

## Waste Forum

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**Thursday 8<sup>th</sup> September 2022**

**Logistics UK, Cardiff Meeting Room, 20 Coventry Road, Leamington Spa, CV32 7JN**

**Chair: Mike Jones**

**Secretary: Tom Griffith**

### **Members Present:**

- Michael Jones - Suez
- Min Bawa - Ward Recycling
- Mark Murfin - Ward Recycling
- Phil Bradshaw - Fresh Start Waste
- Mark Forster - Biffa
- Alan Riding - Biffa
- Daniel Brooks - Suez
- Michael Colbourne - Veolia
- Mike Jones - Veolia
- Pat Murphy - Cox Skips
- Peter Tod - JG Pears
- Ian Garden - Grundon
- Terri Armitage - Logistics UK
- Martin Candish - Logistics UK

### **Apologies**

- Ben Grundy - Casepak
- Lee Gretton - Casepak
- Steve Lea - Biffa
- Andrew Bostock - JG Pears
- Kevin Brock - Biffa
- Phil Bradbury - JWS Waste
- Stephen Townsend - Grundon
- Ben Entwistle - Fresh Start Waste
- David Hobbs - PHS
- Bill Cox - Powerday

## **1. Introduction and welcome**

Mike Jones welcomed members to the Forum and introductions were made. Apologies were made for those who were unable to attend.

As it had been 18 months since the last Forum, every attendee reintroduced themselves.

Tom Griffith discussed that James Firth had now left his role at Logistics UK to move to Canada with his family and that the responsibility for organising the Forums now fell with himself, with Mike Jones to continue in his role as Chair.

## **2. Conduct of Logistics UK meetings**

Tom Griffith gave an overview of the guidance of conduct for Logistics UK meetings, full details of which can be found attached to the agenda, with a particular focus on not discussing any competitively sensitive information.

## **3. Drivers' Hours Waste Collection Process**

This was mentioned in the last forum, but to pick up from where we left off, there was the possibility Logistics UK could appeal to change some domestic laws now that we have left the European Union and the transition period has ended. Logistics UK may now be able to appeal for vehicles and drivers involved in the commercial door-to-door waste collection process currently under EU drivers' hours rules to be exempt. The group discussed the issue to see if there were any benefits to this.

The question of what 'door-to-door' collections actually meant was discussed, with Tom Griffith highlighting the briefing note on the subject that was available from Logistics UK and would be sent out alongside the minutes.

Member feedback suggested that the main issue was the 6-hour working time rule limit. Reference was made to the utilities sector who use the 'vehicles used in connection with' derogation, and how the GB domestic rules are a lot less regulated and how managing their activities was difficult. It was felt that the drivers forget where they are with their working time, as they keep tabs on their driving time, working time, dealing with bins and cash. After feedback from this particular member, their staff felt that a scenario based around GB domestic rules, with a structured system on breaks.

It was felt that the 11-hour duty limit that governs GB domestic rules was not too much of a concern, although recognition was made that it may affect some operators. Discussion then led to the requirement under GB domestic rules for adequate rest, and that this should perhaps be structured and defined in a similar fashion to the break requirements that govern EU drivers' hours rules.

Concern was raised for remote sites, and how the route planning was key to remaining under an 11-hour duty limit, but also that drivers were leaving their operating centres by 0300 to avoid traffic, schools, car parks and the traffic in general rush hour. This brings the drivers in scope of the night work limit of 10 hours in a 24-hour period, unless they have opted out with a collective or workforce agreement.

The Chair asked where this could be taken, as the issue of rest was important, and the group would not want to adapt this if there was no clarification on break requirements. It was agreed that in actual fact, the problem was not so much the EU drivers' hours rules, rather it was the working time limits.

***ACTION: Tom Griffith suggested the subject was raised with the policy team, potentially at Freight Councils to see if this was a consensus and if there would be any support in looking into any amendments on the drivers' hours or working time rules with these concerns in mind.***

#### 4. EU Drivers' Hours – Recording Other Work

As part of the mobility package changes that came into effect on 20th August 2020, there is a requirement for all drivers in scope of EU drivers' hours rules to record all periods of activity (eg driving, other work) and inactivity (eg breaks, daily/weekly rest, annual/sick leave). When driving in scope, drivers are required to be able to produce records for their current day and previous 28 calendar days at roadside, and these records are to be made either:

- Written manually on a chart.
- Written manually on a printout from a digital or smart tachograph.
- Made by using the manual input facility of a digital or smart tachograph.

Additionally, for days where a driver has been subject to the domestic drivers' hours rules, a record may also be required under those rules.

DfT updated their guidance on 2nd September 2022, which the group discussed.

The Chair read through the agenda description and asked for thoughts on the subject to discuss whether the rules were being met and what the group thought of them. Immediately concerns were raised over attracting new drivers to the industry and that these requirements put them off, considering the system is already relatively complex.

Members could understand that full and complete records in line with the guidance should be provided for any fixed weeks drivers drive in scope of EU drivers' hours rules, but the issue for occasional drivers was the main one. There was also the recognition of the burden on training providers relating to the inputting of manual entries on the tachograph and the issues false or incorrect entries can cause from a lack of training.

When discussing other sectors and problems facing them, Terri Armitage admitted they faced exactly the same problems for drivers who occasionally drive in scope of EU drivers' hours rules, or van drivers where no records were required. Full time drivers, or drivers who drive in scope of EU drivers' hours rules every week, seemingly were the only group of drivers that were not majorly affected by the rules.

A challenge most members faced was being unable to know whether an occasional driver would be driving, and when, as it was often in the event of an unforeseen circumstance, due to staffing issues, so it was difficult to figure out the purpose of the rule change. The group felt that the block records were introduced to think they were helping the drivers, as even with a letter of attestation you need a form for each activity, but it was still burdensome and will ultimately come down to case law.

A recognition of the GB rules, EU rules, and various working time directives all combine in one form or another to make drivers' hours and working time requirements particularly complicated at times, and this potentially puts off new drivers from entering the industry.

The question was asked whether the records input by the transport office could act as sufficient for enforcement, however the data would not be in the drivers' possession either on the card or as a manual record, so this would not be visible to enforcement and therefore unacceptable.

Terri Armitage reiterated the Importance of ensuring that any gaps on the tachograph card are filled in with a manual entry, printout or analogue chart, as any gaps in records will be open to enforcement sanctions.

The general consensus on the requirements are that it is burdensome for drivers and operators, the block reporting changes earlier in September are seen as a token gesture to appease occasional drivers, that it puts off new drivers entering the industry and even speeds up some existing drivers to exit the industry, training requirements are difficult, with a difficulty seeing what prompted the change to the requirements. Logistics UK had done a good job in pushing for the block recording, however can it be taken further to say it is not required.

A question was raised as to whether there could be some sort of certified paper where a longer record could be made, similar to a log book used under GB rules for these longer gaps between In scope driving, but operators are generally trying to move away from paper records. Technology such as applications on mobile devices could be something to look at in the future, but for the time being there does not seem to be an answer.

***Logistics UK's policy team, mainly Chris Yarsley as the Road Freight Regulation Policy Manager will continue to speak to government departments based on our feedback, and wider feedback from members outside of this sector which is of a similar basis.***

## **5. Loading of Heavy Goods Vehicles for Annual Test**

Peter at JG Pears asked this to be brought up at the forum, following a vehicle they presented to annual test recently. They received a letter from DVSA's Vehicle Testing and Roadworthiness team stating that the vehicle was presented for annual test with an insufficient load, and that vehicles should be loaded to 65% of the design axle weights.

The group discussed this. The vehicle passed the annual test, but nobody had heard of any similar circumstances for this sector. Other members of the Forum had contacts within DVSA that they were happy to enquire about on Peter's behalf, but the consensus seemed that this was an overzealous examiner. DVSA's own guidance refers specifically to bin lorries being exempt from the loading requirements at annual test, due to their basic design limitations.

## **6. Load Security – Steve Cave, DVSA Enforcement Policy Specialist (Technical)**

The Chair welcomed Steve Cave, DVSA's Enforcement Policy Specialist, who attended via Microsoft Teams to present the recent changes to DVSA's Load Securing guidance from 1 May and 1 September 2022, with a focus on transporting double-stacked skips, as well as a question-and-answer session at the end of the presentation.

Copies of Steve's slides were sent out alongside the minutes.

The Chair asked the first question, highlighting how the Forum members have high standards and want to be compliant, so were DVSA clamping down and referring operators to the Office of the Traffic Commissioner (OTC) when found in breach of load security? Steve confirmed they were, referring to OCRS targeted intelligence, follow up enquiries and maintenance investigations, all leading to reports to the OTC.

Pat Murphy asked whether transporting three or four empty skips using ratchet straps attached at eyelets to each corner of the skip body was sufficient. Steve referred to the Code of Practice, accepting it sounded compliant but there are a number of variables, so ultimately their advice refers to whether the operator could satisfy themselves that the skips won't move in transit, and they would be happy to drive behind it.

Pat also asked about using chains to power down the arms on the skip wagon when transporting empty skips, which Steve referred to the British Standards he mentioned in the presentation. Whilst chains don't feature in the guidance,

Steve said they will be bought in, but he said that if they were LOLER Inspected and meet the British Standards they may be accepted, subject to specific individual vehicle approval.

Pat's final question was whether lifting arms needed to be in the closed position whilst transporting skips, which Steve said they did need to be in the stowed position.

Peter Tod asked about skips that may be loaded where there is sideways movement due to the nature of the contents of the skip, although no movement to the front or rear. They use hydraulic and/or manual clamps and wanted DVSA's angle on that, to which Steve asked for some photos which they may be able to use to answer and update their guidance. Photos can be sent to Tom Griffith, or directly to Steve who provided his contact details in the presentation.

Min Bawa asked a question on protruding loads, particularly relating to heavy scrap metal where the object protrudes from their netting system and is not completely flat. The net doesn't stop the load shifting due to the weight, but their driver was stopped and told a fixed penalty would be Issued although nothing came through the post, however further provisions had been made since this encounter. Min asked whether enforcement officers took this into account or simply refer to the Categorisation of Defects (CoD).

Steve confirmed a pragmatic approach should be taken, as there are a number of variables. He mentioned the load security matrix that was removed in May from the CoD to give examiners flexibility to examiners and a common-sense approach. There is a DVSA conference which they would like a member from the Forum to attend, which the Chair advised this was an item in Any Other Business.

## **7. DEFRA – Consultation on the reform of the waste carrier, broker, dealer registration system in England**

The Department for Environment, Food and Rural Affairs (DEFRA) held a consultation from January-April on the current regime for waste carriers, brokers and dealers. The responses are still being analysed but DEFRA expect a publication of responses in the Autumn.

We discussed waste crime in our last meeting, and this consultation partly arose following an Independent Review into Serious and Organised Crime in the waste sector in 2018, which highlighted the extent to which waste is handled by an increasing number of, often opaque, intermediaries.

The Chair explained how this was on the agenda as a follow-up from the last Forum in March 2021, where we had guest speakers from the Environment Agency, so he invited Forum members to discuss the consultation or whether any members had dealings with rogue operators or heard of anything?

Phil Bradshaw described an operator who used an abandoned transfer station and was still tipping waste at that site. Phil's company had offered to buy the premises and remove the waste and were working closely with the Environment Agency closely over the last few years, but this was refused by the local authority as they were hoping to use the land for housing. Phil felt that the operator was almost untouchable as they had done everything reasonably possible to report this operator, but nothing was being done.

Hopefully the consultation will reform the system suitably so rogue operators are unable to do things like this.

## **8. Any Other Business**

The Chair moved on to the final item on the agenda, asking each attendee if they wanted to raise anything.

Pat raised the issue of a second driver in the cab using their card and the tachograph recording periods of availability (POA), and whether there was a way around this, however there is not, unless the tacho analysis software analyses this as other work, or the mode switch was changed each time.

It was also suggested that getting a speaker from DVSA or a similar body was useful, which Tom will try and arrange for future Forums, as long as there is a suitable agenda.

Tom Griffith suggested dates for the two waste forums to be held in 2023 - most likely to be around February/March & September. The idea will be to get the dates set in advance to ensure as many people can attend, but also to ensure continuity of the forum. These dates will be sent out w/c 19<sup>th</sup> September, with the most popular option being chosen as the date to hold the forums in 2023. It was also the consensus that these meetings should be held face-to-face as opposed to virtual meetings, so future meetings will remain face-to-face, with the possibility of virtual meetings if something pressing came up that needed discussing.

Tom told the Forum members that the Logistics UK Leamington office will be closing by the end of September, with a new office on the outskirts of Coventry for the MAC and the Training Team. This has been due to the introduction of hybrid working and the building now being too big for its purpose. Training will still continue, and there are meeting rooms at the new office, although this still needs to be communicated to members.

Please feel free to raise any other items to the agenda by emailing Tom at [tgriffith@logistics.org.uk](mailto:tgriffith@logistics.org.uk) within two weeks of the confirmed dates or we can raise it in Any Other Business on the day of the Forum to discuss at the following meeting.

The final discussion was around DVSA's conference that Steve Cave invited our Forum members to attend. It was put to the group that they would like someone to attend if possible. This would be a good opportunity for members to show DVSA issues they face as it will help shape DVSA's guidance to operators. If anyone does have anything to contribute, they can contact Tom or Steve directly on the contact details provided in his presentation.

Min Bawa offered to put a slidedeck together as long as other members of the forum would be prepared to present it at the DVSA conference. Min would enter his own experiences into the slidedeck in order to offer an honest perspective from an operator's point of view.

Since the Forum, Steve confirmed to Tom that if logistics were a problem, they could have a different presenter at each session. The original email from Steve will be sent to the Forum members alongside the minutes to remind them of the details.