

**OSA Partnership Group**

**Four-Week Wait Campaign**

**For the treatment of obstructive sleep apnoea  
syndrome (OSAS)**

**March 2015**

# **Four-Week Wait Campaign - For the treatment of obstructive sleep apnoea syndrome (OSAS)**

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# **Four-Week Wait Campaign - For the treatment of obstructive sleep apnoea syndrome (OSAS)**

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## **Executive Summary**

Obstructive sleep apnoea (OSA) is a common condition which often goes undiagnosed and, when accompanied by the main symptom of sleepiness, is called obstructive sleep apnoea syndrome (OSAS). If a patient has OSAS (present in about 5% of the population) and it is not treated, then this can be very dangerous to their health, significantly reducing quality of life. Furthermore, by causing excessive sleepiness, it is a risk factor for road traffic accidents which of course can have a devastating impact, not only on the patient, but on other members of the public.

Once a patient is diagnosed with OSAS, and symptoms sufficient to impair driving, they need to notify the DVLA immediately and stop driving until the symptoms are under control but, in reality, the condition often goes undiagnosed; indeed it is believed that there are currently 1.2m cases of undiagnosed OSAS in the UK.

It has become apparent that many vocational drivers have a very real fear that, if they come forward to seek medical help, they risk losing their driving licence, and therefore their livelihoods. As a result, even if they know they have symptoms, they may not go to their GP.

Unfortunately this inaction, which we know is driven by fear, can have a devastating impact on the patient's own health and quality of life, puts at risk the lives of others, and will have an adverse impact on NHS costs.

It is important to note that the objective of this campaign is not to single out vocational drivers, nor to suggest that they are in any way at fault. HGV drivers in particular are widely recognised as some of the safest drivers on our roads. However OSAS is a condition that overwhelms driving skill in even the best drivers, as sufferers have no control over the sleepiness OSAS can cause. Our aim is to support the case of these vocational drivers to ensure that they can be confident when presenting with relevant symptoms of receiving prompt diagnosis and treatment.

The OSA Partnership Group has undertaken many initiatives to raise awareness of OSA, particularly with HGV drivers, but now feels we need to take this a step further by pushing for UK-wide fast tracking of treatment for this group of vocational drivers who are so dependent on maintaining the ability to drive. In so doing we aim to prevent the tendency for drivers not to come forward and be treated for their symptoms.

Thus we urge those reading this document to support the action outlined within this paper.

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## **The OSA Partnership Group**

The Obstructive Sleep Apnoea (OSA) Partnership Group is made up of organisations such as the RAC and the DVLA, leading sleep clinicians, patient groups such as the British Lung Foundation (BLF) and Sleep Apnoea Trust (SATA), and individuals with an interest in raising awareness of OSA. The Group has been active in raising awareness of OSA amongst drivers, particularly HGV drivers, and has worked in partnership with DVLA to simplify advice on driving and OSA, and with the Freight Transport Association (FTA) to develop a driver CPC training module to raise awareness of the condition and its treatment.

## **What we want to achieve**

The OSA partnership is calling for the Department of Health (DoH) to issue the following guidance to Clinical Commissioning Groups (CCGs), Hospitals and GPs:

***'The treatment of vocational drivers with obstructive sleep apnoea syndrome (OSAS) should be expedited to allow driving again within a maximum of four weeks following first referral'.***

Vocational drivers who may have OSAS<sup>1</sup> must be confident that coming forward with their symptoms will not lead to loss of livelihood and income. At present we know they are often not confident to do this, and that many face suspension or dismissal by their employers if they come forward. However by not coming forward they remain a hazard to themselves and others because they risk falling asleep while driving. This was highlighted in research that the OSA Partnership Group carried out, in conjunction with the FTA, in which 98% of Fleet Managers said that drivers who thought they might have OSA were unlikely to raise concerns for fear of losing their licence.<sup>2</sup>

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<sup>1</sup> OSAS is a more severe form of OSA where there is evidence of both a disruption of normal breathing patterns during sleep, and symptoms such as excessive sleepiness in the daytime. OSAS occurs in approximately a quarter of those with OSA. If a patient suffers from OSAS, the pauses in breathing can happen hundreds of times a night, which most of the time they won't be aware of. This means they're getting less of the restorative kind of sleep required to give them the levels of energy and concentration needed to drive safely.

<sup>2</sup> <http://sleep-apnoea-trust.org/four-week-wait-campaign.htm> (live from 030315)  
<http://www.fta.co.uk/sleepapnoea>

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The OSA partnership group strongly believe that rapid diagnosis and treatment facilities for this particular group are important and justifiable.

- We believe that no vocational driver should have to wait more than two weeks, following initial referral, for first contact with the local sleep service.
- They should wait no more than one further week until the supply of treatment (usually CPAP).
- They should wait no more than one further week for confirmation that symptoms have resolved and that driving is safe once more.
- Thus drivers and/or their employers can be confident that four weeks would be the maximum time off driving (during which time the drivers should be assigned to alternative non-driving duties).

## **Why this is important**

1. OSAS is a particularly common condition amongst middle-aged men in the UK- especially those who are overweight -a group over-represented within the HGV and PSV community. The prevalence rate for this condition may well be increasing as a result of the rising levels of obesity, a known risk factor for OSA, as well as other conditions.
2. Drivers with OSAS are at risk of falling asleep driving and thus causing immense damage, personal injury and deaths. The financial and human costs of these accidents are profound (see appendix 2).
3. The DVLA sensibly says that drivers with sleepiness, sufficient to impair driving, should stop driving until the sleepiness resolves.
4. Drivers are extremely reluctant to come forward with a symptom that they fear may lead to losing their livelihood.
5. Drivers will only come forward if rapid diagnosis and treatment can be guaranteed; without this rapid service, drivers at risk of falling asleep at the wheel will remain undiagnosed, untreated and on the road, thereby running the risk of increasing the number of OSAS-related road traffic accidents.
6. To reduce the impact of increased prevalence of OSA in terms of i) the financial and human costs of fatal and serious accidents and ii) the health implications of untreated OSA.

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## **However:**

A survey conducted by the Sleep Apnoea Trust has shown that treatment times vary and, although some sleep clinic offer fast-tracking for vocational drivers, there is no standard time for treatment and therefore treatment times vary substantially. Where there are no facilities for fast tracking, we are aware of some patients, at the far end of the spectrum, waiting for six months before being approved to commence driving.

## **The Evidence**

### **1. OSAS is a particularly common condition amongst middle-aged men in the UK, a group over-represented within the HGV and PSV community.**

- Early sleep apnoea syndrome prevalence studies suggested that there was a prevalence of between 1 and 4% in middle-aged men<sup>3, 4</sup>.
- Since these early studies there has been an increase in obesity<sup>5</sup>, and therefore the prevalence of OSAS has risen further<sup>6</sup>.
- Because vocational drivers, particularly HGV and PSV drivers, tend to fall into this category, the prevalence of OSAS is likely higher than average in this group and confirmed in epidemiological studies<sup>7,8,9,10</sup>.
- Thus the current estimate for the prevalence of OSAS in HGV drivers is over 15%<sup>11</sup>.

### **2. Drivers with OSAS are at risk of falling asleep driving and thus causing immense damage, personal injury and deaths.**

- Several studies show that road traffic accidents are more common in people with OSAS<sup>12,13,14,15</sup>.
- Estimates vary, but it is likely to be anywhere between 3 and 9 times more than average, and these accidents are likely to be of an increased severity as driver performance and thus response to emergencies is impaired.
- There have been many high profile accidents causing loss of life and immense financial consequences to hit the headlines (see appendix 2 and 3).

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<sup>3</sup> *N Engl J Med.* 2000 May 11;342(19):1378-84 (Pubmed ID 10805822)

<sup>4</sup> *Thorax.* 1991 Feb;46(2):85-90 (Pubmed ID 2014507)

<sup>5</sup> <http://www.hscic.gov.uk/catalogue/PUB13648/Obes-phys-acti-diet-eng-2014-rep.pdf>

<sup>6</sup> *Am J Epidemiol.* 2013 May 1;177(9):1006-14 (Pubmed ID 23589584)

<sup>7</sup> *Ind Health.* 2014;52(1):13-24 (Pubmed ID 24317450)

<sup>8</sup> *J Occup Environ Med.* 2012 Aug;54(8):1017-25 (Pubmed ID 22850349)

<sup>9</sup> *Am J Respir Crit Care Med.* 2006 Aug 15;174(4):446-54 (Pubmed ID 16690976)

<sup>10</sup> *Sleep.* 2012 Apr 1;35(4):469-75 (Pubmed ID 22467984)

<sup>11</sup> *Ind Health.* 2014;52(1):13-24 (Pubmed ID 24317450)

<sup>12</sup> *Thorax.* 2001 Jul;56(7):508-12 (Pubmed ID 11413347)

<sup>13</sup> *Sleep.* 2010 Oct;33(10):1373-80 (Pubmed ID 21061860)

<sup>14</sup> *Sleep Med Rev.* 2011 Oct;15(5):301-10 (Pubmed ID 21195643)

<sup>15</sup> *Am J Epidemiol.* 2014 Mar 1;179(5):594-601 (Pubmed ID 24352592)

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- Many more will go unrecognised or not admitted, because of the potential criminal implications of causing an accident through falling asleep, the driver may be prosecuted and receive a jail sentence (see appendix 4).
- Successful treatment with positive airway pressure fully reverses the symptoms and abolished the excess risk of accidents <sup>16,17</sup>.

## **3. The DVLA sensibly says that drivers with sleepiness, sufficient to impair driving, should stop driving until the sleepiness resolves.**

The DVLA has as guidance on its website for people enquiring about sleepiness and sleep apnoea the following:

### **Driver searches for DVLA AND sleepiness**

(<https://www.gov.uk/sleepiness-and-driving>)

*“You must tell the DVLA and fill in form SL1 or SLV1 if you are very sleepy during the day because of a medical condition. You can be fined up to £1000 if you do not tell the DVLA about a medical condition that affects your driving. You may be prosecuted if you’re involved in an accident as a result. Read the leaflet ‘Tiredness can kill’ for more information on the dangers of driving while tired.”*

### **Driver searches for DVLA AND sleep apnoea**

(<https://www.gov.uk/obstructive-sleep-apnoea-and-driving>)

*“You must tell the DVLA and fill in form SL1 or SL1V if you have obstructive sleep apnoea syndrome or obstructive sleep apnoea with symptoms that affect your ability to drive safely. You can be fined up to £1000 if you do not tell the DVLA about a medical condition that affects your driving. You may be prosecuted if you’re involved in an accident as a result. Ask your doctor or consultant if you’re not sure how your condition affects your ability to drive safely.”*

### **Doctor looks up sleepiness in the DVLA’s ‘At a Glance’ guide**

(<https://www.gov.uk/current-medical-guidelines-dvla-guidance-for-professionals-conditions-s-to-u>)

*“Excessive sleepiness to include: obstructive sleep apnoea syndrome; any other condition or medication that may cause excessive severe sleepiness severe enough to likely impair safe driving.*

*Group 1 (ordinary car licence). Driving must cease until satisfactory control of symptoms has been attained.*

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<sup>16</sup> Thorax. 2001 Jul;56(7):508-12 (Pubmed ID 11413347)

<sup>17</sup> Sleep. 2010 Oct;33(10):1373-80 (Pubmed ID 21061860)

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*Group 2 (LGV and PCV vocational licences). Driving must cease until satisfactory control of symptoms has been attained, with on-going compliance with treatment, confirmed by consultant/specialist opinion. Regular, normally annual, licensing review required.”*

**Doctor looks up sleep apnoea in the DVLA ‘At a Glance’ guide**

(<https://www.gov.uk/current-medical-guidelines-dvla-guidance-for-professionals-conditions-s-to-u>)

*“Sleep disorders – including obstructive sleep apnoea syndrome causing excessive daytime/awake time sleepiness. The licence holder must notify DVLA unless otherwise stated in the text.”*

*Specific advice based on licence group (1 or 2), same as above.*

Thus the rules are very clear – you cannot drive if you have OSAS and sleepiness likely to impair safe driving, and you have to tell the DVLA.

### **4. Drivers are extremely reluctant to come forward with a symptom that may lead to them losing their livelihood.**

- Given the above statements from the DVLA, it is clear that anyone worried they might have OSA knows that being told to stop driving may be what happens if they go to a doctor for advice.
- A survey by the FTA of fleet managers showed that 98% thought that drivers would not risk going to their GPs if they thought they had sleep apnoea, for fear of losing their license and thus livelihood.
- Clinicians report that drivers on treatment for OSA admit to underplaying their symptoms to try and prevent loss of licence, only admitting afterwards how serious their symptoms were before treatment.
- The Sleep Apnoea Trust Association (SATA), a patient’s association, confirms that many of its members experienced difficulties driving before diagnosis and treatment which they felt unable to admit to until treated. SATA also runs a telephone helpline which potential patients ring for advice, and the issue of driving restrictions is commonly raised.
- With hospital waiting lists often stretching into months, rather than weeks, it is not surprising that drivers will be reluctant to risk coming forward. Some of

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course do, particularly those that understand how dangerous it is to drive whilst sleepy and, if employed, have an understanding employer.<sup>18</sup>

### **5. Drivers will only come forward if rapid diagnosis and treatment can be guaranteed; without this rapid service, drivers at risk of falling asleep at the wheel will remain undiagnosed, untreated and on the road thereby running the risk of increasing the number of OSAS-related road traffic accidents.**

Some sleep services recognise this issue and offer a fast track service to vocational drivers. A recent survey by SATA showed that only 40% of sleep services were actually doing this. The 60% who do not offer fast tracking have marked resource limitations to their service, which means they are already booking a long way ahead, have long waiting lists, and cannot afford to reserve emergency slots that may not always be filled.

Unfortunately, although NICE in March 2008 stated in a technology appraisal that CPAP should be available to all who need it<sup>19</sup>, they did not specify a time scale, or that there would be some clinical situations needing fast tracking. Until this requirement is made clear by the DoH, there will not be universal availability of a fast track service to vocational drivers. This will prevent such drivers coming forward who fear for their livelihoods, and it means that drivers with symptoms sufficient to impair driving safety will remain on the road with potential fatal and costly consequences. When it is an HGV that is being driven, the consequences are considerably magnified.

### **6. To reduce the impact of increased prevalence of OSA in terms of i) the financial and human costs of fatal and serious accidents and ii) the health implications of untreated OSA.**

- As outlined in evidence section 2 there is a high cost and risk associated with untreated OSAS.
- The cost of a fatal accident is estimated at nearly £2m and a serious accident at over £0.2m.<sup>20</sup>

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<sup>18</sup> It is worth noting that a proportion of HGV drivers are self-employed and anecdotal evidence suggests that for this group, the prospect of being off the road for any length of time is even more likely to lead to driving with untreated OSA.

<sup>19</sup> <http://www.nice.org.uk/guidance/ta139>

<sup>20</sup> Reported Road Casualties Great Britain:2012, Annual Report (published by DoT 26<sup>th</sup> Sept 2013) page 37 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/269601/rccgb-2012-complete.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269601/rccgb-2012-complete.pdf) :)

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- In 2013 there were 1713 fatal RTAs in the UK, or five deaths each day. We do not know how many of these were attributed to OSAS but given the increased risk attached to driving with untreated OSAS there is likely to be a significant financial cost of OSAS related accidents.
- A study in Lincolnshire has suggested that treating OSA will have a positive impact on the reduction of road traffic accidents in general. In 2010 following the availability of a clinic at the United Lincolnshire Hospital Trust there was a reduction in fatal road accidents in the county from 79 to 45.
- As appendix 2 demonstrates there is clearly an immeasurable cost to the families of those involved in fatalities.
- A report produced for the DfT “An in-depth study of work related road traffic accidents” produced in August 2005 indicates that road traffic accidents while at work is the largest single cause of occupational fatality in the UK, verified by ROSPA and TUC.
- A sample in this report demonstrates that the peak profile for accidents is male aged 25-35 but when they studied lorry, LGV and PSV drivers this profile extended to male aged 25-50 which encompasses the profile for a typical OSAS patient.
- The lorry, LGV and PSV vehicle group also recorded more fatalities than any other vehicle type.
- Untreated OSAS costs impact on NHS budgets in terms of the condition itself and the effect of other concomitant disease.
- The cost of untreated OSA was estimated in 2008 by ‘typical’ PCT. This was given as more than £4.2m. Cost of CPAP treatment per annum was at the same time given as more than £2.3m, thus treatment was estimated to provide savings of nearly £1.9m per PCT at the point of the study.<sup>21</sup>

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<sup>21</sup> Thorax. 2008 Oct;63(10):860-5 (Pubmed ID 18408048)

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## **Calls to action:**

1. The OSA Partnership Group calls on the Department of Health to issue the following guidance to CCGs, hospitals and GPs:

***'The treatment of vocational drivers with obstructive sleep apnoea syndrome (OSAS) should be expedited to allow driving again within a maximum of four weeks following first referral' .***

2. The OSA Partnership Group calls upon a range of stakeholders (individuals and organisations) to endorse this campaign.

## **What we believe**

- We believe that no vocational driver should have to wait more than two weeks, following initial referral, for first contact with the local sleep service.
- They should wait no more than one further week until the supply of treatment (usually CPAP).
- They should wait no more than one further week for confirmation that symptoms have resolved and that driving is safe once more.
- Thus drivers and/or their employers can be confident that four weeks would be the maximum time off driving (during which time the drivers should be assigned to alternative non-driving duties).

## **How to endorse this campaign**

Contact Gillian Gibbons or Professor John Stradling for more details:

[gillian@wychwoodcommunications.com](mailto:gillian@wychwoodcommunications.com)

[john.stradling@ouh.nhs.uk](mailto:john.stradling@ouh.nhs.uk)

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### **Other ways to get involved**

**If you might have OSA:** ask your GP for a rapid request referral and treatment if you are a vocational driver, and make sure s/he knows your occupation

**If you have been treated for OSA:** Write to your MP and let them know about your experience. They want to know what matters to you so support our campaign by [contacting your MP](#) to tell them why you believe it's important that OSA is treated within four weeks, particularly for those who drive for a living.

**If you are a GP:** If you have a patient who is a vocational driver, ask for an expedited service in your referral letter. Shop around for the most responsive sleep clinic.

**If you are a fleet company (manager or HR):** Contact the OSA Partnership Group for more information on the condition and driver awareness programmes. Consider including the FTA training module on OSA in your drivers' training for the certificate of professional competency (CPC).

**If you are a Trade Union:** Campaign for better services for people who might have OSA.

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## **Appendices**

### **Appendix 1. Examples and case histories of fatal accidents due to sleep apnoea**

1. <http://news.bbc.co.uk/1/hi/england/merseyside/7543303.stm>

#### **August 2006**

Mr Tweddell, 25, from Sale, Greater Manchester, was killed when a lorry driver ploughed into a queue of traffic on the M62 in Merseyside in 2006.

Lorry driver Colin Wrighton had been suffering obstructive sleep apnoea. The 54-year-old's condition had yet to be diagnosed but he had complained to his doctor about feeling tired four months before the accident. Tests had been run for diabetes, which came back negative.

It was not until after the crash, at the Rocket Interchange on 8 August 2006, that obstructive sleep apnoea was first considered. Mr Wrighton was initially charged with causing death by dangerous driving, but the Crown Prosecution Service offered no evidence against him after his sleeping condition was revealed.

In giving his narrative verdict, which was released as a statement, the coroner said: "It is my intention to prepare a Rule 43 Report to the Lord Chancellor concerning obstructive sleep apnoea in an endeavour to reduce the number of deaths that arise annually from this condition."

In a statement, Mr Tweddell's parents said: "We are pleased that the coroner will be alerting the government to the dangers of sleep apnoea, and we look forward to seeing the details of his report. We will be working hard in the coming months to ensure that the coroner's recommendations are acted on by government."

2. <http://www.grimsbytelegraph.co.uk/Lincolnshire-lorry-driver-accused-causing-fatal/story-20948998-detail/story.html>

#### **September 2012**

A lorry driver accused of falling asleep at the wheel and causing a fatal crash was suffering from a serious sleep condition at the time, a court heard. Arthur Page was diagnosed with sleep apnoea following the accident on the A1 in North Yorkshire which claimed the life of Wayne Howen.

Mr Page's lorry hit the rear of an articulated tractor unit, belonging to Mr Howen, after the victim was forced to stop in the left hand lane of the carriageway as his vehicle was listing and had two badly damaged tyres, having also been in an accident minutes earlier.

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The vehicle, described as being “lit up like a Christmas tree”, was struck by Mr Page and jack-knifed, crushing Mr Howen, from Ingleby Barwick, near Stockton, who was waving a torch and attempting to direct traffic away.

Mr Page, a former paramedic, admitted he could doze off easily whether on a break or while watching television. He said his life had “changed completely” after being diagnosed and successfully treated for sleep apnoea – a condition which causes sufferers to stop breathing while they sleep.

Jonny Walker, prosecuting, said as a HGV driver with “grave responsibility” for other road users he should have been aware of the risks of not sleeping properly and suggested he had been irresponsible in not seeking help and notifying the authorities of his condition earlier.

However Mr Page, from Worlaby, Lincolnshire, said he was not aware of the symptoms of sleep apnoea until he was diagnosed.

He added: “I don't know if the accident was my fault or down to the medical condition I had at the time.”

Mr Walker said Mr Page was accountable for Mr Howen's death through his lack of attention to the road and had he exercised better judgement the victim would be alive today.

Earlier the defendant described the moment of impact, having said he could only recall the few seconds before the accident near the Kirkby Fleetham turnoff, between Bedale and Catterick.

He said: “I was swerving, braking and then 'bang'. I shut my eyes and heard the ripping and tearing of metal.”

Mr Page, who suffered a punctured lung and broken leg and ankle, added: “I remember thinking why am I still here? Why aren't I dead?”

Mr Page denies causing death by dangerous driving on September 12 2012 and the trial continues.

3. [http://www.newsshopper.co.uk/news/9193032.Campaign\\_to\\_raise\\_awareness\\_of\\_sleep\\_disorder\\_after\\_fatal\\_crash/](http://www.newsshopper.co.uk/news/9193032.Campaign_to_raise_awareness_of_sleep_disorder_after_fatal_crash/)

### **April 2010**

A mum is campaigning to raise awareness of a sleep disorder after her son was seriously injured and his fiancée was killed in a crash where the driver at fault had the condition.

Carole Upcraft has launched an e-petition calling for the government to pressure lorry drivers to have tests for sleep apnoea, which causes daytime sleepiness and fatigue. Her son Daniel, 32, suffered brain damage and his fiancée Nicola Culshaw,

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33, was killed when their car was hit by a lorry while queuing for the Dartford tunnel on the M25 in April last year.

The lorry driver, 40-year-old David Thomas from Upminster, was initially charged with causing death by dangerous driving, but the case was dropped when it was discovered he had undiagnosed sleep apnoea.

Library supervisor Mrs Upcraft, of Knoll Rise, Orpington, said: "There is no point in being vengeful here. We just need to find a positive out of what happened.

"We do not want another family to go through what we have gone through.

"Research shows that 41 per cent of HGV drivers have a sleep disorder of one kind or another, but most of them won't be aware of it."

Mr Upcraft and Miss Culshaw, who taught chemistry at Sydenham High School, lived together in Cowper Road, Bromley, and were due to get married three months after the crash.

Communications engineer Mr Upcraft was in hospital for 10 months after the crash, and has short term memory problems as a result of the brain damage he suffered. Mum-of-three Mrs Upcraft, 55, said: "He was in post-traumatic amnesia for 10 weeks after the crash. We had to keep telling him that Nicola had died because he would not take it in. It was heartbreaking.

"The loss of Nicola has left a massive gap in his life and ours too. We want to raise awareness of sleep apnoea so Nicola has not gone for nothing."

4. <http://www.dailymail.co.uk/news/article-2339417/Coach-driver-suffering-undiagnosed-sleep-apnoea-kills-pensioner-waited-bus-church.html>

### **December 2011**

Coach driver suffering from 'undiagnosed sleep apnoea' kills pensioner as she waited for bus after church. Robert Faichen allegedly fell asleep and ploughed into Marlene Blakey, 68

Marlene Blakey, 68, was killed after Faichen, 54 careered onto the wrong side of the road and crashed into her after falling asleep at the wheel, a court has heard.

Stagecoach driver Robert Faichen had been suffering from undiagnosed sleep apnoea and was not 'with it' when he ploughed into Marlene Blakey, 68.

The pensioner had just attended a morning service at Prudhoe Street Mission in Newcastle when the single decker bus hit her from behind while she waited for a bus.

Ms Blakey was rushed to the Royal Victoria Infirmary in Newcastle but later died of injuries to her chest and pelvis.

Faichen, of Blakelaw, Newcastle, was arrested and charged and has pleaded not

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guilty to causing death by careless driving.

Michael Hodson, prosecuting, told his trial at Newcastle Crown Court yesterday: 'The bus veered across the road into first the car lane and then into the opposite lane and collided with Marlene Blakey, a 68-year-old woman who was waiting for her bus. 'The crown say each driver, including the stagecoach bus driver who is the defendant in this case, has a responsibility to come to the road fit to drive with no impairment to his skills that he knows of that may endanger people.'

'This defendant had a problem with sleeping at the time of this incident.

'He got two and a half to five hours sleep on average. This makes him prone to being sleepy during the day which he is aware.'

Jurors heard yesterday how after he was arrested, Faichen told police of his sleeping problems, saying that on average he would sleep between two and a half and five hours a night, interrupted by four to five visits to the toilet.

The verdict of the case is not known as the case went to retrial.

- 5. The following is not a fatal accident but resulted in severe life-changing injury. It serves to demonstrate the importance of not driving with untreated sleep apnoea and of introducing a maximum time for treatment, especially for vocational drivers who spend long periods of time behind the wheel.**

<http://www.mirror.co.uk/news/uk-news/family-brain-damaged-biker-slam-jail-4669083>

**April 2013**

Steven Hayes, 48, will need round-the-clock care for the rest of his life but Imtiaz Shah, who fell asleep at the wheel, was jailed for just 30 months.

The family of a motorcyclist who suffered horrific brain injuries in a head-on crash leaving him unable to walk or talk has slammed the jail sentence handed to the driver.

Steven Hayes, 48, needed to have part of his skull removed after he suffered catastrophic injuries that left him needing round-the-clock care for the rest of his life - when an oncoming driver fell asleep at the wheel.

Father-of-two Imtiaz Shah, 42, had been told not to drive because it was suspected he had sleep apnoea but Shah continued to drive for five-and-a-half months after he was advised not to.

He had travelled more than 200 miles on the day he smashed into the mechanic's motorbike, a court heard.

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At Preston Crown Court, Shah was sentenced to just 30 months behind bars after being found guilty by a jury of causing serious injury by dangerous driving.

Speaking after the hearing, the victim's wife Linda, said her husband, from Accrington, Lancs, would "never be the same again".

She said: "He'll never be the Steven I fell in love with and married.

"We feel like we are grieving for the Steven we lost that day."

Preston Crown Court heard how Shah, a former Pendle Council worker who used to be severely overweight, had been to the doctor with symptoms of sleep apnoea.

The condition causes the muscles in the throat to relax causing a total blockage of the airway.

He said he was feeling "tired and lethargic" because of disrupted sleep.

The doctor told him not to drive while tests were carried out and the warning was reinforced on a later visit to another GP.

But the judge heard how Shah continued driving for more than five-and-a-half months, taking his mother to hospital appointments.

On April 24 last year, he drove to Birmingham on a social visit before making the journey to the Royal Blackburn Hospital to visit his niece, who was suffering from a kidney infection.

When he left, he negotiated roundabouts for around half a kilometre but on the third roundabout, he failed to straighten up his Honda CRV.

Mr Recorder Simon Earlam told Shah: "You were falling asleep at the wheel and losing control, narrowly missing a black car as you were veering towards the centre line.

"You continued to veer over the centre line.

The driver of a Range Rover realised you were not going to straighten up. "He and his passenger described how your head was down.

"I find you were probably asleep at this stage."

The driver of the Range Rover managed to take aversive action, but Shah's car still struck the back of it.

He then continued without breaking into the path of Mr Hayes.

The judge continued: "It was a sickening collision head on.

"He was thrown into the air like a rag doll by the force.

"The impact was such that his helmet came off.

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"Mr Hayes hit your windscreen leaving hair and flesh where he struck.

"He then hit the road surface leaving a trail of blood on the ground."

Shah's car finally stopped when it hit a wall by some cottages.

Mr Hayes was taken to the Royal Preston Hospital where he remained in a 'deeply unconscious state' for months.

He needed surgery to have part of his skull removed to relieve the pressure on his brain.

He has now been released from hospital but is still being looked after in a care home.

Mr Recorder Earlam said: "The injuries to Mr Hayes have been most serious and permanently life-changing.

"They have ruined his life and that of his immediate family."

Sentencing Shah, who was found guilty by a jury of causing serious injury by dangerous driving, the judge said he believed that apart from this offence, the defendant was a 'model citizen' who showed 'genuine remorse'.

The judge also banned Shah, from Nelson, Lancs, from driving for three years.

Speaking after the sentencing, Mr Hayes's daughter Jenny, 21, said she was disappointed with the length of the prison term.

She said: "He condemned my dad to a life sentence dealing with those injuries yet he'll be out of prison in little more than a year, free to enjoy his life.

"That is not justice.

"This incident has had a devastating impact on my dad and our entire family.

"In a split second, my dad was robbed of his independence, much of his ability to communicate and to enjoy his life and his hobbies.

"He will need the support of carers every hour of every day for the rest of his life."

A civil case will now be taken out against Shah.

The family's lawyer, Richard Crabtree, of Slater and Gordon, said: "This is a tragedy that should never have happened.

"This driver knew he should not have been driving."

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### Appendix 2. Department for Transport's estimate of accident costs (2012)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/244913/rrcqb2012-02.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/244913/rrcqb2012-02.pdf)

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#### **RAS60001: Average value of prevention<sup>1</sup> per reported casualty and per reported road accident<sup>2</sup>: GB 2012**

Accident/casualty type	Cost per casualty	Cost per accident
Fatal	1,703,822	1,917,766
Serious	191,462	219,043
Slight	14,760	23,336
Average for all severities	50,698	72,739
Damage only	-	2,048

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### **Appendix 3. Example of cases where drivers were sentenced.**

1. [http://www.southwalesargus.co.uk/news/2068319.sleep\\_apnoea\\_lorry\\_drivers\\_fatal\\_crash/](http://www.southwalesargus.co.uk/news/2068319.sleep_apnoea_lorry_drivers_fatal_crash/)

#### **April 2007**

A NEWPORT lorry driver fell asleep at the wheel and crashed into a car, killing its elderly driver, a court heard.

Hayden Bailey, 54, of Birchgrove Close, was returning to his base in Cardiff from delivering bread in Chippenham when the incident happened on April 13 last year. Bailey, whose own father died in a road accident, was driving an Iveco lorry on the A48 Eastern Avenue, Cardiff.

Dan Williams, prosecuting, said the 18-tonne lorry hit a near-side crash barrier, veered across two lanes and through the central reservation.

It collided with a Nissan Primera driven by Leonard Nicholls, 69, from The Heath, who was driving his wife, Evelyn, 68, to a garden centre.

Cardiff Crown Court heard that an ambulance was called, but Mr Nicholls had suffered multiple injuries and died at the scene. His wife also suffered serious injuries.

Bailey pleaded guilty to death by dangerous driving.

Ian Dixie, for Bailey, said his client was sincerely sorry for the pain caused to Mr Nicholls's family.

Mr Dixie said: "The terrible irony is that his own father died from a road accident which has made him a very careful driver." He said the lorry's records showed Bailey had driven a total of 151 miles that morning between 3.25am and 10am and he had taken the appropriate rest breaks.

Bailey was breathalysed at the scene and had not been drinking.

Mr Dixie said medical examinations since the incident revealed Bailey suffers from severe obstructive sleep apnoea, which he was not aware of at the time.

Judge Philip Richards said: "You caused the death of another human being, a man who was a thoroughly decent man. His life was cut short and you caused injuries to his widow.

"You are a thoroughly decent man, I am quite sure of that. The last thing you wanted to do was be responsible for any injury to any other person." He sentenced Bailey to 10 months in prison and a three-year driving ban.

He added: "You will have to go through the rest of your life knowing you have caused this accident and that in itself is a significant punishment." Speaking outside court,

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Mr and Mrs Nicholls's daughter, Chantelle Nicholls, 42, said all drivers should learn a lesson from her family's experience.

She said: "We are grateful that Hayden Bailey has now taken responsibility for his actions.

"But people with sleep apnoea can be aware they are falling asleep. Whatever the cause, stop and have a break."

2. <http://www.aviva.co.uk/risksolutions/news/2008/01/11/sleep-apnoea-driver-jailed-following-death-crash/>

### **July 2007**

A lorry driver who fell asleep at the wheel and killed a family of four in a rush hour multiple pile-up was today jailed for nearly four years.

Ian King ploughed into a line of traffic at the rear of a long tailback. The 30-tonne truck crashed into several cars before driving over a car containing a family on their way home from holiday. Malcolm Dowling, 46, his wife Janice, 42, and their sons Richard, 16, and George, 11, were on their way to Lichfield in Staffordshire following a family break in France.

King was sentenced at Oxford Crown Court to three years and nine months after a jury found him guilty at an earlier trial of four counts of causing death by dangerous driving.

The trial heard that the 61-year-old from Groby, Leicestershire, was on the return leg of a trip from Leicester to Southampton to deliver a stone crushing machine when the crash happened on the afternoon of July 31 last year.

He had been up since about 4.30am and had been driving with breaks since before 7am that day, the trial was told. His articulated lorry struck a Ford Focus before shunting a Renault Laguna over the Dowlings' Peugeot. The 30-tonne vehicle then rode over the Peugeot and into the back of a car transporter lorry, the court heard.

King denied the charges, maintaining that he simply did not know what had happened.

The court was told that King suffered from sleep apnoea - a respiratory condition which disrupts sleep and can cause drowsiness. The Crown said King would have been aware he was getting drowsy, but that he failed to take appropriate steps to avoid falling asleep at the wheel, with tragic consequences.

Sentencing, Judge Morton Jack said: "The lives lost are beyond price and no punishment under the law can in any way be a measure of their value.

"You were in control of a very powerful missile on a dual carriageway in the rush hour and the duty on you to drive properly was a very high one. The expert evidence during the trial was that you must have had clear warning of drowsiness, this was not a case of momentarily nodding off."

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The judge added: "You must have been asleep at the wheel for tens of seconds. Although you have been unable to accept that you fell asleep you have undoubtedly been deeply shocked."

After the jury in the trial reached its guilty verdict, Sergeant Peter Jell, who led the police investigation, warned of the dangers of tiredness at the wheel. He commented: "I would urge every driver to take note of this trial and, if ever they feel the need to drive whilst tired, they should think of Malcolm, Janice, Richard and George Dowling, and stop and take a break."

The trial heard how an estimated 600,000 men and women in Britain suffer from sleep apnoea.

### **Appendix 4: Endorsements**

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### **Clinical Endorsements**

"The issue of sleepy drivers on the road is of major concern to all, especially when the driver is in charge of a large vehicle capable of causing enormous damage in an accident. If, for fear of losing their licence and thus livelihood, a driver of such a vehicle suspects they may have sleep apnoea but does not go and see their GP or occupational health service, then this is a real problem. Thus I fully endorse this initiative to ensure that professional drivers can be confident of a rapid diagnosis and treatment when they present with symptoms suggestive of sleep apnoea."

***Professor Mike Morgan, Consultant Physician in Respiratory Medicine and Respiratory National Clinical Director***

" I am delighted to fully endorse this campaign to guarantee that vocational drivers with sleep apnoea can receive a diagnosis, treatment and confirmation that they are safe to drive all within 4 weeks. The health care and economic cases are extremely powerful with much to be gained for the individuals and the public at large.

It is crucial to understand that this is not about reducing the wait for these drivers from the current standard of 18 weeks to 4 weeks but to give them a viable option for treatment at all without the prospect of prolonged economic hardship or unemployment. Giving them this chance offers the professional drivers huge health benefits and all of us, fewer deaths on our roads.

It is an achievable goal, already delivered by some well-resourced and organised services, which should be available to all of our professional drivers irrespective of where they live."

***Dr Ian Smith: Director of the Respiratory Support and Sleep Centre, Papworth Hospital, Chair of the British Thoracic Society Special Advisory Group on Sleep Apnoea "***

"This proposal by the OSA Partnership group to see, diagnose and treat vocational drivers within 4 weeks is much needed. Whilst some Sleep centres are already achieving this target, others are not, and may not even have fast track provision for these drivers.

There is a clear postcode lottery as to how long it may take a driver to be diagnosed and treated for OSA with CPAP. There is still an unmet need, with sleepy drivers with undiagnosed OSA on the roads. The potential consequences for road crashes involving these people are catastrophic and tragically, already well documented.

We owe it to these vocational drivers who are seeking our help to provide it swiftly and get them driving professionally again within 4 weeks."

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***Dr Sophie West, Lead of the Newcastle Regional Sleep Centre***

" Road traffic accidents are a cause of considerable distress to both the person who causes them and the victim, with a high cost to limited NHS funds. If such a RTA occurs when the person is asleep evasive action is not undertaken with consequent high fatality rate / serious harm. Sleep apnoea is a common cause of excessive daytime sleepiness which can be readily treated. Increased awareness of the clinical features and prompt treatment of sleep apnoea is one way to save lives and health care related expenditure.

***Martin Allen Consultant Physician, previously National Clinical Lead for Sleep Apnoea.***

### **Patient Group Endorsements**

"As some-one who has worked closely with people with OSA and their families since our OSA campaign began in 2011, I have seen first-hand what impact OSA has on those affected, and the difference that treatment has made. I have also unfortunately become acutely aware of the catastrophic effects of road collisions caused by undiagnosed OSA. Families' lives are changed forever. At the British Lung Foundation we have been campaigning since 2011 to raise awareness of OSA and improve services for those affected. The strength and courage of both the bereaved families and also the vocational drivers involved in these terrible collisions to come forward and tell their story is inspiring. Our OSA charter calls for fast-tracking for diagnosis and treatment if people with OSA drive for a living. There are already some supportive employers and some clinics already fast track vocational drivers. We want to see this expand across the UK. We are therefore delighted to endorse this campaign calling for a four week wait for vocational drivers."

***Judy Smith, Project Delivery Manager, British Lung Foundation.***

"The Sleep Apnoea Trust (SATA) works to improve the lives of sleep apnoea patients, their partners and families, including those who are vocational drivers.

We are very aware that for vocational drivers, quick access to treatment can make the difference between an individual either deciding to seek help (and therefore getting their symptoms under control so they can drive safely) or deciding on the alternative of continuing to drive because they are fearful they will lose their licence, and thus their livelihood. This means they remain a risk to themselves and others who use the road, an avoidable and potentially disastrous outcome.

We believe that this campaign will provide drivers and their employers with a clear indication of how long the driver can expect to be off the road and therefore enable

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contingency plans to be put in place. The alternative, particularly in light of the growing prevalence of sleep apnoea, is to risk an increase in road traffic accidents and more deaths on our roads. SATA therefore wholeheartedly endorses this campaign to introduce a time from referral to successful treatment of four weeks for vocational drivers with sleep apnoea syndrome."

***F.W. Johnston. B.A., F.C.A. Chairman of SATA***

### **Academic Endorsement**

"Truck drivers are professionals who pride themselves on their driving and road safety skills especially as this is their livelihood. Obstructive sleep apnoea is an occupational hazard that affects many of them, who may worry about losing their driving licence if they are diagnosed, despite believing that they might have it, but just soldier on nevertheless.

Our work has shown that falling asleep at the wheel, due to OSA, is one of the most likely causes for them having a serious road accident, and with all the implications, not only for them and other road users, but also for those drivers' families. Usually, OSA can be effectively and rapidly treated, with remarkable results, such that drivers can safely be back on the road within a few weeks, without loss of licence.

We strongly support this new 'fast track' initiative and ask that these drivers take care of themselves, go for a check-up and treatment if needed - because they won't regret it."

***Professor Jim Horne, Sleep Research Centre, Loughborough University***