ISSUE 001

CAR WASH NEWS

WELCOME FROM BRIAN MADDERSON, CHAIRMAN OF THE CAR WASH ASSOCIATION

Welcome to this first edition of the Car Wash Association's new quarterly publication, *Car Wash News*.

Car Wash News is the only publication in Europe dedicated to the car wash sector and comes at a time when car washes are very much in the headlines. We are delighted to launch this new specialist publication to complement our very well received *Petrol Heads-Up* newsletter.

The e-zine will update members on all the latest issues in the industry and the public affairs work of the Car Wash Association (CWA) in the ongoing battle against unfair competition and for better regulation of the hand car wash sector.

Car Wash News will also cover the latest technical guidelines for the car wash industry, and news of equipment and machinery in the sector, as well as industry events and diary dates.

The CWA is working with numerous public bodies to bring a proliferation of rogue hand car washes into compliance with the law. The police estimate that there are up to 20,000 rogue hand car washes across the country.

A pilot Responsible Car Wash Scheme has been developed by the Downstream Fuel Association alongside the Gangmasters and Labour Abuse Authority (GLAA), Police, the Health and Safety Executive, HMRC, the Environment Agency and the CWA.

The CWA is also supporting the church-led Clewer Initiative, which launched the innovative Safe Car Wash app last year, to allow car wash users to log concerns about potential human rights abuses at car washes.

The CWA continues to highlight to politicians and the media the problems of modern slavery and a lack of regulatory compliance within the hand car wash industry.

We were instrumental in persuading the Environmental Audit Committee (EAC) to conduct an inquiry into the hand car wash sector, submitting oral and written evidence in 2018.

The latest EAC inquiry "Impact of Toxic Chemicals on Everyday Life" is now under way, looking at how toxic chemicals are used in everyday products, and the environmental and human health problems associated with them.

The Petrol Retailers' Association and CWA recently outlined concerns about health and safety standards and general mishandling of trade effluent which is being discharged into surface water drains in a submission to this inquiry, and will keep members undated on progress through *Car Wash News* as well as *Petrol Heads-Up*.

• The launch of *Car Wash News* follows the incorporation of the Car Wash Association (CWA) into the Petrol Retailers Association (PRA) in 2018, with Brian Madderson chairing both organisations.

Members of the Car Wash Association are welcome to apply to be sent an electronic graphic of the Car Wash Association logo to display in their marketing material. To apply please contact gordon.balmer@rmif.co.uk

CWA
CAR WASH ASSOCIATION

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CAR WASH APP REPORTS RISE

The number of reports of potential human trafficking via the Clewer Initiative's Safe Car Wash app has now risen to 1,000.

The app, launched last June, has now been downloaded 4,000 times and some 1,000 reports of human rights concerns have been logged, the Clewer Iniative said this week.

Data from the app covering June to December 2018 was previously collated and analysed by the University of Nottingham's Rights Lab, with results published last month.

At that time, some 930 reports had been made.

Analysis of these results showed that 48% of sites did not offer workers suitable protective clothing, despite using potentially harmful chemicals such as hydrochloric acid.

Some 80% of responses said that the car wash had a cash-only policy and 41% of users had to pay the manager directly and 87% were not offered a receipt.

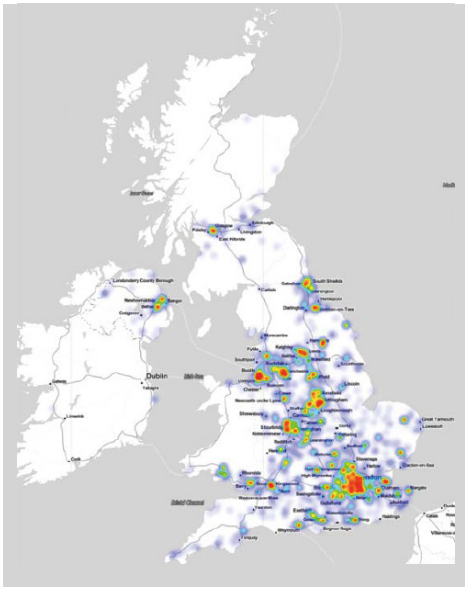
Some 17% of users identified fearful workers and 14% of reports indicated workers were living on the car wash site.

Brian Madderson, chairman of the Car Wash Association (CWA), said: "Modern slavery and human trafficking are serious issues in the hand car wash (HCW) sector and so we warmly welcome the great efforts being made by the Church of England and the Catholic Church to help tackle it."

The Government's response to modern slavery in the UK had been woefully lacklustre, he added, despite a recent hard-hitting investigation by Parliament's Environmental Audit Committee into HCWs which acknowledged the sheer scale of the problem.

Madderson said: "With such scant support from Government, it has fallen to the Church and civil society to step forward to meet this challenge. We urge everyone to report any HCWs they are concerned about by using this easy and effective app."

The National Police Lead for England has estimated that there could be as many as 20,000



HCWs operating in the UK, with most unchecked by regulatory authorities for tax, environmental and employment abuses.

The Safe Car Wash app is available for download for mobile on iOS from Apple's App Store and for Android from Google Play.

Data from that app shows that awareness and thus usage of the app was higher in some parts of the country than others. For instance, Nottinghamshire is the national headquarters for one of the agencies involved in advising on the app, and The Clewer Initiative, and may therefore have had a higher number of regular users.

The report from University of Nottingham Rights Lab can be found here.

If you think an unregulated car wash is operating in your area you are reminded to report it using the safe car wash App, which can be downloaded via http://www.ukpra.co.uk

Sites which appear in breach of environmental standards can also be reported by phone only (not in writing) to the Environment Agency's Incident Hotline on **0800 80 70 60** (Freephone, 24 hour service).

SLOUGH ANTI-SLAVERY CAMPAIGN

The Safer Slough Partnership started a campaign to raise awareness of modern slavery last October. It wants locals to report any instances of modern slavery via the Safe Car Wash App or by calling the Modern Slavery Helpline on 08000 121 700.

CAR WASH SHOW

The Car Wash Show 2019 is taking place May 13-15 at the Music City Center in Nashville, Tennessee, with thousands expected to be in attendance.

The annual event is run by the International Carwash Association (ICA), headquartered in Chicago, Illinois.

The scheduled show sessions will focus on such topics as: The Future of Consumerism, Lead Like a Coach, Future-Proofing Your Business, Embrace Evolution, The Automatic Customer: Creating a Subscription Business and much more.

CAR WASH TRIAL

A man is to stand trial in July over human trafficking charges and the alleged use of slave labour at a Rugby hand car wash.

Ermal Lushaj pleaded not guilty at Warwick Crown Court to four charges of holding people 'in slavery or servitude' on dates between October 16 and November 28 last year.

Lushaj, 33, of Abbey Street, Rugby, also denied assaulting one of his alleged victims by beating.

The charges, brought under the Modern Slavery Act 2015, follow police raids at Lushaj's home and at a hand car wash in Rugby.

GETTING ON TOP OF THE CLEANING

Spotted in a supermarket car park: while a lot of effort was going into getting this car clean, the methodology demonstrated a somewhat cavalier approach to the customer's property and to the environmental impact of letting chemicals drain into the groundwater.

PREPARING FOR A DRIER FUTURE

Unless there is significant rainfall before the end of spring, water restrictions may be imposed later this year, says Kirton Water Treatment Services. These will affect car washes not equipped with water recycling sooner and more severely than those that have such equipment fitted.

Car wash operators need to plan for a future where managing water usage is rising up the environmental agenda.

It is perhaps ironic that the newfound wealth of the Indian sub-continent is sending many inhabitants back into the dark ages. The boom in new car sales has led to a flourishing car wash industry which is literally draining cities dry.

In cities like Karachi, 80% of the car washes are using fresh water at the rate of 45 million litres per car wash per month. With more than 3,000 car wash stations in the city, the public supply is losing 135 billion litres a month.

But it couldn't happen in the UK, could it? Erm, yes.

With an estimated 700,000 new cars hitting the road every year, the UK car wash business is booming. But it could soon become a victim of its own success. The truth is that we are running low on water. Blame it on climate change or increased industrial and agricultural use, the fact remains that we can no longer rely on a limitless supply of water. Last summer's drought and the driest winter for decades should act as an early warning sign for anyone in the car wash business. If the trend of low rainfall continues, you can be assured that car washes will be among the first to have water restrictions slapped on them by their local water companies.

With the average automated car wash using around 120 litres per wash, it is clear the industry is consuming huge amounts of water. Of course, the unregulated car washes are not helping. There are up to 20,000 of them across the country and they generally use almost four times as much water as a professional automated wash and frequently discharge their effluent into storm drains or directly into the ground, both of which are completely illegal practices. Coupled with the use of slave labour, which has been encountered distressingly often on hand car wash sites, these rogue car washes pose a serious threat to the industry and are now the subject of an intense lobbying campaign by the Car Wash Association who are pressing for urgent government action.

So, what can be done? How can we continue to fulfil the demand for car washing but use less water? It's a challenge vehicle wash systems company Kirton has been addressing for the past 50 years in the design and development of car wash treatment systems.

Consuming water on this scale requires careful planning to a) reduce the cost of supply and b) minimise the environmental impact of wastewater disposal.

In the context of water usage, automated car washes are pretty efficient, using around 120 litres per wash compared with a hand wash, which can easily drain 480 litres at a time. The usual source of water is the mains supply, although some facilities are supplementing this with rainwater harvested from the roof of the car wash and forecourt buildings. Depending on the quality of fresh water, some form of treatment will be required to remove impurities and condition the water. This is certainly the case for the final rinse where a spot-free finish is desirable.

According to Jon West, MD of Kirton Water Treatment Services, the main water use issue, however, does not lie at the water source, but with what happens to the water after use.

A well-designed reclaim system will recycle up to 90% of all water used through a three-stage process. Firstly, the water is collected in a sludge interceptor which separates the large contaminants by allowing them to settle at the bottom of the tank. Next, the water is passed through a cyclonic filter and finally through a multimedia vessel to remove any remaining organics and chemicals. The recycled water can be further treated and dosed with an organic biocide or an oxidising agent to minimise bacteria counts. A final treatment by reverse osmosis is required if a spot-free rinse is offered.

Kirton's water treatment systems range from single jet wash systems to large truck and rail equipment. The full systems have a recycling rate of around 90%, while partial systems, suitable for jet washes etc. operate at around 50%.

The systems can be retrofitted to existing installations or integrated as part of a new install.

Another technology gaining popularity is rainwater harvesting, which utilises the surface area of rooftops and canopies to collect rainwater for storage. Given the UK gets an average of 33 inches of rain a year, the potential to accumulate thousands of gallons is well within reach. Experts estimate that for every inch of rain that falls on a catchment area of 1,000 square feet, you can expect to collect approximately 600 gallons of rainwater. Ten inches of rain falling on a 1,000 square foot catchment area will generate about 6,000 gallons of rainwater.

EAC CONTINUES TOXIC CHEMICALS INQUIRY

The Environmental Audit Committee is accepting written submissions to its Toxic Chemicals in Everyday Life inquiry.

It is looking into how toxic chemicals are used in everyday products, current government regulation of these substances, and associated environmental and human health problems.

The Car Wash Association made its submission in March, suggesting that the Health and Safety Executive should conduct a review into the use of toxic chemicals by unregulated hand car washes (HCWs) – particularly hydrochloric acid.

Checks needs to be carried out on the use of protective equipment, safe storage, staff training in their use, and what steps (if any) are being taken to mitigate harmful effects.

Bringing HCWs into line with health and safety and environmental standards would protect workers and the public and protect the quality of local water supply, it said.

CLEANING UP CAR WASHES

Rogue hand car washes are under increasing scrutiny for a catalogue of offences: from promoting modern slavery, to polluting the environment, not paying tax or money laundering. Car Wash Association director of strategy Alexander Russell assesses how this type of business was allowed to proliferate in the UK and what is now being done to police the illegal operators.

The last decade has seen a switch away from automated car washes that previously dominated the UK market, towards hand car washes (HCW) that are now estimated to number 20,000 and probably constitute over 85% of the car wash market.

This began in 2004 and accelerated in 2007 with the enlargement of the European Union, which led to a marked increase in unskilled labour migration into the UK from the newly joined, mainly Eastern European, states.

At the same time as this influx of low-cost labour, one of the unwelcome effects of the 2008/2009 global economic crisis was a very significant downturn in investment and activity in the commercial real estate market in the UK. This, in turn, resulted in considerable numbers of disused petrol filling stations and other roadside plots remaining undeveloped or, in some cases, becoming derelict.

The arrival into the UK of a large immigrant workforce prepared, in many cases, to work for very low pay, coupled with the availability of potentially suitable low rent (or even rent-free) locations for hand car washing led to a dramatic growth in 'pop-up' HCW operations offering services at rock-bottom prices.

Compliant existing car wash operators with investments in capital-intensive automated machines suddenly found themselves at a grave disadvantage and unable to compete with HCWs.

In addition, car washing operations on supermarket car parks operated by individuals using trolleys began to proliferate across the UK. These contractors, usually working for franchisors and able to charge extremely low prices because of their low investment requirements, would secure their 'pitch' on the car park through a fee paid to their franchisor, who in turn would have agreed a rental arrangement with the local management of the supermarket.

HARSH CHEMICALS

The need for a speedy wash while customers shopped inside the store led to the use of harsh chemicals that minimised the need for 'elbow grease'.

These chemicals, along with the other trade effluent generated by the wash, would then be allowed to discharge directly through the porous tarmac car park into the water table below, or into the surface water (rain water) drains in blatant contravention of trade effluent discharge regulations.

Had the customers been aware of the extremely harsh chemicals being used and the polluting effect of these practices, they would perhaps have hesitated before using these services.

MODERN SLAVERY

Over the years, there have been more and more concerns about the working conditions of the people performing the hand car washing.

The UK Modern Slavery Helpline received more than 10,000 reports of slavery in its first two years of operation – a shocking figure but one that has helped start to clean up the industry.

THE CLEAN UP

The CWA is working with several organisations to establish urgently needed self-regulation into the HCW market.

As well as high level lobbying of government stakeholder departments, the CWA has worked closely with the Church of England and the Catholic Church's Clewer Initiative, which recently launched the Safe Car Wash app, as well as the Gangmasters and Labour Abuse Authority, the Police, the Environment Agency and HMRC.

The free app encourages users to complete a short survey about the working conditions of the car wash they are using, that will enable and inform the largest community intelligence gathering exercise ever attempted in the UK.

The CWA has also supported the development of the Responsible Car Wash Scheme (RCWS), a collaboration between industry and government bodies that will combat a lack of compliance within the HCW industry.

It aims to target labour abuse and modern slavery, lack of adherence to regulations as well as environmental waste and pollution caused by car washes. The scheme will enable the public to choose a car wash based on a kitemark logo displayed at responsible sites that have passed an audit, reassuring consumers that the sites protect the environment by dealing with pollution appropriately, and operate safe and ethical conditions for their workers.

Car Wash Association consultant Alexander Russell has a wealth of experience in the car wash sector, having spent 38 years in the industry as a director of IMO Car Wash Group

HAND CAR WASHES: LEASE VS LICENCE?

Many petrol retailers seek to boost turnover by allowing car wash operators to trade on otherwise unused parts of their property. Care should be taken to ensure that the operators do not inadvertently gain potentially valuable property rights, says Robert Botkai of Winckworth Sherwood

Licence

Many retailers prefer the licence route for the following reasons:

- It can be cheaper as lawyers are not always instructed;
- It can be terminated on short or no notice;
- At the end of the licence the operator cannot remain at the site and cannot claim compensation for eviction; and
- It is usually far quicker to negotiate and complete.

Lease

Characteristics of a lease were established in the 1985 case of Street v Mountford as:

- Exclusive possession;
- For a term (fixed or periodic); and
- At a rent.

The consequences of operating under a lease, as opposed to a licence, are potentially serious for a retailer.

The operator, as a business tenant, may acquire security of tenure allowed to business tenants under the Landlord and Tenant Act 1954. This means that at the end of the term the tenant will be entitled to a new lease on similar terms, unless the landlord can establish one of the limited statutory grounds for possession. Removing an operator who claims to have security of tenure can be expensive and often involve lawyers.

Also, the operator will have a legal interest in that part of the property and therefore any sale of the property, during the operator's term, will be subject to their lease.

What's the difference?

It is not as simple as how your document is labelled. What looks like a licence, smells like a licence, calls itself a licence, could, in fact, be a lease, legally.

Therefore, if the car wash operator has exclusive possession of part of the forecourt, for a term and for a rent/fee, a court may find that they occupy under a lease not a licence.

So why not just grant a lease instead?

A lease can be drafted so as to expressly exclude the security of tenure provisions of the 1954 Act. Under such a lease, the operator will not have the right to a new lease at the end of their term and will not be entitled to compensation. However, a lease is more onerous to draft and negotiate than a licence. The retailer will need to instruct a solicitor and the operator may do likewise.

Conclusion

There are pros and cons in granting both licences and leases and retailers will have different motives in whichever route they choose. If this route is a licence then the document must be very carefully drafted and the risks and consequences of it potentially being regarded as a lease must always be considered. Lease or licence? The choice is yours, but take expert legal advice before committing either way.

Robert Botkai is a Partner and head of Commercial Real Estate and Licensing at Winckworth Sherwood. He can be reached by email: rbotkai@wslaw.co.uk.
Visit www.wslaw.co.uk.

DOES YOUR CAR WASH TICK THE "RESPONSIBLE" BOX?

The Responsible Car Wash Scheme (RCWS) pilot in the Midlands is in the final stages.

The scheme was developed by the Downstream Fuel Association alongside the Gangmasters and Labour Abuse Authority (GLAA), Police, the Health and Safety Executive, HMRC, the Environment Agency and the Car Wash Association.

Sites are asked to register their interest in joining through the RCWS website on: http://www.rcws.org.uk/register-interest/.

Checklist for Sites Considering RCWS Accreditation: Employment

- You check the right to work for every worker.
- All workers have a contract defining terms and conditions including hours of work, rate of pay, holiday and pension entitlement.
- You give all workers a detailed pay slip at the time of payment, detailing hours worked, rate of pay and details of any deductions.
- You pay employees the National Minimum Wage/National Living Wage as a minimum.
- All employees are registered with the HMRC and have a valid PAYE number.
- You ensure that all eligible staff can enrol and receive pension contributions.

Consent to Trade

- You will have, or can demonstrate that you are in the process of obtaining, consent to trade from the Local Authority.
- You will have an authorised connection to the water and electricity supply.

Financial Transparency

- You operate a registered company and comply with relevant tax and VAT legislation.
- You have employer and public liability insurance.
- If moving cars, you have a valid motor trade insurance policy.

Working Conditions

- You comply with the Health and Safety at Work Act.
- You provide personal protective equipment and clothing worn by the workers on site.
- Chemicals are stored, labelled and used in line with the manufacturers' guidelines and workers receive training on safe use.
- Electrical equipment is well maintained and checked regularly.
- Workers have somewhere warm, dry and clean to take their breaks.

Protect the Environment

- You will have obtained a Trade Effluent Licence from a water supply company.
- You dispose of all waste material in accordance with legislation.

Good Working Practices

- You use environmentally friendly cleaning products.
- You display clear and accurate information about the trader's name, registered address and contact details.
- You have a clear customer complaints procedure.
- You deliver a guaranteed level of service for a publicised transparent price.

The full Code of Practice can be found at RCWS.org.uk