

Support staff term time working

As part of the 2016-18 pay deal, the local government employers and the recognised trade unions agreed to conduct a joint review of term-time working to consider a national approach “to deliver fair, consistent and transparent contracts for school support staff”.

An [initial section of guidance](#) has now been agreed and covers the following issues:

- Guiding principles on calculation of pay and annual leave (including advisory model calculation)
- Designation of annual leave
- Calculation of redundancy pay
- Termination of employment or contractual change part way through leave year
- Payment for overtime and additional working hours
- School closure periods (including public holidays, special leave, public duties)
- Training and career development
- Participation in trade union activities and duties

The guidance will be incorporated as Part 4.12 into the next updated version of the National Agreement ([‘Green Book’](#)). It is intended in due course to issue further guidance relating to sickness and maternity, maternity support, adoption, parental and shared parental leave and pay for term-time only employees.

We would specifically refer members and Reps to the following paragraphs:

4.2 – Calculation of pay. Schools should be asked to confirm how TTO pay is being calculated, and to ensure that the calculation is included in the Statement of Particulars of Employment.

4.4 – Advertising of posts. The habit of some schools of advertising the FTE rate of pay, instead of the actual, TTO one, is now officially outlawed.

4.5 – Pay for additional hours. This is a welcome restatement of the official position on occasional and regular additional hours worked. And Paragraph 11.1 confirms that additional non-standard hours worked should be compensated at the appropriate overtime rate (See Green Book Part 3, Paragraph 2.3).

4.6 – INSET. This clears up any ambiguity about whether INSET days are working, paid days. This means that if you are a full-time employee in term-time, then the appropriate overtime rate should apply.

And as you will see, there are many other positive aspects to the guidance.

The guidance recommends that employers review their term-time only working policies and pay and leave calculations to ensure that they are consistent with the principles outlined in this guidance, and consult with recognised trade unions about any proposed changes.

Support staff members should liaise with their school Rep or Contact, or in the absence of one, with your Branch Secretary, to ensure that the school conducts the review in a timely manner.

TERM-TIME ONLY (TTO) WORKING – PAY AND REDUNDANCY PAYMENT CALCULATIONS

Pay

Districts and Reps will be aware that most school support staff in the maintained sector and in academies are not paid on a 52-week basis, but only for the weeks worked during the year plus their leave entitlement (which is reduced on a pro-rata basis).

Whilst there are a number of formulae used by employers to calculate the actual pay of TTO employees (apparently, there are 18 in use around the country), it has recently come to light that some employers may not necessarily be using a formula which adequately compensates their support staff.

It was in Greenwich that this issue was brought into the public spotlight, when an out of court settlement was reached late last year between the LA and the recognised Unions.

The settlement had two main provisions:

1. A new formula for calculating the annual leave for TTO staff was introduced.
2. Back-payments of up to 6 years were agreed for staff affected by the use of the erroneous formula.

Prior to this, Greenwich had calculated TTO holiday entitlement thus:

- $39 \text{ (term time weeks worked)} / 52.179 \text{ (full year full time weeks worked plus annual leave and bank holidays)} \times 31^{**} \text{ days} = \underline{23.7 \text{ days}}$

However, they have now agreed to a new formula, which ensures that TTO staff are treated fairly, and on the same basis as their 52-week colleagues:

- $39 \text{ (term time weeks worked)} / 44.4 \text{ full time weeks worked}^{***} \times 31 \text{ days} = \underline{27.2 \text{ days}}$

* Many support staff will, of course, work more than just the time when the school is open e.g. INSET days, 10 days additional for working in the school holidays, etc. The numerator must therefore reflect this e.g. if the school is open for 39 weeks pa, but the employee works for an additional 10 days/2 weeks, then the numerator should be 41.

** “Green Book” staff, including school support staff, with less than 5 years service receive 21 days annual leave, plus 8 Bank Holidays and 2 Extra Statutory Holiday days, to give a total of 31 days leave. After 5 years, they receive an additional 4 days annual leave taking the totals to 25 and 35.

You should also be aware that some employers have agreed additional annual leave, on top of the “Green Book” minima.

*** This figure is the actual weeks worked by a year-round employee i.e. 52-weeks minus all forms of leave, in this instance 7.6 weeks, which gives a denominator of 44.4.

Whilst there is no reason to believe that significant numbers of LAs, MATs or academies are using an incorrect formula to calculate the pay of their support staff, can I ask you to:

1. Confirm with the employer which TTO pay formula they are using.
2. If you find that they are using an incorrect formula i.e. one which uses a full-year denominator, rather than one based on the actual weeks worked by a 52-week school employee, then raise the matter with HR.
3. Keep NEU support staff members in the school/MAT/LA “in the loop” at all times.
4. Should it transpire that the employer is using an invalid formula, please inform Peter Morris, the National Official for Support Staff.

We are already aware that LB Lewisham have been using the same formula as Greenwich, and any further examples which come to light of an employer using a less-advantageous formula for our members will be actioned by the NEU.

To read the full Greenwich Council report, please click [here](#).

And to find out more about Term-Time only pay matters, please click [here](#).

Redundancy Payments

A recent case has also brought to light the fact that some employers may be short-changing their support staff employees in the matter of redundancy payments.

Some employers have attempted to use a formula which divides the actual pay of the TTO worker by 52.14 (weeks).

This is clearly unfair, as the TTO worker is not paid for 52 weeks, but somewhat less (normally within the range of 42 to 46 weeks per year).

LAs, MATs and academies should therefore use one of these two formulae - which helpfully give the same answer!

1. Actual pay divided by actually paid weeks (weeks worked plus pro-rated leave)

or

2. FTE pay divided by 52.14

Can you ensure that in redundancy situations for support staff, individual or collective, that one of these two correct formulae are used to calculate their redundancy payment.