

What's inside:

News and advice

- Independent schools' Conference
- ATL's guide to *Working in the independent sector*
- ATL welcomes independent school bursars
- Elections for the Independent and Private Sector Advisory Group

As resident assistant to the house mistress at the boarding school, where fees for boarders are above £25,000 a year, Barbara White was contracted to work 121.5 hours a week for £15,138 a year, plus accommodation. When her contract started in September 2004 her hourly rate of pay was £3.75, while the national minimum wage was £4.50 an hour.

Martin Pilkington, ATL's head of legal and member services, said:

"There can be no excuse for this type of exploitation. The irony is just incredible, a school with pupils from some of the wealthiest families in the UK paying its own staff less than the national minimum wage.

"We are obviously delighted by this victory. This case has significant implications for private schools, particularly boarding schools, which expect staff to work excessive hours, with extra hours above their contract often unpaid. Potentially thousands of staff throughout the UK could also be eligible for extra pay, or additional rest periods."

Barbara White said:

"The sad thing is that I really enjoyed working at the College. I loved the job and the students. But I couldn't go on working those hours any longer and spending so much of my off-duty time sleeping because I was so exhausted. When the school refused to let me have a second night off and away from the school each week I had to give up and hand in my notice."

As a result of ATL's intervention, it is believed Malvern College has changed its staff employment contracts and working practices.

ATL victory over long hours and low pay at Malvern College

ATL has won a resounding victory over the flouting of the national minimum wage by Malvern College. In an out of court settlement the school agreed to pay Barbara White, a resident assistant house mistress, £12,000 because her salary was lower than the national minimum wage.



Another case that has a significant bearing on this issue is that of MacCartney versus Oversley House, which hinged on whether being 'on call' constitutes part of normal working hours. Mrs MacCartney worked four days a week at Oversley House, a retirement complex, and was on call 24-hours a day for residents. The employment tribunal ruled that 'on call' time was working time and so she had been denied her right to a daily rest period under working time rules. Workers are entitled to at least 20 minutes of rest if they work more than six hours, and a daily rest period of 11 hours in each 24-hour period.

Unfortunately, Barbara's predicament is but just one illustration of the culture of working excessive hours in the independent sector. A survey of ATL members working in independent schools, carried out in October and November 2007, revealed more than 60% regularly work more than 48 hours a week (the recommended maximum average number of hours according to the Working

Time Regulations 1998), while some boarding school staff routinely clock up almost one hundred hours per week.

Of greater concern is the discovery that a staggering one in five respondents said that they had been forced to see their doctor because of work-related stress.

ATL will fight to ensure all independent schools treat their staff fairly, provide proper rest breaks and pay them a fair rate for the hours they work.

If you feel you are working unreasonable hours or being treated unfairly, contact ATL.

If the issues you face are also experienced by your colleagues then you may be able to tackle the issue collectively. ATL's Work Life-Balance Toolkit provides practical assistance to address these issues in school, as well as providing more detail on the working time directive, and is available from our website at: www.atl.org.uk.

THE TIMES

A leading independent school charging fees of more than £25,000 a year has paid £12,000 compensation to a worker whom it was paying less than the minimum wage to work more than 100 hours a week.

Barbara White, who was an assistant housemistress at Malvern College, Worcesterhire, was paid an hourly rate of £3.75, well below the minimum wage of £4.50 an hour, and was required to be on call for any problems faced by the girls in her care for six nights a week.

Independent schools' Conference

The Independent schools' Conference took place on 17 November 2007 at the Radisson SAS Portman Hotel, London.



Delegates enjoying one of the sessions at the Independent schools' Conference.



Relaxation techniques were demonstrated as part of the wellbeing seminar.

Delegates heard ATL President, Julia Neal, deliver a rallying call on ATL's commitment to see minimum employment standards in the independent sector.

As an example, Julia cited Newcastle-under-Lyme school, Staffordshire, where Peter Cash had been sacked without notice and without any justification. ATL members took the unprecedented step of holding a one-day strike, which resulted in Peter's re-instatement.

Conference also paid tribute to the professionalism and dedication of ATL members at St. Elphins, Derbyshire, whose school was shut, without prior notice, by the owner, who arrived by helicopter. Staff found temporary homes for the boarders and continued to teach the pupils to enable them to take their GCSEs and 'A' levels. At the employment tribunal resulting from these events, ATL successfully won the maximum payout possible, 90 days' pay.

Members also heard interesting addresses from Jonathan Cook, General Secretary of the Independent Schools' Bursars Association, and Andrew Harland, Chief Executive of the Examination Officers' Association, and enjoyed seminars on performance management and wellbeing.

Conference also saw the launch of ATL's eagerly awaited new guide, *Working in the Independent Sector* and members all departed with a copy.

ATL's guide to Working in the independent sector

While there are many common issues in education, there are also significant differences between the independent and maintained sector. Unlike the state sector, there are no national pay and conditions for teachers. There is no standard book of rules or collective agreement. Sometimes there isn't even a written contract of employment. Operating in a commercial world, employment security can be precarious.

Consequently, ATL has published its guide, *Working in the Independent Sector*, to assist our members in negotiating the legal minefield of employment law.

Amongst other things, ATL's new guide provides a model contract of employment for teachers, together with a commentary highlighting the important things to look out for. It also lists the information an employer must provide by law and explains implied terms, such as 'mutual trust and confidence'. There is specific advice for part-time teachers on tackling unfavourable treatment.

As well as reacting to individual members' problems, ATL works on a collective level to try and prevent problems occurring or by minimising them when they do. This is done through the negotiation of good practice in the form of fair, objective and timely policies and procedures.

The guide also provides ATL model policies for three of the most important areas: discipline, grievance and capability. There is further advice on other key policies such as maternity and paternity rights, adoption rights, flexible working and time off for dependents and sickness.

Pay is another critical area in the sector. Amongst other things, the guide takes members through the key questions they need to know about pay. Not only, what is your starting salary but what is the school's pay scale and how do you progress up it? What provision is there for an annual cost of living increase? There is also advice on collective bargaining and individual negotiation.

We also cover the difficult subject of redundancy and address what an employer must do by law and the procedures it must follow. For example, we examine the process of consultation with staff and 'the pool for selection'. The guide provides an ATL recommended Redundancy Policy.

Employment in an independent school is unfortunately often characterised by long hours, which can become an acute problem in boarding schools. Many exhausted members ask, "Am I required to work like this? Surely there is a law against working such long hours?" The guide looks at the Working Time Directive and addresses the questions, what are your rights to a break during the day, over a 24-hour period, or over a week?

Mary Bousted, ATL general secretary, said: **"ATL's guide to *Working in the independent sector* is an excellent publication, which will help our members in the independent sector exercise their rights and improve the conditions of their employment."**

A copy of the guide will be sent to our ATL reps in 1,100 independent schools. Members can also order a copy online at: www.atl.org.uk, or by contacting ATL Despatch on **0845 4500 009** or by email at: **despatch@atl.org.uk**.



Working in the independent sector





ATL welcomes independent school bursars

ATL and the Independent Schools Bursars Association (ISBA) have recently reached agreement for members of ISBA to become group affiliate members of ATL. In so doing, ISBA joins the National Bursars Association and the Examinations Officers Association with whom ATL has similar arrangements.

ATL is already the largest union in the independent sector and this new agreement will see us extend our influence. One of the strengths of ATL is that we are an education union, rather than just a teaching union. We recognise the contribution of all staff to the success of a school. We take a modern view of trade unionism in that employees identify with their colleagues, place of work and employer, not just a profession, or a trade.

Elections

for the Independent and
Private Sector Advisory Group

Nominations are invited from ATL members working in the independent sector to serve on the Independent and Private Sector Advisory Group (IPSAG) from September 2008 to August 2010. There are vacancies for six ordinary members based on geographical areas, and two additional places to ensure the widest representation of the independent and private sector.

IPSAG advises the ATL Executive Committee on matters relating to the independent sector. The group meets four times a year on a Saturday afternoon at ATL's London office. As well as contributing to policy discussion throughout the year, current members have played an active role in the annual Independent Schools' Conference and at the main ATL Conference.

The deadline for nominations is Friday 25 April. Full details are available on ATL's website at: www.atl.org.uk. If you are interested in serving on the group please contact Anne Powell by email at: apowell@atl.org.uk.



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March 2008

ATL product code BUL04. Call 0845 4500 009 to order additional copies of this bulletin.

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