

Working Time Regulations

Guidance for Managers on Average Weekly Working Hours

1. AVERAGE WEEKLY HOURS

- 1.1 The Council recognises that a long hours culture can be detrimental to employee health and welfare and, as such, no employee of the Council will be required to work more than an average of 48 hours a week, calculated over an appropriate reference period.
- 1.2 However, there are likely to be occasions where an employee is required to work more than 48 hours in any one week or for a period of time. Where this is the case, average weekly working time for all employees, except those covered by the provisions of Road Transport (Working Time) Regulations, will be calculated over a 52 week reference period, with the reference period starting on 1 February each year. It is recommended that managers maintain a register of employees' working time and that average weekly working hours are calculated on a regular basis over a rolling reference period.
- 1.3 Employees who are covered by the Road Transport (Working Time) Regulations will have average working time calculated over a 26 week reference period, subject to the overriding requirement that average weekly working shall not exceed 48 hours and that no employee/worker will work for more than a total of 60 hours in any one week. The reference periods will commence on 1 December and 1 June each year.

2. OPT OUT AGREEMENTS

- 2.1 Employees who hold secondary employment (either within or outwith the Council) or who wish voluntarily to work more than an average of 48 hours a week over the given reference period may do so by entering into an agreement (an opt out agreement). Prior to considering signing an opt out agreement the employee and their line manager should meet to discuss the issue. No attempt should be made to persuade or compel an employee to sign an opt out agreement.
- 2.2 An opt out agreement form is attached as appendix 1. Employees should not be asked to sign an opt out form at the point of being offered employment with the Council nor should it be presented as a condition for continued employment with the Council. An employee who chooses not to sign an opt out if they do not wish to work more than an average of 48 hours per week must not suffer any detriment as a result and should simply be regarded as having exercised their statutory right to limit their maximum working week.

3. DUAL EMPLOYMENTS

- 3.1 Employees/workers who hold secondary employment either within or outwith the Council may work more than an average of 48 hours per week, taken over the reference periods referred to above. All employees/workers must inform the Council if they hold secondary employment and that employment is likely to involve them working greater than an average 48 hours per week. In such circumstances, the employee will be regarded as having exercised a choice to work beyond an average of 48 hours per week and will be asked to complete an opt out agreement form (appendix 1) confirming this choice. However, if the employee is not willing to sign the opt out agreement then it is the Council's responsibility to take such steps as are reasonable and practical to ensure that the worker does not work more than an average of 48 hours per week.

Please ask for:
Direct Dial:
Fax:
Email:
Your Ref:
Our Ref:
Date:

Dear

I am writing to confirm your discussion with your line manager about your working week and your right to agree to opt-out of the limits on weekly working time.

The Working Time Regulations came into effect on 1st October 1998. The Regulations state that employees cannot be required to work for more than an average 48 hours a week unless they sign an individual opt-out agreement, agreeing that this limit will not apply to them. This "48 hours limit" applies not only to the work you do for the Council, but also for work you might do for others, outside the Council, whether paid or unpaid. The Council, as an employer, has to take reasonable steps to ensure that employees do not exceed the 48 hour limit. If you choose to exceed it either for the Council or for other employment then we have to be sure that you are willing to do so - hence this letter.

The Council will try to avoid the requirement for employees to exceed the 48 hour limit. However, because of operational requirements we may need some employees to work more than the 48 hours periodically. If you wish to work more than an average 48 hours a week you will need to sign and return the agreement to your supervisor.

For the purpose of clarity I confirm that there is no obligation for you to sign an opt-out agreement and you will not suffer any detriment if you choose not to sign an opt-out agreement. However, in such cases the Council would be obliged to ensure, as far as is reasonably practicable, that you do not work more than an average of 48 hours per week.

If you wish to discuss the agreement further please contact your line manager in the first instance.

Yours sincerely,

Service Director/Head of Service

Individual opt-out

Agreement to Opt Out of Regulation 4(1) of the Working Time Regulations 1998 about Maximum Weekly Working Time.

1. I agree that the limit in regulation 4(1) of the Working Time Regulations 1998 shall not apply to me and that my average working time may therefore exceed 48 hours for each seven-day period (as defined by and calculated in accordance with the Working Time Regulations 1998).
2. This agreement can be terminated by me giving 4 weeks notice in writing to the Area Service Manager.
3. I agree to make the necessary returns so that the Council can keep accurate records of my hours of work.

Signed.....Date