





The Tyco Ruling

Implications for local authorities

Phil Brennan, Principal Advisor

Details of the case



Tyco (a Spanish company) install & maintain security equipment at customers premises.

The technicians attended a regional base at the start of the day to collect jobs.

Regional bases were then closed – operatives now have no fixed base or office to work from.

They still travelled to and from the customer location they were working at.

Sometimes up to 100kms away from their home.

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Details of the case



Technicians were required to go to a collection point for materials and equipment weekly.

The change in circumstances prompted the operatives to bring the case.

Tyco's view was that travelling time was 'rest time'.

The outcome of the case



ECJ ruled that for mobile works - who have no fixed place of work - the time they spend travelling between home and their first and last place of work each day counts as "working time" under the Working Time Directive.

Implications



ECJ said: "During the necessary travelling time – which generally cannot be shortened – the workers are therefore not able to use their time freely and pursue their own interests. The fact that the workers begin and finish the journeys at their homes stems directly from the decision of their employer to abolish the regional offices and not from the desire of the workers themselves."

Implications



Pay - payment not covered by this decision as National Minimum Wage legislation and the contract of employment govern payment.

ECJ stated that it is for national legislation to determine whether or not this time is paid.

Workers cannot be paid for travel time as a result of this ruling alone.

Implications



Overtime – *this could trigger overtime payments*

Working Time - *in terms of the Working Time Directive, it may be that including travel time as work time will mean workers are exceeding time limits especially if they live quite a distance from their place of work.*

Implications



Union view – expected that care workers will be especially impacted.

Focus is not on the type of work but on the working arrangements i.e. a work base.

Equally it doesn't matter if the vehicle is a company vehicle or a private vehicle.

Issues



What is a site?

When does a temporary site become a permanent site?

Leave entitlement?



Phil Brennan, Principal Advisor

pbrennan@apse.org.uk

0161 772 1810

07920801014

www.apse.org.uk