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Support Staff Workload in the Independent Sector

ATL believes that the increase in the quantity and complexity of work for school support staff has now reached crisis point. This advice is designed to help those working in independent schools to deal with this unmanageable workload.

Member surveys, official casework and feedback from ATL branches all show beyond doubt that a combination of financial constraints, increased management expectations and the increase in pupil numbers have all combined to place unmanageable burdens on support staff of all types.

**Overtime, TOIL and contracted hours**

The working of additional unpaid hours by support staff is a major area of concern for ATL. This hidden subsidy to the educational system is extracted from some of the lowest-paid workers in our society, who often feel powerless to challenge the abuse of their goodwill and professionalism that it represents.

ATL’s 2016 survey of support staff members in the independent sector provided stark evidence of this subsidy:

- Only 38% of members get to take their full lunch break.
- 37% work at least four additional hours per week, unpaid.
- 47% of respondents said that they don’t get to take their breaks, even though they are not paid for them.

**What guidance and agreements are there on excess hours?**

Helpfully, there is universal agreement between employers and unions that support staff should be recompensed when working beyond their contractual hours. ATL believes that any significant or regular additional hours worked above and beyond contractual hours should be paid at the prevailing overtime rate. And this is as it should be – after all, a basic principle of employment law is that if you work, you get paid.

The national minimum wage and the living wage

Another aspect of the long-hours expectations placed on support staff in the independent sector is that schools may find themselves in breach of minimum pay legislation i.e. if an employee works 50 hours a week, but is only contracted to work 36, their ‘real’ hourly rate of pay may be lower in practice than their ‘notional’ or contractual hourly rate.

ATL has successfully represented many members and ensured they are paid for the hours they actually work. For more information on your rights to fair pay and the legal position, see ATL’s Guide to Working in the Independent Sector (pages 80 to 83) https://www.atl.org.uk/advice-and-resources/publications/working-independent-sector.

**But what can we do?**

If you are regularly working unpaid overtime, or if your contractual start, finish and break times no longer correspond to your actual working times, then you should raise the matter with your line manager, initially verbally. If you receive no response within three weeks, then follow it up with a brief written request for a further discussion.

Should this ‘softly softly’ approach prove ineffective, then you will need to submit a formal grievance.
Before embarking on this course of action, consult your ATL school representative. If you do not have an ATL rep at your school, then you should contact your local branch secretary.

There are three ways in which you can be recompensed for working additional hours:

1) If your hours have permanently changed, i.e., you are getting in earlier or leaving later than your stated start and finishing times, then your contract of employment needs to be amended to reflect these changed circumstances.

2) If the working of additional hours is more intermittent, or if the school are reluctant to amend your contractual hours, then all additional time should be paid for at the overtime rate – single time up to the full-time equivalent hours, and then time and a half for any additional hours worked in a particular week, over and above the full-time equivalent hours.

3) Time off in lieu (TOIL) may also be mutually convenient.

TOIL

There are a number of local and informal TOIL schemes operating around the country.

When considering asking for TOIL as recompense for working extra hours, you should bear two points in mind:

1) You should confirm when you will be able to take your TOIL – if you are on a term-time-only contract, for instance, you won’t be able to take it during the school holidays (because you’re not being paid then), and the school may prove reluctant in practice to let you use your TOIL when the school is open.

2) TOIL is a form of compensation for overtime, and should therefore be calculated using the same formula as outlined above.

Breaks

The importance of taking regular breaks cannot be overstated. Whether it is a short break to relax and recuperate over a hot drink, a proper lunch or meal break without interruptions, or daily and weekly rest periods for shift and night workers, the law and your employment contract will provide guarantees on breaks from work.

Short breaks. For most support staff, short morning and afternoon breaks are stipulated in the employment contract. Unfortunately, most of the time, these breaks are unpaid, but on a positive note, this means that support staff should take these breaks in full, as by not doing so, they are not only depriving themselves of a necessary period of rest and recuperation, but they are working for free.

Some employment contracts will specify that the breaks are paid, and again, staff should ensure they take their breaks without interruption.

And some employment contracts will be silent on the question of short morning and afternoon breaks, but such breaks have been in place for a considerable time. This can be defined by law as ‘custom and practice’, and means that just because there is no written reference to the policy on breaks, staff may still be entitled to take those breaks because of this long-standing practice. Like most questions of employment law, ‘custom and practice’ is a matter of interpretation, so if your employer attempts to call time on your morning and/or afternoon break, talk to your ATL rep.

Lunch and meal breaks. Again, the key document will be the employment contract, which must specify the length of the breaks, and whether it is paid or unpaid. The legal minimum is 20 minutes, if the daily working span is more than six hours, and this break must not come at the beginning or end of the day.

As with short breaks (see previous section), ‘custom and practice’ may be relevant in respect of the length and payment of breaks.

ATL recommends that a lunch break should be a minimum of 40 minutes.

Daily and weekly rest periods for shift and night workers. The legal requirements for rest periods were established in 1998 with the establishment of the Working Time Regulations (WTR). They were introduced with the specific purpose of protecting a worker’s health and safety by discouraging excessive working hours.

The regulations contain the following provisions:

• A limit of 48 working hours per week (averaged over 17 weeks or 26 weeks in residential institutions).

• A daily rest of at least 11 consecutive hours in each 24 hours.

• A minimum weekly rest period of at least 24 hours in each seven-day period.

• 28 days’ annual leave (inclusive of bank holidays).

In the case of the weekly working hours limits only, individual agreements are possible between worker
and employer to opt out of the standard 48-hour limit. These agreements have to be in writing and contain a notice clause of no more than three months, and the employer in these cases must keep records of hours actually worked by the individuals concerned.

Display screen equipment (DSE) breaks. For many school support staff e.g. administrators, examination officers, PAs, the constant use of their PC is an occupational necessity, and one which brings with it various health concerns.

The legal position is laid down in the Health and Safety (Display Screen Equipment) Regulations 1992. Regulation 4 is concerned with the daily activities of users, and states:

“Every employer shall so plan the activities of users at work in his undertaking that their daily work on display screen equipment is periodically interrupted by such breaks or changes of activity as reduce their workload at that equipment.”

The guidance accompanying the regulations states:

• Breaks should be taken before the onset of fatigue, not in order to recuperate and when performance is at a maximum, before productivity reduces. The timing of the break is more important than its length.

• Breaks or changes of activity should be included in working time. They should reduce the workload at the screen, i.e. should not result in a higher pace or intensity of work on account of their introduction

• Short, frequent breaks are more satisfactory than occasional, longer breaks: e.g. a 5-10 minute break after 50-60 minutes’ continuous screen and/or keyboard work is likely to be better than a 15-minute break every two hours.

• If possible, breaks should be taken away from the screen.

• Informal breaks, that is time spent not viewing the screen (e.g. on other tasks), appear from study evidence to be more effective in relieving visual fatigue than formal rest breaks.

• Wherever practicable, users should be allowed some discretion as to how they carry out tasks; individual control over the nature and pace of work allows optimal distribution of effort over the working day.

• Employers should carry out a risk assessment of workstations, to ensure that the equipment, furniture and work environment are all suitable. The risk assessment should also address the need for adequate breaks away from the screen.

Continuing Professional Development (CPD)

The importance of regular, quality training for all education staff cannot be overstated. Confident and productive staff who are fully comfortable in their role will almost inevitably be well-trained staff. Problems relating to stress and workload can often be traced back to the lack of a well thought-out and properly funded in-house training programme, supplemented by access to external training where necessary.

Unfortunately, when it comes to organising and funding training and CPD events, support staff are often overlooked. Priority is generally given to teacher and management CPD, with the support staff being involved as an afterthought, if at all.

ATL believes INSET days should be used to organise either joint teacher-support staff training or separate support staff events. Also, funding for external training should be made available for support staff. Finally, particular help should be considered for support staff to achieve an appropriate level of basic skills, e.g. in maths and English.

ATL’s nationwide network of union learning reps (ULRs) can also be used to run school or local training events. An increasing number of ATL support staff members are becoming ULRs, and are ensuring events relevant to support staff are organised.
Trade union rights

The previous sections of this factsheet have focused on the arguments available to tackle the long-hours culture for support staff in the independent sector. However, without a strong collective voice in the workplace, enforcing existing rights, including legal ones, can be very difficult. This is why a strong ATL membership base is the vital starting point for addressing the workload pressures faced by you and your colleagues.

It is likely that in your school, most of the teachers will be members of ATL or another teacher trade union. But it is also equally as likely that only a minority of your support staff colleagues will be ATL members – and ATL is the only union who seek to represent support staff in the independent sector. No wonder that support staff are often treated almost as second-class citizens compared to their teaching colleagues, as the workload burden can be piled on to them without any collective response from the staff affected.

The old adage ‘unity is strength’ has therefore never been more apt for support staff in the independent sector. By recruiting and organising your colleagues into ATL, you will be giving yourself the best possible route to tackling excessive workload, and any other problems you may have.

To arrange for an ATL official to visit your school to talk to support staff about the ways to address the workload burden, email Peter Morris at pmorris@atl.org.uk.

ATL’s workload campaign

In September 2015, ATL surveyed over 2,300 members from all roles and sectors in education and found that more than 82% of the profession have considered leaving education in the last year – this included a large number of support staff members.

We need to challenge and change the culture of excessive working hours.

So, what can you do?

• #Make1Change – we are asking all members to make one change in relation to workload to make a start in tacking the issue. What one thing could you do in your workplace to ease your workload?

• Visit www.atl.org.uk/abouttime to access a range of resources including advice on meetings, administration, inspections, time management, dealing with stress, assertiveness and more.

• Complete our workload tracker – it consists of just three tick-box questions asking what your workload has been like over the last week. You can complete it once for a snapshot of how you’re doing but you’ll get more out of it if you complete it weekly or fortnightly to build up a good picture of what workload is like for you and help you identify possible areas to tackle to reduce it.

• Get involved in the discussion, share your views and experiences on social media on Twitter using hashtag #AboutTime and @ATLUnion or join the discussion on Facebook at www.facebook.com/ATLUnion.

• Have a meeting in your workplace with other ATL members to discuss workload in your workplace and to share what is working well and identify possible areas for improvement. If you’d like a member of the ATL organising team to visit your school email organise@atl.org.uk.

What resources are available?

• Campaign postcard (ATL/MF162).

• Factsheets (www.atl.org.uk/abouttime).

• Wellbeing: Leading and managing a well workplace publication

Further reading

The ATL support staff survey (Autumn 2016) - www.atl.org.uk/supportsurvey16

School Support Staff – The Way Forward - www.atl.org.uk/wayforward

The Green Book - www.atl.org.uk/greenbook


ATL and CPD - www.atl.org.uk/learningzone

ATL’s work-life campaign - www.atl.org.uk/abouttime


For more advice on tackling your workload check out www.atl.org.uk/abouttime.

Your first point of contact is the ATL rep in your workplace. Your local ATL district or branch are also available to help, or you can contact ATL’s member advisers on 020 7930 6441, email info@atl.org.uk.

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