

# DEVON & SOMERSET FIRE & RESCUE AUTHORITY



<b>REPORT REFERENCE NO.</b>	HRMDC/09/10
<b>MEETING</b>	HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT COMMITTEE
<b>DATE OF MEETING</b>	15 APRIL 2009
<b>SUBJECT OF REPORT</b>	EUROPEAN UNION DIRECTIVE 561/2006: DRIVING TIME REGULATIONS AND THEIR EFFECT ON FIRE AND RESCUE SERVICE PERSONNEL
<b>LEAD OFFICER</b>	Assistant Chief Fire Officer (Community Safety)
<b>RECOMMENDATIONS</b>	<p><i>That the Committee notes:</i></p> <p><i>(a) the impact of these Regulations on Fire and Rescue Service personnel, and;</i></p> <p><i>(b) the measures being put into place to minimise the exposure of the Service to financial and reputational risk</i></p>
<b>EXECUTIVE SUMMARY</b>	<p>The EU Drivers hours and Tachograph Rules for Goods Vehicles came into effect on 11<sup>th</sup> April 2007. The purpose of the rules is to limit driving time and ensure that proper break and rest periods are taken so that road traffic accidents are prevented. The regulations apply to anyone who drives an in scope vehicle as their primary employment.</p> <p>Analysis of the current position has been made by officers and there are 62 employees on the retained duty system who are directly affected by the change in legislation.</p>
<b>RESOURCE IMPLICATIONS</b>	Until guidance on the full application of the Regulations is given by Department for Communities and Local Government the full financial impact will not be known. However, at this point the impact is expected to be minimal.
<b>EQUALITY IMPACT ASSESSMENT</b>	
<b>APPENDICES</b>	None
<b>LIST OF BACKGROUND PAPERS</b>	None

## 1. **BACKGROUND**

- 1.1 The EU Drivers' hours and Tachograph Rules for Goods Vehicles came into effect on 11<sup>th</sup> April 2007. The purpose of the rules is to limit driving time and ensure that proper break and rest periods are taken so that road traffic accidents are prevented.
- 1.2 The rules apply to certain categories of mobile workers the most common being drivers of Heavy Goods Vehicles with an overall weight over 3.5 tonnes and Passenger Service vehicles with more than 9 seats, or travelling more than 50 kilometres.
- 1.3 The rules restrict the amount of time that a "mobile worker" can work by laying down that such workers must have 11 hours rest in every 24 and a clear 48 hours weekly. It therefore follows that such mobile workers will not be able to be employed under the Retained Duty System (RDS)
- 1.4 Vehicle Operator Services Agency (VOSA), the enforcing agency for this legislation have provided details of the relevant measure which passed the EU regulation into United Kingdom law. VOSA are currently not prosecuting breaches of the legislation and are unlikely to do so before guidance has been provided by DCLG etc, however the Statutory Instrument to which we were referred means that, legally, in the event of an in-scope RDS driver, in his primary employment, being stopped by them after he had been on RDS duty when he should have been resting, the service would be liable to prosecution, along with the primary employer and the driver and that we could be fined up to £2,500.
- 1.5 Given our 62 in scope personnel this exposes up to a total theoretical financial risk of £142,000.

Note: this clause is buried in a Statutory Instrument which appears to deal with a separate matter (tachographs)

## 2. **RESEARCH**

- 2.1 The Chief Fire Officers Association, Retained Firefighters Union and DCLG are determining the size of the issue nationally and what, if any, steps they will take in respect of these Rules.
- 2.2 The Service has 62 individuals in the RDS currently identified as being "in scope" of the Rules.

## 3. **ACTIONS UNDERTAKEN TO MINIMISE THE IMPACT**

- 3.1 Officers have implemented the following actions to ensure that any impact is minimised whilst awaiting detailed guidance from DCLG:
  - That nobody whose primary employment makes them in scope be recruited to the RDS forthwith
  - That no Wholetime staff be permitted to drive either for the RDS or any external employer other than on days 7 and 8 of each tour of duty
  - That those individuals who are identified as being in scope are not permitted to drive any Service vehicle during their required rest periods, but whilst guidance is awaited from CLG on how Services are to proceed nationally, the Service will permit in scope individuals to continue to ride and carry out other non-driving duties.

- The Service makes this temporary derogation on the understanding that individuals will manage their availability on the RDS with due regard to the individual's responsibility to remain in a fit state to be able to carry out their primary employment.
- That the Service recognises that it may need to negotiate with primary employers with a view to possible redeployment of in scope personnel without those persons losing out financially and that the Service will look to DCLG for financial or other support (as appropriate) in so doing.

3.7 Strictly speaking, the Service will be in breach of the rules even after the implementation of the above actions. However, it is our understanding that most, if not all, Services in the country are in the same situation. Individuals found to be in breach of the Rules are liable to a fine of a maximum of £2,500 under the driving times section of the Transport Act (1968), however VOSA, who is the body charged with enforcement of these rules, is presently taking an educational, as opposed to a punitive, approach and that this will continue to be the case until such time as detailed guidance is issued by DCLG or Department for Transport. Given that we do not yet know what that guidance will be it seems unwise to act precipitately only to have to change our policy later.

**PETE SMITH**  
**Assistant Chief Fire Officer (Community Safety)**