

Working Time & Leave Framework Element 2: TOIL & Overtime Procedure

1 Introduction

This Policy is part of the Working Time & Leave Framework Framework which is made up of a number of elements which together encompass all formal policy, procedure and statement documents, including associated forms, relating to working time & leave in Abertay University.

If you would like this document in a different format (e.g. large print, braille) or need any assistance to access or understand the policy/procedure please contact your School/Service designated HR Partner.

2 Purpose and Scope

The University recognises that the nature of its work means that on occasions employees will be needed to work outside recognised working hours. However, the University also acknowledges its duty to protect the health and safety of its employees by ensuring that they do not work excessive hours, and that any additional hours are agreed in advance and monitored appropriately. It is the responsibility of the line manager to oversee their team's workloads to ensure work is completed within the normal working week.

The Time Off in Lieu (TOIL) & Overtime Procedure is a guideline for line managers to assist them in planning and managing the working hours of employees who are asked to work additional hours when there is a busy period, specific event or a peak in workload. However, it is the University recognises that overtime working is voluntary and is not a contractual obligation.

It is imperative that the provision of services must always take precedence and it is a line manager's responsibility to ensure that this is observed. Line managers will always consider allocating time off in lieu first as an alternative to paid overtime, wherever possible. However, in certain circumstances, it may be appropriate for any employee within an operational role to be compensated for additional hours by use of overtime rather than TOIL.

When asking an employee to work overtime, the Working Time Regulations 1998 must be considered. These guidelines state that an individual should not work more than 48 hours per week on average. (Further guidance on the application of the Regulations is available from HR).

2.1 Procedure

2.1.1 What is TOIL?

Lieu time is time off which employees are allowed to take instead of receiving overtime pay, for hours worked beyond the normal working day.

It applies to additional periods of work either before or after the normal working day (for support employees this is 8:45a.m. to 5:03pm. It does not apply to lunch periods. Line managers should ensure that employees get the appropriate lunch break each day. If lunchtime meetings are necessary then employees should be allowed to take a break either

before or after the meeting, to ensure compliance with Working Time Regulations, however for operational employees, where this will impact on the service levels, the line manager should consult with the School/Service designated HR Partner for the appropriate solution where necessary.

2.1.2 To whom does TOIL apply?

The procedure applies to all employees who are employed by the University except Academic employees. It does not apply to agency workers (unless they are employed for more than 12 weeks) or casual workers.

For part-time employees TOIL would apply for hours worked over and above their contractual hours.

2.1.3 Staff Planning

When a manager is aware that a busy period, specific event or a peak in workload is approaching he/she should plan accordingly and review available staffing. Consideration should be given to maximising the available employees in the department, through ways such as revising annual leave requests for that specific period, seeing whether additional temporary employees/support can be provided by another School/Service, or having considered the financial implications, whether resource is required through an approved recruitment agency.

Please note: all requests to hire agency temps must go through the School/Service designated HR Partner and the financial implications fully evaluated. Further guidance on this issue can be found in the Recruitment Framework on the HR Web/Portal.

When additional staffing hours are required, the line manager should consider whether TOIL is the most appropriate method to use to cover this. The line manager should ensure:

- That working additional hours is voluntary.
- That the additional hours are required for a limited period of time only – if it is for a period longer than a month then the line manager should review the overall staffing needs for the department to ensure working practices are efficient and effective. Advice should be sought from the School/Service designated HR Partner in these circumstances.
- Employees receive appropriate breaks during additional work in order to comply with our Health and Safety procedures.

2.1.4 Accruing leave within the TOIL system

TOIL for additional hours **must be authorised in advance**, of any additional hours worked, by the employee's line manager. If prior authorisation is not in place, then the additional hours will not qualify for the accrual of TOIL and will be lost.

Time off accumulated through TOIL arrangements must be equal to time actually worked – i.e. plain time. There is no enhancement for time accumulated through TOIL at a weekend.

A minimum of 30 minutes must be worked at any one time before TOIL will accrue (this will still count toward the overall total accrued, for example, an employee who works 15 minutes extra in the morning and 15 minutes in the evening on the same day will accrue 30 minutes TOIL however working 15 minutes on Monday and 15 minutes on Tuesday will not qualify).

2.1.5 The TOIL accounting period

TOIL should be taken as soon as practicably possible after it has been accrued and in any event it must be taken within 6 months of accrual.

TOIL accrued and not redeemed within 6 months of accrual will be considered lost and no monetary compensation will be offered as an alternative.

2.1.6 Taking authorised TOIL

When an employee wishes to take approved TOIL this should be agreed with the relevant line manager at least one week in advance. The line manager may not agree to the request in cases where this leave will conflict with the provision of an adequate and efficient service by the School/Service. Where line managers do not approve the requested TOIL, suitable alternative dates should be identified and suggested.

2.1.7 Line manager's responsibilities

Line managers will co-ordinate all TOIL for their team to ensure that there is adequate cover for their area of service/business.

Line managers should ensure that employees are given reasonable opportunity to take any accrued TOIL within 6 months of accrual.

Line managers should ensure that TOIL is not used as a method of flexible working but only used occasionally to deal with fluctuations in workload.

Line managers must keep a full account of additional hours worked and taken by their employees. It is not the responsibility of HR or Payroll to record TOIL hours accrued or overtime worked.

2.2 Overtime

2.2.1 To whom does overtime apply?

Overtime applies to all employees on Grade 6 or below who are employed by the University except Academic employees. It does not apply to agency employees (unless they are employed for more than 12 weeks) or casual workers.

2.2.2 Overtime Principles

Overtime will be paid at a rate of time and one half for all hours worked in excess of 36.5 (the normal working week). Additional hours worked up to 36.5 hours will be paid at plain time, for example, an employee who has a normal working week of 28 hours and who works an additional 12 hours would be paid 8.5 hours at plain time and 3.5 hours at time and one half. This is in accordance with Regulation 5(4) of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

Where overtime applies the following principles should be followed:

- Overtime must **be authorised in advance** of any additional hours worked, by the employee's line manager. If prior authorisation is not in place, then the additional hours will not qualify for payment of overtime.
- Overtime is an exceptional occurrence rather than a routine occurrence and other options including TOIL and Flexitime should be explored first.

- Overtime should be recorded on an Overtime Form, a copy of which is available from the Payroll section of the Finance Portal. The Overtime Form must be approved by the Head of Finance, and submitted to Payroll by the line manager on a monthly basis.
- Line managers should ensure that all overtime is properly approved, recorded, checked and monitored.

Please note: separate provisions apply for Security employees who operate a shift system and these arrangements will not be affected by this procedure.

2.3 Conclusion

The operation of this procedure depends on mutual trust. Any abuse of the claiming of TOIL or overtime may lead to action being taken under the University Discipline Procedure.

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