

		RSD Internal Guidance		RIG-2013-04	
<i>Fatigue risks from work-related road driving</i>					
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Summary This RIG informs inspectors about RSSB guidance on the fatigue risks associated with work-related road driving, and gives brief advice on the enforcement position.					
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Subsequent consultation (June 2018 review) Martin Jones and Dawn Russell (Railway Safety Policy), Ruth Luxford (Legal), Paul Appleton (Mainline Operators Team), Anna O'Connor (Network Rail Division), Claire Dickinson (Health and Human Performance Team)					

Background

1. There is increasing interest amongst staff, unions and employers in the risks associated with driving on the road to/at/from work, including the effects of fatigue on the ability to drive safely. This note alerts inspectors to the publication of RSSB guidance on controlling fatigue risks associated with work-related road driving, and briefly outlines the enforcement position. Work-Related Road Safety (WRRS) is a complex area in terms of law, risk management and the social overlaps with individuals' working patterns, where they live, their preferences for work travel etc.

Action

2. Inspectors are asked to:
- note the enforcement policy advice in paragraphs 3 to 6;
 - familiarise themselves with the relevant sections of ORR's guidance outlined at paragraph 7;
 - be aware of the Road Driving Risk Project information found on [RSSB's website](#); and
 - be aware of the four RSSB T997 publications and video listed at paragraphs 8 and 9, but remember that unless stated otherwise, the RSSB publication content represents guidance on good practice rather than enforceable requirements.

Detail

Existing WRRS guidance & HSE enforcement policy

3. The key cross-industry WRRS guidance is the joint DfT / HSE booklet INDG382 "Driving at work" (www.hse.gov.uk/pubns/indg382.pdf) updated in April 2014. This makes it clear (p1) that health and safety law does not apply to commuting, unless the employee is travelling from their home to a location which is not their usual place of work. For other "at work" road driving, HSWA and MHSWR apply, though page 2 clarifies that :

"In most cases, the police will continue to take the lead on investigating road traffic incidents on public roads. HSE will usually only take enforcement action where the police identify that serious management failures have been a significant contributory factor to the incident."

4. For generic risks such as WRRS, ORR usually seeks to apply a similar enforcement policy to HSE's. HSE's enforcement guidance on WRRS is set out in HSE Operational Minute OM2009/02 "*HSE's role in the investigation of work-related road accidents and advice on responding to enquiries on managing work-related road safety*" (<http://www.hse.gov.uk/foi/internalops/oms/2009/002.htm>). OM2009/02 reflects HSE's view of the enforcement position at the time of writing (in 2009), with HSE as the enforcing authority for HSWA for most peripatetic activities, including work-related road driving, irrespective of which enforcing authority (HSE or local authority) enforces HSWA for the employer of an "at work" vehicle driver. However, ORR's view is that with the transfer of HSWA enforcement for rail activities from HSE to ORR under EARR 2006, risks arising from the "operation of a railway" may include work-related road driving. Hence, for rail organisations and those that do work on the railway, ORR rather than HSE may be the enforcing authority for WRRS. However, like HSE, ORR's investigations focus on the managerial and organisational arrangements associated with the driver, rather than the road traffic accident, and ORR would in any case be guided by the HSE enforcement policy referenced at paragraph 3 above.

5. The Memorandum of Understanding between the HSE and ORR (http://orr.gov.uk/_data/assets/pdf_file/0006/1698/mou-between-hse-and-orr.pdf) states in paragraph 33 that HSE will ensure that all railway-related occupational road fatalities are reported to ORR in an agreed format and delivery medium. Paragraph A57 sets out that ORR's approach to railway-related occupational road safety issues reflects HSE's existing approach: the police take the lead in investigating road traffic incidents; ORR's enforcement action will be confined to where the police identify evidence of serious health and safety management failures which may have led to or been a significant contributory factor to the incident.

Risks associated with fitness for safety critical work

6. ROGS Regulation 24(1) requires every person carrying out safety critical activity on the railway to be fit for duty ([ROGs Reg 24 fitness for duty](#)). Fitness is also required by other legislation, including the Transport and Works Act, 1992 which covers those unfit to carry out work because of the effect of drugs or alcohol. ORR guidance *Developing and Maintaining Staff Competence*, RSP1 includes information in Appendix 1 on [Fitness for duty](#). "Fitness" encompasses the interrelated areas of physical, mental and medical fitness. Fitness may be impaired through drink, drugs (including prescribed and over-the-counter medication) and fatigue (e.g. as a result of working excessive hours, having very short rest periods or doing multiple jobs). Further ORR guidance on fitness for work is available on ORR's website at <http://orr.gov.uk/rail/health-and-safety/occupational-health/topic-specific-guidance/fitness-for-work>.

Fatigue risks associated with work related road driving – existing ORR guidance

7. ORR's January 2012 guidance on Managing Rail Staff Fatigue (www.rail-reg.gov.uk/upload/pdf/managing_rail_fatigue.pdf) provides guidance on managing the risks associated with fatigue in a proportionate way. The following sections are particularly relevant to rail WRRS:

- Paragraphs 4.1 on basic fatigue controls;
- Paragraphs 5.58 fatigue controls with a managed systems approach; and
- Appendix B on travel time.

RSSB guidance – fatigue risks associated with work-related road driving

8. RSSB has been active on the topic of work-related road risk, and has a team working on the subject with input from railway group members. It has adopted the fundamental guidance in the joint DfT / HSE booklet INDG382 and is undertaking activities to get it embedded within the rail industry environment. Information on the number of incidents, and the reporting of incidents on SMIS is found on the [RSSB Road Risk webpages](#). The purpose of the project was to develop and implement an effective strategy to tackle work related driving issues. This website offers managers a wide range of information, guidance and tools to assist with implementing arrangements within their organisations.

One of the earlier activities was RSSB Project T997 "*Managing occupational road risk associated with road vehicle driver fatigue*" which published a suite of guidance to help rail organisations and staff control fatigue risks associated with work-related road driving. The guidance was produced following work by a cross-industry working group, including representatives from train operators, Network Rail, contractors, trade unions and ORR's Health and Human Performance Team. It provides advice on good practice, and outlines some options for practical risk reduction. There are four publications for different uses, as follows:

- *Fatigue Kills* leaflet, suitable for vehicle glove boxes / inclusion with individuals' payslips etc.
- An A2 Poster - *Road Vehicle Driver Fatigue Kills*. Suitable for display in canteens, depots, offices etc.
- *Good practice guide for managers - how to reduce fatigue risks associated with work-related driving*. Detailed 60 page guidance.
- *A5 Road Vehicle Driver's Guide - Managing Fatigue Risks*. 28 pages, simpler language.

The suite of guidance can be downloaded for free, once users have registered with

RSSB's SPARK system, from RSSB's website.

9. RSSB's linked Red 35 DVD "*Fatigue at the wheel*" arose from the same T997 project and also concentrates on road driving fatigue in the rail industry. The video is available on RSSB's Opsweb website and at <https://vimeo.com/174177537>

Further information

10. An investigation that touches on this area is ongoing, and at the conclusion of that investigation we may update this guidance. Further information is available from Claire Dickinson.

11. Dawn Russell in RSD Policy maintains a "watching brief" on WRRS and is an initial contact for advice on the policy and legal aspects of work-related road driving.

12. For advice on managing associated fatigue risks, please contact Jeremy Mawhood or Claire Dickinson in the Health and Human Performance Team.