



Integrated Risk Management Plan 2004/05

Project No. 10 Review of the Day Duty System

August 2004

EXECUTIVE SUMMARY

Introduction

Of the five duty systems specified in the new Grey Book (6th edition 2004), this report considers only the Day duty (nine day fortnight). The terms of reference and the parameters within which the review has been carried out are clarified at the outset. In broad terms the Grey Book makes reference to any proposals being consistent with the IRMP. The LCFA IRMP requires flexible working practices, improved efficiency and to make officers more available at times when required by the local community, which for the greater part is normal office hours Monday – Friday. All of which needs to have regard for employees work/life balance.

The review provides a workable framework for consideration. Details relating to implementation and operation may be subject to further consultation.

Reasons for change

The existing system does not meet the needs of IRMP. Another factor is that many workers currently do not work their contracted hours. Inclusive of meal breaks a worker conditioned to the existing nine-day fortnight will work 36 hours per week, including meal breaks. The shortfall of 6 hours per week represents a 16% loss of productivity.

‘Family Friendly’ working

The review considers the commitment to ‘family friendly’ working and the need for employees to maintain a work/life balance. It has emerged that there is confusion surrounding these phrases. There is need for LFRS to develop a policy in relation to family friendly working, which states clearly how and under what circumstances the provisions will be applied. Some rights are laid down in statute, but when compared to the expectation of some staff, these rights are fairly rigid. There is a need to determine how far and under what circumstances employees will be permitted to change their conditions of employment.

Working Time Legislation

Working Time legislation has been examined, which is a new and dynamic area of law that limit the amount of hours an employee may work over a specified period and set out a range of other requirements. The recommendation made in respect of the Day duty systems will not contravene the Working Time Regulations. There are other factors to consider, however these are outside the scope of this review.

One issue included in the Working Time Regulations is the need to keep adequate records. This will impact no matter what system is worked, therefore reference is made to the provision of an adequate recording system that covers all workers. Although there is no requirement to keep separate records where there are already systems in place, there are some aspects of working hours that are currently not recorded in LFRS. Of those which are recorded, to interrogate our systems, would prove difficult.

Aligning the legislative need to keep adequate records with the desire to provide a flexible working arrangement has led the review team to recommend a system of recording hours worked is introduced. The favoured option would be to extend the County Hall 'swipe' system to all LFRS workplaces. The cost of this would be £100k. An introduction over phased over 5 years is suggested.

Recommended Day duty system

Optimum flexibility can be achieved based on one flexible structure. Staff are required to work 42 hours per week, primarily during normal office hours Monday – Friday. The recommended system combines core time and flexi-time across a band-width from 0730 – 18.30 hours. The structure is shown in the table below.

| | | | | |
|------------|------------------|------------|------------------|------------|
| Flexi-time | <i>Core-time</i> | Flexi-time | <i>Core-time</i> | Flexi-time |
| 0730 | 10.00 | 12.00 | 14.00 | 15.00 |
| | | | | 18.30 |

Officers should all work during the core-time hours, which should ensure that the bulk of normal office hours are covered. Although the norm will be Monday – Friday working, the model can be applied over a 7-day week. Local management arrangements will need to ensure adequate cover is maintained throughout normal office hours. A more detailed model is provided, the details of which may be subject to negotiation. In general, officers may wish to work longer days and shorter weeks or vice versa. A provision has been included to cater for commitments outside the bandwidth, which would mean excess hours worked would be taken as time back during the normal working week.

There is an opportunity to review the flexi-time system currently worked by non-uniformed support staff, which is outside the scope of this review.

M S Laws
Chair of Review Team

A Review of the Day duty System

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RECOMMENDATIONS

List of Recommendations for Day Duty System

1. LFRS should develop a policy to enable staff to exercise their statutory rights under the Employment Act 2002 in relation to flexible working arrangements.
2. The policy should consider the wider ambit of flexible working in terms of staff that do not satisfy the eligibility under statute.
3. The policy should include a clear and unambiguous interpretation of such terms as 'work/life balance, 'family friendly' and 'flexible working'.
4. The policy should be communicated to staff and where necessary included in management training.
5. A common system of recording hours worked should be introduced to all workplaces in LFRS. This should be a phased introduction over 5 years and will cost approximately £100k.
6. A 'flexi-time' duty system should be introduced based on the model protocol outlined in this report. The details of which should be subject to negotiation.

REVIEW OF THE DAY DUTY SYSTEM

Acknowledgements

The review team would like to thank the following for their assistance in carrying out this review project:

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Merseyside Fire and Rescue Service

Nottinghamshire Fire and Rescue Service

Shropshire Fire and Rescue Service

West Yorkshire Fire and Rescue Service

Engineering and Transport Department – SHQ

Human Resource Department - SHQ

Statistics Department – SHQ

Training and Development Department – STC

Operations Task Group

Northern Area Headquarters staff

Scope

The 2003 Fire Service Pay and Conditions Agreement between Fire Authority Employers and the Fire Brigades Union set out the principles for duty systems. This was redefined in the revised Grey Book (6th edition) where it was made clear that any change to the existing recognised duty systems; Shift, Day crewing, Retained, Day duty, Flexible duty must conform to the those principles and where disputed, would be referred to the Technical Advisory Panel (TAP). Any changes proposed in this report will conform to paragraphs 3 to 5 of Section 4, Part A of the new Grey Book. This report will consider only the Day duty (nine-day fortnight) system (DDS).

Background

Current duty systems worked in LFRS are as laid down in Section II of the National Joint Council For Local Authorities' Fire Brigades, Scheme of Conditions of Service (5th edition 1998) (Grey book). The contents of the Grey book have evolved over time and in relation to Duty Systems and Hours of Duty reference may be traced back prior to 1979. The DDS is rigid, outdated and does not meet the requirements of a modern fire service. The National Joint Council (NJC) has declared a commitment to the local democratic control of fire and rescue services¹ and to reflect the modernisation agenda, the Grey book has been amended. It has been agreed that the Duty Systems and Hours of Duty section should reflect the Fire Service Pay and Conditions Agreement 2003.²

The key driver to achieving the overall aim of making Lancashire a safer community is through the process of Integrated Risk Management Planning (IRMP). This should improve efficiency by way of freeing up resources and making the Service available at times when most needed by the community. Through this process Lancashire Combined Fire Authority has recognised an improvement opportunity and as a consequence the IRMP Action Plan contains a commitment to review the DDS. This report seeks to explore that potential and where appropriate will provide recommendations for improvement.

Terms of Reference

To complete the task a project team was established comprising officers considered to have the requisite skills to complete the review and deliver a robust report covering the issues impacting on any proposals for change.

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¹ Fire Brigades National Employers Circular EMP/03/04

² National Joint Council Circular NJC/01/03

Aim of the Review

The aim of the review was to consider the existing DDS system as worked by LFRS staff and provide recommendations for a work pattern that will improve efficiency. In consideration of this the anticipated benefits will create:

- Greater flexibility in working practices
- More effective use of staff time
- Work patterns more effectively linked to role
- Efficiency savings
- A regard for staff achieving a work/life balance in accordance with legislative provision and national policies.

The commitment to review the Day and Flexible duty systems together with specific outcomes are contained in the Service letter to the Local Government Association (Appendix 1), a copy of which has been provided to the FBU. In terms of the DDS, a successful outcome of the review would be a submission of options to management based on the following criteria:

- i) The number of hours worked will ensure the full 42 hours per week are available to the Authority.
- ii) Work patterns would ensure:
 - (a) A greater emphasis on work in the community and flexibility of approach in both fire safety and training.
 - (b) Staff available to work outside the typical 9-5 office hours so that they can more effectively undertake their respective functions e.g. community fire safety or retained training.
 - (c) An opportunity for staff to work flexible hours so as to more effectively co-ordinate their home and work commitments ('family friendly').

Guidance on duty systems is contained in Section 4 of the new Grey Book (6th edition 2004); a précis of which is included at Appendix 2. Duty systems will need to meet the requirements of the fire and rescue authority's IRMP and be based on the following principles:

- (1) Basic working hours should average forty-two per week (inclusive of three hours of meal breaks in every twenty-four hours) for full-time employees. Hours of duty should be pro-rata for part-time employees.
- (2) There should be at least two periods of twenty-four hours free from duty each week.
- (3) It should comply with relevant United Kingdom and European law, including the Working Time Regulations 1998, and Health, Safety and Welfare at Work legislation.
- (4) It should have regard to the special circumstances of individual employees and be 'family friendly'.

Existing Arrangements

An example of the rota currently in operation is shown at Appendix 3.

The DDS requires officers to work an average of 42 hours per week (Monday to Friday). The working hours shall be 8 per day, which includes meal breaks, with the working day being 09:00 hours to 17:00 hours. An average of 6 further hours per week shall be worked in addition to this.

According to the Grey Book (5th edition), Members conditioned to day duties shall work a rota in accordance with the following principles:

- i) Total hours of commitment should average 40 or 42 per week inclusive of meal breaks
- ii) The normal working day should cover the period of normal office hours³
- iii) Working days should average 9 per fortnight and should fall within Monday to Friday inclusive
- iv) Any balance between average working hours (including meal breaks) and 40/42 per week should be available to the fire authority, thereby following existing practice: and
- v) Where work must necessarily be undertaken outside the normal working day, equivalent time off in lieu should be given during the normal day.

In reality the actual average working week is 36 hours inclusive of meal breaks (accepted as one hour per day) with the additional 6 hours never worked. Indeed if an officer works outside the 9 – 5 times, for instance to carry out During Performance Inspections, it attracts ‘time-owing’ at premium rates that effectively further reduces the day time hours.

³ Normal office hours are interpreted as meaning 0900 hours to 1700 hours.

Reason for Change

The IRMP intends a more efficient day shift system that meets the needs of the community and increases the hours worked by staff. Officers currently conditioned to day duty do not meet the hours that they are contracted to work. Including meal breaks, Day duty officers work 72 hours per fortnight, an average of 36 per week. This figure is reduced to 31.5 hours per week once meal breaks are removed. The absence of an attendance recording system makes it impossible to confirm actual hours worked so this report assumes that staff work to contract.

Difficulties arise when clients request technical fire safety assistance when the Fire Safety Officer is absent. This is particularly problematic on a Friday, as a client seeking advice may have to wait 3 days until the officer returns to duty.

Similar difficulties arise at SHQ and STC, where the hours worked by individuals often fall short of 42 per week and the systems worked create mid-week absences.

Maximisation of the officer availability between Monday to Friday would provide an improved service and allow for greater interaction with other departments within the Service as well as other local partners such as Local Authorities and Community Safety Partnerships.

In addition, with greater emphasis being on work within the community and many events being held during the evenings or weekends, under current arrangements Day duty officers are unavailable to attend. In these instances a greater degree of flexibility would be appropriate. The opportunity to work more flexible hours may also be attractive to the staff as this may allow them to co-ordinate their home and work commitments more effectively.

In consideration of the fact that day duty officers work 36 hours per week (including meal breaks), a changed duty system that requires officers to work 42 hours per week would represent a 16% increase in efficiency.

Review Considerations

Work Life Balance / Flexible Working

In recent years the Government has demonstrated a commitment to support and reinforce a 'family friendly' culture to the mutual benefit of the employee and the business⁴. This has meant a significant change in approach by employers in permitting employees to work 'non standard' work patterns. The interpretation of terms such as 'family friendly' and 'work life balance' are important, as personnel should be aware of their rights and as a consequence understand the how this may affect them in the work place.

The commitment to family friendly working is contained in the Grey Book (6th edition). This is a key feature of making equal opportunities and work/life balance a reality. In practice it brings into focus the need to consider the statutory rights and obligations under a range of legislative provisions outlined in the Grey Book. The ambiguity surrounding such phrases as 'family friendly' and 'flexible working' has tended to create an environment whereby the lesser informed have sought to interpret the meaning to suit only their personal circumstances without having regard for their contractual obligations.

Research shows that Brigades nationally have adopted a variety of approaches to applications desiring flexible working. One Brigade has a number of firefighters working non-standard patterns. Whilst another has focused on the business case for refusal, relying on the ground of 'burden of additional cost'. A modern fire service is a high profile public sector employer representing the wide and diverse community and as such, diversity should be reflected in its workforce. It is felt that Brigades seeking to rely on business grounds for refusal, rather than attempting to develop flexible-working opportunities to benefit as wide a range of staff as possible, sets a poor example that may be vulnerable to challenge. LFRS should therefore have regard for the current statutory rights and political vision for the future.

The Employment Act 2002 provides a framework for parents of children under the age of six or of disabled children under the age of eighteen the right to apply to work flexibly providing they meet the eligibility criteria. The right is not automatic, as there may be circumstances when the employer is unable to accommodate the employee's desired work pattern. Flexible working patterns are designed to meet the needs of both parties and to facilitate discussion to find a solution that is acceptable to both.

An application may be refused only where there is a clear business reason for doing so. The business ground(s) for refusing an application are laid down in statute and summarised in Appendix 4.

⁴ HMSO Command Document Cm 3968 (May 1998)

Whilst we should seek to develop a culture to support a work/life balance, it's important that this is done in a structured manner. The statutory provisions are explicit with a strict procedure that must be adhered to by both employers and employees. It is beyond the scope of the review to consider the finer detail of this issue, as there a range of interlinking issues that require a more detailed examination. Unless the term 'flexibility' is defined and communicated to staff, line managers will increasingly be faced with a bewildering array of scenarios that may risk flexible working becoming a 'free for all' situation. It can already be seen that some employees who do not get what they believe to be theirs as of right, are accusing the organisation of not being 'family friendly.'

Promoting different approaches to working time can provide local authorities with one of their most powerful tools for enhancing services within existing resources whilst also enabling employees to have greater choice about when they work.⁵ Increasingly, employers are developing a wide range of work-life balance options, covering flexible working arrangements and flexible benefit packages. Examples are:

Flexi-time

Flexi-time is a system that enables employees to vary their hours outside specific core hours, subject to Service requirements and within a particular time-band (bandwidth). The system usually operates on a monthly calculation period and allows employees to carry over a specified number of debit and/or credit hours from one month to the next. The agreement may also specify how flexi leave can be taken, e.g. full days, half days or in hours.

Compressed weeks/fortnights

Compressed weeks/fortnights provide more half days or days away from work without reducing full-time pay. They may also enable more effective working through providing quiet times at the beginning and end of the working day. It may provide the opportunity to avoid rush hour traffic. A full-time hours, four-day week can also enable employees to attend a training course as part of life long learning plans

Term-time working

An arrangement of hours that enables parents to spend more time with their children over the school holidays. There are also variations to accommodate various child care arrangements available to parents of school age children.

Annualised hours

Averaged annualised hours is where an employee's hours are totalled over a period, often a year. Employees work more or less hours per week as agreed, and usually fitting in with seasonal peaks and troughs of the Service, up to the annual maximum. Term time working can be a version of averaged hours.

Swapping hours

A procedure to permit swapping hours to enable employees to exchange hours with colleagues doing the same type of work at different times of day.

⁵ Finding the Balance – NJC for Local Government Services 2001

Job-sharing

Two people share the responsibilities of one full-time worker.

A number of brigades have developed systems that will facilitate staff working non-standard work patterns. There is currently a national approach to this, which is being led by Cheshire Fire Service. DO Laws has been co-opted onto the group and it is expected the situation will be dynamic with further developments in due course.

Recommendations:

- 1. LFRS should develop a policy to enable staff to exercise their statutory rights under the Employment Act 2002 in relation to flexible working arrangements.*
- 2. The policy should consider the wider ambit of flexible working in terms of staff that do not satisfy the eligibility under statute.*
- 3. The policy should include a clear and unambiguous interpretation of such terms as 'work/life balance, 'family friendly' and 'flexible working'.*
- 4. The policy should be communicated to staff and where necessary, included in management training.*

Statutory working time – Hours of Work

Under s.2(1) of the Health and Safety at Work Act 1974 every employer is required to ensure “so far as reasonably practicable” the safety, health and welfare of all their employees. This implies a restriction on the employment of any employee for excessively long hours, or unsuitable shifts likely to cause physical or mental ill health, or precipitate fatigue-induced accidents. It also implies the provision of adequate intervals for meals and rest (Croner).

The Working Time Regulations 1998 (WTR) limit the maximum working time of a worker and confer certain other rights in respect of the length of night work and rest periods.

IRMP guidance note No 6 states that for the most part the WTR apply to fire services and all reasonable all steps should be taken to manage activities in a way that complies with the Regulations, which have the potential to impact significantly on the Service as a whole. The principal requirements are outlined in Appendix 5.

Crucial to the application of the Regulations is the meaning of ‘Working time’. This is defined in Regulation 2 as:

- a. *Any period during which a worker is working, at the employer’s disposal and carrying out their activities or duties,*
- b. *Any period attending training*
- c. *Any additional period which is to be treated as working time for the purpose of the Regulations under a relevant agreement.*

In general, it may be accepted that under the Regulations all activities relating to the work of officers will be deemed ‘work’. In relation to day duty staff, working 42 hours per week is well short of the maximum permitted by the WTR. Although consideration may be given to the potential of fire safety staff completing ‘out of hours’ inspections e.g. During Performance Inspections, the scale of such work is unlikely to contravene the Regulations.

In relation to record keeping, guidance suggests that where systems already exist, it’s not necessary to have separate records to show the number of hours routinely worked in accordance with an employment contract⁶.

Below is a list of the elements that should be recorded. The third column indicates whether / how the particular element is currently recorded in LFRS.

⁶ IRMP guidance note No. 6 para 3.19.2

| Category of Staff | Details Necessary | Method of recording |
|-------------------|--|-----------------------------------|
| Day duty | Normal day duty hours | Rota system |
| | Leave and/or sickness | Rota system |
| | Evening commitments | None / personal diary / form 1K33 |
| | Additional training outside normal hours | None / rota system |
| | Hours worked in other employment | None |

Recording systems should be adequate to facilitate period monitoring. The table above casts some doubt on the credibility of the systems currently used to record hours worked. The review team found that some information regarding hours worked and duties performed by individuals both on and off duty is difficult to obtain, thus highlighting the possibility that LFRS could be vulnerability under the WTR and Health & Safety legislation.

In line with the aims of the review, the desire is to create greater flexibility in working practices. The potential does exist to create a more flexible workforce. However, a decision is required as to how flexibility will operate and be managed. The traditional approach for uniformed staff is varied. Uniformed day staff have no formal recording system and operate within an environment of trust.

To monitor hours worked over a full 42 hours per week (primarily Monday – Friday), whilst availing management the option to utilise time outside the core hours, it will be necessary to introduce a form of recording hours worked. Human Resource department are currently involved in a detailed analysis of recording systems, therefore it is not proposed to discuss this issue in detail in this report. Options are briefly outlined below.

Paper-based - Low cost and easy to implement; however the time required to manage such a system could be considerable.

Clock system - Cost £25k for all LFRS workplaces. As above this would require management. Compared to other systems ‘clock’ systems now considered outdated technology.

Computerised ‘swipe’ system – Currently in use at County Hall, the cost of installation to all LFRS workplaces would be approximately £100k. This is a wide ranging and flexible system that will meet all the Service needs. **This option is recommended** to be phased into use at all workplaces in LFRS over a suggested five-year period. The detail surrounding introduction will be subject to further investigation. However the following order of priority should be considered.

| <u>Action</u> | <u>Timescale</u> |
|---|------------------|
| Replace existing 'clocking' system (SHQ & STC). This introduces the system into LFRS and from the user perspective would be no change from existing practice. | Immediate |
| Day duty staff - A method of recording is considered essential to the operation of a flexi-time system. Although a paper based system would suffice in the short term, the 'swipe' system should be planned in the long-term. | 1 – 2 years |
| Flexible Duty Officers – to be phased in following the day duty staff. | 2 - 3 years |
| Shift / Day crewing – not considered a priority, but should be included in the long-term. | 3 – 4 years |
| Retained – not considered a priority, but should be included in the long-term. | 4 – 5 years |

Recommendation:

5. *A common system of recording hours worked should be introduced to all workplaces in LFRS This should be a phased introduction over 5 years and will cost approximately £100k.*

Recommended Duty System

The intention is to create maximum flexibility in working arrangements. Difficulties arise in devising a formalised system that requires prima facie Monday – Friday working, yet has sufficient flexibility to require staff to work evenings and weekends when required. There are obvious advantages for management having the availability of staff over 7-days and at times to suit. However from the employee's side, it's likely that what could essentially be seen as 24/7 availability may attract resistance. Complications further arise when comparing DDS to shift workers, who are paid at the same rates pro rata.

Although there may be variations there is essentially one option to consider. It is recommended that the DDS be based upon the model shown below.

Key point - It should be noted that the model is provided for illustration purposes as the details are open to negotiation. The basic principles are as follows.

- i) The scheme should be 'flexi-time' based on a bandwidth of 11 hours from 07.30 – 18.30 hours.
- ii) There should be two core-times one am & one pm, suggested times are 10.00 – 12.00 hours and 14.00 – 15.00 hours (subject to negotiation).
- iii) 42 hours (including meal breaks) per week should be worked.
- iv) Hours worked should be normally Monday – Friday, exceptionally and subject to reasonable notice, staff may be required to work outside the bandwidth.
- v) Providing reasonable notice is given, officers should not unreasonably refuse to work evenings and/or weekends as required.
- vi) Time worked outside the bandwidth should be reimbursed within bandwidth period.
- vii) Local managers should ensure satisfactory cover is maintained within their department.

Recommendation:

7. *A 'flexi-time' duty system should be introduced based on the model protocol outlined below. The details may be subject to negotiation.*

Model Protocol for DDS

Introduction

Lancashire Fire & Rescue Service is committed to Equal Opportunities and the provision of flexible employment practices that help individuals to achieve a better work-life balance.

In support of this, the Flexi-time Scheme provides staff with a degree of flexibility in relation to their starting and finishing times to suit their travel arrangements and other personal circumstances.

It is intended that the scheme is made available to as many staff as possible (including part-time employees and temporary employees who are employed for longer than 3 months). The operational requirements of the Fire Service must take precedence over the scheme at all times, therefore it is possible that certain staff by virtue of the nature of their jobs, may have to be excluded from the scheme.

For departments where it is possible to operate Flexi-time the scheme provides a framework for line managers who may wish to incorporate further flexibility where appropriate, subject to the operational needs of their department.

The scheme

| | | | | |
|----------------|-----------|----------------|-----------|----------------|
| FLEXI- TIME | CORE TIME | FLEXI- TIME | CORE TIME | FLEXI- TIME |
| 07.30 | 10.00 | 12.00 | 14.00 | 15.00 |
| | | | | 18.30 |

Standard hours of work

Standard contracted hours within Lancashire Fire and Rescue Service vary for different staff groups and are indicated in individual contracts of employment. Standard working days and half days are to be calculated for each staff group. For example, where the standard working week is 42 hours, a standard working day for the purpose of the scheme is (42 divided by 5) 8 hours 25 minutes* and a standard half day is (42 divided by 10) 4 hours 10 minutes*. Times for part time employees are calculated on a pro rata basis.

*These figures have been rounded to the nearest 5 minutes.

The standard times are to be used for all leave and work away from the normal work base, unless approval has been given to record additional time worked within the bandwidth.

The general principle of the scheme is that employees should attend for work on Monday to Friday at times within the bandwidth. There are however, occasions when it will be necessary to attend at times outside the bandwidth and/or at week-end (Saturday and/or Sunday). In order to provide maximum flexibility, the following guidelines should be followed.

- i) Working outside the Monday – Friday bandwidth should be the exception and not the norm.
- ii) Employees required to work at times outside the bandwidth shall be given reasonable notice and as a consequence shall not unreasonably refuse.
- iii) Employees are required to work their full contracted hours (e.g. 42 hours) per week. Time worked outside the bandwidth may be reimbursed within the bandwidth period.

When an employee falls sick after starting work he/she will be credited with a full standard day.

Bandwidth

The bandwidth establishes the earliest starting and latest finishing times for the application of flexible working hours. This is from 07.30 - 18.30 hours.

Core Time

All staff must be on duty at core times, i.e. 10.00am to 12 noon and 2.00pm to 3.00pm.

Flexi-time

Subject to ensuring with their line manager that there is satisfactory cover, staff may commence work at any time between 07.30 and 10.00 hours and finish work at any time between 15.00 and 18.30 hours. Local managers should ensure that sufficient cover is maintained, therefore employees should accept that line managers may need to refuse a number of requests for late starts/early finishes.

Lunch Break

Grey Book conditions require a 42 hour working week that includes meals breaks, normally accepted as 1 hour per day. The intention is to achieve 37 productive working hours per week. Subject to employees ensuring with their line manager that there is satisfactory cover, a minimum of 30 minutes and a maximum of two hours may be taken between 12.00 and 14.00 hours. Any break taken in excess of 1 hour per day must not reduce the overall obligation to achieving 37 hours per week actually worked.

It should be noted that the Working Time Regulations require that employees do not work more than six hours without taking a break.

Settlement Period

Each settlement period is four weeks. Employees are responsible for ensuring that they work the required number of hours subject to the credit/debit allowances (to be carried forward) shown below.

Credit

A credit of up to 15 hours may be carried forward from one settlement period to the next. Any credit above this amount will be lost.

Accumulated credit can be used to take up to 2 days off in any period, with prior approval.

A minimum of 4 hours credit must exist before 1 day of flexi-leave can be requested, and a minimum of 2 hours for half a day of flexi-leave.

Debit

A debit of up to 4 hours may be carried forward to the next settlement period.

Overtime

Overtime must be authorised in advance and is not permitted during bandwidth hours.

Time taken in lieu of authorised overtime should be recorded under the scheme as an authorised absence and the appropriate number of hours credited.

Personal appointments

Employees should endeavour to make appointments for the doctor or dentist etc., outside working hours, or failing this, outside of core-time. Where this is not possible, short-term absences will be credited provided that the arrangements have received prior approval.

Where a medical absence occurs at the beginning or the end of the day the following times should be recorded:

Morning – actual time of starting or 9.00am, whichever is earlier

Afternoon – actual time of leaving or 5.00pm, whichever is later

Leavers

Staff leaving the Fire Service must ensure that no debit or credit hours remain at the end of their notice period.

Recording and Monitoring

All employees are responsible for recording their own attendance.

Line managers are responsible for supervising the scheme within their sections and making sure that the operational needs of the Fire Service are met.

Deliberate falsification of attendance records with the intention to deceive will be subject to the disciplinary procedure.

Employees experiencing problems arising from the scheme should raise the matter in the first instance with their manager in order to resolve on an informal basis. If this is unsuccessful, they should then follow the existing grievance procedure.

Conclusion

It's clear from the research undertaken that the DDS currently worked in LFRS can be amended to produce greater efficiencies. Under the existing Grey Book conditions each meal break is a non productive period for which all officers receive payment. Irrespective of this officers do not work a full 42 hour week and although the balance of hours up to 42 are available to the authority, in practice these hours are seldom utilised. All factors considered, it should be possible to introduce a more flexible system of working that will not only utilise the full 42 hours per week, but allow employees to balance work and personal commitments.

The model outlined above may be compared to the flexi-time system currently operated by the non-uniformed support staff. The opportunity exists to review this system in light of the proposals made in this report. To do so will require a more detailed examination which is outside the scope of this review.

M S Laws
Chair of Review Team

Appendix 1 - Letter to Local Government Association

FAO: Derek Robertson

Lancashire Combined Fire Authority's IRMP Action Plan 2004/05 contains a commitment to review the day duty (nine-day fortnight) and flexible duty systems.

Day duty (nine-day fortnight) system

1. Number of hours worked

It is intended that the full 42 hours will be readily available to the Authority

2. Work patterns

With a greater emphasis on work in the community and flexibility of approach in both fire safety and training, it is important that staff are available to work at the relevant times of day. In essence, this means that staff need to be available outside of typical 9 – 5 office hours so that they can more effectively undertake their respective functions e.g. community fire safety or retained training.

It is also anticipated that the opportunity to work more flexible hours may be attractive to staff in allowing them to co-ordinate their home and work commitments more effectively ('family-friendly')

Flexible duty system

Officers conditioned to the flexible duty system in Lancashire Fire & Rescue Service work an average of 42 'managerial' hours per week and in addition are on call to attend urgent matters for up to an additional 36 hours per week.

It has become increasingly evident that managerial availability from Monday to Friday needs to be maximised in order to engage more effectively with a wide range of local partners whose work patterns revolve around traditional Monday to Friday arrangements.

The design of the current flexible rota in Lancashire is such that officers are required to work one weekend in every four. As a result of rota patterns, officer availability for managerial duties in the weeks preceding and following the duty weekend is severely disrupted.

Maximisation of flexible officer availability from Monday to Friday, therefore, will allow for greater interaction with like-minded partners in Local Authorities, on Local Strategic Partnerships and Crime and Disorder groups etc. In addition, a revised approach based on the principles outlined above will permit a greater alignment of uniformed/non-uniformed managerial availability.

Appendix 2 – Extract from Grey Book (2004)National Joint Council for Local Authority Fire and Rescue Services
Scheme of Conditions of Service (Sixth Edition 2004)

SECTION 4 - CONDITIONS OF SERVICE FRAMEWORK

PART A - HOURS OF DUTY AND DUTY SYSTEMS

1. All working arrangements will operate on the basis that employees will undertake the duties appropriate to their role and be deployed to meet the requirements of the fire and rescue authority's Integrated Risk Management Plan. This may include a requirement to work at different locations. Full-time and part-time employees on any duty system are free to undertake retained duties where appropriate.
2. The conditions of service of part-time employees will be the same as those of full-time employees (pro-rata where appropriate) unless otherwise stated.
3. Duty systems will need to meet the requirements of the fire and rescue authority's Integrated Risk Management Plan. Any proposed system should be discussed with the recognised trade unions and be based on the following principles:
 - (1) Basic working hours should average forty-two per week (inclusive of three hours of meal breaks in every twenty-four hours) for full-time employees. Hours of duty should be pro-rata for part-time employees.
 - (2) There should be at least two periods of twenty-four hours free from duty each week.
 - (3) It should comply with relevant United Kingdom and European law, including the Working Time Regulations 1998, and Health, Safety and Welfare at Work legislation.
 - (4) It should have regard to the special circumstances of individual employees and be family friendly.
4. Where, following discussion, there is no agreement between the fire and rescue authority and recognised trade union over a proposed duty system (and it does not accord with the principles of any of the pre-existing national duty systems at paragraphs 7 to 15 below) the difference can be referred by either party to the NJC's Technical Advisory Panel. The Panel will be chaired by an Independent Expert (appointed on a three-yearly basis by the NJC), who will be assisted by the Joint Secretaries.
5. The Panel will seek to broker an agreement between the parties, but where that is not possible it will make recommendations. The Panel's recommendations will ensure that the duty system follows the four principles set out at paragraph 3 above and is compatible with the deployment of resources that the fire and rescue authority has determined is necessary to implement its Integrated Risk Management Plan. This process will be concluded within one month of reference to the Panel, or longer with the agreement of the parties. The parties will decide their responses to any recommendations from the Panel within fourteen days of receipt.

Pre-existing national duty systems

6. The following duty systems shall continue to operate pending the introduction of any new systems under the terms of paragraphs 3 to 5 above.

Shift duty system – not included

7.

Day-crewing duty system – not included

8.

Day duty system

9. The hours of duty of full-time employees on this system shall be an average of forty-two per week. The hours of duty of part-time employees shall be pro-rata. The rota will be based on the following principles:
- (1) The normal working day shall cover the period of normal office hours.
 - (2) There shall be nine working days per fortnight, which shall fall on Mondays to Fridays.
 - (3) One hour per day shall be specified as a meal break.
 - (4) Where work (such as lectures and inspections of clubs) must necessarily be undertaken outside the normal working day, equivalent time off in lieu should be given during the normal working day.

Flexible duty system

10. This duty system applies only to employees in the roles of Station Manager and above.
11. The hours of duty of full-time employees on this system shall be as set out in paragraph 10 below. The hours of duty of part-time employees shall be pro-rata. Employees on this system shall perform two types of duty:
- (1) Managerial duty, which is rostered for operational command, managerial, supervisory and/or specialist duties appropriate to the employee's post (managerial duty is also known as 'positive hours').
 - (2) Standby/call-out duty, which is rostered so that the employee is available on call for the urgent performance of managerial duty and to perform those duties if called upon.
12. The rota will be based on the following principles:
- (1) The sum of the rostered managerial duty hours and the rostered standby/call-out duty hours, the latter divided by four, shall be forty-eight per week on average over a cycle not exceeding eight weeks.
 - (2) No rota shall contain more than five consecutive periods of twenty-four hours during which a duty of either type is performed.
 - (3) In any two-week period commencing on a Monday there shall be at least two pairs of rota leave days.
 - (4) Any period of standby/call-out duty shall be all or part of a period of twenty-four hours duty (starting at the normal starting time) and shall be rostered immediately before or immediately after a period of positive hours, unless it is an entire period of twenty-four hours standby/call-out duty.

- (5) On any day on which managerial duty is performed, the hours for that duty shall be rostered consecutively except where an evening duty is required in addition to a normal day duty (for these purposes one meal break in each period of twenty-four hours will be treated as a period of managerial duty).
- (6) Travelling time to or from a rostered evening commitment of managerial duty shall itself count as managerial duty.
- (7) Rota leave shall be rostered no less frequently on a Saturday or Sunday than any other day of the week.
- (8) The total sum of managerial hours shall not average more than forty-two per week.
- (9) The sum of the weekly hours of both types of duty shall not exceed seventy-eight on average.

Further sections not included.

IRMP Project No.10
Review of the Day Duty System

Appendix 3 - Existing Day Duty System

(SO\ADMIN\50)

Fire Safety

Leading Firefighter – Station Officer

- These officers will normally work a nine day fortnight in accordance with a three group system.
- Daily hours of duty may be varied to enable them to carry out duties in the evening or at weekends.
- There may on occasions be a need for these officers to provide temporary operational cover. Hours exceeding 42 per week will be classed as overtime.

Service Training Centre

- Instructors at STC will carry out duties as required by the Head of Training and will receive the appropriate Instructors extra duty allowance.
- Permanent Instructors will be subject to a duty system which includes night duty officer and work on two weekends each year (payment for which is included in the extra duty allowance).

2004

| Dept | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
|-------------|---|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Fire Safety | R | D | D | D | D | D | R | R | D | D | D | D | R | R | R | D | D | D | D | D | R | R | R | D | D | D | D | R |
| STC | R | D | D | D | D | D | R | R | D | D | D | D | R | R | R | D | D | D | D | D | R | R | R | D | D | D | R | R |

Typical fire safety and STC rota

Appendix 4 - Flexible Working

Parents of young children who have parental responsibility for a child under 6 years old as at 6th April 2003, (or under 18 years old if the child is disabled) and have at least 6 months service may request flexible working to enable them to care for the child. There is no specific right for a woman to change her working conditions, but there is a right for a request to be considered.

Employees may request the right to work flexibly, which may include:

- a request to work from home
- a change to hours of work
- a change to the times when an employee is required to work (e.g. term time only)

Using a statutory procedure, the employee must write to their employer explaining the change they are requesting, how it can be accommodated, and when they would like it to take effect.

The following is an example procedure for dealing with such requests (compliant with the Statutory requirements):

- 1 Employee writes to their Line Manager form to request consideration for flexible working setting out: -
 - a) the change requested
 - b) how it can be accommodated
 - c) timescales for implementation
 - d) how the child's relationship with the employee meets the eligibility requirements for flexible working
- 2 The employer must acknowledge receipt within 14 days (2 weeks) of receipt of the request.
- 3 A meeting should take place within 28 days (4 weeks) of the receipt of the request, to discuss it. Representatives may attend this meeting.
- 4 The employer must write to the employee within 14 days (2 weeks) of the meeting with a decision and the details of their decision, with a right to appeal.
- 5 The employee would have 14 days (2 weeks) to appeal against the decision if required.
- 6 The first appeal hearing would be heard within 14 days and a decision followed up in writing.

- 7 A final right of appeal could be offered to the employee to be considered within 28 days.

In the interests of finding a suitable solution, time limits may be extended by mutual agreement of the parties involved with due notice and with a specified date of response.

Reasons for rejection of approval

The employer may only refuse a request for sound business reasons such as:

- a) additional costs burden
- b) detrimental effect on the ability to meet public demand
- c) inability to re-organise work amongst other staff
- d) inability to recruit additional staff
- e) insufficient work during periods when the employee proposes to work
- f) detrimental impact on quality of work
- g) detrimental impact on performance
- h) planned structural changes

The employee must be given the reason for rejection in writing. Care will need to be taken to ensure that refusal will not amount to race, sex or disability discrimination. Trial arrangements may be offered before making a final decision. In the case of failure of an internal appeal, the employee will be entitled to complain to an employment tribunal, but this tribunal will only review whether a statutory procedure was complied with, and will not make a judgement on any reason(s) for refusal.

There is no automatic right to return from e.g. part time to full time work.

Appendix 5 - A Summary of IRMP Guidance

Note 6 on the Working Time Regulations 1998

The Regulations implement the Working Time Directive.

They provide for:

- A maximum average working week of 48 hours.
- A daily rest period of not less than 11 hours in each 24 hour period.
- A weekly rest of not less than 24 hours in a 7 day period or 48 hours in a 14 day period.
- A daily rest break of 20 minutes where the daily working time exceeds 6 hours.
- A maximum average limit for night work of 8 hours in a 24 hour period.
- Health assessments for night workers.
- Four weeks paid leave per year.

Definition of Working Time

“Where a worker is working, at their employer’s disposal and carrying out their duties and activities.”

Examples:

- A firefighter summoned to active duty from standby at home.
- Attending training.
- Any time on duty on a station, including stand-down.
- Meal breaks.
- Travel outside normal rostered duty house, to and from duty at a place other than the normal place of duty e.g. travel to and from detachment to a fire station.
- Travel to and from training courses other than at the normal place of duty.
- Where work is performed away from the normal place of work on a basis agreed with the individual’s manager and the time is properly recorded eg welfare visits to workers at home or drafting a document at home.
- Where a worker is required to attend work related functions as part of their duties.
- Where a worker is spending agreed time carrying out trade union or health and safety responsibilities.

Exemptions and Derogations

The Inevitable Conflict exemption under Regulation 18: This is where certain specific activities inevitably conflict with the Regulations and they do not apply. In other words, it would be impracticable to apply them in these types of situations. Agreements should be reached with the representative bodies on the categories of work which fall within this definition. The HSE have suggested that activities such as dealing with civil unrest, terrorism and natural or technological disasters inevitably conflict with the Regulations. Where the Fire Service has control over the timing and duration of a specific activity it is unlikely to attract this exemption. It is there to cover exceptional events.

The Unmeasured Working Time exemption under Regulation 20: This is where the duration of working time is not measured and can be determined by the workers themselves. The Guidance states that the Chief Fire Officer and other Principal Officers fall within this definition and those flexi duty officers who have the discretion whether or not to attend incidents and to determine at what point they leave that duty.

The Continuity of Service exemption under Regulation 21: This is where there is a need for continuity of service or there are exceptional events or an accident or an imminent risk of accident. Compensatory rest must be given.

Collective Agreements

Collective Agreements can be made to modify or exclude certain provisions and to extend reference periods. Where a worker is required to work through a rest period or rest break, the employer must provide compensatory rest and collective agreements can contain provisions relating to when this can be taken. If possible, this should be taken immediately after the work period which deprived the worker of his entitlement other wise it should be taken as soon as is reasonably practicable.

Opting-Out

Staff wishing to waive the application of the 48 hour weekly working limit and to work more than 48 hours per week should be asked to sign an agreement to this effect. An example waiver agreement is attached to the Guidance.

The 48 hour Weekly Limit

A worker must not exceed 48 hours for each 7 day period over a 17 week reference period. The reference period can be extended by collective agreement to 26 weeks where there is a need for continuity of service. This could be used where shift patterns cannot be arranged over the 17 week period to comply with the 48 hour limit. It can be further extended to 52 weeks by collective agreement where there are technical or objective reasons.

- Individuals who want to work more than 48 hours should be asked to sign a waiver or “opt-out”.
- The 48 hour limit will not apply where either the “inevitable conflict” exemption applies to the activity the worker is engaged in or where the “Unmeasured Working Time” exemption applies to the worker because of his role.
- Overtime and hours worked for secondary employers are included in the calculation.

The 11 hour daily rest period

- This does not apply where the “Unmeasured Working Time” exemption applies to the worker involved or where the “Inevitable Conflict” exemption applies to the activity in question.
- The continuity of service exemption could apply, but compensatory rest has to be given.
- The 11 hour rest period can be varied by collective agreement but compensatory time off must be given. The employer must provide the worker with an equivalent compensatory rest period for the rest time the worker has missed and this should be given as soon as reasonably practicable.
- Where, at the change of shifts, a shift worker cannot take the daily rest of 11 hours before the start of the next shift, the entitlement to the rest period between shifts does not apply, although equivalent compensatory rest must be given. This must be given as soon as is reasonably practicable. The shift patterns set out in the Grey Book form part of a collective agreement and provide for a variation where the period between night shifts is less than 11 hours. The shift patterns also allow the compensatory rest to be taken at the end of the final shift in the pattern, rather than immediately after the rest period which has been missed.
- Full-time workers wishing to undertake retained duties or overtime are entitled to this daily rest period.

The Weekly rest period of 24 hours

- The same exemptions apply as for the Daily Rest.
- Shift patterns within the Grey Book allow this Weekly Break.

Rest Breaks

- Details can be agreed by collective agreement.
- The “Unmeasured Working Time” exemption could disapply the rest break.
- Adequate provisions for rest breaks are not included in the Grey Book.

Night Work

- Night time in relation to a worker means a period of at least 7 hours which includes the period from midnight to 5am, usually taken to be from 11pm to 6am.
- A night worker is someone who works at least 3 hours between 11pm and 5am in a normal course. A firefighter on a 2-2-4 or similar shift pattern will qualify as a night worker.
- The maximum average limit for night work is 8 hours in a 24 hour period.
- If the night work involves special hazards or heavy physical or mental strain, the 8 hour limit is absolute and cannot be averaged out. The National Guidance states that the 8 hour absolute limit does not apply because the risk to firefighters is reduced or removed by procedures and Personal Protective Equipment.
- The normal hours of night work should not exceed an average of 24 hours over a 17 week period unless this limit is varied by collective agreement.
- The “Inevitable Conflict”, “Unmeasured Working Time” and “Continuity of Service” exemptions can be applied where appropriate.
- Free health assessments must be offered to night workers before they start night work and at regular intervals (yearly).
- This can be done by an annual questionnaire and completed questionnaires must be checked by qualified members of staff at OHU. Free health checks are offered to staff by OHU.

Record Keeping

- Adequate records of average normal weekly working time, daily working time and health assessments must be made and kept for at least 2 years to comply with the Regulations. Records should be kept for a longer period for other reasons outside the Regulations eg they will be required in the event of litigation.
- No need to set up a separate record where there are already systems in place recording contracted hours eg payroll, sickness and leave records. Exceptional hours worked over and above contracted hours should be recorded eg casual overtime, secondary employment.
- These records should be periodically monitored.
- The Guidance Note contains a checklist agreed with the HSE on the record keeping requirements for each category of staff.

Secondary Employment

- Employers must take reasonable steps to ensure that workers do not exceed an average of 48 hours per week. Where the worker has more than one job each employer must make reasonable enquiries to determine how many hours are worked in the 7 day period. Hours worked on a self-employed basis do not count as working time for these purposes.
- If the total exceeds 48 hours they should be asked to sign waiver agreements with each employer or employers should take steps to reduce the total number of hours worked.
- Where a worker refuses to sign a waiver agreement, the employer must take all reasonable steps to ensure the weekly working limit is not exceeded, which may mean a reduction in hours.
- The same principles will apply to overtime.

Retained Duty System

- A worker on the retained duty system should inform the fire service of the number of hours worked for their main employer and, unless a waiver is signed with both employers, his hours should be limited so as not to exceed the 48 hour limit. He should also inform his main employer of the hours worked for the fire service.
- The fire service should allow the retained worker to take the other rest breaks and rest periods, even though they may choose not to take them. Alternatively, they could be required to take their rest period or rest break before they report for duty or start a shift to avoid interruption.
- The fire service should also ensure that retained workers in other employment are provided with adequate rest periods following work for them.

References

- National Joint Council For Local Authorities' Fire Brigades, Scheme of Conditions of Service (Fifth Edition 1998) (Grey book)
- National Joint Council for Local Authority Fire and Rescue Services, Scheme of Conditions of Service (Sixth Edition 2004) – Per Circular EMP/06/04
- Our Fire and Rescue Service, Cm 5808, HMSO Crown Copyright 2003
- Fairness at Work, Cm 3968, DTI, 1998
- Results of the First Flexible Working Survey, DTI April 2004
- IRMP Guidance Note 6, The Working Time Regulations 1998
- Summary of guidance note No 6, compiled by employment lawyer Richard Leiper
- The Working Time Regulations 1998 – Potential Changes to Shift Patterns within Cheshire Fire Service, Leiper, December 2003
- Croner's Health and Safety at Work (January 2004)
- Finding the Balance – NJC for Local Government Services (2001)