects the employer in the event of a subsequent corporate manslaughter charge.



Alongside all of these benefits it will work out 50% cheaper to outsource this process to a specialist business rather than attempt to manage it 'in-house' and recharge the cost to internal management. Overall, the changes that the DVLA have implemented since the abolition of the paper counterpart now make employing a third party company to handle driver license checks a no-brainer in today's regulation heavy environment.



Original Driver Licence Checks

It is possible to implement these checks in-house via the DVLA's Shared Driving License System (SDL), but as you'll see it can be quite time consuming as well as not that cost effective. The system generates a PDF that contains a unique access code which is then used to verify the document. You can either accept the PDF or verify its contents by visiting www.gov.uk and entering the access code and last eight digits of the driving license number. The authentication code is then time bound to ensure that the information is current at the time of issuing the PDF document.

This approach delegates a lot of responsibility to the line manager, so you'll need to make sure that they are conversant with driving licence types, eligibility, endorsements and vehicle categories which may involve extra training. Again, it is now advised to perform these checks every quarter for all drivers who are expected to carry out regular driving during company time which increases workload by 400%. Do not forget to check the licences of occasional drivers before they are allowed to do any driving for business purposes. Where practicable and possible, check the driving licences of named drivers who are not employees, such as employees' partners. Even if the named drivers are only going to use a company vehicle for private use, the check will ensure that only qualified drivers use the vehicle and that the vehicle remains properly insured for all users.





Costs vs Complacency

More checking obviously means more risk is being identified earlier – and that ultimately makes the UK roads safer and large fleets and their third-party licence-checking providers can carry out checks in real-time through the Government's online Access to Driver Data (ADD) system.

At the click of a mouse, fleets in possession of a driver's permission, known as a 'mandate', have the convenience of instant access to up-to-date penalty point information and details on the vehicles that can be driven.

However, there is obviously a cost attached to this and for those fleets that don't employ a licence-checking company, the costs of establishing this service soon mount up. Plus Fleets that carry out free licence checks through the Share Your Driving Licence system need to get a new code from each driver every time which can be time consuming.

Therefore the cost of checking and rechecking driving licences up to four times a year – or more frequently – can prove expensive for a large fleet. If an organisation carries out the checks itself or processes the information in-house, it can also result in an increased administration burden. The licence-checking process can become onerous for those fleets that don't secure a mandate form from, for example, a newly-recruited driver allowing their licences to be checked.

Where employees are making self-declarations, put a random auditing process in place to ensure that the policy is actually effective. Carry out documented, random sample checks on employees' original driving licences on a regular basis. These spot checks are essential in demonstrating that your organisation has a robust monitoring and enforcement system in place, to minimise the opportunity for false declarations. Again, do not forget to include named drivers and occasional drivers in this system.

Approaching employees for consent can meet with resistance, as the move implies mistrust. The DVLA can provide a one to three year mandate system, during which period the employee allows the company unlimited access to the employee's driving records. The three year mandate was introduced to assist in reducing the administrative burden of this system. A number of other companies provide a similar service via the DVLA's system, providing a fully-administered solution, with associated costs. You may also want to include occasional and named drivers in these checks.



What You Cannot Miss

Regardless of how you choose to implement your checks, you need to make it an absolute requirement for drivers to inform their employer straightaway if they are convicted of any of the following:

- ✓ a driving offence connected with alcohol or drugs
- ✓ a driving offence linked to dangerous or reckless driving
- ✓ any other offence relating to speeding or driving without due care and attention

This information must be provided for the company to carry out adequate risk management assessments. If employees collect an unacceptable number of points (even before disqualification), the company may wish to instigate one of the following:

- ✓ driver training for the employee
- ✓ insurance premium/excess loading
- ✓ disciplinary action
- ✓ withdrawal of access to, or use of, a company vehicle

Conclusions

Ultimately the new system will ensure a greater degree of safety on our roads and should therefore mitigate the likelihood of businesses incurring the costs of large payouts due to accidents caused by negligent drivers or fines for employing drivers that shouldn't even be on the road. Even though driver checks can still be managed in-house utilising a third-party solution is not only less of a drain on resources but also more cost effective.

Some images used in this document are Crown copyright with permission.

