

Teachers' statutory rights: independent sector

This factsheet focuses on the statutory rights most relevant to teachers in the independent sector. Your statutory rights are the minimum you are entitled to as an employee of the school. In some cases your contract will provide you with better terms and conditions and, if this is the case, those better terms and conditions will apply.

Your right to a statement of particulars of employment

- Your employer has a legal duty to give you a written statement of the particulars of your employment within two months of you starting your job. The statement should contain, for example, your hours of work, holiday entitlement, place of work, etc. Your pay and on what basis it is calculated if you are a part-time teacher, should also be included.
- Your employer should also state the title of your job and a brief description of the work for which you are employed.
- Your 'contract of employment' is comprised of the written statement of the particulars of employment together with (depending on individual circumstances) the letter of appointment, and other particulars of your employment that are provided to you in instalments or contained in separate collective agreements. All of these might be contained or referred to in a contract of employment that you and your employer sign.
- ATL recommends that you should be given a clear job description that outlines your particular duties, as this helps to clarify your role and define your workload.

Working hours

Under the Working Time Regulations 1998 the working week is limited to a maximum of 48 hours, averaged over 17 weeks. In residential institutions, the averaging period is 26 weeks. Accordingly, if you are a teacher at an independent day school, your hours of work would be averaged over a 17-week period, eg from 4 September 2006 to 1 January 2007, including periods of school holiday.

If you are a teacher and housemaster at a boarding school, your hours of work would be averaged over a period of 26 weeks, eg from 4 September 2006 to 25 March 2007.

In addition, rights for most workers include:

- an uninterrupted rest break of at least 20 minutes during a working day of six hours or more; such a rest break is to be taken during the six hours, and not simply at one end or the other
- a daily rest period of at least 11 consecutive hours in each 24-hour period
- a minimum weekly rest period of at least 24 hours in each 7-day period, although employers can opt for 14-day averaging. The rest period is not required to include Sunday.

ATL understands that teachers in the independent sector often work excessive hours. However, we can provide support to teachers who wish to raise concerns with their employer over their working hours under the Working Time Regulations, on health and safety grounds, and/or who are concerned about their work/life balance.

Our work/life balance toolkit for teachers in the independent sector can be downloaded from our website (www.atl.org.uk/independent) and further advice can be obtained by calling ATL as outlined at the end of this factsheet.

Holiday

- It is standard practice for teachers to be entitled to take all school holidays as paid annual leave, although your employer may reserve the right to require you to attend for one or two days in the holiday. The entitlement should be the same if you are a part-time teacher, although your pay will be no more than your weekly pay during term time.
- ATL recommends that if you have a contractual requirement to work in school holidays, this should be for a maximum of five days per academic year. It should take place immediately at the end of a school term or the beginning of the next one, and preferably in blocks of one or two days at a time.

Special leave

- ATL recommends that each school has its own special leave policy and that it is applied in a fair, consistent and transparent manner. You should check with your employer to establish whether there is such a policy. In the absence of a policy, the following points apply.
- Time off (whether paid or unpaid) to attend one-off events, such as graduations or overseas holidays, is at the discretion of the headteacher.
- Leave for compassionate reasons, such as bereavement, is also at the discretion of the headteacher, but ATL would expect most schools to look favourably on such requests.

Right to time off in case of family emergency

- You have the right to take a reasonable amount of unpaid time off in the case of a family emergency.

- Some independent schools allow for a number of days of paid time off in the case of a family emergency. You should check your contract of employment and/or staff handbook to see if this is the case.

Your right to request to stay on at work after you turn 65

- You do not have to retire at 60. Regardless of what it says in your contract, you have a right to work until you are 65 if you wish. If your school attempts to force you to retire at 60 it must provide objective justification for this.
- You also have the right to request to stay on in employment at the school after the age of 65, and the right to be accompanied by your ATL representative during this process. However, the school is not legally obliged to grant your request.

Teachers on two or more fixed-term contracts

- If you have been employed on two or more fixed-term contracts for four years since July 2002 you have the right to a permanent contract of employment, unless the school can provide objective justification not to make you a permanent employee. Contact ATL as outlined below for more information.

Notice periods

- If you have a contract of employment you must follow its notice provisions (unless they are less than the statutory minimum notice periods outlined below).
- Independent school contracts usually require both you and the school to give one full term's notice in writing. ATL's view is that teachers should not be required, in their contracts, to give more than one full term's notice in writing.
- The statutory notice period requires both you and the school to give a minimum of one week's notice for employment over one month but less than two complete years, and two weeks for two years, three weeks for three years etc, up to a maximum of 12 weeks.

If you have any queries about your statutory rights, please contact ATL as outlined below.



Need advice?

Your first point of contact is your ATL rep in your school or college. Your local ATL branch is also available to help with queries, or you can contact ATL's member advisers on **020 7930 6441**, email: **info@atl.org.uk** or write to 7 Northumberland Street, London WC2N 5RD. Don't forget you can also get lots of help and advice, as well as download copies of other ATL advice sheets, on our website at **www.atl.org.uk**

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