

# DEVON & SOMERSET FIRE & RESCUE AUTHORITY



<b>REPORT REFERENCE NO.</b>	HRMDC/10/7
<b>MEETING</b>	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
<b>DATE OF MEETING</b>	14 APRIL 2010
<b>SUBJECT OF REPORT</b>	THE EUROPEAN COMMUNITY (EC) DRIVERS HOURS AND TACHOGRAPH RULES FOR GOODS VEHICLES (REGULATION 561/2006)
<b>LEAD OFFICER</b>	Director of Service Delivery
<b>RECOMMENDATIONS</b>	<p>(a) <i>that the management actions to limit the impact on employees of Devon and Somerset Fire and Rescue Service the impact of the above Regulations be endorsed, and;</i></p> <p>(b) <i>that, subject to (a) above, the report be received and noted.</i></p>
<b>EXECUTIVE SUMMARY</b>	<p>The EC Drivers Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006) limit driving time and ensure that proper break and rest periods are taken so that road traffic accidents are prevented.</p> <p>These regulations have a potential impact on all employees who drive an “in scope” vehicle either for the Fire and Rescue Service or in other employment or voluntary work. This is especially important in relation to the recruitment and retention of “on call” (Retained Duty) firefighters who drive “in scope” vehicles in their primary employment.</p> <p>The Service has taken a pragmatic view to this and have developed a policy to ensure that “on-call” firefighters who are “in scope” are dealt with in a sympathetic manner.</p> <p>This policy has minimised the number of “on call” firefighters who have been unable to continue with their firefighting duties and has been adopted by a large number of other Fire and Rescue Services.</p> <p>This policy has demonstrated the Service ambition to be an employer of choice in line with Goal 2 of the Corporate plan.</p>
<b>RESOURCE IMPLICATIONS</b>	There are no resource implications associated with this paper

<b>EQUALITY IMPACT ASSESSMENT</b>	An initial Equality Impact Assessment has been carried out and no further action is deemed necessary
<b>APPENDICES</b>	None
<b>LIST OF BACKGROUND PAPERS</b>	The EC Drivers Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006)

## **1. BACKGROUND**

- 1.1 The EC Drivers Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006) came into effect on 11<sup>th</sup> April 2007. The purpose is to limit driving time and ensure proper break and rest periods are taken so that road traffic accidents are prevented.
- 1.2 The EU rules do not provide an exemption from the daily and weekly rest periods for firefighters employed on the “on call” (RDS) or other duty systems, who drive vehicles which fall within the scope of the legislation in their primary employment or their secondary employment (for example, full-time firefighters or other staff who have a second job driving an “in-scope” vehicle).
- 1.3 The driving of fire appliances is exempt from the regulations.
- 1.4 The following are the key provisions of the EU rules:
- the Rules apply to anyone who drives an “in-scope” vehicle. “In-scope” describes a goods vehicle over 3.5 tonnes, or a passenger vehicle with nine or more passenger seats;
  - there is a maximum daily driving limit of nine hours (extendable to ten hours twice a week);
  - there is a maximum weekly driving limit of 56 hours (and 90 hours during any two consecutive weeks);
  - a driver must take a break of at least 45 minutes after no more than four and a half hours of driving;
  - a driver must have 11 hours’ uninterrupted daily rest. This may be reduced to a minimum of nine hours no more than three times between any two weekly rest periods. The daily rest can be taken in two periods but the first period must then be at least three hours and the last at least nine hours.

## **2. IMPACT**

- 2.1 The main requirement of the regulations on Fire and Rescue Service staff is the mandatory rest breaks that drivers must take on a daily and weekly basis. There is potential for this to limit the availability of an individual to carry out the duties of an “on call” firefighter without impacting on their primary employment. This also affects the ability of full time staff to undertake secondary employment driving an “in scope” vehicle.
- 2.2 A survey of all “on call” firefighters was undertaken in conjunction with the Chief Fire Officers Association (CFOA), which identified sixty four “on call” staff across the Service who could be deemed to be “in scope” of the regulations. Clearly the implication of the regulations was that all sixty four firefighters would be unable to continue with their firefighting role, this would have impact on the ability of some stations to maintain emergency response availability.
- 2.3 Of the Fire and Rescue Services who took part in this survey Devon and Somerset had by far the most firefighters (sixty four) affected by the Regulations.

### **3. MANAGEMENT ACTIONS**

- 3.1 On becoming aware of the regulations and the potential impact, guidance was sought from the Vehicle and Operator Services Agency (VOSA) who are the enforcing agency. The guidance received confirmed that there is no exemption for “on call” firefighters from the regulations but indicated that whilst a firefighter remained on call and not engaged in any activity for the Service they would be at rest and therefore accruing the uninterrupted rest period. However, once engaged in any activity such as responding to an emergency, training or administration, they would not be ‘at rest’ and would therefore be required to ensure that they took the minimum break before returning to their primary employment.
- 3.2 Research was undertaken into the detail of the guidance and it was established that a number of key exemptions applied to the regulations such as driving milk tankers. This resulted in a reduction in the number of staff affected by the regulations.
- 3.3 The Service position was to apply the regulations in a manner that would minimise the impact on our firefighters. This would be achieved through adopting a common sense approach to the regulations and working with firefighters and their primary employers to agree a joint solution on a case by case basis.
- 3.4 Using the guidance, a policy was formulated which sought to provide advice to all staff to enable them to continue with their firefighting duties. This is in line with the core values of the service and goal 2 of the Corporate Plan (to be an employer of choice).
- 3.5 Meetings were held with managers and staff to identify how contracts could be amended to allow staff to meet the needs of their primary employment, whilst ensuring that they continue to provide cover at their local fire station. Where appropriate, primary employers were contacted by Service managers to try to reach agreement on arrangements when Fire and Rescue Service activity meant that their employee would not be able to report for work at the normal time.
- 3.6 During these meetings it quickly became apparent that affected firefighters were well aware of their responsibility under the regulations and in most cases had already discussed the situation with their primary employer and had identified ways to minimise the impact and continue their firefighting roles. A number had changed their primary employment to ensure that they could continue with their firefighting role.
- 3.7 As a result of these actions, the number of staff affected has been reduced to twenty seven and only one firefighter has been unable to continue with his firefighting duties because his employer was unable to agree to a flexible arrangement. The Committee should note that work continues with a small number of firefighters to reach an acceptable solution.

### **4. GUIDANCE FROM THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT (CLG)**

- 4.1 CLG guidance was issued in March 2010 which seeks to provide clarity and guidance for all Fire and Rescue Services on the application of the regulations
- 4.2 This guidance has been reviewed and it has been determined that the approach of this Service is appropriate and proportionate. However, confirmation is being sought from VOSA at this time.

4.3 In addition to this further guidance will be provided to all “on call” firefighters who drive “in scope” vehicles and full time staff who drive an “in scope” vehicle in a second job.

**5. CONCLUSION AND RECOMMENDATION**

5.1 The adoption of a common sense approach to dealing with this matter has been appreciated by all concerned, the staff affected directly, their employers and their Service managers. The impact on the availability of fire appliances for emergency response has been kept to the lowest possible level, and this approach has been adopted by many other Fire and Rescue Services across the region and the country.

5.2 The Committee is requested to note the contents of this report and to endorse the approach taken by officers to minimise the impact on the Service.

**ASSISTANT CHIEF FIRE OFFICER PETER SMITH**  
**Director of Service Delivery**