

30. How to Manage TOIL

1 WHAT IS TOIL?

Some employers give employees time off to compensate for working over and above their normal working hours. This is known as time off in lieu (TOIL). It is sometimes an alternative to paid overtime for employees that are entitled to overtime. It is a good idea to confirm any arrangements for TOIL in a written policy.

It is important that TOIL is not considered an alternative to a flexi-time system and should only be used where there is a foreseeable business need to work the additional hours to be worked. For example, to complete an urgent project or to cover absent employees or other business reasons that may arise from time to time.

2 MANAGING TOIL

You will need to decide how you will manage TOIL. There are some key considerations below:

- Which employees are eligible for TOIL?
- How will TOIL be accrued?
- How will TOIL be authorised?
- Will you require employees to agree the TOIL hours with you before they work any additional hours?
- How will you monitor the taking of TOIL? Will you require the employee to request the TOIL time in the same way as a request for holiday? Will you require employees to use any accrued TOIL within a specific time frame, e.g., within one month?
- How will you deal with TOIL that has been accrued by an employee but not redeemed? Will that TOIL be lost with no monetary compensation offered?
- What will happen to accrued TOIL when an employee leaves their employment with you? Will untaken TOIL be lost upon termination with no payment made in lieu?

3 RELEVANT LEGISLATION

The Working Time Regulations 1998 outline requirements in respect of hours of work, rest breaks, night working and annual holiday entitlement.

You have a responsibility to make sure that workers are receiving the correct amount of breaks and not working too many hours.

The Working Time Regulations apply to overtime as well as a worker's normal hours. Under the Working Time Regulations, a worker's working time, including overtime, in any reference period should not exceed an average of 48 hours for each seven days.

It is important that TOIL is just used for occasional times when workload increases due to occasional business needs. It should not become normal practice for an employee. If you notice that an employee is regularly asking for TOIL/overtime in order to get their job done, it may be advisable to review their workload and understand any underlying issues.

4 NEXT STEPS

- Decide whether you will offer Time off in Lieu to your employees and if so, how it will be managed.
- Develop a policy outlining the rules around TOIL in your workplace.
- Communicate your policy on TOIL to your employees.

5 FACTSHEETS TO HELP

- How to Manage Other Types of Absence
- Health and Safety in the Workplace

6 FOR MORE ADVICE AND INFORMATION

ACAS - (Advisory, Conciliation and Arbitration Service) free and impartial information and advice to employers and employees on all aspects of workplace relations and employment law. www.acas.org.uk

Achieve in Bath & North East Somerset - free recruitment support, advice and help. Matching job seekers, employers and course providers to help employers recruit, train and retain employees.

www.achieveinbathnes.co.uk

Future Bright - free help & support for businesses and employees to realise their full potential. Provide access to training and development, workshops and networking. HR support to promote career progression and best practice to attract and retain staff. www.futurebright.org.uk

***Bibliography** - this fact sheet was produced by Rathbone HR Solutions in association with Cool Ventures Ltd in December 2018 with content sourced from; HR Inform (www.hr-inform.co.uk), ACAS (www.acas.org.uk), CIPD (www.cipd.co.uk), the pensions regulator (www.thepensionsregulator.gov.uk/en/employers), HMRC (www.gov.uk/government/organisations/hm-revenue-customs), the Information Commissioner's Officer website (www.ico.org.uk)*