

19 July 2010

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## **The Working Time Directive**

### **Summary**

This paper updates Committee members on Local Government Group's activity to influence upcoming EU negotiations on new proposals to revise the Working Time Directive.

### **Recommendations**

- Members are asked to note the paper

### **Action**

- Officers to take forward Members' views.

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## The Working Time Directive – update paper

### Background

1. This paper updates members on Local Government Group’s activity to influence upcoming EU negotiations to revise the Working Time Directive.
2. The Directive, implemented as the UK Working Time Regulations (October 1998), aims to protect employees’ health and safety. It affects all businesses and employees in the UK. The main implications are:
  - A 48-hour average maximum week, calculated over a 17 week reference period. The UK negotiated an opt-out, which has over the years been taken up by more and more EU member states;
  - Setting minimum rest periods during the working day (20 minute rest per six hours worked) and week (11 hours break between working periods/shifts) – known as compensatory rest; and
  - Setting the amount of annual leave.
3. It impacts on fire and rescue authorities (FRAs) in several, varying ways.
4. The Directive was last reviewed in 2004, when the European Parliament (EP) and Council of Ministers (national governments) failed to reach agreement. The EP was in favour of removing the 48-hour opt-out. LG Group lobbied MEPs and supported UK Government during this time to maintain the opt-out.

### Recent developments

5. The European Commission announced a **new** review of the Directive in its 2010 Work Programme. The main issues to be debated include:
  - Definition of “working time” (specifically when staff are inactive whilst at their employers’ premises;
  - Flexibility of timing of minimum daily and weekly compensatory rest periods;
  - 48-hour opt out, and the flexibility of the reference period;
  - Clearer rules for employees with two different employers, such as making sure they work no more than 48 hours between the two jobs.
6. The procedure for a new attempt to revise the Directive is as follows:
7. A **two stage consultation** was launched between April to autumn 2010, open to organisations at European level involved in negotiations between employers and trade unions. The purpose is to see whether a compromise on the current Directive can be achieved. The European Commission is expected to issue the results of the consultation soon, and release the next consultation phase in the

Autumn, which is expected to incorporate findings from its' impact assessment, which it has commissioned Deloitte to carry out.

8. **Formal proposals:** if the above consultation does not result in agreement, the European Commission will formally launch the revision and consult all stakeholders in March 2011. It is at this stage that the European Parliament and the Council of the European Union (where national governments sit) will both have to agree a final text before amending any part of the Directive – this is the stage where previous negotiations have fallen.

### **LG Group activity**

9. LG Group has prioritised lobbying on the Directive. Since it impacts on fire and rescue services, we will work closely with all Fire & Rescue Authorities (FRAs) in England and Wales. The main concern revolves around what constitutes 'on-call' time, rest-periods and the 'opt-out'. We will lobby EU law makers – the European Commission, European Parliament, central government and UK Parliament – to demonstrate how changes to the Directive could adversely affect fire services budgets, at a time of public sector cuts.
10. **LG Group preliminary lobbying:** During the two stage consultation process, highlighted above, LG Employers, (on behalf of LG Group), influenced the first stage this through CEEP, representing European public sector employers, and through the pan European LGA. The response was based on the established position from previous consultations i.e. support the UK position to retain the 48-hour opt-out; class inactive on-call time as neither working time nor rest; and flexibility in granting compensatory rest; and new feedback from FRAs. LG Group will be consulted on the second through the Human Resources Panel. Individual FRAs and LGE have been involved with the EC impact assessment.
11. **LG Group formal lobbying:** the LG Association is well positioned to influence the formal EU process, having developed a strong relationship with Members of the European Parliament (MEPs) and the European Commission. Current activity includes gathering evidence from FRAs on the estimated impact the Directive could have if the 48 hour opt out were removed, if all on-call time were classed as working time, and if compensatory rest had to be taken immediately. These findings will form a report to be produced during August or September. It will help us lobby relevant the European Commission and MEPs. This work has already been highlighted to Communities and Local Government, who will negotiate on behalf of national government. It is eager to use our evidence to support UK Government's negotiating line.
12. FSMC members will be kept updated on developments on the proposed changes to the Directive, and LG Group activity.

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