

	RSD Internal Guidance	RIG-2013-04	
<i>Fatigue risks from work-related road driving</i>			
Date of issue/ last review	Issued August 2013, reviewed July 2014, October 2015, June 2018, April 2021, Nov 2021 (minor update on HSE webpages)	Date of next review	April 2024
RIG postholder/owner		Jeremy Mawhood, Human Factors Team	
RIG cleared by		Paul Appleton	
RIG type		Policy _____ X _____ <input type="checkbox"/> Information _____ x _____ <input type="checkbox"/> Procedure _____ <input type="checkbox"/>	
Target audience	RSD _____ x _____ <input type="checkbox"/> RPP _____ x _____ <input type="checkbox"/>	Policy _____ x _____ <input type="checkbox"/> Inspectors _____ x _____ <input type="checkbox"/> Admin _____ <input type="checkbox"/>	
Keywords Fatigue, driving			
Summary This RIG informs inspectors about guidance on the fatigue risks associated with work-related road driving, and gives brief advice on the enforcement position.			
Original consultation Claire Dickinson (Human Factors); Neil Anderson (Safety Management Systems); Paul Appleton (Network Rail National Team); Gerald Kerr (Rail Operators Team), Richard Thomas (Contractors); Lee Collins (Central Regulation Group); Dawn Russell (Railway Safety Policy).			
Subsequent consultation Dawn Russell (Railway Safety Policy), Ruth Luxford (Legal), Matt Farrell (Mainline Operators Team), Anna O'Connor (Network Rail Division), and Laura Sutton (Human Factors Team) (April 2021 review)			

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 and reduced alertness on the ability to drive safely. This note informs inspectors of 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, and the outline in Appendix 1 of some issues for inspectors to consider in this area;
 - familiarise themselves with the relevant sections of ORR's guidance outlined at paragraphs 7 and 8;
 - be aware of the [Rail Industry Road Risk Resource Centre](#) hosted on RSSB's website;
 - note the four RSSB T997 publications, video and associated sources of guidance on good practice outlined in paragraphs 9 to 11.

Detail

Existing WRRS guidance & HSE enforcement policy

3. In spring 2021 the joint DfT / HSE WRRS guidance booklet INDG382 "Driving at work" which inspectors may have been familiar with was withdrawn and replaced by updated [HSE webpages on Driving and Riding Safely for Work](#). HSE's webpages make it clear that commuting to work is not generally classified as driving for work, except where someone's journey starts from their home and they are travelling to a work location that is not their normal place of work. Health and safety law does not apply to commuting. For other "at work" road driving, HSWA and MHSWR apply. [HSE's webpages on road traffic law](#) outlines that the police lead investigations into road traffic incidents on public roads, and that HSE usually only investigates if the police identify that serious management failures contributed significantly 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*" linked here <https://www.hse.gov.uk/foi/internalops/oms/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. Under The Health and Safety Enforcing Authority for Railways and Other Guided Transport Systems Regulations 2006 (EARR), ORR considers that risks arising from the "operation of a railway" 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, if the work-related road driving arises from the operation of a railway. Inspectors should consider the nature of the driving activity to decide on whether the person/s involved were "at work" or not. In general, if a person is travelling between their normal work place and home then they would not be considered to be "at work", rather they would be "commuting". If they are travelling to or returning from a work site that is not their ordinary place of work, then they will be "at work". This includes (see for instance the ECJ Tyco case) situations where the worker does not have an ordinary place of work - in such instances, when the worker is travelling from home to the first work site and then later from the last work site to home, they will be considered "at work". ORR's vires was confirmed in ORR's 2020 [prosecution of a track welding company](#) for inadequate fatigue management controls which came to light following a 2013 road traffic collision which killed two welding staff driving back to Doncaster after a night shift welding track in Stevenage.

5. Like HSE, ORR's investigations focus on the managerial and organisational arrangements associated with the driver, rather than the road traffic accident, and ORR will be guided by the HSE enforcement policy referenced at paragraph 3 above.

6. 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

7. ROGS Regulation 24(1) requires every person carrying out safety critical activity on the railway to be fit for duty (see [ORR's Guide to ROGS](#)). 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 inter-related 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

8. ORR's January 2012 guidance on [Managing Rail Staff Fatigue](#) 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;
- Paragraph 5.60 regarding work related travel; and
- Appendix B on travel time.

RSSB and wider rail industry guidance.

9. RSSB Project T997 "*Managing occupational road risk associated with road vehicle driver fatigue*" 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 Jeremy Mawhood from ORR's Human Factors and Occupational Health 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, site cabins, 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 at:
<https://www.sparkrail.org/Lists/Records/DispForm.aspx?ID=6269>

RSSB's linked training video [RED 35 Day Sleeper](#) arose from the same T997 project and also concentrates on road driving fatigue in the rail industry.

10. More widely, RSSB has been active on the general topic of work-related road risk, and has a team working on the subject with input from railway group members. This industry Road Risk Group has adopted the fundamental guidance in the joint DfT / HSE booklet INDG382 and is undertaking activities to embed good practice within the rail industry environment. Laura Sutton from the Human Factors and Occupational Health Team attends for ORR. Information on the number of incidents, and the reporting of incidents on SMIS is available on the [RSSB Road Risk Data and Analysis webpages](#). The purpose of the road risk programme is to develop and implement an effective strategy to tackle work related driving issues. The [Rail Industry Road Risk Resource Centre](#) offers managers a wide range of information, guidance and tools to assist with implementing arrangements within their organisations.

Further information

11. Further relevant guidance on work-related road driving and fatigue is available in:

- RoSPA leaflet [Driving for work: safe journey planner](#)
- HSE booklet HSG256 *Managing shiftwork – health and safety guidance*, (Appendix 2 para 1 “Driving to and from work”) at:
<http://www.hse.gov.uk/pubns/books/hsg256.htm>
- HSE webpages on [Driving and Riding Safely for Work](#)
- RSSB's [Fatigue Management Good Practice Guide](#), including road driving-related content at p33 (long drives); p34 (work related road driving); p36 (travel time); p39 (transport or lodgings for longer commutes).

12. Inspectors should note that ORR's 2012 guidance on Managing Rail Staff Fatigue is being updated (publication expected late 2021/early 2022), informed by RSSB Project T1230 concerning fatigue-friendly rosters.

13. Appendix A of this RIG outlines some issues which inspectors may find useful when considering organisations' risk control arrangements for this area.

14. RSD Policy is the initial contact point for advice on the policy and legal aspects of work-related road driving.

15. For advice on managing associated fatigue risks, please contact Jeremy Mawhood or Laura Sutton in the Human Factors Team.

RIG-2013-04 Appendix 1 - some issues for inspectors to consider

Employers should assess fatigue risks from the travel associated with proposed work, and devise and implement effective controls. Some particular considerations include:

- Are there effective arrangements to assess fatigue risks arising from the proposed work and its associated travel, including comparison with good practices for working patterns? See e.g. ORR's [Managing Rail Staff Fatigue](#) at Section 6, and the summary of some [fatigue factors](#) (note that ORR's guidance is being updated, due late 2021/early 2022, and will be informed by RSSB Project T1230 on fatigue-friendly rosters).
- Are there effective arrangements for checking whether proposed travel distances and door-to-door times will be reasonable (e.g. using a web-based journey planning package such as Googlemaps or BingMaps), and that they will provide adequate opportunity for sleep? Does the company provide adequate notice of shifts and associated travel to allow staff to plan and obtain sufficient sleep?
- Are there effective arrangements for considering likely fitness-for-duty in terms of staff's recent sleep & time awake? See e.g. RSSB's August 2020 guidance on Fitness for duty and assessing fatigue available via [this link](#) . Are managers and staff aware of the importance of recent sleep and time awake? See e.g. [Have I had enough sleep - rough rules-of-thumb](#)
- Are there effective arrangements for using a hotel near the work where necessary to reduce risks from long door-to-door times and avoid the need for long drives when tired, and/or for using a nominated, properly rested driver or taxi service?
- Are likely travel distances and times considered when selecting contractors?
- For multi-sponsor staff, are there effective arrangements for sharing information on ALL site & travel time? Are there suitable information systems (IT etc) to adequately track work patterns and assess likely risks?
- Are there effective arrangements to ensure that all relevant managers, supervisors and staff are trained in the risks and corresponding expected control measures?
- Are there adequate arrangements for monitoring all the above, to ensure controls are and remain effective?