

PARTNERSHIP PROGRAM

Q&A: Consequence Management Framework

The Question:

Why should an organisation develop a Consequence Management Framework for work related driving safety?

This Q&A explores what a consequence management framework is, the importance of having a clear and comprehensive consequence management framework for work related driving safety, and how such a framework may be developed.

Scope of the problem:

Driving for work is one of the most dangerous work related activities^{1a, 1b, 1c}. In fact, individuals who drive for work are twice as likely to be involved in a motor vehicle crash than personal car drivers, accounting for over 33% of all road fatalities each year².

Although road users are expected to comply with traffic and Work Health and Safety legislation, it is no longer assumed that the responsibility of a work related vehicle crash lies solely with a driver³. Rather, companies and organisations have been shown to play a key role, especially in the area of workplace frameworks and reforms. In acknowledging their role, many organisations have begun to develop and implement a consequence management framework specifically aimed at work related driving safety. Such a framework aims to effectively manage compliance with road rules, and safety policies and procedures to encourage safe driving behaviour on all Australian roads.

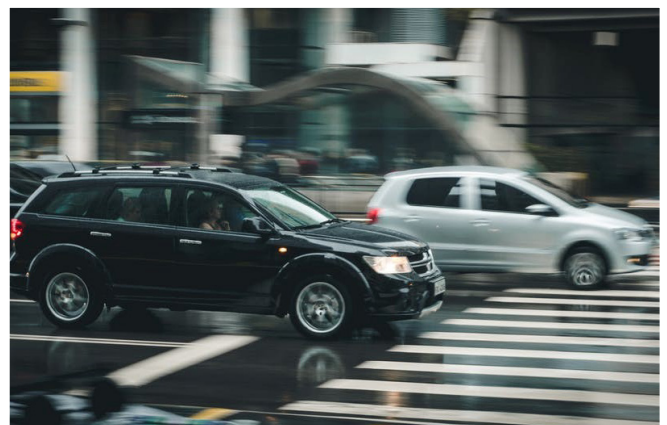
This Q&A utilises case studies from NRSPP partners including: Sanofi, Telstra and SA Power Networks.

What is a Consequence Management Framework?

Companies and organisations have a responsibility to comply with many legislative requirements. Additionally, employees within an organisation have an obligation to comply with internal procedures and policies.

A consequence management framework, also known as a compliance policy, is an internal system or process that outlines an organisation's approach to managing compliance and mitigating compliance risk^{5,6}.

In the area of work related road safety, a consequence management framework encourages an organisation to act in accordance with relevant traffic and Work Health and Safety legislation and ensures that employees uphold organisational road safety practices.



PARTNERSHIP PROGRAM

Why is a Consequence Management Framework important?

Having a clear and transparent consequence management framework is important as it allows an organisation to demonstrate its commitment to complying with relevant road and safety laws, organisational standards and industry codes⁴.

It also provides relevant bodies (e.g., government and councils) with assurance that an organisation is aware of its legislative obligations and requirements, and that it is working actively to develop and implement processes and procedures to increase safety on Australian roads.

What does a Consequence Management Framework look like?

According to the Australian Standard on Compliance Programs, an effective consequence management framework is comprised of the following components⁷:

- o **Commitment** by governing bodies, management, resource allocation etc.
- o **Implementation** of the program, including a clear outline of key responsibilities and roles, training needs and behaviours/actions required.
- o **Monitoring and Measuring** the performance of the program and demonstrating this performance through documentation and practice.
- o **Continual Improvement** of the program through regular assessments and reviews.

While these four components are recommended, the key principles and objectives of a consequence framework can be tailored to meet the unique needs of an organisation. For example, a consequence Management Framework can be tailored to address the various challenges associated with Grey Fleet Safety Management⁷ as a means to ensure compliance with legislative requirements. In doing so, the organisation may then increase its ability to take action where workers and other road users are most at risk.

Managing a breach or potential breach

A consequence management framework should also clearly outline how an employee can report a breach or a potential breach, and how a breach is then managed. This includes⁸:

- o **The initial identification and notification** of a breach including who an individual should report to in the instance of a breach/potential breach and how a breach notification is issued.
- o **Breach containment** are the steps employers can take to immediately limit or contain a breach.
- o **Breach assessment** evaluates the severity and associated risk of a breach.
- o **Investigation** into the cause of a breach and whether it was an isolated incident or a deliberate act, and what other factors may have influenced the breach.
- o **Implementation and corrective action** to identify, agree on and implement the appropriate course of action to prevent the incident from reoccurring or escalating to a more serious level.
- o **Breach recording/register** to maintain a clear and secure record system of all breaches and the appropriate actions taken.
- o **Complaint and appeal process** for employees to appeal the process and seek external advice, if unsatisfied.

PARTNERSHIP PROGRAM

In Action: A Consequence Management Framework for work related speeding infringements

- **The initial identification and notification**
 - The organisation may receive notice of a speeding infringement and use a notification form to advise an employee about the breach. It is also important here to educate the employee on the relevant road laws and organisational policies not adhered to.
- **Breach containment**
 - In the case of extremely recklessness and unsafe driving, the organisation may take the step of immediately seizing the use of the employee's work vehicle and suspending them from other work duties.
- **Breach assessment**
 - To determine the severity and risk of a speeding infringement, factors such as the speed at which a driver was travelling when fined or the number of demerit points lost should be considered.
- **Investigation**
 - To further progress the assessment, the organisation may also choose to investigate whether the driver has received previous speeding offences and consider what other potential factors may have contributed to the infringement. For example time pressure issues such as organisational expectations or unrealistic time-frames. It is also important here to acknowledge the organisations role in the infringement.
- **Implementation and corrective action**
 - Once an infringement has been received, an employee may agree to pay the fine and participate in driver education if an infringement reoccurs.
- **Breach recording/register**
 - The organisation may create a spread sheet that records a driver's licensing status, demerit points, infringement history etc. This should be updated annually to ensure that information is current.
- **Complaint and appeal process**
 - If an employee believes that they have been unfairly accused or that they were unaware of the consequence framework, they may file an appeal with the human resources department or seek an external agency where appropriate.

PARTNERSHIP PROGRAM

At what point should a driver be prevented from operating the vehicle?

A consequence management framework often differs greatly between organisations. However, if a driver has lost their licence organisations need to ensure that the unlicensed driver is immediately prevented from operating a vehicle particularly for work. To show support for Australian Road laws, some organisations are now also preventing the use of a restricted license for work vehicles (also known as a work licence).

Apart from license suspensions and disqualifications, most breaches or potential breaches are assessed on a case by case basis. In doing so, a 5km over the limit speeding fine may be treated differently to running a red light.

If a breach is assessed as serious, the company may then look at both preventing the driver from operating the vehicle and the potential for an employee to keep their job.

Should you consider infringements incurred when NOT driving for work?

The difference between a private and fleet vehicle is no longer distinct. At one end of the ownership spectrum, there are vehicles which are owned by an organisation and used exclusively for work purposes (i.e., fleets). At the opposite end of the spectrum, there are Grey Fleet vehicles which are owned by an individual and are exclusive for private use or vehicles that are used for work not directly provided by the organisation that employs the driver.

Questions to ask yourself

- o In your organisation, does the same safety focus that applies on the factory floor or office space transfer to the vehicle?
- o Does my organisation currently have a system in place to handle compliance concerns, such as speeding infringements?
- o Does my organisation assess infringements on a case by case basis, or is there a one-size-fits all policy?
- o Does my organisation acknowledge all of the factors influencing work related driving safety, such as the vehicle condition, the road environment, the working arrangements etc, and work actively to address and target these?
- o Does my organisation have a process in place to track non-compliance or employees licensing status?
- o Does my organisation have additional compliance policies in place for employees who have access to a work car for private use?
- o Does my organisation work to educate employees about work related driving safety in the instance of a breach, and at what point does this education and support occur?



PARTNERSHIP PROGRAM

Case Studies

Sanofi



Do you have a Consequence Management Framework?

Yes, at Sanofi we have a consequence management framework in place.

The objective of our consequence management framework is that it is more supportive of people. There is an annual process where employees are asked to disclose their annual demerit point accumulation. If the employee is at a 50% loss or more of points then we offer optional one on one driver training with a professional instructor. If the employee is at a 75% loss, and they haven't yet done the training, then the optional training becomes mandatory.

The goals of the framework are:

1. To make safe drivers
2. To change the driving habits of employees so they can keep their licence and their job.

However, we don't say to drivers "lose your licence, lose your job", rather we try to take steps before it comes to this to assist employees in keeping their licence and subsequently keeping their jobs. In addition, we don't have a 'two strikes and you're out' policy, as it is not likely to lead to employees being open with their disclosures. It is also not likely to get employees to change their driving habits long-term.

The following is an example of our system. One person who has gone through the driver training was distracted by the easiest things and not even their mobile phone, but rather the sheer volume of things they had to deal with in her day to day life. This person would be thinking about those things, rather than seeing the traffic.

Driver training for this person was focused on impromptu driving, so basically practicing the skill of verbally saying out loud, every traffic sign etc that they would come across (e.g., school zone/no right turn). That stopped their thinking about the day to day life and made them think about what was coming up/what was in front of their vehicle.

This was especially efficient in the rural areas, where signs aren't as prevalent as in the city. This helped her focus on driving safely and put other work tasks aside, which whilst important, were not helpful in driving safely.

We prefer to look at situations of incidents and breaches individually, rather than having a strike system. While one person may get multiple infringements for being 3-4 kms over the speed limit we do not view that the same as a speeding infringement that is excessively over the speed limit. We will also treat 4kms over in a school zone, very differently to 4kms over in 100km zone. Therefore, situations need to be considered in the context of the Australian driving environment as well. For example, if someone had 4 instances, we would access their infringements information and assist them in investing in their driving from a safety perspective, to offer them that encouragement. Last year 3 people hit the 75% range and 14/15 in 50% range, in a business of 300 strong drivers. Around 1% in high risk drivers, versus 3-4% generally.

Globally, the company run off a two strikes program. The struggle with this is it is very rigid, especially looking at the distances drivers are required to travel. The Sanofi head office is in Paris, so in the time it takes to drive from Sydney to Melbourne, an employee in France would have gone from one end of the country to the other. Therefore, these rules don't apply to Australian drivers and the Australian demerit point system has been designed for the Australian context, thus, we use a system in line with that. The Courts have deemed if you lose more than X points, then you are going to spend some time on the side line, and we are happy to support that. We are strong supporters of our Legal system in that regard, which why we don't offer work licenses as well.

PARTNERSHIP PROGRAM

At what point is the driver prevented from operating the vehicle?

We do not have a cut off, apart from losing your license. We ensure that people understand what our expectation of being a good worker/employee is, from the get go. So, if there is a breach of company policy or if they lose their licence through having repeated infringements, the employee has the potential to lose their job.

We don't have a strikes system in place, as an employee can have accidentally received two very minor traffic infringements. For example, two fines going four KMs over the limit – this is hardly enough to lose your license over, therefore, we assess each incident or breach individually. If an employee were to lose their license through the courts, then they obviously are not performing their job to the appropriate standard. This is why we link our cut off and consequences to this. This is a little different from what other companies may do.

Telstra



Do you have a consequence management framework?

At Telstra, we do not have a consequence management framework that is specific to vehicles. We have a Human Resources (HR) performance review process that requires investigation into any breach of company policy, prior to action being taken.

Essentially, we have three main entry points for driving issues that result in HR interaction:

- o A road authority notification through a red light fine, speeding camera fine, etc.
- o 1300 complaint notification direct to the business
- o Damage to vehicles

Once these are known a Health, Safety and Environment (HSE) investigation is required through our HSE Incident Management system. Corresponding action is then taken to validate a current licence if there have been more than 3 fines in a two year period.

At what point is the driver prevented from operating the vehicle?

A driver is prevented from operating a vehicle if they lose their licence, or if an investigation into their conduct reveals they undertook an inappropriate action in the incident

Do you consider infringements incurred when NOT driving for work in your consequence framework?

Yes, we require our employees to write an annual self-validation of their current driver's licence. In addition, if there are three or more driving offences which are known to the company then the employee must present proof of a valid licence.

SA Power Networks



At what point is the driver prevented from operating the vehicle?

An employee may be stood down, temporarily, during investigation, or if fitness for duty is determined to be an issue.

Do you consider infringements incurred when NOT driving for work in your consequence framework?

If a vehicle is registered in our business name then yes, depending on severity of infringement. For example, a tollway or a parking breach is not in the same category as running a red light.

PARTNERSHIP PROGRAM

References

^{1a}Wishart, D. (2015). The challenge of developing a fleet driving risk assessment tool: what can be learned from the process? PhD thesis QUT; Mitchell, R., Friswell, R., Mooren, L. (2012). Initial development of a practical safety audit tool to assess fleet safety management practices. *Accident Analysis and Prevention*, 47, 102-118.

^{1b}Haworth, N., Tingvall, C., & Kowadlo, N. (2000). Review of best practice road safety initiatives in the corporate and/or business environment (No. 166). Clayton: Monash University Accident Research Centre.

^{1c}Wishart, D., Rowland, B., Freeman, J., Davey, J. (2011). Driving for work: A series of organisational audit results. Paper presented at Australasian College of Road Safety Conference, A Safe system making it happen. Melbourne Convention and Exhibition Centre. 1-2 September.

²Safe Work Australia (2012). Work related traumatic injury fatalities, Australia 2010-11. Commonwealth of Australia.

³Work Health and Safety Act 2011 (Cth)

⁴O'Connor Marsden & Associates (2016). Governance Risk Management and Compliance Service, viewed 10 July 2018, <https://www.ocm.net.au/service-grc/>.

⁵Professional Standards Councils (2014). A Framework for compliance, viewed 10 July 2018, <https://www.psc.gov.au/sites/default/files/A%20framework%20for%20compliance.pdf>.

⁶Australian Standard on Compliance Programs, AS 3806—2006

⁷National Road Safety Partnership Program (NRSP) (2017). NRSP Guide: Grey Fleet Safety Management, <https://www.nrspp.org.au/resources/15096-2/>.

⁸University of Sunshine Coats (USC) (2018). Compliance Management Framework – Governing Policy, viewed 10 July 2018, <https://www.usc.edu.au/explore/policies-and-procedures/compliance-management-framework-governing-policy>.