



University
of Worcester

Human Resources

TIME OFF IN LIEU (TOIL) POLICY

This policy confirms the University's approach to the management of time off in lieu (TOIL).

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1 Purpose and scope

- 1.1 This policy confirms the University's approach to the management of time off in lieu (TOIL). The aim is to ensure consistent and fair treatment for all.
- 1.2 The policy is not contractual and therefore the University reserves the right to amend this policy as necessary to meet any changing requirements or where it is appropriate in any circumstance.
- 1.3 This policy applies to all employees on Professional Services salary Bands 1-9, including those who are full-time or part-time, permanent or fixed term.
- 1.4 The policy does not apply to employees engaged on Academic contracts, those employed on a senior management contract and pay-scale, or any other employee who has a clause in their contract stating that they are expected to work such hours as are reasonably necessary to fulfil their duties and responsibilities.
- 1.5 Employees who work any hours for the University, but in a different capacity to their contracted substantive role and outside of their normal working hours for their substantive post (e.g. an administrator working hours as a cleaner in the evenings or at the weekend), will also not be covered by this policy. Such individuals will instead be paid at the appropriate rate of pay (usually at the bottom point of the associated salary banding, and at a basic, not an enhanced, rate) for the work they are carrying out. Please see paragraph 1.5 of the Overtime and Additional Hours Policy for additional information in this regard.
- 1.6 This policy does not cover: -
 - Overtime – additional hours that are paid at a specified rate when employees work beyond their contractual weekly hours ([see overtime and additional hours policy](#))
 - Flexi-time - when employees work their total number of contractual hours but are permitted to do so with some degree of flexibility as to when they work these hours, and with the option to 'bank' hours to later take as time off where appropriate. The rules and parameters of such flexi-time schemes are usually determined locally by the Director or Head of a professional services department for which such a scheme is deemed operationally feasible and appropriate.

2 Definitions

- 2.1 Time off in lieu (TOIL) is time that is taken off when employees work in excess of their contractual weekly hours but are not paid for the extra hours worked.
- 2.2 TOIL provides employees with time off in return for the extra hours worked and allows staff to respond flexibly to the needs of the University.

- 2.3 Such hours will have been worked with the prior written agreement of their line manager, to meet a particular circumstance or need, and not just at the personal choice of the employee.

3 Principles

- 3.1 The University will seek to minimise, wherever possible, the requirement for employees to need to work in excess of their weekly contractual hours, however, it is recognised that in some circumstances, to meet the operational needs of the University during peak periods or when wider resource might be limited, an employee may be asked to work over and above their contractual working hours. Unless the employee's contract of employment requires them to complete a specified number of hours of guaranteed overtime, any additional hours or overtime worked will be voluntary and therefore an employee can decline to work any extra hours requested of them, should they wish to do so.
- 3.2 TOIL will usually only be accrued for specific work commitments that extend beyond the hours/times of an individual's normal working day (e.g. for late or early meetings), or when a manager has approved in advance, in writing, the need to work extra hours in order to manage a peak in workload or to meet a particular deadline.
- 3.3 When extra hours are justified more generally within the team however (e.g. due to peak periods), the line manager should inform all of those employees who have the necessary skills and experience and invite expressions of interest. The line manager may either share the work within the team or allocate on a rotational basis to ensure that the opportunity is spread among interested parties in a fair and transparent manner. A record should be kept by the line manager of who has been offered extra hours and the rationale for allocating those hours to them, rather than to their other colleagues.
- 3.4 When an employee works extra hours, the Working Time Regulations 1998 (WTR) must be considered. These guidelines state that an individual should not normally work more than 48 hours per week on average (averaged over 17 weeks) and stipulate rules around rest days and rest breaks. Managers should seek guidance from HR on the WTR if any employee's hours are likely to exceed an average of a 48-hour working week, will lead to them working more than 6 days per week or 12 days per fortnight, or will lead to them not having an 11-hour rest period between each day worked. Employees who work six hours or more on any day must also always take a minimum of a 20-minute rest break (which at the University is a minimum of a 30-minute rest break (i.e. lunch break)). The 30-minute rest break cannot be substituted or missed to accrue TOIL.
- 3.5 The Head of Professional Service/School will consider whether TOIL is an appropriate way to manage peak periods in their area of responsibility. The nature of the role and the needs of the business will

dictate whether TOIL is suitable or not. TOIL may not be suitable for all posts or departments, for example, where a definitive working pattern is required.

- 3.6 Some roles may require a regular degree of flexible working outside standard office hours and for which TOIL may be given where appropriate, e.g. a regular need to work University open days on weekends. When this is a requirement of the job, it will normally be stipulated in the job description when advertised. The arrangements for managing any such TOIL should also, wherever possible, be discussed and confirmed with the employee at the commencement of their employment with the University.
- 3.7 For roles that do not require a regular degree of flexible working outside standard office hours, a manager may request/agree to TOIL as a short-term solution to manage a specific situation (e.g. to meet a particular deadline or due to a peak in workload). In such situations either an employee may themselves identify a need to work more than their contractual hours, or managers may ask employees if they are prepared to work more than their contractual hours. Where possible either party should raise the need for extra hours to be worked as soon as possible beforehand. Authorisation to work extra hours for which TOIL will be taken must always be sought before the work takes place. Requests to take TOIL associated with any extra hours worked without that prior management approval will be invalid and therefore time off will not be permitted.
- 3.8 Any TOIL accrued and therefore claimed must be equal to the number of extra hours actually worked (i.e. it is taken at 'flat rate'). It is not to be allocated at an enhanced rate regardless of whether the extra work is done on a normal working day, a designated rest day or a public holiday.
- 3.9 TOIL cannot be accrued unless the employee is carrying out actual work. TOIL may not normally be claimed for time spent travelling for work or training (e.g. for travel to or attendance at a conference or a residential course). If, however, extra hours accrued in these circumstances reduce the average hourly rate of pay to less than National Minimum Wage (NMW) / National Living Wage (NLW) (see clause 3.10 for further details), TOIL may be considered. Further advice can be sought from HR in such specific circumstances.
- 3.10 When considering TOIL arrangements, the line manager should consider whether there is likely to be a breach of National Minimum Wage legislation. This is more likely for staff paid at salary band 3 or below. This is because their normal monthly pay will be averaged over a higher number of hours worked, thus reducing the hourly rate of pay. Details of NMW / NLW and current rates can be found at: www.gov.uk/national-minimum-wage-rates or managers can contact HR or Payroll for further advice.
- 3.11 If an employee is concerned about the way in which TOIL is being managed within their department, they should raise the matter with their line manager in the first instance. If the matter is not resolved at this stage, or they remain concerned, they may seek advice from HR.

4 Authorisation and approval

- 4.1 Any extra hours, and therefore the potential accrual of TOIL, must be authorised in writing as far in advance as possible, by the relevant line manager, and in every case must be authorised in writing by the line manager before the employee begins to work any such hours. The precise number of extra hours being approved for the accrual of TOIL should be detailed in that written authorisation wherever possible (or an indication/estimate of, should a precise number of hours not be able to be identified beforehand). This will help to ensure that excess hours are not worked without appropriate management oversight.
- 4.2 A record of hours worked for which TOIL will be taken should be kept by the employee and made available to the manager upon request. A log of any extra hours worked and when, any TOIL taken and when, and any TOIL lost (see paragraph 4.5 below for further details) should be retained for future reference for both parties. TOIL should only be claimed where the employee works a minimum of a further 30 minutes or more in any day and in 30-minute blocks thereafter. A brief description of the reason for the extra hours worked should also be provided (e.g. open day attendance), in order for the manager to monitor both the amount and purpose of any extra hours worked.
- 4.3 Employees are expected to manage the number of extra hours worked in discussion with their line manager. Line managers should regularly review TOIL records with employees to ensure that extra hours are only worked, and therefore TOIL accrued, in situations which genuinely justify it and that relevant time off is booked in a timely fashion. The purpose of TOIL is to manage service delivery and workloads; it is not to be used as a way for employees to accumulate additional leave.
- 4.4 TOIL is normally accrued due to peaks in workload that extend beyond an employee's standard working times. Consequently, accrued TOIL should also be booked off based around business needs, i.e. taken when there is little or no impact on the service delivery / customer experience.
- 4.5 TOIL should normally be taken within one month of accrual. Employees cannot carry forward TOIL beyond that one month period without prior written agreement of their line manager. Any accrued TOIL that has not been taken within one month of accrual will be lost (unless a greater period has been agreed with the line manager).
- 4.6 Employee's requests to redeem TOIL will be granted at the discretion of their line manager who will take into account the needs of the business, staffing levels, workloads of colleagues etc. Line managers are encouraged to allow flexibility when considering requests however, on occasions when it is not possible to agree to the request, the manager should seek to agree an alternative time for the TOIL to be taken.
- 4.7 When an employee moves to a different department any outstanding balance of TOIL accrued in the original department should be taken in advance of the move. Where this is not possible due to the

business needs, any outstanding TOIL will be paid at the standard hourly rate of pay for that work. Payment will be charged to the original department.

- 4.8 When an employee leaves the University, any accrued TOIL which it is not operationally feasible for them to take during their notice period will be paid at standard hourly rate of pay
- 4.9 If a manager is concerned about the amount of extra hours an employee is working and therefore the amount of TOIL they are accruing, or there is a concern about the accuracy of the amount of TOIL they are taking in comparison to extra hours worked, they should raise the matter with the employee in the first instance. If the matter is not resolved at this stage, or they remain concerned, they may seek advice from HR. Abuse of the TOIL arrangements will be deemed as a disciplinary offence and may result in disciplinary action, up to and including dismissal for gross misconduct should it be determined that fraudulent activity has taken place.

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