

# **Standard Working Hours, Overtime and TOIL**

## **Working Time and Flexible Working**

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## Overview

This section defines standard working hours, overtime and time off in lieu (TOIL), and UK overtime and TOIL rates, for British Council staff. The section covers:

- standard working hours
- legal position in UK and EC countries
- exceptions to the 48-hour limit
- record keeping
- overtime
- payment and TOIL for UK Staff
- staff not normally eligible for overtime
- travel expenses incurred in working overtime
- travelling time
- overtime and TOIL rates for UK staff

## Audience

This guidance applies to UK-appointed staff only. The policy on working hours can provide good practice guidance for country/territory TACOS and/or English and Exams/ OAS staff contracts, subject to local law and conditions. For overtime and TOIL, Country-appointed staff and English and Exams/ OAS staff should refer to country/territory TACOS and/or contracts. English and Exams staff can find more information in the 'Guide to Teaching English with the British Council'.

## Responsibilities

Line managers are responsible for carrying out the procedures in this document.

## Policy

All staff are contracted to work a certain number of hours a week. These are the hours which basic pay is calculated to cover. Hours worked in excess of the standard working hours at the request of line management are regarded as overtime (see Overtime and Overtime and TOIL rates for UK staff below), and the British Council pays for these in addition to basic pay, or allows time off in lieu of the excess hours.

## Guidance

### Standard Working Hours

Contractual standard working hours are stated in each person's contract of employment, and may be expressed as gross or net, with or without breaks respectively. Contractual hours, or standard working hours, vary depending on contractual arrangements, and they also vary between different staff levels. Normal office hours, which may be different from contractual hours, may also vary. Standard working hours for UK-appointed staff working full-time are:

- UK pay area: 41 hours gross (36 hours net)
- Overseas (substantive and temporary postings): according to local circumstances.

### Legal Position in UK and EC Countries

UK and EC legislation limit the average period of weekly working time to not more than 48 hours over a seven-day period averaged over a total period of up to 17 weeks. Managers in the UK and EC countries must therefore ensure staff do not exceed this limit, if necessary by reorganising and prioritising work. The UK legislation means that the British Council has a specific duty to:

- take all reasonable steps to ensure that staff comply with the 48-hour limit
- keep records to show that the 48-hour limit is being complied with for each member of staff to whom it applies.

**Exceptions to the 48-hour Limit**

The UK legislation provides for exceptions to the 48-hour limit. The British Council applies exceptions as explained below:

Senior management (pay bands 9-10)

An exception is made for workers where the type of activity in which they are engaged means the duration of their working time is not measured or predetermined. For the British Council, this exception applies to senior managers. This is consistent with the fact that staff at these pay bands are not eligible for overtime payments for work in excess of core hours.

Middle and junior management (pay bands 1-8)

An exception is also made where workers can reach agreement with their employer that the 48-hour limit should not apply in their case. This might be appropriate to staff at pay bands 1-8 but we expect it to be uncommon. Such an arrangement must include an explicit written agreement setting out the terms on which the member of staff agreed that the limit should not apply. Any manager who believes a member of staff may be required to work more than the 48-hour limit on a regular basis must contact HR Services before taking any action.

**Record Keeping**

Under the legislation, the British Council is required to keep records that are sufficient to show whether the limit on maximum weekly working time is being complied with, for each member of staff to whom the limit applies. The records, for each such member of staff, must be retained for two years.

Where staff are working flexible working hours (see Flexi Time), the records kept for this purpose are sufficient to show that the limit has been complied with.

Where staff are working standard working hours, their managers must ensure that the staff observe those specified hours. If staff do not adhere to the standard working hours, they must work on a flexi-time basis and must complete Flexible Working Hour forms accordingly.

As a line manager, you must monitor the working patterns of your staff, and, if there is any likelihood that a member of staff will exceed the working time limit, you must take action to reduce the number of working hours.

**Overtime**

All staff have a contractual duty to work a reasonable amount of paid overtime. The definition of 'reasonable' depends on a number of factors, including:

- the number of overtime hours required
- the personal circumstances of the member of staff
- whether the member of staff was informed in advance of taking the job of the likely need for overtime (if you think a job will require overtime work, you must include this in the job description and point it out when you interview staff for the job)
- conformity to the UK and EC legislation described above (in the UK and EC countries).

**Payment and Time off in Lieu for UK staff**

If you are in doubt about the reasonableness of the overtime that you want your staff to work, consult HR Services or HR Pay and Employment Relations (HR PER).

Whether or not staff can be rewarded for excess hours worked depends on their job level:

- staff in pay bands 8 and below can, in general, have either some form of payment or TOIL.

- staff in senior management (pay bands 9 and 10) are not eligible for overtime payments.

See Overtime and TOIL rates for UK staff below for the overtime and TOIL rates for staff in the UK.

Where staff can choose TOIL, and do so, they must be able to use that time within two months. As a line manager, you must ensure that staff do not accumulate excessive TOIL; it cannot be translated into overtime payment at a later date.

If a member of your staff can choose TOIL, and does so, keep a record of how much TOIL has been earned and when it is taken. Treat requests to take TOIL in the same way as annual leave.

### Staff not normally eligible for overtime

#### Staff who work on rotas

Some staff who work on a rota or shift system have a salary enhancement to take into account overtime and non-standard working hours. Such staff are not normally eligible for overtime payments. Managers must ensure that their working hours conform to the EC legislation described in Legal position in UK and EC countries above.

#### UK-appointed staff overseas

UK-appointed staff serving in a substantive overseas post, or on temporary duty overseas, are subject to an all-hours liability, which means they cannot be paid overtime. However, when staff have had to work abnormally long hours, reasonable requests for TOIL must be allowed. Standard working hours vary according to local conditions. Managers in EC countries must ensure that working hours conform to the EC legislation described in Legal position in UK and EC countries above.

### Travel expenses incurred in working overtime

Staff are reimbursed for additional travel expenses between home and the office incurred during a weekend or public holiday as a result of essential overtime. In the UK, claims for home to office travel must be made on the CP10 Overtime form (available on the GTI desktop). This is because reimbursable home-to-office travel is subject to tax, and so must be processed through payroll. All other claims for travel, whether or not as a result of essential overtime (for example, travel to a temporary workplace, during the week or at weekends) must be claimed through Travel and Expenses on FABS.

### Travelling time

Time spent travelling on British Council business may be claimed as TOIL. For the purposes of the legislation described in Legal position in UK and EC countries above, such time is treated as working hours. However, note that travelling time does not include normal daily travel to and from work.

### Overtime and TOIL rates for UK Staff

Pay band	Monday-Friday	Weekends, public and bank holidays
6 and below	Either overtime at 'time and a half', or TOIL at plain time (that is, as standard hours)	Overtime at double time or TOIL at plain time
7 and 8	Either overtime at plain time or TOIL at plain time	Overtime at double time or TOIL at plain time
9 and above	Nothing	Plain time TOIL may be taken

These rates are subject to the following conditions:

- The rates above assume that no standard hours are worked at weekends.
- Travel time does not qualify for overtime payments, but plain time TOIL may be taken.
- Overtime payments must be approved in advance, and only for essential work.
- TOIL should normally be taken within two months of the extra hours worked.

### **Procedures**

If your staff work overtime, you must:

1. Authorise the overtime in advance.
2. Keep a record of the hours worked.

At the end of a period in which overtime has been worked:

1. Ensure the member of staff completes the CP10 Overtime form (available on GTI desktop).
2. Approve the claim.
3. Send it for payroll authorisation to HR Services (or as otherwise instructed).

Monthly overtime claims can be submitted during any monthly period, not just at the end of each calendar month, provided there is only one claim form per 30-day period, for a given member of staff. Staff will receive their overtime payments sooner if the claim is put in before the deadline for the pay run, usually around the 15th of each month.

Claims are not accepted for payment if they are submitted more than six weeks after the last overtime on the form was worked.