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HM Area Coroner Longstaff

Coroner's Service West Yorkshire (Eastern) Area

71 Northgate

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WF1 3BS

Our Ref

10246488

Your Ref

24360

Date:

14 September 2022

Dear Mr Longstaff

Inquest touching upon the death of Michael Shuttleworth

We are instructed on behalf of UPS Limited ("UPS" or "the Company") and write on its behalf in response to your report dated 22 July 2022.

Firstly, UPS would like to set out its condolences to Mr Shuttleworth's friends and family.

Thank you for providing the inquest disclosure, including the Forensic Collision Investigator's ("FCI") report which sets out the background to the case and the officer's view around the primary causative factor¹, and the contributing factor of conspicuity², which are unrelated to the points raised by the report, and recognised in the two findings of fact made at the inquest.

We note the matters of concern set out in your report and deal with these in turn below. The first point UPS was made aware of them was upon receipt of your report. Had UPS been afforded the opportunity to make representations prior to the issuing of the report we trust the below information, which was in place when the report was issued, would have addressed the concerns raised.

1. Driver's dismissal and evidence

The driver of the vehicle was dismissed following an internal disciplinary process. The dismissal was for the following reasons:

1. Reckless disregard of Health & Safety precautions, procedures and regulations; and
2. A wilful failure to follow Company policies, procedures and regulations.

¹ I consider the primary causation in this collision to be the pedestrian's decision to not utilise the pelican crossing point correctly, which would have provided a safe and controlled passage to cross the carriageway. And to enter a live traffic lane, where vehicles were already in motion, at a time when it was not safe to do so (paragraph 18.5 – FCI report)

² Paragraph 18.6 Ibid.

It was found that in his initial report he had failed to disclose that he collided with a pedestrian, or the seriousness of the collision. This only became apparent later from media and social media reports.

Vehicle

We note the Police Vehicle Examiner has confirmed there were no faults or defects with the vehicle involved in this tragic collision³.

All vehicles operated by UPS are built and homologated to the respective governing countries requirements, and regulations at the time of manufacture. Additionally vehicles in the UK undergo an annual (MOT) inspection to ensure their safety and compliance.

Vehicles undergo regular maintenance to ensure they are maintained to a high level of safety standards. This is a requirement of UPS processes and in accordance with the Company's Operator's Licence issued by the Traffic Commissioner. Vehicles of this type (N2 (3.5T+)), undergo inspections every 9 weeks.

UPS consistently reviews all vehicle specifications to maintain and exceed safety standards for the safety of staff and members of the public.

UPS operated vehicles are selected to provide maximum visibility to drivers. This is a continually developing concept as new products and systems are brought to market. The vehicle in question (2013 manufacture) does provide a high degree of direct visibility to the driver in contrast to other vehicles in this vehicle category which were manufactured around the same time (typically box van configurations of higher chassis and cab configurations).

Despite this it is inevitable that designs will lead to blind spots in all types of vehicles on the road. While UPS works with manufacturers to reduce these as far as possible, a blind spot is unfortunately not something that can simply be designed out of a large vehicle of this nature. UPS continues to improve the safety features on its vehicles and has implemented further ADAS features (see further below) that were not commercially available at the date of manufacture of this vehicle.

A key feature of the mirror design is to ensure the maximum available visibility to drivers. This is focused on the primary risks in the environment UPS vehicles operate in which are mainly urban areas. The importance of being able to reverse safely (where this cannot be avoided), and to provide as much visibility as possible of vulnerable road users (pedestrians and cyclists in the vicinity of the vehicles in such environments), is paramount to the Company's day to day operations.

In addition to multiple mirrors, the vehicle also included a lower window section integrated on the passenger side to further reduce the potential blind spot as well as additional mirrors to provide greater visibility of pedestrians and cyclists alike.

2. Forensic Collision Investigator's ("FCI") evidence

This point raises the same issue as that above. Please see response to 1. As set out there UPS sets out to ensure its vehicles are as safe as possible for its employees and members of the public alike. At the time of manufacture the vehicle had safety features above and beyond industry standard and the vehicle had better visibility than many vehicles in its class.

We also respectfully highlight the officer's comments from his reconstruction that the mirrors (a critical safety feature for when the vehicle is on the road and reversing which is

³ Paragraph 13.15 Ibid.

used during journeys and cannot simply be removed) may have masked Mr Shuttleworth⁴ and the nature of the reconstruction was *just a guide...*[to the]... *possible views available, as the vehicle and pedestrian could have been in a different position*⁵.

3. FCI evidence on A post and mirror assembly

Please see above at 1 which addresses the points raised under this section.

The Mercedes Vario in question is no longer built by Mercedes and we understand production ceased in approximately 2013.

4. FCI Reconstruction

Please see above at 1 which addresses the point raised under this section.

5. Driver Aids

Ahead of mainstream technology at the time, these vehicles, and in general almost all UPS package delivery vehicles have a rear camera to increase visibility.

Current vehicles are fitted with additional Advanced Driver Assistance Systems (ADAS) which were not commercially available at the time of this particular vehicle's manufacture in 2013. This includes a platform with Automatic Emergency Braking to further reduce the risk of collisions, traction control, forward collision warning and lane departure warning.

6. Driver Assessments

Upon joining the Company, new drivers attend a driver training school. This is a two week course including both classroom and practical in-vehicle training and assessments. After completing training drivers are closely monitored by a supervisor for 22 working days, during which time the new driver must complete various tasks to the satisfaction of their supervisor to be deemed competent.

Drivers are then subject to, as a minimum, annual assessments of their driving. This can be undertaken more frequently if required, subject to the score received, or concerns being raised. Following a collision a driver will not be allowed to operate a UPS vehicle prior to the completion of such an assessment.

The assessment is a thorough review involving the assessor shadowing the driver for a typical (usually 8 hour) shift reviewing the standard of driving under various conditions. Feedback is provided as the assessor goes along. The ability to complete these assessments annually was impacted during the pandemic given the close proximity (less than 2 metres) assessors and drivers would be operating in over the prolonged assessment period.

The Driver was assessed in September of 2019. Due to the impact of the pandemic he was 1 month outside of the 12 month reassessment period. The assessment lasted 11 hours. This included a period of approximately 1 ½ hours of the assessor demonstrating good driving practice.

⁴ Paragraph 17.2

⁵ Paragraph 17.5

The assessment covered the following topics (please note we have included examples of the points covered under each section as opposed to each and every criteria assessed). Items 3 – 7 are the UPS 5 *Seeing Habits* and key phrases associated with them. These are regularly trained out to all drivers in pre-work communication meetings sharing best practice and safety activities. These are set out on a Driver Card provided to all drivers and kept with them so it is available as a reference during the day, as well as being prominently displayed on posters around the depot.

1. Pre-trip inspection of the vehicle;
 - a. Thorough pre-use check of vehicle to include checking of any defects before leaving depot – leaks, tyres, lights, brakes, signals, seatbelts, adjusting mirrors etc.
2. Engine, clutch and transmission;
 - a. Use of seat belt, gear selection and changing, refrains from over revving and / or rolling back etc.
3. Aim high in steering – Find a safe path ahead;
 - a. Looking ahead during travel, correct positioning of vehicle, driving position, checking traffic and turning when clear, smooth safe turns properly positioned, not cutting corners etc.
4. Get the big picture – Stay back and see it all;
 - a. Monitoring traffic ahead, proper spacing, adjusts driving to traffic conditions etc.
5. Keep your eyes moving – Scan, don't stare;
 - a. Frequent mirror checks, proper approach to pedestrian crossings, observing traffic signals and signs, proper checks (mirrors and windows) at intersections, use of handbrake etc.
6. Leave yourself an out = Be prepared, expect the unexpected;
 - a. Leaving sufficient space to other vehicles, looking in appropriate directions at intersection, selection of correct path, adjusting speed to road, weather and traffic conditions, reversing etc.
7. Make sure they see you – don't gamble, use horn, lights and signals;
 - a. Vehicle checks post-deliveries, signalling, lights, stopping and parking, use of mirrors etc,
8. Post-trip;
 - a. Exterior checks, brakes, fuel, handover records etc.
9. Pedestrians and cyclists;
 - a. Caution around parked vehicles, eye contact etc.

Following the assessment the assessor provides feedback to the driver on any areas identified where improvements may be made. It is wholly incorrect to suggest no feedback is provided. On this assessment the assessor covered the following:

- Use of and benefits of completing report of accident card;
- Seat belt use;

- Hand positioning on the steering wheel;
- Turning position – lane to lane;
- Spacing at traffic lights;
- Benefits of counting to 3 after vehicle in front moves off before proceeding;
- Reversing and use of horn where appropriate if conditions change;
- Leaving vehicle in 1st gear when parked;
- Visual check in front of the vehicle before moving off after drop off; and
- Use of hazard lights when parked in certain circumstances.

As part of the process the assessor:

- Reviewed the tachograph record of the driver to confirm compliance with drivers hours requirements;
- Reviewed the collision reporting requirements with the driver;
- Conducted an eye sight test; and
- Reviewed the Distracted Driving Procedure.

The Driver signed to confirm undertaking the assessment and receipt of the advice provided.

Part of the process included training and assessment on the UPS Space and Visibility Procedure. This involves a twofold assessment, firstly the observed ride along (75% of the score), followed by a Q&A session on proper driving practice and procedure (25%). The driver received a 91% score indicating annual assessments. Repeat assessments are scheduled based on driver score and can be scheduled anything from annually (highest scoring drivers), 6 monthly, quarterly, monthly or even next day in event of the poorest performers.

The Driver had also completed Certificate of Professional Competence training during his employment. Legal requirements specify 7 hours of training every 5 years to review the certificate. The Driver in question had completed 35 hours of training over the preceding 11 years, well above and beyond these requirements.

Thank you for taking the time to consider this response.

Yours faithfully

Clyde & Co Claims LLP