



Example Written Task

Candidate Instructions

For the purposes of this exercise, you work as a trainee solicitor in the Employment team at DWF.

One of our key haulage clients has been in touch to ask for assistance in respect of an upcoming recruitment campaign they are running. The client company has been impacted by post-Brexit rules and regulations and the shift in employee priorities following the pandemic so are now looking to make some positive changes to try and attract new talent.

Your supervisor has sent you an article which they believe contains some relevant information and has asked you to draft a summary sheet for the client.

You can find a copy of the article below. Using this article, please draft the note which could be shared with the client. The note should be no more than one sheet of A4.

The note will be shared with Louise Townsend, who is the Chief Operating Officer at the client.

You should not copy and paste information from the article; information should be drafted personally with the client's goals in mind.

Please also consider spelling, grammar and drafting as this will also be assessed.

You have **25 minutes** to complete the exercise.

Commercial Driver Shortage – Are we approaching a solution or still waiting at the lights?

24 April 2023

DWF's Employment & Immigration specialists review the current challenges impacting the haulage industry through a legal lens.

You do not need to be part of the haulage industry to know that there is a shortage of lorry drivers across Europe and that this has caused huge disruption across the transport and logistics sector. The International Road Transport Union (IRU) has predicted that the rate of unfilled truck driver positions across Europe is going to triple by 2026 and over 60% of available positions will be unfilled. The tangible effect of this, as predicted by the IRU, is that over half of all freight movements across Europe will be impacted. In the UK, Brexit, the COVID-19 pandemic, changes to the laws regarding off-payroll working and a lack of younger workers entering the industry are just some of the factors that have played a part in creating a deficit of around 100,000 HGV drivers in this country alone.

The industry needs assistance on a long-term basis. Much of the recent assistance has addressed issues on a short-term basis only, and, whilst any initiative may offer a partial solution at first sight, legal and social implications must also be considered.

Working time

Post-Brexit, the Government introduced temporary measures to relax the regulations around driver working hours, increasing the daily driving limit from nine to eleven hours per day and allowing drivers to change their rest patterns. Although in theory this may have seemed a solution, with UK drivers having the ability to make longer trips, the measures were not as effective as had been hoped and media reports note that not all haulage employers actually applied the relaxation of the rules in practice.

In any event, the COVID-19 pandemic brought socioeconomic change and many people have, and are, switching careers for a better work-life balance. The industry will probably struggle to attract new talent if longer hours became the norm. From an employment and regulatory law perspective, rules around working time are implemented for health and safety reasons and to help achieve a more productive workforce. Permitting drivers to increase their hours is considered to pose a health and safety risk to not only themselves but to others on and around the road, and would potentially increase accidents leading to more legal disputes and burdens for both drivers and employers. From a legal, social and practical viewpoint, it therefore appears that making any further change to working time laws is not the solution.

Immigration

Many commercial drivers in the UK were European nationals and left the country due to Brexit and the COVID-19 pandemic. To alleviate short-term pressures, the UK Government ran a temporary visa scheme for haulage drivers and introduced a short term measure allowing non-visa nationals to work in the UK as HGV fuel tanker drivers. Despite this effort from the Government, there was still criticism that the measures were not enough and that there were insufficient visas to confer viable immediate

relief or address the root of the growing industry crisis. Again, these measures were only temporary and are no longer in force.

A future solution could be to add commercial drivers to the eligible occupations and/or shortage occupation list enabling qualified foreign nationals to apply for a Skilled Worker Visa, although this would have cost and administrative implications on the employer who would be required to hold a sponsorship licence and comply with Home Office requirements which can be complex. There is also an English language requirement that may in itself pose further difficulties.

However, it appears the Government has moved away from focusing on inward migration to attracting existing UK nationals and settled workers to the industry.

Working conditions

Apart from the lack of available talent, the sector also recognises that another problem that needs to be addressed is the generally poor working conditions of drivers.

All workers are entitled to work in environments where health and safety risks are properly controlled. Employers are dealing with more strike action and union activity in recent months and poor working conditions will only add fuel to the employer and workforce relationship.

The current dissatisfaction with driver working conditions makes it seem unlikely that the industry in its current state is attractive for new entrants and makes it less likely that new recruits will want to remain. Improving working conditions is an obvious and essential step towards stopping the shortage of drivers, but is, to an extent, out of haulage companies' control. Instead, the responsibility falls more directly on the Government, local authorities and even businesses in other industries, such as those who provide facilities used by drivers. As such, the Government has invested £52.5 million into improving roadside facilities for drivers in the hope that this will provide safe, clean and comfortable areas for drivers to rest in. This is certainly a step in the right direction, and will hopefully go a long way to ease the problems.

New skills training

In an attempt to attract UK nationals and settled workers to the industry, the Government has focused on UK driver training and the number of tests being carried out. It invested £34m to create an HGV "Skills Bootcamp", which made space for 11,000 new drivers to undergo training. Providing that this measure is combined with the investment into improving driver facilities along with cash incentives, then this has the potential to go a long way into helping ease the strain on the sector.

The UK Government has also tried relaxing the rules on driving tests, allowing parts of the test to be carried out by non-DVSA examiners and prioritised processing provisional HGV driving licences at the DVLA, reducing the processing time down to five days to make it easier for drivers to begin training.

Conduct issues

A further conundrum for employers is in respect of misconduct situations involving drivers. For example, in a pre-shortage scenario, a driver who failed to carry out effective daily walk around checks and accurately record the results may have faced disciplinary action. Now, employers may not be inclined to so readily discipline and possibly dismiss in the same way as this would reduce an already depleted workforce. As such, a more relaxed attitude towards driver conduct may potentially emerge when rules are breached. If various employees are being treated differently over similar conduct issues due to external factors this creates a risk of potential claims in the Employment Tribunal over disparity and inconsistency of treatment.

Cash incentives

Creating stability and regularity, especially at a time of general wage inflation and a cost of living squeeze, may encourage people to enter, or return to, the industry. Cash incentives and salary spikes is an area that has already seen an improvement, with employers such as Waitrose, Tesco and M&S offering between £50,000 and £60,000 as a starting salary. However, not all employers will be able to



offer similar amounts, bringing into question whether a Government contribution to increase salaries for smaller employers could be useful. The annual rise in the National Minimum Wage from April 2023 may not be enough to attract new entrants to the labour market who may want much more than this to consider a career as a haulage driver.

Final thoughts

It seems there isn't any "quick fix" and that a complete overhaul of the industry may be needed in order to alleviate the problems that are currently being faced. Both short and long term strategies are needed to ensure that UK freight movements can return to full operating levels as smoothly as possible. A combination of new immigration laws, pay and reward incentives and better working conditions may help to solve the overall problem.

If you need any assistance with the issues raised in this update please do not hesitate to get in touch with one of the contacts below or your usual DWF contact.

Authored by Megan Dickenson and Lauren Parkinson.



To:

Subject:





Example response

To: Louise.Townsend@haulageuk.com

Subject: Recruitment Drive Update

Hi Louise,

I hope you're well.

In response to your recent recruitment challenges, I believe the below incentives may be useful developments and may help the company longer term to attract and retain talent.

*1. **Cash incentives:** If you are able to offer any cash incentives, such as competitive salaries or bonus payments, this may attract applicants by creating stability and regularity within the cost of living crisis. Other haulage employers, such as Waitrose, Tesco and M&S, have introduced cash incentives in an attempt to attract new entrants into the industry and you may want to consider doing the same to ensure you are a competitive employer, having regard to market standard.*

*2. **New skills training:** The Government has invested £34m to create a HGV "Skills Boot camp", which would allow 11,000 new drivers to complete relevant training. This training will help to incentivise drivers with the prospect of gaining new skills. It could be useful for you to make perspective applicants aware of this Boot Camp so that they can gain the relevant skills.*

*3. **Working conditions:** There is a general dissatisfaction among drivers regarding working conditions. Improving working conditions will help attraction and retention, but arguably this is out of the employing company's control. The Government has already invested £52.5 million into improving roadside facilities for drivers, which is a positive step, and hopefully will continue to improve. Anything that the company can do to improve working conditions for drivers would perhaps be a step in the right direction to retain talent.*

It would be great to chat to you more about this issue. Please let me know if you would like to set some time aside.

Kindest regards

[Name]
