

# SUPPORT STAFF WORKLOAD in the STATE SECTOR

## NEU Guidance for Support Staff Members

*NEU believes that the increase in the quantity and complexity of work for school support staff has now reached crisis point. This advice is designed to help those working in state and academy schools to deal with this unmanageable workload.*

### What we say

When you read through this document you may have questions about what happens in your particular school or workplace and there may be collective issues that affect other members. In most circumstances, you should initially discuss the matter with your workplace rep, as they will know whether similar concerns have been raised by other members. If you do not have a rep at the moment, it would be a good idea to get members together to elect one. Further advice on this is available at:

<https://neu.org.uk/becoming-a-rep>

Although you may sometimes feel that you are the only person affected by or concerned about a particular issue, in reality this is seldom the case. Any difficulties you may experience are likely to be linked to wider conditions at your workplace and as a member of the NEU you have the advantage of being able to act collectively with your colleagues. This should give you the confidence of knowing that you have the weight of the Union behind you.

### Context

Member surveys, official casework and feedback from NEU branches all show beyond doubt that a combination of financial constraints, increased management expectations and the increase in pupil numbers have all combined to place unmanageable burdens on support staff of all types.

NEU's 2019 survey of support staff members showed:

- 51% of support staff said their workload is now unmanageable some or all of the time
- 34% said their workload has increased over the past year
- 59% said that the number of support staff in their school had decreased in the last 12 months

### Overtime, TOIL and contracted hours

The same survey provided stark evidence that unpaid overtime is endemic. 27% of support staff members of all categories reported that they work at least four hours' overtime a week; more than three quarters (76%) work extra hours because 'their workload demands it'; and 62% are not paid for this overtime, as they should be.

The working of additional unpaid hours by support staff is a major area of concern for NEU. This hidden subsidy to the educational system is extracted from some of the lowest-paid workers in our society, who often feel powerless to challenge the abuse of their goodwill and professionalism that it represents.

### *Guidance and Agreements on Excessive Hours*

There is universal agreement between employers and unions that support staff should be recompensed when working beyond their contractual hours. This is as it should be; after all, a basic principle of employment law is that if you work, you get paid. Nonetheless, it will be extremely useful to have the following references to hand when querying the issue of unpaid hours.

School Support Staff – The Way Forward: This agreement, signed in 2003 as a corollary to the Workforce Remodelling Agreement of the same year, says that (Para 2.2) “Unlike teachers, working time for support staff is based on an individual contract within the national framework, which needs to cover all expectations for managed time. This means that staff should be paid for all hours worked whether in or outside the pupils’ day.”

Workforce Agreement Monitoring Group (WAMG) guidance: WAMG had this to say in Note 22 of July 2008, in a section headed ‘Unpaid overtime’:

“There is some evidence that on occasions, support staff with established contractual arrangements are being expected to undertake ‘unpaid overtime’.

This is unacceptable. If it becomes clear that an individual’s working arrangements do not fully take into account the work required of the post, then a proper discussion must take place between them and their line manager to resolve the issue. This might mean:

- paying overtime
- extending, by agreement, the hours required under the contract, with the appropriate increase in salary, or
- allocating the additional work to other members of staff.”

LGA: The Local Government Association (LGA), which negotiates on behalf of the local authority (LA) employers of all support staff in the maintained sector, has this to say on the subject:

“Pay for term-time workers should reflect their contractual working arrangements. If term-time workers are required to undertake work outside of their contracted hours, they must be appropriately remunerated. Any such additional hours should be incorporated into contractual arrangements if they are an ongoing feature of the post. Schools particularly should take steps to identify the hours required of support staff and to pay for all such hours.”

Whilst the LGA document talks specifically about term-time contracted employees, the principle that hours worked outside of contractual hours should be “appropriately remunerated” also applies to 52-week-contracted employees.

## *What you can do about it*

If you are regularly working unpaid overtime, or if your contractual start, finish and break times no longer correspond to your actual working times, then you should raise the matter with your line manager, verbally to begin with. If you receive no response within three weeks, follow it up with a brief written request for a further discussion.

Should this 'softly softly' approach prove ineffective, then you will need to submit a formal grievance. Before embarking on this course of action, please consult your NEU school representative. If you do not have an NEU rep at your school, then you should contact your local branch secretary.

There are three ways in which you can be recompensed for working additional hours:

- If your hours have permanently changed, e.g. you are getting in earlier and/or leaving later than your stated start and finishing times, then your contract of employment needs to be amended to reflect these changed circumstances as per WAMG Note 22 (see above).
- If the working of additional hours is more intermittent, or if the school are reluctant to amend your contractual hours, then all additional time should be paid for at the overtime rate – single time up to the full-time equivalent hours (36 in London, 37 elsewhere), and then time and a half for any additional hours worked in a particular week, over and above 36/37.
- Time off in lieu (TOIL) may also be mutually convenient.

## **TOIL**

While there is no reference to TOIL in the National Agreement on Pay and Conditions of Service (more commonly known as 'The Green Book'), there are a number of local and informal TOIL schemes operating around the country.

When considering asking for TOIL as recompense for working extra hours, you should bear two points in mind:

- You should confirm when you will be able to take your TOIL – if you are on a term-time only contract, for instance, you won't be able to take it during the school holidays (because you're not being paid then), and the school may prove reluctant in practice to let you use your TOIL when the school is open.
- TOIL is a form of compensation for overtime and should therefore be calculated using the same formula as outlined above.

## **Breaks**

The importance of taking regular breaks cannot be overstated. Whether it is a short break to relax and recuperate over a hot drink, a proper lunch or meal break without interruptions, or daily and weekly rest periods for shift and night workers, the law and your employment contract will provide guarantees on breaks from work.

**Short breaks** - for most support staff, short morning and afternoon breaks are stipulated in the employment contract. Unfortunately, most of the time, these breaks are unpaid, but on a positive note, this means that support staff should take these breaks in full, as not doing so would deprive themselves not only of a necessary period of rest but would also mean working for nothing!

Some employment contracts will specify that the breaks are paid, and again, staff should ensure that they take their breaks without interruption.

Other employment contracts will say nothing about short morning and afternoon breaks, but such breaks have been in place for some considerable time. This can be defined by law as 'custom and practice' and means that even though there is no written reference to the policy on breaks, staff may still be entitled to take those breaks because of this long-standing practice. Like most questions of employment law, 'custom and practice' is a matter of interpretation, so if your employer attempts to call time on your morning and/or afternoon break, talk to your NEU Rep or branch secretary.

**Lunch and meal breaks** - again, the key document will be the employment contract, which must specify the length of the breaks, and whether they are paid or unpaid. The legal minimum is 20 minutes if the daily working span is more than six hours. This break must not come at the beginning or end of the day.

As with short breaks 'custom and practice' may be relevant in respect of the length and payment of breaks.

NEU recommends that a lunch break should be for a minimum of 40 minutes.

**Daily and weekly rest periods for shift and night workers:** The legal requirements for rest periods were established in 1998 with the establishment of the Working Time Regulations (WTR). They were introduced with the specific purpose of protecting a worker's health and safety by discouraging excessive working hours.

The regulations contain the following provisions:

- a limit of 48 working hours per week (averaged over 17 weeks, or 26 weeks in residential institutions)
- a daily rest of at least 11 consecutive hours in each 24 hours
- a minimum weekly rest period of at least 24 hours in each seven-day period
- 28 days' annual leave (inclusive of bank holidays).

In the case of the weekly working hours limits only, individual agreements are possible between worker and employer to opt out of the standard 48-hour limit. These agreements have to be in writing and contain a notice clause of no more than three months, and the employer in these cases must keep records of hours actually worked by the individuals concerned.

The Green Book: more formally known as the National Agreement on Pay and Conditions of Service, this is still in situ for all LA school support staff and nearly all

academy staff. Part 3, section 2 of the Green Book contains the compensation provisions for night work (Para 2.3c), sleeping-in duty (2.3e) and other non-standard working patterns, such as shift working (2.3f).

**Display screen equipment (DSE) breaks:** For many school support staff, e.g. administrators, examination officers, PAs, the constant use of their PC is an occupational necessity, and one which brings with it various health concerns.

The legal position is laid down in the Health and Safety (Display Screen Equipment) Regulations 1992. Regulation 4 is concerned with the daily activities of users, and states:

“Every employer shall so plan the activities of users at work in his undertaking that their daily work on display screen equipment is periodically interrupted by such breaks or changes of activity as reduce their workload at that equipment.”

The guidance accompanying the regulations states the following:

“In most tasks, natural breaks or pauses occur as a consequence of the inherent organisation of the work. Whenever possible, jobs at display screens should be designed to consist of a mix of screen- based and non-screen-based work to prevent fatigue and to vary visual and mental demands.

Where the job unavoidably contains spells of intensive display screen work (whether using the keyboard or input device, reading the screen, or a mixture of the two), these should be broken up by periods of non-intensive, non-display screen work. Where work cannot be so organised e.g. in jobs requiring only data or text entry requiring sustained attention and concentration, deliberate breaks or pauses must be introduced.

It is not appropriate to lay down requirements for breaks which apply to all types of work; it is the nature and mix of demands made by the job which determine the length of break necessary to prevent fatigue. But some general guidance can be given:

- Breaks should be taken before the onset of fatigue, not in order to recuperate, and when performance is at a maximum, before productivity reduces. The timing of the break is more important than its length.
- Breaks or changes of activity should be included in working time. They should reduce the workload at the screen, ie should not result in a higher pace or intensity of work on account of their introduction.
- Short, frequent breaks are more satisfactory than occasional, longer breaks e.g. a
- 5-10-minute break after 50-60 minutes' continuous screen and/or keyboard work is likely to be better than a 15-minute break every two hours.
- If possible, breaks should be taken away from the screen.
- Informal breaks, that is time spent not viewing the screen (e.g. on other tasks), appear from study evidence to be more effective in relieving visual fatigue than formal rest breaks.

- Wherever practicable, users should be allowed some discretion as to how they carry out tasks; individual control over the nature and pace of work allows optimal distribution of effort over the working day.”

- Employers should carry out a risk assessment of work stations, to ensure that the equipment, furniture and work environment are all suitable. The risk assessment should also address the need for adequate breaks away from the screen.

## Continuous Professional Development

The importance of regular, quality training for all education staff cannot be overstated; well-trained staff will almost inevitably be confident, productive and fully comfortable in their role. Problems relating to stress and workload can often be traced back to the lack of a well-thought-out and properly funded in-house training programme, supplemented by access to external training where necessary.

Unfortunately, when it comes to organising and funding training and CPD events, support staff are often overlooked by schools and colleges. Priority is generally given to teacher, lecturer and management CPD, with the support staff being involved as an afterthought, if at all.

NEU believes INSET days should be used to organise either joint teacher-support staff training or separate support staff events. Also, funding for external training should be made available for support staff. Finally, particular help should be considered for support staff to achieve an appropriate level of basic skills e.g.in maths and English.

NEU’s nationwide network of union learning reps (ULRs) can also be used to run school or local training events. An increasing number of NEU support staff members are becoming ULRs, and are ensuring events relevant to support staff are organised

## What should I do next?

If further advice is needed, contact your NEU workplace rep in the first instance. If there is no NEU rep in your workplace, or the peripatetic nature of your employment makes contact with a workplace rep difficult, contact the NEU AdviceLine, or the Wales office where appropriate. Their details may be found at <https://neu.org.uk/contact-us>.

## Further Information

[Health & Safety Executive \(HSE\) Guide to Working with Display Screen Equipment \(DSE\)](#)