

Statutory rights: support staff in the maintained sector

The employment of most support staff in the maintained sector is governed by the National Joint Council National Agreement on Pay and Conditions of Service Handbook (the Green Book). In addition each support staff member should have a contract of employment with his or her school or local authority (LA). This contract will reflect the contents of the Green Book, as well as containing provisions specific to the individual staff member and the school.

However, you also have certain minimum statutory rights, which are relevant to you as outlined below.

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 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 proper job description that outlines your particular role and duties, as this helps to clarify your role and define your workload.

Working hours

- The standard working week for most full-time employees is 37 hours (35 or 36 in some London boroughs and 32.5 in some other areas). This should be specified in your contract.
- There is no requirement to work above these hours.
- If you are asked to work over your contractual hours, then you should be paid

for it. If you are asked to work over the full-time equivalent hours set out in your contract (eg over 37 hours), then the rate of overtime will depend on whether you are working on weekdays, Saturdays, Sundays, public holidays or overnight. Contact ATL as outlined at the end of this factsheet for more information.

Holiday

- Unlike teachers, most support staff members are employed on a term-time only basis. This means being paid only for the weeks that the school is open, eg 39 weeks, plus paid leave entitlement.
- If full time, you are entitled to a minimum of 24 days of paid annual leave per year (rising to 28 days in April 2009), as well as each of the statutory, general and public holidays as paid holiday. Therefore, in order to calculate the number of weeks for which you should be paid, you would add your holiday entitlement to the number of weeks the school is open per year. For example, if the school is open for 39 weeks per year and your holiday entitlement is five weeks, then you would be paid for 44 weeks, ie 44/52 of a full salary. Your salary will usually be paid in 12 equal monthly instalments throughout the year.
- In most cases, an additional five days of holiday is granted to full-time employees after five years of continuous service. This will result in an increase in your pay, ie if you are usually paid for 44 weeks per year, this will increase to 45 weeks per year. You should note, however, that some LAs pro rata annual leave entitlement in the same way as they calculate your salary. Contact ATL if you think your leave entitlement has been calculated incorrectly.
- You are entitled to two extra days of holiday, which is determined by each LA in consultation with trade unions and employers' organisations. Again, in practical terms this will result in you being paid for an extra two days of work, ie your entitlement will be 20 plus bank holidays, plus an extra five days after five years of service, plus an extra two days. Your LA should be able to give you more information on this.

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 (whether paid or unpaid), such as bereavement, is also at the discretion of the headteacher, but ATL would expect most schools to look favourably on such requests. LA policies on special leave might also apply to schools.

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. LA policies on such leave might also apply to schools.

- In some cases, you may have the right to a number of days of paid leave. Individual schools/LAs have their own policies in place and you should check these.

Notice periods - how much notice you should give

- Usually, you will have to give one month's notice to terminate your employment, and this should be detailed in your contract of employment.
- If there is nothing in your contract, your notice should be the same as the ordinary period from one pay period to the next. Usually, you will be paid monthly, so the notice will also be a month. If you are paid weekly then your notice would be a week, providing that there was nothing in your contract of employment.

Notice periods - how much notice your school should give you

- Usually, the school/LA will be required to give you a minimum of one month's notice to terminate your employment and this will be stated in your contract of employment.
- If there is nothing in your contract, you will at least be entitled to the minimum periods of notice (which are dependent on your length of service) from the school/LA. These are: not less than one week's notice if your period of service is between one month and two years; not less than one week of notice for each full year of service, if you have two years or more but less than 12 years of service; not less than 12 weeks of notice, if you have 12 years or more of service.
- If your statutory entitlement is greater than your contractual notice period, you are entitled to the longer notice period, ie if your length of service is five years then you are entitled to five weeks' notice, not the four-week period specified in your contract.

Employees 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.

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.

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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